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October 24, 2011

Columbia River Crossing Project  
700 Washington Street, Suite 300  
Vancouver, WA 98660

RE: Comment by DMI in response to the FEIS

Dear CRC:

**B-002-001** I am a planner representing Diversified Marine, Inc. ("DMI") at 1801 N. Marine Drive, Portland. I am writing to respond to the Final Environmental Impact Statement (FEIS) issued on September 24, 2011.

1. Section 3 of the FEIS states:

*The information presented in this section [Section 3.3 – Property Acquisitions and Displacements] is based on the analysis described in the CRC Acquisitions Technical Report, included as an electronic appendix to this FEIS. (p. 3-79)*

DMI objected to the Acquisitions Technical Report in our June 23, 2008 letter to the CRC, which is included in the DEIS as comment item number B-059. We continue to make those objections to the Acquisitions Technical Report, because the information in the FEIS does not resolve them.

**B-002-002** 2. The discussion of information about the North Portland Harbor gathered since the DEIS was published (pp. 3-81 to 3-82) does not include any new information about DMI or other uses on the south side of harbor. It addresses only the floating homes on the north side of the harbor.

However Exhibit 3.3-3 (Figure I, p. 3-86) shows what appears to be acquisition of at least an easement at the east end of the DMI site, with consequential significant impacts to the existing DMI office building. And Exhibit 3.3-4 (Figure F, p. 3-87) shows that the project footprint will include land owned by ODOT and leased to DMI that is critical to parking and storage needs of DMI. Acquisition of ODOT-owned property is discussed in a sidebar on p. 3-90. But its significance to DMI is not considered expressly in the FEIS.

### **B-002-001**

The Acquisitions Technical Report has been updated for the Final Environmental Impact Statement. Please see B-002-002 through B-002-010 below for responses to Mr. Epstein's specific concerns.

### **B-002-002**

The pages you reference (3-81 to 3-82 of the FEIS) are under the header "Existing Conditions" and describe the existing conditions in the project area specific to North Portland Harbor, and are not under the header "New Information Developed Since the Draft EIS."

Exhibit 3.3-3 (Figure I, p. 3-86) illustrates a permanent property easement on the DMI site. This subsurface easement would likely cause the displacement of one structure on the property, as identified in Appendix E "List of Potential Property Acquisitions" on page E-30.

DOT-owned property is intended for transportation-related uses in the long-term, with which the CRC project is compatible.

Representatives of ODOT will work with DMI during the real estate acquisition process to ensure that fair market value compensation will be provided, in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (as amended).

**B-002-003**

3. There is discussion of permanent subsurface easements for soil stabilization near the Marine Drive interchange. (p. 3-88). Although not discussed there in detail, we understand from discussions with CRC and PDOT staff that soil stabilization is likely to require removal of the existing DMI office building on the east end of our property.

At p. 3-90, the FEIS states that, “[p]roperty used temporarily during construction could be returned to its owner once construction is complete.” Reconstruction or replacement of that office in its existing location may not be feasible, because the office now is situated on the harbor dike where the Soil and Water Conservation District would not allow its reconstruction or replacement. This issue is not addressed in the FEIS.

**B-002-004**

4. At p. 3-93 through 3-95, the FEIS discusses compensation and relocation for permanent property impacts consistent with the federal Uniform Relocation and Real Property Acquisitions Policies Act of 1970. However as pointed out in comment item code B-059, we understand from our lawyers (who are experienced in such matters), that DMI will not be compensated for the following:

- (a) The loss of its leased storage and staging yard and off-street parking;
- (b) Lost income during the move to and refitting of another site;
- (c) The cost of in-water facilities that would have to be abandoned and rebuilt elsewhere;
- (d) Disruption to and loss of work during the move;
- (e) The cost to obtain permits at the new site; or
- (f) The loss of the key technical personnel and physical and proximity relationships on which the business depends.

Although the FEIS discusses compensation for impacts to businesses in the North Portland Harbor, such as DMI, it does not discuss these uncompensated impacts.

**B-002-005**

5. Section 3 of the FEIS states:

*In the Marine Drive interchange area, five marine-related businesses with a total of 25 employees and \$10.6 million in annual sales would be displaced under the LPA. These businesses are dependent upon a location close to the river in order to operate. Finding suitable locations for boat sales and a boat dock and repair may be difficult, as much of the Columbia River area in the vicinity of highway access is built up for either residential or industrial/commercial use. The Oregon Department of Transportation (ODOT) would partner with TriMet to provide relocation assistance to these businesses. (p. 3-107)*

*All displaced businesses would be offered relocation assistance in accordance with the Uniform Act. Some of these displaced businesses may choose not to relocate locally. Even with relocation assistance, some of the employees may be unable to retain their jobs; for example, an employee may have to accept a new job during the transition period of relocation. (p. 3-107)*

**B-002-003**

As mentioned in the response to B-002-002, a subsurface easement would likely cause the displacement of one structure on the property, which you refer to as the DMI office building.

This easement is designated a permanent easement not a temporary construction easement, therefore, the statement about property temporarily used during construction is not applicable.

With regard to the possibility of reconstructing or replacing the office in the existing location, the FEIS disclosed the impact that a structure would be displaced on the property. Whether or not the structure could be rebuilt in its existing location, or on the property at all, is outside the scope of the NEPA process and would be addressed in the right-of-way acquisition negotiation process.

**B-002-004**

The FEIS states on page 3-93 "Where property acquisition and residential or business displacements are unavoidable, the project would provide compensation and relocation assistance." These compensation and relocation assistance measures would comply with the Uniform Relocation and Real Property Acquisitions Policy Act of 1970 (as amended) and any other applicable federal and state regulations. Mr. Epstein's comment assumes that Diversified Marine will be displaced; however, it is not expected that Diversified Marine would be displaced by the CRC project improvements. Additionally, for displaced businesses, the FEIS does not specifically state the compensation provided to each displaced business, as this is something that is negotiated following an appraisal and during the property acquisition and business relocation process.

**B-002-005**

Please see response to B-002-004.

**B-002-005** | As noted above, the FEIS does not discuss uncompensated impacts and does not adequately assess the significance of the loss of DMI if its office building cannot be relocated or replaced and/or if DMI cannot obtain ample vehicle parking and storage and staging areas proximate to the shipyard.

**B-002-006** | 6. Exhibit 3-4.6 at P. 3-110 identifies parking impacts of the project. It does not list loss of parking for DMI now situated on land leased from ODOT. This are a temporary and permanent effects that are not discussed in the FEIS.

**B-002-007** | 7. Section 3 of the FEIS states:

*Construction activity for the LPA would temporarily disrupt land uses on Hayden Island, but would not likely have as much of an effect elsewhere in the project area... (p. 3-119)*

This statement is incorrect. Construction activity associated with the LPA in general and with the LRT and Hayden Island collector bridge in particular will disrupt operations at DMI in at least three ways: (a) temporary (and perhaps) permanent loss of the DMI office building; (b) loss of parking for DMI and (c) loss of storage and staging areas on land leased from ODOT.

**B-002-008** | 8. In the discussion of long-term effects, Sections 3 and 6 of the FEIS states:

*Most negative economic impacts would result from business displacements, losses in parking, or changes in access to businesses. For those businesses displaced by the project, the acquiring agencies would provide a relocation assistance program. Property acquisitions affecting other uses would also be mitigated by relocation assistance, as described in Section 3.3, Property Acquisitions and Displacements. (p. 3-120)*

*Property owners would receive just compensation for the estimated value of land and improvements acquired and for other impacts that result in a measurable loss of value to the remaining property. Just compensation would also be provided for displacement of personal property, including situations where there is a displacement of personal property that is not owned by the property owner or tenant (known as personal property only relocations). (p. 6-17)*

As noted above and below, the FEIS does not address uncompensated impacts and the potential loss of DMI due to the inability to restore the DMI office building and to replace leased parking, storage and staging areas lost due to the project.

**B-002-009** | 9. *Actions Taken in Response to DEIS* (pp. 6-33, *et seq.*) does not address impacts to DMI.

**B-002-010** | 10. DMI appreciates the responses in the FEIS to the comments by and on behalf of DMI. See item codes B-019, B-026, B-038 and B-059. Our concerns have been consistent since we became involved with the project in 2007.

### **B-002-006**

The Economics Technical Report (pages 4-3 to 4-4) describes the parking impact to the ODOT property that is leased to DMI.

### **B-002-007**

The section you reference describes temporary effects to land use and economics from the LPA. Temporary effects from construction are defined as effects that would end when construction ends. The three impacts that you list are permanent impacts. Impact (a) is addressed in Chapter 3--Section 3.3 Property Acquisitions and Displacements. Impacts (b) and (c) are addressed in the Economics Technical Report (as referred to in the response to B-002-006).

### **B-002-008**

Please see response to comment B-002-004.

### **B-002-009**

You are correct. Chapter 6 is about public input on the Draft EIS, and does not discuss all the impacts that are addressed in Chapter 3 or in the technical reports (such as the Acquisitions Technical Report).

### **B-002-010**

As stated in Mr. Epstein's letter, DOTs and TriMet staff will continue to work with DMI and its representatives as the CRC project moves along in the design process.

With the information gained from ongoing discussions with DMI representatives, it has been determined that DMI is not expected to be displaced. As the project design advances and as discussions with DMI continue, the DOTs and TriMet staff will work with DMI to determine fair market value compensation for any losses incurred.

**B-002-010**

We also appreciate and acknowledge that staff from the CRC, ODOT and PDOT have met one-on-one with DMI, toured our facility and modified the recommended LRT and Hyden Island collector bridge alignment so that it does not split our parcel in two.

We also understand that some of the discussion and analysis in the DEIS and FEIS is necessarily of a nature that does not allow for the sort of finer-scale analysis at which the specific impacts to DMI's site and operations are timely and appropriate.

But we would be remiss if we did not point out those impacts now so that, as project planning becomes more detailed, our concerns will be addressed. We welcome continuing contact and coordination with the project staff and officials to this end.

Also we respectfully disagree with some of the responses to our comments, as noted elsewhere in this letter and below. We hope to persuade you to endorse and support our positions and to respond more fully to our needs as the project continues.

In several responses to our comments, the FEIS states, "it is not expected that Diversified Marine would be displaced by the CRC project." As noted above we appreciate that the project has shifted the LRT and island collector bridge alignment so that it does not split our ownership in two. That preserves in one piece the parcel owned by DMI.



But as noted in prior testimony and in our comments in response to the DEIS and shown on the left, the property owned by DMI for the shipyard is only about  $\frac{3}{4}$  of an acre. Additional land critical to the business operations is leased from ODSL in the Portland Harbor. As importantly, DMI leases from ODOT an additional 2+ acres of upland area between the shipyard and Marine Drive. DMI uses this leased land for vehicle parking and for storage and staging of equipment and supplies. Without this land or a roughly equivalent area with convenient access to the shipyard, DMI cannot operate. Nowhere does the FEIS address this. We

also believe that the Uniform Relocation and Real Property Acquisitions Policies Act of 1970 does not provide adequate if any compensation for such impacts.

We cannot emphasize enough that, to survive, DMI must have land proximate to the shipyard in which to park vehicles and to store and stage equipment and supplies. We appreciate that CRC, ODOT and PDOT staff are aware of this need from ongoing discussions. But this issue is not resolved yet. We hope that it can be resolved in the future. If it is not resolved, the CRC project will displace DMI.

**B-002-010**

As we have noted elsewhere in our testimony regarding the project, there is no place else where DMI can be relocated. If it is displaced, DMI will be out of business. The result of this would be the loss of \$10± million in income to the region and 50± family-wage earning jobs.

Thank you for considering our concerns.

Sincerely,



On Behalf of Diversified Marine, Inc.  
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