

# **CAPITOL LAKE AND DESCHUTES WATERSHEAD**

## **FRIENDS OF WORKING WATERFRONT POSITION PAPER**

**May 16, 2009**

The FRIENDS of the OLYMPIA WORKING WATERFRONT (FOWW) believes that the studies completed to date by Capitol Lake Adaptive Management Plan (CLAMP) Steering Committee have significant missing elements and do not accurately define the impacts of the freshwater estuary options.

To assist with this discussion FOWW has presented what we believe are the missing elements of the CLAMP Studies and recommend a specific Plan of Action for consideration by the responsible State, County and local elected officials.

This POSITION PAPER, after the Executive Summary, is organized as follows:

### **SECTION I. THE COMMUNITY ISSUE**

### **SECTION II. THE MISSING ELEMENTS**

### **SECTION III RECOMMEND PLAN OF ACTION**

### **SECTION IV. SUMMARY STATEMENT**

### **EXECUTIVE SUMMARY**

The CLAMP process is narrowly focused on just Capitol Lake. It must be studied in context of the full Deschutes Watershed. Economic impacts are simply ignored and the 70 years of planning and investment of the current Capitol Lake and Olympia Percival Landing infrastructure is minimized. Sediment management which is a critical element is sent down stream without a management plan while increasing frequency of dredge requirements and into an unknown status of dioxin control. Roles and responsibilities of planners, regulators, and responsible parties become more obscure.

At this time it is necessary for the State and local governmental authorities to establish, (1) an Inter-local Agreement, (2) to create an Interim Sediment Management Plan which includes an interim dredge of Capitol Lake, while (3) the Deschutes Watershed Plan establishes a water quality and sediment control program, (4) for the long term management of the Watershed..

# **FOWW POSITION PAPER**

## **SECTION I. THE COMMUNITY ISSUE**

The Friends of Olympia's Working Waterfront.(FOWW) are---People who want to use the Boardwalk with their families to view the boats of the past and the present, people who have relied on the sequential decisions of government agencies to create a managed marine waterfront transition program for people and the environment, people who have invested in building an active downtown, people who understand that there is a balance of accommodating people's needs with the environment while respecting the community decision process.

After review of the work by CLAMP to date, the FOWW find the Capitol Lake Adaptive Management Plan Steering Committee (CLAMP) report as being too narrowly focused and written to achieve a single interest objective---namely it attempts to recreate an urban estuary without consideration of the other elements of a healthy watershed.

Further the original visions of its design by Wilder & White and the 70 years of planning and investment of the current Capitol Lake and Olympia Percival Landing infrastructure is minimized. This includes everything from building Heritage Park, cleaning up what was called "Old Hollywood," to dealing with storm water run off.

The CLAMP Cultural and Spiritual Values Report is interesting. However the "Effects" of Management Alternatives" table of impact categorizes positive and negative impacts with the same symbol. The analysis also neglects to point out the majority of citizen respondents indicate a high degree of civic pride tied to many aspects of the Capitol Lake and the Olympia Waterfront as it is currently planned.

## **SECTION II. THE MISSING ELEMENTS**

For an informed decision on the future of the "fresh and marine urban waterfront," these four elements must be included and understood within the context and interest of all Key Stakeholders. This means that the study must include

- (a) **WATERSHED PLAN.** A comprehensive analysis of how the use and management of the entire Deschutes Watershed actually functions, where the sediment loads are coming from, what is to be done about sediment management for the entire watershed and marine estuary, and whether the participant agencies on CLAMP are in fact meeting their upper watershed responsibilities to reduce the sediment problems.. This means the report should define how watershed activities upstream impacts downstream uses. The fresh and marine waterfront should be the baseline against which all actions should be measured (this is current State Law and a Watershed Plan is required). At the April CLAMP meeting, the Department of Ecology representative said the water quality portion of a Watershed Plan was just being initiated. The results of this study must be integrated with the Sediment Management Plan.

- (b) **PROJECT DESCRIPTION WITH IN THE WATERSHED PLAN.** The CLAMP project needs an expanded description of the proposed action and how it will be funded, the impacts mitigated, and who/how the project and its impacts will be paid for. A simple agency answer of “not part of this study” suggests the project report should be rejected as being incomplete. At the April CLAMP meeting the Chair said that it was never CLAMP’s intent to “transfer the Capital Lake sediment problem to the downstream (marine estuary) users.” However with a schedule to “develop a recommendation on the Capital Lake option” without a more complete analysis of how the marine inlet would be dredged, and how the dioxin recontamination of the transferred Capital Lake sediment would be disposed , suggests that CLAMP has an incomplete data base on which to make a valid recommendation.
- (c) **A PLAN WITHIN A PLAN.** If the proposed CLAMP project is only a project within a plan (i.e. a Capital Lake Estuary without the plan for the marine Inlet Estuary), then the decisions of proceeding are not with the CLAMP Steering Committee. In this case, the decision agencies will need to prepare a larger study that properly places the CLAMP proposal as a “plan within a plan” yet to be completed. The decision must rest with those agencies and citizens who will be required to fund and implement the plan that is adopted.
- (d) **ENVIRONMENTAL IMPACTS.** The Plan’s Environmental Impact Statement (EIS) must address the direct impacts plus the secondary impacts—in this case all of the shifted impacts to Capital Lake and the downstream users of the marine water front, as well as the changes that will be required to the City of Olympia’s Shoreline Management Plan, the Urban Waterfront Plan, and the challenges of redirected recreational boating and waterfront celebrations that have direct links to the “working waterfront”. Since the CLAMP draft report is curiously silent on this major impact, it suggests that the CLAMP work is woefully inadequate to serve as a basis for the required EIS for any work of this nature. The presumed value of an added urban estuary for Capital Lake has not addressed the positive and negative impact to the marine inlet part of the estuary and all of the other issues. A much more rigorous analysis should be expected from the Depts. of Fish and Wildlife, Ecology, Natural Resources and the Tribes consistent with what they would require of a private development.
- (e) **ECONOMIC IMPACTS.** These impacts must include the direct cost of construction of the project, the impacts on the downstream users/governments, the lost opportunities that have been planned and developed on the Olympia waterfront since the early 1980’s, the shifted cost to down stream users, the increase in annualized operating costs to activities that will be negatively impacted, the cost of engineering, permitting and disposal of the dredge materials and loss of DNR and City tax/lease income due to the lost retail opportunities with the probable closure of the four private marinas (due to loss of market place competition/higher cost of operation). None of these impacts have been included in the CLAMP cost of alternative comparisons and therefore a valid cost of alternatives can not be provided at this time to assist General Administration, the Legislature or other government agencies in making an informed decision. An example of a major missing cost is all of the mobilization cost associated with dredging on the waterfront. The Port

of Olympia's recent project resulted in a dredging cost of about \$244/cy when you factor in the contractor's mobilization cost --not including environmental permitting and direct staff cost to the Port.

(f) WATERFRONT PLAN. The project must fit within the past 30 years of fresh and marine waterfront planning and investments and linked into the long term future plans if CLAMP is going to use a 50 year cost impact analysis. The Legislature is considering funding a park on the Isthmus, the City is seeking ways to rebuild Percival Landing and to increase the housing density in the downtown area to be responsive to the State Growth Management Act, and the agencies continue to impose new constraints on water quality management objectives in lower Budd Inlet. Each of these plans must be considered in the economic and environmental impact analysis and the decision schedule of the CLAMP plan vs. the City's Water Front Plan.

(g) SEDIMENT DISPOSAL PLAN---IN BUDD INLET AND LOWER PUGET SOUND. Unless the CLAMP agencies are prepared to define where and under what conditions that either or both Capital Lake and the marine waterfront waterways can be dredged and disposed of in lower Budd Inlet (with written and probable conditions to price the disposal option), the recent Port of Olympia dredging experience under the permitting requirements of the CLAMP regulatory agencies, should be considered the criteria to prepare the dredging cost for the next 50 years. See attached bid documents that do not include Port Staff cost or the cost of managing the logistics for six marina owners in the impacted areas.

This means that the environmental testing, engineering, regulatory agency review, seasonal timing, logistics within fully occupied marinas, mobilization and the presence of large dredging equipment on a 3 to 5 year cycle in the boating channel, are all costs in addition to the unit quoted by the Port.

Another challenge is the cost of dredging newly released sediment into the marine waterfront where dioxin, at natural background, occurs at a level that may exceed regulatory standards(from urban run off) and will recontaminate the thr newly released sediment prior to disposal. This is one of the key problems that the CLAMP analysis is not addressing.

Unless a more realistic approach is taken by the regulatory agencies, the cost of future marine dredgeing will exceed the Port's recent experience due to the distributed nature of the sediment and the City of Olympia's challenge of financing the dredging in and around Percival Boardwalk. The projected cost of dredging the equivalent material from Capital Lake must be compared with dredging a widely distributed area around 500 moored boats (Olympia Yacht Club, Martin Marina, One Tree Island Marina, Fiddlehead Marina, Percival Landing/Visitor Marina, and Port Plaza/Visitor Marina.).

Frequency must also be considered. A multi year of accumulation of sediment in Capital Lake in the two to four feet level can be accommodated with limited restrictions on current use. In the marine inlet and marina area, a foot of new sediment can begin to restrict use of shallower marina and channel areas and two feet may begin to restrict use

of major areas. The CLAMP Dredge study suggests that 80% of the sediment load is transported to the waterfront over 10% of the major runoff/flood periods. This means that in the more susceptible areas of the marina waterfront, annual dredging may be required if the Capital Lake sediment trap is removed.

The Sediment Management Plan should include the potential of reducing the sediment load coming from the upper watershed, the CLAMP management options for Capital Lake, the yet to be developed plans for the marine inlet and then realistic quantities of sediment that will be dispersed and recontaminated in the inlet. The Sediment Plan should establish a framework that addresses all of the sediment management assumptions so that alternative strategies can be validated and tracked. The records since the mid 1980's are generally available now to test some of the assumptions and model outputs used by CLAMP. The actual cost of the logistics, permitting, testing, mobilization and disposal is available from the 2008 Port dredging project.

As another example, all of the marinas, including the City's Percival Landing and the Port Plaza Marina Docks, were dredged in the 1980's. Fiddlehead Marina was dredged with upland disposal of their North Basin due to storm water (and old city primary waste disposal at that site). The area was clean in the mid 1980's and dredged to a depth of -7 to -12 feet below sea level. Twenty five years later, with the exception of some near shore sloughing problems, the marina depth remains mostly the same. One change is that the Port's testing has found elevated dioxin in the vicinity of Fiddlehead. This suggests that the City's storm water outfall at the marina is the source of recontamination. It is likely that all of the sediment from Capital Lake that ends up in the area of Fiddlehead Marina most likely will be recontaminated by dioxin from the City's storm water run off.

The Yacht Club's experience is not as optimistic in that the carry over sediment has settled in the Yacht Club area to represent what the rest of the marinas would experience if the dam was removed and the unimpeded flood waters deposited their sediment throughout the lower inlet. The use of different CLAMP assumptions in their model on the density of the sediment is a key issue here. The higher density assumptions, if true, would settle out closer to the dam site. The lower density sediment would carry further into the inlet and into more of the marinas. They both may be correct, depending on the magnitude of the floods and the status of the tide at the time of the peak sediment load.

- (h) CHANGING STATE SHORELINE PLANS. The recorded Shoreline Management Act decisions, the Urban Waterfront decisions and investments, the uncertain plans for the Isthmus, the City's plans for the Boardwalk, the City's plans for other parks along the waterfront, CLAMP project's proposed placement of dredging material for "shoreline enhancement" without defining both where and how that might change the current Urban Waterfront Plans creates another challenge for the City of Olympia and how they might address the marine inlet estuary and sediment impacts. At a minimum, the City of Olympia would need to assume the lead role in the dredging and sediment disposal plan for the marine water front. The marinas are small private or not for profit businesses that do not have the on staff resources or the financial capacity to manage such a large

project. The City should identify the true costs of maintaining the Percival Boardwalk investment in the face of a 3-5 year marine dredge cycle.

The City should request that Ecology, Fish and Wildlife, the Tribes and the Corps of Engineers to outline the probable conditions of the routine (every 3 to 5 years) dredging permit requirements along with specific criteria related to shoreline enhancement from Capital Lake sediment and the marine water sediments with potential dioxin in it. This information is needed before the City (and other decision makers) should consider supporting a Capital Lake Estuary option. If this isn't available from the regulatory agencies prior to a decision and an Estuary option is recommended, the City will become the default lead agency in addressing all of the above mentioned impacts that have not yet been addressed.

(I) CONFUSED ROLES AND RESPONSIBILITIES---  
WHO PAYS FOR WHAT NOW AND IN THE FUTURE---  
RESOURCE PLANNERS VS REGULATORS

For the CLAMP Studies to be valid they must provide answers to the above, including the cost and how the costs will be paid for and by whom, otherwise the report is incomplete and simply ---one option without answers to the truly difficult issues.

FOWW does not believe that the reports to date address the policy, management, and funding issues for the impacted four zones of the Deschutes Watershed within which this project is located. The plan is not presented in a manner or in a way that the responsible parties---General Administration, Thurston County, Cities of Olympia and Tumwater and the Port of Olympia--- can reasonably assess the draft proposals.

It is unclear in how the tribe's involvement should be considered. Is the Tribe a resource planning participant with no implementing and financing role or are they an implementing participant that will provide financial and long term permitting agreements? The latter would allow the proposed actions to occur without new and additional conditions that are not addressed by the plan. Or may their participation actually prevent the suggested plan from being implemented?

The State Agencies that are members of CLAMP must clarify and separate their role as resource management agencies and as regulatory agencies. The proposed Plan—as a proposed resource management plan within the Deschutes Watershed Plan should be approved per State Law---and the permitting of dredging and disposal of dredge materials for the next 50 year management program should be defined and tacitly approved since their costs analysis is presenting it as an acceptable or approved plan. The CLAMP proposal must include the participating regulatory agency commitments on permits and conditions of dredging and disposal permits---at least their written and documented best estimates---otherwise the assumptions by CLAMP Steering Committee on the cost and future strategies are just a 'best guess by current staff' with no future assurances. If these agencies will not confirm their agencies permit expectation and put this in writing, then

the “worst case analysis must be presented in the cost analysis--- because it most likely will occur as the Port found out on their recent dredging project.

If the CLAMP participants can not agree on and obtain approval of a State approved Watershed Plan, they should at least present the technical and management proposals using the State Guidelines for Watershed Management for all four management zones--- the upper watershed/Forest Management, the rural agricultural zone, the urban zone with freshwater, and the urban zone in the marine waterfront.. This plan would help identify the sources of the sediment and contaminants that are creating the challenges within the CLAMP plan of action.

The four management zones that apply in this case includes the Forest Zone and how the County and the State manage the forest practices and control sediment load run off into the Deschutes River; the rural agricultural zone which is controlled primarily by the County through land use management, zoning and other regulations to control sediment and contaminant runoff.

It is these two zones that contribute the majority of the sediment that must be dredged from Capital Lake at the present time.

The third zone is the urban area of the County and the Cities of Tumwater and Olympia that contributes storm water run off to the Deschutes River and uses this zone for parks and riparian zone management. The storm water runoff contributes contaminants from the streets and other urban contaminants that are trapped in Capital Lake along with the sediments from the upper two zones.

It is this third zone that CLAMP Steering Committee is seeking to modify by eliminating the sediment trap provided by the current Capital Lake design. By converting the Lake to an estuary, the sediment trap would be transferred from the General Administration responsibility to the City of Olympia and the Port of Olympia. GA’s current dredging responsibility for the Lake is shifted in practice to the City and the Port in a much larger marine environment.

It is the fourth zone that creates the conflict between the State and Tribal positions on the CLAMP report. The CLAMP participants are making recommendations to remove the sediment trap of Capital Lake and to allow that same sediment to be dispersed throughout the lower Budd Inlet where they are projecting a need to dredge every three to five years to maintain the current recreational and marine use. These same state and tribal agencies required the Port of Olympia to undertake special dredging and disposal techniques due to their setting a dioxin standard that is lower than natural background, resulting in the Port’s dredge and train hauling of contaminated material to Oregon and then placing a clean sand “cap” on the dredged area.

This approach was required of the Port in 2008 as a condition of dredging. This is the same general area that the four private marinas are located and the City of Olympia and Port of Olympia recreational docks associated with Percival Boardwalk. The Port had

easy access to rail on the Port docks. The four marinas and the City do not have access to rail and therefore, the cost of dredging every three to five years will be more expensive than the recent cost to the Port.

The cost doesn't address the sampling, engineering, permitting and logistics of working around the currently fully occupied marinas. This cost is not included in the most recent CLAMP draft plans, nor is there any indication that the agencies and tribe that are CLAMP participants will facilitate the permitting disposal of the increased sediments that they are suggesting that should be transferred from Capital Lake to the marine location.

All of this is further complicated by the fact the four marinas and the City of Olympia dredged the marine water front in the mid 1980's, thereby cleaning up their part of the waterfront from the old industrial pollutants and leaving a clean environment in their marine area. Unfortunately, the new focus on urban runoff dioxins creates a new challenge.

After nearly 25 years, only the Olympia Yacht Club has experienced any major sediment deposition since the 1980's dredging and that problem is isolated to the dam release current flow area. The other marinas have only recently paid off their 20 year loans to pay for that dredging and their share of the construction of Percival Boardwalk. If dredging increases to every 3 to 5 years as the CLAMP study projects, the City or the State will need to assume the responsibility for the cost since the marinas would most likely be forced to close and therefore would not provide the revenue for the dredging for recreational boaters. The state would lose the revue generated from the under lying leases that DNR hold.

The CLAMP estuary proposal is to release the sediments to the marine waterfront where the urban storm water with urban living created dioxins will recontaminate the sediments creating a new challenge and cost to dispose of the dredged material

### **SECTION III. RECOMMENDED PLAN OF ACTION**

The FOWW believes that a more prudent community decision and scientifically based approach would be to implement the following four steps:

- (1) INTERLOCAL AGREEMENT (IA) -- 2009. The State, County, City(s) and Port Elected officials represented on CLAMP should join to form an implementation committee under an Inter local Agreement to immediately implement a joint effort to fund and implement near term actions to manage Capital Lake and the larger Sediment Management needs of the Deschutes Watershed., and
- (2) INTERIM SEDIMENT MANAGEMENT (ISM) IN CAPITAL LAKE--- 2010 TO 2012. The IA should define the funding and need to support the use of the interim findings of the CLAMP studies to date, along with FOWW input, to implement an interim dredging program of Capital Lake. The plan should test the disposal of the dredge material in the



lower Budd Inlet marine area that CLAMP has proposed as a potential enhancement project. This ISM plan will reduce the downstream transfer of upper watershed and Capital Lake sediment to the marine waterfront and confirm the cost and validity of the CLAMP proposals before adopting a long term plan. In the mean time an interim dredge should be completed by General Administration and

- (3) COMPLETE DESCHUTES WATERSHED PLAN TO ESTABLISH WATER QUALITY AND SEDIMENT CONTROL PROGRAM.—2011. The County and the State agencies on CLAMP have already initiated steps to complete the water quality control elements of a Deschutes Watershed Plan. Sediment control is a key part of any water quality plan. The ISM would allow the local, State and tribal governments to complete the Watershed Management Plan and to test the effectiveness of the upper and rural land use management plans to reduce the sediment transport problem. It is the flood waters and sediment transport from the upper watershed that is the primary source of sediment in Capital Lake. All of the CLAMP members are part of the Watershed Planning process. The completed Watershed Management Plan should outline the technical findings, the plan of action in each of four zones in the watershed, the shared financing of the plan and to confirm if a freshwater/marine water estuary is the best solution to further all of the environmental and community interests in the Capital Lake and Percival Landing area of downtown Olympia and the up lake areas of the Tumwater waterfront.
- (4) 50 YEAR OPERATIONS PLAN.—2009 TO 2059. Using the interim sediment management plan in Capital Lake to address near term sediment problems, the completed and adopted Deschutes Watershed Plan should then address the technical, political, environmental, financial, and operational program for the long term solution that can be supported by the State, Tribal, County and Municipal governments. This long term plan should define the specific steps of the plan and permitting approach to sediment disposal and waterfront enhancement from an informed and tested approach.

FOWW believe that this approach should be initiated immediately and that more studies should be undertaken only if they advance this more holistic approach.

FOWW believes that the responsibility to plan and finance the Sediment Management Plan and Deschutes Watershed Plan is a shared responsibility of all of the CLAMP participants tied to their operational interests in the completed plan of action.

FOWW members are prepared to join with the governmental agencies to advance this important new step in managing the Deschutes River, Capital Lake and Budd Inlet waterfront for all of the environmental and community interests.

## **SECTION IV. SUMMARY STATEMENT**

The FOWW members do not believe that the study completed to date by CLAMP and their consultants accurately defines the impacts of the four alternatives related to the Capital Lake Alternative Management Plans; that the schedule for preparing a recommendation for forwarding to the Director of the General Administration is premature; and that basic answers to each of the major points that are outlined above are necessary before a scientifically sound conclusion can be developed.

Further, we request that the Mayor and City Council of the City of Olympia, working with the Port of Olympia, City of Tumwater, Thurston County and the Washington Department of General Administration take a more holist view of sediment management before focusing on a partial solution that is not well defined within the context of the management of the Deschutes Watershed and the Urban Water front plans of the two cities.

RESPECTFULLY SUBMITTED

FRIENDS of OLYMPIA's WORKING WATRFRONT (as of May 15, 2009)

Bob Wubbena, PE, Fiddlehead Marina Inc  
Roger Burgher, Martin Marina  
Mike Contris, Olympia Yacht Club Board Chair  
Robert Connolly, Skillings and Connolly  
John DeMeyer, Citizen/Boater  
Neil Falkenburg, West Bay Marina  
Jewel Goddard, Marina Owner  
Jim Lengenfelder, South Sound Sailing Society  
Russ Meixner, Capital City Yacht Sales  
Ron Rants, Rants Group  
Russ Shurtz, Shurtz Marine  
Justice Robert F. Utter, (Ret.)  
Paul DeTray, P&P Investments  
Carol Robinson, Inlet Marine Services  
Chuck Eich/Carol Robinson, Nor-Pac Marine Surveyors

Other Names Will Be Added On Request.