



## THE COURTS HAVE RULED

### **The environment at Maury Island and in Puget Sound will be protected**

The following are statements or written findings that agencies, the courts or agency officials have issued during more than 10 years of environmental and permitting reviews of Glacier Northwest's project to build a new dock and increase the level of mining at its Maury Island facility.

**1. Shoreline Hearings Board Decision of November 3, 2004:** This 5-0 decision was rendered by the SHB after hearing evidence over eight days from Preserve Our Islands, King County, and Glacier. The SHB reviewed both technical and legal issues that the parties raised, and, after hearing that evidence, the SHB reversed King County's denial of a permit for the project and directed King County to issue the required permits with some additional conditions for the protection of the environment and recreational use. Here are some quotes:

- **Findings of Fact, Conclusions of Law, and Order:**

“The sand and gravel material at the Glacier site is high quality, relatively clean, and has a large proportion of desirable sand.”

p. 3:10-11

“There is a current market demand for the sand and gravel material off Maury and Vashon Islands.”

p. 4:5-6

“Analysis of shading impacts to eelgrass confirms that under Glacier's proposal, lighting conditions for eelgrass will likely improve over existing conditions.”

p. 21:1-2

“Based on the results of Tetra Tech's analysis of the rival propeller wash models and impact analysis, and on Glacier's modification of its proposal to include mitigation measures called for in the 2000 FEIS, King County's 2004 FEIS Addendum concluded that Glacier's conveyor and barge loading dock would have no probable significant adverse environmental impacts on eelgrass beds as the site.” *Ex. 259; Ex. 52.*

p. 28:19-21; p. 29:1-2

“The Board concludes SEPA review in this case was adequate. The 2000 FEIS identified potential impacts. Glacier modified the project to prevent or mitigate these impacts. Public comments, included specialized technical input, were received and reviewed by King County. King County took the additional step of hiring a third party consultant with specialized expertise to review disputed models and mitigation measures. The extended period of environmental review resulted in a comprehensive analysis of potential project impacts and mitigation measures. Where uncertainty exists, the project includes a margin of safety to protect against adverse impacts, and ongoing monitoring to ensure impacts do not occur.”

p. 42:17-22; p. 43:1-2

“The Board concludes that there is not a reasonable likelihood of adverse impacts to marine mammals from the project, and that such impacts are remote and speculative.”

p. 44:5-6

“...the Board concludes that Glacier’s proposal will not have significant adverse impacts on eelgrass, or species that rely on eelgrass including herring and salmon.”

p. 48:9-11

**2. Washington Court of Appeals – POI v. Shoreline Hearing Board Decision of June 19, 2006:** POI and King County appealed the decision of the SHB to the court of appeals. The court of appeals affirmed the SHB in a 3-0 decision. Here are some quotes:

▪ **Published Opinion:**

“But the County has zoned Glacier’s site for commercial mining and designated it as mineral resource land under the Growth Management Act without any restrictions on the size of the use. The current principal use of the site is a commercially significant mining operation, regardless of how it was used in the past. Glacier’s mine is located on a small island without viable large-scale ground transportation options and cannot operate consistent with its designated principal use without barging. The barge-loading facility is thus an integral part of the principal use, and the entire facility must use the shorelines to operate consistent with its County zoning.”

...

“Substantial evidence supports the Board’s conclusion that the barge-loading facility will not cause unreasonable adverse effects on the shoreline or surrounding areas and uses.”

...

“As we have already ruled, substantial evidence supports the Board’s conclusion that its conditions, combined with Glacier’s mitigation measures, minimize the adverse impact on aquatic habitat and prevent substantial degradation of the area’s existing character.”

...

“The FEIS also addressed noise impacts from pile driving and barge loading on fish and marine mammals (See FEIS Volume 1, pp. 6-28 through 6-32). It concluded that although juvenile salmon likely congregated around eelgrass beds near the barge-loading facility, studies have shown the overall effect on salmon from noise and vibration from piling driving and barge loading would be relatively minor. It also concluded marine mammals in Puget Sound were accustomed to shipping traffic and port activities such that any noise from construction and barge loading would have a negligible effect on them.”

...

“Moreover, the FEIS did address project impacts on marine mammals. Besides recognizing that marine mammals were accustomed to shipping and port activity in the Puget Sound area, the FEIS noted that the project site is not located at major feeding grounds, congregation points, breeding areas, or migration routes. It determined the most likely effect was that the harbor seals would avoid the area during barge loading. It also determined that although killer whales, or orcas, travel throughout Puget Sound, the project was unlikely to affect them because they were accustomed to this type of activity. It noted that although orca populations have been declining in Puget Sound, no one cites activities such as this in central Puget Sound as a factor in the decline.”