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April 15, 2026

Greg Gould
Department of Ecology
Industrial Section
P.O. Box 47600
Olympia, WA 98504-7600

Subject: Intalco Aluminum Corp Proposed Agreed Order and
Demolition Interim Work Plan

Dear Mr. Gould,

Thank you for the opportunity to comment on the proposed [Agreed Order](#) and [Demolition Interim Work Plan](#) for the Intalco Aluminum Corp (Intalco) site. I also appreciate that you were able to answer some of my questions during the Q & A session provided on April 8th.

The scope of the proposed Agreed Order and Demolition Interim Work Plan is extensive and beyond the capacity of most members of the public and our volunteer Board to carefully review. We must rely on the Department to ensure that the policy of the Model Toxics Control Act (MTCA) that each person has a fundamental and inalienable right to a healthful environment, is carried out in the exercise of the powers granted to your Department in MTCA.

We have the following recommendations:

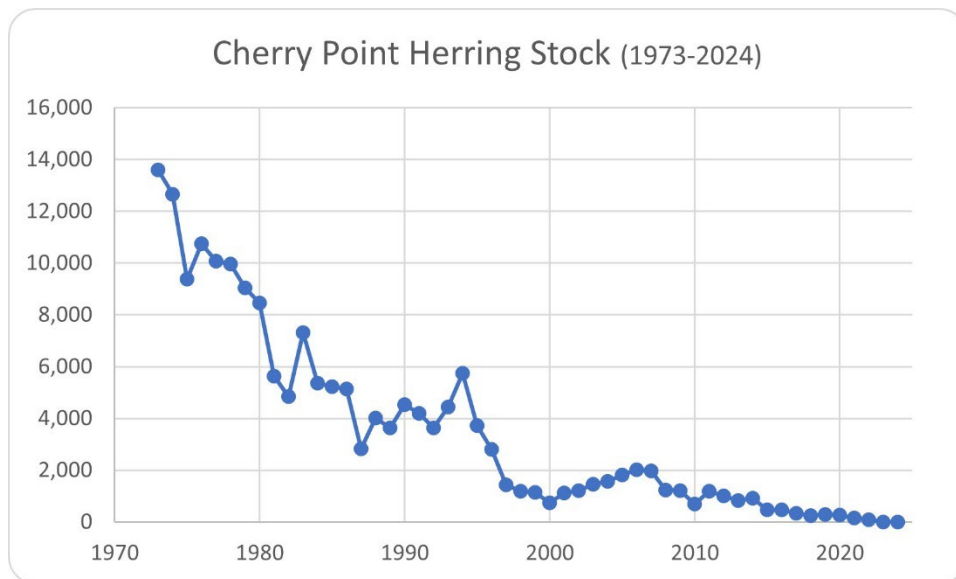
1) **Sediment sampling should be expanded.**

- Before the location of the alumina silos is encapsulated, testing should be required to determine whether clean fill was used to ensure that no additional soil contaminants will threaten forage fish and other species in the area.
- The extent of creosote pilings and use of ACZA or chemonite, along with other industrial contaminants (alumina), has likely caused sediment contamination beyond the limited sampling provided thus far. Expanded sediment sampling around the pier, including where the ships berth and de berth, should be required.
- Due to wave action and the discharge of stormwater outfalls, sediment sampling along the beach – up to ¼ mile from the pier, should be considered.
- Past sediment testing from 2020 dredging permits should be disclosed and evaluated to determine sampling plan.

- 2) **Address creosote pilings.** Document the extent of existing creosote pilings and a timeline for their removal or encapsulation.
- 3) **Address ACZA use.** Document the use of Chemonite or ACZA wood-based preservative treatment and how it complies with shoreline requirements and protection of water quality.
- 4) **Document extent of alumina in marine sediment.** Alumina was likely spilled into marine waters during the transfer from vessels to silos via clamshell buckets and a conveyor. The conveyor is slated for demolition. Sediment and any equipment that is demolished should be tested, particularly if demolition could result in deposit in the marine environment.
- 5) **Require remediation.** Require remediation for any contaminants found in soil and sediment sampling as outlined.

The Whatcom Environmental Council (WEC) and other environmental nonprofit organizations have been involved in the review of AltaGas’ proposed expansion of LPG export at the pier that was formerly owned by Intalco. As a result of our work and investigation, we do know more about issues tied to the Intalco demolition along the shorelines. Our comments on the draft Agreed Order and Demolition Work Plan will focus on that area.

The Intalco facility – including the pier, alumina silos and landfill to support the pier – were built in the 1960s. Between 1992 and 2006, several species that spawned or foraged nearshore or in marine waters near this facility were put on or proposed for the state and federal endangered species list. The marbled murrelet was listed as a threatened species in 1992. After 1994, the documented spawning of Pacific Herring at Cherry Point began a precipitous decline. Commercial herring fishing at Cherry Point ended permanently in 1996. In 1999, Puget Sound Chinook salmon were placed on the threatened species list. In 2005, the Southern Resident killer whale was listed as endangered under the Endangered Species Act.



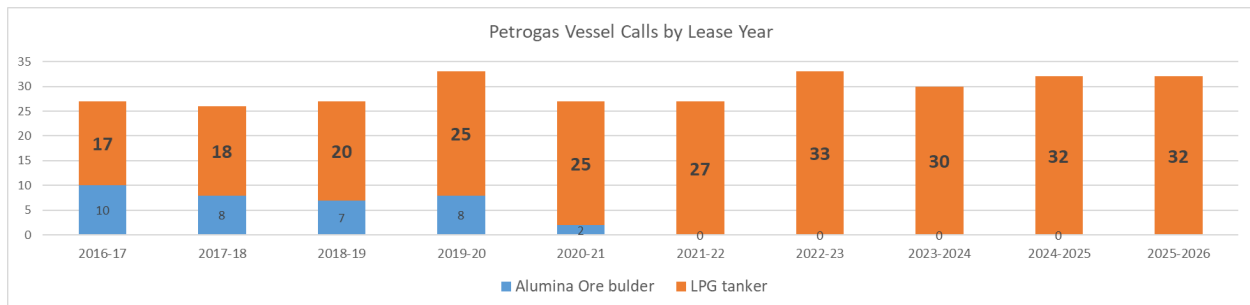
Source: Washington Department of Fish and Wildlife. Marine Fish Unit (Forage Fish)

The proposed Agreed Order refers to a construction dump, two landfills along the beach, closed construction debris landfill and dangerous waste accumulation area. The results of investigations into Beach 1 and Beach 2 landfills show soil contamination that included polycyclic aromatic hydrocarbons (PAHs), as well as other contamination.

The proposed Agreed Order does not identify what material was used to construct the fill where the alumina silos sit along the shoreline which are proposed for demolition, backfill and paving, or if any soil (geotechnical) sampling has ever been conducted. Before this site is encapsulated, testing to determine whether clean fill was used should be required to ensure there are no additional soil contaminants that threaten forage fish and other species in the area.

On page 17 of the proposed Agreed Order, it refers to sediment quality being monitored in the area adjacent to the pier and outfalls since 1999. Samples were collected in October 2015 and submitted to the Department in 2016, with a final version of a report produced in 2020. It doesn't appear that any additional sampling has taken place since that time.

There has been a significant increase in the number of vessels berthing and deberthing at the pier since AltaGas assumed the lease from Intalco in 2016. Before AltaGas assumed the aquatic lands lease, there were typically 2-5 berthing events per year. In the past four years, the number of LPG vessel calls has ranged from 30 to 33. Each vessel call, including deberthing during low tide events, can disturb sediments. If these sediments include contaminants caused by past activities, it could impact herring and other species. Sediment testing and remediation should include areas around the pier.



Source: Washington State Department of Natural Resources

In 2020, Petrogas (AltaGas) was approved to dredge up to 4,000 cubic yards of sediment to re-establish - 38 ft of depth at MLLW to reduce the frequency of reberthing at the pier.¹ The application indicated that Petrogas had a Sediment Sampling and Analysis Plan to collect core samples of sediment to characterize sediment quality. The results of that sampling and analysis was supposed to be submitted to the US Army Corps of Engineers to determine options for proper disposal of dredged material. An updated letter dated August 20, 2020 said the “final report describing the sampling effort and results of the study is in preparation. Based on the analytic results and initial discussions with [Army Corps of Engineers], Petrogas plans to dispose of the dredged sediment at an upland facility.”² This appears to indicate that the sediment was found to be not suitable for in-water disposal. No records were found to indicate the findings of the sampling. This information should be made available to the public and help inform additional sediment sampling and remediation required as part of the Agreed Order.

Intalco Aluminum and AltaGas repeatedly argue that there is “no causal link [that] has been established between the industry at Cherry Point and [herring] decline”. They fail to take any responsibility that their operations likely contributed to the decline of Cherry Point herring. Both Intalco and AltaGas ignore volumes of study that identify the threats to herring, especially when they are most vulnerable during the spawning period that happens along the beach near the Intalco facility. Whatcom County has

¹ SHR2020-00006

² SHR2020-00006_NOAR_Response_Update attached at p. 3 of pdf

responded to land use challenges with an outdated 2003 study rather than look at contemporary literature.

The threat to herring and forage fish from the cleanup of Intalco operations and demolition is from contaminants from treated wood (creosote and Chemonite), oil spills and other contaminants. There are numerous studies that document the impacts. For example, studies show that PAHs are readily bioavailable to herring embryos.

“In addition to oil and stormwater, cardiotoxic PAHs have other anthropogenic sources in many industrialized marine habitats, including creosote-treated wood (Vines et al., 2000) and sediments contaminated by legacy manufacturing activities (West et al., 2014). This highlights the importance of baseline monitoring (West et al., 2014) to resolve PAH exposures from a particular source, including stormwater, using conventional analytical chemistry.”³

In 2000, the Washington State Department of Natural Resources recognized the threat to state-owned aquatic lands and designated those state-owned lands not already under a lease agreement as the Cherry Point Aquatic Reserve.⁴ Potential threats to habitats and species of the reserve were identified in a 2010 plan and updated in 2024.⁵ The threats identified included impacts of fill and pilings associated with the piers and industries at Cherry Point (p. 28) and creosote pilings (p. 34).

It is well known that the Intalco/AltaGas pier was built with creosoted pilings. Creosote causes high mortality and developmental abnormalities in herring eggs.⁶ In a 2000 study, 100% of herring embryos on treated creosote wood surviving to the time of hatch were abnormal.⁷ There is no documentation available to the public to show how many creosoted pilings remain, or a timeline for their replacement or encapsulation. There is no documentation to identify whether the creosoted pilings have caused contamination of sediment in the adjoining area that could impact herring and other forage fish. This information should be included in the Agreed Order.

AltaGas, with permission of Whatcom County, has been using Chemonite or ACZA⁸ for years to replace structural timbers above the water.⁹ The water-based preservative leaches copper into the marine environment, known to be toxic to marine invertebrates and other species.¹⁰ “Long term adverse

³ *Urban stormwater and crude oil injury pathways converge on the developing heart of a shore-spawning marine forage fish*, Louisa B. Harding et al, October 4, 2020 at p. 6

<https://www.sciencedirect.com/science/article/pii/S0166445X20304045>

⁴ One of the NPDES outfalls from the Intalco facility is within the Cherry Point Aquatic Reserve.

⁵ 2024 Cherry Point Management Plan, https://dnr.wa.gov/sites/default/files/2025-03/aqr_resv_cp_mgmtplan.pdf

⁶ <https://dnr.wa.gov/aquatics/aquatic-lands-restoration-team/creosote-piling-removal-program>

⁷ *White Paper – Treated Wood Issues Associated with Overwater Structures in marine and Freshwater Environments*, Ted Poston, Battelle, April 5, 2001 at p. 43 of pdf <https://wdfw.wa.gov/publications/00053#>

⁸ Chemonite® is the registered trade name for wood protected by ACZA, ammoniacal copper zinc arsenate, against termites and fungal decay.

⁹ Whatcom County has issued the following exemptions from shoreline substantial development permits that have authorized this treated wood: SHX2004-00096, SHX2018-00033, and SHX2023-00012. It is likely that other exemptions also authorized this treated wood but was not disclosed in the permitting application available for public review.

¹⁰ “Although we have not been able to test our finding precisely, it is our recommendation that if herring stocks are stressed, installation of newly treated wood should be delayed until after the spawning season, or completed at

environmental effects associated with ... ACZA treated wood are manifested in the accumulation of contaminants in sediment and direct impacts to biota that may colonize a treated wood structure.”¹¹ How this product was applied, or its impact on sediments along the beach or near outfalls, is unknown. An accounting of the use of these chemicals should be required.¹²

Thank you for your consideration of our comments.

Regards,

David Stalheim on behalf of
Whatcom Environmental Council

Attachments:

Intalco Shoreline Demolition and Priority Habitat and Species Map
Exemption from shoreline substantial development permit (SHX2023-00012)
SHR2020-00006 NOAR Response Update

least 60 days before the start of spawning.” *Selecting Preservatives for Marine Structural Timber in Herring Spawning Areas*, Robert A. Perkins, University of Alaska Fairbanks, December 2012
https://scholarworks.alaska.edu/bitstream/handle/11122/7524/R.Perkins_Preservatives-for-Timbers-in-Herring-Spawning-Areas_Final-12.28.pdf

¹¹ *White Paper – Treated Wood Issues Associated with Overwater Structures in marine and Freshwater Environments*, Ted Poston, Battelle, April 5, 2001 at p. 83 of pdf <https://wdfw.wa.gov/publications/00053#>

¹² The literature indicates that the treated timbers might be treated prior to delivery and cut to length on site with additional treatment applied. An accounting of procedures at this site and the risk of any copper or other contaminants entering beach sediment should be determined. ACZA should be either prohibited or strictly limited. Whatcom County Code WCC 23.30.020(D) <https://ecode360.com/47952099#47952104> and WCC 23.40.125(E)(1)(e) <https://ecode360.com/47952196#47952671>