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Via Electronic & First-Class
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November 29, 2005

Joe Burcar, Shoreline Planner
Island County Planning and Community Development
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Re: Tulalip Tribe's scoping comments on Limited Scope - EIS (Site Plan Review) for
Nichols Brothers 15-year phased development plan and approvals

Dear Mr. Burcar:

On behalf of the Tulalip Tribes of Washington ("Tribes"), we submit the following comments on the scope of the Limited Scope - EIS [Site Plan Review] for Nichols Brothers Boat Building, Inc.'s ("Nichols Brothers") 15-year phased development plan with the approvals listed in Island County's scoping notice. This letter incorporates by reference the concerns raised in our letter of January 13, 2005, which commented on Nichols Brothers' 15-Year Master Plan (Project No. 182-04) and proposed construction of a permanent pile-supported 1400-foot marine rail system. As we described in our earlier letter, Holmes Harbor is an adjudicated usual and accustomed fishing and shellfishing area of the Tribes, as recognized by the courts in the ongoing Washington treaty rights case, *United States v. Washington*, and was historically used and occupied by ancestors of the Tulalip Tribes.

The scoping notice states that upcoming EIS will be limited to analyzing impacts to: (1) air quality; (2) fish and wildlife; (3) noise; (4) building height/design/lighting & landscaping; and (5) recreation (navigation). Notably omitted from the EIS are analyses of impacts to: (1) water quality (pollutants from shipbuilding, stormwater, etc); (2) sediments; (3) historic and cultural preservation; and (4) waterborne vessel traffic, including Treaty fin fishing and shellfishing operations. See WAC 197-11-444.

Accordingly, the Tribes' requests that the EIS address at least the following:

- Impacts of increased vessel traffic, noise and wake on usual and accustomed Tulalip fishing and shellfishing grounds and activities, including but not limited to

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military boats that patrol Holmes Harbor when Nichols Brothers is working on military vessels;

- Impacts on water quality and sediments. Runoff is potentially a major problem due to the poor flushing action in Holmes Harbor. Increased surface water discharges include: (1) discharges to hydrologically-connected groundwaters; (2) stormwater collection system overflows resulting from precipitation events exceeding the design storm; (3) seeps to wetlands; and (4) discharges resulting from marine intrusion;
- Impacts on Dungeness, geoduck clams, hardshell clams, and other shellfish habitat;
- Impacts on herring and smelt spawning areas;
- Impacts on existing eelgrass beds;
- Impacts on coho, chinook and steelhead runs that use the area, including chinook and chum released from the Tulalip hatchery;
- Impacts on juvenile salmon habitat;
- Impacts of debris accumulating after frequent cleaning of crustacean particles from the surface of the rails.
- Impacts of removing the existing boat ramp will harm shellfish;
- How different alternatives will impact salmon recovery efforts;
- Navigational hazards created by the marine rail system;
- Monitoring groundwater to determine whether pollutants are continuing to enter Holmes Harbor and, if so, ceasing such pollution;
- Impacts on Holmes Harbor and shoreline sediments;
- Impacts on cultural resources;
- Cumulative impacts of the above;
- Tribal involvement in determining and implementing mitigation; and
- Commensurate, enforceable mitigation, with monitoring and contingency plans.

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Thank you for the opportunity to comment. Please contact us if you have any questions, and in include our office in all future notices and mailings for this proposal.

Sincerely yours,

MORISSET, SCHLOSSER, JOZWIAK & MCGAW

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