

---- D R A F T ----

FINDING OF NO SIGNIFICANT IMPACT
ENVIRONMENTAL ASSESSMENT
OF THE MUKILTEO TANK FARM PROPERTY TRANSFER,
CITIES OF MUKILTEO AND EVERETT, SNOHOMISH COUNTY, WASHINGTON

INTRODUCTION

The Secretary of the Air Force (Air Force) proposes to convey approximately 18.85 acres of the Mukilteo Tank Farm property out of Federal ownership to the Port of Everett (Port) as authorized by Federal law. The congressional intent contained in the statute authorizes the conveyance to the Port for use in the development and operation of a port facility and other public purposes. The Air Force is directed to simultaneously transfer to the Secretary of Commerce (Commerce) administrative jurisdiction over the remaining 1.1 acres of the property associated with the Mukilteo Biological Field Facility of the National Marine Fisheries Service (NMFS) for its continuing operation as a research facility through the National Oceanic and Atmospheric Administration (NOAA). The statutes authorizing this action are Section 2866 of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A-436), as amended by Section 2858 of the National Defense Authorization Act (NDAA) for Fiscal Year 2002 (PL 107-107).

The purpose of the Proposed Action is to convey and transfer approximately 19.95 acres of real property of the Mukilteo Tank Farm (formerly known as the Defense Fuel Support Point Mukilteo), including any improvements thereon, consistent with the cited statutes. The need for the Proposed Action is to utilize Air Force real property declared to be excess by Air Force and available to fulfill congressional intent.

The 1.1-acre tract containing the Mukilteo Biological Field Facility is currently leased to NOAA by the Air Force for operation of a research facility. In 2005, the acreage of the Mukilteo Tank Farm property was reviewed to be 19.95 acres by the Corps of Engineers in a survey satisfactory to the Air Force and the Port. The Corps survey determined the total fee area of the Mukilteo Tank Farm property to be 19.95 acres, and served to correct the “22 acres” and “20.9 acres” totals contained in special legislation.

Consistent with Federal law, the Air Force proposes to convey 18.85 acres and transfer 1.1 acres, to the Port and Commerce, respectively, being all of the Mukilteo Tank Farm property currently under the administration of McChord Air Force Base. An environmental assessment (EA) of the Proposed Action has been prepared in accordance with the National Environmental Policy Act (NEPA) (42 U.S.C. 4321-4347), the Council on Environmental Quality (CEQ) regulations to implement NEPA, at Title 40, Code of Federal Regulations (CFR), Parts 1500-1508, and the Air Force *Environmental Impact Analysis Process* (EIAP) at 32 CFR 989. The EA is incorporated by reference into this finding.

DESCRIPTION OF THE PROPOSED ACTION AND ALTERNATIVE

Proposed Action. The Air Force proposes to convey 18.85 acres of the former Mukilteo Tank Farm property, as recently surveyed, to the Port. The Air Force also proposes to transfer administrative jurisdiction over the remaining 1.1 acres to Commerce for continuing operation of the Mukilteo Biological Field Facility located on the property by NMFS through NOAA. All of the Mukilteo Tank Farm property would be either conveyed or transferred from the Air Force as authorized by Federal law. The Port and Commerce would also receive any personal property and improvements existing on the former Mukilteo Tank Farm at the time of the conveyance and transfer.

The Mukilteo Tank Farm property contains at least three sites identified by cultural resources studies as having potential historic or archaeological significance and cultural importance. The studies serve to support an eligibility determination evaluation that each of the sites could qualify for listing on the National Register of Historic Places (NRHP) maintained by the Secretary of Interior. All three, known archaeological sites are located on property authorized to be conveyed to the Port.

The Air Force has satisfied its responsibilities under Section 106 of the National Historic Preservation Act (NHPA) relative to the Mukilteo Tank Farm by making the proposed conveyance of the property subject to legally enforceable restrictions for preservation of the cultural resources identified on the property. Air Force responsibilities to avoid any potential adverse effect due to its transfer out of federal ownership or control are described in an agreement memorandum proposed for execution by Air Force and the Washington State Historic Preservation Officer (SHPO), which requires that a preservation covenant be included in the conveyance of the property to the Port. The preservation covenant was developed through consultation with organizations entitled to be consulting parties, including interested Tribes, local governments, agencies, and the Port. The agreement and preservation covenant is included as appendix B to the attached EA. By the public participation, analysis and review of this EA and finding of no significant impact (FONSI), the Air Force has coordinated its compliance under the NHPA and the Advisory Council on Historic Preservation regulations to implement the NHPA with its steps taken to meet the requirements of NEPA as provided for in 36 CFR 800.8(c), and has preserved the historic significance of the cultural resources sites located on the Mukilteo Tank Farm property.

No Action Alternative. Under the No Action Alternative, the Air Force would not implement the Proposed Action but would continue to exercise administrative jurisdiction over the Mukilteo Tank Farm. The Air Force would continue to request funding to manage the property through the congressional authorization and appropriation process. The No Action Alternative means that structures and facilities on the property would continue to deteriorate, or be maintained or demolished as funding allows.

SUMMARY OF ANTICIPATED ENVIRONMENTAL CONSEQUENCES

Proposed Action. No significant adverse effects resulting from the conveyance and transfer of the Mukilteo Tank Farm property would occur on the noise environment, air quality, safety, geological resources, water and biological resources, infrastructure (transportation or production of solid waste), and hazardous materials or wastes. No environmental justice issues are associated with the Proposed Action.

Beneficial effects on land use and socioeconomics would be expected from the conveyance and transfer of the property to the extent the Proposed Action gives effect to the expressed intent of Congress, and provided any proposed use of the property for development and operation of a port facility, research facilities, and other public purposes complies with applicable Federal and State laws, including additional NEPA analysis. Beneficial effects on safety would result from the demolition of deteriorating buildings, facilities and infrastructure, and the imposition of additional security measures to prevent unauthorized access to the property. Any temporary safety and occupational health risks associated with the removal of potential asbestos, lead-based paint, or other hazardous materials encountered during demolition activities would be addressed by worker health and safety plans.

The Mukilteo Tank Farm property includes three sites identified by archaeological surveys as eligible for listing on the National Register of Historic Places (NRHP). Under the Proposed Action, a large portion of the property would be conveyed out of Federal ownership and control into the Port of Everett. The Air Force will satisfy its responsibilities regarding the property under Section 106 of the NHPA, as provided for in 36 CFR 800.8(c), through the Air Force EIAP public review process applied to produce this EA and FONSI. Specifically, an agreement between the Air Force and the SHPO will acknowledge the Air Force finding of no adverse effect due to the proposed conveyance being subject to a Preservation Covenant that satisfies 36 CFR 800.5 by providing adequate and legally enforceable restrictions to ensure the long-term preservation of the archaeological resources. Potential adverse effects associated with the conveyance of the Mukilteo Tank Farm property would be avoided by the Preservation Covenant to protect the historical

significance of the archaeological resources found on the property. Also, any proposed development of the property would require coordination with the SHPO and federally-recognized Tribes, and consulting parties that produced the Preservation Covenant, including provisions on standing to sue for enforcement of the covenant and applicable Federal and State laws. No additional effects on archaeological resources or traditional cultural properties would be expected to result from this Proposed Action. In the event of an inadvertent discovery of artifacts on the property, applicable procedures identified in the Preservation Covenant must be followed to ensure proper treatment of the find.

The Proposed Action, being a transfer of real property, would not be expected to have a significant impact on any wetlands or floodplains. No jurisdictional wetlands have been identified to exist on the Mukilteo Tank Farm property. No floodplain exists on the property to be conveyed to the Port. The grantee, transferee, and any successors in interest would be required to comply with all Federal and State law and regulations regarding potential impacts to wetlands. A jurisdictional determination of wetland boundaries would be required prior to any proposed construction activities with a potential to impact wetlands proximate to the Mukilteo Tank Farm property.

No Action Alternative. Under the no action alternative, the federally authorized conveyance and transfer would not occur. There would be no change from the baseline conditions of the noise environment, land use, air quality, geological resources, water resources, biological resources, cultural resources, socioeconomic condition, infrastructure, or hazardous materials and waste management. Potential adverse impacts to human health and safety might occur due to trespassing onto this former industrial site and dangers associated with deteriorating infrastructure (e.g., pier and vacant buildings).

PUBLIC REVIEW AND INTERAGENCY COORDINATION

In accordance with Air Force policy, the interagency and intergovernmental coordination for environmental planning (IICEP) process was re-initiated on July 1, 2010, for the Draft EA and FONSI. Also, a notice of availability for the Draft EA and FONSI was published on July 1, 2010, in The Mukilteo/Edmonds Beacon, The Daily Herald (Everett and Snohomish County) and its associated HeraldNet.com website, and the Seattle Times (Snohomish County section), announcing a 30-day public review of the Draft EA and FONSI placed in local libraries and made available to all interested agencies and parties. All comments received will be included in an appendix to the EA.

FINDING OF NO SIGNIFICANT IMPACT

Based on the analysis in the EA, I conclude that the environmental effects of the proposed conveyance and transfer of the Mukilteo Tank Farm property are not significant, that preparation of an environmental impact statement is unnecessary, and that a FONSI is appropriate. The preparation of the attached EA is in accordance with NEPA, and the CEQ and Air Force EIAP regulations, as amended.

THERESA C. CARTER
Brigadier General, USAF
Director, Installations and Mission Support

Date

Attachment: Environmental Assessment

Draft Environmental Assessment
of
The Mukilteo Tank Farm Property Transfer
Mukilteo, Snohomish County, Washington

1 July 2010

PROJECT: AMC199519

Contract Number FA8903-08-D-8770

Task Order: 0041

Print Production For:

Headquarters Air Mobility Command
Integrated Planning Branch
507 Symington Drive
Scott Air Force Base, Illinois 62225-5022

Executive Summary

The Secretary of the Air Force (Air Force) proposes to convey all right, title, and interest of the United States in and to approximately 18.85 acres of property, including any improvements thereon, known as the Mukilteo Tank Farm, out of Federal ownership to the Port of Everett (Port) as authorized by Federal law. The congressional intent contained in the law authorizes the conveyance to the Port for use in the development and operation of a port facility and other public purposes. The Air Force is directed to simultaneously transfer to the Secretary of Commerce (Commerce) administrative jurisdiction over the remaining 1.1 acres of the property associated with the Mukilteo Biological Field Facility of the National Marine Fisheries Service (NMFS) for its continuing operation as a research facility through the National Oceanic and Atmospheric Administration (NOAA). The statutes authorizing this action are Section 2866 of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A-436; PL 106-398), as amended by Section 2858 of the National Defense Authorization Act for Fiscal Year 2002 (115 Stat. 1328; PL 107-107) (Appendix A - Special Legislation).

The purpose of the Proposed Action is to convey and transfer approximately 19.95 acres of real property of the Mukilteo Tank Farm (formerly known as the Defense Fuel Support Point Mukilteo), including any improvements thereon and easements associated therewith (property), consistent with the cited statutes. Improvements include the pier, buildings, structures, and appurtenances. The need for the Proposed Action is to utilize Air Force real and personal property determined to be excess by Congress for the public purposes stated in the statutes. In accordance with the special legislation, the Air Force also proposes to transfer the pier and other improvements on the property in their current condition, "as is." To the extent any portion of the bedlands beneath the pier on Possession Sound are owned by Washington State, the Port of Everett will obtain separate rights to the bedlands.

The 1.1-acre tract containing the Mukilteo Biological Field Facility is currently permitted to NOAA by the Air Force for operation of a research facility. In 2005, the acreage of the Mukilteo Tank Farm property was determined to be 19.95 acres by the Corps of Engineers in a survey satisfactory to the Air Force and the Port. The 2005 survey determined the total area of the Mukilteo Tank Farm property to be 19.95 acres and remaining interests in the associated abutting second class tidelands. This serves to correct the "22 acres" and "20.9 acres" totals contained in the Federal statutes authorizing this action.

Consistent with Federal law, the Air Force proposes to convey 18.85 acres and transfer 1.1 acres, to the Port and Commerce, respectively, being all of the Mukilteo Tank Farm property currently under the administration of McChord Air Force Base (AFB). An environmental assessment (EA) of the Proposed Action has been prepared in accordance with the National Environmental Policy Act (NEPA) (42 U.S.C. 4321-4347), the Council on Environmental Quality (CEQ) regulations to implement NEPA, promulgated at Title 40, Code of Federal Regulations (CFR), Parts 1500-1508, and the Air Force *Environmental Impact Analysis Process* (EIAP) at 32 CFR 989.

This EA assesses the potential environmental, cultural, physical, and socioeconomic impacts associated with the Proposed Action and the No Action alternative. The Proposed Action would give effect to the congressional intent expressed in the Federal law. The No Action alternative would not meet the statutory objectives.

Potential impacts to the human and natural environment were evaluated relative to the existing environment. For each environmental resource or issue, anticipated direct and indirect effects were assessed considering both short- and long-term project effects. Most of the identified effects of the Proposed Action are beneficial; that is, they involve opportunities for improving the natural and human environment. The Proposed Action would result in the following consequences for the Mukilteo Tank Farm property:

- Beneficial effects on land use and socioeconomics would be expected from the conveyance and transfer of the property to the extent the Proposed Action gives effect to the expressed intent of Congress, and provided any proposed use of the property for development and operation of a port facility, research facilities, and other public purposes complies with applicable Federal and State laws, including subsequent NEPA analysis;
- Beneficial effects on safety would result from the demolition of deteriorating buildings, facilities and infrastructure, and the imposition of additional security measures to prevent unauthorized access to the property that could be expected from the conveyance and transfer of the property.

No impacts are anticipated to occur to air quality, water resources including wetlands, biological resources including protected species, and geology and soils solely due to the conveyance and transfer of the property.

The analysis for this EA indicates that the Proposed Action would not, in and of itself, result in or contribute to significant adverse cumulative effects to resources at the Mukilteo Tank Farm property or within the region. Any redevelopment of the property conveyed or transferred by the Air Force would be subject to separate environmental impact analysis under NEPA and/or the Washington State Environmental Policy Act (SEPA), as proposed by the Port or any successor in interest, including a Federal agency.

The Federal Transit Administration (FTA) and the Washington State Department of Transportation (WSDOT)/Washington State Ferries (WSF) initiated scoping on a joint NEPA and SEPA Environmental Impact Statement (EIS) for the Mukilteo Multimodal Ferry Terminal Project in March 2006. The joint NEPA and SEPA scoping process for the Mukilteo Multimodal Ferry Terminal was re-initiated by FTA and WSDOT/WSF in February 2010. Opportunities for tribal and public participation will be included in this process. The EIS planned by those agencies will reflect WSF-system wide program planning decisions made to implement guidance received during the 2009 Washington State legislative session.

The Mount Baker Terminal, also known as the Rail/Barge Transfer Facility (RBTF) was constructed by the Port adjacent to the east side of the Mukilteo Tank Farm property. The project required a Final Environmental Impact Statement issued on October 22, 2004, in accordance with the Washington State SEPA. The new facility improves rail

congestion by reducing BNSF Railway mainline closures from two hours to less than 30 minutes when transporting oversized aerospace parts to the Paine Field.

The Mukilteo Commuter Rail Station was constructed by Sound Transit on and adjacent to BNSF Railway right-of-way at the southwest corner of the Mukilteo Tank Farm property. The project required Sound Transit to conduct an Environmental Re-evaluation Consultation with various Washington State and Federal agencies to obtain confirmation from the FTA on January 31, 2007, that the proposed station complied with NEPA. The Re-evaluation was made necessary due to changes in the design since the FTA issued a Record of Decision, dated February 4, 2000, based on the Everett-to-Seattle Commuter Rail Environmental Impact Statement finalized in December 1999, in accordance with NEPA. Construction of the station began in August 2007. Regular commuter rail service of the Sounder train at the Mukilteo Station began on June 2, 2008. The Mukilteo Station is served by four daily round-trip Sounder trains that travel from Everett to Seattle. Sound Transit has applied to the City of Mukilteo to construct Phase II of the Mukilteo Station. No further construction can occur until transfer of the Mukilteo Tank Farm property by the Air Force.

Any proposed future development of the Mukilteo Tank Farm property would be subject to separate environmental impact analyses under NEPA and/or SEPA in the same manner as the Port's operational Mount Baker Terminal, the Sounder Commuter Rail Station, and the proposed FTA/WSDOT/WSF Mukilteo Multimodal Ferry Terminal.

Section 106 of the National Historic Preservation Act (NHPA), requires Federal agencies to take into account the effects of the proposed action on eligible or listed historic sites/properties on and eligible for the National Register of Historic Places (NRHP). The section 106 process, as described at 36 CFR 800.1(a), seeks to accommodate historic preservation concerns with the needs of Federal undertakings through consultation among the agency official and other parties with an interest in the effects of the undertaking on historic properties, commencing at the early stages of project planning. The goal of consultation is to identify historic properties potentially affected by the undertaking, assess its effects and seek ways to avoid, minimize or mitigate any adverse effects on historic properties. The Air Force has proposed a finding of no adverse effect due to the proposed conveyance being made subject to a preservation covenant in accordance with 36 CFR 800.5. (Appendix B) Since 2006, the Air Force developed the preservation covenant in consultation with participating tribes, the Washington State Historic Preservation Officer (SHPO) and consulting parties. The Air Force by this draft Environmental Assessment is providing the SHPO, consulting parties and the public an opportunity to review and comment on the proposed undertaking before the SHPO can concur in the proposed finding.

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Chapter 1 – Purpose and Need for Action

1.1 Introduction

This Environmental Assessment (EA) was prepared in accordance with the National Environmental Policy Act (NEPA) to fulfill the requirements of the U.S. Air Force (USAF or Air Force) Environmental Impact Analysis Process (EIAP) for the conveyance of the Mukilteo Tank Farm property, which is also known as the Defense Fuel Support Point (DFSP) Mukilteo.

The Secretary of the Air Force is authorized by Federal law and proposes to convey approximately 18.85 acres of the Mukilteo Tank Farm (formerly known as the DFSP Mukilteo) out of Federal ownership to the Port of Everett for use in the development and operation of a port facility and other public purposes, and to simultaneously transfer administrative jurisdiction over the remaining 1.1 acres to the Secretary of Commerce for the continuing operation of the Mukilteo Biological Field Facility located on the property by the National Marine Fisheries Service (NMFS) through the National Oceanic and Atmospheric Administration (NOAA). The statute authorizing the conveyance is Section 2866 of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A-436), as amended by Section 2858 of the National Defense Authorization Act (NDAA) for Fiscal Year 2002 (PL 107-107). The 1.1 acre tract is currently permitted by the USAF to NOAA for the operation of the Mukilteo Biological Field Facility by NMFS. (Appendix A – Special Legislation)

Between 1979 and 1987 investigation activities at the Mukilteo Tank Farm revealed that fuel hydrocarbons had been released at various locations on the property and had impacted subsurface soil and groundwater, as well as near shore sediments. The decision was made to close DFSP Mukilteo in 1987 and all fuel storage and transfer operations ceased in 1989.

In 1990, the Office of the Attorney General issued the Defense Logistics Agency Remedial Action Order No. DE 90-N209 under the Washington State Department of Ecology (Ecology) Model Toxics Control Act (MTCA) cleanup regulations (Washington Administrative Code 173-340). Since 1992, the Mukilteo Tank Farm has been the subject of several site assessments, a remedial investigation/feasibility study (RI/FS), risk assessment (RA) activities, interim corrective actions, and remediation efforts to clean up the fuel hydrocarbons released on the property. On April 21, 2005, Ecology issued a Partial Satisfaction of Enforcement Order No. DE 93TC-N268 indicating that no further monitoring is required for all but one area of the property. Compliance monitoring was required to continue on the one area until the groundwater in all monitoring wells met the site cleanup levels per the Compliance Monitoring Plan (CMP). Results of the groundwater collected in November 2005 indicated that the remaining groundwater met the site cleanup levels per the CMP. Ecology issued a *Letter of Satisfaction of Enforcement*

Order No. DE 93TC-N268 on May 22, 2006, indicating that no further monitoring is necessary on the property. (Appendix F) No further remedial action is necessary.

1.2 Purpose of the Proposed Action

The purpose of the Proposed Action is to convey approximately 18.85 acres of the Mukilteo Tank Farm out of Federal ownership to the Port of Everett for use in the development and operation of a port facility and other public purposes, and to simultaneously transfer administrative jurisdiction over the remaining 1.1 acres to the Secretary of Commerce for the continuing operation of the Mukilteo Biological Field Facility located on the property by the NMFS through NOAA.

1.3 Need for the Proposed Action

The Proposed Action is needed because the Military Construction Authorization Act for Fiscal Year 2001 authorizes the Secretary of the Air Force to convey all right, title, and interest of the United States in and to the parcel of real property at the Mukilteo Tank Farm. The Proposed Action includes the simultaneous transfer of the NMFS-operated Mukilteo Biological Field Facility, as authorized by Section 2858 of the NDAA for Fiscal Year 2002 (PL 107-107) that amended the previously cited statute. The authorizations reflect the intent of Congress that Air Force transfer the lands to the respective parties as provided in the statutes.

1.4 Location of the Proposed Action

The Mukilteo Tank Farm is located within the city limits of Mukilteo and Everett, Snohomish County, Washington (Figures 1-1 and 1-2). The property is located on the shore of Possession Sound, an embayment of the inland marine waters of Puget Sound. The legal description of the property is:

A parcel of land located in the south half of Sections 33 and Section 34 of Township 29 North, Range 4 East and the north half of Section 4, Township 28 North, Range 4 East, Willamette Meridian, Snohomish County, Washington, further described as follows:

Bounded on the south by the northerly right-of-way line of the Burlington Northern Railway; bounded on the west by the easterly right-of-way of Park Avenue; bounded on the north by the lowest tide line (-4.5 feet estimated); bounded on the east by the east line of Government Lot 1 of Section 34.

The property is surrounded by Possession Sound to the north, Park Avenue to the west, the BNSF Railway (formerly the Burlington Northern-Santa Fe Railway) railroad tracks to the south, and undeveloped land on Government Lot 1, in Section 34 to the east, adjacent to the Port of Everett Mount Baker Terminal, also known as the Rail/Barge Transfer Facility.

1.5 Scope of the Environmental Assessment

This EA assesses the potential environmental, cultural, physical, and socioeconomic impacts associated solely with the proposed conveyance and transfer of the Mukilteo Tank Farm to the Port of Everett and the Secretary of Commerce. Potential impacts associated with the Proposed Action are evaluated against those of the No Action Alternative.

This EA does not address environmental impacts associated with future use or redevelopment of the subject property. Any proposed redevelopment of the property conveyed or transferred by the Secretary of the Air Force would be subject to separate environmental impact analysis under NEPA and/or the Washington State Environmental Policy Act (SEPA) to be undertaken by the grantee or transferee, whether proposed by the Port of Everett or any successor in interest, including a Federal agency. The Federal Transit Administration (FTA) and the Washington State Department of Transportation (WSDOT)/Washington State Ferries (WSF) initiated a joint NEPA and SEPA Environmental Impact Statement (EIS) for the Mukilteo Multimodal Ferry Terminal Project in March 2006. The joint NEPA and SEPA scoping process for the Mukilteo Multimodal Ferry Terminal was re-initiated by FTA and WSDOT/WSF in February 2010. Opportunities for tribal and public participation will be included in this process. The EIS planned by those agencies will reflect WSF-system wide program planning decisions made to implement guidance received during the 2009 Washington State legislative session.

1.6 Applicable Regulatory Requirements and Required Coordination

This EA has been prepared in accordance with regulations of the President's Council on Environmental Quality (CEQ); Title 40 of the Code of Federal Regulations (CFR) §§1500-1508, as they implement the requirements of the NEPA; 42 United States Code §4321, et seq.; and Title 32 CFR Part 989, as the Air Force *Environmental Impact Analysis Process* (EIAP) for NEPA implementation .

Other environmental regulatory requirements relevant to the Proposed Action and No Action Alternative also are identified in this EA. Regulatory requirements under the following Federal statutes and regulatory programs will be addressed:

- Archaeological Resources Protection Act of 1979 (ARPA)
- National Historic Preservation Act of 1966 (NHPA)
- Coastal Zone Management Act (CZMA)
- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)
- Clean Water Act (CWA)
- Endangered Species Act (ESA)

Requirements also include compliance with Executive Order (EO) 11988 (“Floodplain Management”); EO 11990 (“Protection of Wetlands”); EO 12898 (“Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations”); and EO 13045 (“Protection of Children from Environmental Health Risks and Safety Risks”).

The ARPA protects archaeological resources and sites on public land including lands held by the United States.

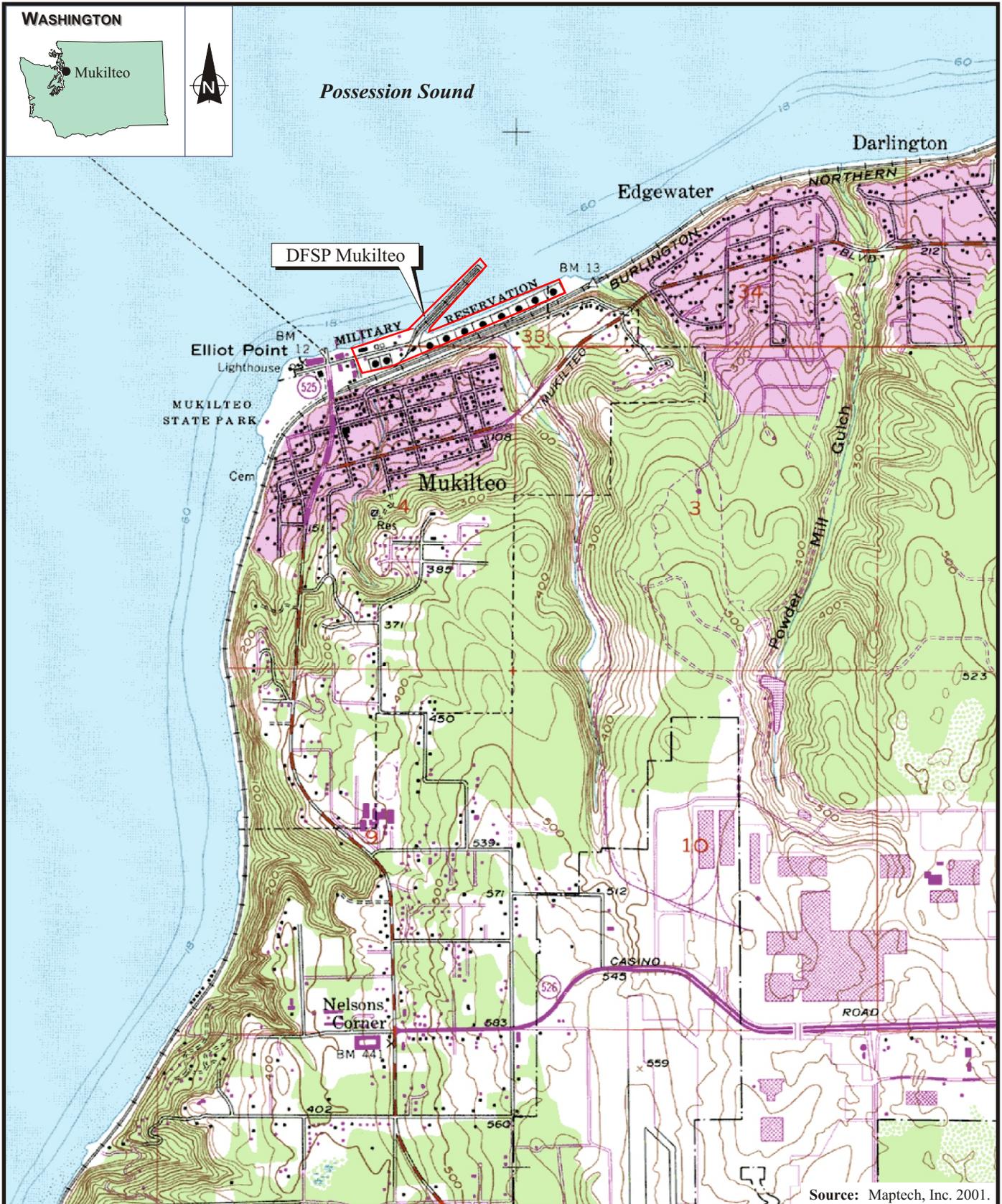
Section 106 of the NHPA, requires Federal agencies to take into account the effects of the proposed action on eligible or listed historic sites/properties on and eligible for the National Register of Historic Places (NRHP). The section 106 process, as described at 36 CFR 800.1(a), seeks to accommodate historic preservation concerns with the needs of Federal undertakings through consultation among the agency official and other parties with an interest in the effects of the undertaking on historic properties, commencing at the early stages of project planning. The goal of consultation is to identify historic properties potentially affected by the undertaking, assess its effects and seek ways to avoid, minimize or mitigate any adverse effects on historic properties. The Air Force has proposed a finding of no adverse effect due to the proposed conveyance being made subject to a preservation covenant in accordance with 36 CFR 800.5. (Appendix B) Since 2006, the Air Force developed the preservation covenant in consultation with participating tribes, the Washington State Historic Preservation Officer (SHPO) and consulting parties. The Air Force by this draft Environmental Assessment is providing the SHPO, consulting parties and the public an opportunity to review and comment on the proposed undertaking before the SHPO can concur in the proposed finding.

The CZMA requires federal agencies carrying out activities subject to the Act to provide a Consistency Determination to the relevant state agency. A Federal Consistency Determination was prepared for the Proposed Action, as required by the CZMA, and provided to the State of Washington Department of Ecology (DOE) for the proposed conveyance and transfer. The determination describes how the Proposed Action, in and of itself does not cause reasonably foreseeable coastal effects. DOE concurrence, dated February 12, 2009, on the Air Force determination is included at Appendix C. Any further proposed future development of the Mukilteo Tank Farm property will require a subsequent, site-specific determination by other agencies, including the FTA.

CERCLA, enacted in 1980, establishes the liability and responsibilities of federal agencies for identification and cleanup of chemical and hazardous substances released into the environment.

The Air Force EIAP regulations serving to implement NEPA require a 30-day public review period be held to solicit public and agency comments on the draft EA. The initial public review period was announced in a Notice of Availability (NOA) published in several local newspapers in March 2009. The NOA provided the locations in public libraries where hardcopies of the EA were made available for public review and identify the Air Force website where the draft EA is posted. A copy of the NOA is attached to this draft EA as Appendix D. A list of the agencies, governments, offices, and organizations provided a copy of the draft EA is attached to this draft EA as Appendix E. The Air Force has used this list in this EIAP to accomplish Interagency and

Intergovernmental Coordination for Environmental Planning (IICEP) in accordance with Air Force Instruction 32-7060, dated October 1, 1997. All comments received in the public, agency, and tribal review of the draft EA will be considered and provided a response within the Air Force EIAP as Appendix G. Any additional comment period will be conducted in the same manner. The environmental, cultural, physical, and socioeconomic resources addressed in this EA are described in Section 3. The potential impacts and cumulative effects resulting from the Proposed Action and the No Action alternative are presented in Section 4.



Source: Maptech, Inc. 2001.



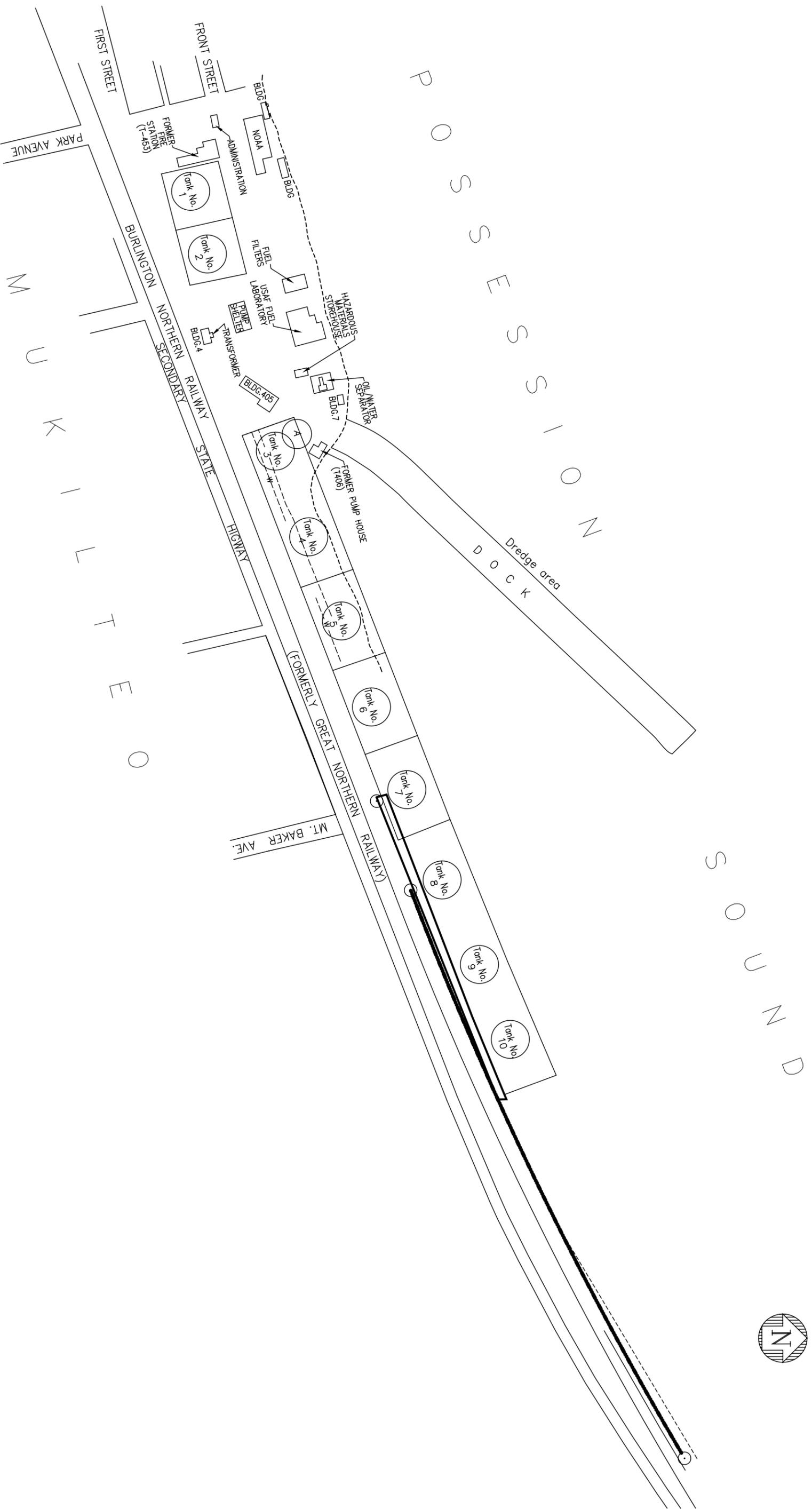
ecology and environment, inc.
International Specialists in the Environment
Seattle, Washington

DEFENSE FUEL
SUPPORT POINT (DFSP) MUKILTEO
Mukilteo, Washington

0 1000 2000
Approximate Scale in Feet

Figure 1-1
PROJECT VICINITY MAP

Date: 11-17-05	Drawn by: AES	10:001856JA0901\fig 1-1
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SCALE IN FEET: 1" = 150'

0 150 300 450

<p>Ecology and Environment, Inc. International Specialists in the Environment Seattle, Washington</p>		<p>FIGURE 1-2 SITE MAP Mukilteo Defense Fuel Support Point Mukilteo, Washington</p>
<p>DESIGNED BY: CHECKED BY: W. RICHARDS DRAWN BY: S. STEVENS</p>	<p>SCALE: NOTED</p> <p>DATE ISSUED: 8-16-06</p> <p>CAN FILE IN: Mukilteo Tank Farm E.A.dwg</p>	

Chapter 2 - Description of the Proposed Action and Alternatives

This chapter provides a description of the Proposed Action and alternatives. The Proposed Action is to convey all right, title, and interest of the United States in and to the parcel of real property known as the Mukilteo Tank Farm, including improvements thereon and easements associated therewith, to the Port of Everett, Washington. The action alternative in accordance with the special legislation is to convey 18.85 acres of the property to the Port of Everett and simultaneously transfer administrative jurisdiction over the remaining 1.1 acres containing the Mukilteo Biological Field Facility (formerly known as the “Mukilteo Research Center”) to enable continuing operation by the NMFS through NOAA, and the No Action Alternative. Analysis of the No Action Alternative is required by NEPA even though it would not exercise the statutory authority contained in the special legislation, and it would maintain Air Force ownership and continue the existing site conditions.

2.1 Description of the Proposed Action

The Proposed Action would convey 18.85 acres of real property to the Port of Everett, Washington. The property consists of the Mukilteo Tank Farm, located within the city limits of Mukilteo and Everett, Washington (Figure 1-1). The conveyance of Mukilteo Tank Farm is the subject of special legislation authorizing the Secretary of the Air Force to convey all right, title, and interest of the United States in the property without consideration to the Port of Everett. (Appendix A) The statute authorizing the conveyance is Section 2866 of the Military Construction Authorization Act for Fiscal Year 2001 (Division B of the Spence Act; 114 Stat. 1654A-436), as amended. The Proposed Action would convey to the Port of Everett, subject to the Preservation Covenant described in Appendix B, and the transfer of the remaining 1.1 acres to the Secretary of Commerce for continuing operation of the Mukilteo Biological Field Facility, as described below.

In addition, the Proposed Action would simultaneously transfer to the Secretary of Commerce the remaining 1.1-acre portion of the Mukilteo Tank Farm property associated with the Mukilteo Biological Field Facility of the National Marine Fisheries Service (NMFS) for its continuing operation as a research facility through the National Oceanic and Atmospheric Administration (NOAA). NMFS manages and operates the existing Mukilteo Biological Field Facility on this 1.1 acre tract based on a permit granted by McChord AFB to NOAA. Although the transfer of this portion of the Mukilteo Tank Farm would ordinarily qualify for a Categorical Exclusion (CATEX) from detailed analysis of environmental impacts under the Air Force EIAP, the combined conveyance and transfer constitute a proposed action of greater scope, complexity and size than generally experienced for this category of CATEX. Consequently, the 1.1-acre

transfer is included in the Proposed Action and is addressed in the analysis of impacts in this EA.

The Proposed Action would require the preparation of a quitclaim deed, which transfers all Air Force interests including the pier, to convey the property to the Port of Everett and an agreement between the Departments of Air Force and Commerce to transfer the 1.1-acre Mukilteo Biological Field Facility. The conveyance and transfer documents will include certain conditions. The conditions would provide for a Department of Defense (DoD) right of reentry in the event circumstances warrant actions on behalf of the DoD. Potential future circumstances could include, but are not limited to, the discovery of contaminants attributable to legacy DoD operations on the property or the discovery of ordnance. The right of entry would allow DoD access to the property until the subject environmental or other public safety responsibilities are met. The conditions would not affect ownership of or jurisdiction over the property interests resulting from the Proposed Action. The Proposed Action would also be subject to a Preservation Covenant to protect archaeological resources and sites (as described in Appendix B) located on the property that are eligible for the NRHP. Prior to transfer of the pier from federal ownership, the Port of Everett will need to work with the state to obtain any necessary property rights in accordance with the Revised Code of Washington (RCW) Chapter 79.125.400 or 29.125.700 on Aquatic Lands – Tidelands and Shorelands.”

Pursuant to CERCLA Section 120(h)(3), when remedial actions have been completed, as is the case here, the Air Force shall provide a warranty to the transferee stating that all remedial action necessary to protect human health and the environment with respect to any such substance remaining on the property has been taken before the date of transfer. Any additional remedial action found to be necessary after the date of such transfer shall be conducted by the United States. This warranty shall not apply in any case in which the person or entity to whom the real property is transferred is a potentially responsible party. This warranty, amending the quitclaim deed, will be recorded by the Air Force.

2.2 No Action Alternative

The No Action Alternative would be to maintain existing conditions by retaining ownership in the property. Under this alternative, the Mukilteo Tank Farm would not be conveyed to the Port of Everett. A portion (18.85 acres) of the property would continue under the Right of Entry agreements to the Port of Everett for the purpose of developing and operating a neighboring barge off-loading facility, and to Sound Transit for the Mukilteo Station. The balance of the real and personal property, including easements and improvements, would remain the property of the United States, and would be unoccupied, except for the 1.1 acre portion currently permitted to NOAA.

2.3 Alternatives Considered but Eliminated from Further Study

Several potential alternatives to the Proposed Action were considered but eliminated from further consideration. These alternatives and the reasons for their elimination include the following:

1. Transfer the entire Mukilteo Tank Farm to another federal agency (e.g., Department of Commerce). This option was eliminated because it would not meet the objective stated in the special legislation of affording opportunity for development of public projects on the property.
2. Implement an interim lease to the Port of Everett, Washington with a minimum five-year term. The lease would be written to enable outright conveyance of the property to the Port of Everett, Washington prior to its expiration. This option was eliminated because it would not meet the objective of complying with the Military Construction Authorization Act for Fiscal Year 2001, nor would it allow for public works project financing under a sub-lease arrangement involving the Port of Everett.

2.4 Identification of the Preferred Alternative

The Air Force's preferred alternative for this EA is to implement the Proposed Action as described in Section 2.1.

2.5 Comparison of the Environmental Impacts of Alternatives

Table 2-1 compares the environmental, physical, cultural, and socioeconomic impacts of the alternatives described above.

TABLE 2-1 COMPARISON OF POTENTIAL ENVIRONMENTAL IMPACTS FOR EACH ALTERNATIVE

Resource Area	Proposed Action (Transfer)	No Action
Land Use	Beneficial. Would comply with the special legislation authorizing transfer of the property to provide for future public uses of the property.	No Impact.
Air Quality	No Impact.	No Impact.
Water Resources	No Impact.	No Impact.
Safety and Occupational Health	Beneficial. Potential for demolition of former industrial facilities, buildings, and structures, with the imposition of additional security measures to prevent unauthorized access to the property.	Potential significant adverse impacts to human health/safety due to trespassing onto the former industrial site with deteriorating infrastructure

		(e.g., pier and vacant buildings).
Hazardous Materials/Waste	No significant adverse impacts, except those associated with the current state (No action); in the event of post-transfer development, the temporary generation of hazardous waste from building and facility demolition would likely result.	No Impact. Continued deterioration of and potential for exposure to building materials in place.
Biological Resources	No Impact.	No Impact.
Cultural Resources	No significant adverse effects or impacts. The proposed transfer out of federal ownership and control to the Port of Everett would be subject to a permanent Preservation Covenant that would allow for continuing enforcement of existing state and certain federal protection of cultural resources, including standing among Native American tribes (see Section 4.1.7) to enforce the covenant provisions.	No Impact.
Geology and Soils	No Impact.	No Impact.
Socioeconomics	Beneficial. Provides potential "development and operation of a port facility and for other public purposes," including construction of a "new facility on the property for ... research purposes," expressed as the congressional intent in the special legislation authorizing the Air Force to convey and transfer the property.	No Impact.

Chapter 3 – Affected Environment

3.1 Land Use

In 1951 the USAF acquired the subject property and constructed ten bulk fuel aboveground storage tanks on the property. The property was used as a fuel storage and transfer facility, operated through McChord AFB, from 1953 to 1973, and, thereafter, by the agency now known as the Defense Energy Support Center (DESC) within the Defense Logistics Agency (DLA). The facility has been known as the Mukilteo Tank Farm or Mukilteo Defense Fuel Support Point (DFSP). In 1955, the USAF opened a fuel laboratory on the property. In 1972, the NOAA administered, National Marine Fisheries Service (NMFS) field headquarters began operations on the property (Port of Everett 2004). Fuel storage and transfer operations ceased at the DFSP in 1989 and operations to remove the ten bulk fuel aboveground storage tanks took place in 1999 (DESC 2004).

Currently, the only tenant on the property is the Mukilteo Biological Field Facility operated by the NMFS on the northwest corner of the property through an Air Force issued real property permit to NOAA. NMFS occupies an office building and associated structures that are used as a laboratory for aquatic studies. An enclosure at the east end of the NMFS lab contains fish pens and other aquatic habitat. NMFS currently uses the former fire station near the northwest entrance to the property for boat storage. Approximately three to ten people work daily at the facility depending on the extent of field research being conducted by the NMFS staff (DESC 2004).

Several buildings and structures remain on or appurtenant to the property including:

- The pier operations building/guard shack which currently contains piping, wiring, and electrical controls for the main pier;
- The pier;
- A large storage building containing surplus materials from the remediation system construction, as well as surplus materials from the USAF laboratory;
- A small, empty, metal shack located between the pier and the USAF laboratory;
- A building containing breakers, and distribution boxes, as well as a small workbench area;
- The former USAF Aerospace Fuels Laboratory building with a detached storage shed previously used for hazardous materials storage;
- The main pumping shelter and the fuel filter shelter, both consisting of a metal structure with a roof and no walls;
- The former fire station currently used for boat storage by NOAA;

- The NMFS research laboratory, as described above; and
- Two small buildings on either side of the main entrance that were used as guard shacks (DESC 2004).

Land uses adjacent to the property are primarily transportation, commercial, and water-related. Possession Sound is north of the property. The Harbour Pointe commercial area, consisting of a hotel, restaurant, shops and offices, is located west of the property and NMFS lab. The NMFS facility is operated on Air Force property currently permitted to NOAA. Park Avenue exists as the legal boundary along the western edge of the property. The Mukilteo Ferry Terminal is located in the Harbour Pointe area further west of the tank farm property. Single-family residential properties are located in the City of Mukilteo on the bluff above and to the south of the tank farm property. The east end of the tank farm property is located in the City of Everett, immediately west of the Port of Everett Rail/Barge Transfer Facility, also known as the Mount Baker Terminal.

Adjacent and parallel to the southern boundary of the site are right-of-way for First Avenue, vacated by the City of Mukilteo in 2005, and the BNSF Railway (formerly known as the Burlington Northern Santa Fe Railway) mainline tracks, which are also used by Sound Transit for the Sounder commuter rail service. In addition, the Sound Transit Mukilteo Station that opened for Sounder commuter rail operations in June 2008, is located parallel to and on the north side of the BNSF Railway tracks. The station is part of the Sounder commuter rail system and is planned to be part of a multimodal transit facility (Sound Transit 2008). The station (Phase I of a two-phased Sound Transit facility) currently includes a platform on the north side of the tracks for passengers and an interim parking lot located near the southwest corner of the Mukilteo Tank Farm. Phase II of the Mukilteo Station will include a south platform, pedestrian bridge over the tracks, and additional parking (Sound Transit 2008).

In order to construct the station, the south tank wall was demolished and the rubble from the wall was placed on the floor of Tank Number 8.

Coastal Zone Management

The site is located within the State of Washington's coastal zone. The Coastal Zone Management Act (CZMA) of 1972 (16 U.S.C. 1451 et seq., as amended) provides assistance to states, in cooperation with federal and local agencies, for developing land and water use programs in coastal zones. Section 307 of the CZMA stipulates that where a federal project initiates reasonably foreseeable effects on any coastal use or resource (land or water use or natural resource), the action must be consistent to the "maximum extent practicable with the enforceable policies of approved State management programs" (16 U.S.C. 1456 (c)(1)(A)).

The state of Washington has developed and implemented a federally approved Coastal Zone Management Program describing current coastal legislation and enforceable policies. Under the program, activities that impact any land use, water use, or natural resource of the coastal zone must comply with six laws, or "enforceable policies." These include the Shoreline Management Act; the State Environmental Policy Act; the Clean

Air Act, the Clean Water Act; the Energy Facility Site Evaluation Council, and the Ocean Resource Management Act.

3.2 Air Quality

Three agencies have jurisdiction over ambient air quality in the vicinity of the subject property: the U.S. Environmental Protection Agency (EPA), the Washington State Department of Ecology (Ecology), and the Puget Sound Clean Air Agency (PSCAA). Unless the state or local jurisdiction has more stringent standards, the EPA standards apply.

Air quality is largely regulated by the EPA through the National Ambient Air Quality Standards (NAAQS), which consist of numerical concentration standards for six criteria pollutants: ozone, carbon monoxide (CO), nitrogen dioxide, sulfur dioxide, particulate matter, and lead. Based on measured ambient air pollutant concentrations, the EPA designates areas of the U.S. as having air quality better than NAAQS (i.e., in “attainment”), worse than NAAQS (“nonattainment”), insufficient data to clearly demonstrate the air quality (“unclassifiable”), or as having a history of nonattainment but are now consistently meeting NAAQS (“maintenance”).

The site is included in air quality maintenance areas for ozone and carbon monoxide (CO) and is in attainment for all other pollutants (Ecology 2008). Typical existing sources of air pollution in the Project area include small commercial sources (e.g., restaurants), marine vessels, train locomotives, vehicular traffic, and residential wood burning devices. Residential wood burning produces a variety of contaminants including large quantities of fine particulate matter (PM₁₀ and PM_{2.5}) and CO. Pollutant emissions from diesel sources include PM_{2.5} and a variety of toxic air pollutants. Non-diesel emissions are comprised primarily of CO, but also include small amounts of sulfur dioxide (SO₂), toxic air pollutants, and both hydrocarbons and nitrogen oxides, which can transform to become ground-level ozone (Port of Everett 2004).

3.3 Water Resources

3.3.1 Surface Water

The Mukilteo Tank Farm is located within the Snohomish River watershed, along the shoreline of Possession Sound, an arm of Puget Sound. Surface water resources within the project vicinity include a freshwater stream within Japanese Gulch south of the site, associated riparian wetlands to the south and upstream from the Mukilteo Tank Farm, and marine waters of Possession Sound. Japanese Gulch is classified (according to WAC 222-16.031) as a type five stream at its headwaters, a seasonal, non-fish habitat stream. From 71st Pl. S.W. to 5th St., the stream is classified as a type four stream due to several artificial blockages including four concrete weirs and one vertical culvert at 5th St. North of 5th St (approximately 0.5 miles from the project site), Japanese Gulch is classified as a type three stream, waters with a channel width of five or more feet (City of Mukilteo

2006). From 5th St., Japanese Gulch drains through two culverts that cross the Air Force property before discharging to Possession Sound (Ridder 2006).

The extreme western end of the Mukilteo Tank Farm is located within a 100- year flood hazard area as established by the Federal Emergency Management Agency (Shaw 2004). This portion of property is being transferred to the Department of Commerce and will remain within federal ownership. A finding of no practical alternative in accordance with Executive Order 11988, Floodplain Management, was not required because the transfer is to another federal agency and the conveyance of the remainder of the property to the Port of Everett is not within a floodplain. In addition, there are no wetlands located within or adjacent to the Mukilteo Tank Farm (USFWS 2006).

3.3.2 Ground Water

The Mukilteo Tank Farm lies within the Puget Sound Aquifer System, an unconsolidated sand and gravel aquifer (USGS 2006). On site, the depth from surface to groundwater is approximately 7 to 10 feet. Due to tidal variations in Possession Sound, the groundwater level fluctuates approximately 1 to 3 feet daily. At low tide, the groundwater flow is north, towards Possession Sound. At high tide, the water table near the northern boundary of the site reverses direction and flows south, away from Possession Sound. The groundwater is recharged by on-and off-site infiltration of rainwater, and from the aquifer in the uplands to the south (DESC 2004).

Groundwater within the area is not potable due to the saltwater intrusion, nor is it used as a source of industrial water (DESC 2004). In addition, there are numerous resource protection wells for groundwater monitoring located within the site vicinity (Ecology 2006).

3.4 Safety and Occupational Health

As noted in Section 1.1, Mukilteo Tank Farm has been the subject of remediation activities between 1992 and 2006. The remedial action, conducted by the Defense Logistics Agency (DLA) under an enforcement order from the Washington Department of Ecology, addressed on-site soil and groundwater contamination resulting from historical site operations. Active remediation of the site was completed in 2002. Since then, the site has been monitored to ensure cleanup goals were met. On May 22, 2006, the Air Force was issued a letter by the Washington Department of Ecology stating that the terms of the enforcement order had been met and cleanup of the site achieved regulatory requirements (Ecology 2006).

The remediation of the Mukilteo Tank Farm was carried out in compliance with the Washington State Model Toxics Control Act (MTCA), which establishes administrative processes and standards to identify, investigate, and clean up facilities where hazardous substances or wastes have been located. A Remedial Investigation Feasibility Study (RIFS) was conducted and finalized in January 1996. This study established the cleanup standards for the site, based on the version of the MTCA that was in effect at that time

(O'Donovan 2006). The recommended cleanup standards, as well as the remediation methodology to obtain them, were approved by the Washington Department of Ecology. These site-specific standards are provided in the following table.

Soil Cleanup Standards for the Mukilteo Tank Farm

Contaminant	Site-Specific Cleanup Standard (mg/kg)
Acetone	8,000
Benzene	4
Toluene	328
Ethyl benzene	4,846
Xylenes	3,503
Acenaphthene	64.3 ^a
Anthracene	24,000
Benzo(a)anthracene	0.137
Benzo(a)pyrene	0.137
Benzo(b)fluoranthene	0.137
Chrysene	0.137
di-n-butylphthalate	810
Fluoranthene	5.4 ^a
Fluorene	3,200 ^a
2-Methylnaphthalene	230
Naphthalene	230 ^a
Pyrene	2,400 ^a
Arsenic	20
Chromium VI	48
Copper	36
Lead	24
Mercury	0.01 ^c
Silver	1.0 ^d
Zinc	85

Notes:

Site-specific cleanup standards presented in this table were originally defined in the Remedial Investigation/Feasibility Study (GSI 1996).

^aGroundwater protective standards are based on carcinogenic polycyclic aromatic hydrocarbons. These chemicals are not carcinogenic, so the groundwater protective standards for carcinogenic effects do not apply.

^b 7 mg/kg is the published natural background concentration (Natural Background Concentrations for Metals in Soil, Puget Sound Region, Washington State Department of Ecology, 1994); 20 mg/kg is the calculated area background. The calculated area background is used as the cleanup level.

^c Selected cleanup standard for mercury is based upon the standard laboratory detection

limit for mercury in soil by U.S. Environmental Protection Agency Method 7471.

^D Selected cleanup standard of 1.0 mg/kg is based upon the standard laboratory detection limit for silver in soil by U.S. Environmental Protection Agency Method 6010 and 100 times the laboratory detection limit for silver in water.

There are multiple existing buildings on the property. These buildings reportedly have the potential to contain asbestos building materials (i.e., floor tile, roofing materials, piping insulation) and lead based paint due to their age. In addition, these buildings reportedly contain mold due to their infrequent use and age. Although no formal asbestos and/or lead-based paint surveys or quantitative sample has been conducted on the property, the potential for asbestos-containing materials and lead-based paint was readily observable in a visual site inspection of the age and condition of the building materials prevalent on the property. A qualitative inventory of existing buildings with potential asbestos materials and lead-based paint is provided in Table 3-1. The Air Force understands that the transferees may not intend to reuse several facilities. Required notice of these conditions will be provided to transferees.

Table 3-1 Mukilteo Tank Farm Building Inventory

Building Number	Previous Use	Asbestos Materials	Lead-based Paint
T-408	Guard Shack	Potential	Potential
T-405	Storage	Potential	Potential
Building 7	Storage	Potential	Potential
Building 4	Non PCB Electrical Transformer	Potential	Potential
USAF Lab	Fuels Laboratory	Potential	Potential
Main Pump Shelter	Pump House	Potential	None
Fuel Filter Shelter	Housing of Fuel Filters	Potential	None

Building Number	Previous Use	Asbestos Materials	Lead-based Paint
T-453	Fire Station	Potential	Potential
NOAA Lab	Marine Biology Laboratory	Potential	Potential

Source: DESC 2007

3.5 Hazardous Materials/Waste

3.5.1 Hazardous Materials and Petroleum Products

An Environmental Baseline Survey (EBS) was performed at Mukilteo Tank Farm on behalf of the Air Force (DESC 2007, as revised by Air Force 2010). Completion of the EBS was a precondition to transfer of the property. As part of the EBS, facility records were reviewed to identify the quantities and types of hazardous materials and petroleum products that have been used, stored, or released at the subject property as a

result of its use at the Mukilteo Tank Farm since its initial construction in the early 1950s. The Facility housed 16 aboveground storage tanks used to contain jet turbine fuel (JP-4) and other products. The tanks, their size, construction material, current status, and historical contents are shown in Table 3-2 (DESC 2007).

Table 3-2 Tank Farm Summary

Tank Number	Design Capacity	Gallons (millions)	Construction Material	Status	Product Stored
1	55,000 barrels (42 gallons/barrel)	2.5M	Welded steel	Demolished 1999	AVGAS 100/130 and JP-4
2	55,000 barrels	2.5M	Welded steel	Demolished 1999	AVGAS 100/130 and JP-4
3	80,000 barrels	4M	Welded steel	Demolished 1999	JP-4
4	80,000 barrels	4M	Welded steel	Demolished 1999	JP-4
5	80,000 barrels	4M	Welded steel	Demolished 1999	JP-4
6	80,000 barrels	4M	Welded steel	Demolished 1999	JP-4
7	80,000 barrels	4M	Welded steel	Demolished 1999	JP-4
8	80,000 barrels	4M	Welded steel	Demolished 1999	JP-4
9	80,000 barrels	4M	Welded steel	Demolished 1999	JP-4
10	80,000 barrels	4M	Welded steel	Demolished 1999	JP-4
11	80,000 barrels	4M	Welded steel	Demolished 1999	JP-4
12	80,000 barrels	4M	Welded steel	Demolished 1999	JP-4
13	12,000 gallons		Unknown	Empty	Diesel
14	500 gallons		Unknown	Removed 1990/1991	Diesel
15	10,000 gallons		Steel	Empty	FSII
16	2,000 gallons		Unknown	Empty	FSII

Several underground storage tanks, containing heating oil, diesel oil, and downgrade fuel that did not meet Air Force specifications, also existed on site. All petroleum products or their derivatives have been removed. Air Force analyzed oils from on-site transformers in 1990, 1998, and 2003 for PCB content. No PCB transformers with more than 500 parts per million (ppm) PCBs were found.

The NOAA facility maintains a very small quantity stock of methylene chloride, ethanol, formaldehyde, and other laboratory chemicals in support of their studies. At the time that the survey was conducted, no other hazardous materials were observed at the NOAA facility (DESC 2007).

3.5.2 Hazardous and Petroleum Waste

The USAF laboratory, formerly located on the subject property, held EPA ID Number WA2971590003 and was registered as a large quantity generator of hazardous wastes and was coded as a laboratory for fuel analysis. No RCRA hazardous waste was identified at the facility at the time the EBS was conducted (DESC 2007).

3.6 Biological Resources

This section discusses biological resources that occur in the vicinity of the Mukilteo Tank Farm. Biological resources described include vegetation, wetlands, general wildlife (terrestrial and marine) and protected species.

3.6.1 Vegetation

The tank farm area is almost entirely paved or graveled. Vegetation is sparse throughout the property, with minimal species growing along the fence line, the access road, and in other locations throughout the property, including along the pier. Vegetation along the access road includes Himalayan blackberry (*Rubus armeniacus*), maple (*Acer* spp.), willow (*Salix* spp.), red alder (*Alnus rubra*), and butterfly bush (*Buddleja davidii*). Several Pacific madrones (*Arbutus menziessi*) exist within the western portion of the tank farm, near Park Avenue.

Marine vegetation occurring in the nearshore environment adjacent to the tank farm include eelgrass (*Zostera marina*), and green algae species (*Ulva* spp. and *Enteromorpha* spp.). Eelgrass surveys of the neighboring rail/barge transfer facility (just north of the tank farm) were conducted by Pentec in 2002 and 2003. These surveys show a continuous band of *Zostera marina* in the nearshore waters parallel to the rail/barge transfer facility (Pentec 2004). Although the earlier eelgrass surveys did not include the waters parallel to the tank farm, *Zostera marina* was identified in a dive survey reported by WSF Engineering during the February 2010 re-initiation of the Mukilteo Multimodal Project NEPA and SEPA processes as an area of concern.

Eelgrass provides food production and physical structure for the biological community, and is nursery habitat for many commercial fisheries species (Murphy et. al. 2000). Eelgrass is normally considered Essential Fish Habitat (EFH). EFH is legally defined as “those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity” (NOAA 2005a).

3.6.2 Wetlands

The 20-acre area of the Mukilteo Tank Farm is either paved, covered with gravel, or otherwise occupied by buildings or structures, and is heavily disturbed due to the grading of fill used in the development for much of the site. As a result, no functional wetlands or riparian vegetation exist on the site. No artificial wetland exists on the site that was unintentionally created during on-site studies, remedial action, utility work or other permitted activities.

3.6.3 General Wildlife

Terrestrial wildlife on the tank farm site is scarce. Since the tank farm area is almost entirely paved or graveled there is little or no useful habitat. It is assumed that species highly adapted to urbanized conditions could potentially be found in the tank farm area (e.g. crows, starlings, gulls, etc.).

Marine wildlife utilizing the waters parallel to the tank farm site may include many species of fish and seabirds and a low number of marine mammals. Species information from the Mukilteo Ferry Terminal nearshore surveys in 2002 (Williams et. al. 2003) can be applied to nearshore areas of the tank farm due to the proximity of the two facilities. Marine species likely to be found in the nearshore environment of the tank farm are listed in Table 3-3. Some of the bird species listed in Table 3-3 are likely to nest on the pier.

Table 3-3. Marine species likely to occur in the nearshore waters of the tank farm.

Common Name	Scientific Name
Birds	
Common Loon	<i>Gavia immer</i>
Western Grebe	<i>Aechmophorus occidentalis</i>
Double-crested Cormorant	<i>Phalacrocorax auritus</i>
Barrows Goldeneye	<i>Bucephala islandica</i>
Surf Scoter	<i>Melanitta perspicillata</i>
Common Merganser	<i>Mergus merganser</i>
Pigeon Guillemot	<i>Cepphus Columba</i>
Marbled murrelet	<i>Brachyramphus marmoratus</i>
Great blue heron	<i>Ardea Herodias</i>
Golden eagle	<i>Aquila chrysaetos</i>
Mammals	
California sea lion	<i>Zalophus californianus</i>
Steller sea lion	<i>Eumetopias jubatas</i>
Pacific Harbor seal	<i>Phoca vitulina</i>
Fish	
Chum salmon	<i>Oncorhynchus keta</i>
Pink salmon	<i>Oncorhynchus gorbuscha</i>
Chinook salmon	<i>Oncorhynchus tshawytscha</i>
Bull trout	<i>Salvelinus confluentus</i>
Spotted ratfish	<i>Hydrolagus colliei</i>
Quillback rockfish	<i>Sebastes maliger</i>
Copper rockfish	<i>Sebastes caurinus</i>
Kelp greenling	<i>Hexagrammos decagrammus</i>
Lingcod	<i>Ophiodon elongates</i>
Sculpin spp.	<i>Cottidae spp.</i>
Cabazon	<i>Scorpaenichthys marmoratus</i>
Staghorn sculpin	<i>Leptocottus armatus</i>
Buffalo sculpin	<i>Enophrys bison</i>
Threadfin sculpin	<i>Icelinus filamentosus</i>
Padded sculpin	<i>Artedius fenestralis</i>
Sailfin sculpin	<i>Nautichthys oculoasciatus</i>
Prickleback spp.	<i>Stichaeidae</i>
Gunnel spp.	<i>Pholididae</i>
Flatfish spp.	<i>Bothidae or Pleuronectidae</i>

Common Name	Scientific Name
<i>Fish</i>	
Rock sole / Turbot	<i>Pleuronichthys spp.</i>
English sole	<i>Pleuronectes vetulus</i>
Sanddab spp.	<i>Citharichthys spp.</i>
Tubesnout	<i>Aulorhynchus flavidus</i>
Pacific sandlance	<i>Ammodytes hexapterus</i>
Surf smelt	<i>Hypomesus pretiosus</i>
Striped surfperch	<i>Embiotoca lateralis</i>
Shiner surfperch	<i>Cymatogaster aggregate</i>

Source: Williams et. al. 2003

Gray whales migrating north pass through Washington waters from March through May; southward migration takes place in December and January. Some whales enter Willapa Bay, Greys Harbor, the Strait of Juan de Fuca, as well as Puget Sound during migration and summer in these areas (Washington Department of Fish and Wildlife 1997). Gray whales are commonly seen near the Port of Everett outside of migration.

3.6.4 Protected Species

Endangered species that the U.S. Fish and Wildlife Service (USFWS) has listed for Snohomish County include bull trout (*Salvelinus confluentus*), Canada lynx (*Lynx canadensis*), gray wolves (*Canis lupus*), grizzly bears (*Ursus arctos*), marbled murrelets (*Brachyramphus marmoratus*), and northern spotted owls (*Strix occidentalis caurina*) (USFWS 2005). The tank farm offers no useful terrestrial habitat; therefore, it is assumed that Canada lynx, gray wolves, grizzly bears and northern spotted owls do not occur on the tank farm site. It is possible that bull trout and marbled murrelets utilize the nearshore waters parallel to the tank farm site.

Endangered species occurring in the marine waters of Washington fall under the jurisdiction of the National Oceanic and Atmospheric Administration (NOAA). Endangered Species Act (ESA)-listed marine mammals that may occur in Puget Sound include the endangered southern resident killer whale (*Orcinus orca*), the endangered humpback whale (*Megaptera novaeangliae*), and the threatened Steller sea lion (*Eumetopias jubatus*) (NOAA 2006). The humpback whale and Steller sea lion have not been reported in or near the waters adjacent to the tank farm area. No critical habitat for Steller sea lions exists in Washington, the only known Steller sea lion rookery in Washington is on the west coast of the Olympic Peninsula, although small groups are often seen foraging in Puget Sound. It may be possible that the southern resident killer whale could occur in the Puget Sound waters near the tank farm.

Marine ESA-listed fish species occurring in Puget Sound include the threatened Chinook salmon and the species of concern listed coho salmon (NOAA 2006). Both Chinook and coho salmon have been documented in the nearshore waters of the tank farm (Williams et. al. 2003; NOAA 2006). It is possible that bull trout and marbled murrelets utilize the nearshore waters parallel to the tank farm site.

It is possible that the marbled murrelets utilize the nearshore waters parallel to the tank farm site.

There are four ESA-listed sea turtle species (leatherback, loggerhead, green, and Olive Ridley) listed for the State of Washington (NOAA 2006). Sightings and strandings of sea turtles in Washington are very rare, and there are no breeding beaches in the northwest region (NOAA 2006). The range of the sea turtle does not typically include inland Washington waters (e.g., Puget Sound); therefore, they are not expected to be in the waters near the tank farm.

Descriptions of protected species that may occur in and along the Puget Sound salt waterfront near the tank farm site are provided below.

Bull Trout

Based on acoustic tagging studies, bull trout from the Snohomish River system occasionally move along the shoreline between Everett and Mukilteo (Pentec 2004). Bull trout are listed as threatened by the USFWS. Bull trout belong to the char group of the salmon family. Bull trout closely resemble the Dolly Varden, another native char. Temperature is a major factor influencing bull trout distribution since spawning, egg incubation, and juvenile rearing all require specific temperatures. Bull trout prefer streams with abundant cover and clean gravel. Bull trout spawn in the fall in western Washington (October-November) (Shellberg 2002).

Chinook Salmon

Chinook salmon, listed as threatened, is commonly referred to as king salmon and is the largest of the Pacific salmon. Chinook salmon with different life-history strategies use marine habitat (estuary, coastal, and ocean) to different extents. The diet of outmigrating ocean-type Chinook salmon varies geographically and seasonally. The ocean migrations of Chinook salmon extend well into the North Pacific Ocean (Myers et. al. 1998). Since the Puget Sound Evolutionary Significant Unit (ESU) Chinook salmon range does include the waters adjacent to the tank farm area (NOAA 2004), it is possible that this species would be in the waters near the tank farm. A small number of Chinook salmon were observed during a 2002 sampling/survey study of the Mukilteo Ferry Terminal (Williams et. al. 2003).

Coho Salmon

The Puget Sound/Strait of Georgia ESU was listed as a species of concern in 2004. This ESU includes all naturally spawned populations of coho salmon from drainages of Puget Sound and Hood Canal, the eastern Olympic Peninsula (east of Salt Creek), and the Strait of Georgia from the eastern side of Vancouver Island and the British Columbia mainland (north to and including the Campbell and Powell Rivers), excluding the upper Fraser River (NOAA 2005b).

Marbled Murrelet

The marbled murrelet, listed as threatened, may occur on the nearshore waters adjacent to the tank farm. These small seabirds are found year-round in coastal areas throughout Washington. Areas of winter concentration are the southern and eastern end of the Strait of Juan de Fuca, Sequim (Clallam County), Discovery and Chuckanut Bays

(Whatcom County), the San Juan Islands (San Juan County) and Puget Sound. The southern Washington coast is also considered an important wintering area. When observed offshore, marbled murrelets are typically found in pairs and within a mile of shore. During the breeding season, they are present along almost all of Washington's marine shoreline, concentrated in areas with abundant food and nearby nesting habitat (Seattle Audubon Society 2005).

Southern Resident Killer Whale

The range of the southern resident killer whale includes the intracoastal waterways of Washington (NOAA 2005c) and may occur in the Puget Sound waters near the Mukilteo Tank Farm. Killer whales are considered the most widespread cetacean with regard to range. These animals normally travel in "pods" and are considered to be social. The diet of the killer whale ranges from schooling fish and squid to seals and even other whales (Reeves et al. 2002). The minimum population number for the southern resident killer whale is an estimated 83 individuals (NOAA 2005c).

Proposed critical habitat for the southern resident killer whale, as published on June 15, 2006 (71 FR 34571), specifies three areas for designation:

- The summer core area in Haro Strait and waters around the San Juan Islands;
- Puget Sound; and
- Strait of Juan de Fuca.

The Mukilteo Tank Farm falls within Puget Sound, Area 2, which extends south from the Deception Pass Bridge to the entrance to Admiralty Inlet, and Hood Canal Bridge (National Marine Fisheries Service 2006). The presence of southern resident killer whales in this area is intermittent, with the least number of sightings in May-July (National Marine Fisheries Service 2006).

3.7 Cultural Resources

According to the cultural resources survey conducted for the 2004 Satellite Rail/Barge Transfer Facility Final EIS, the subject property lies within the traditional territory of the Snohomish Tribe. Due to the cultural significance of the area in and around the Mukilteo Tank Farm, the official Tribal Government or Tribal Board of the interested federally-recognized tribes that are a signatory to the Point Elliott Treaty of 1855, as ratified in 1859, were consulted prior to the proposed transfer of the property. The Preservation Covenant applicable to the transfer of the property acknowledges standing to seek enforcement of the provisions contained therein among the following federally-recognized tribes that are signatories to the Point Elliott Treaty of 1855: Lummi Nation*, Tulalip Tribes*, Swinomish Tribal Community*, Suquamish Tribe*, Nooksack Tribe, Samish Tribe, Sauk-Suiattle Tribe, Snoqualmie Tribe, Stillaquamish Tribe, and Upper Skagit Tribe, with the first four listed tribes (*) holding Usual and Accustomed Area treaty rights. Nothing in the Preservation Covenant in any way impacts Usual and Accustomed Area treaty rights. Standing will be available to current non-federally recognized tribe that is signatory to the Point Elliott Treaty of 1855 and subsequently gains federal recognition.

The Snohomish occupied the land from the mouth of the Snohomish River to Monroe, as well as the portion of Whidbey Island opposite Mukilteo across Possession Sound, and the southern tip of Camano Island. The Washington State Department of Archaeology and Historic Preservation (DAHP) recorded several archaeological sites in the vicinity of the tank farm site. Three are within the tank farm property boundaries. This site is highlighted within Table 3-4 below. Those sites within proximity to the tank farm site include four historic properties and three place names mapped in 1920 and discussed further in Table 3-4 (Port of Everett 2004).

Table 3-4. Recorded NRHP listed and eligible for listing cultural sites in the vicinity of the tank farm area.

Site Number	Site Name	Comment
45SN107	Fowler Pear Tree	Planted on settler homestead in 1863.
45SN108	Point Elliot Treaty Site	Site of the 1855 treaty signed between Indian Tribes and the U.S. government.
45SN123	Mukilteo Light Station	Lighthouse built in 1906.
45SN140	Mukilteo Cemetery	Cemetery used from about 1873 to 1917.
45SN393	Mukilteo Shoreline Site	Extensive shell midden associated with pre-contact use of the Mukilteo shoreline by Native Americans
45SN398	Japanese Gulch Site	Residential area for Japanese immigrant workers at the Crown Lumber Company mill at Mukilteo
45SN404	Old Mukilteo Site	Crown Company store used for trading in Mukilteo by workers at the Crown lumber mill.
30 (Waterman 2001:343)	HuxuktL!a3al	“Place on the shoreline west of Everett. This term is said to refer to the fact that here the tops of the trees are broken off (hwEtL, ‘broken’).”
31 (Waterman 2001:343)	Sklels	“‘Dirty rocks,’ for a spot on the shore very close to Point Elliot. The stones here look somewhat dirty and muddy, not so ‘bright’ as they are elsewhere.”
32 (Waterman 2001:343)	BekLti’o or Beka’ltiu	“A place at what is now called Mukilteo along side of Point Elliot [...] It was an excellent place to fish, and numbers of people camped here, though it was not a permanent village.”

Source: WSHS 2005, Miss 2006

During a field survey conducted in association with the Rail/Barge transfer facility project in 2005, wood fragments were encountered which were believed to be associated with the Superior Shingle Mill (Crown Lumber Company) previously located on the site. The Crown Lumber Company was formerly known as the Mukilteo Lumber Company and the mill was constructed in 1903 (NWAA 2008a). The mill was closed in 1930 and was destroyed by a fire in 1938 (NWAA 2006).

Although the initial cultural resources survey concluded that no significant archaeological or historic resources were located on the property, subsequent borings, surveys, and excavations, performed under a temporary Air Force right of entry to the Mukilteo Tank Farm, identified resources of potential significance. Excavations performed for construction of the utility conduit, along the boundary of the Mukilteo Tank Farm and right of way of the Burlington Northern Railway, for the Rail/Barge

transfer facility in 2006 uncovered structural debris and Japanese domestic debris likely associated with the former Japanese immigrant community employed by the Crown Lumber Company. The age of the finds coincide with the operation of the mill circa 1920s – 1930s. Excavations performed by Washington State Ferries for use in characterizing cultural resources on site for the proposed Multi-modal Ferry Terminal facility revealed shell-midden and grease pits associated with tribal cooking and camp areas (Tolon 2006).

In 2006, during utility installation along the southern boundary of the tank farm property along the Burlington Northern Santa Fe (BNSF) Railway, artifacts were discovered by the archaeological monitor and a more in-depth cultural resources survey was undertaken in 2007 at this site. The purpose of this survey was to uncover possible cultural resources on site and to determine eligibility for nomination to the NRHP. The site evaluation took place at the Japanese Gulch site (45SN398), a former housing area for the mill's Japanese workers during the early 20th Century. The site was divided into two halves by a property boundary line: the Sound Transit site on the BNSF Railroad property and the Air Force site located on the tank farm property (NWAA 2008a). The site located on the tank farm property was determined eligible for listing on the NRHP due to the artifacts uncovered there and the valuable data that the site can contribute to the history of Japanese Americans (NWAA 2008a). Significance of archaeological properties is typically judged under Criterion D, where an assessment is made whether the property has information to contribute to the understanding of history or prehistory and the importance of that information (NWAA 2008b).

Also in 2006, cultural investigations were undertaken for the proposed Mukilteo Multimodal Ferry Terminal. These investigations included the Crown Lumber Company store, the Old Mukilteo Site (45SN404) and the Mukilteo Shoreline Site (45SN393), and focused on determining eligibility for listing on the NRHP. Excavations at the Mukilteo Shoreline Site (45SN393) determined that the historic debris and artifacts provide data in sufficient quantities to offer information about pre-contact and proto-historic Native American settlement, and the subsistence economy and technology of the Puget Sound region. Excavations at the Old Mukilteo Site (45SN404) provided additional data on the social and economic make-up of the population of Old Mukilteo (NWAA 2008b). Because of this work, the consultant's report supported eligibility for listing on the NRHP under Criterion D.

Artifacts and material remains found on the site to date will be addressed in accordance with both 36 CFR 79 and 32 CFR 229, and a disposition plan prepared by the Air Force and submitted to the DAHP for approval.

3.8 Geology and Soils

3.8.1 Topography

The proposed site is nearly level to gently sloping and has an approximate elevation of 13 feet above mean sea level (MSL). A bluff to the south of the site rises to approximately 400 feet above MSL. The northern boundary of the site is the Possession

Sound shoreline which consists of a narrow strip of beach zone. The area east of the site is regionally known as the Puget Sound Uplands (DESC 2007).

3.8.2 Geology

According to the EBS, the Mukilteo Tank Farm facility was built on 8 to 15 feet of artificial fill overlying Holocene beach deposits. Although the source of the fill is unknown, it consists of unconsolidated poorly- to moderately well-graded sand and gravel. Holocene beach sediments are exposed at low tide on tidal flats and intertidal beaches along the northern edge of the site. In the northeastern portion of the site these sediments comprise a broad tidal flat that extends several hundred feet into Possession Sound from the base of the existing riprap seawall. The Holocene deposits are underlain by Pleistocene glacial drift deposits. The contact between the beach deposits and the glacial drift is estimated to be approximately 30 feet below ground surface (DESC 2007).

3.8.3 Soils

The project site soils are classified as Urban Land (USDA 1983). Natural soils at the project site are covered by artificial fill and by impervious surfaces (i.e., streets, buildings, parking lots, and other structures). The nature of the fill material is such that site-wide permeability will be nonuniform. The soils in the areas immediately adjacent to the site are the Alderwood/Everett gravelly, sandy loams and the Kitsap loam (southwest corner of the site), which are characterized as moderately to very deep over the glacial deposits in the area and are moderately well drained (DESC 2007).

3.8.4 Seismic Activity

According to the EBS, 16 earthquakes of magnitude 5.0 or greater have occurred within 100 miles of the site between 1872 and 2001. No faults are known to exist beneath the site, and the possibility of surface rupture due to faulting is considered remote (DESC 2007).

3.9 Socioeconomics

According to the City of Mukilteo Comprehensive Plan, the city has grown from a small town of 1,400 people in 1980 to a medium sized city of over 18,000 in 2000. In 2000, unemployment in Mukilteo was relatively low, at 2.9%. Nearly half of the 9,515 employed people 16 years or older work in management or professional occupations. The median household income in 2000 was \$67,323 (City of Mukilteo 2004).

Chapter 4 – Environmental Impacts and Mitigation Measures

This section presents an evaluation of the potential environmental, physical, cultural, and socioeconomic consequences of implementing the Proposed Action and the No Action Alternative on the resources described in Section 3. This section also addresses potential indirect and cumulative impacts; unavoidable adverse impacts; the relationship between short-term uses and enhancement of long-term productivity; and irreversible and irretrievable commitment of resources.

To describe impacts in this section, the following definitions for terms used in the impact analysis include the following:

- Adverse – the effect is negative.
- Beneficial – the effect is positive.
- Significant – the effect is noticeable, long-term, or permanent.

This section does not address impacts associated with specific or proposed future uses or development of the subject property. Rather, it focuses on the impacts of the conveyance from Federal ownership and the transfer of administrative jurisdiction for the 18.85-acre and 1.1-acre portions of the Mukilteo Tank Farm property to the Port of Everett and the Secretary of Commerce, respectively, as authorized by Federal law, and it addresses likely outcomes that would result from the federally authorized real estate transactions regardless of specific development actions by other parties.

4.1 Analysis of Direct Impacts

4.1.1 Land Use

Land use can be impacted by restrictions or authorizations on how property can be used or developed in the future, and the need for comprehensive plan or zoning changes as a result of an action.

Proposed Action

The Proposed Action would result in long-term beneficial impacts to land use. The impacts would be beneficial because the proposed action complies with the Military Construction Authorization Act of 2001, and would not require any modifications to current comprehensive plans or zoning designations. The Proposed Action also provides benefits to land use by enabling future development of the site for uses that serve the public and provide economic stimuli to the local economy. Finally, the Proposed Action provides the opportunity for the NMFS to continue ongoing operation of the Mukilteo Biological Field Facility at its current location.

The Proposed Action, being solely a conveyance and transfer of land, will not cause reasonably foreseeable coastal effects. However, McChord AFB prepared and submitted a consistency statement for the Proposed Action to the Washington Department of Ecology (DOE). On February 12, 2009, DOE certified the proposed action to be consistent with Washington's Coastal Zone Management program, and that it will have no effect upon coastal resources (Appendix C). Any subsequently proposed development of the Mukilteo Tank Farm must comply with the Washington State Coastal Zone Management Program for associated impacts.

No Action

The No Action alternative would not result in any adverse or beneficial impacts to land use because the land ownership status would not change.

4.1.2 Air Quality

Air quality can be impacted if an action results in general air quality degradation, contributes to the site region being classified as a non-attainment area for pollutants with NAAQS, or generates toxic air compounds.

None of the alternatives, including the Proposed Action, would result in adverse or beneficial impacts to air quality.

4.1.3 Water Resources

Water resources can be impacted if an action results in water quality degradation or affects the quantity of water available for fish and wildlife or consumptive uses.

None of the alternatives, including the Proposed Action, would result in adverse or beneficial impacts to water resources.

4.1.4 Safety and Occupational Health

Safety and occupational health can be impacted if on-site workers or the public are exposed to physical hazards or toxic substances.

Proposed Action

The Proposed Action would result in beneficial impacts to safety and occupational health. The Proposed Action is expected to result in future demolition and/or abatement of building materials that could potentially contain asbestos, lead or lead-based paint as part of any future use or redevelopment activities. Proper demolition and/or abatement of these materials by the recipient of the property would eliminate the potential risks for future on-site workers or trespassers.

No Action

The No Action alternative would result in potential adverse impacts to safety and occupational health because the on-site structures would not be demolished and continue to deteriorate. The potential would remain for trespassers or authorized personnel who might enter the property and be exposed to safety hazardous, including potential exposure to asbestos, lead-based paint and accidents due to failing infrastructure. Exposure to these materials could result in a significant adverse affects.

4.1.5 Hazardous Materials/Waste

An action can have impact if it results in the need for handling or storage of large quantities of hazardous materials or if it generates hazardous waste.

Proposed Action

The Proposed Action would result in no significant adverse impacts. As discussed in Section 4.1.4, the Proposed Action is expected to result in demolition or abatement of on-site structures containing asbestos and lead-based paint. These activities would generate solid waste materials that would be regulated as hazardous waste. Proper on-site controls during demolition/abatement, and disposal of the solid wastes at a properly licensed facility would mitigate the adverse impact. This alternative would result in beneficial impacts because the Air Force would have the ability to access and occupy the site to address any future public health and safety issues that are attributable to historic DoD operations at the property.

As discussed in 4.1.4, the Proposed Action would result in no significant adverse impacts. Should the recipients decide to demolish or abate structures containing asbestos or lead-based paints, they shall abate and dispose of the debris in accordance with local, state, and federal law, to mitigate any adverse impact. Additionally, pursuant to CERCLA 120(h)(3), when remedial actions have been completed, as is the case here, the Air Force shall provide a warranty to the transferee stating that all remedial action necessary to protect human health and the environment with respect to any such substance remaining on the property has been taken before the date of transfer. Any additional remedial action found to be necessary after the date of such transfer shall be conducted by the United States. This warranty shall not apply in any case in which the person or entity to whom the real property is transferred is a potentially responsible party. The Air Force will retain a right of reentry to conduct necessary remediation related to its former use. This warranty, amending the deed, will be recorded by the DoD component.

Regarding the pier to be transferred with the Mukilteo Tank Farm property, as provided by the special legislation, in 1982, kpff Consulting Engineers, Inc., of Seattle, Washington surveyed the pier for the Seattle District Corps of Engineers and concluded that “many piles have little or no [creosote] coating left.” This conclusion was reached following a physical investigation conducted by a certified pile inspection diving firm, Sunchasers. Their investigation classified damage, measured pier diameters, performed visual inspection and probing, and took core drill samples of the pilings. The extent of rot and lack of creosote suggests that the pilings may not have been fully treated prior to pier construction. The report also indicated that piers built during WWII often were constructed during times of material shortages. Since the 1982 kpff pier report was completed, the Air Force has not replaced or re-coated any pilings on the pier.

No Action

The No Action alternative would not result in any adverse or beneficial impacts from hazardous materials or waste.

4.1.6 Biological Resources

Biological resources can be impacted if an action results in destruction of vegetation, wetlands, or wildlife habitat; or negatively affects protected species or their habitat.

None of the alternatives, including the Proposed Action, would result in significant adverse or beneficial impacts to biological resources.

4.1.7 Cultural Resources

Cultural resources can be impacted if an action results in disturbance, destruction, or unauthorized removal of archaeological artifacts, cultural settings, or historical structures.

Proposed Action

The Mukilteo Tank Farm contains known archaeological resources eligible for listing on the NRHP, and the un-surveyed (heritage) portion of the property to be conveyed may contain currently unknown archaeological resources. Currently, the Air Force is the agency responsible under Section 106 of the National Historic Preservation Act (NHPA) to determine in consultation with the Washington State Department of Archaeology and Historic Preservation (DAHP) whether the proposed transfer of Mukilteo Tank Farm to the Port of Everett, would adversely affect the historical properties within the project area.

Section 106 of the NHPA requires Federal agencies to take into account the effects of the proposed action on potential or listed historic sites/properties on and eligible for the NRHP. The Air Force has proposed a finding of no adverse effect due to the proposed conveyance being made subject to a preservation covenant in accordance with 36 CFR 800.5. (Appendix B) The proposed transfer out of federal ownership and control to the Port of Everett would be subject to a permanent preservation covenant that would allow for continuing enforcement of existing state and certain federal protection of cultural resources, including standing in the Native American tribes, as described below, to enforce the covenant provisions. The Air Force by this draft Environmental Assessment is providing the SHPO, consulting parties and the public an opportunity to review and comment on the proposed undertaking before the SHPO can concur in the proposed finding of no adverse effect.

Due to the cultural significance of the area in and around the Mukilteo Tank Farm, the interested official Tribal Governments or Tribal Boards of the federally-recognized tribes that are a signatory to the Point Elliott Treaty of 1855, as ratified in 1859, were consulted prior to the proposed transfer of the property. The Preservation Covenant applicable to the transfer of the property acknowledges standing to seek enforcement of the provisions contained therein among the following federally-recognized tribes that are signatories to the Point Elliott Treaty of 1855: Lummi Nation*, Tulalip Tribes*, Swinomish Tribal Community*, Suquamish Tribe*, Nooksack Tribe, Samish Tribe, Sauk-Suiattle Tribe, Snoqualmie Tribe, Stillaquamish Tribe, and Upper Skagit Tribe, with the first four listed tribes (*) holding Usual and Accustomed Area treaty rights. Nothing in the Preservation Covenant in any way impacts Usual and Accustomed Area treaty

rights. Standing will be available to current non-federally recognized tribe that is signatory to the Point Elliott Treaty of 1855 and subsequently gains federal recognition.

The Washington State Executive Order 05-05 of 10 November 2005 states that, as early as possible in the planning process, any capital construction project not affected by Section 106 will be reviewed by the Department of Archaeology and Historic Preservation (DAHP) and the Governor's Office of Indian Affairs to determine the potential impacts to the cultural resources. In addition to these protections, and the preservation covenant, the concerned agency or a developer will be required to take reasonable action to avoid, minimize, or mitigate any adverse effects on the cultural resources.

Under the State of Washington Legislation, RCW 27.53.060, it is unlawful to knowingly alter or damage any historic or prehistoric archeological resource prior to the issuance of a permit. It is also designated under RCW 27.53.20 that the DAHP and the other agencies involved shall cooperate in discovering, identifying, excavating, and studying of the state archaeological resources in the project area. The agencies are required to provide information on the nomination of sites to the state and federal national registers, and provide impact statements on construction activities effecting archeological resources to the state, federal and private construction agencies involved. Consequently, any construction or the ground disturbing activity will be subject to review and permitting by the DAHP.

Future development of Mukilteo Tank Farm will require comprehensive cultural and historical resource surveys prior to implementation.

No Action

The No Action alternative would not result in any adverse or beneficial impacts to cultural resources.

4.1.8 Geology and Soils

Geology and soils can be impacted if an action results in significant soil erosion, unstable slopes, or create unsafe conditions in a seismic event.

None of the alternatives, including the Proposed Action, would result in adverse or beneficial impacts to geology and soils.

4.1.9 Socioeconomics

Socioeconomics can be impacted if an action results in displacement of people, requires a need for substantial new housing or public services, or results in changes to the local or regional economy.

Proposed Action

The Proposed Action would likely result in beneficial impacts to socioeconomics. The Proposed Action will not involve displacement of people or require new housing or public services. It would, however, shape conditions that would provide opportunities for economic development in Snohomish County. These opportunities for economic growth would result from appropriately planned and approved future development of Mukilteo Tank Farm property, which in turn could provide construction and related

jobs and potentially increase commercial use of the property. Snohomish County does not assess property tax to government entities. Since the Port of Everett is a government entity, property tax would still not be paid on the parcel if ownership were conveyed to the Port of Everett (Paskovskis 2006).

No Action

The No Action alternative would not result in any adverse or beneficial impacts to socioeconomics.

4.2 Analysis of Indirect and Cumulative Impacts

Federal regulations implementing NEPA (42 USC § 4321 et seq. and 32 CFR 989, respectively) require that the cumulative impacts of a Proposed Action be assessed. CEQ regulations implementing the procedural provision of NEPA define cumulative impacts as:

The impact on the environment which results from the incremental impacts of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (federal or non-federal) or person undertakes such other actions” (40 CFR 1507).

In order to analyze cumulative effects, a cumulative effects region must be identified within which effects of the Proposed Action and other past, proposed, and reasonably foreseeable actions would be cumulatively recorded or experienced. For this EA, the region where cumulative effects may occur includes Mukilteo and the immediate Possession Sound vicinity. There have not been any Army or Air Force fee land disposals in the vicinity in the past five years. Four proposed actions have been identified as potentially occurring within the identified cumulative effects region. These four sites have been identified for closure under the 2006 Base Realignment and Closure (BRAC) list for western Washington (Luciano 2006). A listing of the sites is provided below.

- Army National Guard Reserve Center, Everett

Although the Mukilteo Tank Farm property transfer is not a BRAC action, both sites have been declared surplus by the U.S. Government. The cumulative impact of transferring the Tank Farm and the properties would not limit current or future DoD related activities in the Puget Sound region. Site identifiable impacts, if any, from the sites considered within this cumulative impact analysis would not additively affect impacts from the Mukilteo Tank Farm property transfer.

In addition to the potential disposal activities discussed above, three additional regional proposals have also been considered as part of this cumulative impact analysis:

- Port of Everett Rail/Barge Transfer Facility
- Sound Transit Mukilteo Station

- Mukilteo Multimodal Ferry Terminal

Each of these projects is briefly discussed here.

The Mount Baker Terminal, also known as the Rail/Barge Transfer Facility (R/BTF) was constructed by the Port adjacent to the east side of the Mukilteo Tank Farm property. The project required a Final Environmental Impact Statement issued on October 22, 2004. Construction began in August 2005. Operations began at the R/BTF on May 2, 2008. The R/BTF was designed to allow transportation of oversized aerospace parts, by barge, from the Port's shipping terminal on Port Gardner Bay to the Mount Baker Terminal where the parts are off-loaded by an electric rail-mounted gantry crane and then transported by rail car to Paine Field Airport near Everett. The new facility improves rail congestion by reducing BNSF Railway mainline closures from two hours to less than 30 minutes when transporting oversized aerospace parts to the Paine Field. (Port of Everett 2008). The Port of Everett Mount Baker Terminal or R/BTF EIS can be found at: <http://www3.portofeverett.com/railbargeeis.shtml>

Sound Transit has constructed the Sounder commuter rail system along a 35-mile corridor between Everett and Seattle, Washington. This project is largely located within the existing BNSF Railway right-of-way (Sound Transit and US Department of Transportation 1999). One of the stations associated with this commuter rail system, the Mukilteo Station, has been partially constructed just south of the tank farm site. The first phase of the Mukilteo Station includes a platform on the north side of the tracks and interim parking. The second phase of the project will include a second platform on the south side of the tracks, a pedestrian bridge over the tracks connecting the two platforms, additional parking spaces, as well as passenger shelters.

Extensive environmental impacts analysis was performed prior to the first phase of the Mukilteo Commuter Rail Station construction by Sound Transit on and adjacent to BNSF Railway right-of-way at the southwest corner of the Mukilteo Tank Farm property. The project required Sound Transit to conduct an Environmental Re-evaluation Consultation with various Washington State and Federal agencies to obtain confirmation from the Federal Transit Administration. The FTA determined on January 31, 2007, that the proposed station complied with NEPA. The Re-evaluation was made necessary due to changes in the design since the FTA issued a Record of Decision, dated February 4, 2000, based on the Everett-to-Seattle Commuter Rail Environmental Impact Statement issued in December 1999. The commuter rail EIS is available at:

<http://projects.soundtransit.org/x8982.xml> Construction of the station began in August 2007. Regular commuter rail service of the Sounder train at the Mukilteo Station began on June 2, 2008. The Mukilteo Station is served by four daily round-trip Sounder trains that travel from Everett to Seattle.

The Federal Transit Administration (FTA) and Washington State Ferries (WSF) have proposed to relocate and expand the existing Mukilteo ferry terminal as a multimodal ferry terminal. This expanded facility would use 6 to 7 acres of tank farm property and would include a transit center, parking garage, and vehicle holding area (Washington

Department of Transportation 2010). The joint NEPA and SEPA scoping process for the Mukilteo Multimodal Ferry Terminal was re-initiated by FTA and WSDOT/WSF in February 2010. Opportunities for tribal and public participation will be included in this process. The EIS planned by those agencies will reflect WSF-system wide program planning decisions made to implement guidance received during the 2009 Washington State legislative session.

The Federal Transit Administration (FTA) and the Washington State Department of Transportation (WSDOT)/Washington State Ferries (WSF) initiated scoping on a joint NEPA and SEPA Environmental Impact Statement (EIS) for the Mukilteo Multimodal Ferry Terminal Project in March 2006. The joint NEPA and SEPA scoping process for the Mukilteo Multimodal Ferry Terminal was re-initiated by FTA and WSDOT/WSF in February 2010. The EIS planned by those agencies will reflect WSF-system wide program planning decisions made to implement guidance received during the 2009 Washington State legislative session.

The analysis for this EA indicates that the Proposed Action (i.e., conveyance and transfer of the property) would not, in and of itself, result in or contribute to significant adverse cumulative effects to resources at the Mukilteo Tank Farm property or within the region. Any proposed redevelopment of the property conveyed or transferred by the Air Force would be subject to separate environmental impact analysis under NEPA and/or the Washington State Environmental Policy Act (SEPA), as proposed by the Port or any successor in interest, including a Federal agency.

Interested tribes and members of the public will have opportunities to participate in that process. Federal Transit Administration involvement and funding will trigger National Historic Preservation Act Section 106 consultation with affected federally-recognized tribes. Additionally, the Washington State Executive Order 05-05 of 10 November 2005, states that, as early as possible in the planning process, any capital construction projects not affected by Section 106, will be reviewed by the DAHP and the Governor's Office of Indian Affairs. More importantly, any project must be consistent with the terms and conditions within the preservation covenant, which will be recorded with the deed. Since re-initiation of the Mukilteo Multimodal Ferry Terminal NEPA/SEPA process in February 2010, the process remains in its early planning stages. The most recent alternatives being discussed can be found at:

ftp://ftp.wsdot.wa.gov/incoming/Mukilteo%20Multimodal%20Project/06102010_wor_kshp/Alternatives%20History_June2010.pdf

The site-specific impacts associated with the three projects discussed above, as considered in this cumulative impact analysis, would not additively affect impacts from the Tank Farm transfer that have not or would not be the subject of extensive NEPA compliance steps. The Washington State Department of Transportation/Washington State Ferries NEPA process is underway for the Multimodal Terminal Facility. The existing Sound Transit Mukilteo Station and future Phase II expansion of this facility will be the subject of detailed analysis in the NEPA documents (Final EIS) for that

project. The Port of Everett Mount Baker Terminal construction project is also supported by a Final EIS.

4.3 Irreversible and Irretrievable Commitment of Resources

Irreversible effects are those that cannot be reversed except in the extreme long-term. Irretrievable effects are those that are lost for a period of time. The Proposed Action would not result in irreversible effects because any future development of the property would be subject to legally enforceable restrictions and conditions (Preservation Covenant) on the conveyance and transfer and to further review by local, State, and Federal government for NEPA analysis and otherwise.

Chapter 5 – List of Agencies and Persons Consulted

The following agencies and persons have been consulted and/or have contributed information used in this draft EA:

- James Long, 62 CES/CER, Resources Flight Chief
- Yvonne D. Bush, 62 CES/CERR, Real Estate Branch Chief
- Cindy Luciano, Real Estate Division, Seattle District, U.S. Army Corps of Engineers, Air Force Program Manager
- Edmunds Paskovskis, former Deputy Executive Director, Port of Everett
- Marsha Tolon, former Environmental Planner, Washington State Ferries
- Dr. Gail Thompson, Historical Research Associates

The agencies and persons provided copies of this draft EA are contained in Appendix E. A matrix of comments received will be contained in the final document as Appendix G.

Chapter 6 – References

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APPENDIX -- A
SPECIAL LEGISLATION

PUBLIC LAW 106-398—OCT. 30, 2000

NATIONAL DEFENSE AUTHORIZATION,
FISCAL YEAR 2001

***Public Law 106-398**
106th Congress

An Act

Oct. 30, 2000
 [H.R. 4205]

To authorize appropriations for fiscal year 2001 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Incorporation by
 reference.

SECTION 1. ENACTMENT OF FISCAL YEAR 2001 NATIONAL DEFENSE AUTHORIZATION ACT.

The provisions of H.R. 5408 of the 106th Congress, as introduced on October 6, 2000, are hereby enacted into law.

1 USC 112 note.

SEC. 2. PUBLICATION OF ACT.

In publishing this Act in slip form and in the United States Statutes at Large pursuant to section 112 of title 1, United States Code, the Archivist of the United States shall include after the date of approval an appendix setting forth the text of the bill referred to in section 1.

Approved October 30, 2000.

LEGISLATIVE HISTORY—H.R. 4205 (S. 2549) (S. 2550):

HOUSE REPORTS: Nos. 106-616 (Comm. on Armed Services) and 106-945 (Comm. of Conference).

SENATE REPORTS: No. 106-292 accompanying S. 2549 (Comm. on Armed Services).

CONGRESSIONAL RECORD, Vol. 146 (2000):

May 17, 18 considered and passed House.

July 13, considered and passed Senate, amended.

Oct. 11, House agreed to conference report.

Oct. 12, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 36 (2000):

Oct. 30, Presidential statement.

***ENDNOTE:** The following appendix was added pursuant to the provisions of sections 1 and 2 of this Act.



- Sec. 2804. Modification of lease authority for high-cost military family housing.
- Sec. 2805. Provision of utilities and services under alternative authority for acquisition and improvement of military housing.
- Sec. 2806. Extension of alternative authority for acquisition and improvement of military housing.
- Sec. 2807. Expansion of definition of armory to include readiness centers.

SUBTITLE B—REAL PROPERTY AND FACILITIES ADMINISTRATION

- Sec. 2811. Increase in threshold for notice and wait requirements for real property transactions.
- Sec. 2812. Enhancement of authority of military departments to lease non-excess property.
- Sec. 2813. Conveyance authority regarding utility systems of military departments.
- Sec. 2814. Permanent conveyance authority to improve property management.

SUBTITLE C—DEFENSE BASE CLOSURE AND REALIGNMENT

- Sec. 2821. Scope of agreements to transfer property to redevelopment authorities without consideration under the base closure laws.

SUBTITLE D—LAND CONVEYANCES

PART I—ARMY CONVEYANCES

- Sec. 2831. Transfer of jurisdiction, Rock Island Arsenal, Illinois.
- Sec. 2832. Land conveyance, Army Reserve Center, Galesburg, Illinois.
- Sec. 2833. Land conveyance, Charles Melvin Price Support Center, Illinois.
- Sec. 2834. Land conveyance, Fort Riley, Kansas.
- Sec. 2835. Land conveyance, Fort Polk, Louisiana.
- Sec. 2836. Land conveyance, Army Reserve Center, Winona, Minnesota.
- Sec. 2837. Land conveyance, Fort Dix, New Jersey.
- Sec. 2838. Land conveyance, Nike Site 43, Elrama, Pennsylvania.
- Sec. 2839. Land exchange, Army Reserve Local Training Center, Chattanooga, Tennessee.
- Sec. 2840. Land exchange, Fort Hood, Texas.
- Sec. 2841. Land conveyance, Fort Pickett, Virginia.
- Sec. 2842. Land conveyance, Fort Lawton, Washington.
- Sec. 2843. Land conveyance, Vancouver Barracks, Washington.

PART II—NAVY CONVEYANCES

- Sec. 2846. Modification of land conveyance, Marine Corps Air Station, El Toro, California.
- Sec. 2847. Modification of authority for Oxnard Harbor District, Port Hueneme, California, to use certain Navy property.
- Sec. 2848. Transfer of jurisdiction, Marine Corps Air Station, Miramar, California.
- Sec. 2849. Land exchange, Marine Corps Recruit Depot, San Diego, California.
- Sec. 2850. Lease of property, Naval Air Station, Pensacola, Florida.
- Sec. 2851. Land conveyance, Naval Reserve Center, Tampa, Florida.
- Sec. 2852. Modification of land conveyance, Defense Fuel Supply Point, Casco Bay, Maine.
- Sec. 2853. Land conveyance, Naval Computer and Telecommunications Station, Cutler, Maine.
- Sec. 2854. Modification of land conveyance authority, former Naval Training Center, Bainbridge, Cecil County, Maryland.
- Sec. 2855. Land conveyance, Marine Corps Base, Camp Lejeune, North Carolina.
- Sec. 2856. Land exchange, Naval Air Reserve Center, Columbus, Ohio.
- Sec. 2857. Land conveyance, Naval Station, Bremerton, Washington.

PART III—AIR FORCE CONVEYANCES

- Sec. 2861. Land conveyance, Los Angeles Air Force Base, California.
- Sec. 2862. Land conveyance, Point Arena Air Force Station, California.
- Sec. 2863. Land conveyance, Lowry Air Force Base, Colorado.
- Sec. 2864. Land conveyance, Wright-Patterson Air Force Base, Ohio.
- Sec. 2865. Modification of land conveyance, Ellsworth Air Force Base, South Dakota.
- Sec. 2866. Land conveyance, Mukilteo Tank Farm, Everett, Washington.

PART IV—OTHER CONVEYANCES

- Sec. 2871. Land conveyance, Army and Air Force Exchange Service property, Farmers Branch, Texas.
- Sec. 2872. Land conveyance, former National Ground Intelligence Center, Charlottesville, Virginia.

SUBTITLE E—OTHER MATTERS

- Sec. 2881. Relation of easement authority to leased parkland, Marine Corps Base, Camp Pendleton, California.

SEC. 2866. LAND CONVEYANCE, MUKILTEO TANK FARM, EVERETT, WASHINGTON.

(a) **CONVEYANCE AUTHORIZED.**—The Secretary of the Air Force may convey, without consideration, to the Port of Everett, Washington (in this section referred to as the “Port”), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 22 acres and known as the Mukilteo Tank Farm for the purpose of permitting the Port to use the parcel for the development and operation of a port facility and for other public purposes.

(b) **PERSONAL PROPERTY.**—The Secretary of the Air Force may include as part of the conveyance authorized by subsection (a) any personal property at the Mukilteo Tank Farm that is excess to the needs of the Air Force if the Secretary of Transportation determines that such personal property is appropriate for the development or operation of the Mukilteo Tank Farm as a port facility.

(c) **INTERIM LEASE.**—(1) Until such time as the real property described in subsection (a) is conveyed by deed, the Secretary of the Air Force may lease all or part of the real property to the Port if the Secretary determines that the real property is suitable for lease and the lease of the property under this subsection will not interfere with any environmental remediation activities or schedules under applicable law or agreements.

(2) The determination under paragraph (1) whether the lease of the real property will interfere with environmental remediation activities or schedules referred to in that paragraph shall be based upon an environmental baseline survey conducted in accordance with applicable Air Force regulations and policy.

(3) Except as provided by paragraph (4), as consideration for the lease under this subsection, the Port shall pay the Secretary an amount equal to the fair market of the lease, as determined by the Secretary.

(4) The amount of consideration paid by the Port for the lease under this subsection may be an amount, as determined by the Secretary, less than the fair market value of the lease if the Secretary determines that—

(A) the public interest will be served by an amount of consideration for the lease that is less than the fair market value of the lease; and

(B) payment of an amount equal to the fair market value of the lease is unobtainable.

(d) **DESCRIPTION OF PROPERTY.**—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary of the Air Force and the Port.

(e) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary of the Air Force, in consultation with the Secretary of Transportation, may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary of the Air Force considers appropriate to protect the interests of the United States.

PUBLIC LAW 107-107—DEC. 28, 2001

NATIONAL DEFENSE AUTHORIZATION ACT
FOR FISCAL YEAR 2002

Public Law 107–107
107th Congress

An Act

Dec. 28, 2001
[S. 1438]

To authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

National Defense
Authorization
Act for Fiscal
Year 2002.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Defense Authorization Act for Fiscal Year 2002”.

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

- (1) Division A—Department of Defense Authorizations.
- (2) Division B—Military Construction Authorizations.
- (3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Organization of Act into divisions; table of contents.
- Sec. 3. Congressional defense committees defined.

**DIVISION A—DEPARTMENT OF DEFENSE
AUTHORIZATIONS**

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

- Sec. 101. Army.
- Sec. 102. Navy and Marine Corps.
- Sec. 103. Air Force.
- Sec. 104. Defense-wide activities.
- Sec. 105. Defense Inspector General.
- Sec. 106. Chemical Agents and Munitions Destruction, Defense.
- Sec. 107. Defense Health Program.

Subtitle B—Army Programs

- Sec. 111. Repeal of limitations on bunker defeat munitions program.
- Sec. 112. Extension of pilot program on sales of manufactured articles and services of certain Army industrial facilities without regard to availability from domestic sources.
- Sec. 113. Limitations on acquisition of interim armored vehicles and deployment of interim brigade combat teams.

Subtitle C—Navy Programs

- Sec. 121. Virginia class submarine program.

and the City shall jointly determine the portion of the property referred to in subsection (a) that is to be conveyed to the State under subsection (a) and the portion of the property that is to be conveyed to the City under subsection (b).

(2) In determining under paragraph (1) the portions of property to be conveyed under this section, the portion to be conveyed to the State shall be the minimum portion of the property required by the State for the purpose specified in subsection (a), and the portion to be conveyed to the City shall be the balance of the property.

(d) LIMITATION ON CONVEYANCES.—The Secretary may not carry out the conveyance of property authorized by subsection (a) or (b) until the completion of an assessment of environmental contamination of the property authorized to be conveyed by such subsection for purposes of determining responsibility for environmental remediation of such property.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsections (a) and (b) shall be determined by surveys satisfactory to the Secretary. The cost of the survey for the property to be conveyed under subsection (a) shall be borne by the State, and the cost of the survey for the property to be conveyed under subsection (b) shall be borne by the City.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under subsections (a) and (b) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2858. TRANSFER OF JURISDICTION, MUKILTEO TANK FARM, EVERETT, WASHINGTON.

(a) TRANSFER AUTHORIZED.—The Secretary of the Air Force shall transfer, without reimbursement, to the Secretary of Commerce administrative jurisdiction over a parcel of real property, including improvements thereon, consisting of approximately 1.1 acres located at the Mukilteo Tank Farm in Everett, Washington, and containing the Mukilteo Research Center facility of the National Marine Fisheries Service.

(b) TIME FOR CONVEYANCE.—The Secretary of the Air Force shall make the transfer under subsection (a) at the same time that the Secretary makes the conveyance authorized by section 2866 of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A-436).

(c) EXCHANGE.—With the consent of the Port Authority for Everett, Washington, the Secretary of Commerce may exchange with the Port Authority all or any portion of the property transferred under subsection (a) for a parcel of real property of equal area at the Mukilteo Tank Farm that is owned by the Port Authority.

(d) ADMINISTRATION.—The Secretary of Commerce shall administer the property transferred under subsection (a) or received under subsection (c) through the Administrator of the National Oceanic and Atmospheric Administration as part of the Administration. The Administrator shall use the property as the location of a research facility, and may construct a new facility on the property for such research purposes as the Administrator considers appropriate.

(e) **EFFECT OF FAILURE TO UTILIZE TRANSFERRED PROPERTY.**—(1) If, after the 12-year period beginning on the date of the enactment of this Act, the Administrator is not using any portion of the property transferred under subsection (a) or received under subsection (c) for the purpose specified in subsection (d), the Administrator shall convey, without consideration, to the Port Authority for Everett, Washington, all right, title, and interest in and to such portion of the real property, including improvements thereon.

(2) The Port Authority shall use any real property conveyed to the Port Authority under this subsection for development and operation of a port facility and for other public purposes.

(f) **LEGAL DESCRIPTION.**—The exact acreage and legal description of the real property to be transferred under subsection (a) shall be determined by a survey satisfactory to the Secretary of the Air Force. The cost of the survey shall be borne by the Secretary of Commerce.

(g) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary of the Air Force may require such additional terms and conditions in connection with the transfer under subsection (a) as the Secretary of the Air Force considers appropriate to protect the interests of the United States.

(h) **CONFORMING AMENDMENT.**—Section 2866(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Spence Act; 114 Stat. 1654A-436) is amended by striking “22 acres” and inserting “20.9 acres”.

Subtitle E—Other Matters

SEC. 2861. MANAGEMENT OF THE PRESIDIO OF SAN FRANCISCO.

(a) **AUTHORITY TO LEASE CERTAIN HOUSING UNITS FOR USE AS ARMY HOUSING.**—Title I of division I of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104-333; 16 U.S.C. 460bb note) is amended by adding at the end the following new section:

“SEC. 107. CONDITIONAL AUTHORITY TO LEASE CERTAIN HOUSING UNITS WITHIN THE PRESIDIO.

“(a) **AVAILABILITY OF HOUSING UNITS FOR LONG-TERM ARMY LEASE.**—Subject to subsection (c), the Trust shall make available for lease, to those persons designated by the Secretary of the Army and for such length of time as requested by the Secretary of the Army, 22 housing units located within the Presidio that are under the administrative jurisdiction of the Trust and specified in the agreement between the Trust and the Secretary of the Army in existence as of the date of the enactment of this section.

“(b) **LEASE AMOUNT.**—The monthly amount charged by the Trust for the lease of a housing unit under this section shall be equivalent to the monthly rate of the basic allowance for housing that the occupant of the housing unit is entitled to receive under section 403 of title 37, United States Code.

“(c) **CONDITION ON CONTINUED AVAILABILITY OF HOUSING UNITS.**—Effective after the end of the four-year period beginning on the date of the enactment of this section, the Trust shall have no obligation to make housing units available under subsection (a) unless, during that four-year period, the Secretary of the

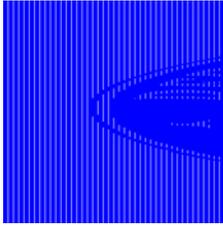
APPENDIX -- B

AIR FORCE AND WASHINGTON

STATE HISTORIC PRESERVATION OFFICER

AGREEMENT MEMORANDUM AND

PRESERVATION COVENANT



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR MOBILITY COMMAND

00 XXX 2010

D R A F T

MEMORANDUM FOR State Historic Preservation Officer
ATTN: DR. ALLYSON BROOKS
Department of Archaeology and Historic Preservation
1063 South Capitol Way
Olympia WA 98501

FROM: HQ AMC/A7
507 Symington Drive
Scott AFB IL 62225

SUBJECT: Finding of No Adverse Effect Based on Preservation Covenant Restrictions
Applicable to the Transfer of the Mukilteo Tank Farm, Cities of Mukilteo and
Everett, Snohomish County, Washington

1. The National Defense Authorization Acts for Fiscal Years 2001 and 2002, respectively, authorizes the Secretary of the Air Force to convey portions of the land commonly known as the Mukilteo Tank Farm to the Port of Everett and the U.S. Department of Commerce. Approximately 18.85 acres of fee land, including any improvements thereon, is to be transferred to the Port of Everett, without consideration, for development and operation of a port facility and other public purposes. Administrative jurisdiction of an additional 1.1 acres that houses the Mukilteo Research Center of the National Marine Fisheries Service (NMFS) is to be simultaneously transferred to the U.S. Department of Commerce to continue operating that facility under the National Oceanic and Atmospheric Administration. The Property is located in the Cities of Mukilteo and Everett, Snohomish County, Washington. This memorandum is written in connection with the proposed finding of no adverse effect associated with the transfer of those portions of the real property out of Federal ownership to be undertaken by the Air Force in accordance with Section 106 of the National Historic Preservation Act (NHPA) and its implementing regulations (Title 36 Code of Federal Regulations [CFR] Part 800).

2. The transfer of the Mukilteo Tank Farm (Property) will be subject to a preservation covenant for protection of historic and prehistoric sites and objects that contribute to the cultural importance of the Property for certain Native American Tribes. It also protects the eligibility of the site(s) on the Property for inclusion in the Secretary of the Interior's National Register of Historic Places (National Register). The approximately twenty acre Property consists of land and associated easements, including improvements that do not individually meet the National Register criteria. For the purposes of this agreement, the sites on the 20-acre tract exist as "historic properties," and the full extent of the Property conveyed and transferred constitutes the "area of potential effects" (APE) for the "undertaking," as those three terms are defined by Title 36, Code of Federal Regulations (CFR), Section 800.16(l), (d) and (y), respectively. The

undertaking is solely the conveyance and transfer of the Property. The Property is more particularly described in Exhibit A attached to this memorandum and made part hereof.

3. The Property contains three known sites identified by cultural resources background research and field investigations as having potential historic or archaeological significance and cultural importance. The studies serve to support an eligibility determination evaluation that each of the sites may qualify for listing on the National Register. All known archaeological sites on the Property are located on the tract to be conveyed to the Port of Everett.

The individual sites of potential significance are:

a. A portion of the Japanese Gulch (45SN398B), identified as the probable home of Japanese immigrant employees of a lumber company that operated a mill at Mukilteo around the turn of the 20th century. (Note: 45SN398A is located on adjacent Burlington Northern and Santa Fe Railroad property; both are part of the Japanese Gulch Site 45SN398.)

b. A site south of the existing NMFS laboratory, identified as the possible site of a lumber company store (the Old Mukilteo Site 45SN404).

c. Shell midden in boring and trenching at various locations on the Property, which may constitute one continuous shell midden up to 2,200 feet in length, 33 to 115 feet in width, and varying in thickness from 2 to 5 feet, indicating long-term, recurrent use of the area by pre-contact Native American Tribes (Mukilteo Shoreline Site, 45SN393).

4. By this letter, Air Force proposes its finding of no adverse effect for the undertaking because the proposed conveyance and transfer do not meet the criteria for an adverse effect on historic properties as described in 36 CFR 800.5(a)(2)(vii), due to the legally enforceable restrictions or conditions imposed on the undertaking to ensure long-term preservation of the Property's historic significance. Specifically, the following restrictions and conditions apply to the undertaking:

a. The Federal Government will condition conveyance of title to the Property being transferred to the Port of Everett on the terms, provisions and restrictions of the Preservation Covenant contained in Exhibit B and attached to this memorandum and made part hereof (the "Preservation Covenant"). The Preservation Covenant includes certain terms, provisions, and legally enforceable restrictions to prevent any subsequent owner, whether governmental, commercial, or private, from removing or disturbing any potentially historic, archaeological, or cultural artifacts at the Mukilteo Tank Farm without first complying with the terms in the preservation covenant, and applicable Federal and State laws and regulations. Where appropriate, these laws and regulations are incorporated by reference into the attached Preservation Covenant. The Preservation Covenant will be attached as an exhibit to the quitclaim deed prepared to convey or transfer any portion of the Property out of Federal ownership. The Preservation Covenant provides for and incorporates specific protections and procedures for Native American remains.

(1) The Preservation Covenant will be attached as an exhibit to the quitclaim deed

conveying fee simple title to the Port of Everett, which will be recorded with the Snohomish County Auditor and is intended to run with the title to the land.

(2) During a November 1, 2006 tribal consultation meeting, the Air Force distributed its first draft Preservation Covenant to attending tribal governments, the Federal Transit Authority and the Washington Ferries. In response to new Washington law and comments received, it was amended and sent to the affected Native American tribes, the Washington State Department of Archaeology and Historic Preservation (DAHP), and attached as appendix to the draft Environmental Assessment released for public and agency review in March 2009. The Air Force subsequently held government-to-government meetings and consultations with the affected and interested Native American tribes in accordance with Section 106 of the National Historic Preservation Act (NHPA), other Federal law and government policies. Of the Federally recognized tribes who are signatory to the Point Elliott Treaty of 1855, three tribes chose to participate in government-to-government meetings with Air Force representatives.

(3) During consultations with interested tribes and after receiving comments from the Grantee and the State Historic Preservation Officer (SHPO), provisions of the proposed Preservation Covenant were discussed and comments were incorporated into the Preservation Covenant where legally appropriate s reflected in Exhibit B or otherwise documented and submitted separately as the administrative record of all consultations.

5. With respect to the three sites surveyed and specifically identified, the associated field investigations were conducted and the archaeological reports were prepared under the authority of Archaeological Resources Protection Act (ARPA) permits issued by McChord AFB to the Port of Everett (Port) and Washington State Ferries (WSF). The consulting firm performing all of this work was Northwest Archaeological Associates (NWAA) and was retained separately by the Port and WSF.

a. Artifacts were discovered at all of the sites and were recorded and preserved by NWAA for future Air Force archaeologist disposition determinations and curation tin accordance with applicable law. Certain tribes expressed concern about the shell midden found at the Mukilteo Shoreline Site (45SN393) only about the shell midden found at the Mukilteo Shoreline Site (45SN393), as it represents the long-term, pre-contact use of the area by various Puget Sound tribes. There was also concern regarding the actual location of the signing of the Treaty of Point Elliott (45SN108), however, the exact location of this site remains unknown the provisions of the Preservation Covenant are written to protect all identified sites, and are also intended to protect and preserve any undiscovered historic properties located on the Property.

b. The archaeological survey reports concluded that these sites are eligible for listing on the National Register of Historic Places (NRHP). Consistent with the terms of the Preservation Covenant, and as future owner, the Port shall take all necessary steps to nominate and list all eligible sites, buildings, structures, or objects meeting the criteria for listing in the National Register in accordance with 36 CFR 60.

6. In view of the statements in paragraphs 2 and 3, above, we ask the SHPO to concur with the Air Force finding of no adverse effect based upon your determination, as described in 36 CFR 800.5(b) and (c)(1), that the Preservation Covenant will provide adequate and legally enforceable

restrictions to ensure the long-term preservation of the sites' historic significance and cultural importance upon transfer of the land out of Federal ownership or control. The Air Force shall maintain a record of this finding, provide information on the finding to the public on request, and implement the undertaking in accordance with the finding, as described in 36 CFR 800.5(d)(1).

a. So long as the land remains Federal property, the U.S. Government remains responsible for enforcing all Federal laws and regulations on the property, including ARPA and NHPA.

b. Once the Property is conveyed to the Port of Everett, no Federal jurisdiction will remain, except on the 1.1 acre-tract transferred to the Department of Commerce. However, under the provisions of the Preservation Covenant, protections and processes of certain existing Federal laws and, where appropriate, the more restrictive provisions of certain State laws will be written into the Deed of transfer. Similarly, state officials will have authority to enforce these provisions. Likewise, under the Preservation Covenant, the Tribes will have standing to seek enforcement of the specific Preservation Covenant provisions against future landowners in State courts or with the SHPO.

7. The SHPO also hereby acknowledges that the Federal Government has notified it in advance of the undertaking that the Federal Government will comply with its responsibilities under Section 106 of the NHPA through the use of the process and documentation required under the National Environmental Policy Act, as provided for in 36 CFR 800.8(c), in lieu of the procedures set forth in 36 CFR 800.3 through 800.6.

8. By endorsement to this memo, the SHPO hereby agrees to the proposed Preservation Covenant and conditions described above, and the concurrence described in paragraph 5, and the acknowledgement described in paragraph 6.

BY: _____
THERESA C. CARTER, Brigadier General, USAF
Director, Installations and Mission Support

Date Signed: _____

BY: _____
ALLYSON H. BROOKS, Ph.D.
State Historic Preservation Officer

Date Signed: _____

D R A F T

EXHIBIT A

MUKILTEO TANK FARM

MUKILTEO TANK FARM (DFSP)
CONVEYANCE to Port of Everett
Snohomish County

Portion of Tract A, All of Tracts 1, 3, 4, 5,
8, 9
(18.85 acs± & 42.21 Lineal Chs Tidelands)

LEGAL DESCRIPTION

All that portion of Sections 33 and 34, Township 29 North, Range 4 East, W.M., and Section 4, Township 28 North, Range 4 East, W.M. being more particularly described as follows:

Commencing at a 3" brass surface monument marking the intersection of 2nd Street and Park Avenue as shown on the Plat of Thomas Addition to town of Mukilteo according to the Plat thereof recorded in Volume 1 of Plats, Page 89, Records of Snohomish County, State of Washington; thence north 13° 31' 54" west along the centerline of said Park Avenue a distance of 622.00 feet to the northerly right-of-way of Front Street; thence north 76° 29' 02" east along said right-of-way a distance of 30.00 feet to the northerly projection of the easterly right-of-way of said Park Avenue and the **TRUE POINT OF BEGINNING**; thence north 13° 31' 54" west along said northerly projection a distance of 94.00 feet; thence north 76° 29' 02" east a distance of 510.00 feet; thence south 13° 31' 54" east a distance of 85.36 feet to the balanced meander line; thence south 88° 57' 54" east along said meander line a distance of 157.18 feet; thence continue along balanced meander line north 68° 40' 34" east a distance of 1,828.47 feet; thence continue along balanced meander line north 79° 10' 34" east a distance of 437.76 feet; thence continue along balanced meander line north 77° 13' 58" east a distance of 676.67 feet; thence continue along balanced meander line north 59° 13' 58" east a distance of 764.79 feet to the northerly extension of the east line of Government Lot 1, said Section 34; thence south 1° 14' 38" west along said east line a distance of 38.16 feet to a point on the northerly right-of-way of Burlington Northern Railroad, said point being on a curve whose radius point bears north 30° 33' 39" west a distance of 11,409.19 feet; thence in a southwesterly direction along the arc of said curve through a central angle of 9° 44' 52" a distance of 1,941.06 feet; thence continue along said northerly railroad right-of-way south 69° 11' 13" west a distance of

MUKILTEO TANK FARM (DFSP)
CONVEYANCE to Port of Everett
Snohomish County

Portion of Tract A, All of Tracts 1, 3, 4, 5,
8, 9
(18.85 acs± & 42.21 Lineal Chs Tidelands)

2,325.65 feet to the centerline of 1st Street as shown on said Plat of Thomas Addition to the town of Mukilteo; thence south 76° 29' 02" west along said centerline a distance of 106.15 feet to a point 30.00 feet easterly of when measured perpendicular to the centerline of said Park Avenue; thence north 13° 31' 54" west along the easterly right-of-way of said Park Avenue a distance of 326.08 feet to the **TRUE POINT OF BEGINNING.**

TOGETHER WITH all tidelands extending to the line of extreme low tide adjoining the above described balanced meander line and lying easterly of the northerly projection of the easterly right-of-way of said Park Avenue and westerly of the northerly projection of the east line of Government Lot 1, Section 34, Township 29 North, Range 4 East, W.M., situate in the County of Snohomish, State of Washington.

EXCEPTING Therefrom: The easterly 0.91 acres of uplands and the easterly 16.55 chains of tidelands.

Based on a survey preformed by Cascade Surveying & Engineering Inc., 23 Sep 2002. Bearings are based on the Washington State Coordinate System, North Zone, NAD 83/91.

Containing 19.95 acres, more of less.

ALSO EXCEPTING Therefrom the following lands known as the NOAA Parcel:

That portion of Section 33, Township 29 North, Range 4 East and Section 4, Township 28 North, Range 4 East, Willamette Meridian, Snohomish County, Washington, Lying Northerly of Front Street and Easterly of the Northerly projection of Park Avenue, described as follows: Commencing at a 3" Brass Surface Monument Marking the intersection of 2nd Street and Park Avenue; thence north 13°31'54" west along the centerline of Park Avenue, a distance of 622.00 feet to the northerly right-of-way of Front Street; thence

MUKILTEO TANK FARM (DFSP)
CONVEYANCE to Port of Everett
Snohomish County

Portion of Tract A, All of Tracts 1, 3, 4, 5,
8, 9
(18.85 acs± & 42.21 Lineal Chs Tidelands)

north 76°29'02" east, along said north right-of-way, a distance of 30.00 feet to the true **POINT OF BEGINNING**; thence continuing north 76°29'02" east, along said north right-of-way, 510.00 feet; thence north 13°31'54" west, a distance of 94.00 feet; thence south 76°29'02" west, parallel with said north right-of-way of Front Street, a distance of 510.00 feet to the northerly projection of the east right-of-way of Park Avenue; thence south 13°31'54" east, along said northerly projection, a distance of 94.00 feet to the true **POINT OF BEGINNING**.

Together with the Second Class Tidelands and any Upland adjoining, lying northerly of the above described parcel and Bounded on the east and west by lines bearing north 13°31'54" west.

Area contained in the closed parcel is 47,915 Sq. Ft. or 1.10 acres, more or less, 1.18 acres proportional acres, based on deed acquired for Tract A, and 8.85 Lineal Chains of Tidelands.

Based on a Survey preformed by Penhellegon Associates Consulting Engineers, Inc., of Kirkland, WA, legal written by David R. Fulton P.L.S., August 6, 2001.

Bearings are based on the Washington State Coordinate System, North Zone, NAD 83/91.

The aggregate total for this description is 18.85 acres, more or less, of uplands and 42.21 Lineal Chains of Tidelands.

By: SDM 14 Nov 2002
Chkd: HAA 18 Nov 2002
Map: SE-RE-7.3
Cadd: mc\mi\realest\aq\7_3-1-1.dgn
Rev: SDM 03 Nov 2005 (adj. Acs & add Lin Chs of Tidelands)
Doc: 001730.Doc

descent. Remains found on the MTF property are primarily of residential debris. The Old Mukilteo Site is likely the remains of the Crown Lumber Company store. Structural remains and artifacts from domestic and commercial contexts were found within a trench excavated to determine if historic properties existed. (Information adapted from “Results of Additional Heritage Investigations at the Mukilteo Multimodal Ferry Terminal Project Site”, prepared for Washington State Ferries, Northwest Archaeological Associates, Inc., and The Environmental History Company, 18 Nov 2008 and “Results of Data Recovery and Site Excavations at the Japanese Gulch Site 45SN398, Mukilteo, Washington,” Northwest Archaeological Associates, 23 Jan 2009.)

EXHIBIT B
PRESERVATION COVENANT

PRESERVATION COVENANT

[EXHIBIT XXX TO THE QUITCLAIM DEED]

SECTION I: Introduction.

A. This Preservation Covenant (the "Preservation Covenant") is an exhibit to that certain Quitclaim Deed (the "Deed") dated as of XXX executed by the United States of America, acting by and through the Secretary of the Air Force (the "Government") and also executed and accepted by the Port of Everett (the "Grantee"). The term "Grantee" shall mean and include for purposes of this Preservation Covenant, the Grantee and its successors and assigns. These covenants touch and concern all of the land known as the Mukilteo Tank Farm (the "Property") and are intended to run with the land and bind all of the Grantee's successors in interest or assigns.

B. The Grantee acknowledges that the Property conveyed includes all or portions of historic properties, including prehistoric and historic districts, sites, and objects eligible for inclusion (as noted in the documents cited in Exhibit XXX-2, paragraph C) on the National Register of Historic Places (National Register) in accordance with Title 36 Code of Federal Regulations (CFR) Part 62 and is located in the Cities of Mukilteo and Everett, Snohomish County, Washington as more particularly described in Exhibit XXX-1, attached hereto and made part hereof. The Grantee acknowledges that the following covenants are required by the Grantor for any undertaking proposed by the Grantee to use the Property for the development and operation of a port facility and for other public purposes to ensure compliance with the continuing obligations under the National Historic Preservation Act of 1966 (NHPA) and other relevant laws and

regulations.

C. Pursuant to the Deed, the Grantee is required to comply at all times with the terms, conditions and restrictions described below in Section II, III, IV, and V of this Preservation Covenant. The Grantee promises for itself and its successors and assigns to comply at all times with the following:

SECTION II: Historic Property Preservation.

The Grantee shall comply at all times with the following:

A. Consistent with the intent and the provisions of the NHPA and its implementing regulations, the Grantee shall, prior to any proposed undertaking; perform consultation to identify historic properties potentially affected by the undertaking; assess its effects and seek ways to avoid, minimize or mitigate any adverse effects on the historic properties located on the Property that may be eligible for inclusion in the National Register in accordance with 36 CFR 800. The Grantee shall take all necessary steps to nominate and list all eligible sites, buildings, structures, or objects meeting the criteria for listing in the National Register in accordance with 36 CFR 60. Consistent with the intent and provisions of the NHPA, the Grantee shall not undertake any demolition, construction, alteration or rehabilitation on the parcel that would affect any significant scientific, prehistorical, historical or archaeological data without first notifying the Washington State Department of Archaeology and Historic Preservation (DAHP) in accordance with 43.21C Revised Code of Washington (RCW), Washington Administrative Code (WAC) 197-11-100, and WAC 25-42-070.

B. The Grantee shall retain Qualified Staff or Professional Archeologist(s) to develop or review proposed projects and work requirements that may affect portions of a

site or sites eligible for inclusion on the National Register; that may damage, deface, or destroy any historic or prehistoric archaeological resource or site, or remove any archaeological object from such site (as defined in Ch 27.53 RCW); and to facilitate any necessary consultation with the DAHP and any affected tribe(s). “Qualified staff” shall consist of appropriate personnel meeting the Secretary of the Interior’s Professional Qualification Standards published at 36 CFR 61. The utilization of a “professional archaeologist” shall be consistent with the requirements of RCW 27.53.030(8).

C. The Grantee shall ensure that no person, firm, corporation, or any agency or institution of the state or a political subdivision thereof knowingly removes, alters, digs into, or excavates by use of any mechanical, hydraulic, or other means, or to damage, deface, or destroy any historic or prehistoric archaeological resource or site, or remove any archaeological object from such site (as defined in 27.53 RCW) on the property without first obtaining a permit in accordance with 27.53 RCW, et seq. from the DAHP or its successor agency. The permit terms shall be consistent with these covenants to the extent authorized by law and drafted in consultation with any affected tribe(s). If an excavation is part of a Federal undertaking conducted pursuant to Section 106 of the NHPA and its implementing regulations, a Memorandum of Agreement (MOA) entered pursuant to that Act may stand in lieu of the state permit.

D. Upon receipt of a completed permit application form for archaeological excavation of an archaeological site, Native American cairn or grave, or the removal of glyptic or painted records, the DAHP, at least thirty days before issuing such a permit, shall notify any affected Native American tribe(s) that may consider the site to be of historic or cultural significance in accordance with WAC 25-48-070, Notification to

Indian tribes. Upon request, and during the thirty-day period, DAHP may meet with official representatives of any Native American tribe or group to discuss its interests, including, but not limited to, the proposed excavation methods. DAHP may consider comments received from tribal representatives in the issuance or denial of the permit and permit terms and conditions. Mitigation measures requested by the tribal representatives, including stipulations pertaining to the disposition of human remains, may be incorporated into the terms and conditions of the permit. If required by permit terms, the Grantee will take reasonable steps to allow reburial of any Native American human remains and associated objects discovered on the property. If the human remains and or associated objects are not Native American, the human remains and associated objects found on the Property shall be transferred or reburied according to the permit terms or in accordance with state law and at the expense of the Grantee. If required by permit terms, the Grantee will take reasonable steps to allow reburial of any Native American human remains and associated objects discovered on the Property. Until human remains and associated objects are transferred to State authorities, the Grantee is responsible for all expenses associated with the proper transfer, disposition or curation of the remains and associated objects.

E. If any historic or prehistoric archaeological resource(s) or archaeological object(s) are inadvertently discovered, work in the area shall cease immediately and the archaeological objects shall be protected in place. The Grantee shall immediately notify DAHP and obtain permits, as necessary, before work resumes.

F. Upon the determination of a professional archeologist and at the direction of DAHP, whether inadvertently discovered or discovered during a permitted excavation,

historic or prehistoric archaeological resource(s) or archaeological object(s) are to be curated consistent with the provisions of 36 CFR 79. The Grantee is responsible for all expenses and fees associated with the proper handling, disposition, and curation of historic or prehistoric archaeological resource(s) or archaeological object(s).

SECTION III: Inadvertent Discovery of Human Remains.

A. The Grantee shall ensure that any person engaged in ground disturbing activity and who encounters or discovers skeletal human remains in or on the ground shall act in accordance with RCW 27.44.055 and RCW 27.44.040 and shall:

- (i) Immediately cease any activity which may cause further disturbance;
- (ii) Make a reasonable effort to protect the area from further disturbance; and
- (iii) Report the presence and location of the remains to the Coroner and local law enforcement in the most expeditious manner possible;

B. If the local law enforcement agency and the Coroner determine that the skeletal human remains are not "Forensic remains" pursuant to RCW 68.50.010, the Coroner will notify DAHP within two business days.

C. Pursuant to RCW 27.44.055, the State physical anthropologist must make an initial determination of whether nonforensic skeletal human remains are Native American or non-Native American to the extent possible based on the remains within two business days of notification of a finding of nonforensic remains. If the remains are determined to be Native American, DAHP must notify all affected tribes via certified mail to the head of the appropriate tribal government within two business days and contact the appropriate tribal cultural resources staff person. DAHP will have jurisdiction over such remains until provenance of the remains is established amongst affected tribes.

D. Persons disturbing Native American graves through inadvertence, including disturbance through construction, mining, logging, agricultural activity, or any other activity, shall reinter the human remains under the supervision of the appropriate Native American tribes.

E. Construction activity may resume only as provided by the permit terms and in accordance with applicable state law. For projects conducted pursuant to Section 106 of the NHPA and its implementing regulations, construction activity may resume only upon written notice from the appropriate federal agency following consultation with the DAHP.

SECTION IV: Religious Consultation.

The Grantee must consult with affected Native American tribes when any undertaking may affect historic sites, structures or objects of traditional religious and cultural significance. An “undertaking” means a project, activity or program funded in whole or in part under the direct or indirect supervision of the Grantee, including those carried out by or on behalf of a state or Federal agency; those carried out with state or Federal financial assistance; or those requiring a state or Federal permit, license or approval. This shall be done consistent with the provisions of the Washington State Environmental Policy Act (SEPA), Chapter 43.21C RCW and its rules at 197-11 WAC.

SECTION V: Enforcement.

A. The Grantee shall allow the Federal government and the DAHP or its designee, at all reasonable times and upon reasonable advance written notice to Grantee, to inspect the property in order to ascertain whether Grantee is complying with the terms, conditions and restrictions of this Preservation Covenant.

B. The Grantee acknowledges the right of the Federal government and the DAHP, in addition to any other remedy available to either party now or hereafter under the law, to seek enforcement of this Preservation Covenant in the event of a violation of any of the terms, provisions or restrictions hereof and the Grantee further acknowledges the right of the Federal Government and the DAHP, or either of them, to institute suit to enjoin any said violation or require the restoration to historic or prehistoric archaeological resource(s) or archaeological object(s).

C. Standing to enforce covenants and access to land: The official Tribal Government or Tribal Board Members of any of the federally-recognized tribe that is a signatory to the Point Elliott Treaty of 1855, as ratified in 1859, as listed below, has legal standing to seek enforcement of the provisions of this Preservation Covenant in the event of a violation of any of the terms, provisions or restrictions hereof. This Preservation Covenant acknowledges standing to seek enforcement of the provisions contained herein among the following federally-recognized tribes, that are signatories to the Point Elliott Treaty of 1855: Lummi Nation*, Tulalip Tribes*, Swinomish Tribal Community*, Suquamish Tribe*, Nooksack Tribe, Samish Tribe, Sauk-Suiattle Tribe, Snoqualmie Tribe, Stillaquamish Tribe, and Upper Skagit Tribe, with the first four listed tribes (*) holding Usual and Accustomed Area treaty rights. Nothing in this Preservation Covenant in any way impacts Usual and Accustomed Area treaty rights. This acknowledgement will be extended to any non federally recognized tribes that are signatories to the Point Elliott Treaty of 1855 who later gain federal recognition. The Grantee further acknowledges the right of the official Tribal Government or Tribal Chief Executive Officer of the listed tribes, whether individually or collectively, to institute suit

to enjoin any violation of any of the terms, provisions or restrictions hereof. In addition, such Tribal Governments or Tribal Executives have a right to enter upon the land to verify conditions; that right is exercised by giving at least 24 hours advance notice to the landowner.

D. The Grantee acknowledges that any failure of the DAHP or the Federal government to exercise any right or remedy arising from this Preservation Covenant or arising from other terms and provisions contained in the Deed, shall not constitute a waiver by, or limitation upon, the right of the DAHP or the Federal Government to exercise or use any other right or remedy at any time.

E. The Grantee acknowledges that the terms, provisions and restrictions contained in this Preservation Covenant are binding upon the Grantee and impose a servitude upon the parcel in perpetuity and that this Preservation Covenant shall be deemed to run with the title to the land and is binding upon the Grantee in perpetuity.

F. If any provision of this Preservation Covenant or its application to any person or circumstance is held invalid, the remainder of this Preservation Covenant, or the application of the Preservation Covenant to other persons or circumstances shall not be affected.

APPENDIX -- C

COASTAL ZONE MANAGEMENT ACT (CZMA)

FEDERAL CONSISTENCY DETERMINATION



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

February 12, 2009

Col. Jeffery L. Stephenson
Department of the Air Force 62 AW/CC
100 Col Joe Jackson Boulevard, Suite 3100
McChord Air Force Base, Washington 98438

RE: Federal Consistency – Conveyance of Former Defense Fuel Support Point

Dear Col. Stephenson:

The Department of Ecology, Shorelands and Environmental Assistance Program received your letter regarding the transfer of the Mukilteo Defense Fuel Support Point property to the Port of Everett. The conveyance includes 20.9 acres of real property located within the City of Mukilteo, Snohomish County, Washington.

Upon review of the Program and Policy Analysis in your letter, Ecology agrees this project is consistent with Washington's Coastal Zone Management program and will have no effect upon Washington State coastal resources.

If you have any questions regarding this letter please contact Jessica Moore at (360) 407-7421.

Sincerely,

Brenden McFarland, Section Manager
Environmental Review and Transportation Section
Shorelands and Environmental Assistance Program

cc: Jessica Moore, Ecology





**DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 62D AIRLIFT WING (AMC)**

JAN 29 2009

MEMORANDUM FOR WASHINGTON DEPARTMENT OF ECOLOGY
ATTN: Ms. Loree Randall, Coastal Zone Management
P.O. Box 47600
Olympia, WA 98504-7600

FROM: 62 AW/CC
100 Col Joe Jackson Boulevard, Suite 3100
McChord AFB, WA 98438

SUBJECT: Federal Consistency Determination for the Conveyance of Former Defense Fuel Support Point

1. McChord Air Force Base plans to convey (transfer) the Mukilteo Defense Fuel Support Point to the Port of Everett, Washington and convey (transfer) 1.1 acres within the Support Point to the Secretary of Commerce. Attached is the Federal Consistency Determination for this transfer. McChord has determined that this land transfer will be undertaken consistent with the enforceable policies of Washington's Coastal Resources Management Program.
2. We request your concurrence with our determination. Please provide written concurrence for our records.
3. Please contact Valerie Elliott at (253) 982-3913 with any questions or comments.


JEFFREY L. STEPHENSON, Colonel, USAF
Commander

Attachment:
Federal Consistency Determination

FEDERAL CONSISTENCY DETERMINATION FOR THE CONVEYANCE OF FORMER DEFENSE FUEL SUPPORT POINT

MUKILTEO, WASHINGTON

This document provides the State of Washington with the U.S. Department of the Air Force's (Air Force) Consistency Determination under Section 307 (c) (1) of the federal Coastal Zone Management Act (CZMA) of 1972, as amended, for the transfer of the Mukilteo Defense Fuel Support Point (Tank Farm), owned by the Air Force, Department of Defense, to the Port of Everett, Washington and the transfer of 1.1 acres within the Tank Farm to the Secretary of Commerce.

Proposed Federal Agency Action

The U.S. Air Force intends to convey 20.9 acres of real property to the Port of Everett, Washington. The property consists of the former Mukilteo Tank Farm located within the City of Mukilteo. The Mukilteo Tank Farm is the subject of legislation authorizing the Secretary of the Air Force to convey the property without consideration to the Port of Everett. The statute authorizing the conveyance is Section 2866 of the Military Construction Authorization Act for Fiscal Year 2001 (Division B of the Spence Act; 114 Stat. 1654A-436), enacted and signed into law in October 2000.

In 2001, the authorization was modified by Section 2858 of the National Defense Authorization Act for Fiscal Year 2002 (PL 107-107). The modification directed the Secretary of the Air Force to transfer a 1.1 acre tract within the Mukilteo Tank Farm to the Secretary of Commerce for future administration by the National Oceanic and Atmospheric Administration (NOAA). This tract is currently leased by NOAA for the NOAA Fisheries Mukilteo Research Center. The transfer to NOAA is not subject to environmental review because it qualifies as an Air Force categorical exclusion.

The purpose of this action is to convey 20.9 acres of the Mukilteo Tank Farm to the Port of Everett, Washington for development as a port facility and other public purposes as required by Congressional mandate. The Air Force will not be partaking in any physical alterations to or on the land as it now exists.

Background

The CZMA, enacted in 1972, created the National Coastal Management Program for management and control of the uses of and impacts on coastal zone resources. The program is implemented through federally approved state coastal management programs (CMPs).

Federal approval of a state CMP triggers the CZMA Section 307 federal consistency determination requirement. Section 307 mandates that federal actions within a state's coastal zone (or outside the coastal zone if the action affects land or water uses or natural resources within the coastal zone) be consistent to the maximum extent practicable with the enforceable policies of the state CMP. Federal agency actions include direct and indirect federal agency

activities, federal approval activities, and federal financial assistance activities. Accordingly, federal agency activities (direct, indirect, or cumulative) reasonably affecting the state's coastal zone must be fully consistent with the enforceable policies of the state's CMP, unless compliance is otherwise prohibited by law. There are no categorical exemptions or exclusions to or from the Section 307 federal consistency requirement.

The state of Washington has developed and implemented a federally approved CMP describing current coastal legislation and enforceable policies. Under the program, activities that impact any land use, water use, or natural resource of the coastal zone must comply with six laws, or "enforceable policies." These include the Shoreline Management Act, the State Environmental Policy Act, the Clean Air Act, the Clean Water Act, the Energy Facility Site Evaluation Council, and the Ocean Resource Management Act.

Program and Policy Analysis

Statutes addressed as part of the Washington Coastal Management Program consistency review and considered in the analysis of the proposed action are noted in the following table.

Washington Coastal Management Program Consistency Review

Statute	Scope	Consistency
Shoreline Management Act	<p>Designates preferred uses for protected shorelines. Provides for the protection of shoreline natural resources and public access to shoreline areas.</p> <p>Protected shorelines include the following:</p> <ul style="list-style-type: none"> - Marine waters; - Streams with greater than 20 cubic feet per second of mean annual flow; - Lakes 20 acres or larger; - Upland areas, e.g., shorelands, that extend 200 feet landward from the edge of these waters; and - Wetlands and floodplains associated with any of the above waters. 	<p>CONSISTENT</p> <p>The proposed action will have no direct effect on any protected shoreline or shoreline natural resources as defined by the Shoreline Management Act.</p>

Washington Coastal Management Program Consistency Review

Statute	Scope	Consistency
State Environmental Protection Act	Requires state and local agencies to consider the likely environmental consequences of a proposal before approving or denying the project.	<p align="center">NOT APPLICABLE</p> <p>The environmental consequences of the proposed action are being reviewed under the National Environmental Policy Act. State and local agencies will be provided an opportunity to review and comment on the environmental impacts of the proposed action. Consequently, a separate State Environmental Protection Act review is not required for the project.</p>
Clean Air Act – Air Quality	Addresses the state’s policy concerning air quality.	<p align="center">NOT APPLICABLE</p> <p>No construction or land development will be undertaken as part of this project. This project only involves the ownership transfer of a parcel of land.</p>
Clean Water Act – Water Quality	Addresses the state’s policy concerning water quality and wetlands.	<p align="center">NOT APPLICABLE</p> <p>No construction or land development will be undertaken as part of this project. This project only involves the ownership transfer of a parcel of land.</p>
Ocean Resources Management Act	Addresses the state’s policy for leasing tidal or submerged lands.	<p align="center">NOT APPLICABLE</p> <p>No construction or land development will be undertaken as part of this project. This project only involves the ownership transfer of a parcel of land. The project does not include any activities within Washington’s tidal or submerged lands.</p>

Washington Coastal Management Program Consistency Review

Statute	Scope	Consistency
Energy Facility Site Evaluation Council	Addresses the state's policy for permitting the development of new energy-generating facilities.	NOT APPLICABLE The land ownership transfer project does not include the construction of any energy-generating facilities.

Conclusion

We have determined the proposed land ownership transfer project will be undertaken in a manner consistent to the maximum extent practicable with the enforceable policies of Washington's Coastal Resources Management Program.

WASHINGTON



Possession Sound

Darlington

Edgewater

DFSP Mukilteo

Elliot Point
Lighthouse
MUKILTEO STATE PARK
Cem

Mukilteo

Nelsons
Corner

CASINO

Source: Maptech, Inc. 2001.



ecology and environment, inc.
International Specialists in the Environment
Seattle, Washington

DEFENSE FUEL
SUPPORT POINT (DFSP) MUKILTEO
Mukilteo, Washington

0 1000 2000
Approximate Scale in Feet

Figure I-1
PROJECT VICINITY MAP

Date: 11-17-05
Drawn by: AES
10:001856JA0901\fig 1-1

APPENDIX -- D
NOTICE OF AVAILABILITY



NOTICE OF AVAILABILITY

DRAFT ENVIRONMENTAL ASSESSMENT AND DRAFT FINDING OF NO SIGNIFICANT IMPACT TRANSFER OF MUKILTEO TANK FARM

The Air Force is proposing to convey and transfer the 19.95-acre Mukilteo Tank Farm, including improvements thereon. The National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2001 authorizes the Secretary of the Air Force (SAF) to convey 18.85 acres of the Mukilteo Tank Farm out of Federal ownership to the Port of Everett for use in the development and operation of a port facility and other public purposes. The NDAA for FY02 directs SAF to simultaneously transfer administrative jurisdiction over the remaining 1.1 acres to the Secretary of Commerce for the continuing operation by the National Marine Fisheries Service of the Mukilteo Biological Field Facility located on the property, administered through the National Oceanic and Atmospheric Administration. The acreage figures for the conveyance and transfer are based on a survey of the property conducted for the Army Corps of Engineers in 2005.

As part of the Air Force Environmental Impact Analysis Process, the Air Force has prepared a Draft Environmental Assessment (EA) for this action. The Draft EA describes and analyzes the Proposed Action and the No Action Alternative. Copies of the Draft EA and Draft Finding of No Significant Impact (FONSI) are available for review at: the Mukilteo Library, 4675 Harbour Pointe Boulevard, Mukilteo, WA 98275; Everett Main Library, 2702 Hoyt Avenue, Everett, WA 98201; Clinton Library, 4781 Deer Lake Road, Clinton, WA 98236; Lynnwood Library, 19200 44th Ave W, Lynnwood, WA 98036; Edmonds Library, 650 Main Street, Edmonds, WA 98020; the Base Library, 851 Lincoln Blvd, Bldg 851, McChord AFB, WA; and, online at <http://www.62aw.af.mil/>.

Please address comments on the EA and FONSI to Mr. Doug Allbright, HQ AMC/A7PI, 507 Symington Drive, Scott AFB, IL 62225-5022 in writing, by fax or e-mail. All letters must be postmarked, faxed to (618) 256-8624, or emailed to earl.allbright@scott.af.mil by midnight (PDT) July 31, 2010. As required by law, comments will be addressed in the final EA and made available to the public. Any personal information provided will be used only to identify your intention to make a statement during this public comment period or to receive a copy of the final document. Private addresses will be compiled to develop a mailing list for those requesting copies of the final EA. However, only the names of the individuals making specific comments will be disclosed. No home addresses or phone numbers will be published in the final EA.

Please contact Mr. Doug Allbright at (618) 229-0841 if you have any questions about the public comment process.

APPENDIX -- E
INTERAGENCY AND INTERGOVERNMENTAL
COORDINATION FOR ENVIRONMENTAL
PLANNING (IICEP)
LIST

Revised Draft Environmental Assessment of the
Mukilteo Tank Farm Property Transfer
Mukilteo, Snohomish County, Washington

Interagency, Intergovernmental, and Tribal Coordination for Environmental
Planning List

Federal Agencies

Federal Transit Administration
ATTN: Mr. R. F. Krochalis
Regional Administrator
915 Second Avenue
Federal Bldg., Suite 3142
Seattle, WA 98174-1002

U.S. Army Corps of Engineers
ATTN: Mr. Jack Kennedy
Seattle District
Regulatory Branch
P.O. Box 3755
Seattle, WA 98124-2255

U.S. Fish and Wildlife Service
ATTN: Ken Berg, Manager
North Pacific Coast Ecoregion
U.S. Fish and Wildlife Service
510 Desmond Drive SE, Suite 102
Lacey, WA 98503

National Oceanic & Atmospheric
Administration
National Marine Fisheries Service
ATTN: Mr. Michael Grady
7600 Sand Point Way NE, Bldg. 1
Seattle, WA 98115-0070

National Marine Fisheries Service
Northwest Fisheries Science Center
Mukilteo Biological Field Facility
ATTN: Mr. Paul Plesha
Biological Station Manager
10 Park Avenue, Building B
Mukilteo, WA 98275

U.S. Coast Guard
13th Coast Guard District Commander
ATTN: Richard R. Houck, RADM
915 Second Avenue, Room 3510
Seattle, WA 98174-1067

U.S. Environmental Protection Agency
EPA Region 10
NEPA Review
Office of Ecosystems, Tribal & Public Affairs
ATTN: Christine Reichgott
1200 Sixth Ave.
Seattle, WA 98101-3188

Public Works
AFZH-PW, Mail Stop 17
ATTN: Phil Crawford
Fort Lewis, WA 98433

State Agencies

Department of Archaeology and Historic
Preservation
ATTN: Dr. Allyson Brooks
State Historic Preservation Office
P.O. Box 48343
Olympia, WA 98504-8343

Dept. of Archaeology and Historic Preservation
ATTN: Mr. Matthew Sterner
Transportation Archaeologist
1063 S. Capitol Way, Suite 106
Olympia, WA 98501

Washington State Dept. of Transportation
Ferries Division
ATTN: Mr. Timothy M. Smith, P.E.
Director, Terminal Engineering
2901 3rd Ave, Suite 500, Seattle, WA 98121-
3014

Washington State Dept. of Transportation
ATTN: Ms. Carol Lee Roalkvam
P.O. Box 47330
Olympia, WA 98504-7330

Washington Parks and Recreation Commission
ATTN: Mr. Bill Jolly
P. O. Box 42668
Olympia, WA 98504-2668

Washington Dept. of Community Development
ATTN: Ms. Karin Berkholtz
P.O. Box 48300
Olympia, WA 98504-8300

Washington Department of Natural Resources
ATTN: Mr. Don Olmsted
Port Programs Manager
P.O. Box 47027
Olympia, WA 98504-7027

Washington Department of Natural Resources
Northwest Region
919 North Township Street
Sedro, WA 98284

Washington State Department of Ecology
ATTN: Ms. Barbara Ritchie
SEPA Unit Supervisor
P.O. Box 47703
Olympia, WA 98504-7703

Washington State Department of Ecology
ATTN: Ms. Penny Kelley
Northwest Region
3190 160th Avenue SE
Bellevue, WA 98008-5452

Washington State Department of Ecology
Washington State Conservation Commission
ATTN: Mr. Tom Salzar
300 Desmond Drive
Lacey, WA 98504

Washington Department of Fish and Wildlife
ATTN: Dr. Jeffrey P. Koenings, Director
600 Capitol Way, North
Olympia, WA 98501-1091

Washington Department of Fish and Wildlife
ATTN: Teresa Eturaspe
600 Capitol Way, North
Olympia, WA 98501-1091

Washington Department of Fish and Wildlife
Region 4
16018 Mill Creek Boulevard
Mill Creek, WA 98012-1296

Local/Regional Government

Port of Everett
ATTN: Mr. Jerold W. Heller
Chief Administrative Officer
2911 Bond Street, Suite 202
Everett, WA 98206

Port of Everett
ATTN: Mr. John Klekotka, P.E.
Director Engineering & Planning
P.O. Box 538
Everett, WA 98206

Sound Transit
ATTN: Mr. Steve Kennedy, AICP
Senior Environmental Planner
401 S. Jackson Street
Seattle, WA 98104-2826

Community Transit
ATTN: Mr. Brent Russell
System Planner
7100 Hardeson Road
Everett, WA 98203

Snohomish County Executive
ATTN: Deputy Executive
3000 Rockefeller Avenue, MS 407
Everett, WA 98201

Puget Sound Clean Air Agency
ATTN: Mr. John Anderson
110 Union Street #500
Seattle, WA 98101

Snohomish Conservation District
ATTN: SEPA Reviewer
528 91st Avenue, Suite C
Everett, WA 98205-1535

Snohomish County Public Works Department
ATTN: Director
3000 Rockefeller Avenue, MS 607
Everett, WA 98201

Snohomish County
Dept. of Planning and Development Services
ATTN: Planning Director
3000 Rockefeller Avenue, MS 604
Everett, WA 98201

Snohomish County PUD District 1
ATTN: SEPA Coordinator
P.O. Box 1107
Everett, WA 98206-1107

City of Everett
ATTN: Mr. Allan Giffen
Director, Planning and Community
Development
2930 Wetmore Avenue, Suite 8A
Everett, WA 98201

City of Marysville
Department of Public Works
ATTN: Director
80 Columbia Avenue
Marysville, WA 98270

City of Mukilteo
ATTN: Hon. Joe Marine, Mayor
11930 Cyrus Way
Mukilteo, WA 98275

City of Mukilteo
Planning Director
ATTN: Ms. Heather McCartney
4480 Chennault Beach Road
Mukilteo, WA 98275

Mukilteo School District
ATTN: Marci L. Larsen, PhD
#69401 Sharon Drive
Everett, WA 98204

Olympus Terrace Sewer District
ATTN: Patrick Sorenson
P.O. Box 91
Mukilteo, WA 98275-0091

Northwest Air Pollution Control Authority
ATTN: Mr. James Randles
1600 South 2nd Street
Mount Vernon, WA 98273-3852

Puget Sound Partnership
ATTN: Mr. David Dicks, Executive Director
P.O. Box 40900
Tacoma, WA 98504-0900

Congressional Delegation

The Honorable Patty Murray
Seattle Office
ATTN: Ms. Ardis Dumett
Director of Special Projects
2988 Jackson Federal Building
915 2nd Avenue
Seattle, WA 98174

The Honorable Maria Cantwell
Everett Office
2930 Wetmore Avenue, Suite 9B
Everett, WA 98201

The Honorable Rick Larsen
Everett Office
ATTN: Ms. Jill McKinnie
2930 Wetmore Avenue, Suite 9F
Everett, WA 98201

Federally Recognized Tribes

Note: *The following eleven Tribes were sent copies of the DEA separately, as sovereign nations in accordance with Air Force policy, specifically AFI 32-7060. As Federally-recognized Tribes, participation in IICEP does not occur; however, consulting party status under Section 106 of the NHPA and participation in the NEPA process does occur.*

Lummi Nation
Hon. Henry Cagey, Chair
2616 Kwina Road
Bellingham, WA 98226

Lummi Nation
ATTN: Eldon Hillaire, Natural Resources
2616 Kwina Road
Bellingham, WA 98226-9298

Muckleshoot Indian Tribe
Hon. Charlotte Williams, Chair
39015 172nd Avenue SE
Auburn, WA 98092

Nooksack Tribe
Hon. Robert Kelly, Chair
P.O. Box 157 (5016 Deming Road)
Deming, WA 98244

Samish Indian Nation
Hon. Tom Wooten, Chair
P.O. 217 (2918 Commercial Avenue)
Anacortes, WA 98221

Sauk-Suiattle Tribe
Hon. Janice Mabee, Chair
5318 Chief Brown Lane
Darrington, WA 98241

Snoqualmie Tribe
Hon. Joe Mullen, Chair
PO Box 969 (8130 Railroad Ave, Ste 103)
Snoqualmie, WA 98065

Stillaguamish Tribe
Hon. Shawn E. Yanity, Chair
P.O. Box 277 (22719 6th Ave.)
Arlington, WA 98223

Suquamish Tribe
Hon. Leonard Forsman, Chair
P.O. Box 498 (18440 Suquamish Way)
Suquamish, WA 98392-0498

Suquamish Tribe
ATTN: Tom Ostrom, Fisheries Biologist
P.O. Box 498 (18440 Suquamish Way)
Suquamish, WA 98392-0498

Swinomish Indian Tribal Community
Hon. Brian Cladoosby, Chair
11430 Moorage Way
LaConner, WA 98257

Swinomish Indian Tribal Community
ATTN: Stan Walsh, SRC
11430 Moorage Way
LaConner, WA 98257

Tulalip Tribes
Hon. Melvin R. Sheldon, Jr., Chair
6700 Totem Beach Road
Tulalip, WA 98271-9694

Tulalip Tribes
ATTN: Daryl Williams, Environmental Liaison
Fisheries & Natural Resources Liaison
7411 Tulalip Bay Drive, Suite B
Tulalip, WA 98271

Tulalip Tribes
ATTN: Richard Young, Environmental
Programs Manager
7515 Totem Beach Road
Tulalip, WA 98271

Upper Skagit Tribe
Hon. Jennifer Washington, Chair
25944 Community Plaza
Sedro-Woolley, WA 98284



**DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR MOBILITY COMMAND**

MEMORANDUM FOR SEE DISTRIBUTION

FROM: HQ AMC/A7P
570 Symington Drive
Scott AFB, IL 62225-5022

SUBJECT: Revised Draft Environmental Assessment, Mukilteo Tank Farm Property Transfer, Mukilteo, Snohomish County, Washington

1. The United States Air Force Headquarters Air Mobility Command and 62d Air Wing have prepared a revised Draft Environmental Assessment (DEA) of the Mukilteo Tank Farm Property Transfer, located in the Cities of Mukilteo and Everett, Snohomish County, Washington. The attached DEA was revised to address public comments received on the previous DEA. The DEA analyzes the environmental consequences of the proposed transfer authorized by Congress. The Air Force owns the property located 65 miles north of McChord Air Force Base. The analysis supports a Finding of No Significant Impact (FONSI) included in the DEA.
2. The purpose of the proposed action is to transfer the Mukilteo Tank Farm, surveyed to be 19.95 acres, and any improvements thereon consistent with Federal law. The need for the proposed action is to utilize real property determined to be excess by the Air Force. The Air Force proposes to convey approximately 18.85 acres of the property out of federal ownership to the Port of Everett. Congressional intent expressed in special legislation authorizes conveyance to the Port for use in the development and operation of a port facility and other public purposes. The Air Force is directed to simultaneously transfer to the Secretary of Commerce administrative jurisdiction over 1.1 acres associated with the Mukilteo Biological Field Facility of the National Marine Fisheries Service for continuing operation as a research facility through the National Oceanic and Atmospheric Administration.
3. In accordance with Executive Order 12372, *Intergovernmental Review of Federal Programs*, and other authority, we solicit your comments on the attached draft DEA and FONSI. Copies of the documents also are available at the Mukilteo Library, 4675 Harbour Pointe Boulevard, Mukilteo WA; Everett Main Library, 2702 Hoyt Avenue, Everett WA; Clinton Library, 4781 Deer Lake Road, Clinton WA; Lynnwood Library, 19200 44th Ave W, Lynnwood WA; Edmonds Library, 650 Main Street, Edmonds WA; the Base Library, 851 Lincoln Blvd, Building 851, McChord AFB WA; and online at <<http://www.62aw.af.mil/>>. Please provide your comments by mail to Mr. Doug Allbright, HQ AMC/A7PI, 507 Symington Drive, Scott AFB IL 62225-5022, within 30 days from the date of this letter.

4. A copy of the distribution list for this DEA is enclosed for your information. If you consider any additional organizations should review and comment on this proposal and analysis, please feel free to forward this letter and attachments.

LANCE C. HAFELI, Colonel, USAF
Chief, Programs Division
Directorate of Installations and Mission Support

2 Attachments:

1. DEA and FONSI
2. DISTRIBUTION: (listed on next page)

APPENDIX -- F
WASHINGTON STATE
DEPARTMENT OF ECOLOGY (DOE)
SATISFACTION OF ENFORCEMENT ORDER
DEFENSE FUEL SUPPORT POINT MUKILTEO



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Avenue SE • Bellevue, Washington 98008-5452 • (425) 649-7000

May 22, 2006

Mr. Jack O'Donovan
Defense Energy Support Center, DFSC-FQ
8725 John J. Kingman Road, Suite 2941
Fort Belvoir, VA 22060-6222

RE: Satisfaction of Enforcement Order
No. DE 93TC-N268
Defense Fuel Support Point Mukilteo
Mukilteo, Washington

Dear Mr. O'Donovan:

In accordance with the above referenced Enforcement Order, the Department of Ecology (Ecology) is providing this written notification that the provisions of the Enforcement Order have been satisfied. No further monitoring is required and the remaining monitoring wells may be abandoned. Abandonment of the wells must be conducted in accordance with the requirements of Chapter 173-150 Washington Administrative Code (WAC), *Minimum Standards for Construction and Maintenance of Wells*.

If you have any questions, please contact me at (425) 649-7265 or bsat461@ecy.wa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian S. Sato".

Brian S. Sato, P.E.
Toxics Cleanup Program

BSS:bs

cc: Ed Turner, Oasis Environmental



APPENDIX -- G

PUBLIC, AGENCY, GOVERNMENTAL AND TRIBAL
COMMENTS ON THE

DRAFT ENVIRONMENTAL ASSESSMENT (EA)
AND FINDING OF NO SIGNIFICANT IMPACT
(FONSI)