



Oregon

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November 4, 2011

Bud Shoemake
Port Of Toledo
385 NW 1st, Unit 1
Toledo, Oregon 97391

Re: Beneficial Use Determination BUD20111104 *BUD 2011C907 - App. rec'd date*
Use of Port of Toledo Depot Slough Transit Dock Dredged Sediments as Fill Material at
the Waterfront Development Area

Dear Mr. Shoemake:

The Oregon Department of Environmental Quality (DEQ) reviewed the Port of Toledo's September 2, 2011 Application for a Solid Waste Beneficial Use Determination (BUD). The application is for the Port of Toledo to use dredged sediments from the Depot Slough (near the Yaquina River) as fill material at the Waterfront Development Area consistent with the Port's Waterfront Development Plan for that property.

In addition to the BUD application, the Port also provided a Sediment Quality Evaluation Report – December 2003 (prepared by US Army Corps of Engineers), and analytical results from a recently collected composite sample (April 2010). While the dredged sediments were approved for unconfined ocean disposal (dredging permit NWP-2008-172), the Port wishes to place the dredged sediments on a nearby upland area to help raise the elevation of the property above flood level (to enhance the area for future development).

DEQ has determined that the Port of Toledo's beneficial use proposal for the Depot Slough material meets the requirements for a case-specific beneficial use determination under Oregon Administrative Rules 340-093-0260 through 0290. The BUD is limited to the materials, approved uses, conditions and reporting specified below. The conditions of the BUD are intended to prevent adverse impacts to human health and the environment.

Material

The material consists of an estimated 1,800 cubic yards of sediments that the Port of Toledo will dredge from the Depot Slough (near the Yaquina River) Transit Dock area. The application includes laboratory chemical analytical results of one composite sediment sample from the area that the Port will dredge. This approval applies to the characterized dredge material, Depot Slough Transit Dock sediment. Dredged materials from other locations (such as the Former Fred Wahl site) will need to be evaluated through separate beneficial use determinations.

The analytical results indicated that the sediments had three contaminants with concentrations that exceeded screening levels for unrestricted use as clean fill. Both lead and zinc were present in the sample at concentrations above DEQ's ecological screening level values and default metal soil background values. Bis(2-ethylhexyl) phthalate (a.k.a., BEHP) was also present at levels above human health residential risk-based concentrations. As the proposed land use for the upland area is zoned "water-dependent," wherein the land could be developed to accommodate the public in a park like setting, residential risk-based standards are applicable. All other analytes' concentrations were below the clean fill screening levels.

Approved Uses

DEQ approves placement of the dredged material into the proposed dredge spoil disposal/dewatering area, located approximately 500 feet upstream from the dredge site at Taxlot 2200. This site, as described in the BUD application and other supporting documents, consists of a rectangular-shaped 0.70 acre area surrounded by a 4 to 6 feet high soil berm. The proposed location of the site is within 50 feet of the edge of the Depot Slough. The proposed use is as fill material to increase site grade prior to future development of the property. The BUD application also indicated that the spoil material would be spread over the property. Indiscriminant spreading would not be allowed of materials that have not been determined to be clean fill. The material characterization and risk screening indicate that contaminant concentrations in the sediment are above levels protective of human health and the environment for future use of the property as a park like area (i.e., residential risk-based standards). Therefore, the following conditions must be adhered to for use of this material.

Conditions of Use

DEQ understands that the property is zoned "water-dependent" and the Port of Toledo could develop the property to accommodate the public with park like features. As contaminant concentrations present in the one composite sample indicated three contaminants at levels in excess of clean fill standards, the dredged spoils currently would not be considered to be clean fill. Given this situation, DEQ offers the following four options for the Port to consider.

1) Additional sampling to re-evaluate spoils for clean fill determination

The Port would perform additional testing of the dredged sediments to further evaluate if the materials could meet clean fill standards. To obtain samples representative of the materials dredged and placed in the upland area, three grab samples should be collected of deposited and dewatered dredge spoils. Each sample should be analyzed only for lead, zinc, and BEHP, the chemical parameters that had clean fill screening level exceedances. DEQ would review the laboratory chemical analytical results. If the results reconfirm that the spoils do not meet clean fill standards, the dredged sediments placed in the disposal area will need to be contained in-place to limit potential contaminant exposure to receptors. To ensure that the contaminated sediments remain undisturbed, institutional controls (i.e., deed restriction) would be required.

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If the analytical results indicate that the contaminant concentrations in the dewatered sediments are below clean fill screening levels, the spoil material would be determined to be clean fill. In that situation, there would be no restrictions placed on the use of this material nor would any institutional controls be required.

2) Cover the dredged sediments placed in the upland area

The dredged sediments placed in the disposal area would be contained in-place to limit potential contaminant exposure to receptors. This would be accomplished by maintaining the soil berm around the spoils containment area and covering the spoils with at least six (6) inches of clean soil. To ensure that the sediments remain undisturbed, institutional controls (i.e., deed restriction) would be required.

3) Place institutional control on property to preclude uses that could result in contaminant exposure

Based on the property being zoned "water-dependent," current potential conditional uses of the property include "public accommodation in conjunction with a water-dependent use that provides marina facility or public waterfront walkway or pavilion" or "other water-related development in conjunction with a water-dependent use." Either of these conditional uses could result in the property being developed into a park like area which could result in exposure of receptors to contaminants present in the dredged spoils.

Institutional controls would need to be placed on the property to not allow these conditional uses. Alternatively, if park like features were developed under these conditional uses, the area must be designed and constructed such that the sediments were covered with clean soils to prevent exposure of receptors to contaminants present in the spoils.

4) Disposal of dredged sediments to a permitted solid waste disposal site

As the dredged sediment is currently not characterized as clean fill, the material could be disposed of at a permitted solid waste disposal facility (e.g., Coffin Butte Landfill).

Regardless of which option the Port chooses to take, dewatering and placement of sediments must be done to prevent discharges to waters in accordance with the DEQ 401 water quality certification dated September 10, 2011 or amendment to the certification.

Reporting

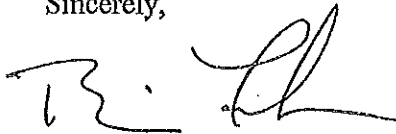
The Port of Toledo must report to DEQ on the status of the work until the dredging and placement of the material is completed or otherwise discontinued. The status of the additional sampling and analyses must also be reported. Reports must include the status of proposed dredging, volume of material under this BUD placed at the proposed disposal/dewatering upland area, and any additional characterization information. Reports must be submitted to:

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Brian Fuller, Manager
Solid and Hazardous Waste Program
Oregon Department of Environmental Quality
750 Front Street NE, Suite 120
Salem, OR 97301

If you have any questions about this BUD, please contact me at 541-687-7327 or Gene Wong at 541-687-7438. We hope to continue working cooperatively with the Port of Toledo on the future beneficial uses of dredged materials.

Sincerely,



Brian Fuller, Manager
Western Region Solid and Hazardous Waste
Permitting and Compliance

Ec: Dawn Pavitt, Pavitt Land Use Consulting (Newport)
Tom Taylor, USACE (Portland)
Carrie Landum and Kirk Jarvie, DSL (Salem)
Jason Kirchner, ODFW (Newport)
Chris Stine, Gene Wong, and Mary Camarata, DEQ (Eugene)