

Armstrong/cm/3625

~~24 Jan 78~~

March

NPSEN-PL-ER

27 APR 1978

*from Haven Meeting
11 May 78*

Mr. Marvin Wilbur
Executive Director
Swinomish Tribal Community
LaConner, Washington 98257

Dear Mr. Wilbur:

Your letter of 9 April 1976 provided detailed comments on the Swinomish Channal Maintenance Dredging draft environmental statement. Your comments concerning the draft statement were not included in the final environmental statement because we received them approximately 8 months after the deadline for public comment. Although we have discussed the comments with representatives of the Swinomish Tribal Community and various resource agency personnel, we delayed our formal response until we had examined all sources of information which were available.

Our responses to your review comments are included as inclosure 1. These responses will be furnished to those who were on the project mailing list during the public distribution phase of the final environmental statement.

If you have any questions pertaining to our responses to your comments, please contact Mr. John Armstrong, telephone (206) 764-3625.

Sincerely yours,

THOMPSON

1 Incl
As stated

J. A. POTIAT
Chief Corps of Engineers
Civil Engineer

DICE

FOSTER

cc w/incl:
Dice

Thompson
Weinmann
Armstrong
ERS File
Operations Div
Project Plng Br
WP, Engrg Div (w/o incl)

HOGAN

SELLEVOLD/s/

ED-PL FILE

P004264

This document is a supplement to the "Swinomish Channel Maintenance Dredging" final Environmental Impact Statement (EIS). The purpose of this supplement is to address the comments and exhibits supplied by Mr. Marvin Wilbur, Executive Director of the Swinomish Tribal Community (inclosure 1). **Mr. Wilbur's letter, dated 9 April 1976, was received 8 months after the closing of the comment period for the above EIS.**

Comment: It seems very clear that the Swinomish Indian Tribal Community can provide your agency with a spoils dumping area. This area is the proposed Swinomish industrial site. The site should be able to accommodate Swinomish Channel maintenance needs for many years.

Response: The Seattle District Corps of Engineers has assisted the Swinomish Tribal Community fill several areas, including a 40-acre industrial site, with dredged materials. Many of your proposed dredged material disposal sites have been on tidelands in Padilla Bay. Federal policy and Corps of Engineers' regulations give high priority to wetlands protection. Continued disposal in tidelands may require a Federal EIS and must conform to Federal policy and regulations of the Corps of Engineers.

Comment: Page 6, 1.2.3. in the draft EIS and page 4 in the final EIS. It should also be pointed out that the filling along the north side of the channel from the McGlinn-Goat Island jetty has further prevented freshwater from flowing north toward the tribal fishtraps and oysterbeds, and has caused sand to drift into our fishtrap areas.

Response: The McGlinn-Goat Island dike, built in 1937, reduced the amount of Skagit River water reaching the fishtraps and oysterbeds on the southern and southwestern shores of the reservation. Furthermore, the amount of Skagit River water flowing through the Swinomish Channel was greatly reduced. While water currents were changed, hydraulic engineer W. M. Borland reported (in a 9 July 1976 memorandum to the Swinomish Tribe) that there has not been a great amount of deposition of sediments in the area north of Pull-and-be-Damn Point or in the vicinity of the Tankon Islands where many fishtraps were operating until 1934. Mr. Borland further stated that: "For the period 1890 to 1970, and especially since 1937, most of the sediment from the North Fork of the Skagit has passed between Goat and Ika Islands, fanned out, and come to rest on the east bank of Saratoga Passage." However, some sediments which were side-cast (placed just outside the channel) in the past, as the southern and northern entrances to the Swinomish Channel were maintenance-dredged, may have encroached on fishtrap or oysterbed areas.

Comment: Page 36, 2.2.6 of the draft EIS and page 25 of the final EIS. Your report grossly understates the case: "Since the diking of the southern entrance to Swinomish Channel, the number of salmon migrating through the channel to Padilla Bay has declined." Since the diking of the southern entrance to Swinomish Channel, the migration of salmon through the Swinomish Channel has been virtually destroyed. A once productive fishing grounds to the Indian and non-Indian people no longer yields any fish.

Response: Diking of the southern entrance to Swinomish Channel has greatly reduced the number of fish which passed through the channel on this migratory route. Part of the salmon run returning to the Skagit River did migrate through the Swinomish Channel; however, since construction of the dike and channel-deepening has reduced the freshwater attraction (flow) through the Swinomish Channel, the majority of fish changed their migration pattern, entering the Skagit estuary via Saratoga Passage or Deception Pass. Accordingly, fishing areas were altered. However, the total size of fish runs in Skagit Bay is not felt to have been affected by dike construction.

Comment: Page 38, 2.2.7 in the draft EIS and page 27 in the final EIS. "Overall, however, it (Swinomish trap and drag seining catch) has exhibited more or less the same fluctuations in level of production as other local Indian fisheries (Tulalip, Samish, and Lummi), and there is no apparent relationship between catch and channel maintenance operations."

It is surprising to see a statement such as this which boldly contradicts graphed trends which you, as well as we, have on file (see exhibits 1a, 1b, 1c). There is an expressed decline in both chinook and chum catches immediately following the 1937 jetty construction. Furthermore, these declines are local in nature, deviating from other Indian fishery trends to the immediate north and south near the mouths of neighboring rivers.

Comment: Page 38, 2.2.7 in the draft EIS and page 27 in the final EIS. "The catch of a trap and drag seine salmon fishery operated by the Swinomish Indians located just north of the southern entrance to the channel in Skagit Bay has been recorded for the past 36 years and is subject to a lack of information on effort and efficiency."

If catch records have been kept for the past 36 years, how can "information on effort and efficiency" be lacking? Fishtraps operate and have operated during all fishing seasons at high tide. The local Indian population has been small and constant. If anything, drag seining effort probably increased after the channel fishery was destroyed by the jetty in 1937.

Response: There are no official records with which to measure

the number of fish that may have been caught in the Swinomish Channel before and after the construction of the Goat Island jetty in 1937. General records do exist for the average per trap catch of salmon in Skagit Bay before and after jetty construction. However, no information exists concerning the actual number of days fished by, or the condition of, each trap during each year.

Average per trap catches of coho salmon from both Indian and non-Indian fishtraps in Skagit Bay, while showing large annual fluctuations, began declining in the early 1930's, several years before the Goat Island jetty was constructed. Catches of chinook salmon also declined in the early 1930's, increased in 1936, and then decreased again.

There are several possible reasons for the decline in salmon catches in Skagit Bay. As the total salmon catch has increased over the years, Skagit River fish have been taken in progressively greater numbers outside Skagit Bay. Therefore, greater numbers of fish produced in the Skagit watershed are caught before they can return to Skagit Bay. Physical conditions in the Skagit River and its watershed have also changed since the early 1900's. Major sloughs have been diked for farming; extensive areas have been logged; and dams have been built on tributaries of the Skagit River. All of these factors are believed by fisheries experts to have contributed to the reduction in production of fish.

While the Indian chinook salmon fishery in the Nooksack and Port Susan areas showed a general increase in catch when compared to the Skagit area (between 1935 and 1969), there is no information available on the number of fishermen, gear used, or the number of days fished by the various tribal fishermen each year.

The above lack of catch-per-effort information also pertains to the Indian chum and pink salmon fishery. These fisheries exhibited great fluctuations in the Skagit, Nooksack, and Port Susan areas from 1935 to 1969 (with a general decline in catch after 1959).

The number of fish available to all these fisheries is undoubtedly related to the number of fish caught in other fishing areas each year, as well as weather conditions, hatchery plants, logging practices, and other environmental factors 2 to 5 years before the adult salmon return.

While the jetty built in 1937 appears to have reduced the number of adult salmon that passed through the Swinomish Channel, there does not appear to be any evidence which suggests that the jetty has had a measurable effect on the fisheries production of the Skagit River system.

Comment: The coho catch also shows a marked decline when the average Skagit Bay catch per trap is viewed before and after Initiative 77 which closed down non-Indian traps. The overwhelming question which

has not yet been raised, much less answered, is why the two or three traps taken over by the Indians did not experience a much larger per trap catch after Initiative 77. Almost (sic) 19 non-Indian traps lying to the north and northwest of these Indian traps necessarily intercepted a major portion of the fish before they arrived in the vicinity of the Indian traps (exhibit 2). In 1935, these 19 non-Indian traps were closed and, therefore, many more fish coming through Deception Pass should have been caught by the Indian traps. However, exhibits 3a and 3b clearly show a dramatic decline in the per trap catch after the closure of the non-Indian traps.

The only other major environmental change at this time which could have so dramatically affected the fish catch was the jetty construction in 1937.

Response: The decline in both Indian and non-Indian fishtrap catches began in 1931 rather than 1937. The failure of the Indian fish catch to increase after the 1935 non-Indian fishtrap closure may be related to many factors. For example, changes in fishing regulations (i.e., increased fishing time for gillnets or purse seines on Skagit fish runs), opening of additional fishing areas, or an increase in fishing effort after the traps were closed could have contributed to reducing the Indian fishtrap catch.

Comment: Page 39, 2.2.7 in the draft EIS and page 27 in the final EIS. "Before the rehabilitation of the dikes in 1936, some commercial gill netting and Indian set net fishery were practiced in the channel, but abandoned thereafter. Dike construction probably did not diminish the number of fish but, rather, altered the migratory pattern which resulted in a shift of fishing effort into the Skagit."

It may be difficult to show statistically that dike construction diminished the number of fish because of all the variables. However, it would be even more difficult to draw the conclusion that "dike construction probably did not diminish the number of fish." Certainly, important fish habitat and access were diminished. Logically, the fact that the number of fish was diminished would be a more reasonable conclusion than that the number was not diminished by the dike construction.

Response: We have no facts at our disposal which indicate that the number of fish in Skagit Bay was diminished by the dike construction. Furthermore, although the number of juvenile salmon entering the Swinomish Channel may have been reduced by the jetty construction, there is no information available to suggest that the subsequent increase of juveniles in Skagit Bay exceeded the carrying capacity of the bay, or resulted in reduced growth or mortality due to competition.

Several of the responses on previous pages also apply to this comment.

Comment: Page 41, 2.3.1 of the draft EIS and page 28 of the final EIS. The resident Indian population figure was higher than 210 in 1970 and is presently about 450 people. Non-Indians number about 800 people.

Response: We acknowledge this correction to the final EIS.

Comment: Page 51, 2.4.1 in the draft EIS and page 34 in the final EIS. The Swinomish Indian Tribal Community is developing a shoreline management plan. Shorelines surrounding the reservation are not subject to the State Shoreline Management Act.

Response: We concur. The Corps of Engineers shall continue to obtain necessary Swinomish Indian Tribal permits as a part of routine maintenance coordination. However, the Corps of Engineers is still subject to Federal regulations on where dredged material is disposed, regardless of who owns the land.

Comment: Pages 56 and 57, 2.5.2 in the draft EIS and page 37 in the final EIS. Archeological investigations on the reservation shall be authorized only by the Swinomish Indian Senate.

Response: The Corps of Engineers will continue the policy of obtaining permission from the Swinomish Indian Senate before archeological investigations are begun.

Comment: Page 77, 4.10.1 in the draft EIS and page 50 in the final EIS. "Such firms as the New England Fish Company, Swinomish Indian Fish House, and Dunlap Towing would likely be forced to leave the area or go out of business if channel dredging were discontinued."

The Swinomish Indian Fish Company (House) would neither go out of business nor leave the area. As a matter of fact, if there were no jetty or dredging, the tribal fishing and oyster operation would now be very profitable. Since the damage has been done, however, restoration will take large sums of money and many years of effort.

Response: If maintenance dredging of the Swinomish Channel were discontinued, the depth of water in the channel would be reduced dramatically in a few years. We believe that the water would become so shallow that many vessels would not be able to successfully navigate the channel. While this condition might not force the above companies out of business, it would definitely affect their normal business operations as they all make extensive use of the Swinomish Channel for moving products (fish, logs, barges, etc.).

General Comment: Another point of major concern is the destructive effect the Corps of Engineers' activity has had upon tribal oysterbeds in both Skagit and Padilla Bays. The only question is the extent of this destruction.

Response: Sedimentation of oysterbeds near the southern and northern entrances to the Swinomish Channel could have resulted from redistribution of side-cast dredged material during maintenance dredging of the channel. At the same time, it is probable that the dike at the southern entrance to the channel has reduced the rate of sedimentation caused by Skagit River.

Salinity changes resulting from channel deepening and dike construction may also have affected tribal oysterbeds.