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Please see [SEPA Comment Response Matrix](#) for additional public comments. Please note that Blvd Shoreline Comments are now part of a separate document.

1	06/18/08	General Project Support	Scott Jones via email and telephone	As a Bellingham resident, I support the extension of the new walkway from Boulevard Park to the end of Cornwall Avenue. Not only will this improve the quality of life for our residents, but also attract visitors and add increased revenue for local businesses in there area.	
2	06/18/08	Kayak Launch, Public Comment	Tom Barrett via email and telephone	The kayak launch site at the northeast corner of Boulevard Park is commonly used, and has over the past year become a daily use site by the live aboards who moor their boats nearby. I am asking that this popular kayak launch site, which is near seasonal restrooms, parking and a nice staging area, be recognized on COB maps and be slightly improved with respect to improving access from the path/trail down to the beach. Please make publicly available a comment tracker for the Boulevard Park/overwater trail project so that citizens can see the comments of other interested folks and how you respond to them. Please email me the on-line location for this comment tracker.	Staff will obtain additional information from Tom Barrett in order to address concerns regarding the kayak launch. A public comment tracker was created for the project website on 06/18/08. The comment tracker will be updated as comments are received.
3	06/19/08	Woods Coffee	Catherine Huhndorf via telephone	Concerned about walkway width around Woods Coffee. Has talked to Marvin Harris and would like an additional response. The walkway width around the water side of Woods coffee infringes on pathway and takes away from room available for park users. A railing has been installed and there has been no public process for this. Also concerned about how people would safely get out of the building since the gates are locked. It seems that this has taken more space from the general walking and biking public and we have no opportunity to give input about this.	These comments have been forwarded to the Park Director and Park Managers for consideration and offered to schedule a meeting to further discuss. Catherine will bring this comment forward at the public meeting on June 26, 2008.
4	06/18/08	Budget	Citizen via telephone	Opposes the use of Greenways funds for the overwater walkway. Would like Greenways funds to be used for trails. Concerned about jobs on the waterfront and spending money during this economic climate. Concerned about the relationship between the Port and City. Would like to see more revenue producing sources for the City on the waterfront.	These projects are included in the Greenway Levy III project list that was made available to the public, boards and commissions.
5	06/26/08	Other pressing needs	Kenni Merritt via email	I question whether this is the ideal time to move ahead with the proposed overwater boardwalk from Boulevard Park to the yet-to-be-planned Waterfront District at the foot of Cornwall. Although the boardwalk was recommended by the Waterfront Futures Group, along with a multitude of other worthy projects, and was identified as one of many excellent Greenway III projects, I believe that we have many more pressing needs to address with limited funds and staff availability. I have generally supported big capital projects (and I love to run on Taylor Dock!), but I ask that we step back and take an objective look at our resources, our current needs and a possible budget crunch. I understand this	Comment has been forwarded to Design/Development Manager and Park Director

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				boardwalk project will take many years to bring to fruition, but it will likely be many more years before it could connect Boulevard Park to a meaningfully developed Waterfront District. In the meantime, let's use our staff resources and funding where they're most needed now while we enjoy Taylor Dock and the wonderful South Bay Trail that already connects Boulevard Park to downtown along the waterfront.	
6	06/26/08	Pattle Point trestle	Citizen at public meeting	What would be the duration of construction? Could construction be delayed to coincide with other projects in order to reduce impact on public access?	A two year construction project is planned with in-water work occurring in the allowed permit window. The permit window for pile driving (in-water work) is approximately 6 consecutive weeks.
7	06/26/08	Walkway width	Citizen at public meeting	How wide is the proposed walkway? How wide is Taylor dock? How wide is Pattle Point trestle? Concern about walkway width with respect to pedestrian/bike conflicts. How wide could we make proposed walkway? How much would this cost?	Taylor dock is 18 feet wide (in some locations) and 12 feet wide in other locations. Pattle Point Trestle is currently being renovated to 12 feet wide. The new proposed walkway width is 14 feet wide in accordance with recommended standards for bike and pedestrian use. The preliminary cost for construction is \$6 to \$9 Million.
8	06/26/08	Safety	Citizen at public meeting	Concern about pedestrian/bike separation—a safety issue	
9	06/26/08	Against proposed over water walkway	Citizen at public meeting	Statement against the proposed overwater walkway: Cost of \$6,000,000 and that's a previous estimate? Using Greenways' money?	\$4 Million is allocated from the Greenway Levy III budget
10	06/26/08	Duplication	Citizen at public meeting	South Bay Trail Greenway already there – a wonderful woodsy path with lovely views of the bay between the trees, very popular, connects Boulevard Park with the downtown and proposed waterfront park at the foot of Cornwall. The concrete walkway would obstruct these pretty views.	
11	06/26/08	Railroad crossing	Citizen at public meeting	Some of the proposed 6 million dollars could be used, instead, to have an automatic gate at the railway crossing where a woman was recently killed. White Rock has them.	
12	06/26/08	Displace anchorage	Citizen at public meeting	The proposed walkway would displace a nice, partially sheltered anchorage, 25-30 feet deep, that now has a pleasant view both ways. There are now 7 boats	

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				anchored there.	
13	06/26/08	Taylor Dock different	Citizen at public meeting	Taylor Dock over the water is different: It is nicely done, eliminates some nasty old pilings, and enables the trail south to Fairhaven to bypass a large obstructive building and uses an existing structure to get over the railroad.	
14	06/26/08	Against proposed over water walkway	Citizen at public meeting	Hopefully, this expensive, duplicating, view-obstructing, ugly walkway will never be built and public money can be used for better new trails elsewhere.	
15	06/26/08	Avoid moorage impacts	Citizen at public meeting	Could walkway run along shoreline to avoid moorage impacts?	Permitting agencies require projects to minimize impacts to the sensitive near-shore environment, including eelgrass beds that grow along the shoreline and to a water depth up to 10 – 15 feet. The walkway is located in deeper water where impacts to aquatic vegetation are minimized.
16	06/26/08	Safety issues	Citizen at public meeting	Walkway along shoreline would raise safety issues	
17	06/26/08	Cleanup timeline	Citizen at public meeting	Timeline for coal gasification plant cleanup versus walkway construction—does cleanup affect walkway timeline?	The over water walkway schedule is being coordinated with the South State Street Manufactured Gas Plant cleanup site and the Cornwall Landfill site.
18	06/26/08	Pattle Point trestle piles	Citizen at public meeting	Could Pattle Point trestle piles be wrapped to avoid possible creosote contamination?	The Pattle Point Trestle is currently being renovated. The existing piling are constructed of wood treated with Chemonite, not Creosote.
19	06/26/08	Eelgrass	Citizen at public meeting	Capping at Cornwall will possibly increase extent of eelgrass.	
20	06/26/08	Beaches/ Climate change	Citizen at public meeting	Beaches/climate change—more improvements to park necessary to deal with it?	There are plans to reduce erosion at Boulevard Park by creating gravel and sand beaches. Public meetings on this topic are planned for the

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					year 2011
21	06/26/08	Storm damage	Citizen at public meeting	Move walkway in closer to protect from storm damage	
22	06/26/08	Why soft beaches?	Citizen at public meeting	What do soft beaches accomplish? Erosion control? Access?	There are plans to reduce erosion at Boulevard Park by creating gravel and sand beaches. This proposal would reduce erosion and increase public access to the water. Public meetings on this topic are planned for the year 2011.
23	06/26/08	Protect Cornwall beach	Citizen at public meeting	Protect corner of Cornwall Beach	
24	06/26/08	Environmental Improvements	Citizen at public meeting	Ensure shoreline improvements include environmental improvements	
25	06/26/08	Safety measures	Citizen at public meeting	Include safety measures if people fall off walkway	
26	06/26/08	How far off shore?	Citizen at public meeting	How far offshore is farthest point of walkway?	The walkway ranges from 300 to 500 feet from the shoreline.
27	06/26/08	Design	Citizen at public meeting	Prefer design with less arc.	
28	06/26/08	Cornwall connection	Citizen at public meeting	Connection to proposed Cornwall site—don't need to go all way up point.	
29	06/26/08	Tree protection	Citizen at public meeting	Protect significant tree at Cornwall side.	
30	06/26/08	Visual perspective	Citizen at public meeting	Visual perspective from walkway would be better farther from shore.	
31	06/26/08	Existing trail works	Citizen at public meeting	Existing trail works fine.	
32	06/26/08	Site Analysis	Citizen at public meeting	Conduct site analysis—wind, sun, views.	
33	06/26/08	Parking	Citizen at public meeting	Concern about parking and where it would be located; the existing Boulevard Park parking is already very busy.	Additional parking will be constructed with the Cornwall Point park.
34	05/25/10	Boardwalk extension	Tim Johnson tim@openacces	Dear Council members, Tim Johnson writing to you now as a private citizen.	The anchoring of Boats in Bellingham Bay outside of the

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			s.org	<p>I attended today's presentation on the boardwalk that would connect Boulevard Park to the Waterfront District. This is an excellent project that will create joy throughout our community, and--like Taylor Street--one you will be fondly remembered for supporting. But I do encourage all of you to visit Boulevard Park and picture the proposed course of this walkway as outlined. You will see that its route transects a number of boats currently anchored off Boulevard. Moreover, once this walkway is in place, it will block inshore access of Boulevard and the Waterfront District by masted vessels. The excellent model of the walkway, prepared by Parks and once exhibited in the lobby of City Hall, illustrates this well. I would ask you to at least be aware that the proposed route of this walkway would affect anchorages and masted transits inshore of the walkway. Possibly other watercraft transit could be affected as well. I have no particular interest in this issue beyond what I can see with my own lyin' eyes, which is this will cut in half the options where visitors might moor. I understand there are eelgrass concerns, and I cannot speak to the longterm consequences of placing pilings in concentrations of eelgrass, but it does seem by the diagrams there is a lot of leeway--by perhaps 1000 yards--inshore between where the eelgrass boundary ends and the proposed route of the walkway.</p> <p>As mentioned, I don't come to this issue as an advocate or environmental expert or outraged party, or even as a marine enthusiast. But I do perceive the inshore recreational interest in the area between Boulevard Park and the Waterfront District will only increase over time, particularly as the walkway is completed. I would advise you to consider the offshore and inshore accessibility this walkway would limit and inhibit, and point this out to you so the decisions you make might be deliberative in regards to it. I'd like to know that you'd at least thought though this issue as you approve this excellent project.</p> <p>My hope would be that you'd question the inshore limitations imposed by the proposed route, and possibly propose some plan modifications that might include a wharf and stairway access so that anchored vessels offshore might still access the park/Waterfront District.</p> <p>Thanks for all you do.</p>	Port of Bellingham Management Agreement areas is regulated by the Washington State Department of Natural Resources.
35	05/25/10	Response to Comment 34, Boardwalk Extension	Council Member Stan Snapp snappcouncil@comcast.net	<p>Tim, (private concerned citizen)</p> <p>Here's my take on your concern. The curve of the routing, as I understand it, is necessary to get us just outside of the eel grass beds. We were told that a straight shot wouldn't work. There are sail boats in particular anchored there but that location is a lousy anchorage. The bottom may be suitable but the exposure, as any serious boater will tell you is, hugely problematic. There's a reason that Squalicum has huge breakwaters for protection. The site in question has exposures from the predominant S W winds and from the predominant, in</p>	

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				<p>summer, N W winds. Anchor dragging puts a boat on the beach immediately with no chance to recover. The only real benefit is the price. Having said that, the anchorage south of Taylor Street dock at least provides some protection from the S E, S W, and N E exposures. Even that area can be problematic. On the plus side, the current and new walkways provide excellent hand launched paddle, and rowing opportunities in and around the near shore with little disturbance to marine life. To that end a small float is provided at the south end of the current Taylor Street over water walkway. In addition the planned softening of the shoreline all along Boulevard Park will be a welcome addition for hand launched craft. Imagine paddling up to the gravel beach and pulling up your kayak next to Woods coffee for a respite on a warm summers day.</p> <p>I do think that the current access at Taylor Dock along with the planned hand launch site at the foot of Cornwall, once cleaned up will be adequate for hand powered boaters. It's my hope that these new features will lead to a stronger park-like presence in the Waterfront district just as the Taylor Dock, Pattle Point and Boulevard enhancements have led to the newest propose over water walkway.</p> <p>Warm regards Tim, Stan</p>	
36	08/13/2010	Comment on Cornwall Overwater Walkway	Wendy Harris 3925 E. Connecticut Street Bellingham WA 98226 harris2007@comcast.net	<p>I believe that the Port and City should reconsider the plans to build an over-water walkway to connect the Cornwall landfill with Boulevard Park. This does not promote environmental stewardship. Over-water structures are responsible for some of the greatest degradation in the ecological functions of our waters and are discouraged by the State Department of Ecology. Even with state of the art materials, they still create shadows that allow nonnative species of plants and fish to grow, threatening local species. It creates impervious surface over an impaired shoreline of statewide significance, which increases nonpoint source pollution.</p> <p>I appreciate the care taken to protect the eelgrass beds. However, the problem is that the walkway does not mitigate for the harmful impacts of increased human activity and noise. Fish, birds and other marine life are much less likely to access the eelgrass beds if they have to pass under bikes, dogs, screaming children, joggers, etc. The result would be eelgrass beds that exist, but that perform limited ecological function. The walkway is simply not needed, particularly since the Cornwall landfill is being redeveloped as a shoreline park, which will by itself, increase public access to the shoreline. Moreover, the Shoreline Management Act does not promote public access to shorelines unless it results in no loss in the ecological function and value of shorelines and water bodies. While human impacts will have the greatest harmful impacts, there is also the need to mitigate against environmental harm that is created during the construction process. In</p>	Permits are in the process of review by various regulatory agencies.

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				<p>particular, care must be given to ensure that noise and activities during construction will not disturb the breeding and nesting activities of the Caspian tern colony located close by. As you may be aware, this is now the second largest Caspian tern colony on the Pacific Coast, and members of DOE, WDFW, and the local Audubon, among others, have been involved in studying and banding new fledglings. This has provided exciting new opportunities to increase our understanding of not only Caspian Terns, but of factors that influence successful breeding colonies of our dwindling sea bird populations. At a minimum, the SEPA and JARPA process should reflect the recent relocation and presence of this breeding colony as part of its assessment of shoreline functions. It should also reflect the many harbor seals and their pups that I currently see sunning on logs close to the Cornwall landfill site. They will clearly be frightened away if a walkway if extended out over the water. Until the hot summer months, I regularly saw a small flock of Harlequin ducks that used the water and shoreline of the Cornwall landfill site, and I am sure that many other sea birds can be found in this area. From a financial perspective, the walkway is a very costly project. I have been advised that it will cost approximately 3 million dollars. There is growing public concern regarding the costs of the waterfront project, and this particular "trail" is among the most costly individual components of the earlier phase projects. If the over-water walkway was replaced with a pedestrian overpass by the railroad onto the South Bay trail, this would still allow for a connection between Cornwall Park and Boulevard Park. In summary, the Cornwall Over-Water Walkway is not necessary and should be eliminated from project plans. This would not only save residents a good portion of the allocated 3 million dollars for the walkway, but would limit our harmful environmental impacts to water quality and to fish and wildlife. Eliminating the over-water walkway helps our community meet the prioritized requirements for shorelines of statewide significance under the Shoreline Management Act.</p>	
37	8/26/10	EIS needed for Overwater Walkway In Bellingham Bay	Wendy Harris 3925 E. Connecticut Street Bellingham WA 98226 harris2007@comcast.net	<p>EIS Required For Proposed Over-Water Structure Bellingham is engaged in a SEPA review of the proposed overwater structure from Boulevard Park to the Cornwall Landfill, but has not yet made a threshold determination. I urge the City to issue an Environmental Impact Statement for this project. As discussed below, the analysis and studies conducted by the City to date have significant flaws that require additional independent assessment to determine the impacts on shoreline ecological functions. First, this project involves construction of a large overwater structure. Overwater structures can have particularly damaging environmental impacts, and are discouraged under DOE policy. This project is of special concern because it will be constructed under outdated shoreline development standards. The City's current SMP is from 1989 and is not compliant with current Shoreline</p>	<p>Permits are in the process of review by various regulatory agencies.</p> <p>The over water walkway schedule is being coordinated with the MTCA cleanup sites. The City's project manager for the walkway is also the project manager for one of the cleanup sites (South State Street</p>

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				<p>meaningful mitigation, including compensation for lost shoreline functions through creation of additional fish and wildlife habitat, or enhanced shoreline buffers.</p> <p>The seminal work by Nightingale and Simenstad (Overwater Structures: Marine Issues, White Paper, 2001, prepared for state and federal transportation industries,) referenced in the Biological Assessment, indicates that the greatest harm results not from individual projects, but from cumulative impacts of other shoreline projects. The overwater walkway, which connects to the Cornwall Landfill, is the first project that will be built within the area designated for waterfront redevelopment. Waterfront redevelopment, in totality, is likely to result in enormous cumulative impacts to the Bellingham Bay shoreline. Review of nearby Taylor Dock at Boulevard Park would not be sufficient for a meaningful cumulative impacts analysis. Only a more comprehensive EIS would provide the level of review required under the SMA.</p> <p>The EIS would also provide the opportunity to compare impacts from alternative options for public access to the shoreline, such as a land based shoreline trail, and determine if it is feasible to connect the Cornwall Park shoreline trail to the S. Bay trail in lieu of an overwater walkway. If a land based shoreline trial is feasible, construction of a more environmentally damaging overwater walkway could violate the mitigation sequencing required under the SMA. It should be noted that mitigation sequencing is not included in the 1989 SMP shoreline development standards.</p> <p>Additionally, the EIS could evaluate whether the proposed overwater walkway, located further offshore than the eelgrass beds, would become a barrier that actually restricts fish and wildlife from traveling to and from the eelgrass beds. It would be important to determine if the proposal results in eelgrass beds with functional value.</p> <p>The EIS is also necessary to determine whether the proposed design sufficiently mitigates for impacts from reduced light or ambient wave energy patterns and substrate types. These issues are discussed in City review, but are not quantified, and thus, do not indicate whether they constitute adequate mitigation.</p> <p>An EIS is also indicated because the overwater walkway is part of a 7 million dollar project that is being partially funded through a federal grant. A project of this size and this cost requires careful consideration, and federal grant money should not be used for a project that may not comply with state law. Finally, if the EIS supports an alternative land-based trail, this would save the City millions of dollars in construction costs, which could then be used for mitigation and restoration projects to increase shoreline ecological function in conjunction with public access to the shorelines. These facts, in totality, indicate that it would be irresponsible for</p>	
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				the City to attempt to undertake such a large and expensive project, constructed within the waters of Bellingham Bay, without preparing an Environmental Impact Statement. Sincerely, Wendy Harris Bellingham Resident	
38	8/31/2010	EIS needed for proposed walkway to Cornwall Ave from Blvd Park	Laura Brakke llbrakke@hotmail.com	I am writing to request a thorough EIS be required for the Proposed overwater walkway connecting Boulevard park to Cornwall Ave. It is also important not to use an outdated SMP to review this project. Using a 1989 version of a management document will not protect our environment to the standard required by current standards. I am also curious why in this era of lack of funds the City Parks is willing and able to spend millions of dollars on an unnecessary connection, when the Southbay trail is open to the public and parallels the exact same course the expensive and intrusive piling supported walkway will traverse. Please, spend taxpayer money wisely and make sure that the project has the necessary review with a full EIS requirement. Thank you for your consideration.	
39	10/11/2010	Problems Ignored Re Boulevard Park/Cornwall Landfill Bridge	Wendy Harris 3925 E. Connecticut Street Bellingham WA 98226 harris2007@comcast.net	I am requesting that the City rescind the recent SEPA Mitigated Determination of NonSignificance issued for the pedestrian bridge over Bellingham Bay to connect Boulevard Park to the Cornwall Landfill. I believe that there are issues and concerns that have not been adequately addressed for this project that warrant additional time and analysis before the City makes a SEPA threshold decision. A few of these issues are as follows: 1. Lummi Nation Treaty Rights: As reflected in the attached letter, the Lummi Nation asserts that this development will impair their ability to access approximately 25 acres of land used for fishing rights that are protected under Treaty. It is my understanding that the City is proceeding with its permitting and SEPA process although this matter is not resolved. Expensive litigation to determine whether the City violated tribal treaty rights is not in the public's interest. 2. Public Navigation: Under the Public Trust Doctrine and the Shoreline Management Act, one of the government's roles is to protect the public's right to navigation, including navigation over aquatic lands managed by the DNR. Although studies by the City indicate that part of the structure will be built within navigable waters, this impact is not addressed or , analyzed, avoided or mitigated. This impact is corroborated by the attached letter from the Army Corps. Of Engineers, deeming the project a "bridge", which is defined as a structure over navigable waters that may interfere with the passage of boats. 3. SEPA Threshold Decision Made Without Adequate Information: The SEPA process ensures that a project is not built unless there is adequate	The Lummi Nation was notified about the project by the Washington State Department of Transportation in October of 2009. The City of Bellingham has met with the Lummi Nation on two occasions with a plan for more meetings to come. Negotiations with Lummi are ongoing.

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				<p>protection against environmental degradation. For this reason, DOE recommends that all studies be completed before a threshold decision is made. However, the City issued the MDNS before it completed revised studies that were required by WDFW, and instead included the studies as the asserted mitigation. Additionally, the City issued the MDNS before it completed a staff report and cumulative impact analysis that is required as part of the conditional use permit process that is being processed simultaneously with the SEPA review. Since it is known that the most harmful impacts from overwater structures results from cumulative impacts, there was no reason that the City rushed to a SEPA threshold decision before obtaining the results of the cumulative impact analysis.</p> <p>For the above reasons, I request that the City rescind the SEPA determination and re-issue its threshold determination after the issues and information discussed above are resolved.</p> <p>I believe this action is also appropriate based on fiscal concerns. Given the City's current financial problems, there are less expensive and less environmentally damaging alternatives to public shoreline access. As People for Puget Sound pointed out in their comments on the waterfront redevelopment draft, an elevated land-based shoreline trail along Cornwall, connecting to the S. Bay trail, would protect the environment and the taxpayer's purses.</p> <p>Thank you for consideration of my request.</p>	
40	10/13/2010	Comments on MDNS for SEP2010-00027-Boulevard to Cornwall Over-Water-Walkway	<p>ReSources Wendy Steffensen, Lead Scientist</p> <p>Matt Krogh, North Sound Baykeeper</p> <p>North Sound Baykeeper Team</p>	<p>The North Sound Baykeeper Team is concerned about the MDNS issued for the Boulevard to Cornwall Over-Water-Walkway. Our concerns chiefly rely on the following points:</p> <p>1) The walkway is not needed as there is a parallel trail on land for walkers and bikers to get safely from Boulevard to Cornwall. The State Environmental Policy Act (SEPA) requires that mitigation sequencing follow specified steps; the first being avoidance of an impact. The proponents of the project argue that impacts cannot be avoided because the project is inherently impactful as its purpose it to be an overwater structure connecting two upland landing sites. The defined purpose of the project is narrowly constrained and in and of itself prescribes an impact, not an actual need. We would put forth that the purpose of a pedestrian/ bicycle park trail is to safely allow bikers and walkers to get from point A to point B, with minimum interference with motorized vehicles and in a pleasing setting. Its purpose is not to be overwater, per se.</p> <p>2) As a conditional use permit, cumulative impacts from additional like requests in the area must be taken into account, and the sum of those cumulative impacts "shall not produce substantial adverse effects to the shoreline environment". No cumulative analysis for this project was done. We believe that a cumulative</p>	<p>The Lummi Nation was notified about the project by the Washington State Department of Transportation in October of 2009. The City of Bellingham has met with the Lummi Nation on two occasions with a plan for more meetings to come. Negotiations with Lummi are ongoing.</p>

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				<p>analysis of this dock and others in the area would discover adverse impacts to eelgrass, fish, and other benthic and intertidal creatures as a cumulative result of changes in shading and sedimentation.</p> <p>3) We find that the mitigation proposed (June 2010 Mitigation Report) is insufficient to the impacts.</p> <p>a. Temporary impacts from noise and turbidity generated from pile installation and use of heavy equipment is not included. There should be some compensation for these impacts.</p> <p>b. Permanent impacts, accounting for both the installation of new overwater areas and the removal of existing overwater areas, include a net increase in nearly 1000 square feet of shaded area, and the loss of riparian vegetation at the two landing sites. The science is clear that shading from overwater structures and changes in sediment transport from structures negatively impact the nearshore and the plants and animals that use it. [Washington Department of Fish and Wildlife, Overwater Structures and Non Structural Piling White Paper, December 2006, and EnviroVision, Herrera Environmental, and Aquatic Habitat Guidelines Program, Protecting Nearshore Habitat and Functions in Puget Sound, October 2007, Revised June 2010]. We propose that additional mitigation be required to compensate for this project, if it indeed goes forward. In exchange for permanent impairment of the environment we suggest that the City undertake a restoration projects near the impact site. Many of these are outlined in the City of Bellingham's SMP. Restoration of the Roeder St. mudflat and Central Ave. beach might be appropriate.</p> <p>4) Impacts to eelgrass have not been adequately considered, per the Washington Department of Fish and Wildlife (WDFW) letter of August 23, 2010. In addition, we are concerned about the choice of reference site. The reference site is within the shadow of the overwater structure and any changes to sediment transport from the placement of landings and piles may be translated to this area. We believe that a more appropriate reference site should be chosen, in coordination with WDFW.</p> <p>5) We are concerned how some of the considerations found in WAC 198-27-160 jibe with concerns of the Lummi Nation, and we feel these must be addressed. These are the following: "That the public interest suffers no substantial detrimental effect" and to "Recognize and protect the statewide interest over local interest". The Lummi Nation's concerns, whose public interests are also those of a sovereign state, speak directly to both public and state-wide interests. Their letter not only cites concerns with mitigation sequencing and cumulative impacts, as does ours, but infringement upon their treaty right to fish in usual and accustomed areas. All of these concerns must be addressed.</p>	

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				<p>6) In addition to the concerns listed above, we find that not all of the information is needed in the file to comment adequately on the project. The WDFW requested update to the eelgrass survey and mitigation report is not available. As well, the shoreline and erosion transportation and evaluation study is also not available. Impacts to eelgrass and sediment transportation and deposition are two of the biggest concerns with this project (the third being shading). It is essential that the public have a completed file to review in order to provide appropriate comment. Interestingly, these two reports are considered "mitigating conditions required for this proposal" in the MDNS. Perhaps there is a difference in parlance here, but these reports are not mitigations and should be considered prior to assertion of an MDNS.</p> <p>Thank you for the opportunity to comment on this issue. In closing, we find that there is insufficient justification to permit the Boulevard to Cornwall Overwater Walkway. Additionally, if the case were made to justify the Walkway, we find there are too many unanswered questions and that the mitigation is too weak for us to support this project without a full EIS and subsequent mitigation. Please notify us regarding hearings and decisions on this matter.</p>	
41	10/21/2010		Mark Bennett mbennett@ho maxproduct s.com	<p>This is a formal notice that a local citizens group is forming to present STRONG opposition to the proposed Boulevard Park to Cornwall Walkway. We believe that the project is completely out of the scope and intention of the Greenways levy. If this Skyway project continues to be pursued we will have no other option but to use this grotesque project as the poster child for a referendum to rescind the greenways levy. We recently conducted a question-driven focus group on the proposed project and received an overwhelmingly negative response. I find it inconceivable, and even a little fishy, that you are presenting this as a publicly supported project. Asking opinions of a few casual board-walkers on a sunny day does NOT constitute public support. You need to ensure that the parks department does not become the pawn of PORT and waterfront development interests or you will lose credibility and the public trust required to administrate the largess of such a large tax levy. You need to open and pursue an ACTIVE public dialog and review of this project within the next thirty days or we will move directly to sponsoring a referendum on the greenways levy.</p>	The City Council approved the use of Greenway Levy III funds for this project. The use of the funds were publicized in the City's Capital Facility Plan and the adopted City of Bellingham Budget.
42	11/04/2010	Over Water Walkway Project	John Blethen 1123 Railroad Avenue Bellingham WA. 98225 360-671-3389	<p>Commander Thirteenth Coast Guard District Waterways Management 915 Second Avenue Seattle Wa 98174-1067 Dear Sir: I am writing as a proponent for the overwater walkway project in Bellingham</p>	

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				<p>Washington.</p> <p>I have been involved with this project for more than ten years through the waterfront master planning process and my involvement in the Bellingham Greenways program, which has provided substantial funding for this project. The community's commitment of four million dollars, I believe reflects broad support from the community for this project and the willingness of these community members to reach in to their pockets to make this project happen. It is important economically to the City of Bellingham because it completes a water linkage from The Fairhaven area to the downtown waterfront which is several miles and will serve as a first step in economic revitalization of our currently blighted downtown waterfront area left vacant after the closing of our GP mill.</p> <p>It is important aesthetically as it will bring thousands of people to a waterfront which has not been accessible for more than one hundred years. It will allow the community to tie the existing and heavily used Boulevard Park on the south end of the site to a new park which will cap an existing garbage dump. These parks can only be directly connected by the over water connector because of the railroad at the shore edge and hilly topography beyond.. This park will service all economic classes and it will provide a safe walking/biking route to many who commute from the south side to the downtown for work.</p> <p>It is an important early step in helping the community enhance and "naturalize" the degraded salt water edge, and create an important part of an extensive trail linkage which will allow people to move along the water's edge. Also the trail approaches to the over water are being carefully designed to protect and enhance the shore edge.</p> <p>The overwater connector has been carefully designed to protect fish habitat while not interfering with important marine transport. I urge you to approve this project so that it can go forward in a timely fashion. It's a good one.</p>	
43	11/08/10	Violation of procedural fairness regarding CUP for Cornwall/Boulevard Bridge	Wendy Harris 3925 E. Connecticut Street Bellingham WA 98226 harris2007@comcast.net	<p>To the COB Office Of Hearing Examiner:</p> <p>I would like to bring to your attention the fact that a Bellingham Parks Department Project Engineer has engaged in conduct that fails to ensure a fair and impartial public hearing with regard to the conditional use permit application for the proposed Cornwall Landfill/Boulevard Park Overwater Pedestrian Bridge. The Hearing Examiner should be aware of this situation to ensure that the public hearing is not tainted. As you are aware, quasi-judicial review of this matter is subject to the Appearance of Fairness Doctrine. RCW 42.36.010; BMC 2.56.010.C. This doctrine attempts to bolster public confidence in fair and unbiased decision-making by making certain that in both appearance and fact parties to an</p>	<p>The appearance of fairness doctrines apply to local decision-making bodies. The Parks and Recreation Department is not a decision making body or regulatory agency as defined by the RCW.</p> <p>In reference to an email that was sent to "undisclosed recipients," the undisclosed</p>

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				<p>argument receive equal treatment. However, the Project Engineer has violated basic principles of procedural fairness and due process by engaging in advocacy under color of office.</p> <p>On November 2, 2010, the Project Engineer sent out an email, from her City email address, signed in her official capacity, to an undisclosed recipient list. The email contained notice regarding the November 17, 2010 public hearing on the Cornwall bridge and noted that, "Supporters of the Boulevard to Cornwall Over Water Walkway are encouraged to attend the meeting. If you cannot attend the meeting, you are welcome to submit written comments of support." I am on record as someone who opposes this project. However, I was never sent notice of the public hearing, or added to a group email post.</p> <p>Because only "supporters" of the project received a personal email from the Project Engineer, this may result in disproportionate attendance at the public hearing, leaving the Hearings Examiner with the false impression that this project is overwhelmingly supported by our community. If this belief influences the decision of the Hearing Examiner to even the smallest degree, then the public process has been tainted by the private agenda of the Project Engineer.</p> <p>There are a number of other implications that flow from the Project Engineer's conduct. Since she has attempted to use her official City position to solicit support for the public hearing, the handling of this entire project is called into question. Has this project been handled in a fair and impartial manner, with proper consideration given to the factors reflected in BMC 20.16.010.E, when it appears that the Project Engineer is not objective and impartial?</p> <p>Relevant to this concern is the public notice posted on-site at Boulevard Park by the Public Engineer. This notice treats the project not as a proposal subject to review by state agencies as well as the public, but as a project that has received final approval and is being built. (See attached photo.) The notice states that, "that Boulevard Park Over-Water Walkway will connect Boulevard Park to the new Bellingham Waterfront District (former BP site)."</p> <p>Additional statements are that the new walkway will look very similar to the existing Taylor Avenue Dock, the walkway will be coordinated with clean-up actions at the Cornwall Landfill, and the existing dock will be removed and considered habitat mitigation for the walkway. Project funding is listed, as are permit and construction timelines. In other words, this project is being held out to the public as a matter that</p> <p>will be moving forward. The Project Engineer's contact information is listed prominently. However, when I contacted the Project Engineer by telephone, it was clear to me that she was not particularly open to public inquiry that questioned the proposal. This is contrary to my normal experience with City</p>	<p>recipients that the email was sent to include all members, whether they support the project or not, of the Parks and Recreation Board, the Greenways Committee, and the Waterfront Group email. The email was not sent to the general public. Email is frequently used to update these advisory groups of upcoming public meetings.</p>

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				<p>employees.</p> <p>Public notice for this proposal is issued by the Planning Department. I assume that the Project Engineer sent her advocacy email without notice to or approval by the Planning Department or the Legal Department. Thus, the conduct of the Project Engineer reflects negligence, if not actual disregard, for the procedures and policies of related City Departments, as well as poor judgment. Again, this reflects on her handling of the entire project.</p> <p>Finally, I am concerned about whether the Project Engineer's conduct violated the terms and policies of the Federal Transportation Enhancement Grant, and I suggest that someone at the City look into this situation and determine whether this funding source is in potential jeopardy.</p> <p>In sum, the Hearing Examiner should be advised that the Project Engineer handled the notice of public hearing in a manner that will reduce public confidence in fair and equal treatment for each side on this issue, and for the project in totality. These issues should be addressed in the appropriate manner to avoid the appearance of unfairness at the quasi-judicial level.</p>	
44	11/09/2010	Cornwall Overwater Bridge May Violate Tribal Treaty Rights	Wendy Harris 3925 E. Connecticut Street Bellingham WA 98226 harris2007@comcast.net	<p>In its attempt to ensure that the Cornwall Landfill/Boulevard Park overwater pedestrian bridge is built over Bellingham Bay, the City of Bellingham is ignoring concerns raised by a number of concerned parties, including the Lummi Nation. The Lummi's were among the Western Washington tribes that, in concession for being forced to forfeit land, were granted treaty rights to fish at "usual and accustomed grounds and stations." These treaty rights were largely ignored until 1974, when the Washington federal District Court determined that the treaty entitled tribes to harvest salmon returning to Washington waters. <i>United States v. Washington</i>, 384 F.Supp. 312 (W.D. Wash. 1974), aff'd 520 F.2d 676 (9th Cir. 1975), cert. denied, 423 U.S. 1086 (1976). Referred to as the Bolt decision, based on the name of the judge, this case was ultimately affirmed by the United States Supreme Court.</p> <p>Bolt, and subsequent cases, determined that tribal fishing treaty rights have priority over the rights of private property owners, include the right to harvest shellfish, and as a general rule, provide tribes with a fifty percent allocation of the fishery resource.</p> <p>Because of the Bolt decision, tribes are considered part of the environmental decision-making process in Washington and act as co-managers of affected natural resources.</p> <p>It is troubling, therefore, that the City proceeded with plans to develop the overwater bridge without consulting the Lummi Nation, who have treaty rights to fish within this area. The Lummi's submitted a letter to the City on August 30, 2010, which concludes with the statement that, "a meeting to further discuss the</p>	The Lummi Nation was notified about the project by the Washington State Department of Transportation in October of 2009. The City of Bellingham has met with the Lummi Nation on two occasions with a plan for more meetings to come. Negotiations with Lummi are ongoing.

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				<p>proposed project and its impacts on the Lummi Nation interests and treaty rights is long overdue.”</p> <p>In the letter, the Lummi’s raise a number of potential problems associated with the overwater bridge, including violation of fishing treaty rights, inadequate mitigation of impacts to tribal resources and failure to consider cumulative impacts and environmental justice issues. A copy of the letter, obtained through a public record request, is attached.</p> <p>The concerns raised by the Lummi’s appear to have had no impact on the City. The City completed its SEPA review and determined that an environmental impact statement (EIS), allowing an in-depth analysis of environmental issues and project alternatives, was not necessary. To date, the City has still not resolved the issue of tribal treaty rights.</p> <p>The City has scheduled a meeting with the Lummi’s on November 15, a mere two days before the City Hearing Examiner conducts a public hearing and determines whether to approve the shoreline conditional use permit for this project. It appears that the City is determined to develop an overwater bridge, and that nothing, including violations of tribal treaty rights, requirements of the Shoreline Management Act, or public concerns, will prevent the construction of this project.</p> <p>Sincerely, Wendy Harris</p>	
45	11/14/10	Re: Over water Walkway hearing material	Adrienne Lederer adrienneledere r@comcast.net	<p>Geoff -</p> <p>I did scan the comments and the explanations of many and although I am not technically equipped to understand a great deal of the information, I have heard many explanations and revisions to the OTW background maps and charts and how the light will shine through the Walkway; the care that has been taken to make sure the fish habitat will be safe; the eel grass will grow and the type of structure to be built, gives me the confidence in saying it should be started now for people and for generations to come.</p> <p>The Walkway will also enhance the Waterfront when that gets built plus tie-in to Old Town and CBD. I submitted an e-mail to Steve Sundin but will not be available to attend the Hearing due to two meetings in the afternoon and evening.</p> <p>Adrienne</p>	
46	11/14/10	Over water Walkway hearing material	John Blethen 1123 Railroad Avenue Bellingham WA. 98225 360-671-3389	<p>I have sent my letter on. I was a major proponent on the WFF for this overwater project and also was on the Environmental team (two of us) so I also believe that we must do meaningful environmental restoration on the waterfront and identified through public process many ideas. I also served on the last greenways levy where we partially funded this project. I don't believe that this project is in conflict with clearly identified waterfront restoration goals. I am in agreement with the Baykeeper, I would like to see other restoration projects happen but I</p>	

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				don't think this first step of re-inviting the community to the water's edge should be held hostage to a clean-up that is coming will have a public process and will address the water's edge.	
47	11/14/2010	Over water Walkway hearing material	Geoff Middaugh Cell: 360 393 1671 Phone: 360 647 4551	<p>To Parks and Recreation Advisory Board Members:</p> <p>The City of Bellingham has just posted a ton of material on the public comments and regulatory process associated with the Hearing Examiner hearing this week on the Overwater Walkway (OWW).</p> <p>For a SEPA/NEPA geek like me, this material is pretty impressive, but daunting due to its complexity.</p> <p>The staff work is highly technical. To me, this staff work is pretty good.</p> <p>The link to the City site is below: http://www.cob.org/cob/Pubnot.nsf/Public%20Notices?OpenForm</p> <p>But if you want to get to the most critical pieces, take a quick look at the comments received from the public, and the staff response (both attached).</p> <p>I intend to send an email or letter to the hearing examiner this week as an individual, and I plan to attend the hearing on Wednesday.</p> <p>There is one comment that I find troublesome and I've copied the comment below. The accuser focuses on the project engineers emails to provide information to the advisory public like the Park Board. The accuser calls this advocacy under the color of office. The process of keeping the public informed is defined as a private agenda.</p> <p>I think it is rather sad, and may be a statement about our current political condition, that this type of attack gets traction and consideration.</p> <p>This is just my personal opinion.</p>	
48	11/15/2010	To the Hearing Examiner in regards to SOUTH HILL & CBD, SHR2010-00028/SEP2010-00027, Boulevard/Cornwall Over-water Walkway	Geoff Middaugh Cell: 360 393 1671 Phone: 360 647 4551	<p>Steve: Please transmit these comments to the Hearing Examiner for incorporation into the record for the OWW Project. It is not clear to me from the website how to get this to the Examiner before the hearing.</p> <p>To the Hearing Examiner in regards to SOUTH HILL & CBD, SHR2010-00028/SEP2010-00027, Boulevard/Cornwall Over-water Walkway.</p> <p>I am providing these comments to the hearing record, and am requesting approval of the Shoreline Conditional Use Permit (SCUP).</p> <p>I am a member and presently chair of the Bellingham Parks and Recreation Advisory Board, and am the chair of the South Hill Neighborhood Association (SHNA) Land Use Committee. These comments represent my personal opinion and do not represent a deliberated position nor voted position of either the PRAB or the SHNA.</p> <p>I was designated as a liaison to the PRAB for the Boulevard Park and the Overwater Walkway. I have met with the project manager on various occasions and have kept the PRAB and the South Hill Neighborhood aware of planning for</p>	

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				<p>the project. I have continually heard strong support for the basic project. In discussions with the PRAB and the SHNA, I have never received any comment urging not supporting this project. Questions and concerns I have received have been transmitted to the staff as a part of my liaison responsibilities. However, neither the PRAB nor the SHNA has deliberated or taken a consensus position on the basic information within this hearing record.</p> <p>These comments are mine and mine alone and do not collectively represent the PRAB or the SHNA.</p> <p>My comments are focused on the following topics within the hearing record (as posted on the COB website).</p> <p>1. Merits and accuracy of the Hearing Record: I would like to say that the basic hearing record presented by the COB staff is thorough and complete. The staff report at Appendix O is a solid, and accurate reflection of the decision focus for the Hearing Examiner, and I believe it to be technically sound. This report accurately reflects the citizens of Bellingham support for the Overwater Walkway. The record is highly technical and over focuses by regulatory necessity on the environmental issues that need to be mitigated and to the extent they can be resolved.</p> <p>2. Public Support of the OWW. Due to the heavy focus on the environmental issues within the record, let me express what I believe is also important in the record: the overall public support for completing the OWW. The hearing record accurately reflect the continued public discussion and support for this project by the citizens of Bellingham.</p> <p>The record accurately paraphrases the projects human value as providing a unique public access opportunity for citizens outside (and inside) Bellingham and Whatcom county while linking and completing previous projects and planning by the COB. The record accurately represents the economic development that will continue and further result by linking Fairhaven to downtown Bellingham by sea trail, and to the future waterfront development.</p> <p>3. Technical Sufficiency. If weight and volume were the single criterion, the staff report and the supportive documents would make it seem that the environmental issues are the only factors that are important in this discussion. They are not the only issue meriting consideration. While the environmental effects are important, they are not the sole basis for the decision that needs to be made to complete this project. The environmental effects and the mitigations are solidly developed and addressed by the City in the permitting process. I commend the project staff for their work and for their efforts at keeping me informed about the issues and how they intend to address them.</p> <p>4. Decision Criteria of BMC 16.55.200: I have noticed certain public comments</p>	
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				<p>have identified specific environmental impacts that they believe are not being appropriately mitigated. The concern is that the COB should consider a “no harm” criterion for their decision on the SCUP. This should not be allowed. The decision criteria of BMC 16.55.200 provides for broad flexibility to addressing less than 100% certainty by the choice of words. The record fully supports that this project has met the criteria by minimizing impacts, avoiding unreasonable threats, demonstrating consistency with the general purposes of the plans, mitigating to the extent practicable, and using the best available science. The COB has met all of these thresholds, and approval is fully supported by the record. I urge the hearing examiner not to be distracted by the allegations of additional real or imagined impacts that are not there, or do not need to be further resolved. (Refer to page 26 of the Staff Report to fully see how the COB has addressed these decision criteria).</p> <p>5. Restoration: Approval of this project will provide for a broad platform of ecological restoration to an area of the Bay that has been severely impacted as a result of our economic development history. This project is an improvement over our past land uses, and not an impact. This project will make the habitat along the Bay better, and provide for a broader array of desired ecological services, rather than a loss of ecological function. For this restoration component alone, the project should be approved. The staff report and the proposed mitigation actions are realistically based on the current condition of the shoreline (i.e, it’s “not natural” condition), the past history of impacting uses, and the necessity to improve the overall shoreline functions as a result.</p> <p>6. Sufficiency of SEPA/NEPA regulatory compliance. The SEPA/NEPA analysis, the biological assessment and the state and federal permitting processes are carefully coordinated and provided for in this project approval process and record. The delicate job of balancing the complex requirement of all the agencies is generally well done. The unique nation to nation issues that the Lummi Nation has identified are also respectfully addressed. While the public record indicates that everyone’s opinions have not been met, the process has provided for their deliberation. I can see no need, and no value added to a regulatory redo of this complex process through the burdens of writing a full Environmental Impact Statement.. To write a full EIS is a waste of time and a waste of limited state and local resources. No additional value would be added, and there are no demonstrated significant issues or impacts that need to be further addressed in a full EIS.</p> <p>A personal note: My wife and I are major users of the OWW and the South Bay Trail. When the Bellingham weather allows, we walk the trail 2 or 3 times a week</p>	
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				<p>(she more than I). We are looking forward to the completion of this project, and will continue to work for the improvement of the area. We also look forward to the high quality recreation experience that this completed resource provides for a broad range of Bellingham citizens of all ages. I urge your approval of the shoreline conditional use permit.</p> <p>Geoffrey B. Middaugh November 17, 2010 Bellingham WA</p>	
49	11/16/2010	Cornwall Landfill Overwater Walkway	<p>Frances Badgett 2514 West Street Bellingham, WA 98225 frances@mac.com www.francesbadgett.com H 360.527.1097 M 360.920.8451</p>	<p>Dear Council, Mayor Pike, Hearing Examiner Sturwold:</p> <p>I'm really puzzled by the urgency of building the overwater walkway to Cornwall Beach when absolutely no cleanup has been slated for those areas, and the new SMP for the waterfront (a process in which I participated for over a year a good three years ago) has not been completed. I'm concerned about the lack of public process, the allocation of \$4 million of Greenways funds, and the use of federal money for this project during our current financial crisis. I am additionally concerned with the unresolved matter of Lummi Nation Treaty rights for this area. This bridge seems like a poor time to use public money for something that has no direct or immediate benefit for the community. Direct public services like the library, neighborhoods, and the police are getting slashed. There is nothing to greet the bridge on the other side except more contamination.</p> <p>I understand that there is a great deal of impatience in getting "something" started on the waterfront. As I have always stated, and will continue to state, if you do not remove contamination from those areas which are most contaminated (particularly in the uplands— the Chemfix, Caustic Groundwater Plume, and the former RG Haley site) then the area will remain unsuitable for development. There is a mercury deposit close to the area slated for inwater supports for this bridge. That danger has not been mitigated.</p> <p>I am deeply concerned about the lack of notice for this hearing before the Hearing Examiner on Nov. 17th. I understand that the Project Engineer sent an email inviting supporters of the plan to attend, but those who may be in the greater community but who may be interested in attending were not notified. There is no mention of this hearing on the COB website. Please foster a robust public process, postpone the hearing until the public and Lummi Nation can be fully engaged.</p> <p>Cordially, Frances Badgett</p>	<p>The City Council approved the use of Greenway Levy III funds for this project. The use of the funds were publicized in the City's Capital Facility Plan and the adopted City of Bellingham Budget.</p> <p>The Lummi Nation was notified about the project by the Washington State Department of Transportation in October of 2009. The City of Bellingham has met with the Lummi Nation on two occasions with a plan for more meetings to come. Negotiations with Lummi are ongoing.</p> <p>In reference to an email that was sent to "undisclosed recipients," the undisclosed recipients that the email was sent to include all members, whether they support the project or not, of the Parks and Recreation Board, the Greenways Committee, and the Waterfront Group email. The email was not sent to the general public. Email is frequently used to update these advisory groups on</p>

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					upcoming public meetings.
50	11/17/2010	Concerns about Boulevard Park to Cornwall Avenue Over - Water Walkway (BPTCAOWW)	Kevin Cournoyer 2514 West Street Bellingham, WA 98225 527-1097 kjc@mac.com	<p>Dear COB Hearing Examiner, Planning Department, Ms. Austin, et al: I'm writing you out of grave concern that an illegitimate and potentially illegal project, the Boulevard Park to Cornwall Avenue Over-Water Walkway (BPTCAOWW)---- a project that's being treated like a fait accompli by City officials. There's clear evidence of corruption in the process surrounding this project. I request that all interested parties cease all activities, as well as all spending, on this project immediately.</p> <p>1. Out of scope. Please reference PAR 04.01.01. The use of \$4 million of the public's money on a massive capital project like the BPTCAOWW is self-evidently deplorable and is not within the scope of PAR 04.01.01. Similarly, COB Ordinance No. 2006-03-033, Table 1, Line 9 makes no mention of a massive capital project like a "bridge" or an "overwater walkway," contrary to what's stated on page 15 of your so-called "Feasibility" study. (How much of our money was spent on that wholly corrupt study?) Moving forward at this time is potentially a criminal act, wherein City officials are, in essence, stealing our money for a pet capital project of enormous proportions.</p> <p>2. Unnecessary, superfluous. The bridge is completely unnecessary. The South Bay Trail already exists. If ever there was an utterly wasteful capital project, this is it. We do not need the bridge.</p> <p>3. Rigged process. You want to spend \$4 millions of our money and you deliberately do not list tonight's meeting at http://www.cob.org/calendar. This is potentially in violation of a number of State laws regarding public input. You have not openly publicized this important hearing.</p> <p>4. Ms. Austin sent out an e-mail to all "supporters" of the BPTCAOWW, alerting them to this hearing. At best, this is unethical. At worst, her actions are criminal.</p> <p>5. Where's your conditional use permit under the updated SMP?</p> <p>6. The land the bridge is going to is profoundly contaminated, including high-concentrations of TOCs like mercury at subsurface depths----below a few inches. No discussions by officials over the years makes any mention whatsoever of what the public has repeatedly stated is their clear desire: A MTCA B residential cleanup level throughout our waterfront. There are the over 6,400 signatures from the Healthy Bay Initiative----any mention of which is deliberately missing from your so-called "Feasibility" Study. There's plenty of polling data to support this fact.</p> <p>Please reference http://www.francesbadgett.com/ahealthybay/pages/polls_01.html Again, all such polling data was deliberately left out of your so-called "Feasibility"</p>	<p>The City Council approved the use of Greenway Levy III funds for this project. The use of the funds were publicized in the City's Capital Facility Plan and the adopted City of Bellingham Budget.</p> <p>In reference to an email that was sent to "undisclosed recipients," the undisclosed recipients that the email was sent to include all members, whether they support the project or not, of the Parks and Recreation Board, the Greenways Committee, and the Waterfront Group email. The email was not sent to the general public. Email is frequently used to update these advisory groups of upcoming public meetings.</p>

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				<p>study. Both the City and the Port of Bellingham have repeatedly stated, sotto voce, that they have no intention whatsoever of cleaning up our waterfront to a MTCA B Residential level, as is desired by the community. (Cf. ILA between COB and POB, the associated EPS document, your own BPCAOWW "Feasibility Study," the so-called "remediation ILA," the insurance agreement with AIG, and statements made by the POB's own lawyer in the court transcripts for Case #06-2-01918-7 (Whatcom Superior Court). Nothing's been contemplated other than a low-permeability landfill cap over the uplands area. Nothing. In other words, we have an industrial waterfront now. And our local officials want an industrial waterfront in the future. Period. They're just not telling us that simple truth in plain language. Instead, they use obfuscating phrases like "mixed-use" development, which has no scientific or legal basis in MTCA. Shameful.</p> <p>So the idea that we're now going to spend millions and millions of precious dollars during a recession, including Federal money, to build a bridge to industrial land defies all logic. (The South Bay Trail already exists.) And the project (BPTCAOWW), and the process surrounding the project, is a profound social justice problem for all City officials who've been actively involved with it in the last few years. How many more millions of dollars of our money will be wasted under their leadership for such corrupt and dangerous purposes? Their actions completely lack integrity and each official should be deeply ashamed.</p>	
51	11/17/2010	Over-Water-Walkway	Danne Neill, Realtor®, CRS, ABR The Muljat Group 1313 Broadway, Bellingham, WA 98225 Mobile: 360 303-4428 Office: 360 714- 1880 Fax: 360 714- 0001	<p>I am writing as a proponent for the Over-Water-Walkway Project.</p> <p>My old house in the Sehome neighborhood overlooks the former GP site. It has been fascinating to watch the area change over the last 20 years. I use the South Bay Trail on a regular basis. It's a tremendous community asset. I always enjoy walking on the over water portion of the trail. Locals greet one another, kids watch seals pop up and look back at them, tourists are amazed - we all stand in awe when the sun sets over the Bay. Being on a walkway over the water provides an extremely different perspective than being on land.</p> <p>The community has spent years planning and is looking forward to a new downtown waterfront. I believe that it is essential to move forward with this project. Citizens need to see that their time and efforts have produced something tangible. It is the first step on the path to the revitalization of our waterfront. It will provide access to an area that needs rebirthing - let's get this project going!</p> <p>Please approve this project. Thanks for your time and consideration.</p> <p>Danne Neill</p>	
52	11/22/10	Cornwall Landfill Bridge and Barrow's	Wendy Harris 3925 E. Connecticut	<p>Below please see an email from the Whatcom Birder's List. I am bringing this to your attention because it regards unusual courtship displays recently seen among Barrow's Goldeneye's along the shoreline of the Cornwall Landfill.</p>	

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		Goldeneye's.	Street Bellingham WA 98226 harris2007@comcast.net	<p>This is significant because the City proposes no mitigation for lost seabird habitat for the overwater bridge although the WDFW is engaged in monitoring Puget Sound seabird population trends due to the rapidly declining numbers, and while the primary focus is on scoters (also commonly seen in the project area), they will also review trends for goldeneyes and harlequin ducks(also commonly seen in the project area.) Based on results, WDFW may be reducing the allowed hunting harvest, which is an action that WDFW does not like to take.</p> <p>While most seabirds that use the Pacific Flyway and winter in Washington breed in Alaska, Goldeneyes and Harlequin ducks also breed in Washington. I have taken photographs of these seabirds along Cornwall, or the old wharf section of Blvd.Park close enough to take poor photos with a point and shoot camera. With their dwindling populations, we must be the stewards of Bellingham Bay's bird population, which will not occur without compensatory mitigation in the form of protected habitat of equal or greater value over what currently exists.</p> <p>http://wdfw.wa.gov/publications/01007/wdfw01007.pdf</p> <p>Thank you Wendy Harris ----- Original Message ----- From: xxxx To: Whatcom Birds Sent: Sunday, November 21, 2010 5:18 PM Subject: Barrow's Goldeneyes display</p> <p>Hello Whatbirders, This evening, just after sunset (temp. 30 degrees, sky clearing out, nice remnant sunset over Lummi), at the foot of Cornwall Ave., I observed a large flock (25+) of Barrow's Goldeneyes cruising along the shoreline. It seemed that more than half were males and I was impressed with the high level of apparent courtship display going on: much head bobbing, tight circling, and intense, interactive relational stuff going on. I've seen this before but more likely in the early spring, not when the Noreaster is blowing across the bay and terafirma iced up. Any ideas?</p>	
53	12/10/10	SOUTH HILL & CBD, SHR2010-0002 8/SEP2010-00	City of Bellingham Parks and Recreation	The Bellingham Parks and Recreation Advisory Board has been kept informed by City staff on the status and progress of developing the Over-water Walkway and the complex regulatory process that is being followed, and submits this letter to be placed in the record on this matter.	

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		027, Boulevard/Cornwall Over-water Walkway Shoreline Conditional Use Permit	Advisory Board	<p>The site proposed for this project has a long history of heavy industrial development, and resulting negative environmental impacts. The shoreline parallel to this project along the railroad right of way is not presently a natural, functioning shoreline. This project would protect and restore a variety of ecological functions (removal of the creosote toxins, enhanced shoreline wave function and increased eelgrass expansion) that have been diminished by our historic heavy industrial uses in the area. The project would improve the area; not diminish it, and provide for the continued use of a popular recreation area for the citizens of Bellingham.</p> <p>Following discussion, the full Advisory Board provides the following comments:</p> <ol style="list-style-type: none"> 1. Protection of the environment is a central aspect of this development and based on our review of the process, the mitigations the City proposes are appropriate and necessary. We support this mitigation approach and the proposed mitigations identified by the City. The mitigations balance the purpose of the project with any environmental impacts that may result from its development. 2. This citizen Advisory Board fully supports completion of this project as it relates to the full development of the Over-water Walkway connecting Boulevard Park to Cornwall Avenue and the future waterfront development. It is our understanding that this Board's support echoes the overwhelming support of the project by the citizens of Bellingham. We are aware that issues are constantly being identified and addressed as is appropriate in the regulatory process. There does not appear to be any substantive reason why this project should not receive a Shoreline Conditional Use Permit. 3. This Board requests that the City make a strong effort to timely, respectfully and meaningfully consult on the Tribal concerns about the project. This Board is aware of the complex regulatory process that this project is undergoing, and understands the necessity of this complex process in light of the overlapping jurisdictional and other issues presented by the various statutes, regulations, codes and policies that govern such processes in order to ensure important environmental protections while allowing for such developments. In light of the historical use of the site and the environmental improvements that these thorough processes and appropriate and necessary mitigation measures achieve, the Parks and Recreation Advisory Board, <p>(a) does not believe the project meets the requirement of "significance" for an environmental impact statement; and (b) strongly supports the project and the mitigation and site restoration it provides.</p>	

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				<p>This letter and its submission to the record on this matter is supported by the full Bellingham Parks and Recreation Advisory Board as unanimously approved at its regular public meeting of December 8, 2010.</p> <p>Sincerely, BELLINGHAM PARKS & RECREATION ADVISORY BOARD: Geoff Middaugh, Chair Julie Guy, Vice Chair William Hadley Mike Anderson Dominique Zervas Pam Holladay Adrienne Lederer Jane Blume</p>	
54	12/14/2010	Cornwall Landfill/Blvd. Park Overwater Bridge	Wendy Harris 3925 E. Connecticut Street Bellingham WA 98226 w.harris2007@comcast.net	<p>I urge the City Council to take a pro-active approach to the construction of the Boulevard Park/Cornwall landfill overwater bridge and intercede in this matter. Time is of the essence as the Planning Department and the Parks Department have forwarded the Conditional Use Permit and the Shoreline Development Permit to the City Hearing Examiner, who is keeping the public record open upon until January 6th, 2011. If the City permits are approved by the Hearing Examiner, the City will proceed as quickly as possible with construction of this project. It is clear that the Planning Department and the Parks Department have rationalized the construction of the overwater bridge based on the time and resources that have already been expended and available funding. As you know, this project has been planned for many years, and it was conceived with the best intentions. However, I believe that the project design has now lagged behind both best available science and our current financial problems. Therefore, I believe that important facts are being overlooked.</p> <p>At the forefront of these concerns are public health and safety issues associated with a pedestrian bridge that being constructed on and over what is, essentially, a chain of toxic remediation sites. The Cornwall Bridge is also located within and over an area of high seismic activity, high landslide risk and within a 100 year flood plan zone.</p> <p>The Bridge originates at Boulevard Park, on a site being investigated under a DOE Agreed Order for soil and groundwater contamination related to the South State Street Manufactured Gas Plant site. The Bridge terminates at the Cornwall Avenue Landfill site, which is being investigated under a DOE Agreed Order for contamination associated with a former municipal landfill. Part of the land within</p>	<p>Three documents were attached to this email:</p> <ol style="list-style-type: none"> 1. Objection to the Proposed Overwater Bridge / The application of SHR2010-00028 City of Bellingham SEP2010-00027 for a Shoreline Conditional Use Permit (not dated) 2. Comments on MDNS for SEP2010-00027- Boulevard to Cornwall Over-Water-Walkway by ReSources/ North Sound Baykeeper Team, Dated 10/13/2010 3. Letter by People for Puget Sound, City of Bellingham Shoreline Conditional Use Permit: Overwater Pedestrian Bridge

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				<p>the project area may have been created with contaminated fill materials from dredged soils from the Whatcom Creek Waterway. Fill on adjacent land was contaminated from the by-products of the manufacture of coal gas.</p> <p>The bridge crosses over DNR owned aquatic lands within a designated natural recovery area subject to cleanup and long-term monitoring pursuant to the Whatcom Waterway consent decree. Contaminated dredge soils present in the aquatic portions of the site are listed as Category 4A impaired sediments subject to a TMDL. This overwater bridge requires placement of 96 piles, each of which has a 26 inch diameter, many of which will be driven into this impaired sediment, likely causing contamination that has settled in soil to be stirred up and dispersed into an already impaired body of water.</p> <p>Moreover, at a time when the City is experiencing financial distress, resulting in budget cuts and employee lay-offs, a \$7 million dollar overwater trail seems excessive, particularly when less expensive land based shoreline trail options are available. Finally, the cumulative environmental impacts from overwater structures can be particularly egregious, although this information was not as readily available when the project was first planned.</p> <p>To proceed with construction of an overwater bridge over such polluted and geologically hazardous lands, prior to remediation, and despite knowledge of the environmental impacts, does not protect public health and safety and should not be allowed. I hope that the City Council will use the limited time available to investigate why a public trail is being constructed in such an unsuitable location when there is a great need for additional trails in many other parts of the City.</p> <p>I am attaching the comment letter that I submitted to the Hearing Examiner that more extensively discusses my concerns, particularly with regard to environmental impacts and inadequate mitigation, (although I will be submitting a supplemental letter discussing the application of the Bellingham Critical Area Ordinance, which was disclosed as a relevant legal standard for this project 5 days before the public hearing before the Hearing Examiner).</p> <p>I urge the Council to seriously consider the concerns I have raised in this letter, as well as the attached comment to the Hearing Examiner. Please call me at 922-0442 to ask additional questions or discuss this matter further. For the record, please be advised that both Resources and People for Puget Sound oppose this project, and I am sure that they would also be willing to discuss this issue with you.</p> <p>Sincerely, Wendy Harris 3925 E. Connecticut Street</p>	<p>Connecting Cornwall Landfill and Boulevard Park, Dated 11/15/2010</p>

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55	01/03/2011	Re: Over Water Walkway - Council Agenda Bill (January 10, 2011 Meeting Date)	Jane Lewinski 1701-A Valhalla Lane Bellingham, WA 98226 360-647-1561 lewi31@msn.com	I appreciate the updates on the Walkway Project. In my humble opinion, it is a wonderful addition to our waterfront. Thanks for continuing to pursue this worthwhile project. If I can do anything to assist, please let me know. My e-mail address is changing, but I would like to receive future updates. Updated info is below. Thank you for all you do for our community.	
56	01/07/11	Comment on Section 4(f) Exemption	Wendy Harris 3925 E. Connecticut Street Bellingham WA 98226 w.harris2007@comcast.net	<p>Dear Members of Bellingham City Council:</p> <p>The Cornwall Landfill Overwater Bridge is not entitled to a de minimus exemption from the normal requirements of 49 USC 303, the Department of Transportation Act of 1966, as amended. In fact, the law was passed specifically to ensure a high degree of environmental protection for projects, such as this one, that will have significant impact on public lands. http://www.fhwa.dot.gov/hep/qasdemimus.htm .</p> <p>The Parks Department has done a poor job, at best, at explaining the purpose and nature of this issue, as reflected in the Agenda Bill you have been presented. The Parks Department is attempting to reduce the level of environmental protection required before it can receive federal funds for construction of an overwater bridge in Bellingham Bay. You are being provided a copy of the exemption form to fulfill the Park Department's obligation for public outreach, making you complicit in this action. Because the Agenda Bill does not provide an adequate explanation of this issue, the Parks Department has not met its obligation for public outreach as required under law.</p> <p>The Department of Transportation Act applies to publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, state or local significance. It is intended to preserve such lands by preventing the use of federal funds for unnecessary road construction. Federal funds may be used to construct roads only where it has been established that: 1) there is no prudent and feasible alternative to using that land, and 2) the project includes all possible planning to minimize harm to that land.</p> <p>However, lower environmental standards may be applied under the de minimis rule of 4(f). The legal standards for determining that the impacts of a transportation project on a public park, recreation area, or wildlife and waterfowl refuge will be de minimis are:</p>	

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				<p>1. The transportation use of the Section 4(f) resource, together with any impact avoidance, minimization, and mitigation or enhancement measures incorporated into the project, does not adversely affect the activities, features, and attributes that qualify the resource for protection under Section 4(f);</p> <p>2. The official(s) with jurisdiction over the property are informed of FHWA's or FTA's intent to make the de minimis impact finding based on their written concurrence that the project will not adversely affect the activities, features, and attributes that qualify the property for protection under Section 4(f); and</p> <p>3. The public has been afforded an opportunity to review and comment on the effects of the project on the protected activities, features, and attributes of the Section 4(f) resource.</p> <p>It is clear that the construction of the Cornwall overwater bridge will adversely affect the activities, features, and attributes of Bellingham Bay, even after consideration of the avoidance, minimization, mitigation and enhancement measures proposed for this project.</p> <p>Avoidance This project does not incorporate required avoidance measures. I have attached a map, (marked as Map 1), prepared for me by the City GIS Department, that reflects how the overwater bridge is duplicating existing and similarly aligned transportation routes for the South Bay trail and the State Street bicycle lane. The overwater bridge is a “fun” amenity, rather than a transportation necessity, and is being constructed to attract tourists at great environmental cost. Because the City and Port intend to develop a future shoreline trail (which may or may not connect to the South Bay trail), and to convert the Cornwall Landfill into a large shoreline park, with residential and commercial structures, the overwater bridge is not necessary to enhance public access to the waterfront and increase shoreline recreational opportunities. Avoidance activities would require expansion of existing and future planned transportation routes before intruding into marine water that is an impaired shoreline of statewide significance, part of the Puget Sound restoration efforts, and a City critical area.</p> <p>Minimization Construction of an overwater structure is contrary to best available science, and for this reason, many jurisdictions updating their SMP's are restricting new single family docks. Few jurisdictions are proposing overwater structures because the site-specific and cumulative environmental impacts are significant, making mitigation and restoration efforts costly and challenging. In contrast, the City is building a half mile overwater pedestrian bridge, designed in an arc over the Bay,</p>	

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				<p>14 feet to 18 feet wide, that maximizes the project footprint, was well as the impairment to navigation on public waters. The fact that vessels may or may not be anchoring in the project area illegally is not justification for reducing the public's right to navigation. The design also interferes with the treaty rights of the Lummi Nation to fish and harvest shellfish and the City and the Lummis have not settled this matter.</p> <p>Mitigation Impacts from this project have either not been mitigated or have been inadequately mitigated. Thus, this project does not warrant a 4(f) exemption.</p> <p>The overwater bridge is being constructed on top of three remediation sites subject to the Model Toxic Control Act. The proposal involves building a ½ mile concrete overwater pedestrian bridge, containing a small amount of grating in the intertidal area, over impaired waters, and ignoring the impacts from stirring toxins that have settled to the bottom of the sediment. Moreover, the City failed to coordinate design and scoping for the bridge with the MTCA site clean-up, posing a potential public health and safety concern. Fortunately, through Department of Ecology oversight, the City has been prohibited from any construction action until construction and site clean-up can be coordinated.</p> <p>The Biological Assessment prepared by the Parks Department consultant confirms that the project is likely to harm habitat for Endangered Species Act fish, including Chinook salmon and a few forms of rockfish. Protecting eelgrass, without protecting fish and wildlife mortality related to construction impacts, shading impacts from the bridge, and increased human and pet presence (which will exist on both sides of the eelgrass, landward and waterward) is not adequate mitigation because eelgrass has no intrinsic value if it can not be accessed. The City is now working on its third revised mitigation report based on WDFW directives to correct on-going problems with its eelgrass mitigation plan.</p> <p>The project area is part of the Pacific Flyway zone, and provides crucial habitat for migrating and wintering birds. A significant waterfowl population, much of which consists of state priority species, winters in Bellingham Bay. This is reflected in the updated 2009 SMP high quality habitat value of significant value. However, there is no analysis or mitigation for loss of wildlife habitat.</p> <p>The touted mitigation measure of removing existing pilings and pier structures fails to approximate the amount of new impervious surface that will be created by</p>	

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				<p>the overwater bridge. The City Mitigation Report under-represents this discrepancy by comparing square foot only within the nearshore area, ignoring the fact that the majority of this project will occur deeper marine waters. Moreover, this "mitigation" would likely be required as part of the MTCA site clean-ups, and must be required to construct the overwater bridge.</p> <p>Enhancement Measures</p> <p>The City is asserting that this project will result in "an overall improvement to the 4(f) property." There is no basis for this assertion because the City has failed to establish quantifiable standards that allow objective measurement of shoreline ecological functions. As a result, ecological value being impaired can not be compared to the ecological value being replaced. Simply monitoring eelgrass status, or listing the square footage of old structures being removed, and failing to offset this against significantly larger new structures being built, does not establish enhanced measures.</p> <p>Many impacts will only be determined during and after construction. For example, it is possible that placement of the overwater bridge pilings will increase fish mortality and impair water quality, but the nature and extent of these impacts is not known. Finally, overall enhancement is properly determined through review of interconnected ecosystem processes, even when limited to the project area location, rather than as isolated measures. The Parks Department has not adopted this type of analysis. In fact, the Parks Department has not disclosed that the overwater bridge is being constructed as part of a much larger Bellingham Bay waterfront redevelopment project, and I have questions regarding whether and how this should be accounted for as part of the 4(f) exemption process.</p> <p>For the above reasons, I object to the granting of a de minimis exemption for this project and the filing of the de minimis application with the City Council. Department of Transportation Act requirements should be imposed, without exemption, to ensure protection of this important Section 4(f) resource.</p>	
57	01/07/11 @ 6:00pm	WA251 (Fed Aid # HPP-0080(016) - Concerns	Kevin Cournoyer 2514 West Street Bellingham, WA 98225 (360) 527-1097 kjc@mac.com	<p>Dear Ms. Nicholas:</p> <p>I recently read a 12/7/10 memo sent to you regarding WA251 (Boulevard/Cornwall Overwater Pedestrian Walkway). It references Fed Aid # HPP-0080(016), and it's called "Request for the use of the De minimus (4f) exemption." I noticed a number of falsehoods and misleading statements in this memo, which I wanted you to be aware of. I'm confident the memo's author, Ms. Davis, was simply stating what she had been told by Bellingham officials and accepted their information as truthful and complete, which would be a commonly</p>	

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				<p>expected courtesy. Unfortunately, however, the information she was provided is often not accurate or deliberately misleading.</p> <p>1. The first point that's a bit lacking is the answer to the first question. Question: "Is the purpose of the project is to make Operational improvements on Essentially the Same Alignment?" The official answer is "no." But please reference my attached graphic. One of the fundamental flaws of this grand capital project is that it's redundant. Roughly parallel to this bridge is an already existing trail (the South Bay Trail). (The South Bay Trail is on a bluff that's far away from the dangerous TOCs in the Cornwall area, the RG Haley area, and other upland areas associated with this project. This South Bay Trail simply needs to be brought up to ADA compliance, a comparatively modest expense---compared to the Overwater Pedestrian Walkway that funnels people to highly contaminated upland areas.) The question could be viewed a number of different ways. But an existing trail is "essentially" aligned with this bridge.</p> <p>2. In the section "Measures to Minimize" harm you'll find a conspicuous absence of any mention of how profoundly contaminated the property really is. The Port of Bellingham's cleanup plan (and it is the POB's plan, not the Department of Ecology's, contrary what's repeatedly stated by COB officials) calls for nothing more than a low-permeability landfill cap to attempt to sequester TOCs in liquifiable soils with high groundwater. These actions will attempt to choke off pathways to very dangerous TOCs, which effectively keeps the area "industrial," as defined by MTCA. This is not a MTCA B Residential cleanup. This is contrary to the clearly expressed desires of the local community and the Lummi Nation, which has ancient and sacred claims to this area. (See my 11/17/10 e-mail below.) So, fundamentally, this project creates "harm." It creates environmental and social justice problems that do not currently exist because people are not currently allowed in this area (Cornwall, et cetera).</p> <p>3. The "public" meeting mentioned on June 26, 2008 occurred in the middle of the day on a Friday in the basement of the local library. This is one of those poorly publicized and poorly attended meetings that allow local officials to state that they've honestly sought and considered public input. They have not. The posted signs that are mentioned? Those signs treat the bridge as if it's a fait accompli and have, therefore, no meaning with respect to seeking public input. (That is no doubt the intended appearance in this memo.) You should ask for the methodologies used for the public input. Please see my e-mail below for additional information about the lack of honest public dialogue regarding this project.</p> <p>4. The memo states the following: "In addition to the previously mentioned planning documents, this project is included in the voter-approved Greenways</p>	
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				<p>Levy III...." This is categorically false. A huge capital project like this multi-million dollar bridge is not a part of this levy----a levy I voted for, by the way, after studying it carefully. It's not. The bridge is completely out of the scope of Greenways, as stated in PAR 04.01.01. Please see my comments below. Please reference PAR 04.01.01 and COB Ordinance No. 2006-03-033, Table 1, Line 9. There's simply no mention of a "bridge" or an "overwater walkway," contrary to what's stated on page 15 of the City of Bellingham's expensive and wasteful "Feasibility" study regarding this project. This outright falsehood has become meme among City officials. Shameful.</p> <p>5. The Lummi Nation (Federally recognized) has a fundamental claim to this area and they're completely missing from this memo.</p> <p>I write to you as nothing more than a concerned citizen who lives in a neighborhood near Bellingham Bay. (Columbia Neighborhood.) I ask that you dig deeper into the details of this project and make note of the inaccurate information you're being provided. I've actively followed all waterfront-related activities at the Port of Bellingham and the City of Bellingham for many years. Thank you for your time and consideration.</p>	
58	01/07/11	Re: Cornwall Overwater Walkway	<p>Wendy Steffensen, Lead Scientist Matt Krogh, North Sound Baykeeper North Sound Baykeeper Team 2309 Meridian Street, Bellingham, Washington 98225 360-733-8307 Wendy Steffensen wendys@resources.org</p>	<p>To whom it may concern:</p> <p>The North Sound Baykeeper Team is concerned about the MDNS issued for the Boulevard to Cornwall Over-Water-Walkway. We also realize that this project is a high priority for the Parks Department and for some in our community. We thank the Parks Department for meeting with us to discuss our concerns. Our two most pressing concerns about this project remain, however. These are as follows; 1) the mitigation sequence analysis is incomplete, and 2) mitigation for the structure is not sufficient to meet the "no net loss" standard.</p> <p>Mitigation Sequencing: We have not seen an adequate discussion of alternatives to the Overwater Walkway, as required under the Critical Areas Ordinance, the applicable ordinance. This ordinance requires that the applicant first attempt to avoid the impact. To meet the avoidance criteria, we believe an analysis must be made to determine whether an overwater walkway is needed compared with the existing trail system or an additional overland system.</p> <p>Mitigation to meet no net loss: Under the Critical Areas Ordinance, the proposal need s to "protect[s] the critical area functions and values consistent with the best available science and result[s] in no net loss of critical area functions and values", (16.55.200 A5). The proposal for the walkway does not meet the no net loss standard because it will result in a net increase of shaded area. This may be mitigated by reducing shading in another areas, such as at the Central St. stub which presently covers a pocket beach. The proposal also does not mitigate for either the temporary disturbance from pile-driving, nor for the long-term</p>	

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				<p>disturbance to fish and birds from the presence of the overwater walkway. A baseline of fish and wildlife usage in the Boulevard to Cornwall area is necessary to quantify disturbance, so that it can be adequately mitigated. All of these impacts, shading, temporary disturbance, and long-term disturbance, must have commensurate or greater mitigation.</p> <p>Thank you for the opportunity to comment on this issue. Please notify us regarding hearings and decisions on this matter.</p>	
59	01/10/11	Re: De minimis 4 f exemption	Wendy Harris 3925 E. Connecticut Street Bellingham WA 98226 w.harris2007@comcast.net	<p>The open session you reference is three minutes to discuss any topic that is not set for public hearing. It is not equivalent to a public hearing, where prior notice is issued and specific time is set aside for the community to focus on a particular matter.</p> <p>Moreover, the Agenda Bill for this item does not provide adequate information for the public to even understand that the 4(f) de minimis exemption is an option that contains the lowest level of environmental regulation by the WSDOT, and that is it is not an automatic entitlement.</p> <p>I believe more effort should be made to inform the public that the City is seeking a 4(f) exemption on a project that impacts three separate MTCA remediation sites, an impaired body of water that is a shoreline of statewide significance and a critical area and for which alternative and aligned transportation routes already exist. As you know, this project is rather controversial, with a strongly divided public. It is certainly the type of matter that desires a proper hearing.</p>	
60	01/10/2011	Re: Council Agenda Bill for De Minimis Determination	William Hogan 4915 Samish Way #13, Bellingham, WA 98229	<p>Dear Ms. Austin:</p> <p>I continue to believe that building an expensive and high maintenance structure that is parallel to a wonderful, existing and low maintenance trail is a huge waste of money. Surely there are much better uses for public funds.</p> <p>Please remove my name from your contact list.</p>	
61	01/12/2011	Fw: Concerns regarding Overwater Walkway Comment Tracker	Wendy Harris 3925 E. Connecticut Street Bellingham WA 98226 w.harris2007@comcast.net	<p>I have reviewed the comment tracker for Boulevard Park Shoreline and Overwater Walkway, and I note that the comment tracker is reflected under Park projects for Boulevard Park Shoreline, but not for the Overwater Walkway. I suggest that the comment tracker be added to the Overwater website as many people may only be following the Overwater Walkway issue, and will not be aware that the these comments are listed under another Park project. Alternatively, a separate comment matrix could be created for each separate project.</p> <p>Additionally, the comment tracker advises people to see the SEPA comment matrix for additional comment, but no hyperlink or reference is provided, and the SEPA comment matrix is listed under the Overwater Walkway Project, causing confusion and problems with cross-referencing.</p> <p>Finally, I do not believe that the comment tracker reflects all the comments that were sent to the City. I know of several letters that were sent to the City that do</p>	The Public Comment Tracker is and has been included on both the Boulevard Shoreline project web site and the Over Water Walkway project website. The SEPA comment tracker is a separate document reflecting comments received during the SEPA comment period. Letters addressed to the Hearing Examiner are included in the SEPA comment tracker. A new link to the SEPA

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				<p>not appear on the tracker. One of the missing letters was issued by People for Puget Sound. I believe that the comment tracker should reflect all comments sent to the City of Bellingham, even if not specifically to the Parks Department. However, if the comment tracker is only reflecting comments received by the Parks Department, than this fact, and the existence of other letters, should be at least disclosed.</p> <p>Thank you for your consideration of my concerns.</p> <p>Sincerely, Wendy Harris http://www.cob.org/documents/parks/development/projects/boulevard-shoreline-public-comment-tracker.pdf</p>	comment tracker has now been added to the Over Water Walkway comment tracker.
62	01/12/2011	Bellingham Bay Pilot Project Application	Wendy Harris 3925 E. Connecticut Street Bellingham WA 98226 w.harris2007@comcast.net	<p>At our meeting last week, we discussed mitigation issues and options. I am not sure how or if these issues were previously addressed as part of the Bellingham Bay Demonstration Pilot Project, which included a habitat action team that recommended a baywide ecosystem approach. There was a letter of agreement signed with regard to this matter.</p> <p>I am confused about whether this agreement is in effect and if we are trying to reinvent the wheel, and if a binding legal agreement is being overlooked. I would appreciate any insight that you could provide on this matter.</p> <p>http://www.ecy.wa.gov/programs/tcp/sites/blhm_bay/bb_habitat/bb_hab_Part1.htm http://www.ecy.wa.gov/programs/tcp/sites/blhm_bay/bb_habitat/Habitat Restoration_Report.pdf</p> <p>Thank you Wendy Harris</p>	
63	01/13/2011	Fw: Noncompliance with Draft Sub-Area Plan	Wendy Harris 3925 E. Connecticut Street Bellingham WA 98226 w.harris2007@comcast.net	<p>Steve:</p> <p>Section 2.5 of the Draft Waterfront Sub-Area Plan specifies that shoreline development will conform to the final draft SMP, which has not yet been approved. See link below. The Cornwall Overwater Bridge is not compliant with this provision of the Draft Sub-Area Plan. While this is a Draft Plan, I do not expect this particular provision to change.</p> <p>I previously raised concerns regarding the application of inconsistent standards if both the 1989 SMP and the approved 2009 SMP are used at different stages of the waterfront redevelopment. Inconsistent standards will have obvious impacts on the environmental goals incorporated into the Sub-Area Plan. Moreover, the City and Port are misleading the public if they are not complying with the development standards that are indicated within the Draft Sub-Area Plan.</p> <p>I believe that the City needs to address this discrepancy with regard to the Cornwall Landfill Overwater Bridge before a CUP and shoreline development</p>	

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				<p>permit are issued. At a minimum, if the City chooses to proceed with the overwater bridge under standards that deviate from those reflected in the Draft Sub-Area Plan, the Plan will need to be amended to reflect this fact.</p> <p>http://www.portofbellingham.com/library/files/Waterfront_Redevelopment/9.10.2010%20Draft%20Sub%20Plan/Chapter_2_Vision.pdf</p>	
64	01/24/2011	Overwater Walkway	<p>People for Puget Sound Heather Trim Urban Bays and Toxics Program Manager People For Puget Sound 911 Western Ave, Suite 580 Seattle, WA 98104 tel: (206) 456-3809 fax: 206 382-7006 htrim@pugetsond.org www.pugetsound.org</p>	<p>Hello,</p> <p>I wanted to make sure our letter has been included in the record and so I am attaching it and resending it.</p> <p>Thanks so much.</p> <p>Best Heather</p> <p>November 15, 2010 Hearing Examiner Steve Sundin, Planner II Planning & Comm. Dev. Dept. City Hall, 210 Lottie Street Via E-mail: ssundin@cob.org RE: City of Bellingham Shoreline Conditional Use Permit: Overwater Pedestrian Bridge Connecting Cornwall Landfill and Boulevard Park Dear Hearing Examiner:</p> <p>Thank you for the opportunity to provide comment on the proposed overwater walkway connecting Cornwall Landfill and Boulevard Park.</p> <p>People For Puget Sound is a nonprofit, citizens' organization whose mission is to protect and restore Puget Sound and the Northwest Straits.</p> <p>We are concerned about the proposal to build a new overwater structure in Bellingham Bay. While we strongly support pedestrian walkways, bike paths, public access and linkages, we feel that all of this could be accomplished and provide an excellent amenity for the citizens of the city by doing an alternative approach.</p> <p>As a note, there appears to be a shift in which standards apply to this site. It would be helpful if that could be clarified for the public.</p> <p>People For Puget Sound has major concerns about the proposed overwater walkway for the following reasons:</p> <ul style="list-style-type: none"> - Habitat/wildlife impacts. The bridge will impact habitat – in water vegetation and animals as well as birds. Even if care is taken to align the structure to reduce shading and to use some light-permeable materials, shading is still inevitable and will thus impact eelgrass and other species. 	

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				<p>The pilings to create the bridge will potentially impact sediment movement in the area. There are concerns about lighting impacts. Finally, this area is part of the critical habitat for listed species under the Endangered Species Act.</p> <ul style="list-style-type: none"> - Minimize harm. A new overwater structure is not consistent with the concept of mitigation sequencing. The first principle of mitigation sequencing is to avoid harm and the second is to minimize harm. In this case, an alternative could be done, which would satisfy the desire for public access (pedestrian and bike trail) by building an overland elevated structure, which would have significantly less impact on aquatic habitat health. - Tribal access, fishing rights and navigation access. A new overwater structure such as this proposal is in direct conflict with existing rights and regulations. <p>We believe that instead of a bridge over water, an elevated walkway that goes over land between the two park areas would be less impactful to the environment, potentially will be less expensive (no in-water work) and will fulfill the desired ability to create a continuous pathway.</p> <p>Please add People For Puget Sound to the distribution list of future documents related to this project.</p> <p>Thank you for your consideration. You can reach me at (206) 382-7007 X172 if you have any questions or concerns.</p> <p>Sincerely, Heather Trim Urban Bays and Toxics Program Manager</p>	
65	02/10/2011	Marine Mammal Taking Permit	Wendy Harris 3925 E. Connecticut Street Bellingham WA 98226 w.harris2007@comcast.net	<p>Attached please find a letter reflecting my deep concerns regarding the City's potential need for a federal taking permit for marine mammals as part of the Bellingham Bay Overwater Bridge and application of SEPA, NEPA and the SMA. Thank you for considering my concerns.</p> <p>Wendy Harris</p> <p>>>>> February 10, 2011</p> <p>Dear Mayor Pike, Members of City Council and Department of Ecology:</p> <p>I object most strenuously to the dissuasion, harassment or harming of fish and wildlife species, specifically, marine mammals, as part of the redevelopment of the Bellingham Bay waterfront.</p>	<p>A determination by the National Marine Fisheries has not yet been made regarding a "take" of marine mammals.</p> <p>On page 6 of the Draft ECS document, which is published on the City's website, marine mammals are listed as present within 0.5 miles of the work area and the project is listed as involving any of the following activities: blasting, pile driving, concrete sawing, rock</p>

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				<p>I have followed the process for the Boulevard Park/Cornwall Landfill Overwater Bridge, part of this waterfront redevelopment, based on concerns that this would result in a net loss of shoreline ecological functions, particularly as related to fish and wildlife, and water quality.</p> <p>I reviewed and commented during the SEPA process as well as the Conditional Use and Shoreline Substantial Development permit process. I was part of a group of concerned citizens that met with representatives from the Parks Department and the Planning Department to discuss concerns relating to fish and wildlife impacts. As a result of this meeting, we were advised that the City would keep us apprised of the status of this project.</p> <p>Thus, it was rather disconcerting to discover, only through a public records request, which required some perseverance on my end, that the City was discussing the need to file a federal "take" permit with regard to marine mammals. It is unclear whether the City will need an IHA (harassment) or a LOA (serious injury or death) permit. (The 6 month-1 year time frame that was discussed suggests a LOA permit might be necessary.)</p> <p>What is clear is that at no point during the environmental review process, the Consultant's biological assessment, or the shoreline permit process, did the City disclose that the Overwater Bridge could result in the need to harass or harm marine mammals. This information was not provided to the Hearing Examiner, nor was it made available to the public as part of the SEPA and shoreline permit process. It was not provided to the Department of Ecology as part of the review and approval of the project shoreline permits. Nor was this information released to the concerned citizens that were told they would be kept informed.</p> <p>Actions such as this reflect poorly on the City's open, honest and full disclosure of anticipated impacts to shoreline ecological functions. City residents were advised, in the Waterfront District Sub-Area Plan, that the waterfront would be redeveloped in a manner that increased shoreline natural functions and improved fish and wildlife habitat. How much community support would exist for the Overwater Walkway if the public learned it had been misled?</p> <p>As you are probably aware, a number of City residents are already upset that the Port, (the City's partner in the waterfront redevelopment), intends to dissuade the Caspian Terns from returning to their new breeding colony without providing compensatory mitigation in the form of alternative habitat. Now it appears that</p>	<p>drilling, or rock scaling activities within 1 mile of listed marine mammals.</p> <p>On page 12 of the SEPA checklist (WAC 197-11-960 Environmental checklist), marine mammals and threatened or endangered species are listed as being known to exist near the project site.</p> <p>On page 5 of the SCUP Staff report dated November 17, 2010, the US Fish and Wildlife & National Marine Fisheries Services is listed as the agency that issues the ESA act concurrence, which includes any determination on listed marine mammals.</p> <p>A brief discussion regarding the marine mammal permit process occurred with concerned citizens at a January 5, 2011 special meeting with Ms Harris and others.</p>

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				<p>marine mammals may be further victims of waterfront redevelopment. If the City requires a federal take permit for marine mammals, the conditional use and shoreline permit approvals should be immediately revoked and this entire project subject to a new SEPA and shoreline permit process, with new notice and public comment based on full disclosure of all harmful impacts to fish and wildlife. This needs to be analyzed in the context of a cumulative impact analysis under the Shoreline Management Act to ensure no net loss of shoreline functions, and at a minimum, compensatory mitigation for fish and wildlife habitat should be included as part of the project.</p> <p>I urge you to ensure that waterfront redevelopment does not result in harm to marine mammals or any other species in Bellingham Bay's waters and near shores. Wendy Harris</p>	
66	02/18/2011	Marine Mammal Take permit and City Actions	Wendy Harris 3925 E. Connecticut Street Bellingham WA 98226 w.harris2007@comcast.net	<p>Dear Mayor Pike and City Council:</p> <p>Reference is made to my prior email of February, 11, 2011. I believe the City needs to explain to the public what specific actions and decisions have been or will be made regarding a federal "take" permit to kill, harm or harass marine mammals in association with the Boulevard Park/Cornwall Landfill Overwater Bridge and other waterfront redevelopment projects.</p> <p>I have requested, but have not received, clarification on this matter. The Project Engineer has advised me that, 'as far as we know, the formal consultation process has not yet started.' (Email response attached.) The process to obtain a federal take permit does not initiate of its own accord. Rather, an agency or municipality makes a determination that it is necessary to harm marine mammals protected under federal laws, and thereafter, files permits and paperwork to obtain a special permit exemption. The evasively worded response I received from the Parks Department fails to acknowledge any responsibility, actions or plans by the City.</p> <p>I also find the timing of this permit troubling. I learned of this action only as the result of a Public Record Act request. The City failed to disclose the need for a take permit during the public comment periods for SEPA or the shoreline development and conditional use permits. Nor was this information addressed in the City's Biological Assessment Report for this project. The City, did, however, cite to the allegedly extensive public participation for this project in a successful bid to obtain the permit approvals from the Hearing Examiner.</p> <p>This has created the appearance that the City deliberately withheld information</p>	<p>The Over Water Walkway is a federally funded (FHWA) project. The Washington State Department of Transportation is the lead agency for coordinating ESA consultations with the federal "services."</p> <p>For FHWA-funded projects, WSDOT Highway & Local Programs and FHWA are the only entities that have the authority to initiate Section 7 consultation with U.S. Fish & Wildlife and National Marine Fisheries Service (a.k.a., "the services.")</p> <p>Please reference the following website for more information: http://www.wsdot.wa.gov/LocalPrograms/Environment/Section7.htm</p> <p>The City, as the local agency,</p>

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				<p>regarding a marine mammal "take" permit in order to "piece-meal" the most controversial and objectionable components of the project. I can only speculate that this was done to defuse and minimize public objections by delaying the release of unpopular information until much later in the planning and permitting stage. It is unclear to me whether timely public release of this information would have affected the nature and extent of public participation for this project.</p> <p>Based on these facts, I call upon the City to make full and immediate public disclosure of the actions it has taken, and the specific determinations that it has made, or will be making, with regard to the federal take permit, as well as other connected actions that will harm the fish and wildlife of Bellingham Bay.</p> <p>I look forward to your prompt release of information clarifying the status of this situation. Sincerely, Wendy Harris</p> <p><i>Original Email Information :</i> From: Gina Gobo Austin/parks/cob To: "Wendy Harris" <w.harris2007@comcast.net> cc: Date:</p> <p>-----</p> <p><i>The Washington State DOT is the lead agency for the NEPA process. The National Marine Fisheries is the agency in charge of ESA species . This consultation occurs through Washington State DOT. Trevin Taylor with WSDOT is the Environmental Engineer for this project and he would be the appropriate person to contact. As far as we know, the formal consultation process has not yet started. Our office has not had any contact with National Marine Fisheries . We have only had contact with Trevin Taylor, which you have also contacted before.</i></p> <p>Regards, Gina G. Austin, P.E., M.ASCE Project Engineer City of Bellingham - Parks/Design & Development Division 3424 Meridian, Bellingham, Washington 98225 Phone: (360) 778-7000 / Fax: (360) 778-7001 / TTY (360) 738-7366</p> <p>"Wendy Harris" Gina: Could you please provide me with the n... 02/11/2011</p>	<p>submitted an Environmental Classification Summary and supplemental information to WSDOT for review and processing. This document is available on the City's project website.</p> <p>The local agency, or project applicant, does not determine a "take," if any, of marine mammals or any ESA listed species. The local agency's consultant prepared the environmental documents and provided information on the "effect" on ESA listed species based on the details of the project. Construction sequencing and project design details have been provided for review. This information was given to WSDOT and has been made available to the public during the SEPA review process.</p>

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				<p>12:12:31 PM From: "Wendy Harris" <w.harris2007@comcast.net> To: <gaustin@cob.org> Date: 02/11/2011 12:12 PM Subject: take permit for marine mammals Gina: Could you please provide me with the names, agency and telephone number of the people you have contacted with regard to a take permit for the marine mammals? Thank you, Wendy Harris</p>	
67	02/23/2011	Marine Mammal Taking	Wendy Harris 3925 E. Connecticut Street Bellingham WA 98226 w.harris2007@comcast.net	<p>With regard to the potential harm and/or harassment of marine mammals in connection with the City of Bellingham's overwater walkway, the City Parks Department is claiming that they play no role in this determination beyond describing the effect of the project on marine mammals. Thus, it is a determination by WSDOT and FHWA to initiate a Section 7 consultation with U.S. Fish and Wildlife and National Marine Fisheries Service. In other words, they are trying to hold your agency responsible for the decision to obtain a permit allowing marine mammals to be harmed.</p> <p>I am having trouble reconciling this with notes from a Parks Department meeting, wherein they asserted that they would be requesting review from the federal agencies on the need for a take permit. Moreover, in their ECS summary, the City does note potential impacts to two priority seal haul-out logs, but states that "impacts to non-ESA listed species or habitats from construction will be temporal in nature and are not anticipated to result in long-term negative impacts." (Page 17, Addendum to the Local Agency Environmental Classification Summary.) I saw no other information in the Biological Assessment or other studies submitted by the City during the public comment period that would indicate that marine mammals would be harmed. This was not discussed as part of the process for obtaining a shoreline permit pursuant to the Washington State Shoreline Management Act.</p> <p>Many City residents would be upset if they learned that this project could result in the harm or death of marine mammals. Who is responsible for this determination, and at what point in the public process? I am frustrated by my inability to obtain a straight answer from anyone and believe the public has a right to know if it is being misled regarding this project.</p>	<p>Response from WSDOT via email:</p> <p><i>We have not initiated the marine mammal permit nor ESA. We will not proceed with NEPA until the proposed alignment is resolved with the Tribes. As a result, we have no information to provide you relative to the marine mammal permit at this time.</i></p>

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				<p>Additionally, I note that the City has not provided public notice that it has requested that DOE amend the Whatcom Waterway 2007 Consent Decree and Cleanup Action Plan to add in the overwater walkway, nor that it has, in conjunction with the Port, requested an interim MTCA Clean Up Action to allow the overwater walkway to be built before the Cornwall Landfill is fully remediated. Since the City is determined to proceed with this project regardless of consequences, I can only appeal to your agencies to help protect the health and safety of the residents of Bellingham, and the ecological functions of its shorelines, through an EA or EIS NEPA review.</p> <p>Thank you for consideration of my concerns and your anticipated reply.</p> <p>Wendy Harris 360-922-0442</p>	
68	2/25/2011	Flaw in the Erosion and Sediment Transport Evaluation	Shane Roth 3925 E Connecticut St Bellingham, WA 98226	<p>February 24, 2011</p> <p>Coast and Harbor Engineering drafted a technical memorandum dated November 8, 2010 on Boulevard Park Gravel Beach. I believe the study is flawed. The conclusion of this report includes the following assertion: The results of the analysis show that the shoreline will not be impacted negatively after construction of the pedestrian walkway. This conclusion is based on analysis of modeling only two components of wave mechanics.</p> <ol style="list-style-type: none"> 1. Wave Height (Amplitude) 2. Orbital Velocity (Phase Speed) <p>This modeling doesn't take into account wave interference patterns. In the absence of the Over Water Walkway, when a wave hits the Boulevard Park Gravel Beach, it does so as a single wave. Once a row of 97 concrete objects are placed between Bellingham Bay and the Boulevard Park Gravel Beach, any wave that passes under that walkway will be broken up into at least 96 separate waves, which will result in refraction of those waves and create interference patterns. The only thing I know about wave mechanics is what I learned in high school. And one of the first things I was taught in high school physics class was that when a wave passes through two or more openings, everything about the wave action changes on the other side of those openings. Interference patterns are always created and the effect of those patterns are substantial. The modeling from the Coast and Harbor study does not take into account the impact that interference patterns might have on the vector (direction) of the waves, or the vector of sediment that is carried by those waves. The fact that the</p>	

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				<p>row of pilings is in the shape resembling a convex parabolic arc may further have an effect on the predicted trajectory of sediment being transported by the waves which might have other predictable impacts on the Boulevard Park Gravel Beach drift cell over the course of 25 years.</p> <p>Wave mechanics have been studied and modeled for literally centuries, including the behavior of wave interference patterns. I am confident that the City of Bellingham could obtain a model of the effect that such interference patterns might have on Boulevard Park Gravel Beach and its drift cell over a span of 25 years.</p> <p>I am requesting, in the spirit of using the Best Available Science, that a computer model of the effect of wave interference patterns on Boulevard Park Gravel Beach be initiated before construction begins on the Over Water Walkway project.</p> <p>Sincerely, Shane Roth 3925 E Connecticut St Bellingham, WA 98226</p>	
69	03/02/2011	Contaminated Sediment To Be Used in Cornwall Landfill	Wendy Harris 3925 E. Connecticut Street Bellingham WA 98226 w.harris2007@comcast.net	<p>PLEASE STOP THE PORT FROM USING CONTAMINATED SEDIMENT TO CAP THE CORNWALL LANDFILL</p> <p>The Port, with knowledge and apparent consent of the City Parks, Planning and the City Attorney's Office, is proposing that the Cornwall Landfill be capped with soils dredged from Squalicum Harbor, Gate 3. The sediment from this area is contaminated with dioxins and should not be re-used to clean-up another contaminated site. Using the dredged soil from Squalicum Marina also requires that the sediment be "de-watered" on yet a third site, spreading dioxins and other toxins to several locations.</p> <p>This is being done to accommodate the construction of the Cornwall Overwater Walkway (OWW), while requiring only a partial clean-up of the Cornwall Landfill. Both the Port and the City are seeking DOE approval of an "Interim Clean-up Action" and an amendment to the Whatcom Waterway Consent Decree and Clean-Up Plan. The financial pressure created by the OWW is driving the Port and City to engage in cost-saving efforts that do not promote public health and safety.</p> <p>There should be no development within the waterfront redevelopment district unless adequate funding is available to allow for full site remediation. This is particularly true for the OWW, which is an expensive luxury item, rather than a transportation necessity. The City had planned to use the South Bay trail as a multi-modal corridor connecting the downtown to Fairhaven until very recently.</p>	

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				<p>(Bellingham Waterfront Lands Analysis Final Report, 2007, BST Associates, http://www.cob.org/documents/planning/newwhatcom/2007-03-22-ind-land-supply.pdf., "The City recently restored and improved the Taylor Avenue Dock and built a boardwalk over the water from the dock to Boulevard Park. The walkway completes a more than quarter mile "missing link" from the downtown to Fairhaven on Bellingham's popular South Bay Trail. It also provides a safe way to cross over the Burlington Northern Santa Fe railroad tracks." Page 20.)</p> <p>The City and Port both admittedly lack adequate funds for clean-up of the Model Toxic Control Act (MTCA) sites in the waterfront district. Yet the OWW places the public on four (4) MTCA sites. The project begins at one MTCA site, (Boulevard Park), crosses over another MTCA site, (the Whatcom Waterway), lands at a third MTCA site, (Cornwall Landfill), and requires the public to exit over a fourth MTCA site, (R.G. Haley.) Please do not allow the Port and City to re-use contaminated soils as a cost-saving approach to the challenges posed by waterfront redevelopment.</p> <p>Please protect public health and safety, and Bellingham Bay, by requiring that the City Administration provide a full accounting of its dealing with the Port and DOE. Advise the Administration that you will not approve any actions that involve the re-use of Squalicum Marina sediment, nor waterfront development that involves less than full site clean-up.</p> <p>Thank you for your consideration of this urgent matter. Sincerely, Wendy Harris</p>	
70	03/02/2011	Hazardous Materials in Overwater Walkway in Bellingham	Wendy Harris 3925 E. Connecticut Street Bellingham WA 98226 w.harris2007@comcast.net	<p>Please include the attached and below information in your NEPA evaluation with regard to HAZ MAT issues. As you can see, the Port is proposing the re-use of sediment contaminated with dioxins that will be dredged from Squalicum Harbor in Bellingham, alleging that it is a beneficial re-use under state law. Wendy Harris</p> <p>----- Original Message ----- From: Gouran, Brian To: Swackhamer, Robert D. (ECY) Cc: Larry Beard Sent: Friday, December 10, 2010 4:03 PM</p> <p>Hi Bob,</p>	

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				<p><i>Please find attached two tables presenting the analytical data for the Gate 3 sediment that Landau has compiled. The first table presents the dioxin data and the second table presents the data for other analyses. We have included MTCA Method B and Method C cleanup levels based on direct contact for comparison purposes. Based on our discussion yesterday, we plan to pursue the capping option that includes a flexible membrane liner (FML) cover over the sediment, with the sediment functioning as a secondary low permeability cap beneath the FML. Considering the low-permeability of this material which will be covered by a FML and placed well above the groundwater table, we have use the direct contact cleanup as opposed to protection of groundwater for cleanup levels applied to the Gate 3 sediment.</i></p> <p><i>One other issue we wanted to follow up on was your concern about the appropriateness of placing additional contaminated soil at the Cornwall site. A supporting regulation that we have previously discussed with Ecology related to this issue, but did not present in Landau Associates' memo or discuss with you yesterday, is the provision in the Solid Waste Handling Standards for a permit exemption from the solid waste handling standards if the material is being beneficially used (WAC 173-350-200). This exemption provides a clear regulatory pathway for placement of the Gate 3 material at the Cornwall site based on its beneficial uses as part of the cleanup action. Based on our previous discussion with Ecology, we would only need to meet the substantive requirements of the permit exemption process because the beneficial reuse would occur as part of a MTCA cleanup action under an agreed order with Ecology.</i></p> <p><i>We hope this information assists you in your evaluation. Please feel free to contact me if you have any questions or additional information requests while you are evaluating our request for beneficial reuse of the Gate 3 sediment. We look forward to discussing this further and hearing back from you next week.</i></p> <p><i>Thanks and have a great weekend.</i> <i>Brian D. Gouran</i> <i>Environmental Site Project Manager</i> <i>Port of Bellingham</i> <i>PO Box 1677</i> <i>Bellingham, WA 98227</i> <i>P: (360) 676-2500 ext.212</i> <i>F: (360) 671-6411</i></p>	
71	03/05/2011	Boulevard	Larry Horowitz	Michael:	

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		Over Water Walkway	325-0448 Wendy Harris 3925 E. Connecticut Street Bellingham WA 98226 w.harris2007@comcast.net	<p>Whether the voters approved the OWW when they voted for the Greenway Levy III is determined by review of the actual levy language. That is the only relevant fact, not subjective determinations of what the public may have known outside the scope of the drafted language. And review of this levy clearly indicates that the public did NOT vote for an OWW. The levy was approved by the public pursuant to special election held on May 26, 2006. The public approved this levy for "acquisition, development and maintenance of greenways, open space, parks and trails." No specific projects were identified in the actual levy language. http://www.cob.org/web/legilog.nsf/0/344DC002B39AB0378825713100676C55/\$file/200603033.pdf.</p> <p>However, an ordinance passed by City Council on March 13, 2006 included "illustrative guidelines" of projects that the levy would support. (Ordinance 2003-03-033.) The ordinance allocated 4 million dollars for a "Future Waterfront Redevelopment Trail." This description indicates that little more was determined about this future trail other than its location, which would be within the waterfront redevelopment area. If the OWW was already an identified, priority project at the time of the Greenway Levy III vote, it should have been specifically identified in the City ordinance, but it was not. Other projects, such as expansion of the Bay to Breaker trail, or the future Samish Crest Hiking trail, were specifically identified. (See above link.)</p> <p>Also relevant is the fact that the OWW violates the one requirement under the ordinance regarding the future waterfront redevelopment trail, which is that the trail be located in the waterfront redevelopment district. The OWW begins at Boulevard Park and does not reach the waterfront redevelopment district until the last section of the waterway lands at the Cornwall Landfill. Therefore, the funds for the OWW have not been authorized pursuant to public vote or City Council Ordinance. Has anyone asked your legal department to review this matter?</p> <p>What you are stating sounds similar to the misinformation that has been disseminated by the Parks Department in their attempt to engage in revisionist history. Please review the documents yourself so you can see the how much of this is fiction. For example, the idea that it is infeasible to connect Cornwall Landfill to the South Bay trail... the Waterfront Futures vision also included a proposal for this connection and it is reflected as a possible future project in the recent draft waterfront redevelopment district sub-area plan. The Parks Department refuses to give this any serious consideration, yet how feasible does a</p>	

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				<p>1/2 mile overwater bridge through 4 MTCA sites sound? And why is the fact that the South Bay trail was developed with the intention to connect the downtown to Fairhaven now being ignored?</p> <p>Bellingham Waterfront Lands Analysis Final Report, 2007, BST Associates, http://www.cob.org/documents/planning/newwhatcom/2007-03-22-ind-land-supply.pdf , Page 20.</p> <p>As for polling data, yes that exists as well. The Parks Department did a 2008 public survey, and not one single person in that survey stated that they wanted an overwater connection between Blvd. Park and Cornwall Landfill. The two most important things to the public are better maintenance of existing parks and trail connectivity. The City of Bellingham Department of Parks and Recreation: Park, Recreation and Open Space Plan Update Survey, Applied Research Northwest, LLC, 2008. http://www.cob.org/documents/parks/development/pro-plan/2008-draft-update/telephone-survey.pdf, see Page 18.</p> <p>I would like to know how the OWW was "decided upon" years ago, prior to public hearings for SEPA and a conditional use permit for shoreline development, or settlement with the Lummi Nation regarding treaty rights? I find that very troubling! Permit approval has not been granted by state and federal agencies, so this clearly is not a done deal.</p> <p>It is time that City Council step up and review whether the OWW is still an appropriate use of public funds when this project is not a transportation necessity, requires costly and currently unfunded remediation for 4 MTCA sites, and has significant environmental impact. As for the use of dioxin contaminated sediment dredged from Squalicum Harbor, you do not have to take my word, you can read about it in a new Herald article that was just published. (Or I can send you extensive documentation obtained through a public record request with the City and DOE.) The City must also understand that it can not allow unrestricted public access to every inch of waterfront shoreline if it wants to protect other shoreline functions such as fish and wildlife habitat (as required under the Shoreline Management Act.) I have seen no discussion of this important point, or waterfront redevelopment planning that incorporates this consideration.</p> <p>If I sound angry, I am. The public deserves more than misinformation and inappropriate advocacy by the Parks Department, the Planning Department's acquiescence and Council's unquestioning acceptance.</p>	

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				<p>Wendy Harris</p> <p>----- Original Message ----- From: MLilliquist@cob.org To: Larry Horowitz Cc: Gerry Wilbour ; Wendy Harris Sent: Friday, March 04, 2011 1:10 PM Subject: Re: Boulevard Over Water Walkway</p> <p>Larry,</p> <p>I can completely believe you when you write that you never got wind of the project, at the time of the GW III levy discussions. I myself was aware of only the basic outline of the levy, like most voters I suspect. I think all the attention, then and now, was on the acquisitions portion of the proposal -- the famous north/center/south split to re-balance our facilities in the north side (which I am happy to say are coming along steadily, piece by piece). Be that as it may, this project has been in the works for quite some time, popping up briefly now and then with long quiet periods in between.</p> <p>Michael Lilliquist Bellingham City Council, Ward 6</p> <p>From: "Larry Horowitz" <dakini1@comcast.net> To: <MLilliquist@cob.org> Cc: "Wendy Harris" <w.harris2007@comcast.net>, "Gerry Wilbour" <nwtrails@msn.com> Date: 03/04/2011 01:03 PM Subject: Re: Boulevard Over Water Walkway</p> <p>Michael,</p> <p>Thanks for responding so quickly to my requests and question. I have forwarded your email to Wendy Harris and others who are in a better position than I am to make sense of it.</p> <p>As far as the OWW being part of the original GW III levy, I can say without</p>	

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				<p>certainty that I never got wind of it, nor did Gerry Wilbour who was very actively involved in that process. If the OWW was the intent, it was not made public in any of the GW III documents, nor was it discussed at any meetings I attended prior to the GW III ballot.</p> <p>Regarding the environmental concerns, I hope you'll have a more in depth conversation with Wendy.</p> <p>Your timely response is greatly appreciated.</p> <p>Best, Larry</p> <p>----- Original Message ----- From: MLilliquist@cob.org To: Larry Horowitz Cc: Grp_Council@cob.org ; seth@openaccess.org ; TWahl@cob.org ; LBryson@cob.org ; gaustin@cob.org ; DWebster@cob.org ; SSundin@cob.org Sent: Friday, March 04, 2011 12:44 PM Subject: Re: Boulevard Over Water Walkway</p> <p>Larry,</p> <p>I talked with a couple of people about the proposed over water walkway, and I am still waiting for a few answers. I can say that the over water connection from Boulevard to the foot of Cornwall landfill was always part of the original Greenways III levy. It was discussed from the earliest stages and widely supported by many/most of the active participants at the time, and thus we can hope that the voters, in approving the levy, also approved of this project. I do agree that one had to be paying close attention to realize that the \$4.0 million for "Waterfront Redevelopment Area" meant this walkway, but this was long before the planning for the former GP property etc. was being planned, so in context it would not have been mistaken for parks in the Waterfront District itself.</p> <p>It has not received much attention in recent years, I believe, because it was seen as a "decided upon" project and all of the attention has been on new acquisitions. This project was in the "development" portion of the levy. The over water walkway has been in the planning stages for years, and I remember seeing the first public design drawings at an open house at the library about three years ago.</p>	

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				<p>It was warmly received by the attendees, as far as I could tell. You suggest that the idea may no longer be so popular, but I suspect that it in fact would still find broad support. I don't think anyone has any polling data.</p> <p>The over water connection is seen as important because 1) the existing inland trail does not bring people to the water's edge, which was a guiding purpose for the Waterfront Futures vision and which has proved immensely popular with the Taylor Dock walkway; and 2) the existing trail runs along the top of the bluff and connects into the downtown, which is good but does not connect to the Waterfront District. To connect to the Waterfront, a trail would need to descend the steep bluff (which is technically difficult) and cross the railway bed and other private property (which is very uncertain given B-N and the potential closure of the Wharf St at-grade crossing), or one would have to walk a half mile north into downtown in order to walk a half mile south back into the Waterfront area down Cornwall avenue (which is not a trail). Practically speaking, this would make the Cornwall landfill a cul-de-sac park, likely to draw a larger percentage of auto visitors than foot or bicycle traffic. Experience shows that people like loops and connectivity, rather than dead ends.</p> <p>None of the above addresses the other concerns you raised, which have to do with environmental impacts. I know that staff believes the impacts will be small and/or mitigated. With regard to the SMP, I have been told that applying the draft SMP rules would not have caused a new outcome or design than under the 1989 SMP rules. Also, in this case the more protective CAO was applied in addition. I can assure you that I would oppose this project if I was convinced it was going to cause serious or irreversible harm.</p> <p>But there are many details (e.g., dredging) that I do not know. I do not have many of the facts, since this matter did not come before the Council (as I said, the decision to go ahead was made years ago). I'll get back to you if I learn anything important.</p> <p>Yours, Michael Lilliquist Bellingham City Council, Ward 6</p> <p>From: "Larry Horowitz" <dakini1@comcast.net> To: "Michael Lilliquist" <mlilliquist@cob.org></p>	

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				<p>Cc: "Mark Bennett" <mbennett@homaxproducts.com>, "Kevin Cournoyer" <kjc@mac.com>, "Gerry Wilbour" <nwtrails@msn.com>, "Frances Badgett" <frances@mac.com>, "Tim Paxton" <tim@synthesiscompany.com>, "Tim Paxton" <tim_paxton@yahoo.com>, "Wendy Harris" <w.harris2007@comcast.net>, "Seth Fleetwood" <seth@openaccess.org></p> <p>Date: 03/03/2011 11:41 AM</p> <p>Subject: Boulevard Over Water Walkway</p> <p>Michael,</p> <p>Thanks for taking time to call this morning. I thought it might be helpful to summarize the concerns about the Boulevard Over Water Walkway (OWW):</p> <p>1) On Nov 22, 2004, City Council adopted Resolution 2004-36 (attached), which established deadlines to complete the City's comp plan and development regulations updates. Item B.1 of the "Attachment" to the resolution clearly states that the City would "Update and adopt a new Shoreline Management Program" (SMP) by July 1, 2005. As you know, the City prides itself on its environmentally friendly and ecologically sensitive image. Considering the City is attempting to vest its OWW application under an outdated and obsolete SMP, one wonders if the City's pro-environment stance is nothing more than lip service. Especially when you consider that the only reason the City can vest under the old SMP is its failure to act and meet its promise to update the SMP more than five years ago. I believe Steve Sundin is in a position to inform Council how the OWW violates the City's draft SMP update, which the completed more than a year ago and the Dept of Ecology is currently reviewing. The City can and should voluntarily meet all safeguards and regulations of its draft SMP.</p> <p>Request: City Council should ask Steve Sundin to provide a summary of how the OWW project violates the City's draft SMP.</p> <p>2) It is my understanding that, as part of the OWW project, Squaticum Harbor sediment that is contaminated with dioxins will be dredged and the sediment will be placed atop the Cornwall landfill.</p> <p>Request: Please confirm whether this is true. If it is true, I suspect this violates all kinds of regulations, including but not limited to the draft SMP.</p> <p>3) I have been told that the OWW may require a federal Incidental Take Permit</p>	

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				<p>under Section 10 of the Endangered Species Act. We are trying to get confirmation and see what it entails.</p> <p>Request: Please check with the Parks and Planning Departments to determine their plans to "harass, harm, wound, or kill" threatened or endangered species.</p> <p>4) I believe the City has claimed the OWW is necessary in order to provide a transportation link between Boulevard Park and the downtown waterfront. It is this necessity than serves as the basis for receiving federal funds. The attached OWW Map provides clear evidence that the OWW duplicates the South Bay Trail's connection between these two points.</p> <p>Question: Is the OWW really necessary?</p> <p>5) The City has asserted that the OWW project represents the "will of the people." I disagree. It's clear that there was no mention of the OWW in the Greenway III literature, petition and ballot. One would have to have been clairvoyant to discern that people voted for the OWW when GW III passed. While it's true the OWW has been actively discussed among a VERY, VERY small group, that is not the same as a public process and widespread public support. Considering all the environmental and fiscal issues we are now aware of, I believe there is not widespread public support for the OWW. The fact is, there is no proof of public support.</p> <p>Request: Hold a public hearing to gather information regarding public support for the OWW.</p> <p>Again, thanks for your time and your consideration. I believe it's important for Council to understand that, although Wendy Harris has done an incredible job investigating the issues surrounding the OWW, now that she's made them public, she is not alone in understanding their importance. Let's have a robust public process BEFORE we proceed further.</p> <p>Best, Larry Horowitz 325-0448</p>	
72	3/07/2011	City Request To Amend Clean-Up	Wendy Harris 3925 E. Connecticut	Lucy McNerney, P.E Site Manager, Bellingham Bay Demonstration Pilot Project manager DOE, Northwest Regional Office	

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		Action Plan	Street Bellingham WA 98226 w.harris2007@comcast.net	<p>Toxic Clean-Up Program, NW Region</p> <p>Sent via email on March 7, 2010</p> <p>Dear Ms. McInerney:</p> <p>The City of Bellingham Parks and Recreation Department, in coordination with the Port of Bellingham, has requested that the Department of Ecology (Toxics Cleanup Program) approve amendment of the Whatcom Waterway 2007 Consent Decree and Clean-up Action Plan (the Consent Decree), which governs remediation of the Cornwall Landfill under the Washington Model Toxic Control Act. The Parks Department requested that the Consent Decree include a “missing” reference to a future Overwater Walkway (OWW) that will connect Boulevard Park to the Cornwall Landfill. The Parks Department asserts that the OWW was included in City planning efforts since 2002, and was omitted from the Consent Decree by error. (http://bit.ly/dJFHAZ).</p> <p>This assertion is incorrect and fails to reflect the City’s true intention, which is to include the OWW in a proposed Interim Clean-Up Plan for the Cornwall Landfill. The draft Interim Clean-Up Plan allows development of the OWW without full remediation of the Cornwall Landfill. It may also allow re-use of dioxin contaminated sediment as part of the interim clean-up, which has not yet been disclosed to the public. (Interim Clean-Up Plan at http://bit.ly/facx1b and DOE letter to Port at http://bit.ly/hNz30W and Port letter to DOE at http://bit.ly/fQpY5X; and City internal discussion regarding interim plan at http://bit.ly/e26kJN).</p> <p>Amending the Consent Decree is premature until the City reaches a settlement with the Lummi Nation regarding OWW impacts to Lummi treaty rights. Concurrence from Lummi Nation is necessary for permit approvals by the federal government. A letter from the Lummi’s does not indicate that settlement is imminent. The Lummis question whether the City has the financial ability to make a fair settlement offer. They also remain unconvinced that the OWW is either necessary or properly mitigated. (http://bit.ly/h0JqGG).</p> <p>The Parks Department alleges that the OWW has been planned since 2002. However, the documents cited by the Parks Department prior to 2008 are either drafts or visioning statements. And the City’s primary source of funding for this project, the Greenway Levy III, was not available until 2006.</p>	

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				<p>The Greenway Levy III was approved by the public pursuant to special election held on May 26, 2006. The public approved this levy for “acquisition, development and maintenance of greenways, open space, parks and trails.” No specific projects, including the OWW, were identified in the language of the levy. This has not stopped the Parks Department from making allegations that the OWW was approved by public vote. (http://bit.ly/fR04yo).</p> <p>A City Council ordinance, dated March 13, 2006, includes “illustrative guidelines” of levy projects. (Ordinance 2003-03-033, above hyperlink.) The ordinance allocated 4 million dollars for a “Future Waterfront Redevelopment Trail.” This description indicates that little more was determined about the future trail other than its location within the waterfront redevelopment area. If the OWW had been an established Parks project at the time of the Greenway Levy III vote, it would have been specifically identified in the City ordinance, but it was not. Other projects, such as expansion of the Bay to Breaker trail, or the future Samish Crest Hiking trail, were specifically identified.</p> <p>Moreover, the OWW violates the only requirement for the future trail... that it be located in the waterfront redevelopment district. The OWW begins at Boulevard Park and does not reach the waterfront redevelopment district until the last section of OWW lands at the Cornwall Landfill. Therefore, the funds for the OWW have not been authorized pursuant to either public vote or City Council Ordinance.</p> <p>The Parks Department may have appropriated 4 million dollars from the Greenway Levy III for the OWW, but this is not synonymous with public support. The project has always been controversial. Citizens who supported the OWW were hand-picked for appointment to local committees, which subsequently revised the language used in the original levy and ordinance in order to justify the OWW.</p> <p>Other documents cited by the Parks Department in support of their position include the Capital Facilities Plan; the Parks, Recreation and Open Space Plan; the City Transportation Improvement Plan; and the Waterfront District Draft Sub-Area Plan. However, the Parks Department cites to the entire document, rather than the specific provision and page within the document, which is often only one or two sentences. This fails to provide a proper context and discourages efforts to substantiate the Parks Department evidence. For example, the referenced draft</p>	
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				<p>2009 SMP includes the OWW among projects that may be established or enhanced for public shoreline access. (2009 draft SMP, Page 12; http://bit.ly/f7HmxZ). The Parks Department should be required to provide specific citation and documentation.</p> <p>An underlying implication in citing these documents is also misleading. The Parks Department believes these lengthy, technical documents establish City planning efforts justifying development. These documents reflect only the City's intent to allocate resources toward developing specific proposals. It does not establish that these proposals can actually be developed. That determination can not be made until necessary data is developed and analyzed, and public hearings required under SEPA, the SMA, the GMA, or local law, have been completed.</p> <p>Nevertheless, the City is treating the OWW as a "done deal" that is not subject to question. In fact, the Staff Report for the OWW conditional use permit prepared by the Planning Department repeatedly cited to the time and resources expended on this project as justification for permit approval. It is inappropriate for the City to treat preliminary work and expense mandated under state and federal law as a valid justification for moving forward with the project, while ignoring public controversy or valid and timely raised objections.</p> <p>A related and equally important concern is that the Parks Department posted information on a sign located at Boulevard Park, as well as its website and other publicly issued documents, such as the 2010 Waterfront District Draft Sub-Area Plan (Chapter 7, Pages 67, 69; http://bit.ly/f66KKv). that failed to inform the public of its rights. The public was not advised that the OWW was merely a proposed project subject to permit review and public input.</p> <p>A sign was placed at Boulevard Park on May 17, 2010, prior to the public hearing under SEPA and the SMA. The sign stated that "the Boulevard Park Over-Water Walkway will connect Boulevard Park to the new Bellingham Waterfront District (former GP site). This project is included in the City Comprehensive Plan, the voter-approved Greenway Levy III, and the City's Shoreline Master Program." Technical details and project completion dates were listed. (http://bit.ly/hgi9YX). By treating the OWW as an approved project, public input was discouraged.</p> <p>Review of the comment tracker for the OWW documents reveals its controversial nature. (http://bit.ly/eJBKUr). A frequent objection was based on the unnecessary expense of the OWW when an existing parallel multi-modal route,</p>	

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				<p>the South Bay trail, already connects Fairhaven to downtown Bellingham. In addition, there is also a parallel bicycle lane on State Street. (See map at http://bit.ly/gkcQg0; and Bellingham Waterfront Lands Analysis Final Report, 2007, BST Associates, http://bit.ly/gzOxqL, Page 20) .</p> <p>Finally, after the OWW is developed, the City and Port intend to construct a park on the Cornwall Landfill that will contain a shoreline trail. The Parks Department ignores the potential to connect the future park at Cornwall Landfill to the South Bay trail, although this potential is mentioned in the 2010 Waterfront District Draft Sub-Area Plan, (Chapter 7, Page 69, stating that, “this park could be accessed in the future via a pedestrian bridge over the railroad tracks from the South Bay trail.) This connector could be used in lieu of the OWW. However, neither project is a transportation necessity, as trail connectivity already exists in this area.</p> <p>The totality of facts establish that the Parks Department is requesting that the Consent Decree be amended not because the OWW has an extensive planning history, but because it wants the OWW development to move forward quickly, unimpeded by obstacles such as public objection, or the Port’s plan to re-use dioxin contaminated sediment in partial remediation of the Cornwall Landfill.</p> <p>I have reviewed an email indicating that you agreed to the City and Port’s request to include the OWW in the Consent Decree and have advised the Attorney General’s Office of the same. (http://bit.ly/h5grHY). Please do not be misled by the Parks Department. If the Consent Decree is amended to include the OWW, the Parks Department will attempt to use it to squelch any public objections to the Interim Clean-Up Plan.</p> <p>For the reasons above, and behalf of the public interest, I ask that the request by the Parks Department to amend the Consent Decree be denied.</p> <p>Sincerely, Wendy Harris Bellingham, WA</p>	
73	03/11/2011	Request to proceed with WSDOT permit	Wendy Harris 3925 E. Connecticut Street Bellingham WA 98226	<p>I hope that WSDOT will deny the request by the City of Bellingham to process permit applications for the Cornwall Overwater Bridge prior to settlement with the Lummi Nation.</p> <p>The Lummi's have advised the City that they question the need for this project, as well as the adequacy of the mitigation, and that they are unwilling to relinquish their treaty rights without proper compensation. It is my understanding that the</p>	

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			w.harris2007@comcast.net	<p>negotiations with the Lummi Nation are not proceeding well.</p> <p>Accordingly, this is not a request made by the City to allow minor technical details to be resolved prior to a pending settlement. Rather, it is being made because settlement negotiations are stalled. The disrespect for the rights of a sovereign nation reflected in the City's request indicate quite clearly why matters are at a standstill. As a resident of Bellingham, I do not wish to be made an unwilling party to this attempt to violate tribal treaty rights. Nor do I believe it is appropriate to release federal grant funding when it will be used in violation of the City's legal obligation to the Lummis.</p> <p>Please advise me of the determination made by your agency with regard to this request.</p> <p>Sincerely, Wendy Harris</p>	
74	03/12/2011	Marine Over Water Structure	Wendy Harris 3925 E. Connecticut Street Bellingham WA 98226 w.harris2007@comcast.net	<p>Michael: The claim that you are "pursuing science" is disingenuous. That requires nothing more than reviewing the BAS literature. Nor is it improper for you to talk to members of the public. That is not at issue. Instead, you are attempting to obtain an expert opinion through a partial and biased disclosure of relevant facts, after the public hearing on the City's CUP request closed. This is improper and prejudicial to the public's interest.</p> <p>Obviously, my opinion, even when based on BAS, does not hold the same legal weight as an expert opinion for purposes of DOE review or subsequent court appeal. That is why I provide my opinion for free and a consultant charges a fee. That is also why the public is provided the right to review and comment on an expert opinion, as reflected in consultant studies and reports, prior to issuance of a SEPA determination, CUP permit review, etc. An analogous situation would be a court allowing introduction of expert testimony without any right to cross-examination.</p> <p>Even if the expert opinion that you are seeking went no further than your review, it is evidence that will be relied upon by an elected official who casts votes of behalf of the public, without any public process. So let us be honest. What you are pursuing is a free expert opinion that will substantiate your predetermined position. This is simply a political maneuver to counter strong public opposition to this project. My right to participate and hopefully, influence, the political process, is part of the democratic process. That is why there are no restrictions on my right to comment, unlike restrictions imposed on the use of expert evidence or the conduct of elected officials and staff.</p>	

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				<p>However, if the City intends to withdraw its CUP permit from DOE review and re-open the public process to allow comment on a new expert opinion, then I have no objection.</p> <p>Wendy Harris</p> <p>----- Original Message ----- From: MLilliquist@cob.org To: Wendy Harris Cc: city council ; AParks@cob.org ; planning@cob.org ; Wenger, Barry (ECY) ; DPike@cob.org Sent: Saturday, March 12, 2011 10:02 AM Subject: Re: Marine Overwater Structure</p> <p>Wendy,</p> <p>If I understood our conversation correctly, you were saying that the over water walkway project was unwise because it ignores the science on the harmful effects of such structures. You asked if I would read a summary of that scientific work if you sent it, so that I could judge for myself the merits of your claim.</p> <p>I am surprised you would object to my following up on the matter. You say that you wanted to provide me with best available science, so why do you object when I pursue that science to it's source? I hoped you would appreciate that I took your concerns about the relevant science seriously.</p> <p>I am also surprised that you chastise me for seeking out other views and opinions, for that is exactly what I was doing in talking with you. As I said, this is just doing my homework. Professor Simenstad is free to respond or decline on his own free will.</p> <p>I think you might also want to consider that one, two or three council members cannot stop a project nor initiate a paid consultant contract; that takes a majority. I seriously doubt that would ever happen, certainly not unless and until at least one council member did his homework and developed a convincing case as to why we should halt a project mid-course. The City of Bellingham does not want an outside opinion; I do. A paid consultant is not in the cards.</p>	

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				<p>This may be a matter of controversy, with permits pending before various agencies, but it is certainly not a forbidden topic, a quasi-judicial proceeding, or litigation. I don't see how my asking around, talking with you or other people, is inappropriate or jeopardizes anything. If anything, your extensive contacts with agencies is more likely to alter the outcome of the process (which I believe is your goal, after all), than my talking to one outside expert wholly unconnected to the regulatory process. As to the matter of being public, you will see that I CC'd you and many others so that my actions were known.</p> <p>Yours,</p> <p>Michael Lilliquist Bellingham City Council, 6th Ward</p> <p>-----"Wendy Harris" <w.harris2007@comcast.net> wrote: -----</p> <p>To: <MLilliquist@cob.org>, <simenstd@u.washington.edu> From: "Wendy Harris" <w.harris2007@comcast.net> Date: 03/12/2011 12:41AM Cc: "city council" <citycouncil@cob.org>, <parks@cob.org>, <planning@cob.org>, "Wenger, Barry \ (ECY\)" <BWEN461@ECY.WA.GOV>, <DPike@cob.org> Subject: Re: Marine Overwater Structure</p> <p>Dear Council Member Lilliquist:</p> <p>It reflects poor judgment to solicit advice, based on your biased and one-sided interpretation of facts, regarding a project that is not only a matter of public controversy, but which is also pending before DOE and other state and federal agencies. If the City of Bellingham wishes to seek an expert opinion, in addition to the one reflected in the City's consultant studies for this project, then it should do so through a paid contract, where the expert is allowed to fully review all relevant facts. The City has rules regarding procuring consultants, as well as public process obligations. What you have attempted to do is unfair to Dr. Simenstad, as well as the public you serve. It is disheartening to see my good faith attempt to provide you with BAS (cited by the City in its staff report, as well as by DOE) being used in such an inappropriate manner.</p> <p>Wendy Harris, J.D</p>	

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				<p>private citizen U.C. Berkeley class of '82 (undergrad)</p> <p>----- Original Message ----- From: MLilliquist@cob.org To: simenstd@u.washington.edu Cc: w.harris2007@comcast.net ; Jack Weiss ; LBryson@cob.org ; gaustin@cob.org ; SSundin@cob.org ; JWalker@cob.org Sent: Friday, March 11, 2011 10:59 PM Subject: Fw: Marine Overwater Structure</p> <p>Prof. Simenstad,</p> <p>I am a member of the City Council of Bellingham, WA, and I am hoping to benefit from your opinion and expertise on near-shore aquatic environments and their inhabitants. Your name came to me because you were coauthor of a 2001 white paper summarizing the effect of over water structures, prepared for the Washington State Transportation Commission.</p> <p>In Bellingham we are moving towards a significant over water walkway as part of our long term goal to re-connect residents of the city with our bay, which has been degraded and cut off for each other by historic industrial uses. A large part of the funding and motivation comes from our voter-approved Greenways Levy, third in a series, intended to create greater public amenities such as linear parks and green trails throughout the city. The motivation has been both to provide natural recreational opportunities and to help move our people towards less car-dependent and less environmentally-damaging ways of life.</p> <p>It is no small irony, then, that the proposed over water walkway -- designed to allow people "access" to the shore yet keep them off the sensitive intertidal zone itself -- has been opposed by some as environmentally damaging. Here's where you come in.</p> <p>Our city staff believes that the structure has been designed to minimize or avoid negative impacts on near-shore life, whereas some have claimed that studies (like those you summarize) indicate that over water structures are harmful, period. My own no-professional opinion is that the sort of structure we are planing is not the sort of structure that you were talking about. I suspect that you were talking about docks, ramps, jetties and boardwalks within the intertidal zone and near</p>	

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				<p>shore. Can you comment? Are virtually all over water structures categorically harmful, and is that harm mitigatable or avoidable through design?</p> <p>Briefly, the walkway is intended to be about 14 feet wide and 2,350 feet long, running across a portion of Bellingham Bay parallel to the shoreline in a shallow arc about 400-500 feet offshore . The walkway would be supported about 12 feet above mean water level [top of deck +16.8 feet mean lower low water (MLLW)] by approx. 48 "bents" spaced 50 feet apart (total of ninety-six 24-inch piles). The deck will be solid pre-cast concrete spans except near the shorelines (eel grass areas) where the deck with be perforated grating to allow light passage. For more details, see</p> <p>http://www.cob.org/government/departments/parks/projects/boulevard-over-water-walkway.aspx</p> <p>In particular, 30% design drawings at</p> <p>http://www.cob.org/documents/parks/development/projects/boulevard-over-water-walkway-30%25-design-drawings.pdf</p> <p>Given the above: 1) Will the negative shading effects on plants and animals be significant and/or unmitigatable? 2) Will the support structures alter tidal and wave action enough to cause noticeable harmful environmental disturbance? 3) Will the presence of the structure and its users drive away the natural wildlife (aquatic, avian, marine mammal) from most of the area between shore and the walkway? (The shoreline is inaccessible by foot along that stretch.)</p> <p>I understand it is difficult to shoot from the hip, and awkward to be asked to use your professional judgment without the usual diligent background research. Nonetheless, I would greatly appreciate any information or guidance or heuristic by which to judge this matter.</p> <p>Michael Lilliquist, PhD Bellingham City Council, 6th Ward</p> <p>UW class of '87 (undergrad)</p> <p>-----Forwarded by Michael Lilliquist/executive/cob on 03/11/2011 10:07PM -----</p>	

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				<p>To: <MLilliquist@cob.org> From: "Wendy Harris" <w.harris2007@comcast.net> Date: 03/11/2011 09:34PM Subject: Marine Overwater Structure Summary</p> <p>Hi Michael, as we discussed, I am forwarding the executive summary from the marine overwater structure that was also cited as BAS in the Staff report for the OWW. Wendy http://www.wsdot.wa.gov/research/reports/fullreports/508.2.pdf</p>	
75	10/10/2011	Re: Boulevard over water walkway	Debra Lee Debra.Lee@wwu.edu	<p>Gina, Thank you for the update. Congratulations on obtaining the Use permit, approval and concurrences. They are difficult to obtain. The walkway will introduce more people to the foot of Cornwall and improve that area overall – even encourage more people walking the trail to park or have additional activities in the downtown Bellingham area. Best, Debra Lee</p>	
76	01/20/2012	General - Over Water Walkway	Harvey Schwartz 360-733-6046 2501 38 th Street Bellingham, WA 98229	Strongly in favor project (via phone call discussion)	
77	01/10/2012	Over Water Walkway Support	Parks and Recreation Advisory Board Members: Geoff Middaugh, Chair Julie Guy, Vice Chair William Hadley Mike Anderson Dominique Zervas Pam Holladay Adrienne Lederer Rosalie Nast	<p>Dear Mayor Linville, First of all, we congratulate you on becoming our Mayor. We look forward to maintaining a regular communication with you and your staff so that Bellingham can continue with one of the best Parks and Recreation systems in the nation.</p> <p>Second, we would like to bring to your attention the proposed Boulevard Park/Over Water Walkway. As your Parks and Recreation Advisory Board, we have been closely following the substantive issues, as well as the complex regulatory process, that accompany the development of this very important proposed addition to Bellingham's parks system . (We publicly articulated our position on the related Shoreline conditional use permit in the attached December 2010 letter to the Hearing Examiner.) Because of the level of our involvement in this project, we may be uniquely suited to provide you with additional background information regarding the issues and processes that have been addressed to date.</p> <p>Third, and also related to the proposed Over Water Walkway, we are concerned that progress has come to a halt. At this time, the proposal is under review by the</p>	

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			Diane Blake William Langley	<p>Lummi Nation; we believe that under your leadership, a meaningful and respectful executive level conversation with the Lummi Tribe can be had; their questions and concerns, if any, can be addressed; and this important, popular project can go forward.</p> <p>The Over Water Walkway, as proposed, is broadly supported by the citizens of Bellingham and other area residents. Additionally, we are confident that completion of the Walkway will further enhance the annual Coast Salish Day events at Boulevard Park, where the rich history and culture of the Lummi Nation and other Coast Salish peoples is celebrated.</p> <p>Thanks you for your help and please let us know how we can assist you.</p> <p>BELLINGHAM PARKS & RECREATION ADVISORY BOARD: Geoff Middaugh, Chair Julie Guy, Vice Chair William Hadley Mike Anderson Dominique Zervas Pam Holladay Adrienne Lederer Rosalie Nast Diane Blake William Langley</p>	
78	03/06/2012	Over Water Walkway Support	Ray Ballweg President, South Hill Neighborhood Association	<p>Dear Mayor Linville,</p> <p>The South Hill Neighborhood Association (SHNA) would like to congratulate you on becoming our mayor. We thank you for reaching out to the neighborhoods via the Mayor's Neighborhood Advisory Commission (MNAC) and your efforts to include us in discussions on all issues of interest to neighborhoods. We look forward to a long and valuable partnership.</p> <p>At this time, SHNA is asking you to support the Over Water Walkway project and to emphasize the importance of this project which is so popular within the City of Bellingham, the South Hill Neighborhood and to visitors to our great City.</p> <p>At our January 2012 meeting, the SHNA once again voted unanimously to support the continuation of planning and construction of the Over Water Walkway in and adjacent to Boulevard Park. Since the walkway is situated primarily within the South Hill Neighborhood, our members are highly interested in the project. Many</p>	

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				<p>people use the Taylor Dock or Bay Trail daily or weekly and know by experience how much it is used and appreciated by many citizens: walkers (many with their dogs), runners and cyclists. Completion of this project will bring the Fairhaven, South Hill and Waterfront neighborhoods closer together and provide more meaningful access to our valuable shoreline. In addition, an extended walkway will allow for increased use and expand a popular visitor attraction for the City. It will become a signature attraction for Bellingham - a highlight of our urban environment.</p> <p>We have watched the continued planning of the Parks Department and fully support the City's efforts to complete the entire trail over the water. The SHNA understands the regulatory process is complex and difficult, but we feel the end result will justify the effort. We have attended meetings and had discussions with the City planners and know that there are additional meetings ahead. The project has our strong support and we believe it can be done correctly while meeting all environmental regulations.</p> <p>The SHNA requests that you support the City's effort and continue to place a high priority on funding the Over Water Walkway to completion.</p> <p>Sincerely,</p> <hr/> <p>Ray Ballweg President, SHNA</p>	
79	8/14/2012	overwater walkway	Debra Lee, MBA, ARM Certified Global Business Professional Center for Economic Vitality Western Washington University 119 N. Commercial Street, Suite 175	<p>Hello Gina,</p> <p>I notice the COB website was updated to show a construction start date of Summer 2013 for the Bellingham overwater walkway.</p> <p>The expansion of this walkway trail will do a lot to increase public use of the downtown area. It will bring a healthy vital mix of citizens including families to the area. It will help downtown retailers, and help encourage visitors in general. I hope the project will continue on time.</p> <p>Is it still slated for Summer 2013?</p> <p>Thank you,</p> <p>Deb</p>	

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			Bellingham, WA 98225-4455 W: 360.733.4014 x 133 F: 360.733.5092		
80	2/3/2013	Bellingham Bay Bridge Landing Concerns	Wendy Harris w.harris2007@ comcast.net	<p>As you are probably aware from review of the Cornwall Avenue Landfill Interim Action completion report, August, 2012, difficulties were encountered during the construction process. https://fortress.wa.gov/ecy/gsp/Sitepage.aspx?csid=220.</p> <p>In particular, the soil on site lacked adequate structural integrity and needed to be replaced with a large volume of imported fill. Most importantly, the Port inadvertently excavated the hazardous landfill refuse that the interim action was intended to cap. The refuse was stockpiled, analyzed and removed to an upland disposal facility. The Port report was drafted to deemphasize this event, but the significance of this mistake speaks for itself.</p> <p>I am not confident that site analysis and design plans for the interim action were adequate to protect public health and safety. No information was provided regarding the landfill refuse analysis or whether this resulted in environmental contamination of air, soil or water.</p> <p>This makes me particularly concerned regarding the design and development of the overwater pedestrian bridge abutment that the City intends to construct at the Cornwall Landfill landing site. I am also concerned that the landing armoring could pierce the plastic sheet that is intended to protect the environment from dioxin contamination. As you know, cement stabilization does not prevent dioxin migration into the environment.</p> <p>The public has already been exposed to unnecessary risk from the interim action construction, and remains at risk from the "beneficial reuse" of dioxin contaminated soil that has been dumped at the site, covered only with a plastic sheet and sandbags.</p> <p>What revisions and modifications do you intend to make to the bridge abutment design now that we know hazardous landfill refuse exists in areas not previously anticipated? How will you ensure that dioxin is not released into the environment? My concerns are amplified because the City attempted to submit design plans for the armoring of the landing sites to WDFW without considering</p>	<p>Thank you for your email, Wendy.</p> <p>We have not yet submitted a Shoreline Substantial Development Permit and the design drawings are only at a preliminary design level. The current design includes a fill section (no cut into the landfill). If piles are used and/or if the landfill disturbed in any way, a design for proper containment will be developed.</p> <p>When the project progresses to the next stage, a complete permit package (Building Permit, Shoreline Substantial Development, etc) will be prepared for review by WDFW, Ecology and all other applicable agencies before the final permits are submitted.</p>

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				<p>the necessity of MTCA site cleanup action coordination.</p> <p>As a very concerned member of the public, I look forward to your response.</p> <p>Sincerely, Wendy Harris</p>	
81	3/24/2013	Waterfront/Overwater Bridge	Wendy Harris w.harris2007@comcast.net	<p>http://www.whatcomwatch.org/php/WW_open.php?id=1537 Above please find my link to an article published in the Whatcom Watch regarding the overwater pedestrian bridge connecting Boulevard Park and the Cornwall Landfill. I am submitting this as part of the public record.</p> <p>I have raised numerous objections and concerns regarding the pedestrian bridge for several years and my concerns have been ignored, as have similar concerns raised by Resources, Sierra Club, and People for Puget Sound. The pedestrian bridge is included in the Waterfront District Sub-Area Plan, and in the short time provided for public comment, at least 2 citizens have objected to this project. Objections are also reflected in a post and public comments at the Northwest Citizen, where this project is referred to as the "bridge to nowhere." http://www.nwcitizen.com/entry/valuable-article-in-the-whatcom-watch.</p> <p>The 8 million dollar bridge hijacks 4 million dollars from the Greenway Levy III fund intended for use in developing a waterfront trail. What we have been given instead is an engineered structure built over leased DNR aquatic lands. The public has expressed a very strong desire for more waterfront parks and trails and for natural shoreline features. This project does not respond to public needs. Regardless, the Parks Department project is moving forward with bridge.</p> <p>The Parks Department has avoided meaningful public input during the development process, and this tradition continues forward. The Waterfront District Sub-Area plan reflects the overwater walkway as a "done deal." In fact, the city has not yet received state and federal approval, and the project is still subject to a NEPA review. This fact is not disclosed to the public.</p> <p>Moreover, the overwater bridge was not included in the Waterfront EIS analysis, even though the port quite recently, and without public input, revised the Waterfront EIS through an Addendum. Thus, the environmental impacts of the bridge have never been reviewed as part of the Waterfront District redevelopment. The City approved the overwater bridge pursuant to a SEPA Mitigated Determination of Nonsignificance, and failed to address cumulative</p>	<p>Bellingham decision makers, including the Mayor and City Council, make complex decisions that balance aspects of technical environmental conditions, public opinion, as well as the social and economic benefits to all of our citizens.</p> <p>In a March 2011 letter from the Washington State Department of Ecology to the City of Bellingham Parks Department, Ecology stated that, "marine mammal and avian wildlife will not be unduly disturbed. The large separation from the nearshore eelgrass and macroalgae beds, juvenile salmonid migratory corridor, and marine bird foraging areas provides an adequate buffer from human activities along the walkway."</p> <p>Killing of marine mammals, is not mentioned in the Biological Assessment for this project. WSDOT observed that the city may be required to obtain a marine mammal permit due to temporary noise impacts as a result of pile driving activities.</p>

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				<p>impacts from other waterfront projects. This SEPA gap must be addressed before the Waterfront District Sub-Area Plan moves forward.</p> <p>Currently, the city's permit application and FWA grant funding is on hold with the Washington Department of Transportation until the City obtains Lummi concurrence. There has been no settlement after almost 2 years of negotiation, and at one point, WSDT attempted to close its file on this case. Again, none of this is disclosed to the public.</p> <p>Perhaps the city should have consulted with the Lummi Nation before it went forward with plans that violated Lummi treaty rights. Even more troubling is the fact that city hired a lobbyist to obtain earmarked federal funds for a transportation project that violated tribal treaty rights, indicating that the city was not forthcoming in its grant application.</p> <p>The Lummis correctly assert that this bridge is unnecessary, environmentally harmful and that the city has failed to mitigate impacts from the project. The redundancy of the bridge is clear from review of a map showing that the bridge runs parallel to the South Bay Trail, as well as a dedicated bike lane connecting Fairhaven to Downtown. And because the Waterfront Sub-Area Plan calls for public shoreline access at both Boulevard Park and Cornwall Beach, the bridge is not needed for public access to water, as alleged.</p> <p>The city has not been forthcoming with the public regarding the impacts to marine wildlife or its refusal to mitigate for habitat loss. This is exemplified in the take permit that the city has either filed, or is inquiring into, with regard to the incidental killing of harbor seals that rely on haul out logs in the project area. The city is particularly tight-lipped on this issue, which I learned about only from review of records received in response to a Public Record Act request.</p> <p>The bridge is being built without consideration of impacts to dwindling and threatened seabird species. In its updated SMP, the city documented that the project area is of significant importance and vulnerability for water birds, with high concentrations of marine birds noted during the winter. However, during its SEPA review for the overwater bridge, the city was silent on this issue. The project area includes state-designated priority estuarine habitat which is not being protected.</p> <p>A Biological Evaluation was conducted for this project, as required under the federal Endangered Species Act (ESA), but it failed to review many state-priority fish and wildlife species not listed under the ESA. It ignored the importance of the Bellingham Bay as habitat for migrating birds and wintering seabirds. Yes, even</p>	<p>The biological assessment prepared by the city's consultants does not state that killing of any species will occur as a result of this project.</p> <p>Included below are excerpts from the <i>Findings of Fact and Conclusion of Law and Order</i> prepared by the City of Bellingham Hearing Examiner with regard to issuing a Notice of Decision for a Conditional Use Permit for the Over Water Walkway project:</p> <p>"Adequate opportunity for public comment was provided..." pg. 37</p> <p>"The applicant as adequately addressed issues relevant to the Shoreline Conditional Use Permit..." pg. 38</p> <p>"The applicant has demonstrated compliance with the requirements of the SMP..." pg. 39</p> <p>"The applicant has demonstrated compliance with the requirement of WAC..."pg. 39</p> <p>"The applicant has demonstrated that the proposal can comply with the requirements of the CAO..." pg.</p>

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				<p>with this limitation, the Biological Evaluation determined that there would be likely adverse impact to an ESA-designated "Evolutionary Significant Unit" of Chinook salmon, as well as Boccaccio, yelloweye rockfish and canary rockfish. The city and the port have continuously promised that waterfront redevelopment would improve and restore the shoreline and habitat. Clearly, just the opposite is occurring. The city lists the arc design of the pedestrian bridge as a restoration project in the Waterfront District Sub-Area plan. This ignores the harm that results from constructing an overwater structure. Moreover, the arc design will act as a barrier that discourages fish and wildlife from utilizing shoreline eelgrass, and it will increase predation on native fish species.</p> <p>The pedestrian bridge, in totality with other waterfront development, will significantly increase the presence of people, pets and recreational and commercial watercraft. The port and city mitigate for impacts during construction, yet the greatest impacts to shorelines and bays occur after construction when there is an increase in the intensity of human activity. Compensatory mitigation is required for these impacts.</p> <p>The Waterfront District EIS contemplated reduced industrial use, with this reduction offsetting the increase in recreational boating. Updated plans bring back industrial use and reemphasize the need for a working port. As a result, there will be increases in both recreational and industrial boating and shipping traffic that are not being mitigated.</p> <p>Public access and shoreline restoration are conflicting goals. Yet, with the exception of the overwater walkway and one other project, all remaining habitat restoration projects identified in the Waterfront District Sub-Area Plan are also the site of public access. An effort must be made to separate these uses, so that there will be no net loss to the biodiversity of Bellingham Bay and its near shores. In short, the pedestrian bridge is unnecessary and harmful. I recommend that this project be abandoned and that the city and port instead use the embayment as a bird and marine animal sanctuary. The South Bay trail is above this area and could be modified to allow for public viewing of wildlife. It is unclear to me why the value of ecotourism is being overlooked in waterfront planning.</p> <p>I understand that public shoreline access is incredibly popular and that both the port and the city will be under intense pressure to maximize public access. I urge you, however, to met the legal requirements of the city's SMP and design a plan that results in no net loss to all shoreline functions, which includes fish and wildlife habitat. I believe that with education, most residents and tourists will want to assist in habitat and species recovery. Please give us a waterfront plan, one without an overwater bridge, where this is possible.</p> <p>Sincerely,</p>	<p>40</p> <p>"The applicant has demonstrated consistency with the policies of RCW..." pg. 39</p> <p>"...the proposal will not cause significant adverse effects to the shoreline environment..." pg. 39</p> <p>"The public interest will not suffer substantial detrimental effects from the proposal, but will be served by it..." pg. 39</p>

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82	04/25/2013	Regarding the County Health Board Policy on Cornwall Beach	Tim Paxton 2120 Ellis St. Bellingham, WA 98225 tim_paxton@yahoo.com	<p>Wendy Harris</p> <p>FWD to Bellingham Planning Commission Members.</p> <p>Regarding the County Health Board Policy on Cornwall Beach.</p> <p>Dear County Council Members,</p> <p>As the persons responsible for protecting the Public Health of Whatcom County residents and visitors, I am writing about the alarming plans to place an "Over water walkway" adjacent to some of the most heavily contaminated piles of dirt in North America.</p> <p>You may be aware that the Mercury contamination levels rival that of Minimata Bay in Japan. The toxic Dioxin levels in this area are off the chart. Anecdotally, Registered Nurses have personally surveyed the beach with Gieger Counters and found radioactive readings.</p> <p>In addition. Whatcom County's previous chief Health Supervisor, Dr. Frank James, had at one time ordered a 6 foot chain link fence and a full time security guard to prevent the public from being endangered by exposure to this toxic area. He was "let go" and his protection order cancelled. The health concerns remain on his part.</p> <p>May I suggest that you take 1 minute to use Google Images to take a look at Minamata Mercury or Dioxin / Agent Orange to give you quick idea of what exposure you will be approving by your inaction on this issue.</p> <p>In addition, this planned walkway will bring people in adjacent contact to areas known to have lead, cadmium, furans, hexavalent chromium and other toxic contaminants.</p> <p>If this allowance of planned exposure is your policy, do nothing as the County Board of Health and let this planned and predictable toxic exposure proceed.</p> <p>However, since you are now on written notice of this potentially disastrous idea to expose children, pets, tourists, local residents, etc to known toxic waste you are also accepting unlimited financial liability for inaction on behalf of Whatcom County tax payers.</p>	

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				<p>It is my understanding that Knowing Endangerment is illegal under Federal Law and you may be exposing the County and City to enormous legal liability.</p> <p>It appears that Wendy Harris has also made this information available in detail to both the County and the City and on line. It is widely available on the Internet, from Friends of Whatcom files, from GP Toxic Release inventories, Dept of Ecology records and many other studies.</p> <p>As a concerned resident and parent, I plan to explore all available legal, public disclosure and publicity avenues to prevent this apparent County Health Board Policy of planning on exposing people and pets to known high levels of toxic wastes.</p> <p>I hope you take this Public Health matter seriously and ask your Health Department if they are personally willing to guarantee that no toxic exposure will take place?</p> <p>Thank you for your kind attention to this matter.</p> <p>Sincerely,</p> <p>Tim Paxton 2120 Ellis St. Bellingham, WA 98225</p> <p>bcc: legal, press, State DOH, EPA Region 10, DOJ, BC, Exec, COB, CWA</p>	
83	06/24/2013	Over-water Walkway - Time to fold	Kevin Cournoyer 2514 West St. Bellingham, WA 98225 M (360) 305-4937 (360) 527-1097	<p>Hi,</p> <p>I reexamined all the documents related to the Boulevard Park to Cornwall Avenue Over-Water Walkway. I've been very clear about my objections to this project. I won't rehash my arguments, other than to say that this remains one of the dumbest capital project ideas in the history of Bellingham.</p> <p>Years have gone by and the Lummi Nation remains a force the COB cannot reckon with on this project. They're not budging from their well-reasoned arguments opposing this project. And without the support of the Lummi Nation, this project will not happen. To suggest that negotiations with the Lummi Nation are "ongoing" can only be characterized as [expletive removed by park staff]. The</p>	

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				<p>public deserves better. The public deserves the truth.</p> <p>Please work with the mayor and the city council to remove this project from your list of "current development projects." You have to begin the work of aligning expectations with reality----namely, the reality that the Over-Water Walkway ain't gonna happen. It's also important to manage your staff time and resources wisely. To spend another dime on this foolish project is at odds with your solemn responsibility to manage public money wisely. Your efforts on the project are now demonstrably quixotic. Please wake up.</p> <p>I appreciate your time and consideration.</p> <p>Sincerely, Kevin Cournoyer</p> <p>2514 West St. Bellingham, WA 98225 M (360) 305-4937 (360) 527-1097</p>	
84	10/08/2013	Overwater Walkway/Corn wall Landfill/Water front Development Plans	Wendy Harris w.harris2007@comcast.net	<p>I found Council Member Lehman's questions regarding the overwater walkway, during yesterday's waterfront work session, particularly interesting. The staff's responses reflect a continuing pattern of ignoring treaty rights, public process and habitat and wildlife impacts from waterfront redevelopment.</p> <p>Council Member Lehman questioned whether the overwater walkway had ever been officially approved by the council. The answer is no. It has been funded in the TIP (Transporation Improvement Plan), but that allows the staff to plan and develop the project. It does not represent official approval of the project developed by the staff.</p> <p>In fact, this project has been on hold for the last 2 years due to the city's failure to obtain approval from the Lummi Nation for impacts to its treaty rights, something that should have been obtained through co-management at the very beginning of development. Under the last two administrations, the city has been unable to obtain Lummi approval, largely due to its refusal to protect treaty rights by mitigating project impacts on fish and wildlife. How unfortunate that these concerns, also raised by myself and other residents 2 years ago, were ignored by the city and the Hearing Examiner.</p> <p>Most recently, the Lummi filed with DOE an objection to the MTCA cleanup plan proposed for the Cornwall site, again based on failure to consider and value treaty</p>	

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				<p>rights. This complicates matters and makes it even less likely that there will be a speedy resolution to the continuing conflict over development of the overwater walkway. This will also have implications for development of other waterfront areas that rely upon federal funding and grants.</p> <p>Thus, I found it troubling that the Parks Director advised the city council that the administration essentially considers the overwater walkway a done deal that will be moving forward. I would like to hear a more detailed explanation of the city's position.</p> <p>Without Lummi concurrency, which is necessary before the Washington State Department of Transportation can process the city's application and release federal FHA funding, this project can not move forward. It is also my understanding that there are time constraints attached to the federal funding that could be jeopardized by on-going delays with this project.</p> <p>Finally, as you have may have observed, the overwater walkway is a matter of concern to many residents commenting on the waterfront planning process. The administration should not be determining outcomes for projects that have not been through final public process and approval. Here, the NEPA process for the overwater walkway has not even begun. (And the WSDOT refuses to reveal how public notice for the NEPA process will be provided, leaving the public unable to track the status of the environmental review.)</p> <p>I would like to thank Council Member Lehman and the city council for considering these issues. I hope that you will consider the staff's responses, and in light of the concerns that are raised, pursue this issue further. The 4 million dollars in Greenway Levy III funds allocated to the overwater walkway could be spent developing the waterfront in ways that protect treaty rights, habitat and local wildlife.</p> <p>Sincerely, Wendy Harris</p>	
85	10/15/2013	The OWW is NOT an approved and finalized project	Wendy Harris w.harris2007@comcast.net	<p>The administrative staff continues to manipulate the waterfront planning process to its own advantage. Waterfront planning must be reflected in the waterfront district subarea plan, approved and enacted by the council, and clearly, this should include the overwater walkway.</p> <p>If the overwater walkway is not part of the waterfront planning process, why is it</p>	

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				<p>continually discussed and included in the waterfront discussion? Why is waterfront funding being used to pay for this project? Why was \$4 million in Greenway Levy funds, identified by voters to create waterfront district trails, allocated to the OWW? Why has the OWW been identified, along with the Cornwall Park, as a priority waterfront project? Why is the city holding a public meeting for the Cornwall Park master plan which includes the overwater walkway? These are the real questions that govern the matter of whether the OWW is an independent, predetermined project, or whether it is part of the current and on-going waterfront planning process.</p> <p>At the same time, staff attempts to hide behind legal fiction and technicalities to avoid accountability. It asserts that the OWW is part of the South Neighborhood District, and therefore, not subject to waterfront district planning review. Staff should not be allowed to pick and choose when it will treat the OWW as a waterfront district project, and when it will not.</p> <p>The city is attempting to piecemeal its obligations in a manner that is contrary to SEPA provisions. The reality is that the OWW impacts Bellingham Bay, the same marine resource that will be impacted by all other waterfront development. Marine resources can not be divided by artificial neighborhood boundaries. All waterfront projects, where ever located, are ecologically connected and must be treated as such. This is particularly true when they are drawing upon the same funding sources and staff resources for implementation, and are moving forward concurrently.</p> <p>Please consider these other factors as well:</p> <ul style="list-style-type: none"> • There has been substantial public objection and controversy over this project by the environmental community, the Lummi and local residents, which the city has ignored. Please review the public comment tracker (76 pages) and the SEPA Comment Response Matrix (36 pages) found on the linked project website. The City is falsely stating there is overwhelming support for this project. http://www.cob.org/government/departments/parks/projects/boulevard-over-water-walkway.aspx. • There has been no NEPA review, or at least a public determination by the WSDOT that it will not be conducting a NEPA review. Public controversy is an important concern in making a NEPA classification. Neither the state nor the city will advise me of when and where the information regarding the NEPA process will be published. 	

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				<ul style="list-style-type: none"> • The city requires WSDOT approval for the OWW, and my last information is that the city permit is still on hold. The city is proceeding with OWW development without the final approval required by the state. • The city and the Lummi have not publicly announced a resolution to the conflict over OWW impacts to treaty rights and until this is settled, the OWW can not move forward. • Because the OWW impacts the same marine resource as waterfront redevelopment, it should be included in the EIS analysis for Bellingham Bay, particularly with regard to cumulative impacts. It was not. • Overwater walkways are highly discouraged by DOE because they are very damaging to the marine environment. The city is planning no mitigation other than a required eelgrass project, and has it has filed a marine mammal take permit due to impacts on harbor seal habitat. • The city has run into continued problems with its eelgrass mitigation project required by WDFW for the OWW, refusing to make adjustments in analysis and planning necessary for proper mitigation. It failed to consider the impacts of the OWW landing at the Cornwall Landfill, and WDFW put this project on hold pending permit approval by WSDOT. • We have recently learned that the city does not plan to review habitat connectivity as part of waterfront planning, and that it has allocated zero waterfront funding to shoreline restoration projects. Habitat connectivity is particularly important for an overwater structure that is a half mile long, and is connected to existing overwater structures because this amplifies the harmful ecological impacts. <p>Is anyone going to hold the city administrative responsible for its manipulation of the planning process? If the OWW is a done deal, it is not entitled to consideration as part of the waterfront planning process, and it is certainly not entitled to any portion of waterfront funding that becomes available. Instead of providing a meaningful response to public concerns, the staff summarily dismisses the credibility of those raising objections, and unfortunately, the city council appears to be accepting of this.</p> <p>Please hold the staff accountable for the contradictory position it has taken on the OWW. Requesting waterfront handouts while proclaiming project autonomy is unjustifiable and not in the public's best interest.</p> <p>Sincerely</p>	

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				Wendy Harris	
86	10/16/2013	More problems with Bellingham Overwater Walkway planning, permits and funding	Wendy Harris w.harris2007@comcast.net	<p>This supplements my concerns regarding staff assertions that the overwater walkway is a "done deal." In fact, the state permits necessary for this project were placed on hold over three years ago, pending compliance actions by the staff. And this remains the current status of the project.</p> <p>In particular, the hydraulic permit needed by the city for the overwater walkway requires an eelgrass mitigation project. The WDFW placed the permit on hold after the city failed to take corrective action despite several meetings and discussions with the city's consultant in the summer of 2010. (See attached letter from WDFW to COB.)</p> <p>The defects in the city's proposed eelgrass mitigation are significant. The city applied incorrect work windows to protect local fish species. The plan failed to ensure adequate post-development monitoring in several ways. And the city failed to provide a contingency plan in the event of mitigation failure. Clearly, mitigating the impacts of waterfront development is an exceedingly low priority for the city, as further reflected in its lack of waterfront district plan analysis and funding for species and habitat protection.</p> <p>Therefore, I take offense at the staff's claims that this project is a done deal, and that anyone (i.e., me) arguing otherwise is incorrect. Instead, the wisdom and timing of the staff's additional planning efforts for the OWW, including the public discussion tonight with regard to the Cornwall Park master plan, is called into question. It is highly inappropriate for the city to move forward with developing a park master plan for the Cornwall Landfill when the underlying Waterfront District Subarea Plan, which approves park uses, has not been finalized and enacted. It is also inappropriate to move forward with park master planning when the MTCA cleanup action for this site has not been selected and announced by DOE yet. Finally, it is inappropriate to move forward with OWW planning we have been notified that conflicts regarding Lummi treaty rights have been resolved.</p> <p>The city administration has established a pattern of moving forward with waterfront district projects prior to completion of the waterfront district subarea plan, and contrary to the wishes of the public, the tribes and our elected officials. It is quite another matter to allow this type of rogue planning to continue in the face of the city's failure to comply with state law.</p> <p>As one of your constituents, I am once again forced to request that you hold the</p>	

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				<p>mayor and her staff accountable for their conduct. Please discuss with them, in more detail, whether staff actions pose an actionable threat to public due process rights. Thank you for considering my concerns, (rather than summarily dismissing then as does the administrative staff), many of which are documented in the attached letter from the WDFW.</p> <p>Sincerely Wendy Harris</p>	
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