

TO: Joe Burcar, Island County Department of Planning & Community Development

FROM: Friends of Holmes Harbor (FOHH)

SUBJECT: Response to NBBBI 15 Year Master Plan Supplemental Information
File 387/04 SPR/SVAR
File 387/04 SPR and Type III Var

DATE: June 10, 2005

We are submitting comments on the 30, 60, and 90 day responses by NBBBI to Island County's request for additional information on their 15 year Master Permit Application (MPA). Although NBBBI did provide information and Best Management Practices documentation as part of its responses, the additional information remains insufficient to consider the MPA complete. Further, based on the submitted MPA and the additional information, it is more obvious than ever that an Environmental Impact Statement must be completed. The County should issue a Determination of Significance in regard to the MPA

We agree with NBBBI that it is difficult to separate the requirements for additional information by application due to the overlap in issues between applications and agency comments. FOHH requests that a matrix be prepared by the County that concisely shows each requirement, the agency responsible, NBBBI's answer, and whether the answer is satisfactory in the opinion of the County. As two examples for items in the proposed matrix, there is no description of the design of the modular buildings including, but not limited to, foundations, HVAC, water supply, etc. and, NBBBI still says they will remove 'large' crustacean particles after periodically cleaning the surface of the rails. This will leave debris on the bottom causing an impact but NBBBI does not describe any mitigation. The County should have a mechanism to track requirements at such a detailed level.

We would also like to be able to comment on the matrix and the opinion of the County. It is the only way to ascertain whether all information has been submitted by NBBBI and whether NBBBI meets all applicable requirements.

1. Wetland Boundary

The first item of concern is the boundary of the wetland east of the boatyard. There does not appear to have been a confirmation by the County of the exact location of the boundary and whether this buffer is tied to the recent court ruling on wetland buffers. However, lack of a definitive boundary prevents the MPA from being complete in regard to delineating the wetland, and determining the amount of open space and buffer, providing the parking lot location and determining storm water mitigation (a partial list). Until this issue is resolved, NBBBI submissions regarding the wetland are incomplete.

2. Modular vs. Fixed Building

In the 90-day submission, NBBBI states that it is reconsidering the proposal to include modular buildings: "Further investigation is in progress to determine whether NBBBI should continue

planning for modular buildings or determine placement for one or more fixed buildings. NBBBI intends to resolve this over the next few months.” Such a significant change in the proposal requires the current MPA application to be put on-hold until this issue is resolved. NBBBI has described the protocols and sequencing of modular buildings during construction of multiple vessels. That entire analysis will become moot, along with the site analysis, engineering drawings, and the 15 year phasing of modular buildings if NBBBI decides to instead implement “one or more fixed buildings.”

3. The MPA materials fail to describe mitigation to be in place before the modular buildings are used in years 1-8

The MPA additional information “Building Design” table describes modular buildings that are not fully implemented until the final phase III, which is to occur between years 8 to 15. Buildings #37 through #43, 68,250 sq. ft. of the total 172,449 sq. ft. of gross footage area, will not be added until Phase III. During years 1 to 8 however, the MPA proposes that NBBBI be approved to use the buildings, but does not suggest that mitigation for noise, air particulates, light pollution, etc. be in place during years 1 to 8 for all work at NBBBI. This is a major loophole and positions NBBBI to enjoy approval for full blown heavy industrial shipbuilding on a very large scale yet the community and neighbors will be forced to endure full blown heavy industrial shipyard impacts without the mitigating controls in place. Moreover, NBBBI’s “Maximum Vessel Construction Configuration Forecast” can occur at any time during the expansion and would most certainly lead to out-of-doors ship building activities—and greater impacts—unless the new buildings are installed prior to Stage III. Without such a commitment, the greater level of impacts inherent in outdoor construction must be disclosed, discussed, and mitigated.

4. Incomplete information has been provided regarding storm water

As of its 90-day submission, NBBBI has not yet sited the storm water infiltration pond. The exact size and placement of the infiltration pond is to be determined in the plan to upgrade the storm water system. Evidently, NBBBI is working to complete the storm water plan, but the County should not move the MPA forward until the plan is completed and submitted by NBBBI. A complete hydro-geological study is to be completed in conjunction with NBBBI’s State Waste Water Discharge Permit. . That has not been submitted yet either (as DOE has recently noted).

The USEPA and WDOE Emergency Spill Cleanup Requirement are incomplete until the Storm Water Discharge Permit is completed.

The Surface Water Drainage and Storm Water Plan is not complete. Runoff is potentially a major problem due to the poor flushing action in Holmes Harbor. NBBBI should be required to design their system to handle a 25 year maximum flood event, not a lesser standard.

NBBBI concludes that they will not discharge storm water into Holmes Harbor using a pipeline attached to the rail system and therefore the BE and BSA are not necessary. Quite the contrary situation exists. The subsurface rails on Shoreview Drive will form an artificial channel for storm water to flow into Holmes Harbor. If NBBBI storm water is directed to the County outfall pipes,

then NBBBI is discharging into Holmes Harbor. It is inconceivable that NBBBI can contain all the storm water runoff from the proposed buildings and impervious surfaces. Despite NBBBI statements, the BE and BSA must be completed. The MPA is incomplete in this area.

5. Incomplete information has been provided regarding the TESC

The Temporary Erosion and Sediment Control Plan (TESC) for the earth and rock ramp removal is dependent on the Island County Critical Area planner. There will be no TESC for at least 30 days. No progress can be made on the MPA until the TESC is complete.

The Solid and Hazardous Waste Management Plan is incomplete until the County confirms the wetland boundary. No grading plan or TESC can occur before the wetland boundary is resolved.

6. Incomplete information has been provided regarding geotechnical analyses

Island County Public Works and Road Division (the County Engineer) is requiring geotechnical analysis of the earth below Shoreline Drive prior to consideration of the preliminary engineering for the Shoreline Drive portion of the rail system. No progress can be made on the MPA until the geotechnical analysis is complete. Also, NBBBI must still provide the borings and providing the analysis to the County.

7. Issues regarding on-site septic system(s)

A question was originally raised by IC Dept of Health about the “recently installed” septic system at NBBBI. NBBBI states that the required As-Built drawing was filed with the Department of Health on April 18, 2005. NBBBI refers to this septic system as “the approved septic system.” It seems that County Code was not adhered to in the installation of this septic system. Is this another instance of asking for forgiveness rather than permission; in other words, was this a violation on the part of NBBBI? If so, information regarding the violations should be made public with corrective actions and fines specified.

NBBBI’s statement that it intends to hook up to the sewer system when it is installed in the Freeland area is totally irrelevant to the MPA. At a projected cost of nearly \$50,000 per acre, a sewer hook up for NBBBI will cost well over one million dollars unless a special consideration is granted to NBBBI. The County must disregard any mention of a sewer system hook up by NBBBI or request full analysis of the environmental and financial feasibility of this proposal.

8. Navigation issues are still unresolved in the MPA materials

The navigation issues are not resolved with the Coast Guard. Statements made by NBBBI that the Preliminary Rail System Design does not present navigation problems are simply not true. It does not matter how large or small a vessel is when anchoring. When the anchor gets snagged on the rails, it is a major problem. Any waterway with submerged oil, gas, or water pipelines, or electric wires has warning signs posted on both banks of the waterway.

Tidal changes will expose and conceal the rails up to 800 feet from Shoreline Drive at Extreme

Low Water. Due to the tidal depth, clarity of the water and weather conditions, the submerged sections of the rail system will be a hazard to small recreational boats, water skiers, jet skis, canoes, day sailors, sailboarders and divers. As the rail system extends into the bay, parties injured from striking the rails (as could be the case for skiers, jet skis or sailboarders) would be several hundred feet from rescue, thus compounding the hazard. Those several hundred feet from rescue would consist of soft mud and potentially eelgrass. Recreational divers could be separated from their support boat by the fully or partially submerged rails, a serious problem during a diving emergency.

There is a definite need for navigational aids for any obstruction below the surface, regardless of depth. The MPA is incomplete in this area.

9. Incomplete information regarding hazardous materials and fire safety

The County required a complete list of hazardous materials, not a partial list, and the ability to review the NBBBI binders upon request. Not only should hazardous materials be listed but also quantities, transport methods, inventory control mechanisms, spill recovery procedures and personnel safety procedures. The MPA is incomplete in this area.

Fire District 3 (FD3) gave simple answers to simple questions about fighting a fire in 65' tall buildings. It is unfair to FD3 and to the public for NBBBI to not describe the hazardous materials present and also that the building on fire might be not only 65' tall but also 390' long, made of canvas or some other unstructured fabric and totally engulfed in flames (as could occur). Fire could originate inside the building – another hazard yet to be considered. A major fire at NBBBI could involve the evacuation of the surrounding neighborhoods on both sides of Holmes Harbor. Please have NBBBI provide, in conjunction with FD3, a Best Management Practice type plan for a major fire incident at NBBBI. Neither FD3, nor the neighbors are well served by the limited additional information submitted to date.

The MPA calls for construction areas above the 65' buildings up to 100' high to be draped with tarps. FD3 has not been told of any possibility for a 100' high construction area draped with plastic tarps. The embers could blow/drift in a southerly wind igniting surrounding neighbors' homes and vegetation.

Similarly, with aboveground tanks for gasoline, spent oil, and diesel fuel, NBBBI should provide capacities, procedures, BMPs, etc., for the prevention of a major disaster. Also, NBBBI is the organization that not only implements safety on-site but also is the organization that audits its own performance. There is no check and balance. FOHH recommends that the County perform an on-site audit pertinent to each section of NBBBI's industry safety manual to guarantee that NBBBI is in compliance with required BMPs; that NBBBI management and personnel are knowledgeable of the BMPs; that training occurs for new and experienced employees; and that the BMPs are truly part of the culture at NBBBI.

NBBBI states that they do not follow the industry BMP for loading and unloading liquids of all types. This BMP should be implemented as soon as possible and not delayed until "upgrading" to the expansion described in the MPA.

10. NBBBI's forecast of future building is incomplete and does not demonstrate the need for the new rail system

The "Maximum Vessel Construction Configuration Forecast" describes six vessels under construction with only one vessel at or near the NBBBI operational physical constraint, the launch pad area. Five of these vessels could be built and launched without the need for a rail system. Full enclosure construction buildings may be necessary, but the argument of needing the rail system to remain competitive is not reflected in the NBBBI forecast.

The forecast also does not convey a timeline of completing the maximum Vessel Construction Configuration Forecast. Any timeline applied to the forecast can result in the need for a 65' building height on a continuous basis, regardless that it is not always the same building at 65'. And, since the launch pad is the site of the last building phase before launch, this area would most likely be at a constant 65' as boats are readied for launch in succession. A succession of vessels in the launch area would follow each launch. As this is the final stage of construction, with superstructures in place, the launch area will constantly have the need for tall buildings. A 65' building in the launch area would be in direct line of sight to the harbor from S.R. 525 and would constantly obstruct the water view. This impact is not identified or accounted for in the application materials.

There also is no description or forecast for the times the top of the 65' buildings would be open and extended to 100'. This is another impact not identified or accounted for in the application materials. This section of the additional information is incomplete.

NBBBI has provided a description of smaller cranes working within the buildings and larger cranes being used to move the modular sections and also being used to join sections of the vessels. Vessels would be uncovered during these activities. NBBBI needs to provide further description of the work to be performed in the open air.

NBBBI states the purpose for the expansion is to ensure NBBBI remains competitive in their field, yet their Maximum Vessel Construction Configuration Forecast shows smaller boats being constructed that meet or exceed their present production. These smaller vessels can only represent anticipated contracts. The need for 390' of building length is simply not required for NBBBI to remain competitive. The argument NBBBI uses to address the community's concern regarding the size (height and length) of the building needed is not supported in NBBBI's Maximum Vessel Construction Configuration Forecast. A tug boat would require only a 105' building and even a catamaran requires only 145'. 66% of the vessels in their Forecast are less than 150' in length.

11. Rail safety is inadequately addressed

NBBBI states that they will provide signs warning about playing or walking on the rails. What County Code applies to attractive nuisances? What precautions must be taken beyond warning signs? The rails will create a double fence-like barrier to those walking along the beach and tidelands. The constraint of the rails in the flow of boat and pedestrian traffic impacts the

character of Holmes Harbor and thus the freedom of movement in and around the harbor. Often, the development of a structure in a recreational landscape will promote activities not intended or foreseen by the developer. Children playing on the rails may not notice the rise in the tide and become stranded on the rails. These structures could be seen as an attractive nuisance causing harm to those who venture on and around them.

These issues must be addressed before the MPA is processed further.

12. The economic justifications presented by NBBBI are incomplete and misleading

NBBBI being mentioned in the Island County Comprehensive Plan is not a license to cause unmitigated and significant impacts to the community or for NBBBI to be allowed to continue illegal un-permitted uses. The ship building proposed by NBBBI is heavy industry, not light industry as described in the MPA and the additional information. Also, using the entire NBBBI payroll as if every employee lives in Island County is misleading. Not including the negative impact placed on the County by the 155 NBBBI laid-off employees who worked there at peak periods is also misleading. Alternate scenarios must be presented, including split location operations, in Holmes Harbor and Everett. More substantive facts need to be added to the economic benefit analysis before it can be used to consider the MPA. The MPA is incomplete in this area.

Economists have collected statistics on various industries and published ‘multipliers’ that are plugged into formulas to yield estimates of statistical averages. Commercial software called “Implan” is the most common modeling tool such economists use to compare different plans or scenarios. Sharon Hart, of Island County’s EDC, appears to be misapplying one such multiplier in her “Economic Impact Analysis” The “Industry Specific Multiplier” of 3.0 is a revenue multiplier and not a payroll multiplier. The multiplier also should be better defined. Payroll multipliers are usually less than 2. NBBBI purchases a very small percentage of materials on the island. Using a standard revenue multiplier is grossly misleading. Better estimates should be developed using a payroll multiplier. Even a standard payroll multiplier would need adjustment, in the case of Island County. The County should hire an economist that has an unbiased opinion regarding NBBBI to perform the economic analysis.

After comparing census data for income by zip code with Island County sales tax receipts, Regnar Kearton, a local community member, has observed that islanders tend to spend more of our incomes outside our home county than the average citizen of Washington State. The adjustment needed in a payroll multiplier is not obviously linear, so it would need to be estimated by an economist who understood the mathematics of the formulas being used. For example, most of the incomes earned on this island are never counted in payrolls. Comparing a company’s payroll to total island payrolls tells you absolutely nothing about how large or small NBBBI looms in the local economy. The correct comparison is with total incomes, including those that are never reported to anyone. The largest private “export industry” of Island County may well be tourism, especially if that is taken to include vacation rentals, second homes, and retreat centers. The local building industry depends crucially on local purchases of vacation properties with incomes earned off-island. Estimates of these effects should be included in the economic analysis. Relying solely on Sharon Hart’s analysis of NBBBI’s economic impact

without an independent and complete analysis would be a gross injustice to our community.

The Comprehensive Plan uses the word “encourage” to grow local businesses. This is not a mandate to hand a “carte blanche” to a local business. The average local business does not require the local community to endure such significant adverse impacts. It is not an unusual practice to recognize when a business has outgrown a rural community and needs to relocate in part or in whole to an appropriate location. The Federal and State agencies are not requiring NBBBI to increase their production facilities. The size and capacity of the rail system is entirely NBBBI driven. A lesser rail system could handle the work load of NBBBI prior to the debacle of the “Empress of the North” construction. It is not a mandate for our county to enable NBBBI to accept large contracts. The MPA is not accurate or complete in the area of economic impact analysis.

13. The landscape and visual analysis is incomplete and inaccurate

A landscape and visual analysis was prepared by Weisman Design Group. The photos do not appear to be true to scale and are misleading. The before and after pictures are of different scale and make any meaningful comparison impossible. Also, while the report describes numerous landscaping “options,” it is long on intent and short on concrete solutions, even relying upon neighbors to screen themselves from NBBBI (totally unfair and unrealistic mitigation). NBBBI intentions are illustrated in the drawings, but using the term “intends to” opens too many loopholes. This aspect of the MPA is incomplete as it does not definitively state what will be done to mitigate negative visual impacts.

The photos in the report do not show the water view from S.R. 525. They are taken from a vantage point too far east and should be taken from the curve in the road shown in the pictures. The photos do not show the negative impact to either the harbor view or to the view of Mt. Baker.

View F is too distant and has no people in it for contrast. The rails are massive steel girders, not pencil lines. The rails need to be shown close up. NBBBI can easily construct a mock-up of the rails (using scrap wood and concrete casting tubes) and place a short section of mock-up on the proposed rail location. This mock-up can then be photographed, climbed over, and analyzed by all interested parties.

The visual aid photograph from the water side is from a westerly view. The negative impact of the buildings in this view does not represent the true full southerly view that several homes and community members will endure. A visual aid is required for a direct southerly view. NBBBI is only supplying the information and impacts least likely to fully represent the negative impact of the MPA. The MPA is incomplete in this area of negative visual impact.

Mitigation by time is referenced in the Weisman report. The “Maximum Vessel Construction Configuration Forecast” effectively negates this point. Any building at 65’ for 9 to 11 months out of 20, with multiple vessels under construction, will be a constant negative impact.

Architectural detailing is referenced as a mitigation factor for negative visual impact. The

buildings in the photos look like Quonset huts at worst or large square boxes at best. NBBBI should present depictions of the buildings as they will actually exist in the future.

Berming or mounding to reduce negative visual impact will introduce negative visual impact. Berming or mounding is very artificial and not characteristic of the character of Freeland or Island County no matter where it exists.

The photo of the rail system at higher tide does not appear to be accurate. The rail is ‘choppy’ and not joined along the top edge. The pilings are barely visible and there is no depiction of the rails crossing Shoreline Drive. Pictures of other beach impediments depict obstructions easily stepped over or under. The negative impact of the rail system is made more obvious in this comparison. Compounding the problem in evaluating the negative impact of the rail system is the absence of engineered drawings of the rail system. NBBBI has not certified that there will be no need for cross bracing. This section of the MPA is incomplete until certified engineering drawings are provided.

14. Lighting impacts have not been addressed

Lighting is a major concern to everyone residing in Freeland and on Holmes Harbor. NBBBI states that because the X-Boat contract with Titan did not require additional lighting, then NBBBI does not anticipate that additional lighting will be required for future military contracts. This is not a safe assumption. The X-Boat was the first prototype and no one knows what will be required in the future. NBBBI’s cursory treatment of this impact is inadequate.

15. Security impacts have not been addressed

The February launch of the X-Boat saw Coast Guard gun boats in Holmes Harbor. Everett requires a patrol boat to provide security at that facility. Despite NBBBI stating that additional security will not be needed, NBBBI does not control the security situation for constructing or maintaining military vessels. NBBBI needs to describe how the security impacts it will create and identify appropriate mitigation. The MPA is incomplete in this area.

16. Noise and vibration impacts have not been addressed

NBBBI opens the door to having other than quiet work at night by stating that they will not exceed 5db above ambient noise levels if they need to perform other than quiet work at night. Further, NBBBI states that they will monitor their own compliance and file reports prior to beginning any such work. This is simply unacceptable. NBBBI must either perform only quiet work at night or not work at night. This restriction must be in place to prevent significant noise impacts to surrounding residents. Holmes Harbor is not suitable for an industrial shipyard and the proposal should not be allowed to cause industrial-level noise impacts.

Pile driving to install the proposed rail system, if approved, should be performed between the hours of 9AM to 5PM and never on weekends or holidays. This applies to not only the impact hammering (proofing) of the piling, but also for the vibratory method of setting the pilings. There is no description of the decibel level for vibratory pile driving. There is no breakdown of

the ratio of vibratory method to the impact hammer method of pile driving. The MPA is incomplete in this area.

17. Helicopter facilities and air traffic noise is not addressed

There has been a steady increase in helicopter traffic between Holmes Harbor and points east over the last six months. The helicopters follow no set flight pattern and cause noise pollution to both sides of Holmes Harbor. Currently, NBBBI allows helicopters to land on the grassy area adjacent to the actual boatyard property. NBBBI should be required to meet all County, State and Federal (FAA) requirements for operation of a helipad and helicopter operations at NBBBI. If NBBBI is operating a de facto heliport, then NBBBI must meet all requirements for heliport operations. If it is necessary for FOHH to file a separate formal request on this issue, please advise us as soon as possible.

18. Seismology concerns are not addressed

The South Whidbey Island Fault (SWIF) runs directly through Holmes Harbor. The NBBBI additional information makes no mention of seismology or of the dangers inherent in operating a ship building facility on the SWIF. The MPA is incomplete in this area.

Navy documentation, (MIL-SPD-1625A SH) Dry-docking Facilities Safety Certification Criteria for Docking US Navy Ships, Section 3.4 Marine Railways Subsection 3.4.1.2 states; “Stability in Normal Operating Position. After the ship and cradle are hauled out of the water, the ships’ weight is supported completely by the cradle and groundways. The dock in this position may be subjected to wind and earthquake forces and the stability analysis must account for the combined stability of ship and cradle. Earthquake forces must be considered in areas where such disturbances are likely to occur.

In the Journal of Ship Production, Vol. 2 No. 2, May 1986, Page 118, “marine railways are relatively susceptible to earthquake damage because of their relatively long groundways”.

The MPA is incomplete in this area.

19. Parking estimates are unsupported

If counted correctly, the parking area in the drawings depicts over 460 parking spaces. NBBBI is projecting a workforce of 350. NBBBI should provide adequate information to support its request for an additional 110 parking spaces and the resulting pavement before the MPA is processed further.

20. The traffic impact analysis is inadequate

The traffic impact analysis prepared by Heffon Transportation Inc. assumes no PM peak hour increase, thus, cutting off further transportation impact analysis. The assumption regarding the PM peak hour is based upon claims by NBBBI that shift changes will reduce the number of employees arriving or leaving the site during the PM peak hour. Insufficient information and

conditions exist in the MPA materials to support this assumption regarding shifts. Without this information, the MPA materials regarding traffic are incomplete and inadequate.

21. Information regarding the proposal's property limits is inadequate and incomplete

NBBBI used the loose terminology "generally speaking" regarding the boundaries of the proposed acreage of the shipyard. As FOHH stated in our original comment letter, the ability to have control over the entire property located between Woodard Ave. and Cameron Road needs to be addressed as a "cumulative impact" without the legal description including the actual footage of the easterly boundaries. Due to NBBBI necessity to improve the storm water system and to move the parking lot to accommodate the 100' wetland buffer; they were easily able to include the additional land required from their friends and associates at Holmes Harbor Properties, LLC. FOHH objects to NBBBI using Thatcher & Morrison as their surveyor because Jerry Thatcher is one of the partners in Holmes Harbor Properties, LLC. Thatcher and Morrison should remove themselves as the NBBBI surveyor to eliminate the obvious conflict of interest. An independent surveyor that does not have a vested interest in either NBBBI or NBBBI's friends and associates needs to be employed to determine accurately the proposal's property limits.

22. No alternate site information or analysis has been provided

It appears that part of the rail system will be constructed on Department of Natural Resources property. Under SEPA, projects involving public entities on lands require consideration of alternate sites before it can be approved. NBBBI is obligated to provide that analysis for this proposal.

23. A cumulative impact analysis is required

As stated in FOHH's earlier submission, a cumulative impacts analysis is required for approval of a CUP. The application materials presented by NBBBI do not provide adequate cumulative impacts analysis. Regarding cumulative impacts, the applicant cites a recent Island County decision which analyzed the potential that other applicants would seek to install a marine rail system. See, STP/SCUP 182-04. According to the applicant, the County has identified only two places, including the NBBBI site, where both the zoning and the shoreline designation permit water-dependent industry. The applicant states that because the probability of a similar use being proposed at either location is minimal, there are no cumulative impacts. It also notes that even if another use is proposed, the cumulative impact over the County's 220 miles of shoreline would be negligible.

The above analysis is skewed and not a reasonable cumulative impacts analysis. One, if another rail system was proposed for Holmes Harbor, the relevant cumulative impacts to Holmes Harbor would be great because essentially many of the impacts to be caused by NBBBI on its site would be exacerbated by further expansion of industrial uses or new industrial uses. Also, there is no basis to contend that a cumulative impacts analysis is sufficient by merely stating that the

probability of a similar use being proposed is minimal. There is no information to support such an assumption. An adequate analysis focused on actual cumulative impacts to Holmes Harbor, not Island County in general, is what needs to be done in order for this applicant to obtain a CUP. That adequate impacts analysis has not been done to date.

24. Conclusion

As we have noted, inadequate and incomplete information continues to be provided for the MPA. At the very least, the MPA should be delayed and an EIS required to make sure all required information and analysis is provided by NBBBI. Please make our letter part of the public record regarding the MPA.

Respectfully submitted,
Christine Goodwin, Pres.
Friends of Holmes Harbor