

**BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT**

FOR THE PURPOSE OF SUPPORTING THE) NOMINATION OF THE COLUMBIA RIVER) INTO THE NATIONAL ESTUARY PROGRAM)	RESOLUTION NO. 89-1160A Introduced by Rena Cusma, Executive Officer
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WHEREAS, the Metropolitan Service District is the designated Water Quality Management Planning Agency for the Portland metropolitan region under Section 208 of the Clean Water Act; and

WHEREAS, the urbanized portions of Multnomah, Clackamas, and Washington County, including the 24 incorporated cities within the metropolitan region, are within the jurisdiction of the Metropolitan Service District; and

WHEREAS, this Council has endorsed the "Water Quality Issues Report" prepared by the Planning and Development Department through adoption of Resolution 89-1121; and

WHEREAS, the "Water Quality Issues Report" identified the National Estuary Program established by Section 320 of the Clean Water Act as one of several programs in which Metro should participate; and

WHEREAS, the Bi-State Policy Advisory Committee was established by the Intergovernmental Resource Center in Vancouver and the Metropolitan Service District in Portland in 1981 to advise IRC and Metro on regional issues; and

WHEREAS, the Columbia River provides habitat to unique species of fish and wildlife; and

WHEREAS, the Columbia River is recognized and utilized by the people of the Portland/Vancouver metropolitan area as a vital regional resource for both commerce and recreation; and

WHEREAS, the States of Oregon and Washington are compiling a nomination package to EPA that proposes to include the lower Columbia River from Bonneville Dam to its mouth into the National Estuary Program.

WHEREAS, a successful nomination would result in federal funding eligibility not otherwise available for the states of Oregon and Washington to jointly address water resource management issues in the proposed Columbia River Estuary; now therefore

BE IT RESOLVED:

1. That the Council of the Metropolitan Service District supports the nomination of the Columbia River from Bonneville Dam to its mouth for inclusion into the National Estuary Program established by section 320 of the Clean Water Act as amended; and

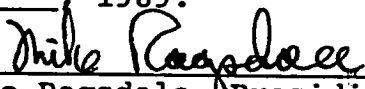
2. The Council respectfully requests that Governors Goldschmidt and Gardner support nomination of the lower Columbia River for inclusion into the National Estuary Program and submit the nomination package to the U.S. Environmental Protection Agency for consideration; and

3. The Council respectfully requests that Governors Goldschmidt and Gardner, the Oregon Department of Environmental Quality and the Washington Department of Ecology consider representatives from the Bi-State Policy Advisory Committee as members of the Management Committee and participants in the Management Conference should the nomination move forward; and

4. The Council directs staff to submit a copy of this resolution to Governors Goldschmidt and Gardner, DEQ, DOE, and the U. S. Environmental Protection Agency in support of the nomination; and

5. The Council directs staff to actively participate in development of the Comprehensive Conservation and Management Plan required by the Estuary Program should the nomination be approved, returning to the Council as necessary to inform the Council as to significant events or to receive further policy direction.

ADOPTED by the Council of the Metropolitan Service District this 26th day of October 1989.



Mike Ragsdale, Presiding Officer

10/10/89

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 89-1160 FOR THE PURPOSE OF SUPPORTING DESIGNATION OF THE LOWER COLUMBIA RIVER AS AN ESTUARY OF NATIONAL SIGNIFICANCE PURSUANT TO SECTION 320 OF THE CLEAN WATER ACT

Date: October 10, 1989

Presented by: Patrick Lee

FACTUAL BACKGROUND

The 1987 amendments to the Clean Water Act added section 320 which established the National Estuary Program to accelerate protection of the nation's estuaries. Estuaries that are accepted into the Program receive funding from the U.S. Environmental Protection Agency to identify water quality problems and to develop a plan to address identified problems. Unlike most water quality planning programs established by the Act, funds have actually been appropriated to carry out section 320.

There are currently 12 estuaries in the Program. Four more are to be selected for inclusion in the Program this fiscal year (federal year began October 1, 1989 and will end September 30, 1990). These will have to be formally nominated by November 1, 1989. In July, the Governors of Oregon and Washington decided to jointly nominate the lower 146 miles of the Columbia, that portion from its mouth upstream to Bonneville Dam, for inclusion in the program. The Oregon Department of Environmental Quality and the Washington Department of Ecology are in the process of completing the nomination package for submittal to EPA.

Active Metro participation in the National Estuary Program is one of the prospective water policy areas identified in the Water Quality Issues Report endorsed by the Council on July 27, 1989 through resolution no. 89-1121.

ANALYSIS

The National Estuary Program provides funding to states to study water quality. It also provides a process to develop a management plan that will address water quality problems. Both DEQ and the Washington State DOE recognize there is a lack of information about water quality in the Columbia River, as well as a need to better coordinate both states efforts to manage water quality in the river. If a nomination is filed for inclusion in the Program, and if Congress concurs that the Columbia River is to be included in the program, then federal funds may be forthcoming at a 75 : 25 federal : local match to address water quality and management issues. Without federal funding it is unlikely that the states could accomplish the work to be done, which is mandatory regardless of participation in the Estuary Program, in the next several years.

During deliberations thus far, issues have been identified by some entities that are apprehensive about the nomination. These are

discussed in the attached "National Estuary Program Fact Sheet" prepared by DEQ. DEQ and DOE are scheduled to have an additional round of hearings on the nomination the week of October 2, 1989 and staff will be prepared to report on the outcome of those hearings to the Council Intergovernmental Relations Committee at the October 10 hearing.

Proposed Resolution 89-1160 states the Metro Council's support for DEQ's/DOE's nomination of the Columbia River for inclusion into the National Estuary Program. The resolution also authorizes staff to participate actively in the Columbia River Estuary Program should the nomination be approved by Congress.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of proposed resolution 89-1160.

PL/pl NEPNOM

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ADOPTED by the Council of the Metropolitan Service District this ____ day of _____, 1989.

Mike Ragsdale, Presiding Officer

THE COLUMBIA RIVER ESTUARY

SHOULD IT BE PART OF THE NATIONAL ESTUARY PROGRAM?

BACKGROUND

In July 1989, the Governors of Oregon and Washington decided to jointly nominate the lower 146 miles of the Columbia River to become part of the National Estuary Program (NEP). The Oregon Department of Environmental Quality (DEQ) and the Washington Department of Ecology then began writing a nomination for the NEP, describing the need for such a program and what the states would do if the Columbia River were included in the program. The state circulated a draft of the nomination for public comment in late August.

On August 31, the deadline for submitting NEP applications to the Environmental Protection Agency (EPA), the states learned that the deadline was being extended to November 1. Meanwhile, both states had encountered concerns about nominating the Columbia River for the NEP from some local governments, ports and industries. Both states also recognized that the public wanted more information about the NEP and more opportunities to express their concerns and views about participating in the program.

On September 1, DEQ and Ecology announced that they would use the deadline extension period to obtain additional public input and encourage public discussion about how best to protect water quality in the Columbia River.

WHAT IS AN ESTUARY?

In an estuary, fresh water mixes with salt water. The tides, currents and water mix-

ture create an ideal and productive habitat for many forms of life. This delicate balance of conditions is difficult to preserve in areas heavily used by humans. Sediments and pollutants washed down the river basin build up in estuaries. Chemicals and metals break down differently in the estuary's saltwater, possibly affecting aquatic life.

The Columbia River offers one of the world's largest anadromous fish runs while serving as a major transportation waterway for national and international trade and commerce. The Pacific Northwest's economic vitality depends on our ability to manage and protect all of the uses of the river, including maritime trade, fishing, water supply and recreation.

WHAT IS THE NATIONAL ESTUARY PROGRAM?

Congress established the NEP in the 1987 Water Quality Act to accelerate protection of the nation's estuaries. Estuaries that are accepted into the NEP receive funding from EPA for up to five years to identify water quality problems, and to develop a plan to address those problems. There are currently 12 estuaries in the NEP. Four more will be selected for the NEP from the applications that are submitted by the November 1 deadline.

HOW WOULD THE ESTUARY PROGRAM BENEFIT THE RIVER?

Based on the limited information available, segments of the Columbia River sometimes violate water quality standards for fecal coliform bacteria, dissolved

oxygen, and dioxin. Other concerns include toxic and conventional pollutants, and habitat loss.

The NEP provides funding to the states to study water quality. It also provides a process to develop a management plan that will address these problems between the mouth of the river and Bonneville Dam. DEQ and Ecology identified lack of information about water quality and the need for better governmental coordination as two main problems that needed to be addressed by the program.

WILL THE ESTUARY PROGRAM RESTRICT GROWTH?

The NEP does not give federal or state government additional regulatory authority to restrict growth. Both states and the federal government will continue to control point and nonpoint source discharges to the Columbia River under existing authority of the Clean Water Act. The draft nomination emphasizes the states' intent to develop an economically feasible management plan and to protect the water-dependent economies as well as other beneficial uses of the lower Columbia.

WILL THE NEP CREATE A "MEGA-AGENCY"?

No. DEQ and Ecology will oversee the program. The states will involve the public extensively, including an advisory body with government, industry, tribe and interest group representatives.

HOW TO GET INVOLVED

Public involvement is important to the effort underway in both states to decide whether to nominate the Columbia River for the NEP. In addition to holding public meetings and accepting written comments, DEQ and Ecology staff are available to meet with groups on request.

Based on the comments received during and after the public workshops, the Governors will decide a course of action that best addresses future water quality management of the Columbia River.

Please attend the public meetings prepared to discuss your views. A brief panel discussion with presentations from different interest groups will begin the workshops, followed by a group discussion of priorities and alternatives. Public workshops will be held at 7 p.m. at the following locations:

- Monday, September 25, Skamania County Courthouse Annex, 200 Vancouver St, Stevenson WA
- Monday, October 2, University of Portland, Columbia Hall 101/103, 5000 N. Willamette Blvd (S. of Main Parking Lot) Portland, OR
- Tuesday, October 3, PUD Auditorium, 960 Commerce Ave., Longview, WA
- Thursday, October 5, Maritime Museum Kern Room, 1792 Marine Drive, Astoria, OR

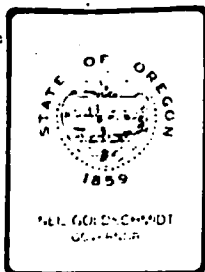
For more information, contact:

In Oregon:

Krystyna Wolniakowski
Estuaries Program Coordinator
Department of Environmental Quality
811 SW Sixth Avenue
Portland, OR 97204
(503) 229-6018

In Washington:

Steve Saunders
Water Quality Specialist
Department of Ecology
MS PV-11
Olympia, WA 85902
(206) 438-7086



Department of Environmental Quality

811 SW SIXTH AVENUE, PORTLAND, OREGON 97204-1390 PHONE (503) 229-5696

NATIONAL ESTUARY PROGRAM FACT SHEET

Krystyna Wolniakowski
Water Quality Division

The Governors of Washington and Oregon have decided to jointly request EPA to designate the Columbia River Estuary as an Estuary of National Significance through EPA's National Estuary Program (NEP). Concerns about water quality and inconsistent administrative procedures between Oregon and Washington, as well as lack of adequate information to assess the health of the Columbia River Estuary, were expressed by both Governors as well as representatives from state and federal governmental agencies and the public in both Washington and Oregon. The NEP is designed to provide a process to begin assessing trends in water quality, to develop a consistent interstate water quality management program, and to involve all users, public, local, state, and federal agencies in the process.

Several public and interagency meetings have been held during the last five months to discuss the scope, the costs and the benefits of being involved in the NEP. From correspondence that has been received by the Governor's office, and comments made during public and interagency meetings, it is apparent that the NEP is supported and that the need exists to begin evaluating the water quality and beneficial uses of the Columbia River Estuary. Most people agreed that the assimilative capacity of the Columbia was unknown, that contaminants are present that may be adversely affecting fish and wildlife, and that resource planning efforts need to be improved between Oregon and Washington. It was also agreed that being involved in the NEP would assist in providing startup funds that are not otherwise available to the states for the Columbia River Estuary, and would provide a mechanism to more effectively coordinate activities in Oregon and Washington that affect water quality and impact beneficial uses.

However, some common concerns have been raised about the NEP and what designation of the Columbia River Estuary means for the current and proposed activities in the Columbia. These concerns stem from a belief that designation into a national program would create more problems that it would solve, and that more regulations would be developed to yield a more cumbersome bureaucratic program than already exists. A summary of the specific concerns and a response from DEQ, based on our understanding of the NEP, follows:

1. The designation will result in freezing all development and permits until the Comprehensive Conservation and Management Plan is complete. Proposed dredging activities will be affected if the Columbia is designated.

The NEP is not a sanctuary program that will put a moratorium on all growth and development, it is a water quality management program for estuaries of national significance. The Water Quality Act of 1987 created the NEP to raise the visibility and importance of estuarine areas impaired by pollutants, and to provide a mechanism to improve coordination and implementation of the Clean Water Act requirements in estuarine waters. The NEP does not give any additional authority to DEQ or DOE over and above what authority currently exists to implement the Clean Water Act for the control of point and nonpoint source discharges.

Any activities that are proposed for the Columbia River Estuary that would potentially affect water quality would go through the same process and need to meet the same standards regardless of whether or not the CRE was designated in the NEP. If permits are needed for dredging, then DEQ would evaluate the water quality impacts and determine whether or not to issue a 401 certification. DEQ is currently evaluating and developing sediment criteria and guidelines in cooperation with other agencies and ports. This activity would continue and be used as appropriate.

However, if dredging activities or material disposal causes unacceptable water quality problems, then solutions need to be developed and implemented to meet current state and federal regulations. If the CRE was designated, then the NEP would provide a mechanism to gather more information to properly evaluate the impacts and develop those solutions, and then implement the solutions with interstate cooperation.

Part of the difficulty in assessing the overall quality of the CRE and determining the combined effects of point and nonpoint sources is that minimal data exists that helps us understand and pinpoint problem areas. Most activities are regulated on a site specific basis, without adequate regard for cumulative or synergistic effects with other perturbations in the river/estuary system. Since the estuary serves as a sink for all pollutants upstream, and it serves as critical habitat for many important aquatic species, it is vital to know where the pollutants originate and how the system functions as a whole to transport and assimilate wastes.

The NEP would help to examine the cumulative effects of activities ongoing or proposed in the CRE through water quality monitoring and through conscious coordinating and planning efforts. Through the CCMP process, areas to be used for disposal, or areas that should be set aside for their water quality benefits would be identified, and future proposals would be planned to minimize water quality impacts.

2. The NEP is unnecessary and would create additional bureaucracy and regulations. The CRE can be sufficiently managed without designation as a national estuary.

The CRE could eventually be managed sufficiently without the NEP. Both states currently have the authority and concern to address potential CRE problems. However, without some source of additional funding, the CRE will remain unstudied, since most of the states resources are currently devoted to solving known water quality problem areas. Funds will not be available for the CRE until all the identified "water quality limited" waterbodies are studied and waste loads allocated to improve water quality to meet standards. Future permit decisions on the CRE, therefore, would need to be made without adequate water quality information. In the absence of current water quality information upon which to make regulatory decisions, a more conservative approach may be necessary until adequate information is available to assure that new discharges or activities will protect water quality and beneficial uses.

DEQ and DOE do not intend to create any additional bureaucracy. No new agency to regulate the Columbia River will be formed, such as the Puget Sound Water Quality Authority. Both states already have sufficient regulations and infrastructure to manage the NEP under existing programs. If the CCMP identifies areas where new regulations would be helpful to address specific water quality concerns, then the same process that already exists would be used to change regulations (i.e. triennial standards review, Environmental Quality Commission action, etc.).

Where Washington and Oregon have different water standards or permit limits, the NEP would help to facilitate a standardized consistent approach. The waterbody is shared by both states and should be managed similarly to provide the same level of environmental quality protection. The permitting process may be streamlined because all the relevant state and federal agencies will be coordinated through the Management Conference.

3. Many plans already exist for the Columbia River Estuary. Why is another one needed?

Many plans do exist for parts of the Columbia River including the Estuary, or for specific types of activities, but the plans are not specific water quality management plans. The CCMP would build on existing plans, (CREST Management Plan, CZMA, LTMS etc. which address the estuary to RM 45) but would be more specific for managing activities to protect water quality and beneficial uses. In addition, very few plans look at the CRE from Bonneville downstream to the mouth and address the kinds of strategic coordination, integration of information from multiple activities, or vision that will be necessary to assure long term health of the CRE.

4. EPA will have more control over activities in the CRE and the ports or local jurisdictions will not have the level of control or representation that is needed or that presently exists.

EPA will not have any more control than they already have under the Clean Water Act. They would be providing the resources to allow the states to begin an estuarine management program, and to more adequately implement current requirements of the Clean Water Act. Through the Management Conference, representatives from various user groups, industry, tribes, ports, communities, local, state, and federal agencies, work together to develop an assessment and implementation program, contributing their perspectives and concerns.

Since the waters are a public resource, they need to be managed to support the greatest number of uses for economic and environmental viability. The Management Conference will determine what needs to be done to protect the environment and what can be done to minimize the conflicts created by the different uses. It will be important to have the different entities actively involved in developing the CCMP. In addition, duplication of efforts or gaps to be filled will be identified through the improved communication and coordination.

5. The NEP funds that are available are not sufficient to make any difference on a system as large and complex as the Columbia, and that the burden of providing 25% state match to those federal funds will fall on local governments.

The NEP will provide approximately \$150,000 to Oregon and Washington for the first year to develop the Designation Package, or the document that describes how the program will be developed in the next five years, what studies need to be done, and how the Management Conference will be established. Oregon and Washington will be responsible for 12.5% or \$ 18,000 each during the first year. This can be raised

through in-kind services of all those involved in developing the Designation Package. In addition, some funding may be available from the Legislature to assist.

After the Designation Package is accepted, EPA may provide \$400,000 to \$1.5 million per year (as Congressional appropriations allow) for up to five years as seed money to begin developing the CCMP, conducting the studies, and convening the Management Conference. The states will need to raise the match funds through various sources, with the responsibility shared by many entities in the state. It will not be an easy task. However, the seed money will help initiate efforts that at this time can not be funded any other way.

6. The implementation of the CCMP is mandatory regardless of resources available.

After the CCMP is completed and agreed upon by the participants in the Management Conference, a set of priorities or action items will be identified for the states to pursue, as resources allow. The recommendations in the CCMP will be used by DEQ/DOE respectively to make water quality management decisions. The CCMP is "mandatory" only as far as implementing requirements of the Clean Water Act. It is advisory to other agencies who do not have water quality management responsibilities. The states need to make an effort to raise the resources necessary to implement the recommendations, but if enough funds are not available, then only those funded items that are a priority will be implemented.

Any planning effort is only as effective as the effort that is put into it. Planning is a cumbersome task, but if a clear mission, goals and objectives are identified early in the process, and efforts are focussed, then the program should be successful. Potential positive results could be:

- o Determination of assimilative capacity of the CRE through a specific monitoring program
- o Formal interstate coordination of WQ programs
- o Identification of special values CRE and assurance that WQ standards are adequate to protect those values and uses
- o Continue development of standards for sediment quality and gather additional information and data to assist in reviewing dredging activities
- o Determination of where contaminants are adversely affecting commercial and sport fish and wildlife species
- o Determination of how to develop a consistent wetland program, and identify mitigation/compensation areas.
- o 75% federal funding to begin the program

For more information, please call me at 229-6018.

Primary focus: Using objective, scientific methods, find out as much as possible as quickly as possible about the condition of the river today.

Methodology: To be ultimately determined by those with appropriate expertise, but it would consist of testing, sampling and analysis of results.

2. If deemed necessary on the basis of the "present conditions survey," the two states could then undertake a joint, long-term water quality monitoring program in the river.
3. Regulatory actions would be taken, as appropriate, to respond to conditions found during the monitoring program.

Funding

Funding for such an alternative program could come from a number of sources: the state agencies, the ports, industry user groups, increases in discharge permit fees, Corps of Engineers, USGS, EPA:

1. Initial estimates are that a credible program of testing and, if needed, water quality monitoring, could be carried out for approximately what the states propose to spend as their "match" for the NEP: \$250,000 a year.
2. Based on a joint annual commitment of at least \$250,000 from DEQ/DOE, the lower Columbia River ports are prepared to pledge up to \$100,000 a year for at least three years.
3. We also understand that several private sector firms have pledged financial support for such a program in conversations with the Governor's office. We do not know who these firms are.
4. Finally, the ports are prepared to help the Governor's office and DEQ lobby the State Legislature and Congress for additional funds. We believe this effort would yield results more cost effective and less harmful to regional economic development efforts than the NEP.

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LOWER COLUMBIA RIVER PORTS'
ALTERNATIVE TO NATIONAL ESTUARY PROGRAM

Reasons for opposing

1. No need for the program. There is no clear evidence that there are significant water quality problems in the Columbia.
2. The Management Conference is a cumbersome and ineffective way to determine water quality monitoring needs. During its life, the Conference will also impose an additional layer of review on all Federal projects in the river, such as channel maintenance or deepening.
3. The NEP and its authorized funds "sunset" September 30, 1991, unless specifically reauthorized by Congress.
4. No Federal funding is specifically available to assist states in implementing the Management Plan required by the NEP.
5. There is no automatic "balance" of economic development and environmental interests in the NEP.
6. There is no clear program definition with respect to how it will be managed or what the respective roles of EPA, DEQ, DOE and other interests will be if the nomination is approved.

Alternative proposal

Both DEQ and DOE stated at the public workshops their two primary objectives in pursuing the National Estuary Program: 1) obtaining accurate and complete information about water quality in the river; and (2) money. In fact, money was really the overriding concern, as expressed by a DEQ official who stated, "We don't need the mechanism of the National Estuary Program, we need the money."

Environmental advocates at the meetings repeatedly stated their concern as "just wanting to know what's in the river." They see the NEP as a way to reach that goal by using money from the federal government.

In order to address both these issues -- funding and information -- we propose the following alternative:

Program elements

1. A bi-state survey of the "present condition" of the river. This would be undertaken by direction of the governors to DEQ and DOE and managed by a small focus group from those agencies, EDD and its Washington State counterpart and one or two others (such as Port of Portland environmental services staff).