

January 18, 2005

Joe Burcar
ICPCD
P O Box 5000
Coupeville WA 98239

RE: NBBBI's Master Plan Application

Dear Mr. Burcar,

We are a large and ever-growing non profit organization dedicated to protecting our pristine Holmes Harbor and quality of life on Whidbey Island. Our organization consists of hundreds of private citizens who live around the greater Puget Sound area and cover all economical backgrounds and professions. A great number of our members live in Holmes Harbor and near the Nichols Bros. Boat Builders, Inc. ("NBBBI") site. We are greatly concerned about and disagree with the Nichols Bros Boat Builders Inc. proposal to expand their present boatyard into a major industrial shipyard in our rural residential area. The Washington State's Growth Management Act was formulated to protect the existing rural areas from the pressures of overdevelopment. Island County was considered to be just such an area which required a Comprehensive Plan, and consistent development regulations under the Growth Management Act. The spirit and requirements of the Growth Management Act were to protect counties such as Island County from exactly this form of growth which is being presented to Island County by NBBBI.

Our organization has identified numerous concerns, questions and/or issues associated with the MPA. The following is a list of them (not in order of importance).

Our ability to comment on this proposal has been hampered by the incomplete information provided by the applicant to date. This is particularly harmful to us because the County has taken the position that this comment period is the public's only opportunity to comment on environmental issues. We have requested and continue to request that the comment period remain open until the public has an opportunity to review and comment upon complete and adequate information regarding the design and impacts of NBBBI's proposal.

For all the reasons presented in this letter, a Determination of Significance and EIS pursuant to the State Environmental Policy Act, Ch. 43.21C RCW ("SEPA") should be required for this proposal. In addition, all permit requests associated with the NBBBI Master Permit application ("MPA") should be rejected by Island County.

1. Noise

The noise impacts to be caused by the proposal have not been sufficiently addressed in the study presented by NBBBI. In addition, there are a number of flaws in the study. We incorporate in this letter Eric Hansen's Jan. 14, 2005 letter critiquing NBBBI's noise report. In addition to all of Mr. Hansen's comments, we note the following errors and omissions in the noise information provide by NBBBI:

The sound impacts which will be emitted across the water surface from the proposal to the surrounding homes, park and hall have not been addressed. Also, the study addressed only the existing noise level without attention to the increased noise impact with the addition of numerous large vessels being built at one time and the height of vessels up to 100 ft.

The expansion requested by the MPA will increase the noise impact exponentially from existing levels if approved. The expansion will place an undue hardship on the surrounding property owners. During the past 4 years since NBBBI has begun to accept contracts for larger vessels, it has become very apparent to the neighboring properties the noise has increased dramatically. Never before the larger vessels were being constructed could we hear the noise from inside our homes even well past ½ mile away from NBBBI but this has significantly changed over the past 4 years. It has been reported to us from property owners as far away as Mutiny Bay Rd and Vessel Court that the noise level caused by Nichols Brothers is audible and disturbing.

In the past, NBBBI has been responsible for submitting annual noise reports and has failed to do so. Leaving NBBBI to monitor its noise levels is like leaving the cat guarding the canary. Who at the County will monitor and enforce State and local noise regulations? Our understanding is the Island County has neither the bandwidth, nor the equipment for these efforts. Please demonstrate how the County will enforce noise restrictions placed on NBBBI.

For all of these reasons, it is evident that there will be significant noise impacts to be caused by this proposal. An EIS should be required by the County.

2. Fire Flow

The MPA materials do not address fire flow at all. NBBBI enclosures will stand taller than any on Whidbey Island except possibly the airplane hangers at Oak Harbor's NAS. We currently do not have fire equipment in our area large enough to service the proposed modular enclosures. Will upgrades be required of NBBBI? Who will pay to upgrade fire equipment and increase personnel? Ship and shipyard fires are notoriously hard to fight and require special training and techniques. These are significant impacts not addressed by the application materials. These issues and impacts must be addressed before further consideration of this application is given by the County. An EIS should be required.

3. Variations/Temporary Buildings

NBBBI requests variances required to exceed the 35' shoreline height restriction and the 40' upland height restriction. If granted, these variations will cause significant impacts to the surrounding properties including the Mutiny Bay & Fish Rd neighborhood, including visual impacts, noise and air quality impacts including airborne particulates with a north wind, and light pollution. The variances, if approved, will affect the lives of current surrounding residents and our families today and in the future by inflicting an industrial zoned business which produces noise, light, glare, air pollution and airborne particulates on our residential area. No variances should be granted to NBBBI.

The proposal will not be able to operate with even the mitigation it proposes and will cause impacts operating outside the limits of the law and its permits (as it repeatedly has done in the past) which will cause significant impacts to the surrounding area and environment. Presently, NBBBI is building the X Craft prototype for the U.S. military which is 63' tall from keel to pilothouse. It is necessary to elevate the vessel during construction to have clearance from the yard surface plus additional clearance from the top of the vessel. Thus, this vessel is not capable of fitting into the proposed enclosures at 65'. This negates any of the mitigating benefits of taller buildings. This fact alone will negate any reduced noise control, light, glare, air pollution or airborne particulates the applicant claims will be accomplished by the temporary buildings.

The MPA states, if necessary and depending on the size and height of the vessel, up to 100' NBBBI will use tarps instead of the enclosed buildings. This again negates the benefit of the enclosures. NBBBI is currently using tarps and none of the vessels presently being constructed or repaired are in the buildings. History tells us the modular buildings will not be used by NBBBI. Review of the 1982 EIS being relied upon by the County proposals now shows that NBBBI claimed that it would use buildings for this during the 1982 expansion to mitigate noise, air pollution, airborne particulates, and glare. At an informative meeting held by NBBBI on January 11, 2005, one of our members asked NBBBI land use attorney, Allison Moss, why NBBBI was not using the fabrication buildings for the construction of vessels as required in NBBBI 1980's expansion. Allison Moss indicated the letter of the law did not mandate the fabrication buildings to be used for fabrication.

But review of the past conditions indicates otherwise. The conditions of the approval in SDP 1780 state: "The hammering and cutting noises are objectionable because of their frequency and beat as well as volume. These noises could be reduced up to 85% by enclosing the work within enclosed fabrication buildings. Nichols stipulates that it would enclose its existing fabrication buildings as well as proposing a new, larger, enclosed fabrication building in which more of the boat building and assembly operation could occur."

Likewise, the 1983 Final Findings of Fact, Conclusions of Law & Order in SHB No. 83-6 on pg 16 para 6 b. states "All fabrication buildings, existing and proposed, shall be enclosed structures." It is obvious that these conditions were established to control the noise, light, glare, pollution and airborne particulates yet NBBBI has avoided and violated them. With this in mind (and the dimensions as stated above regarding the X Craft), it is clear that the proposed modular buildings will not be used to mitigate noise, light, glare, air pollution and airborne particles during the construction of vessels. Why is it the position of Island County to perpetuate a violation of conditions and/or permits by issuing a new permit?

The only way to capture particulates is to enclose work areas and have a ventilation system that filters all air traveling out of the work area. Nothing in the MPA makes mandating the requirement of enclosed work areas or addresses the installation of an appropriate HVAC system. The question of how NBBBI intends to protect its workers and surrounding neighborhoods from these particulates is unanswered (especially where NBBBI will only use tarps on vessels which can not fit into the enclosures such as the X Craft presently being built in their yard).

Island County code states that "the granting of the variance shall be consistent with the purpose and intent of this Chapter and conditions will be imposed to ensure compatibility with surrounding permitted uses." Under Washington law, "shall" is to be construed with mandatory meaning. Surrounding permitted uses include residential uses. There are no conditions Island County can impose to bridge the gap between industrial and residential in this area. While the MPA offers some attempt at mitigating factors, such as the modular buildings (which bring their own problems), inadequate landscaping that

are insufficient to soften the impact of the expansion which can not be used on the harbor side of the site, and NBBBI statements that “expect” to keep the buildings at 40’ as often as possible, these factors either are not permanent, like the discretionary use of modular buildings, or obviously inadequate, like the proposed landscaping. These measures are not sufficient and should not be accepted as mitigating the significant impacts of the proposal.

The landscaping to be provided by the proposal is wholly inadequate. NBBBI landscape consultant, Weisman Design Group Inc., P.S., even states on page 4 of their report: “Reduction in the scale of structures to provide less visual impact” was not implemented by this proposal.” Also, 1/3 of the trees recommended by the consultant have been eliminated from the MPA. To mitigate visual impact of the project, NBBBI has proposed planting 5 foot evergreens which would reach 10 feet in 3-5 years and would reach 65 feet only after 35-40 years of growth. Such slow growing trees will provide no mitigation for the visual impacts of the proposal.

When referring to the ability to extend the height of their buildings to 65 feet, NBBBI continually uses terms like "periodically," "except when necessary," and "expected." This type of language is too open-ended and provides no guarantees that the buildings will not be permanently set at 65'. Past experience with the yard demonstrates that buildings are almost always left at full height. The surrounding neighborhood needs more defined and enforceable protection from the significant visual impacts to be caused by the proposal.

4. Illegal Buildings Onsite

It is known that there are a number of illegal, unpermitted buildings on the NBBBI site. However, on reviewing the MPA proposal, there is no distinction between illegal, unpermitted buildings and permitted buildings on the site. Island County appears to be taking the position that through approval of the MPA, all existing buildings will be considered legal. Why is the County allowing NBBBI to avoid identifying illegal and unpermitted buildings on its current site and why is the County rewarding scofflaw activities by legalizing illegal activities on the NBBBI site? Such an approach is illegal under the ICC and is unfair to all the citizens of Island County who are both required to comply with the ICC and commit only permitted legal activities on their sites and unfair to surrounding residents who are entitled to having Island County require NBBBI to follow the law. The approach is also inconsistent with the Department of Ecology’s understanding of how illegal permits would be addressed in the MPA. In a September 1, 2004 letter to Richard Aramburu, Ecology stated:

The principle reason for requiring NBBBI to obtain a comprehensive “master permit” for the boatyard is to address outdated permit requirements and unauthorized development. Unpermitted structures and facilities within the boatyard and overall site coverage issues are major components of the master permit application that must be submitted to Island County by November 1, 2004. During the master permit review process, the County will determine if the structures meet building code requirements for the types of activities carried out within them and if they can otherwise be permitted. *Any buildings that cannot be sufficiently modified to meet code requirements will have to removed from the site.*

The County should require all illegal buildings to be identified and require that all buildings that cannot be made safe and compliant to be removed from the MPA proposal.

5. Real Estate Values

The real estate surrounding NBBBI is currently having a disclosure issue due to the MPA proposal. Buyers are unwilling to purchase real estate which is in the vicinity of a proposed major industrial shipyard. The unknown of the approval of the proposal acts the same as an approved shipyard not unlike the properties around the Holmes Harbor Golf Course during their sewer bond issue. A variance can not be approved if granting the variance will impair or substantially diminish the value of the neighboring properties.

The impacts to be caused by the MPA proposal will reduce the property values of surrounding properties, including the Mutiny Bay and Fish Road neighborhoods. This will affect negatively the revenues Island County receives. The hardest hit sector of Island County’s budget will be the schools. As illustrated on the tax revenue pie chart located in the County Commissioners’ office, 29.12110% of real estate property tax revenues are allocated to the Washington State school levy and 27.0100% of real estate property tax revenues are allocated to the local schools.

6. Views

The proposal will cause significant visual impacts. The MPA's treatment of visual impacts is cursory and unreliable. An EIS analyzing visual impacts should be required.

For example, the photosimulations presented in the Landscape and Visual Analysis is skewed and unreliable. As mentioned above, the simulations appear to be relying upon fairly grown trees that do not currently exist. The photosimulations are only from a limited number of view points, including no views from the shoreline or Holmes Harbor. One photosimulation attempts to show buffer mitigation analysis but shows literally no difference between the before and after shots. The report also is presented in a skewed way by representing the "before" pictures in much smaller scale than the "after" pictures.

Visual screening techniques, such as shrubs, deciduous and evergreen trees, are proposed for the East, West, and South views of the yard. However, the majority of homes with views of the yard are to the north of it. There are no plans included to screen the North end of the yard which is the view the surrounding neighbors must endure. This is a significant adverse visual impact to the surrounding neighboring properties. The ability to screen is nonexistent because of the necessity for access in launching. Thus, this significant adverse visual impact can not be mitigated.

Also, our designated scenic highway corridor, Highway 525, will also be significantly impacted even though the MPA proposes to try to keep the enclosures closest to the highway at 40'. When you are traveling on the highway a few 100' of distance does not make a difference when just behind the 40' level will be buildings with a height of 65' which block the highway ultimately from the view of the harbor. This view of the harbor is the last view available from the designated scenic highway corridor presently. These new impacts have not, and cannot, be mitigated by the current proposal.

7. Wind Impacts

When the modular buildings proposed in the MPA are linked together, as displayed in the Phase 3 Site and Vicinity Map, they will form two enclosures, the largest with the dimensions of 390' long X 150' wide X 65' tall. During our winter storms, we have experience 60+ miles per hour winds that rip through the harbor. Normally, buildings that meet this wind speed are engineered with larger foundations that can meet the upload requirements placed upon them which exceed the download requirements. The ecology blocks that are used with these individual modular buildings will mostly likely not be able to meet the upload requirements when the modular buildings are linked together creating a hazard to the surrounding neighboring properties. An EIS containing a wind analysis is required to evaluate this significant impact.

8. Light and Glare Impacts

The proposal will cause significant light and glare impacts. During our winter months, the darkness of the night sets upon the harbor around 5:00 pm with only 9 to 10 hrs of daylight. This leaves the greater percentage of the 24 hour period in darkness which will be significantly affected by the light and glare of the proposed operation. This, in turn, will significantly impact the quality of life of the harbor residents. Five of the modular buildings proposed that will be linked together to form a 325' long X 150' wide X 65' tall enclosure, (displayed in the Phase 3 Site and Vicinity Map of the MPA) will be located within 200' of the shoreline emitting light pollution into our night skies and producing an image of equal or greater across the waters of Holmes Harbor. This light pollution of our night skies will have the exact effect of a 130'+ building.

Thus, the MPA is in direct conflict with our county ordinance adopted on 3/6/2000 "protecting our night skies". Additionally, Chapter 17.05.090 (11) of the Island County SMP states: "All shoreline and over water activities shall be restricted to reasonable hours and/or days of operation when necessary to protect residents and properties from adverse impacts such as noise, light, and glare". This requirement will not be met by this proposal.

Lighting will be needed throughout the proposed complex for parking, storage, and work areas, whether 0, 5 or 15 employees are on the job at night. Workers need to see where they are going, whether indoors or outdoors. Moreover, increased need for security necessitates more lighting. These changes, caused by the MPA, will increase the impact of neighboring properties over 70% greater than presently. This is because during the winter, only 3 hours of lighted operations is required (due to the 7 AM to 8 PM work day.) Expansions to allow work to be done 24 hours a day, 7 days a week will roughly increase lighting impacts to residents 70% over what is experienced today. See also the significant impacts caused by navigation lighting discussed in § 9 of this letter.

These increased light and glare impacts to be caused by the MPA are significant and an EIS is required.

9. Shoreline and Beach Impacts

The proposed marine rail system will create a permanent barrier on the beach. The rails will be at grade for the first 20' of the beach, which means they pose a 3' tall, 18" wide barrier to be scaled. NBBBI claims the rails can be stepped over, but this seems problematic, at best, for the elderly, small children, and the infirm.

According to the MPA, the rail will not be fenced off. The public will have access to it at all hours. This constitutes an attractive nuisance. Children will climb on the rail, walking it like a train track. There is significant chance of injury, including the possibility of falling into mud (which acts like quicksand) and getting stuck while the tide is coming in. Emergency services had to rescue an adult male stuck in the mud not long ago from Freeland Park. Despite this safety hazard, children will be able to walk out the length of the rail reaching easily the 700' to 900' from the shoreline and at the height of 7' above the tide flats. If a child falls at this location, the child will not only likely be injured, but will impact the mudflats as well due to the fall. Safety measures for the rails have not been addressed at all. In contrast, other shipyards, such as Todd Shipyards, Duwamish shipyard and Dakota Creek, are located directly on the shoreline without a public road between the shoreline and the facility. The shipyards all have a secure fenced site around their facilities which eliminates the access of the shoreline and eliminates any risks of personal injury of the public.

Given the slope of the harbor bed and the tidal fall of roughly 12 feet, 200 lineal feet of the rail system will be within 2 feet of the surface of the water at all times. This will present a significant danger to recreational users of the harbor and to other Marine traffic especially unaware boaters. An appropriate marking system will constitute a visual blight on the harbor, adding insult to injury.

The nighttime marker must be lighted and flash at regular intervals to alert unaware boaters using the harbor at night. The Coast Guard may require major signs at the end of each rail and a lighting system that runs along the rails to mark them at night, creating an unacceptable situation for the surrounding community. In the county's response to Holmes Harbor Community Partners, LLC RE: Holmes Harbor Dock-SDP on page 3 the county writes: "Furthermore navigation lighting must not interfere with the nighttime views on neighboring properties." Due to the close proximity of the rail which parallels the shoreline lined with low bank waterfront homes, this standard, which should be applicable to this proposal as well, will be an impossible to achieve.

Moreover, any navigational markings on a private under-water obstruction will need to be maintained by the company which owns the obstruction per Coast Guard information. NBBBI, in the past, has not in a timely manner (or at all) fulfilled all the necessary conditions, testing or maintaining required by regulating agencies. Indeed, over the years, NBBBI has been fined numerous times for regulatory violations totaling \$267,987 (not including fines for damaging eelgrass in the Empress debacle) and had at least three (to our knowledge) stop work orders issued against it for violations. Scofflaws should not be rewarded by approvals of expansions and taxpayers should not have to pay for the County to enforce its laws against NBBBI.

Besides the nighttime hazards the proposed rail system presents, navigational hazards during the daytime for numerous watersports such as waterskiing, tubing, kayaking, canoeing, day sailing, jet skiers, anchoring etc., will be caused by the proposal. During our review of the county files, documents were found which demonstrate the close proximity of the Freeland Park boat launch and the high probability of unaware boaters entering and using the harbor to the proposed rail system. This portion of the harbor is heavily used by all the above water activities and more. Because of the safety issues posed by the proposed rail system, the south end of the harbor could essentially become off limits to the public and turn over control of a public resource to NBBBI. This is contrary to the criteria set by the Army Corps of Engineers and the SMP.

The rail system will be a visual blight on the water. After close examination of the diagram of the rail system it is easy to determine the rail system will reach heights up to 7' above the tideflats' contour having the visual impact of a railroad trestle at low tide. This visual blight will be even more dramatic during the summer months when minus tides are common. During the summer months, in the Northwest, visitors and residents alike use the beach and outdoors extensively. The rail system will have a significant adverse impact on the uses of the harbor.

The rail system will have crustaceans growing on the rail and pilings which create a larger visual blight than the actual dimensions of the rail system. Crustaceans reattach within a 3 week period of time. Periodic scraping as proposed by NBBBI will be ineffectual in addressing crustaceans. The MPA states on page 14 of the Biological Site Assessment "NBBBI will collect large shell or barnacle aggregations and properly dispose of them during this process." The word "large" is left to the interpretation of NBBBI at the time of the scraping. As we have addressed previously in this letter, NBBBI may determine "large" to be whatever it wants to be to avoid a condition (as it has done in the past). NBBBI should have used the terminology of "any" or "all" shell or barnacle aggregations in the condition especially since the mudflats presently do not have any shell or barnacle aggregations littered on them. That would be a more appropriate and effectual condition.

We also note that the landscape report contains no visual simulations of views of the rail system or the site from the Harbor. These are some of the most important views of the proposal. The County should require NBBBI to prepare an EIS with visual simulations of views of the site and rail system from the water.

A number of goals and policies in Island County's Shoreline Master Program ("SMP") are applicable to NBBBI's proposal, including but not limited to, Economic Development Goal, SMP at 3-6; Shoreline Use Goal, SMP at 3-11; Development Policies 1 and 3 for Shoreline Use Goal at id.; Conservation Goal, SMP at 3-11; Policies 1, 2, 4, 5, and 8 supporting Conservation Goal, SMP at 3-11 to 3-12. Implementation Goal and General Development Policies 1, 2, 3, 6 and 7 supporting the Implementation Goal, SMP at 3-14 to 3-15. It is clear from reviewing these goals and policies that this application does not meet and is directly inconsistent with these goals and policies.

A portion of the shoreline designation applicable to NBBBI is Aquatic, in particular for the tideland areas in front of NBBBI's property. From reviewing the SMP, it is clear that the Aquatic Conservancy designation should be applied to this land. Please let us know why the appropriate Aquatic Conservancy designation has not been considered in NBBBI's application materials.

If Aquatic is applied to this proposal, there are a number of policies that NBBBI cannot meet and are inconsistent with including but not limited to Aquatic policies 1, 2, 4, 8, 9, 10, 13 and 29. SMP at 3-24 to 3-26.

The shoreline in front of NBBBI's property is also a shoreline of state-wide Significance. Any approval of development within the shoreline must, therefore, meet the policies set forth in RCW 90.58.020(1)-(7). These policies require state-wide interest in protecting shorelines of state-wide significance to take precedence over local interests; to preserve the natural character of the shoreline; to ensure that long term benefits of preserving the shoreline take precedence over short term benefits; to protect the resources and ecology of the shoreline; and to increase public access and recreational opportunities for the public to the shoreline. As described throughout this letter, none of these policies are being met by allowing NBBBI to expand its operations and inflict significant impacts on the surrounding shorelines and public use of the shorelines. NBBBI will not be able to meet the state policies requiring protection of Shorelines of State-Wide Significance.

Chapter 17.05 of the Island County Code contains the County's Shoreline Use regulations. There are a number of shoreline use requirements in ICC 17.05.090, including subsections (3), (4), (6), (7), (11) and (13), that NBBBI have not demonstrated that it adequately meets.

ICC 17.05.140 sets forth requirements for docks and piers. Again, subsections (1), (2), (3), (5), (7), (9), (10), (14), and (15) all set forth requirements that NBBBI's application materials do not demonstrate that they adequately meet. Likewise, ICC 17.05.150 contains requirements for dredging and landfill. Because part of NBBBI's proposal is to remove the existing ramp, dredging will occur related to this proposal. A number of dredging requirements, specifically subsections (8), (9), (10), (11), (12) and (13), all apply to this proposal. NBBBI's materials do not demonstrate that they adequately meet these requirements.

ICC 17.05.220 is applicable to NBBBI's proposal. Specifically, subsections (4), (6), (8), (9), (10) and (11), all contain standards that NBBBI's to date have not meet. Because NBBBI cannot meet any of the above SMP policies, it should not be granted any shoreline permits.

Part of NBBBI's proposal seeks a shoreline conditional use permit ("CUP") for construction of the in-water rail system and in-water mitigation of beach restoration consisting of removal of a temporary rail system. The standards applicable to a shoreline CUP are found in WAC 173-27-160. NBBBI's application materials demonstrate that it does not meet these requirements and it should not be entitled to a CUP. In particular, there has been no demonstration that NBBBI meets all the policies of RCW 90.58.020 or the SMP. As we have demonstrated in this letter, the proposed use will interfere with normal public use of public shorelines and the proposed use and the design of the project is not compatible in the area or uses planned within the area. In addition, the proposed use will cause significant adverse impacts to the shoreline environment and the public interest will suffer substantial detrimental impacts.

Finally, a cumulative impacts analysis is required for approval of a CUP. The application materials presented by NBBBI do not provide an 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.

The applicant is also required to obtain a new shoreline height variance because it proposes to build new or expand buildings or structures higher than 35 feet above the average grade level of shorelines of the state. See RCW 90.58.320. The criteria to obtain a variance permit in a shoreline is located in WAC 173-27-170. The applicant does not come even close to meeting the requirements for a variance. It cannot meet any of the requirements in RCW 90.58.320 and WAC 173-27-170. There are no overriding considerations that the public interest will be served by granting the shoreline variance. The application does not meet any of the policies enumerated in RCW 90.58.020. As mentioned above, the applicant has not demonstrated extraordinary circumstances required it to exceed height limits within the shoreline. And the applicant certainly cannot show that the public interest shall suffer no substantial detrimental effect. Numerous significant impacts will be caused within the shoreline into the surrounding public use of the shoreline by this application, including the proposal to place 65-foot buildings within the shoreline. The applicant cannot show that the design of the proposal is compatible with other uses in the area and cannot show that it must have buildings that exceed the height limit within shoreline to operate its business. Because the applicant can in no way meet the shoreline variance criteria, Island County must deny the shoreline variance request.

10. Seismic Issues

No evaluation of seismic impacts related to this proposal is included in the application materials. It is likely that the southernmost trace of South Whidbey Island Fault (“SWIF”) runs close, if not through, the NBBBI site. See Kelsey, H.M. et al. (2004) Land-level changes from a late Holocene earthquake in the northern Puget Lowland, Washington: *Geology*, v.32, p. 469-472. SWIF consists of several fault strands on Whidbey Island, based on offshore and onshore seismic profiles and deformed sediments in beach cliffs. SWIF is an active fault. The rail system (installed from impact hammering of pilings into the harbor’s floor 40’ to 80’ could be impacted by a surface eruption or shaking on SWIF. The shifting of SWIF could affect the rail system after installation by tweaking the pilings so the rail system is not true and thus may cause an accident during launching reminiscent of the launching of the Empress of the North. No evaluation of surface rupture or shaking impacts on the upland site have been evaluated either. The MPA has not addressed the location of NBBBI in close proximity of SWIF. An EIS, evaluating seismic impacts, should be required.

11. Wildlife Impacts

The plan does not note the overlap of pile driving activity and eagle nesting from roughly July 15 through Aug 15. There is a nest within range and within line of sight of construction and two nests within the radius of territorial impact area. In addition, noise is addressed, but the effects of night lighting on eagles or any bird species are not addressed in the application documents.

An Orca whale population has been seen in Holmes Harbor and is currently in the review process of being listed on the endangered species list. This species was not address in the MPA application. The rail system could impact the migratory and feeding habits of the Orca whales and should be evaluated.

12. Vibration Impacts

The MPA Application does not adequately evaluate or address the significant impacts on the surrounding homes with the excessive vibrations over the period of two months when the rail system will be constructed. Vibrations will be transmitted along the shoreline disturbing foundations, bulkheads, rockeries, windows, docks etc. The MPA states “NBBBI *may* construct the marine rail system in two phases over two construction seasons.” This implies that they could decide to install the rail system in one season which would impact the neighboring properties over a longer duration and most likely on a 24/7 schedule for several months. This would be a significant adverse impact on the neighboring properties.

13. Impacts from rail system on eelgrass and fisheries

The MPA does not adequately address or evaluate significant impacts to eelgrass and fisheries. An EIS, analyzing these impacts should be required. In addition, the applicant does not meet the necessary and applicable Hydraulic Project Approval (“HPA”) requirements.

We incorporate in this letter Susan L. Dearn's Jan. 14, 2005 letter regarding eelgrass impacts to be caused by the MPA. In addition to Ms. Dearn's comments, we note the following:

The Biological Assessment makes numerous assumptions that are inaccurate and skewed. For example, the applicant's materials generalizes that the construction of the new rail system to a depth of -27 MLLW is beyond the depth that eelgrass utilizes; that the change in operation no longer requires dredging at the end of the existing system; and that the limited utilization of the area by salmonids. These generalizations significantly overlook the total impact to be caused by the proposal. There is a net loss of habitat that is not mitigated for as required by WAC 220-110-300.

When addressing the direct or indirect harm to fish standard (as required by WAC 220-110-030 (12)), it is important to consider all species, including forage fish and not place the emphasis only on salmonids. The planned permanent marine rail system that transverses the eelgrass beds is a direct impact to fish and aquatic organisms that are not properly mitigated in the MPA materials.

The critical impact of the new system will be increased predation on juvenile salmonids and forage fish. The configuration that is proposed is natural habitat not only for predatory fish adjacent to the piling but will be ideal roosting habitat for birds that will prey on the juvenile salmonids and forage fish (salmon food) as they seek refuge next to the piles and in the eel grass beds. A direct quote from "Factors Affecting Chinook Populations", Weitkamp and Ruggerone, 2000, pp 75, states: "Predation of young Chinook along the City's Puget Sound shorelines is primarily by birds and marine fish." The issue is applicable along all of the shorelines of Puget Sound, including Holmes Harbor.

In the Biological Evaluation, it is pointed out that pile perch remained in and around the old ramp system. This species of fish is a predator of other fish including juvenile salmonids. The presence of the marine rail enhances this area for pile perch and other marine fishes that will prey on both salmonids and forage fish. The system cannot be compared to a ferry terminal system as there is only occasional use of the rails as compared to continual boat activity at the ferry terminals. Lesser use of the rail system will increase predator activity because human use tends to drive way all species, including predators.

The proposed system will extend beyond the eelgrass beds to deeper water that is used by rockfish as well as marine mammals. During low tides, juvenile salmonids migrating through the area may be forced into the deeper water where these predators are present.

The presence of the eel grass beds does not draw the salmonids away from the shoreline. Most of these juvenile salmonids are still very dependent on crustaceans as a major source of food and particularly the copepods which are sand and gravel organisms. This fact is not accounted for in the MPA materials.

The Biological Evaluation identifies only the area of the existing eelgrass beds as the area of impact for pile placement. This is incorrect as the documents indicate that the eelgrass is naturally extending the area towards the shoreline (associated with the dredging of the existing system). This will result in a larger area of piling impact for which no mitigation is indicated.

The cleanup of the existing rock ramp as mitigation does not account for the impact of the piling. This is mitigation for an existing illegal impact.

The extension of the ramp to a length of 1400 ft will create an impact for marine mammals that frequent the area and may impact the feeding area of the grey whales that often frequent Holmes Harbor.

Construction impacts to eelgrass appear to have been minimized. There will be eelgrass impacts from machinery used to install piers. No loss of or impacts to eelgrass has been considered for this part of the construction in the MPA documents.

The revised rail system will not change the deposition of material that has been a problem for the existing launch system. There is still a potential for sediment to be deposited in a manner that could either impact the operation of the rails or the eelgrass beds.

The process of removing the current ramp as a mitigation measure is incomplete as planned. Concrete slabs will be left in place 3 feet below the surface of the mud flats. This alone means that whatever ecosystem reestablishes itself there will be half of what normally would be found in a natural mud flat environment. Additionally, the ramp is built on tons of rock that is buried in the mud. That rock will not be removed. An analysis on what toxins are sitting in the soil that will get stirred up into the aquatic environment as a result of this dredging is necessary and should be required by the County.

The biological eelgrass assessment is based upon studies done over 2 years ago. The phase 2 of the construction of the rail system will take place 8 to 15 years from now which impacts the eelgrass colony located in the rail system's path. With this in mind, the evaluation of eelgrass impact is woefully inadequate.

No plans are provided to evaluate future maintenance and responsibility for the rail system. Should Nichols eventually move or cease to exist, who will bear the burden of the cost of maintenance, safety measures or the removal of the rails and pilings? NBBBI must be required to deposit funds sufficient to cover these costs in a trust. These issues are not covered in the MPA but should be.

14. Stormwater Impacts

The means in which NBBBI will manage storm water has not been adequately addressed in the MPA. Presently, NBBBI is not in compliance with their storm water permit according to the DOE. For example, NBBBI has reported no overflows even though Ecology personnel have personally observed them onsite. Ecology has threatened NBBBI with fines several times. And NBBBI also has not submitted the required monitoring reports or infiltration basin performance as required. These violations should be taken to account in the County's review of this proposal.

The first 400' of the proposed rail system is designed to be recessed into the pavement within the shipyard and across Shoreview Dr. This will essentially act as a preferential pathway to transport surface runoff into the harbor. This is a significant impact not evaluated in the MPA. An NPDES permit must be made an integral part of any approval of the MPA.

The stormwater plan is based upon an underestimation of annual precipitation: 21 inches. Twenty inches annual rainfall is too low because the rain shadow does not cover Freeland/Holmes Harbor as it does in the north. A stormwater plan based upon actual precipitation in Freeland/Holmes Harbor must be required. Otherwise, every aspect of the plan is inaccurate and minimizes stormwater impacts.

The Preliminary Drainage Plan by Tetra Tech / KCM is woefully inadequate and does not meet even the County's most basic application requirements (County requirements in italics):

- *The plan view of detailed drainage plans must be drawn at a scale no smaller than 1" = 100'.*

A non standard scale of 1.5 inches = 200 feet was used.

- *Professional Engineer's seal, signed and dated.*

No engineer's seal was affixed to the report.

- *Vicinity map, showing project boundaries, streets with street names, shorelines if any, city limit boundaries if any, and distance to nearest intersection.*

Name of major road to the south is un-labeled on Drainage Plan.

- *Name, address and telephone number of project developer and property owner.*

Not included in drainage report.

- *Name, address and telephone number of Project Engineer.*

Not included in drainage report.

- *Property boundaries, dimensions, and area (in square feet or acres).*
Property area not included in drainage report, nor areas of analysis basins, parking facilities, rooftops, etc.
- *Existing and proposed structures and other impervious surfaces such as parking lots, driveways, patios, buildings, pipes, catch basins, channels, etc.*
It is impossible to tell what features were existing and which were proposed in the drainage plan.
- *Location of on-site and adjacent off-site waste treatment systems, such as septic tanks and distribution systems.*
These are not identified or not recognizable at the scale of drawing submitted.
- *Existing and proposed utilities, with easements identified.*
Neither other utilities, nor easements identified in the drainage plan.
- *Areas where natural vegetation is to be left undisturbed.*
Wetland class not identified. No discussion was included of wetland preservation, or mitigation for fill, or permitting for wetland fill in drainage report.
- *An approximate plan for the collection and conveyance of stormwater through the project site. As a minimum, show by flow arrows the directions of proposed stormwater flow and indicate the method for conveyance (pipe, ditch, biofiltration swale, overland flow, etc.).*
A reader cannot distinguish between industrial tributary areas and non-industrial areas. This requirement is not met.
- *Description of project location.*
None was included in drainage report.
- *Description of pre-development site conditions.*
None was included (not pre-development and no discussion of existing problems and issues) in drainage report.
- *Downstream drainage analysis.*
None was included in drainage report.
- *Description of proposed development, including description of proposed developed site.*
No detailed description was included of new or existing facilities (eg, size of bioswales) in drainage report.
- *Description of the design method, names of computer software routines, and reference design standards utilized in the design process; hydrologic analysis.*
No analysis was included in the drainage report.

- *Preliminary sizing of storage facilities proposed for stormwater quantity and/or quality control.*

Not included in the drainage report.

Preliminary report addressing potential erosion and sedimentation impacts during construction, and general proposals for the mitigation of these impacts.

Not included in the drainage report.

- *Off-site contributing drainage basins, on-site drainage basins, time of concentration routes, approximate locations of all major drainage structures within the basins. All basin maps must be legible and at a specified scale.*

No analysis areas on-site or off-site shown on plan. The storm drainage plan drawing is nearly illegible and is not to the specified or standard scale.

- *Resource material such as soils maps, isopluvial maps, nomographs, charts, figures, tables, etc.*

None included in the drainage report.

- *Surface/subsurface soil test results and test locations (when retention/infiltration is proposed).*

None included in the drainage report.

- *Downstream Analysis.*

None included in drainage report. Because of past problems with water quality, monitoring results for industrial effluent and stormwater quality pre- and post-treatment would be expected. A level 3 downstream analysis would be expected.

The above omissions make it impossible to evaluate the stormwater impacts of this proposal. This violates SEPA's requirement that environmental review must be based upon adequate information. See WAC 197-11-080. In addition, as we have stated before, it is apparent the NBBBI has not provide adequate information to support a complete application. The county has prematurely required public comments on this incomplete application.

In addition to the above missing required elements of a drainage plan according to Whidbey Island code, an EIS and adequate drainage plan should include the following:

- Flooding Report. What are limits and frequency of tidal flooding? (The shipyard lies within the floodplain of Holmes Harbor.) What is the threat from tsunamis?
- A detailed description of the proposed outfall.
- A sediment analysis at the municipal outfalls.
- A discussion of the wetland impacts.
- Plan to meet the five-foot separation from the bottom of the infiltration pond to groundwater and the impact of that change on site hydraulics.
- A description of the proposed design site plan (several intermediate years are described in the 15 year plan).

The following questions also should be addressed in an EIS and adequate drainage plan:

- How are water quality discharge standards going to be met at the outfall for effluent flows in excess of the 10-year, 24-hour event?
- Evidence suggests that there is a groundwater connection to saltwater. How is it proposed that this connection is verified or denied (eg, dye tests). If there is such a connection how will the project meet saltwater discharge standards?

All of the application deficiencies and omissions should be rectified by the applicant before this MPA can be evaluated fairly or meaningfully.

15. Wetland Impacts

It appears that the on-site wetland has been incorrectly classified as Category B. Because the wetland has a direct, readily observable connection to Holmes harbor, it should be classified as a Wetland A. Indeed, Island County Planner Theresa Lewis stated it was a Category A wetland in a 2002 memo to Jeff Tate. Impacts and mitigation for the on-site wetland should be evaluated in light of a correct categorization of the wetland.

16. Security Impacts

The MPA does not address the security issue of being the builder of military vessels. With the building of the X Craft, there have been visits from the Secretary of the Navy and high ranking navy officials. The security of our community is in question due to the boatyard. Future impacts from visits could include bomb sniffing dogs and snipers in the area, and closing of the surrounding surface streets. In addition, we now could easily become a target for terrorist activities which we are ill prepared for and brings an uncalculated risk to the residential community. Naval shipyards and navy bases have the security available of troops necessary to protect themselves and the surrounding community. Industrial shipyards are located in industrial areas which do not have residential homes within 30 ft of the shipyard. Our community should not be put at risk due to NBBBI's proposal.

A recent call to Todd Shipyards has confirmed that when it repairs military vessels, it is required by the military to have armed guards guarding the shipyard. Commencing 2/01/5, there will be an armed police boat using a blue light guarding Todd Shipyards because of the military repairs. NBBBI has stated in the MPA that it wishes to increase its repair business, including repairs on military vehicles. Also, as noted previously, NBBBI currently is working on the X Craft and is vying for additional military contracts. The armed patrols on land and in the harbor caused by NBBBI's military work will have a significant impact on the community that has not been addressed in the MPA documents.

Additionally, it is our understanding that vessels are not allowed to come within 300' of a military ship. What does this mean for the harbor? Will people have to move their mooring buoys? Will all boats have to be moved when a ship is launched or comes in for repairs? How is the building of military vessels with homeland security issues protecting the rural character of Whidbey Island? All of these issues have not, and must be addressed by NBBBI and the County.

17. Future Expansion

The MPA Sec: Site Plan Review Application includes the Assessor's Parcel Numbers and legal description which reads:

Lots 21-1, 21-2, 21-3, 22-4, 53-2 and 53-3 Plat of Syndicate addition to Freeland, per Plat thereof recorded in Volume 2 of Plats, page 23, Records of Island County, Washington, together with adjacent tideland; Lot 14, Plat Harbor Shores, together with adjacent tidelands; Block 4, 11, 12-Plat of Freeland, together with adjacent tidelands; and all tidelands between those adjacent to Lot 14 and those adjacent to Block 4; all in the south ½ of Section 10, Township 29 North, Range 2, E.W.M, all situate in the county of Island, State of Washington.

This represents over 28 acres of land not including the tidelands. It is easy to see what will occur in the future with NBBBI's ever-growing shipyard they will expand yet again into the full acreage between Woodard Rd, Cameron, Shoreview Dr and the highway. If they wanted to limit the shipyard to outlined area defined in their maps presented with the MPA, the legal description would not have included full blocks of land -- instead it would have had dimensions for example only reading "the S 300ft of block 11, N 500 ft of block 12 and so forth.

Future expansion plans should be identified by NBBBI and should be considered among the impacts to be evaluated in this proceeding as required by SEPA. SEPA requires consideration of direct, indirect and cumulative impacts. WAC 197-11-060. Future expansion also demonstrates the gross incompatibility of the shipyard in our community.

18. Traffic Impacts

The applicant claims that its expansion will cause no new traffic or circulation impacts. However, the applicant has not produced a traffic report to corroborate this assertion. The proposal is expanding operations and building a bigger parking lot. SEPA requires an evaluation of impacts to be based upon adequate information. WAC 197-11-080. The County cannot comply with SEPA and rely upon mere assertions by the applicant that it will not cause traffic impacts. A traffic study and traffic mitigation plan must be required of the applicant.

In addition, it is our understanding that on October 29, 2004, an exemption was granted by the County allowing NBBBI to avoid doing a concurrency test. This exemption was allowed based upon an explicit understanding that there will be no change in size of the area used for fabrication, no additional office space, and an assertion that the number of employees during the critical PM peak hour will not increase. See Oct. 29, 2004 exemption. Review of the MPA application indicates that bases for the concurrency exemption are not being met by the application. For example, the MPA has present storage becoming fabrication. Thus, this is an increase in fabrication. In addition, a new office administration building is proposed in the final stage. The concurrency exemption should be revoked by the County, and the applicant should be required to do a traffic concurrency analysis.

An NBBBI document found in County files shows that NBBBI is contemplating rerouting Shoreview Drive permanently to upland of the shipyard. This would deny the public use of a scenic road which currently parallels the harbor. This would also cause traffic impacts on surrounding roads that have not been identified or evaluated in any MPA documents.

Even temporary closure of Shoreview Drive would have significant impacts on SR 525 that adequately have not been examined to date. Closures 12 times a year at 2-3 days (conservative estimates given NBBBI's history and plans) equals 36 days of increased traffic on SR 525. This will have significant impacts on traffic congestion and non-motorized and pedestrian safety.

While Island County already has approved NBBBI's request for road closures (STP/SCUP 182/04), this does not end the inquiry for purposes of the MPA. As noted above, NBBBI estimates that it will use the temporary rail launch system approximately 12 times a year and that each usage will result in the closure of Shoreview Drive immediately in front of (to the north) of the boatyard for 2-3 days. But what if NBBBI exceeds these projections? What is the plan to enforce NBBBI's estimations? What sort of marking/notifications or warnings of road closures will be used? Who will bear these costs? Who will enforce them?

In addition, there is also confusion in the documents regarding whether all or only a portion of Shoreview Drive will be closed for NBBBI. Due to the significant impacts of the closure of Shoreview Drive, this issue should be clarified to the public.

As noted above, the Applicant should not be allowed to go forward with this MPA application based upon the utter lack of information regarding traffic impacts and mitigation. A traffic study and traffic mitigation plan must be required of the Applicant. The County's own code and SEPA requires it.

19. The County should not rely upon outdated 1982 EIS

The County is presently working off the 1982 EIS and anticipates issuing a DNS because of the EIS. But the 1982 EIS is out-of-date and should not be used as part of the environmental review. There are a number of errors and omissions in the 1982 EIS. The standards for environmental impacts, also has dramatically changed over the years and NBBBI's proposal in 1982 was nothing like what is being proposed today. Approximately 30 years ago, a commercial fishing company was allowed to drag the bottom of Holmes Harbor which environmentally impacted the harbor removing eelgrass from the harbor's floor. The 1982 EIS was done within a 10 year period of time after the destruction of the harbor's floor which does not represent what has occurred slowly over the last 23 years as the harbor has replenished itself. The shipyard was expanding at that time to 5.6 acres while the present MPA is requesting more than twice the acreage alone in impervious surface.

Some of the inaccuracies and out-dated information in the 1982 EIS include:

The 1982 EIS states on page 70: “Light and glare from the site are presently being mitigated by the following: 1. Production is mostly limited to daytime hours, thus causing a minimum annoyance at night.” With the proposed 24/7 operations, this will no longer apply. Additionally, it states on pg 70: “The planting of the pine tree buffer strip will eventually screen much of the ground-level boat-building activity. Within 3 to 5 years after planting, the buffer should also eliminate much of the light or glare at nearby properties.” The MPA proposal suggests the probability of vessels up to 100’ in height (the 1982 was a 40’ height pg. 87) which is an exorbitant increase of the height of vessels, light and glare which the mere tree buffer installed in 1982 will not be able to mitigate.

During 1982 the employment level of NBBBI was approximately 100 employees, presently NBBBI quotes anywhere from 250 to 260 with the all time high of 355. The 1982 EIS does not represent the increased traffic flow onto the highway or surfaces roads which a nearly 2.5 to 3.5 times higher presently. In addition, the surface road of Lynne Dr. presently is a significantly impacted from the NBBBI employees using the road to access E. Harbor Rd. This particular road needs to be addressed. The 1982 EIS addresses the grading of relatively level land to include the additional 2.6 acres but does not include or evaluate the filling in and grading of the swale for the purpose of a parking area between the present shipyard and the Terra Restaurant. This will change the drainage and elevations of the surrounding soils directly adjacent to the stormwater accumulation site and the sensitive wetlands and place an ever increasing flow of surface water from the highway and the uphill properties.

The 1982 EIS on page 93 states: “Light and glare from the site is presently effectively reduced (almost eliminated) by planting of the buffer around the boat yard. Fencing along Bayview Avenue (now known as Shoreview Dr.) also reduces these potential impacts to the north. The expanded facility will have additional lighting, the impacts of which could be mitigated by additional fencing and landscaping.” Presently, none of this applies to today’s operation so it is woefully understated in the proposed MPA.

In the 1982 EIS on pg 41 it states “A) Fur-Bearing Game:3. River Otter* *none have been observed on or near the Nichols site. River Otters do reside heavily in Holmes Harbor. Again, the harbor is reclaiming itself after the devastating act of being dragged.

The outdated 1982 EIS should not be applied to the wide and diverse significant impacts to be caused by the MPA project. During the 23 years since the 1982 EIS there has been a technology and methodology advancement unlike any prior advance we have seen the last century. These advancements should be used to determine the proposed MPA. Not doing so would constitute a serious neglect in the county’s due diligence. These advancements which unquestionably apply to the proposal can only be adequately and lawfully evaluated under SEPA by issuing a DS which requires a full EIS, not relying on a 22-year old, outdated EIS.

20. The Proposal is Inconsistent and Incompatible with the Surrounding Area and the CUP Should Be Denied

Presently, the current zoning is rural center, not industrial. When interpreting a zoning designation or word which is not fully defined one must make an interpretation which represents the average person’s understanding of the word or perceived zoning designation. The rural center zoning includes light manufacturing which includes boatbuilding. The average person’s understanding of the word “boat” is vessels which are used for personal usage or within a reasonable tonnage. Rural center does not include shipbuilding which the average person’s understanding would be the huge vessels that NBBBI intends to build. Industrial is a term the average person understanding would be heavy manufacturing. NBBBI MPA is a proposal to be an industrial shipyard in a rural center zoning located in a primarily residential community.

As demonstrated throughout this letter, this MPA is unquestionably incompatible. The County should not consider NBBBI’s shipbuilding to be permitted or compatible with the Rural Center zone.

21. The Economic Interests of NBBBI Can Be Met Even If The MPA is Denied

The alternative site of the Port of Everett is available to NBBBI to construct the larger vessels. Jobs will not be lost and Port of Everett is within reasonable commuting distance. NBBBI was able to transport their own workers over to the Port of Everett site during the summer of 2003 when the Empress of North was being repaired on their company boat Captain Cook VII without loss of any jobs or displacement of any economical benefits to Island County. The Program Elements in the SMP for the Economic Development goal states: “Provide for controlled economic development of shoreline dependent issues. Development along shorelines will be so located and designed to ensure compatibility among uses for the purpose of achieving lasting beneficial effects and enhancing the quality of life for residents of Island County with minimum

disruption or degradation of the environment.” The MPA can not meet this requirement in light of the existence of the Port of Everett option.

22. Conclusions

The cumulative impact of all the components of this MPA constitutes a significant adverse impact on the community of South Whidbey and the neighboring properties. Approval of this proposal severely will diminish our present quality of life and necessitate us becoming watch dogs of the NBBBI operations. Any of the mitigating conditions any agency would place on NBBBI will not be able to be properly enforced or policed with out the due diligence of the community. This proposal, if approved, would rob us of our inherent right to enjoy our homes to the fullest extent by inflicting upon us an incompatible industrial shipyard in a rural area by a less than exemplary company.

Island County has a responsibility to all its citizens to thoroughly investigate this MPA proposal to determine its intent whether expressed or implied to create a significantly adverse impact on to the local community and its residents. This requires the preparation of an EIS at a minimum. Not doing so will be a repeat of the Seattle Pacific University application faux pas the county found itself embroiled in the recent past. Presently, Snohomish County is facing the wraths of the Growth Management Board regarding the car lot which was allowed to be built on an agricultural land which potentially could cost the taxpayers up to 9 million dollars for their rush to judgment. Please do not incur these types of costs which the county experienced rushing through the SPU application by rushing to satisfy the needs of one business.

In addition, the applicant has not demonstrated that it meets all of the requirements of the permits necessary for the MPA. NBBBI's permit requests related to the MPA should be denied.

Please make our organization a party of record.

Respectfully submitted,

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Cc: Mike Shelton, County Commissioner District 1
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