

110 SE Oyster Beach Road  
Shelton WA 98584  
December 29, 2007

Nisqually Land Trust  
P O Box 1148  
Yelm WA 98597-1148

Dear Land Trust People:

By way of background, in 1994 when negotiations between the Nisqually Delta Association (NDA) and (the) Lone Star Gravel and Weyerhaeuser Real Estate were mandated by the Shorelines Hearings Board to to see if the pending lawsuit could not be brought to some kind of prior settlement, Stan Cecil and I were the appointed representatives of the NDA.

One of the hard-won outcomes of that process was an agreement for mitigation funds as follows: An Environmental Mitigation Trust with a land trust shall be established for acquisition of property, development rights or easements in the Delta area. Lone Star and Weyerhaeuser will contribute an initial amount of \$375,000 with a \$125,000 bonus for timely permit approval. Payments of \$50,000/year for 25 years will go into the fund with all payments contingent upon final permit approval. Administration and control of this funding source was subsequently turned over to the Nisqually Land Trust.

Stan Cecil now lives in Massachusetts. In a telephone conversation recently, he asked me what had become of those funds. I had to answer that I had no information, though I do seem to recall the acquisition of some property fronting a small cove at Hogum Bay.

Accordingly, I am writing you to pass along the question. It would be interesting to learn about the disposition of this money.

Thank you for your attention to this.

Sincerely,

  
Janet Dawes

Cc: Stan Cecil; Tom Skjervold

# HCMP

HILLIS  
CLARK  
MARTIN &  
PETERSON  
*law offices*

December 17, 2008

Tom Skjervold  
President  
Nisqually Delta Association  
P.O. Box 7444  
Olympia, WA 98507

*Re: 1994 Settlement Agreement for Lone Star Northwest DuPont Project*

Dear Mr. Skjervold:

On behalf of my client, Glacier Northwest (formerly known as "Lone Star Northwest"), I am writing with regard to the dispute resolution process set forth in Section III.B.(1) of the 1994 Settlement Agreement for Lone Star Northwest DuPont Project (hereafter "Settlement Agreement").

By letter dated June 17, 2008 (copy attached), the Nisqually Delta Association expressly invoked this dispute resolution process. Glacier and other signatories to the Settlement Agreement subsequently met with you on July 16, 2008, to discuss the Association's concerns. You confirmed this consultation by e-mail dated August 14, 2008. In that e-mail you indicated that you would arrange a follow-up meeting of the parties. To date, this meeting has not occurred. We would now like to bring this process to a close.

Section III.B(1) provides that:

If no agreement can be reached within 10 days from receipt of the letter [confirming the dispute resolution consultation], the parties will then submit the dispute to Washington Arbitration and Mediation Services or other agreed upon mediator for mediation . . .

Since more than 10 days have obviously now passed since your August 14 e-mail, the Nisqually Delta Association, as the "aggrieved party" in the dispute resolution process, should now submit this dispute to mediation. Please call me at your earliest opportunity to discuss the names of potential mediators and mediation dates.

500 Galland Building  
1221 Second Avenue  
Seattle, Washington  
98101-2925

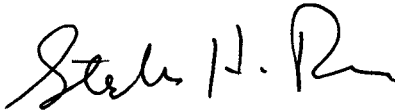


phone 206.623.1745  
fax 206.623.7789  
www.hcmp.com

Tom Skjervold  
December 17, 2008  
Page 2 of 2

If we do not hear from you within 10 days of this letter, we will assume that the Association has no further interest in this dispute resolution and we will consider the matter closed.

Very truly yours,

  
Stephen H. Roos

SHR/jlp  
*E-Mail:* SHR@hcmp.com

Enclosure

cc: Pete Stoltz, Glacier Northwest  
Sue Danver, Black Hills Audubon Society  
Krystal Kyer, Tahoma Audubon Society  
Bill McDonald, City of DuPont  
Sally Toteff, Washington Department of Ecology  
Tom Young, Attorney General's Office

ND: 10552.094 4817-8726-2723v1

HCMP

**Nisqually Delta Association  
PO Box 7444  
Olympia, Washington  
360-357-3792  
[www.nisqually.info](http://www.nisqually.info)**

January 4, 2008

Glacier Northwest  
5975 East Marginal Way  
Seattle, Washington  
98134

City of DuPont  
303 Barksdale Avenue  
DuPont, Washington  
98327-0455

**Re: Nisqually Delta Association's Notice of a Breach of the 1994 Settlement Agreement and Request for Mediation.**

To Whom It May Concern:

On July 16, 2008, several of the parties who signed the "1994 Settlement Agreement for Lone Star Northwest DuPont Project" met at our request in the DuPont City Hall. The purpose of the meeting was to discuss Glacier Northwest's proposal to expand its gravel mining facility. The Nisqually Delta Association (NDA) believed, and continues to assert, that this proposal violates section II.B.5 of the 1994 settlement. That provision of the agreement contains a covenant in which Lone Star and its successors (now Glacier Northwest) agree not to seek any permits to mine within the shoreline jurisdiction, within 100 feet of the top of the bank of Sequelitchew Creek, or in a manner that would significantly impair the flow of Sequelitchew Creek. There is also a covenant to limit any future uses of the DuPont shoreline area outside of the Special Management Unit to non-industrial uses. This meeting was the first step in the dispute resolution process set forth in the 1994 settlement agreement.

At the July 16<sup>th</sup> meeting, representatives from Glacier Northwest provided those assembled with a description of the mine expansion proposal that is currently under review by the City. NDA representatives, and other representatives of various citizen groups, detailed our objections to the plan. We hoped that such a meeting would illustrate the ways in which the currently configured proposal violates certain key terms of the 1994 Settlement Agreement and would lead to an amicable resolution of the dispute.

The Nisqually Delta Association learned recently that the City of DuPont has approved a Sensitive Area Exception and a Conditional Use Permit application to allow Glacier to place an interim drainage pipe and flow dissipation structure in Sequelitchew Creek as a precursor to the proposed expansion of their current mine. This action appears to foreshadow the approval of the project put forward by Glacier Northwest, which at the time of our meeting on July 16, 2008, City Administrator Bill McDonald indicated was very much undetermined. During that meeting Mr. McDonald indicated the City had not violated the spirit of our 1994 Settlement Agreement because they were only considering an application, and had not taken any action that would violate the agreement. However, the granting of such a permit is an action that would most certainly impact the flow of Sequelitchew Creek and disturb the creek-side bluff, and thus violate at least two principals of the settlement agreement. Given that the action was taken with no notice to our organization, a party with a stated interest in this matter, we are left with the distinct impression that both Glacier Northwest and the City of DuPont are intent upon moving forward with the proposed project.

Further Nisqually Delta Association has seen where the City of DuPont has since put forward a proposed Comprehensive Plan update that suggests the long-term vision for the community is to remove a portions of marine shore zone bluffs. The proposed comprehensive plan update indicates an intention to remove portions of the seaside bluff north of the mouth of Sequelitchew Creek, as well as putting into the City's comprehensive plan the proposed mine expansion's drainage channel, (referred to as "North Sequelitchew Creek"), which would require removal of the bluff along Sequelitchew Creek.

We believe the mine expansion and the Comprehensive Plan updates, as proposed, violates the terms of section II.B.5 of the 1994 Settlement Agreement. That section, entitled Shoreline Uses, reads:

"Lone Star and WRECO agree to limit future use, if any, of the remaining DuPont shoreline outside of the Special Management Unit to non-industrial uses consistent with the conservancy regulations of the existing DuPont Master Program. The permits obtained by Lone Star do not provide for any mining within 200 feet of Puget

Sound or Sequelitchew Creek. WRECO and Lone Star agree to seek no permits in the future to mine within the shoreline jurisdiction as defined by RCW Chapter 90.58, or within 100 feet of the top of the bank of Sequelitchew Creek, as shown on Exhibit J, or in a manner that would significantly impact the flow of Sequelitchew Creek.”

Because it appears that the matter is not being resolved in a manner that acknowledges our rights under the 1994 Settlement Agreement, we must conclude that continued informal discussions are not likely to produce any serious progress towards the resolution of this dispute. Accordingly, please regard this letter as confirmation that we have attempted to conduct the informal consultation specified in section III.B.1 of the 1994 settlement agreement and have concluded that further informal discussions are unlikely to produce any satisfactory resolution. If you are unable to present an option for satisfactorily resolving this matter in the next ten days, we intend to proceed to the next step of the dispute resolution process set forth in the settlement agreement and submit the dispute to the Washington Arbitration and Mediation Services (or other agreed upon mediator). Ultimately, if mediation does not resolve the issue, we intend to seek enforcement of the settlement agreement utilizing all other remedies available by law.

Sincerely,



Tom Skjervold  
President  
Nisqually Delta Association

cc: Washington State Department of Ecology  
Weyerhaeuser Real Estate Company  
Black Hills Audubon Society  
Washington Environmental Council  
National Audubon Society  
People for Puget Sound  
Tahoma Audubon Society  
Seattle Audubon Society  
Anderson Island Quality of Life Committee

**DECLARATION OF RESTRICTIVE COVENANT**

This Declaration of Restrictive Covenant is made this \_\_\_\_\_ day of \_\_\_\_\_ 1997, by the Weyerhaeuser Real Estate Company ("Weyerhaeuser") the fee title owner of the real property herein described, in favor of the State of Washington, Department of Ecology ("Ecology").

The property that is the subject of this Restrictive Covenant was the subject of remedial action under the Washington Model Toxics Control Act ("MTCA") Chapter 70.105D RCW. This Restrictive Covenant is required by RCW 70.105D.030(1) (g) and WAC 173-340-440 (as amended 1/96) because an "industrial soil" cleanup standard was selected for soils on the site under WAC 173-340-745, resulting in residual concentrations of contaminants which exceed Ecology's residential soil cleanup standards. The remedial action undertaken to clean up the property is described in the Consent Decree entered in State of Washington V Weyerhaeuser Co., Inc. and DuPont Co., Inc. Pierce County Cause No. 91-2-01073-1 and in a Cleanup Action Plan dated March 4, 1997. The Cleanup Action Plan is on file and available for inspection at the Washington State Department of Ecology, Toxics Cleanup Program, P.O. Box 47775, Olympia, WA 98504-7775.

The property, known as the "Former DuPont Works Site" ("Property") is an 841-acre parcel of real property located in Pierce County, more particularly described in Exhibit A attached hereto and made a part hereof. The property is divided into two separate parcels identified as Parcels 1 and 2, Parcel 2 consisting of 205 acres located north of Sequelitchew Creek.

In the Cleanup Action Plan, Ecology selected a "cleanup action" for the Property, which provides for the following actions:

Establishment of Institutional Controls (environmental protection easement and deed restriction) in affected areas to prevent uses of the real property other than traditional industrial uses, such as processing or manufacturing of materials, marine terminal and transportation areas and facilities, fabrication, assembly, treatment or distribution of manufactured products, or storage of bulk materials and other uses permitted on industrial properties by the MTCA;

With the exception of the establishment of institutional controls /in affected areas, no further cleanup action is required on Parcel 2. As a result of interim cleanup actions now complete, Parcel 2 soils, surface water and ground water meet cleanup standards for industrial properties under the MTCA, as described in WAC 173-340.

Weyerhaeuser intends to subdivide and sell portions of Parcel 2 only to persons that would use the property for traditional industrial uses. Portions of the property, in the



2301 Center Drive  
PO Box 100  
DuPont WA 98327  
Tel (253) 924 7063  
Fax (253) 964 8050

June 13, 2000

Mr. Pat Steel  
Nisqually Point Defense Fund  
71 Silver Beach Drive  
Steilacoom, WA 98388

Dear Pat:

I have reviewed Mr. Stilson's letter of May 10, 2000, and reviewed records of past work around the 1833 Fort site. The area to the south has extensive plant growth which has prevented a thorough investigation. To better assess this area, beyond the current buffer, we will prepare a Work Plan for additional study, out at least 200' beyond the 63' buffer, following removal of the trees and other large growth. Low impact forestry will be employed in this selected area so that a careful investigation can be conducted.

which means ?

On the other three sides, I find little evidence that any unknown structures may exist beyond the 63' buffer strip that is now fenced. For example, on the north side, the land drops off very steeply into a kettle. It is highly unlikely anyone would have built on this side. On the west there were old DuPont Works buildings that have been removed. Tests have revealed concrete and brick from the industrial era. Due to the significant disturbances, I would not expect to find remnants of pre-industrial construction. On the east side is the edge of another kettle and shallow valley. It is unlikely there are remnants of pre-industrial activity beyond the buffer. (See attached map)

I am currently working on identifying possible additional archaeological resources to assist during cleanup activities. At this time, I cannot commit to a specific individual or firm.

I appreciate your interest and will continue to keep you informed as plans develop. At this time, the "Archaeological and Cultural Resources Protection Plan for Parcel 1" is undergoing peer review. Once I have a peer-reviewed draft, I plan to circulate it to others, including OAHP, for comment. Ultimately it will become a part of the final Cleanup Action Plan (CAP) and be part of that public review process.

If you have further questions, or want to discuss this matter in person, please give me a call at (253) 924-7063.

Very truly yours,

  
James P. Odendahl  
DuPont Site Manager

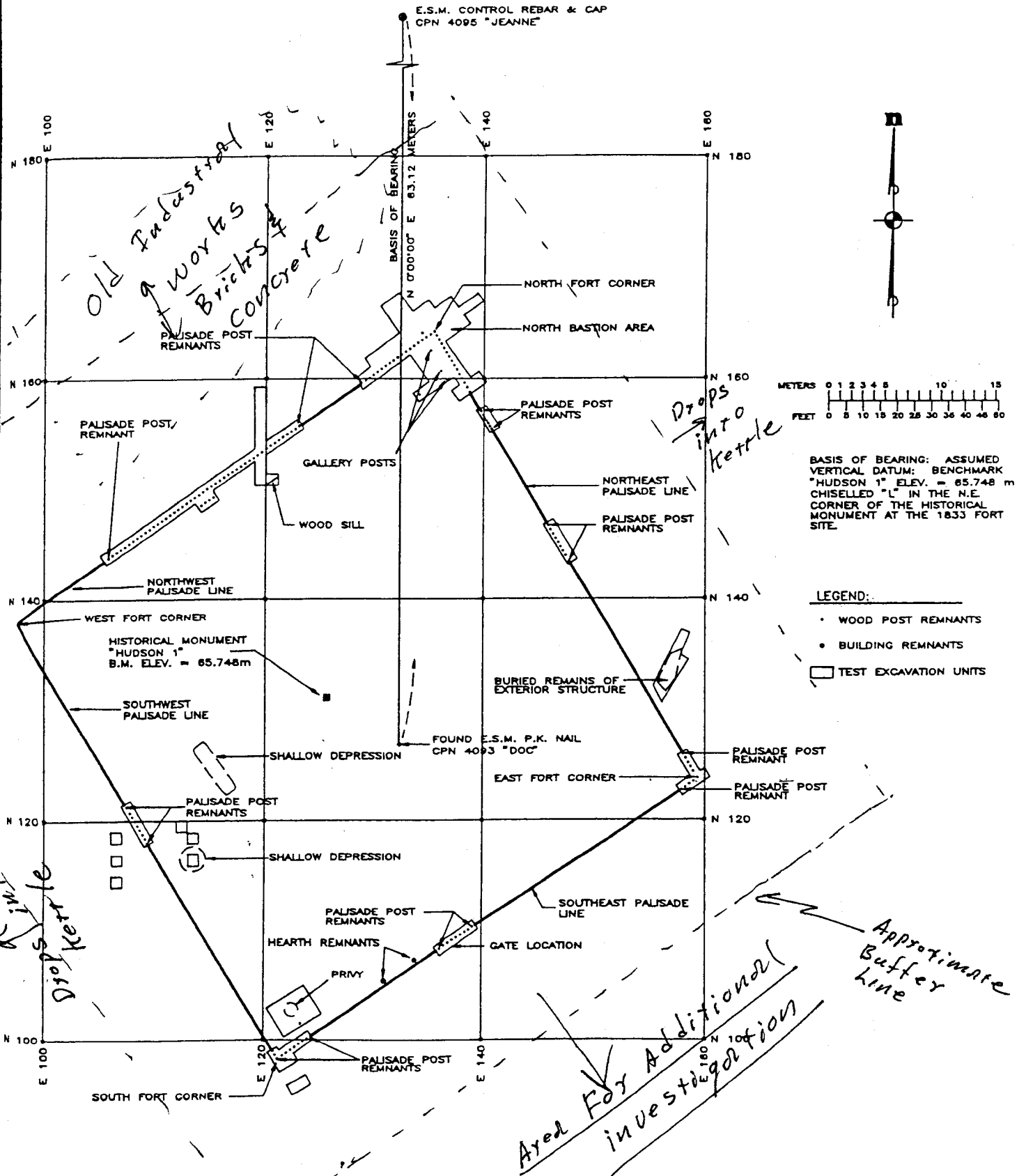
Enclosure

Cc: David Brentlinger  
Allyson Brooks  
Mike Blum  
Jeff King

100<sup>th</sup>  
Anniversary



A PORTION OF THE N.W. 1/4 SEC. 27, T 19 N, R 1 E, W.M.



1833 FORT NISQUALLY LOCATION AS DETERMINED BY 1989 ARCHAEOLOGICAL EXCAVATIONS



2301 Center Drive  
PO Box 100  
DuPont WA 98327  
Tel (253) 924 7063  
Fax (253) 964 8050

June 13, 2000

Dr. James A. Edgren  
10601 Rembert Ct. SW  
Lakewood, WA 98498

Dear Jim:

I have received your letter of April 2, 2000, and have taken time to review the existing records concerning the remaining structures, especially the "blacksmith" shop. In addition, I have had an engineer from URS Corporation survey the blacksmith shop for structural soundness and safety issues.

Based upon the engineer's report, and my review of the records, I do not see any way to save any of the few remaining buildings, including the blacksmith shop. The records show that it:

- is not of unique construction
- has been substantially modified over the years.
- contains lead paint.
- is sited in an area requiring cleanup of the top 12"-18" of soil.

In addition, the engineer's rough estimate of cost to clean up the building (i.e., remove lead paint), renovate and provide structural upgrades, is in the \$250,000 range.

Given the above information, we cannot allow any buildings to remain. The locomotive and remaining 60' of track will need to be removed in order to carry out the demolition of the blacksmith shop. This will need to be accomplished by the end of the year or earlier.

I appreciate your concern and please feel free to give me a call at (253) 924-7063 if you want to meet and discuss these issues further.

Very truly yours,

James P. Odendahl  
DuPont Site Manager

Cc: Pat Steel  
David Brentlinger  
Allyson Brooks  
Mike Blum  
Jeff King

100<sup>th</sup>  
Anniversary



2301 Center Drive  
PO Box 100  
DuPont WA 98327  
Tel (253) 924 7063  
Fax (253) 964 8050

June 22, 2000

Mr. Pat Steel  
Nisqually Point Defense Fund  
71 Silver Beach Drive  
Steilacoom, WA 98388

Dear Pat:

In reference to the letter I sent last week, dated June 13, 2000, I need to make a correction on the location that yet needs investigation. The Fort boundary is set at an angle and the sides don't line up in a true north/south direction. The southeast side is where the road enters into the Fort. That side will not be disturbed. It is the southwest side that will be investigated further.

It is our intention to get a Work Plan put together that will cover an additional 200 feet beyond the proposed 63 foot buffer. If you have questions, please feel free to give me a call at 253-924-7063.

Very truly yours,

James P. Odendahl  
DuPont Site Manager

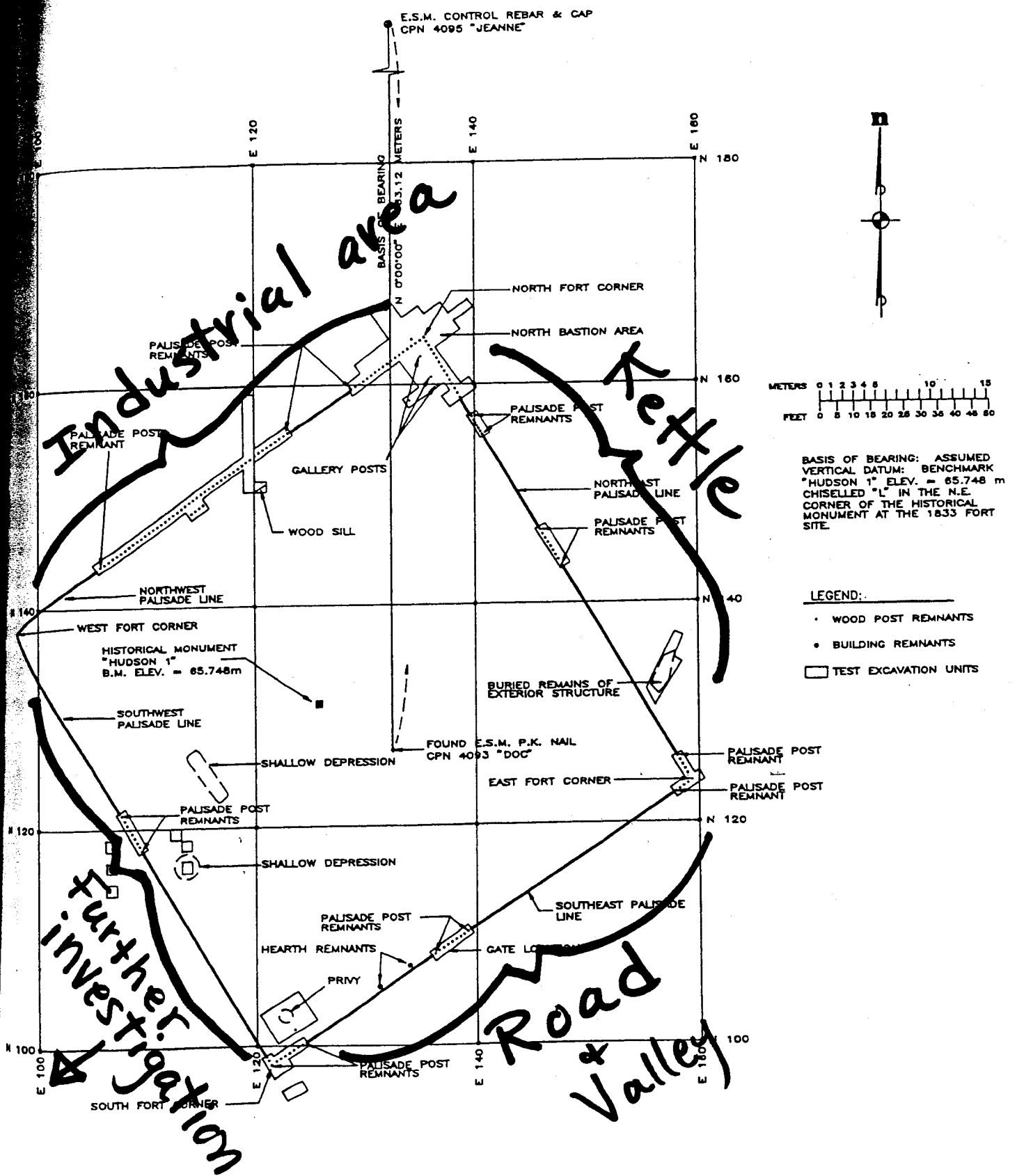
Enclosure

Cc: David Brentlinger  
Allyson Brooks  
Mike Blum  
Jeff King

100<sup>th</sup>  
Anniversary

# 1833 Fort

A PORTION OF THE N.W. 1/4 SEC. 27, T 19 N, R 1 E, W.M.



# Nisqually Point Defense Fund

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P.O. Box 198, Dupont, WA 98327

Memorandum For: Mayor Judy Krill & DuPont City Council  
Subject: Nisqually-Sequalitchew Historic District negotiations  
From: Patrick A Steel, Nisqually Point Defense Fund  
Date: July 7, 2000

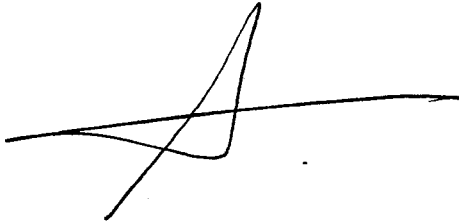
Members of the Nisqually Point Defense Fund, The Nisqually Delta Association, The Committee for the Preservation of the Nisqually Mission Historical Site, The DuPont Historical Society, and other interested parties to include the City of DuPont, have been conducting negotiations with the Weyerhaeuser Corporation and Weyerhaeuser Real Estate Company since December 1999.

The purpose of the negotiations has been to create a Historic District in the Consent Decree area where the DuPont Corporation had its manufacturing site.

We have reached a point in the negotiations where the concerned parties are ready to sign the Memorandum of Agreement that will establish the Historical District. The Memorandum is attached for your review.

Members of the negotiation team will be at the DuPont City Council meeting on July 11th to present a briefing on the negotiations and to answer any questions that Council members may have.

You may contact me for additional information before the City Council meeting by calling me at 253 573-4611.



DEPARTMENT OF ECOLOGY

August 5, 1999

TO: Cal Page  
Martha Sanderlin  
Pat Goodhind  
Bob MacLeod  
Penny Sweem

FROM: Mike Blum, Unit Supervisor  
Toxics Cleanup Program  
Southwest Regional Office

*Handwritten:*  
Marty Sanderlin  
For  
Mike Blum

SUBJECT: Meeting Held on July 27<sup>th</sup> in Vern Moore's Office

I just wanted to drop you all a quick note to say thanks for the opportunity to meet with you. You are collectively and individually very interesting folks. I wasn't sure what I was going to encounter at the meeting. You are right; we all have our own issues and agendas. Mine is getting the site cleaned up adequately while listening to the public to find out their concerns.

One thing I forgot to do at our meeting was to pass along Tom Skjervold's (pronounced "Shervold") home telephone number and e-mail address. Tom is the administrator/lead person for the citizen grant group, the DuPont Toxics Citizen Oversight Project. I had spoken with Tom before our meeting and he asked me to pass along that information. Due to the lack of desire expressed by most of you to get involved in that group, I forgot about it. Honestly, I was somewhat reluctant to bring it up. That was a mistake on my part. Whether you want to get involved in the grant group, or try to influence what they do, or even attempt to overwhelm the group with DuPont residents, that is your choice. I believe that Tom and the other group members do try to represent the community. As we discussed, "**the community**" and what "**they**" think is determined by who gets involved and who makes their opinions heard. Anyhow, Tom can be reached at (360) 867-0251 and his e-mail address is [tskjervold@cs.com](mailto:tskjervold@cs.com). Tom would be interested in meeting with you all sometime and hearing first hand your concerns or lack of concerns, about the site cleanup and/or about the grant group in general.

If you have any questions or concerns about the cleanup site, my telephone number in Olympia is (360) 407-6262. I will on vacation August 2<sup>nd</sup> through August 20<sup>th</sup>.

cc: Tom Skjervold  
Vern Moore  
Jeff King



2301 Center Drive  
PO Box 100  
DuPont WA 98327  
Tel (253) 924 7063  
Fax (253) 964 8050

March 10, 2000

Dear Interested Citizen,

The DuPont Works Cleanup Project is gearing up. As we enter this busy time, the project team and the Washington Department of Ecology invite you to help us focus on the issues or concerns of interest to you about the cleanup.

It is easy to share your thoughts. Just complete the prepaid postcard enclosed with this letter and drop it in the mail. It will be returned directly to Ecology.

Your comments will help us focus on your concerns at the upcoming public meeting on the Draft Environmental Impact Statement (DEIS) for the DuPont Works project. That meeting on the DEIS will be March 21 from 7 to 9 p.m. at DuPont City Hall.

As you may know, the DEIS is out for public review now, and you will have the opportunity to comment on the document through April 3. Many people will find it helpful to attend the public meeting on the DEIS so that they are better able to comment on the document and proposed cleanup plan.

The project team from the Weyerhaeuser and DuPont companies will participate and we hope to see you at the public meeting. In the meantime, please take a moment to jot down your thoughts on the postcard. Your thoughts are important to us.

Sincerely,

James P. Odendahl, Site Manager  
Weyerhaeuser Co.

*100<sup>th</sup>  
Anniversary*



STATE OF WASHINGTON  
DEPARTMENT OF COMMUNITY, TRADE AND ECONOMIC  
DEVELOPMENT

Office of Archaeology and Historic Preservation

420 Golf Club Road SE, Suite 201, Lacey • PO Box 48343 • Olympia, Washington 98504-8343 • (360) 407-0752 Fax Number (360) 407-6217

March 14, 2000

Ms. Sue Mauermann, Regional Director  
Department of Ecology  
300 Desmond Drive SE  
PO Box 47775  
Olympia, Washington 98504-7775

RE: Draft EIS Former DuPont Works Site  
Log No.: 022200-01-DOE

Dear Ms. Mauermann:

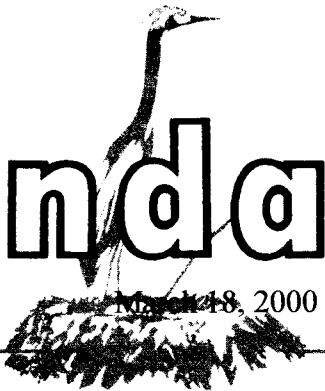
Thank you for the opportunity to review the draft environmental impact statement for the proposed remediation program at the former Du Pont Works site. We have reviewed the document and have some concerns about the historic and cultural resources section. Please identify the author of this chapter.

As noted in the Draft EIS, the property contains a significant collection of Native American, Hudson's Bay Company, American Pioneer and industrial archaeological and historic sites. For example, the oldest dated Native American coastal occupation in the State of Washington is on the property. The site, dated at approximately 6,000 BP, represents both significant archaeological and scientific information about the early coastal use of Puget Sound and a significant cultural site for the Nisqually Tribe. Most importantly, there are a number of tribal burial sites present.

The property also contains the archaeological remains of the first European settlement on Puget Sound. Fort Nisqually, established in 1833 by the Hudson Bay Company (HBC), became the central economic and cultural contact point between Native American tribal groups and Western Europeans. The 1833 Fort site, along with a later 1834 Fort, are both intact and represent the only remaining HBC sites in the Pacific Northwest that are intact archaeological sites.

Associated with the HBC presence is the site of the first American Methodist Mission and American presence in Puget Sound. This site represents the first American settlement in the area





## **NISQUALLY DELTA ASSOCIATION**

1023 South Adams, #177 • Olympia, Washington 98501 • (206) 357-NDA8

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Mike Blum  
Washington State Department of Ecology  
300 Desmond Drive SE  
P.O. Box 47775  
Olympia, WA 98504-7775

Dear Mr. Blum:

These comments concern the Historic and Cultural Resources section (Section 3.3) of the February 18, 2000 Draft Environmental Impact Statement for the Former DuPont Works Site (Draft). I am more than a casual observer. I have worked in archaeology as a field worker, supervisor, field excavation director, analyst, and writer for over 29 years. In Washington State I have worked at British Camp, Kanaka Village, Tumwater, and Astor Fort Okanogan. My area of expertise is historic archaeology, especially of Hudson's Bay Company/Puget Sound Agricultural Company (HBC/PSAC) era sites. In the Du Pont area I have:

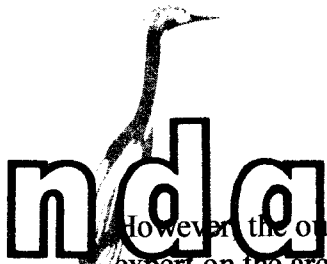
- worked as a crew member at **45-PI-72** (not a historic site)
- served as Assistant Director of Excavations at **45-PI-56** (1843 Fort Nisqually)
- worked as a crew member and wrote the report on **45-PI-401** (Hudson's Bay Dwellings)
- served as Field Director during excavations at and wrote the report on **45-PI-405** (Nisqually Village).

I am familiar with the area, and I am familiar with the major archaeological work that has occurred in the area. I am the author of a number of the research documents listed in Appendix B of the Draft and in the Reference section.

Quite simply, the Historical and Cultural Resources section of the Draft is inaccurate, incomplete, and inadequate

### **Site 45-PI-55 (Hudson's Bay Company's 1833 Fort Nisqually Site)**

The Draft states: *"This site is within a Weyerhaeuser 'protected area' that is surrounded by a wood-post barrier and an additional 63-foot buffer zone. All of the project alternatives would maintain the site's protected status. Therefore, no project impacts are anticipated."* The Draft mistakes the palisades of the 1833 Fort for the physical boundaries of **45-PI-55**, a site that is on the National Register of Historic Places.



However, the outer boundaries of 45-PI-55 have not been determined. Guy Moura, leading expert on the archaeology of the area states, "Evidence of a building outside the palisade walls was discovered while trenching for the palisade line. Near the east corner of the fort, along the trench, the trench revealed a concentration of clay with a number of cobbles. When the trench walls were cleaned it was discovered that a wood-rich organic stain extended horizontally away from the clay and rocks. As previously stated, the clay and cobbles were sufficient evidence to conclude that we had uncovered a large hearth. The organic stain seems to delineate a floor. **It is likely that more exterior structures will be identified during future excavations** (Moura, Guy. A Testing and Evaluation of the 1833 Fort Nisqually, 45-PI-55 at Northwest Landing, Pierce County, Washington, Western Heritage, Inc. 1990)(emphasis mine). The archaeological deposits mentioned above may be the remnants of 45-PI-73 (The Indian House).

In addition, an archaeological crew working outside the 1833 Fort found archaeological features in a backhoe trench that extended to the south of the 1833 Fort. The crew flagged the locations of these features, however, they were not recorded or investigated in any way. I saw these features while visiting at the site. These unrecorded archaeological features would probably be destroyed under alternatives 1, 2 and 3.

Also, there is probably an employee village associated with the 1833 Fort. Such villages were common occurrences at HBC establishments and were found outside Forts Colville, Vancouver (Kanaka Village), Langley, and 1843 Fort Nisqually. "Where there was no danger from Indians the lower grades of employees were sometimes permitted to live outside the fort confines, although it was seldom that a clerk or officer was allowed to do so (Hussey 1975:14)."

In short, the 63-foot buffer may be inadequate to protect significant archaeological deposits at 1833 Fort Nisqually. Moura recommended that "(a) **systematic, shovel testing program should be initiated outside the fort to search for the remains of Hudson's Bay and Native American features which existed during the occupation of the fort** (Moura, 1990) (emphasis mine)." This has not been done.

#### Site 45-PI-66 (Methodist Episcopal Mission)

The Draft states: "Although the exact mission foundation or 'footprint' has not been located....." This is not correct. Near the monument described in the Draft was a feature consisting of "large cobbles, many stained by fire, ... recovered in an ashy matrix with brick, bone, and charcoal flecks (Moura, 1991:8)." I saw this feature and the ashy material. It is a volcanic ash, mined from the kettle lakes of the area, used in the construction of cooking or heating facilities (ovens and chimneys) by people of the HBC/PSAC period. We found a number of chimneys of this material at 45-PI-405.

45-PI-66 contains HBC/PSAC period artifacts and features. The simplest, most elegant, most parsimonious explanation is that this site is the Mission. If it is not the Mission, it is another HBC/PSAC period site, is certainly worthy of more investigation, and has the potential to yield



information important in history and is therefore eligible to the National Register of Historic Places under criterion D.

## **NISQUALLY DELTA ASSOCIATION**

Unfortunately, this area has been severely impacted by Weyerhaeuser activities. Archaeological work is necessary to determine the extent of the disturbance and what archaeological remains might still be present.

### **Site 45-PI-73 (Indian House Site)**

The Draft is inconclusive about this site. On page 3-17 the Draft states: "*This site has lost its historic integrity (destroyed by DuPont era facility construction). This site has been surveyed and inventoried, but no cultural remains were found.*" On page 3-19 the Draft states: "*If portions of this site remain....the site could receive construction impacts without mitigation.*"

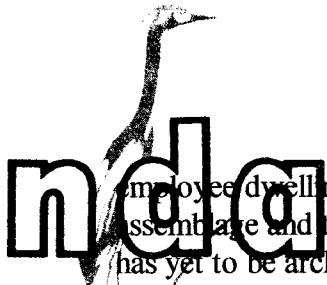
However, as stated previously, the archaeological deposits found by Moura in 1990 may be the remains of this site (Moura, personal communication). Therefore, the statement that "*no cultural remains were found*" may be incorrect. If this site is even partially intact, it is potentially eligible to the National Register of Historic Places under criterion D.

### **Men's Dwelling House (45-PI-74)**

The Draft states: "The site has been determined not to be eligible for the National Register (no historic integrity) by the OAHF." This determination was based on inaccurate information supplied by the Weyerhaeuser archaeologist and should be reversed. According to a report by Daugherty, the only archaeological work in this area are a series of shovel tests, backhoe scrapes and a single test unit (Daugherty, Richard D. Shovel Tests in a Disturbed Area of Site 45-PI-74, Western Heritage, Lacey, 1994).

The shovel tests were intentionally placed in areas known to be disturbed by "*...the rippers of a bulldozer whose operator mistakenly began removing surface vegetation in the belief that he was working in an area where a drainage feature was being constructed,*" (Ibid, p. 3). In his conclusions, Dr. Daugherty states that: "*...the area tested was on the fringe of a more heavily used area. This is consistent with the results of earlier testing operations that seem to indicate that the area inside the 100' setback has considerably more cultural material in the deposits, and likely is the area where the Men's Dwelling Houses were located,* (Ibid, p. 11)". In fact, three of these shovel tests reached densities that indicate the close proximity of a structure.

Dr. Daugherty actually excavated three test units in this area several years before the shovel testing in the disturbed area. Two of these test units yielded enough HBC/PSAC materials to indicate that structures were nearby (see analysis of 45-PI-74 Ceramics by Linda F. Sprague). The results of the ceramic analysis show that all the ceramics are transferprint. This is unusual. In employee housing of this period there usually is a wide variety of ceramic types (see for example the reports on 45-PI-401, 45-PI-405 and Bryn Thomas and Charles Hibb's report on Operation 14 (the John Johnson house) at Kanaka Village). In addition, the two employee's dwellings are depicted on the 1847 Tolmie map of the PSAC establishment, an unusual situation, since



employee dwellings are usually not depicted on official HBC/PSAC maps. The ceramic assemblage and the placement of the dwellings on the 1847 map indicate an unusual situation that has yet to be archaeologically investigated.

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With the exception of the ceramic analysis mentioned above, the analysis of 45-PI-74 artifacts has been found to be nonexistent. Weyerhaeuser's archaeologist has stated that the artifacts from 45-PI-74 are "essentially identical" to 45-PI-401 and 45-PI-405, because they contain nails, window glass, ceramics, and food remains (Daugherty, Richard D. Shovel Tests in a Disturbed Area of Site 45-PI-74, Western Heritage, Lacey, 1994). Using this rationale, once modern houses become archeological remains, they will be "essentially identical" to mid 19<sup>th</sup> century Hudson's Bay period dwellings. As the Sprague ceramic analysis and the map analysis indicates, this is simply incorrect, these sites are not identical and 45-PI-74 has the potential to yield information important in history and is therefore potentially eligible to the National Register of Historic Places under criterion D.

### **Agricultural Infrastructure and Exterior Sites Associated with 1843 Fort Nisqually**

The Draft does not mention the agricultural infrastructure associated with 1843 Fort Nisqually. In 1847, Dr. Tolmie made a map of the 1843 Nisqually Establishment. North of Sequelitchew Creek were barns, sheds, and outbuildings. Tolmie describes a "large house with convenient parks surrounding it for shearing sheep, and a dam on the Seqwalitchew (sic) Creek for washing the sheep in," in his testimony before the British and American Joint Commission in 1866

Backhoe scrapes were the only investigations done in this area. On a lunch break while excavating at 45-PI-405, I walked along those scrapes after a heavy rain and saw HBC/PSAC period materials including machine cut nails and dark olive green bottle glass. These archaeological materials do not seem to be documented. There are no archaeological investigations in the Pacific Northwest of HBC/PSAC barns, sheds and outbuildings. They are potentially eligible to the National Register of Historic Places under criterion D.

### **Site 45-PI-404 (Nisqually Burial Site)**

The Draft (page 3-18) states: "*This former grave site has lost its historic integrity (the remains have been reinterred in the Sequelitchew Indian Cemetery.)*" However, on page 3-20 the Draft states: "*However, the site has lost its historic integrity. During design the site would have to be evaluated.*" How was the determination made that it had lost its historic integrity without an evaluation? This should be explained.

### **Site 45-PI-405 (Nisqually Village Site)**

The Draft states: "There is an open question as to this site's eligibility for the National Register." That statement reflects a lack of understanding of the area's cultural and archaeological resources. If there is a question of the site's significance, why did the Weyerhaeuser Company spend hundreds of thousands of dollars mitigating the impact of Center Drive through this area?



This site was the middle and upper middle class portion of Nisqually Village. Archaeological investigations at the site yielded 206 features and over 64,000 artifacts. The vast majority of features and artifacts are from the HBC/PSAC period. However, remains of the DuPont workers village (known as Oldtown) are also present at the site.

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Salvage excavations to mitigate for the destruction caused by Center Drive recovered and documented over 80 percent of four structures. Two of these were dwelling houses, one was probably an outbuilding used occasionally as a dwelling, and one was a kitchen. The presence of certain artifacts, including religious relics and children's toys, indicates that one house was occupied by Jean Baptiste Chalifoux, a person of considerable importance at the 1843 Nisqually Establishment.

Excavations at 45-PI-405 answered many questions about Nisqually Village including building dimensions, construction techniques, ethnic and socio-economic diversity, road systems, village organization, change of building function through time and the range, quality and quantity of material culture.

The site then contains the potential for further significant discoveries. The salvage work in the early 1990s was in the footprint of Center Drive. Outside of that footprint: *“(e)xtensive deposits from the Oldtown occupation are still present at the site. Shovel tests and excavation units indicate the presence of at least two more PSAC period structures at 45-PI-405. The northwest corner of a structure is near 33N 30E, and the collapsed chimney of another structure is present near 35N 5E. These are definite. However, it is probable that at least two additional structures are present, and the possibility of many more than this in the area west of the proposed road corridor. No construction should be undertaken in this area without extensive data recovery excavations, (Stilson, M. L., A Data Recovery Study of 45PI405 Nisqually Village, at Northwest Landing, Pierce County, Washington. Western Heritage, Olympia. Volumes II, 1991, p. 18.18) (emphasis mine).”* I estimate that there are at least four PSAC period structures west of Center Drive that still should be present.

45-PI-405 has yielded and is likely to yield archaeological information of significance. It is potentially eligible to the National Register of Historic Places under criterion D.

### Post HBC/PSAC Occupations

The potential significance of the post HBC/PSAC occupation archaeological remains is best expressed by Drs. Robert Whitlam, Donald Mitchell, and Roderick Sprague in a June 10, 1989 letter to Mr. Robert Shedd, Vice President of the Weyerhaeuser Real Estate Company. These three experts in prehistoric and historic archaeology were asked by Mr. Shedd to review measures taken to identify, assess, and protect or salvage “heritage resources” on the Weyerhaeuser property at Northwest Landing.

Drs. Whitlam, Mitchell and Sprague found that: *“The property does contain an unusual concentration of valuable heritage resources. Of particular importance, we note the old prehistoric midden (45-PI-72) with its associated age estimates of up to 5260± 60 radiocarbon*



years; the 1833 site of Fort Nisqually and likely associated buildings, Indian camp and other features; the E. I. Du Pont Nemours Company industrial plant; and the several camp, fort, plant, and town developments (emphasis mine)."

**NISQUALLY DELTA ASSOCIATION**

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 The HBC/PSAC remains at DuPont fill a chronological and geographic gap in Northwest History

and Archaeology. Fort Vancouver existed as an HBC establishment until 1849 when the U.S. Army took over. Several sites in the San Juan Islands, notably Bellevue Farm, were occupied by the PSAC from 1853 to the 1870s. The 1833 and 1843 Nisqually Establishments are the only sites in western Washington that fully span the dates from the 1830s to the 1870s. These dates are important, a time before, during and after the time when American settlers were first entering Puget Sound and western Washington. The HBC/PSAC sites in this area had a major impact on settlement patterns of western Washington. Many of the sites, HBC/PSAC and DuPont Nemours were important on regional, national and international scales in production and trade.

The section on Historic and Cultural Resources (pages 3-16 to 3-18) and Impacts of Alternatives 1, 2, and 3 (pages 3-18 to 3-20) should be rewritten taking the above facts into account.

The Mitigation Measures on page 3-20 should stipulate that a competent historic archaeologist will develop and implement the investigative/survey plan for locations/areas/sites to be excavated/cleared. This has not occurred to this point in time. This should be done before logging occurs in the project area.

Sincerely,

M. Leland Stilson

c Allyson Brooks, Washington State Historic Preservation Officer



Jim Edwards

STATE OF WASHINGTON

DEPARTMENT OF COMMUNITY, TRADE AND ECONOMIC  
DEVELOPMENT

Office of Archaeology and Historic Preservation

420 Golf Club Road SE, Suite 201, Lacey • PO Box 48343 • Olympia, Washington 98504-8343 • (360) 407-0752 Fax Number (360) 407-6217

March 14, 2000

Ms. Sue Mauermann, Regional Director  
Department of Ecology  
300 Desmond Drive SE  
PO Box 47775  
Olympia, Washington 98504-7775

RE: Draft EIS Former DuPont Works Site  
Log No.: 022200-01-DOE

Dear Ms. Mauermann:

Thank you for the opportunity to review the draft environmental impact statement for the proposed remediation program at the former Du Pont Works site. We have reviewed the document and have some concerns about the historic and cultural resources section. Please identify the author of this chapter.

As noted in the Draft EIS, the property contains a significant collection of Native American, Hudson's Bay Company, American Pioneer and industrial archaeological and historic sites. For example, the oldest dated Native American coastal occupation in the State of Washington is on the property. The site, dated at approximately 6,000 BP, represents both significant archaeological and scientific information about the early coastal use of Puget Sound and a significant cultural site for the Nisqually Tribe. Most importantly, there are a number of tribal burial sites present.

The property also contains the archaeological remains of the first European settlement on Puget Sound. Fort Nisqually, established in 1833 by the Hudson Bay Company (HBC), became the central economic and cultural contact point between Native American tribal groups and Western Europeans. The 1833 Fort site, along with a later 1834 Fort, are both intact and represent the only remaining HBC sites in the Pacific Northwest that are intact archaeological sites.

Associated with the HBC presence is the site of the first American Methodist Mission and American presence in Puget Sound. This site represents the first American settlement in the area

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and a significant historic religious site to local residents. It also represents the locale for the first American 4<sup>th</sup> of July celebration in the Pacific Northwest.

Your report has site 45-PI-74 listed as not eligible. This is inaccurate. Only a portion of the site has lost integrity. Intact portions of the site remain and are significant. This was discussed in the nomination of the district. Please edit the document to reflect that portions of the site are significant.

There also remains the industrial archaeology of the DuPont Works, the major industrial supplier of commercial explosives that represent the earliest planned industrial and residential factory community of Washington. Finally, there is also a unique encampment of Buffalo Soldiers (African-American Army Units) that played a significant role in the military history of the West and a distinctive aspect of African-American history. There is no reference to mitigation proposals for these particular resources.

At the last Washington State Advisory Council On Historic Preservation Meeting on January 28, both the 1843 Fort Nisqually site and the Nisqually-Sequalitchew Historic District were nominated to the National Register of Historic Places and the Washington Heritage Register. This affords them a higher level of protection under state law, which should be reflected in your document.

Clean-up activities by their very nature involve massive amounts of earth moving and disposal. It is this very type of activity that can destroy the fragile archaeological resources on the property. We are extremely concerned that these resources are closely monitored and protected during the clean-up work. During the late 1980's, the Office of Archaeology and Historic Preservation (OAHP) worked with Weyerhaeuser and the City of Du Pont to develop a comprehensive management plan for the cultural resources. As per our discussion, this management plan is not being properly implemented. It is imperative that these resources are treated in a manner that our two agencies have agreed upon and the plan updated. Particularly with the passage of time, changes in personnel and advances in archaeological methods and theory, the plan has not been properly modified nor has the agreement been reviewed and revised as necessary to reflect the changes in the cultural resource management practices.

We request that you review the proposed mitigation measures and in cooperation with our office to develop and implement the following measures to assure that the significant cultural resources on the property are afforded protection during remediation activities.

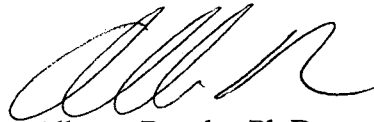
1. Establish a working and ongoing relationship with OAHP to assure cultural resources are a recognized and protected resource under the Consent Decree.
2. Review and update the Memorandum of Understanding between OAHP, Weyerhaeuser and the City of Du Pont. Explore the feasibility of including Ecology and the Nisqually Tribe as signatories to a new MOU.



3. Request a "value archaeological review" of the current cultural resource activities at the site. "Value archaeological review" is a process where the company brings in an outside archaeologist (in this case the archaeologist from URS Greiner would be very acceptable) to manage and oversee the work of the contract field archaeologists and act as a liaison with the other concerned parties.
4. Re-establish the Peer Review Process to review the past cultural resource work and provide direction and oversight for the Value Archaeological Review Process.
5. Review and revise the Cultural Resources Management Plan to reflect current standards and research goals, and treatment and protection protocols.

We look forward to working with you to make the appropriate corrections to the document and to assure the protection of these significant cultural resources for the citizens of Washington. Please feel free to contact me should you have any questions.

Sincerely,



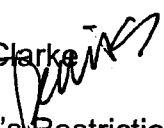
Allyson Brooks, Ph.D.  
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cc: Busse Nutley, Deputy Director, CTED  
Steve Wells, Assistant Director, CTED  
Tom Fitzsimmons, Director, Dept. of Ecology



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**MEMORANDUM**

TO: Mayor Shenkel and City Council Members  
FROM: Dennis Clarke   
RE: WRECO's Restriction on the Consent Decree Area  
DATE: November 18, 1999

Attached is a letter from DOE that confirms that WRECO has filed a covenant restricting land use in the consent decree area. We are sending this document to Carol Morris, the City's Land Use Counsel to see what, if any, impacts this has on the City.

Earlier in the year we asked Carol to evaluate the impacts if the land in the consent decree area was limited by WRECO to only commercial uses. Her draft response is attached.

There are additional issues that staff will be looking at – does the prohibition of recreational uses include trails? How does the covenant affect historical sites such as the 1833 site, Wilkes Observatory, Mission and others? We will keep you posted on our findings.