

Presentation to the Port Angeles Chamber of Commerce
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Public Development Authority

Harbor-Works is a Public Development Authority funded 50/50 by the City and Port of Port Angeles. The State of Washington allows the establishment of public development authorities, or PDAs, to allow the accomplishment of public purpose activities without the assumption of liabilities by city government. Other examples of PDAs include the Pike Place Market PDA in Seattle and the Hurricane Ridge PDA in Port Angeles formed in 2000 to oversee the Hurricane Ridge ski and snowboard area.

Creation and Purpose of Harbor-Works

Harbor-Works was created in 2008 to clean up and develop the former Rayonier Mill site in Port Angeles, so that it can again contribute jobs and economic activity to the community, and to help the City acquire the 5 million gallon water tank on the property to meet its Combined Sewer Overflow mandate this year. Harbor-Works' only employees are an Executive Director, Jeff Lincoln, and an executive assistant. Harbor-Works also has an unpaid five member volunteer Board of Directors.

Harbor-Works' activities to date have been funded with \$650,000 loan commitments each from the City and Port of Port Angeles. This money comes from economic development funds received as part of the graving yard settlement and could not have been used for general operating expenditures. The bulk of that money has been expended on consultants to conduct thorough due diligence leading up to a decision this summer on whether to acquire the Rayonier Mill site or not.

The Rayonier Mill Site

The former Rayonier Mill site consists of 132 acres owned in fee by Rayonier, of which 42 are under water and 90 are on land. In addition, it consists of 3 acres of land Rayonier is leasing from the Department of Natural Resources (DNR), as well as an aquatic area in the harbor also leased from DNR that includes a dock and a jetty. The land portion of the site is bisected by Ennis Creek.

Harbor-Works is focused on acquiring and cleaning up only the fee owned Rayonier property, and not on assuming the DNR leases, or acquiring the dock or jetty.

The dock is in bad condition, and would cost millions to refurbish and even more to remove. In addition, because of the shallow water in that part of the harbor the dock could not be used for deep draft vessels. DNR has the right to require Rayonier to remove the dock and

jetty at Rayonier's expense and will probably do so in the near future. Harbor-Works might take on the job of demolishing the dock and jetty if fully paid for doing so by Rayonier.

After the Rayonier Mill closed down in 1997 Rayonier dismantled the buildings and spent about \$25 million on environmental clean up of the toxic chemicals remaining from the operation of the paper mill. Nonetheless, there still is contamination remaining on the site, both on land and on the bottom of the harbor.

The Clean Up

Initially, after 1997, the Rayonier site fell under the purview of the federal Environmental Protection Agency (EPA), which was going to oversee its clean up under the so called Superfund statute. However, oversight over the clean up was transferred to the Washington State Department of Ecology (DoE) and the Lower Elwha Klallam Tribe was given authority as a co-regulator. Rayonier also has an agreement with the Lower Elwha Klallam Tribe pursuant to which Rayonier pays the Tribe \$250,000 annually to oversee the clean up process for as long as the clean up lasts.

DoE has been studying the Rayonier Mill site for many years, but has not yet determined the extent of the site to be cleaned up. DoE just entered into another Agreed Order with Rayonier that requires three more years, and possibly longer, of tests and studies before a Cleanup Action Plan can be prepared. By comparison, other sites of former paper mills that used the same chemical processes as the Rayonier Mill and had the same pollutants on site have been cleaned up from beginning to end in less than five years.

An important reason for the formation of Harbor-Works is to attempt to accelerate the slow process of cleaning up the pollution and placing a portion of the Rayonier Mill site back into a productive use that would generate jobs and tax revenue. Because of the time value of money, it is in Rayonier's economic interest if the clean up occurs later rather than earlier. DoE so far has approached the process in a regulations driven manner focused on studies and reports that has placed no emphasis on speedy completion. Harbor-Works is the only player invested in a speedy clean up and redevelopment.

Under state and federal law Rayonier, as the polluter, is obligated to pay for the cost of the clean up. Each successive owner of a polluted property also becomes a "Potentially Liable Party", to whom DoE can look to fund the clean up if for some reason Rayonier did not pay. This is an important reason for the creation of Harbor-Works, so that the City or Port would not become directly liable as Potentially Liable Parties following acquisition of the Rayonier Mill property.

In general a polluter only has to clean up to the standard for the former use of the property, in this case heavy industrial. However, because of the proximity to the harbor and the danger that pollutants remaining in the ground could leach into the groundwater and then travel into the harbor, it appears that DoE will require Rayonier to pay for cleaning up the site to a higher standard that essentially would allow unrestricted future use of the property.

Future Uses of the Property

There are some in the community who would like to see the site, once cleaned up, to again host a major industrial facility providing hundreds of jobs, like it used to until 1997. There are others who want the whole area to be a city park or to be restored to the wild state it was in 200 years ago. The Klallam native American tribes want the cultural artifacts and human remains that are believed to be on the site of a former native American village East of Ennis Creek preserved and Ennis Creek to be restored.

Harbor-Works has held numerous public meetings at which a number of alternatives with different combinations of industrial, commercial and residential development were laid out. Alternatives “B” and “D” (the latter being the one that has been endorsed by the Port of Port Angeles) provide for the area East of Ennis Creek, where the Klallam village is believed to have been located and where there is the highest likelihood of encountering remains and cultural artifacts, to be dedicated to a native American cultural center, parks and open space. The area West of Ennis Creek would be dedicated to mixed use development in Alternative “B” or light industrial and marine related uses in Alternative “D”. In either case, about two thirds of the land area would end up as parks or open space, with development of the remaining third in effect paying for that. Some would consider this a good compromise.

This proposal does not satisfy those who want no development of any kind anywhere on the site. However, their concept of all parks or open space could not be implemented by Harbor-Works or the Port, since the purpose of these entities is restricted to economic development. It might also be a challenge to find the money to acquire the property, create a park of that size and then maintain it – at least I have not yet seen any detailed proposal how that could be accomplished.

Possible Structure of a Deal

The Harbor-Works Board will not approve any acquisition that would impose liabilities for the clean up on the taxpayers of Port Angeles. It is not the purpose of Harbor-Works to get Rayonier off the hook and stick the City or Port with the clean up costs, as some have been concerned. It also is not the purpose of Harbor-Works to buy the land with public money and give it for free to the Tribes, as others have been concerned. The Tribes have various rights regarding the property that will be respected, but if they want to own valuable land there will have to be some form of payment for it. If an acceptable deal can not be negotiated, the Board will vote not to proceed and Harbor-Works will be dissolved.

Right now the property has negative value, because the remaining clean up costs are much higher than the value of the property cleaned up. Rayonier, consistent with its obligation to pay for the clean up, will have to give Harbor-Works together with title to the property funds equal to the cost of the clean up minus the value of the property once cleaned up. The remaining funds needed can come from a variety of sources: the City paying something to acquire the water tank and rights of way it needs, the Port paying to acquire marine industrial zoned land, or alternatively some other entity paying to acquire land for mixed use

development, and the Tribes paying for land for their cultural center. A public entity like a PDA also has access to matching grants from DoE to help with clean up and stream restoration.

A transaction could happen all at once or in several phases. The trigger for the first phase is that the City needs to know this summer whether it can acquire the water tank, or whether it will attempt to take it by eminent domain.

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A deal acceptable to Harbor-Works' Board will have to include agreements with Rayonier on the amounts Rayonier will pay for the clean up, with DoE limiting Harbor-Works' clean up liability so it can be satisfied with funds Harbor-Works is certain to receive and allowing Harbor-Works to proceed promptly to commence the clean up and redevelopment, with the Lower Elwha Klallam Tribe regarding the concurrence needed from that tribe, and with the City, Port or Tribes who will ultimately acquire portions of the land area. This sounds like a lot of work, and it is. But Harbor-Works is working diligently on all fronts and we believe that we are in basic agreement with DoE, DNR, the Tribes, the City and the Port on all of the elements that will allow Harbor-Works to strike a deal with Rayonier acceptable to both sides.

Two Alternative Futures

We are at a fork in the road. At the end of the two paths are two alternative futures for the Rayonier property and for Port Angeles. Which path we end up taking may well be the most important decision affecting the city's economic future within a generation.

If there is no deal and Harbor-Works dissolves this summer it is certain that there will be no remediation for at least four or five years on land and much longer on the harbor bottom. The derelict pier and jetty may not be removed until close to the end of the decade. Similarly, Ennis Creek will probably not be restored until the end of this decade or in the 2020s. There will certainly not be any economic activity on the property for at least 10 years, and even after that time redevelopment will be problematic, with the issues relating to cultural remains and the large amount of concrete foundations and pilings on the site.

The alternative if Harbor-Works acquires the property is one of near term remediation, restoration and redevelopment. The bulk of the uplands clean up can be completed within two to three years. The pier and jetty can be gone and Ennis Creek can be restored within the same time two to three years. Redevelopment of the site can commence in 2012 while clean up is being concluded and be completed a few years later. The community's vision can be implemented under local control. Jobs will be created as tens of millions of dollars are being spent on remediation, the restoration of Ennis Creek and redevelopment of the site. Much more will be spent on the permanent structures that will be on the site. Well before the end of the decade the Rayonier site will have become again an economic engine for the North Olympic Peninsula.