



THOMAS GIANNI

## DEATH OF THE DEEPENING

BY PETER HUHTALA

*"I know of no better barometer or report card on where we stand as caretakers of our environment than the Columbia River."*

~JIM OYALA

Environmental victories may be the most difficult to celebrate. Sure, you shut down an obsolete nuclear reactor, but not before dozens of workers' lives were shortened by avoidable leaks; you reduced the size of an old-growth timber sale, but only to watch slightly fewer species disappear from the earth each day. Even the classic victories, like Love Canal, are bittersweet as we mourn for the children who suffered and lost their health to the blind stupidity of greed. So I struggle to find a way to save the demise of the Columbia River channel deepening.

In too many ways, it was preposterous that the channel deepening was even suggested. Okay, a decade ago even some intelligent people like Senator Mark Hatfield were ignorant about the importance of the Columbia estuary to the salmon of the region. Perhaps Hatfield and other could not comprehend the meaning of the continuing decline of wild salmon. Did they think that the Endangered Species Act (ESA) did not apply to fish? More likely the politicians were misled by projections of economic benefit painted in broad strokes of lobbyist rhetoric.

Ships were getting bigger in the late 1980s, at a pace that frightened some inland ports. Rather than being located close to deep water — as was the case in Puget Sound and Long Beach, California — many ports were dependent on the U.S. Army Corps of Engineers maintaining a channel pathway to their facilities. Portland, Oregon, is 100 miles from the Pacific Ocean. The 40 foot deep by 600 foot wide shipping channel to Portland was already one the most difficult routes to maintain in the entire United States. The Corps orchestrates the dredging of over eight million tons of sediments from the mouth of the river to the channel of Portland every year.

Most of the huge new ships carried those modular containers that are seen on trucks and trains, and piled high on ships. Almost any product could be loaded in the containers. Portland commanded less than 6% of the West Coast container business, but saw channel deepening as a way to at least remain competitive. The Port of Portland appealed to Senator Hatfield to ask Congress to see about a deeper channel.

The project was huge; the feasibility study that Congress authorized the Corps to perform took nearly five years and seven million dollars. The Corps, in late 1998, finally came up a way to deepen the channel to 43 feet, at a base cost of about 200 million dollars. Unfortunately, by this time the new generation container ships were looking for ports that had depths of over 50 feet. To many of these specialized shipping companies the new 43 foot channel would be laughable.

The Army Corps of Engineers is supposed to be a public agency. They have civilian oversight through the Assistant Secretary of the Army. Although they operate under a military chain of command, most of the nearly 35,000 Corps employees do not wear a uniform. The Corps is even an environmental agency, responsible for issuing fill permits in a manner that protects America's wetlands. Instead of making objective decisions to protect the environment while seeking to enhance commerce, they created a blueprint for the greatest environmental disaster the Northwest has recently faced. They seemed to forget whom they worked for. When the Corps makes a feasibility study for a project like this, funds derive half from the federal government and half from local sponsors. The sponsors in this case were several ports on the lower Columbia and Willamette Rivers. Laura Hicks was named the Corps' project manager for the deepening. In the fall of 1998 Brigadier General Robert H. Griffin, Commander of the Northwest Division of the Corps of Engineers, spoke at the Propeller Club convention (a maritime industry conference) and commended Ms. Hicks, saying, "So we are in this together...Laura Hicks...is the kind (that is) the new Corps...the kind of person we need as a project manager who can work with all these groups to be the honest broker and work...for you the customer. That's what we're all about." (I just had to put that in italics because it clearly highlights the reality: the Corps does not always work for Congress and the American people, they often act as agents of special interests. Here a high-ranking officer describes the Propeller Club as customers. Pretty damn clear.)

Digging and blasting a deeper channel was a simple engineering problem. The Corps could handle this. Getting rid of the enormous amounts of extra sediment was a problem, but friendly cohorts from the Environmental Protection Agency (EPA)

could be persuaded to designate a handy area of the Pacific Ocean for some free dumping. Besides, ports like Vancouver and Portland wouldn't mind stockpiling some sand for future wetland fills as they expand facilities. This could work. All the Corps really needed to worry about was making the economic justification appear reasonable. Oh yes, they also needed to comply with environmental regulations. This shouldn't be a problem as long as supportive politicians could keep the natural resource agencies in line. The ports and their corporate allies set the lobbyists to work on senators, congressmen and governors. The stage was set.

The Corps released a draft feasibility study and environmental impact statement (EIS) in late 1998. They would deepen 100-plus miles of the Columbia and about 12 miles of the Willamette River through Portland Harbor. Hypothetical projections for future container ship traffic added with benefits to multinational corporations like Archer Daniel Midlands and Conagra to show a net positive in the cost-benefit analysis. The Corps also concluded the project would have "no significant impact" on the environment, even on the ESA-listed salmon. They utterly refused to consider the negative consequences to the fishery-dependent economies of estuary communities. They refused to look at how this project would harm tribal members with treaty rights to salmon.

To make the project cost-effective, dredging would have to proceed year-round for over two years straight. This caught the attention of the already-skeptical commercial fishing industry. Timing work in the river to avoid migrations of salmon and other species was a long-standing fisheries management practice. Every port district, town and private party had to abide by these restrictions, which were enforced by the Corps. Now the agency was claiming they were exempt from these rules?

The Corps also couldn't afford to deal with contaminated sediments in any special way. They said in their environmental impact statement that a "Higher Authority has instructed us not to calculate the costs" of alternative handling of chemically contaminated sediments. Yes, they capitalized 'Higher Authority' in true military/deistic fashion.

Willamette River sediments in the project zone were already known to be severely contaminated with chemicals that could cause cancer, developmental deformities and suppression of the immune system. The Corps' analysis: "Willamette channel sediments are acceptable for unconfined in-water disposal." Give me a reality check!

Columbia sediments were duly certified as pristine, with EPA complicity. It looked like the project could be built with a reasonable budget. At least that's the way it was presented to Congress. Senator Ron Wyden and his staff masterfully pushed consideration through committees and obtained federal authorization for the deepening before environmental evaluations were complete. The caveat was that the Chief of Engineers had to be satisfied by December 31, 1999, that his agency's work was acceptable. The Chief predicated his report in good part on receiving an opinion from the National Marine Fisheries Service (NMFS) that the deepening would not jeopardize endangered salmon.

When the final environmental impact statement was issued, the Corps suggested that they would have to "phase" the Willamette River portion of the project. Right, they finally caught a clue that the same sediments they had no worries about were the basis for declaring Portland a Superfund. Absurdly, while offering no estimates of the cost of dredging and blasting through the contaminated harbor they still included the economic benefits of a deeper Willamette in the cost-benefit analysis.

By all reasonable standards this project should have been falling apart. It was inevitable, even if the Corps refused to acknowledge it and the upriver ports to accept it, that there were serious Clean Water Act violations here that Washington State and Oregon would be compelled to reveal. The already shaky economic analysis would collapse under the most modest conditions.

It got worse. In early December 1999, the Oregon Department of Land Conservation & Development found the deepening plan inconsistent with many Oregon laws and planning goals. The Corps could ignore the hundreds of complaints from scientists, environmental groups, fishery organizations and governments of the estuary. They could not ignore the official statement of the LC&D, a state agency with authority granted under the Coastal Zone Management Act (CZMA). But it seems they did.

It appeared that the one agency that Corps would take seriously was the National Marine Fisheries Service. During November of 1999, according to documents the Columbia Deepening Opposition Group obtained under the Freedom of Information Act, NMFS informed the Corps that their draft 'Biological Opinion' was that the deepening would "jeopardize the continued existence" of a dozen listed salmon and steelhead in the Columbia Basin. NMFS scientists pointed out that the estuary is critical habitat for every listed fish. Juvenile salmonids rear in the estuary until ready to transform into saltwater creatures. Adult salmon also make vital life adjustments here before journeying upstream to spawn. The scientists had a long list of ways the deepening could definitely or possibly harm salmon. NMFS could not allow the project to go forward as planned.

In yet another bizarre twist, the National Marine Fishery Service's jeopardy opinion turned into an okay to proceed, albeit coupled with non-mandatory promises to restore thousands of acres of estuary wetlands. The promises were neither specified nor funded. Carefully, the tens of millions in investment that NMFS was looking for were not tied directly to the deepening. If they were, Wyden might have lost his pre-authorization.

The Corps leaped on the no-jeopardy opinion and issued a 'Chief's Report' on December 23. If the project was to be stopped administratively, it would be up to Oregon and Washington to enforce the Clean Water Act and the CZMA. The political leaders of the states were not inclined to push for strong agency action. They basically favored the project.

Early in 2000 both the "Green Scissors" report put out by USPIRG and others, and "Troubled Waters" issued by the National Wildlife Federation and Taxpayers for Common Sense, listed the Columbia River deepening as an extreme example of environmentally harmful and wasteful spending. During two trips to Washington, D.C., I met dozens of influential individuals from across the country willing to help stop the deepening. There was some possibility of bringing this to a political end, but the lobby was entrenched. The corporations involved wield immense power.

On Valentine's Day 2000, the National Marine Fisheries Service was sued in federal district court in Seattle. Northwest Environmental Advocates, along with Pacific Coast Federation of Fishermen's Associations, American Rivers and Trout Unlimited filed one suit, represented by Earthjustice. CRANE (Columbia River Alliance for Nurturing the Environment) filed another. Both charged that NMFS has abdicated their responsibility to protect endangered salmon by issuing the 'Biological Opinion' allowing the deepening to proceed.

Later in the Spring, a House subcommittee refused to appropriate the initial funds to begin the deepening. It looked like the project could at least be delayed.

Finally, this August the boondoggle unraveled. The Columbia Riverkeeper and Astoria-based Salmon For All had intervened on behalf of the plaintiffs in the NMFS suit. The Port of Portland had joined on the side of the Fisheries Service. The Earthjustice and CRANE suits had been consolidated in the courtroom of U.S. District Judge Barbara Jacobs Rothstein. On August 4, Judge Rothstein dismissed the NMFS motions to dismiss the case or, if not, move it to a Portland court. The case was ready to move swiftly to summary judgment and odds were excellent that Judge Rothstein would throw out the December 'Biological Opinion'. Days later Mike Thorne, executive director of the Port of Portland (and a major champion of the deepening), resigned from his \$194,000 per year job.

The other shoe dropped on August 5. NMFS sent a letter to the Corps withdrawing their 'Biological Opinion'. This is the death of the project, at least for a very long time. This is the victory I'm trying to celebrate.

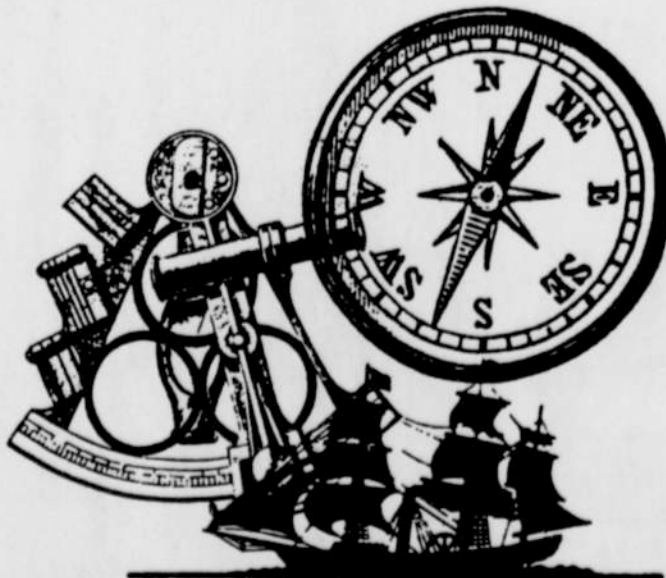
I guess one good way to celebrate is take full advantage of the situation. There is still a huge issue of irresponsible maintenance dredging and disposal. I am asking the National Marine Fisheries Service to take another look at their 'Biological Opinion' for this work. Now is the time to get some improvements ordered. Flowline disposal needs to be phased out. Ocean dumping needs to be reduced, not new sites designated. Sediments need to be more carefully tested for contaminants. The Corps should be put on a program of annual mitigation for past and current degradation of the estuary. We want the ecosystem improvements NMFS suggested; they might actually help improve conditions — with the deepening abandoned.

Okay, we won. The people of estuary conservation and restoration won. The salmon and smelt and sturgeon and lamprey won. Small communities that value sustainability won over monster corporations. A grassroots campaign prevailed over a big-budget political machine. I really don't know how it happened. We knew we were right for a long time, but that didn't mean we would succeed. Oh well, luck or providence — I'll take it, bask in it for a minute, use it to advantage and move on.

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