

Executive Order

It is hereby ordered that Dungeness Spit, an arm of land extending from the north shore of the State of Washington into the Strait of Juan de Fuca, as the same is shown upon the official plats of survey of townships thirty-one north, ranges three and four west of the Willamette Meridian, on file in the General Land Office, and as segregated by the broken line upon the diagram hereto attached and made a part of this order, be and the same is hereby reserved and set apart for the use of the Department of Agriculture as a refuge, preserve and breeding ground for native birds. This order is not intended to abrogate the orders creating military and lighthouse reservations located in part upon the same lands, nor shall it in any manner interfere with the use of the lands for military or lighthouse purposes, but rather, in addition to such uses, shall insure the protection of the native birds therein.

It is unlawful for any person to hunt, trap, capture, wilfully disturb or kill any bird of any kind whatever, or take the eggs of such birds within the limits of this reserve, except under such rules and regulations as may be prescribed by the Secretary of Agriculture.

Warning is expressly given to all persons not to commit any of the acts herein enumerated, under the penalties, prescribed by Section 84 of the U.S. Penal Code, approved March 4, 1909 (35 Stat., 1088).

This reservation to be known as Dungeness Spit Reservation.

WOODROW WILSON

The White House,

20 January, 1915.

(No. 2123.)

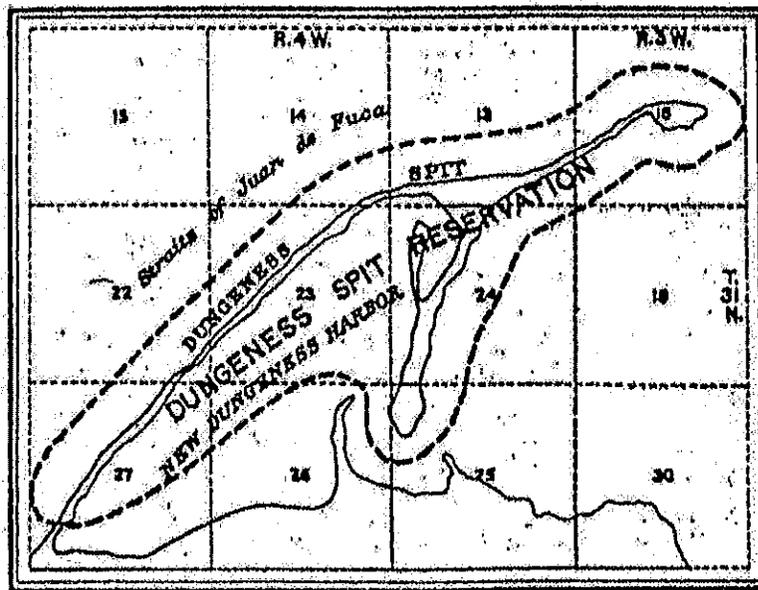
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DUNGENESS SPIT RESERVATION

For Protection of Native Birds

WASHINGTON

Embracing an arm of land extending from the North shore of Washington into the Straits of Juan de Fuca, in T. 31 N. Rgs. 3 and 4 West Willamette Meridian as segregated by broken line and designated "Dungeness Spit Reservation" containing 226.02 acres



DEPARTMENT OF THE INTERIOR
GENERAL LAND OFFICE
Clay Tallman, Commissioner

Note: This has been retyped and scanned from an original document.

Appendix B (cont.)

Section 7797-152 of the Revised Statutes of Washington (Vol. 9, page 91), relating to grants to the United States of any State-owned tide or shore lands, provides as follows:

"Whenever application is made to the commissioner of public lands, by any department of the United States Government, for the use of any tide or shore lands belonging to the State, for any public purpose, and said commissioner shall be satisfied that the United States requires or may require the use of such tide or shore lands for such public purpose, said commissioner may reserve such tide or shore lands from public sale and grant the use of them to the United States, so long as it may require the use of them for such public purposes, and the commissioner of public lands shall certify such fact to the Governor, who shall thereupon execute an easement to the United States, which shall be attested by the Secretary of State, granting the use of such tide or shore lands to the United States, so long as it shall require the use of them for said public purpose."
(L. '27, page 551, section 152.).

Note: This has been retyped from an original document.

CATEGORICAL EXCLUSION

**EXPANSION OF
DUNGENESS NATIONAL WILDLIFE REFUGE
CLALLAM COUNTY, WASHINGTON**

The U. S. Fish and Wildlife Service (Service) proposes to purchase fee title to 2.04 hectares (5.04 acres) for expansion of the Dungeness National Wildlife Refuge (Refuge) in Clallam County, Washington. No floodplains or wetlands exist in this area.

Currently, the Service owns a small administrative site adjacent to U.S. Highway 101, located between Port Angeles and Sequim, Washington, about 9.7 kilometers (6 miles) west of Sequim. The site is within the proposed right-of-way expansion of Highway 101, and the Service must relocate to a new location.

The proposed refuge expansion consists of one parcel (see attached map). Tract 14, known as the Krier Tract, is located in T.31 N., R.4 W., Sec. 34, Willamette Meridian. The parcel is adjacent to the northeast boundary of the Dungeness Recreational Area, operated by Clallam County, and to the southwest portion of the Refuge boundary. The tract is open grassland habitat with little biological value and no water is present. The present landowners have speculated building a residence but have since changed their plans.

Consummation of the expansion will facilitate refuge administration/management by providing a replacement administrative site near the Refuge. Additional opportunities to develop public environmental education and awareness programs will be available by working closer with the county's recreation area. The expansion will also prevent future extensive residential development from occurring adjacent to a portion of the Refuge.

The no action alternative presumes that the Refuge would 1) not relocate existing facilities and all administration/management and equipment would be located to complex headquarters at Nisqually National Wildlife Refuge near Olympia, Washington, or 2) would relocate to an administrative site elsewhere in the vicinity. Under the first assumption with no onsite facility, increased costs and operational inefficiencies would occur. Under the second assumption and the Refuge were to seek a new administrative site in the vicinity, available properties close to the Refuge could be limited to what is available on the market with potentially higher costs. If the Service did not pursue the acquisition of the Krier property, it would likely be sold privately for residential development.

Appendix C (cont.)

I have determined that in accordance with guidance provided in 30 AM 2, 516 DM 2.3 A(1) of the U.S. Fish and Wildlife Service National Environmental Policy Act (NEPA) Handbook, and within the spirit and intent of the National Environmental Policy Act, the purchase of 2.04 hectares (5.04 acres) of private land for an addition to the Dungeness National Wildlife Refuge qualifies as a Categorical Exclusion. Acquisition will be pursued in accordance with Service policies and procedures.

The proposed action will have no significant adverse effect on the quality of the human environment, and would not involve unresolved conflicts concerning alternative uses of available resources. Considering the above, it is determined that further NEPA documentation is unnecessary.

Issued in Portland, Oregon

OCT 13 1995

Date

Thomas Quinn
Regional Director

Appendix D



DEPARTMENT OF
COMMUNITY DEVELOPMENT

DIRECTOR, BOB MARTIN
BUILDING DIVISION / FIRE MARSHAL
ENVIRONMENTAL HEALTH DIVISION
PLANNING DIVISION
NATURAL RESOURCES DIVISION

March 25, 2002

CLALLAM COUNTY COURTHOUSE
P.O. Box 863 / 223 EAST FOURTH STREET
PORT ANGELES, WASHINGTON 98362-0149
(360) 417-2321, FAX: (360) 417-2443

Kevin Ryan
U.S. Fish & Wildlife Service - Washington Maritime NWRC
33 S. Barr Road
Port Angeles, WA 98362

RE: Request for Administrative Interpretation

Dear Mr. Ryan:

This letter is in response to your request for an administrative interpretation pertaining to a proposed development located on property currently managed as part of the Dungeness National Wildlife Refuge (DNWR). Specifically, you have requested to know whether you would be able to apply for a conditional use permit for the development of an operations center on a five-acre parcel, currently zoned Rural (R1). Your description of the proposal included a public office, visitor's center and supporting facilities (shop and equipment/vehicle storage building) used to conduct management and research activities. The proposed location is a five-acre parcel acquired by the Department of Interior in 1996 to be managed as part of the DNWR (Assessor's Tax Parcel Number 043134-230010).

In reviewing the facts of this case, a pivotal issue has emerged as controlling. Based on our discussions and supported by the application materials submitted with your rezone application (REZ2001-00005), the subject property is currently managed by the U. S. Fish & Wildlife Service as part of the Dungeness National Wildlife Refuge. I requested the Clallam County Deputy prosecutor to review the legal question of whether or not Clallam County has jurisdictional authority over land use activities associated with the subject property. Following a review of applicable case law, the Chief Deputy Prosecutor informed me that, excepting any deliberate congressional statement to the contrary, local jurisdictional authority is preempted on federal lands managed for public purposes. This makes the question of whether or not you would be eligible to apply for a conditional use permit for the described proposal moot.

Clallam County appreciates and commends your good-faith effort for participating in the local zoning amendment process and expressing a strong desire to consider and incorporate neighborhood concerns in your future development plans. Because of the findings of the Chief Deputy Prosecutor, we will recommend that the Board of Commissioners dismiss your rezone application based on the jurisdictional issue.

While time and effort might have been spared, there is nevertheless value in the results of the process. Having completed their review of the application and public testimony received, the Planning Commission forwarded a recommendation to the Board of County Commissioners that

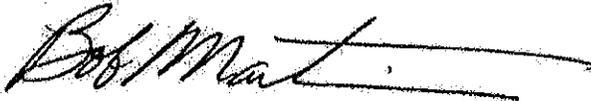
Appendix D (cont.)

included Findings of Fact based on the established public record. The findings reflected many of the concerns raised by neighborhood residents that may stand to be impacted by any future development and use of the site. In particular, Finding # 6 was intended to summarize all neighborhood concerns expressed and conveyed the desire of the Planning Commission for addressing those issues. While the Planning Commission's Findings are not binding, they may serve to assist you in designing your future development plans in a manner that harmonizes with neighborhood interests. A copy of the Findings have been included with this correspondence for your consideration.

Planning staff will be preparing a notification letter to neighboring properties and other parties who participated in the public process for the rezone application. The purpose of the letter will be to notify area property owners of the discovery of the jurisdictional issue, dismissal of the application, and the forwarding of the recommended Findings of the Planning Commission to your office. In reliance on your testimony and discussions, we will also convey your willingness to continue to work with the neighborhood so that their concerns may be addressed with any future development proposal.

If you have any questions or comments regarding this information, please feel free to contact me at (360) 417-2323, or Bruce Emery, Associate Planner at (360) 417-2358. You may also e-mail Bruce at bemery@co.clallam.wa.us.

Sincerely,



Bob Martin, Director of DCD

c. correspondence file
c.c. project file: REZ2001-00005

Appendix E Response to Comments

In this section, we summarize and respond to the comments received on the Proposed Construction and Operation of Refuge Facilities at Dungeness National Wildlife Refuge Draft Environmental Assessment (May 2007). This document was available at the Washington Maritime National Wildlife Refuge Complex office at 33 South Barr Road, Port Angeles, Washington and the Complex website at:

<http://www.fws.gov/washingtonmaritime>. The public comment period was from May 22-June 27, 2007 and was extended a week due to an error in zip code on comment sheets used at public meetings held on June 6, 2007. The Service received written comments in the form of letters, e-mail messages and comment forms used at the public meetings. The public comments received and Service responses, organized by subject area are provided below.

Comment Topic: Impacts to wildlife (deer and bald eagles) using the five acre grassland parcel where the Service proposes to build the new facilities.

Service Response: Impacts to wildlife were addressed in section 3.2 Wildlife and Wildlife Habitat in the draft EA. Short term disturbance will occur during construction. Bald eagles might not return to perch in the larger trees and snags closest to the buildings, but potentially might become habituated to the activity level of the facilities and return to their former use near the buildings. One commenter stated that they had observed bald eagles feeding at the site. The Service recognizes that bald eagles are scavengers and opportunistic predators but notes that this area is not a regular foraging area for bald eagles.

Short term disturbance to black-tailed deer is expected during the construction phase but are expected to return to their former use of the site on the area left undeveloped as deer on the Refuge have acclimated to human presence and allow people to approach relatively close up.

Comment Topic: Impacts to the residential neighborhood.

Service Response: The Service plans to minimize impacts to the rural residential neighborhood by restricting access to the site via Holgerson Road to staff and deliveries only, chip sealing Holgerson Road from the end of the County road to the site's property boundary, and placing buildings in the northwest area of the site to keep them as far away as possible from other property owners. Buildings will be single story and colored to blend with the environment. Vegetation would be planted to provide visual buffers from the neighborhood and fencing built and signage established to keep visitors to the Refuge office from trespassing onto private property.

Comment Topic: Locate facilities somewhere else.

Three commenters felt it more appropriate for the Service to build elsewhere on the Refuge, buy property or lease facilities somewhere off Refuge.

Service Response: The Service considered building on a different area of the Refuge but the potential environmental impacts would be greater than the proposed building site. Building off-Refuge was considered but there is no funding to purchase additional building sites. The Service also considered renting existing off-Refuge facilities but determined that the long term cost of renting is greater than building facilities on Refuge-owned lands. At an off-Refuge site, management would be less efficient due to not being nearby and the visiting public would not have ready access to Refuge staff.

Comment Topic: Support site development with public and staff access to facilities via Voice of America Road with emergency access via Holgerson Road.

Eight commenters preferred that visitors and staff access the proposed facilities via Voice of America Road through the Clallam County Dungeness Recreation Area. Some suggested that instead of developing a new road through Dungeness Recreation Area as indicated in the draft EA, that staff access through the current overflow parking lot adjacent to the site. Others commented that emergency use of Holgerson Road to access the site would be OK if the section of the road from the end of County maintenance to the property boundary was upgraded (chipsealed).

Service Response: Comments received from Clallam County in their June 13, 2007 letter indicate that they no longer favor the location of a new road access as depicted in the draft EA as it consumes more vegetated property on the Dungeness Recreation Area and will result in pedestrian and equestrian trail crossing conflicts. The overflow parking lot is small and converting a portion of it to a staff only parking lot will reduce already limited available parking for visitors. Service owned vehicles need to be parked in a secure location and need an ingress and egress route from the site for daily operations – not just emergencies. Construction of a vehicle access in conjunction with the overflow parking lot would result in trail crossing issues.

Comment Topic: Support site development with public access via Voice of America Road and staff and deliveries access via Holgerson Road.

Thirteen commenters supported this alternative. Seven of these supported it contingent upon the Service chip sealing Holgerson Road from the end of County maintenance to the site's property boundary to provide for dust abatement and increased traffic.

Service Response: The Service is working to get Holgerson Road from the end of County maintenance to the site property boundary chip sealed before construction begins

as part of the initial work project. This portion of Holgerson Road is owned in community by the landowners who use it to access their property. Maintenance after the initial chip sealing is the combined responsibility of all those accessing landowners. Staff and contractors will be instructed to observe posted speed limits.

Comment Topic: Use “green” building techniques for new facilities.

A number of commenters encouraged the Service to use green building techniques in the construction of the new facility. Use of recycled materials, solar heating and photovoltaics, energy efficient building methods and materials, maximum natural light to staff work places, bio swales, rain gardens, and use of native plants were mentioned.

Service Response: The Service will work with the facility designers and builders to incorporate as much cost effective “green” into the new facilities as possible within budgetary constraints.