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CHAPTER 1

INSTITUTIONAL ARRANGEMENTS

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ABSTRACT

Failed efforts to construct the world's largest methanol plant in the local tideflats exposed need for the Port of Tacoma to become more transparent in its pursuits. The event acted as a catalyst for the City of Tacoma to initiate the Tideflats Subarea planning process. The Tideflats Subarea Plan will direct future management and development of the tideflats area. The planning process is designed to be inclusive of and responsive to local governments and their constituencies.

This chapter provides a general understanding of how the rights and responsibilities of various government institutions intersect within the tideflats area, including their arrangement around the Tideflats Subarea planning process. Two phases of research have contributed to the findings presented in this chapter. During phase I, we studied the legal and development history of the tideflats area. During Phase II, we shifted our focus to understanding the rights and responsibilities of three key institutions involved in developing the Tideflats Subarea Plan: the City of Tacoma, the Puyallup Tribe of Indians, and the Port of Tacoma. We considered their roles in view of federal- and state-level policies of relevance to tideflats/port management and development. From our work researching and describing the rights and responsibilities of these institutions, we produced two organizational charts: one to convey broad powers and relationships among key institutions, and another to represent the actors and stages involved in the Tideflats Subarea planning process.



INTRODUCTION

In the aftermath of Northwest Innovation Work's failed attempt to erect the world's largest methanol plant in the tideflats of Tacoma in 2016, the City of Tacoma adopted resolution 39723 to consolidate all tideflats/port area planning within a single Tideflats Subarea Plan. Events leading up to the cancellation of this proposal exposed a need for the Port of Tacoma to become more transparent about its economic development pursuits, and more attentive to community concerns and values. The failed project served as a catalyst for a range of local government institutions, with intersecting and overlapping jurisdictions, to sort through their diverse roles and responsibilities and formulate a shared vision for future port development. Today, with that process underway, the Port of Tacoma has an opportunity to alter its practices and improve public perceptions of its role as an economic engine of the region, one that provides thousands of secure employment opportunities to the people of the South Puget Sound.

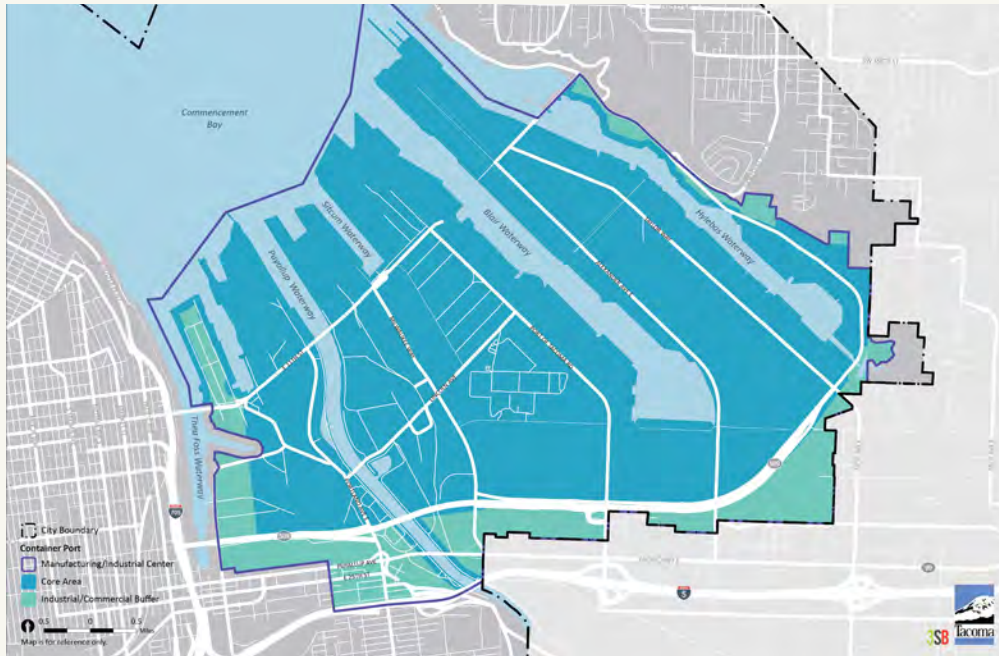
The City of Tacoma's role in managing the tideflats area is important to view early on. Through shoreline and land use regulations, the City defines which land uses and activities are allowed throughout the tideflats/port area. Decisions are based upon land uses deemed compatible with broader objectives laid out by the City's Shoreline Master Program and One Tacoma Comprehensive Plan and by the Puget Sound Regional Council's Vision 2040. With powers derived from Washington State, the City passes regulations which impact the development of industrial lands and shorelines tied to the long-term vitality of the port (Pierce County, 2017). The regulations the City passes also directly affect natural resources (e.g., fish and fish habitat) which are held in trust for the Puyallup Tribe of Indians as well as for all citizens.

The Tideflats Subarea planning process, now underway, brings together representatives of local government institutions to sort through their unique interests as well as their legal rights

and responsibilities related to development and management of the tideflats. This process corresponds to an Intergovernmental Agreement (IGA) constituted by the City of Tacoma, Puyallup Tribe of Indians, and Port of Tacoma. Upon completion of the planning process, the Tideflats Subarea Plan will serve as a blueprint for tideflats/port development, management, and operations. As such, it must be coordinated with pre-existing planning frameworks and policies, and it must adhere to federal, state, and local law.

By examining the distinct powers of the key institutions involved in carrying out the Tideflats Subarea planning process, we are able to understand potential pathways for port stakeholders to move toward outcomes that are socially responsible, environmentally sound, and economically productive.

This chapter, focused on institutional arrangements, provides a concise summary of the roles and responsibilities of the key institutions involved in carrying out the Tideflats Subarea planning process. Of primary focus are the three local governments which form the IGA, noted above. By examining the distinct powers of these institutions and the ways in which their roles and responsibilities intersect upon the tideflats of Tacoma, we are able to understand potential pathways for port stakeholders to move toward outcomes that are socially responsible, environmentally sound, and economically productive. In the larger scope of our cohort's experience during the last two years pursuing this MA in Community Planning, we've come to understand the importance of providing the people of Pierce County with access to credible information that empowers them to participate in meaningful ways in public decision making processes.



KEY TERMS

The following summaries clarify the usage of related terms found throughout this chapter: Port of Tacoma (Port), Tideflats Area (tideflats, port), Tideflats Manufacturing and Industrial Center (MIC), and Tideflats Subarea.

PORT OF TACOMA

(Port) A public port authority enabled by the Washington State Port District Act (Title 53) of 1911, and established in 1918 by the vote of residents of Pierce County. The Port is governed by five elected Commissioners and can provide facilities for marine transportation and trade; develop lands for industrial and commercial uses; provide economic development programs; buy, lease, and sell properties; provide air and water pollution control facilities; operate trade centers and export trading companies; establish and operate foreign trade zones; and promote tourism (Port of Olympia, n.d.). The Port of Tacoma owns 2,500 acres of land throughout Commencement Bay’s tideflats and is a major economic driver and employment source in the South Puget Sound.

TIDEFLATS AREA

(Tideflats, Port) Refers to a geographical area which includes natural deepwater harbors of Commencement Bay and industrial lands which adjoin with the Hylebos Waterway, Blair Waterway, Sitcum Waterway, Puyallup River, Saint Paul Waterway, Middle Waterway, and Thea Foss Waterway (Port of Tacoma, 2014). The jurisdictions of the City of Tacoma, City of Fife, and Pierce County intersect within the tideflats and overlap with Puyallup tribal lands (Port of Tacoma, 2014).

TIDEFLATS MANUFACTURING AND INDUSTRIAL CENTER

(MIC) A regional planning designation attributed to the tideflats/port area by the Puget Sound Regional Council in its Vision 2040. The MIC is planned to accommodate substantial employment growth and to protect manufacturing and industrial uses from encroachment by other sectors. Owing to the port’s regional importance for trade, commerce, and employment, the MIC will be prioritized to receive funding for transportation projects. The MIC includes a “core area,” zoned for heavy industrial and manufacturing uses; and transitional “buffers,” zoned for light industrial and commercial uses (City of Tacoma, 2017). The East Thea Foss is included within the transitional buffer zone.

TIDEFLATS SUBAREA

Like the MIC, this term applies to the tideflats/port area, linking it to the ongoing Tideflats Subarea planning process being carried out by the City of Tacoma, Port of Tacoma, Puyallup Tribe of Indians, City of Fife, and Pierce County. The creation of the Tideflats Subarea (and related Tideflats Subarea Plan) is crucial not only for maintaining the tideflats’ status as an MIC, which enables the area to receive prioritization for transportation funding in the future, but also for bringing this assortment of government institutions together for the first time to coordinate their distinct rights and responsibilities around a shared planning process.

RESEARCH OVERVIEW

Two primary phases of research have contributed to the study results and key findings presented in this chapter.

PHASE I

Research on the legal and development history of the port/tideflats of Tacoma

PHASE II

Research and analysis of the legal authorities and responsibilities of four key institutions (the US federal government, the City of Tacoma, the Puyallup Tribe of Indians, and the Port of Tacoma)

During our initial research phase, we investigated the legal and development history of the tideflats/Port of Tacoma. We learned about the years and decades leading up to the Port of Tacoma's establishment as a public port authority in 1918, as well as how the port has been defined since. We considered the intergovernmental relationship between the Port of Tacoma and the City of Tacoma and we investigated the historical significance of tribal land claims in view of key tensions between the Puyallup Tribe of Indians and other local government institutions. We identified specific regulatory mechanisms in place which both enable and restrict port development, and which require environmental management and public access provisions.

In our second phase of research, we focused on identifying what different governmental institutions are enabled and required to do through law, and how their powers intersect within the tideflats area. Then, we applied our understandings, focusing on the involvement of the City of Tacoma, the Puyallup Tribe of Indians, and the Port of Tacoma, in the ongoing Tideflats Subarea planning process. Our second phase of research enabled us to create two organizational charts. One represents the broad powers of the US federal government,

Puyallup Tribe of Indians, City of Tacoma, and Port of Tacoma. The second situates the powers of the City of Tacoma, Puyallup Tribe of Indians, and Port of Tacoma in view of the Tideflats Subarea planning process. We view this planning process as a live case for studying how these institutions organize themselves amongst one another to achieve a common purpose, to establish a coherent trajectory for the tideflats/port that adheres to law and supports the objectives of broader planning frameworks, such as the Puget Sound Regional Council's Vision 2040.

Over the course of our study process, we have gathered information from articles, planning documents, policy manuals, and government websites. At various points, we have presented findings and received feedback from peers, faculty, and tideflats/port stakeholders. This feedback has enabled us to refine our approach and to sharpen our focus on identifying the institutional arrangements involved with tideflats/port development and management. Our overarching goal has been to create both written material and graphical representations which can be used to educate broad public audiences on the roles and responsibilities of different government agencies involved in the Tideflats Subarea planning process.

STUDY RESULTS AND KEY FINDINGS

This section focuses on the authorities of four public institutions, whose powers both constrain and enable management and development practices for the tideflats/port of Tacoma: the US federal government, the Puyallup Tribe of Indians, the City of Tacoma, and the Port of Tacoma. For each institution, we've contemplated three questions:

ONE

From where does each institution derive its power to influence management/development of the tideflats/port of Tacoma?

TWO

What broad powers does each institution possess regarding management/development of the tideflats/port area?

THREE

How do their roles and powers merge and intersect?

We have applied our understandings of each institution's legal authority to the ongoing Tideflats Subarea planning process. In doing so, we have captured how the distinct roles and powers of each institution necessarily intersect in creating a plan that will guide the tideflats/port area into the future.

UNITED STATES FEDERAL GOVERNMENT

The federal policies described in this section by no means stand as a comprehensive set. However, the two acts listed below have shown their effect in terms of drastically changing how land use decisions are made locally. All planning and development which occurs in the tideflats/port area must adhere to the following federal policies.

CLEAN AIR ACT

The Clean Air Act (CAA), passed in 1963 and amended in 1970 and 1990, is intended to guard public health against exposure to various air contaminants. It sets up air quality standards and requires states and local governments to enforce policies and regulations to adhere to those standards. Local port operations must comply with the CAA; this impacts a variety of activities, from the kind of motors and paint coatings permitted, to the levels and kinds of discharges allowed from vehicles (Port of Tacoma, 2019). Related to complying with the CAA, in 2008, the Ports of Tacoma and Seattle, along with the Port of Vancouver, BC, adopted the Northwest Ports Clean Air Strategy to reduce maritime and other port-related emissions known to contribute to unhealthy air and climate change (Port of Seattle, Port of Tacoma, and Vancouver Port Authority, 2018). This intervention marks the first international effort of its kind.

CLEAN WATER ACT

The Clean Water Act (CWA) establishes the basic structure for regulating the discharge of pollutants into US water bodies and outlines surface water and groundwater quality standards. Section 404 of the Clean Water Act (CWA) regulates the release of dug and fill material into waters of the United States, which include wetlands. Section 404 requires permittees to file for a license prior to releasing any dug or fill material into waterways, excluding actions which are absolved from Section 404, which include certain cultivation and ranger service activities.

The Washington State Department of Ecology requires the City of Tacoma to produce a Stormwater Management Program (SWMP) to

regulate the discharge of stormwater into local surface waters and groundwaters (City of Tacoma Environmental Services, 2017). The Port of Tacoma, as a secondary permittee of the SWMP, is required to abide by fewer requirements than the City but should also produce its own Stormwater Management Plan (City of Tacoma Environmental Services, 2017).

THE US ARMY CORPS OF ENGINEERS

The US Army Corps of Engineers is the permitting authority for the waters of the Port of Tacoma, which fall within US boundaries. This authority is granted by the Rivers and Harbors Act of 1899 (US Fish and Wildlife Service, n.d.). In relation to the Port, the US Army Corps of Engineers' ecological mission has two primary focuses: reclamation and stewardship. By federal regulation, the US Army Corps of Engineers is responsible for the restoration and management of various ecological resources. Efforts range from revitalizing contaminated sites previously used for military purposes to restoring wetlands and other ecologically sensitive areas (Carter and Stern, 2017).

US Army Corps of Engineers responsibilities:

- Enforce Section 404 of the Clean Water Act
- Administer day-to-day program
- Oversee individual and general permit decisions
- Conduct or verify jurisdictional determinations
- Develop policy and guidance

The US Environmental Protection Agency (EPA) and US Army Corps of Engineers accord with the 1987 Corps of Engineers Wetlands Delineation Manual to distinguish wetlands for the CWA Section 404 license program. The Manual distinguishes the natural features of a wetland by soil typology, plant species, and hydrology.



MARITIME READINESS

The Maritime Administration (MARAD) is an agency within the US Department of Transportation (DOT) which oversees waterborne transportation, including its integration with other segments of the transportation system (Maritime Administration, 2018). MARAD's purpose is to develop, promote, and direct the US Maritime Service and US Merchant Marine. Its programs involve ships, shipping, shipbuilding, port operations, vessel operations, national security, public safety, and the environment.

MARAD is one of nine members of the National Port Readiness Network (NPRN) responsible for securing the movement of military forces through US ports (Maritime Administration, 2018). Since its establishment in 1994, NPRN has "encourage[d] the exchange of deployment information between military personnel responsible for the logistics of moving a unit and the unit itself" (Bureau of Transportation Statistics, Maritime Administration, and US Coast Guard, 1999). This information sharing is key to identifying lift requirements, determining port capabilities, designating cargo

staging areas, and evaluating potential impacts of commercial disruption as a result of activating ports for military forces.

The federal Strategic Seaport Program represents collaborative efforts of the US Department of Defense (DOD) and the Department of Transportation (DOT). The Program manages the deployment of military forces through a set of designated strategic seaports (US Government Accountability Office, 2013). Within the Marine Ports and Navigation Plan (2017), the Washington State Department of Transportation (WSDOT) highlights the importance of the Port of Tacoma as one of 17 commercial seaports with a "strategic seaport" designation. As a strategic seaport, the Port of Tacoma must be prepared to make its facilities available for the deployment of military forces with minimal notice and with measures in place to minimize commercial disruption.

The Port of Tacoma has established directives with the military to ensure port readiness. Terminals Tariff No. 300 states that "[w]hen the Ports and or Alliance are notified...that a Military Service exercise will require Terminal space not under lease, the Ports and Alliance will vacate said space." All associated costs, including rental fees for using Port/Alliance equipment, are the responsibility of the federal government (Northwest Seaport Alliance, 2018).

THE MCCORD PIPELINE

Constructed in 1966, the McChord Pipeline delivers aviation fuel from the US Oil & Refining Company's refinery in the tideflats to holding tanks on Joint Base Lewis-McChord Field. The aviation fuel moves through a single, six-inch diameter pipeline which extends 14.2-miles in its length (McChord Pipeline CO., n.d.).

PUYALLUP TRIBE OF INDIANS: SOVEREIGN NATION

The Commerce Clause of the United States Constitution (1787) acknowledges Native American tribes as sovereign nations, with inherent power to retain land claims and access to natural resources. Ancestors of the Puyallup Tribe of Indians entered into treaty negotiations with Territorial Governor Isaac Stevens soon after the US formed the Washington Territory in 1853. Leaders of eight distinct tribes, including the Puyallup Tribe, ceded vast land claims to the US in the Medicine Creek Treaty of 1855. The Treaty reserved the tribes' right "of taking fish at all usual and accustomed grounds and stations...in common with all citizens of the Territory" (Blumm, 2018).

The significance of this line of phrasing pertaining to fishing rights, which Stevens repeated in other treaties he negotiated throughout the Washington Territory, cannot be overstated, especially in view of the number of legal proceedings found to refer back to it. The Treaty was invoked in federal courts as early as 1884, when Judge Hoyt ordered that it should be "liberally construed in favor of the Indians," and more recently, in 2018, when the US Supreme Court upheld the Martinez Decision, which requires the State of Washington to repair or remove culverts found to block fish passage and threaten tribal fisheries (Ballantine, 2017; Blumm, 2017). Four legal proceedings referred to below are particularly crucial for understanding the legal authority and powers of the Puyallup Tribe of Indians as their sovereignty and affirmed rights come to bear over the local tideflats.

THE BOLDT DECISION

In 1970, tribes of the Puget Sound region and the US federal government filed a suit against the State of Washington, accusing the state of violating the tribes' treaty-reserved right to harvest fish throughout their traditional territories and of failing to protect habitats considered "necessary to provide meaningful subsistence and commercial harvests" for tribal communities throughout western Washington (Blumm, 2017, p. 12).

In this case, the federal government signaled to Washington State that it had wrongly asserted power over federally recognized tribes. Judge Boldt ruled for the tribes and the federal government, ordering that the State of Washington held no official authority to ban or restrict tribes from accessing fishing sites or from harvesting fish. He referred specifically to state conservation mandates which discriminated against tribal fishing. He also ordered that the tribes' "right

of taking fish" entailed not just their ability to access harvest sites throughout their traditional territories, but also their right to harvest up to half of the fish available at those sites. As a result of the Boldt Decision, federally recognized tribes gained status as co-managers of state fisheries and the Northwest Indian Fisheries Commission formed. Locally, the Puyallup Tribe co-manages fisheries throughout their traditional territory, an area which coincides with the Puyallup River Watershed, from Mount Rainier to Commencement Bay.

THE MARTINEZ DECISION

In 2007, Judge Martinez ruled against the State of Washington, requiring it to "refrain from building or operating road culverts that hinder fish passage" (Blumm, 2017, p. 19). He validated claims that the culverts infringed upon a significant portion of the tribes' harvestable fish and therefore violated their fishing rights. He ordered that the right of tribes to exercise historical fishing practices could only

retain its meaning if it “implied that neither the negotiators nor their successors would take actions that would significantly degrade the resource” (United States v. Washington, 2013). Thus, he made a broader assertion that tribal fishing rights necessarily coincide with powers to form and enforce regulations for habitat protection. In 2018, the US Supreme Court upheld the Martinez Decision (Eligon, 2018).

PUYALLUP SETTLEMENT

In the years leading up to the Puyallup Settlement, lawful title to thousands of acres of tideflats was in question, with court rulings resulting in the Puyallup Tribe’s reclamation of lands along the Puyallup River (Ballantine, 2017). In 1990, After years of negotiations among tribal leaders and local governments, the Puyallup Tribe of Indians agreed to the Puyallup Land Claims Settlement, relinquishing claim to 20,000 acres of lands which fall within the legal boundaries of their reservation. By agreeing to the settlement, the Tribe avoided the cost of further litigation. The settlement resolved property title disputes which implicated a multitude of public and private landowners and which threatened to cripple port expansion (Port of Tacoma, 2014). The settlement provided a \$162 million package to the Puyallup Tribe to pursue economic and social development, including the construction of the Blair Navigation Project. In addition, the Puyallup Tribe reacquired 900 acres of tideflats to develop for industrial, fishery, and marine-terminal purposes. As a result of this agreement, the Puyallup Tribe of Indians continues to hold significant power to pursue capital development in the tideflats/port area.



TRIBAL CONSENT AND CONSULTATION POLICY

Effective as of May 10th, 2019, the Washington State’s Attorney General Office (AGO) must obtain “free, prior, and informed consent” from any/all federally recognized tribes whose rights, lands, and/or sacred sites could be impacted by any program or project (Native Daily Network, 2019). This policy validates the sovereignty of 29 federally recognized tribes throughout Washington State, strengthening each tribe’s ability to approve or reject proposals that could affect them. This policy also reinforces the government-to-government relationship between the State of Washington and each federally recognized tribe. Locally, this policy indicates that the Puyallup Tribe will play a more central part in future decision making for lands throughout the Tribe’s traditional territory, which include the tideflats.

CITY OF TACOMA: LOCAL JURISDICTION

This section reviews specific state-city legal arrangements which unearth the particular powers of the City of Tacoma to influence tideflats/port development and which justify the City's final authority to amend and approve subarea plans. While this section refers to regulatory mechanisms in place since the 1970s (which require cities and counties to carry out land use planning in ways that directly impact the development trajectories of public port authorities), it is appropriate to bear in mind that as early as 1937 Washington State Legislature authorized local municipalities to carry out land use planning and zoning within their jurisdictional boundaries on a voluntary basis (Oldham, 2006). This means the City of Tacoma's official regulatory power to choose to institute land use zoning throughout the tideflats/port area predates the statutory laws which today require the City to do so.

SHORELINE MANAGEMENT

The Shoreline Management Act (SMA), enacted in 1971, stands out as the first Washington State legislative act to require public port authorities to coordinate their planning efforts with city and county governments, thereby strengthening the ability of cities and counties to influence public port authority decision making processes (Comprehensive Plan Guideline for Washington's Public Ports, 2009).

The SMA requires local governments to create their own Shoreline Master Programs (SMP), complete with land use policies and regulations. The City of Tacoma's SMP, last updated in 2013, corresponds to the City's One Tacoma Comprehensive Plan to address similar concerns related to urban growth, while focusing on 1) prioritization of water-dependent uses along shorelines, 2) increased public access, and 3) protection and restoration of the environment to ensure no net loss of ecological functions (City of Tacoma, 2013). The ramifications of SMP policies and regulations come to bear not only locally, within the context of the tideflats, waterways, and Commencement Bay, but throughout the Salish Sea's interconnected water channels and harbors. This reflects the broader, state-level purpose of the Washington State SMA.

LAND USE PLANNING AND DEVELOPMENT REGULATIONS

The Growth Management Act (GMA), adopted by the State of Washington in 1990, resulted from mounting concerns related to rapid development of rural lands. By laying out a framework for growth management and by requiring the participation of local jurisdictions, the GMA elevated the role of comprehensive land use planning to counter the effects of urban sprawl (Comprehensive Plan Guideline for Washington's Public Ports, 2009).

As a result, all fast-growing municipalities and counties must create their own comprehensive plans to account for anticipated growth (MRSC of Washington, 2018). Required comprehensive planning elements include land use, housing, capital facilities, utilities, transportation, economic development, parks and recreation, and ports (RCW 36.70A.085). Non-mandatory elements may involve planning for conservation, solar energy, recreation, and subareas. Thus, through GMA, the City of Tacoma is required to make land use determinations and to establish development regulations for all lands within its jurisdictional boundaries. The City is further required to coordinate with the Port of Tacoma to form such policies for the tideflats area. And, the City can, and does, engage in subarea planning as a matter of organizing and enacting the goals it has outlined within its One Tacoma Comprehensive Plan (City of Tacoma, 2015).



ENVIRONMENTAL IMPACT STATEMENTS

Related to the City's legal authority to form policies and regulations around land uses and shoreline management, the City of Tacoma is further designated by the State of Washington as SEPA lead agency.

In accordance with the State Environmental Policy Act (SEPA), adopted by the state in 1971, the City is responsible for carrying out environmental impact statements (EIS) for all proposals not granted a determination of nonsignificance status (DNS). Therefore, in the context of the tideflats/port area, the City is legally responsible for accounting for the potential environmental impact of proposed developments.

AUTHORITY TO FINALIZE TIDEFLATS SUBAREA PLAN

The City of Tacoma is signed on to an Intergovernmental Agreement (IGA) with the Puyallup Tribe of Indians and the Port of Tacoma to cover costs associated with the Tideflats Subarea planning process. Representatives from the City of Tacoma, the Puyallup Tribe of Indians, the Port of Tacoma, the City of Fife, and Pierce County form the Tideflats Subarea Plan Steering Committee, charged with producing an initial proposal. Once the initial proposal is complete, the City of Tacoma Planning Commission will independently review the plan and propose changes to bring it into greater alignment with broader policy frameworks (e.g., One Tacoma Comprehensive Plan, Shoreline Master Program). Ultimately, Tacoma's City Council holds singular power to amend the plan prior to approving it.



THE PORT OF TACOMA: PUBLIC PORT AUTHORITY

The Port of Tacoma owns 2,500 acres of lands within the tideflats. Acting as an enterprise fund, the Port leases piers, docks, wharves, and related upland facilities. Washington State law authorizes ports to provide and charge rents, tariffs, and other fees for docks, wharves, and similar harbor facilities, including associated storage and traffic-handling facilities for waterborne commerce. The Port may also provide freight and passenger terminals, and transfer and storage facilities for air, rail, and motor vehicles. Finally, the Port may acquire and improve lands for sale or lease for industrial or commercial purposes, and may create industrial development districts and foreign trade zones (Port of Tacoma, 2019).



Unlike the Puget Sound Regional Council and the City of Tacoma, the Port of Tacoma is not directly subject to the Growth Management Act. However, the Port is still subject to local, regional, and state goals consistent with GMA requirements. The Port's land use and transportation plans are developed in accordance with the NWSA Strategic Plan, PSRC Vision 2040, One Tacoma Comprehensive Plan, and the City of Tacoma Shoreline Master Program (Port of Tacoma, 2014).

NORTHWEST SEAPORT ALLIANCE (NWSA)

In August of 2015, the Ports of Tacoma and Seattle unified to co-manage their marine cargo facilities and businesses to strengthen Puget Sound Gateway as a global hub. The Northwest Seaport Alliance (NWSA) is a special purpose government entity that acts in the same regard as a public port authority. NWSA is responsible for capital investments, including renewal and new development projects (Northwest Seaport Alliance, n.d.). Such capital investments are owned by NWSA. The Ports of Tacoma and Seattle each develop a capital budget that must be approved by each managing member. Both Ports contribute to funding projects and both benefit from the cash flow produced by projects (Northwest Seaport Alliance, n.d.).

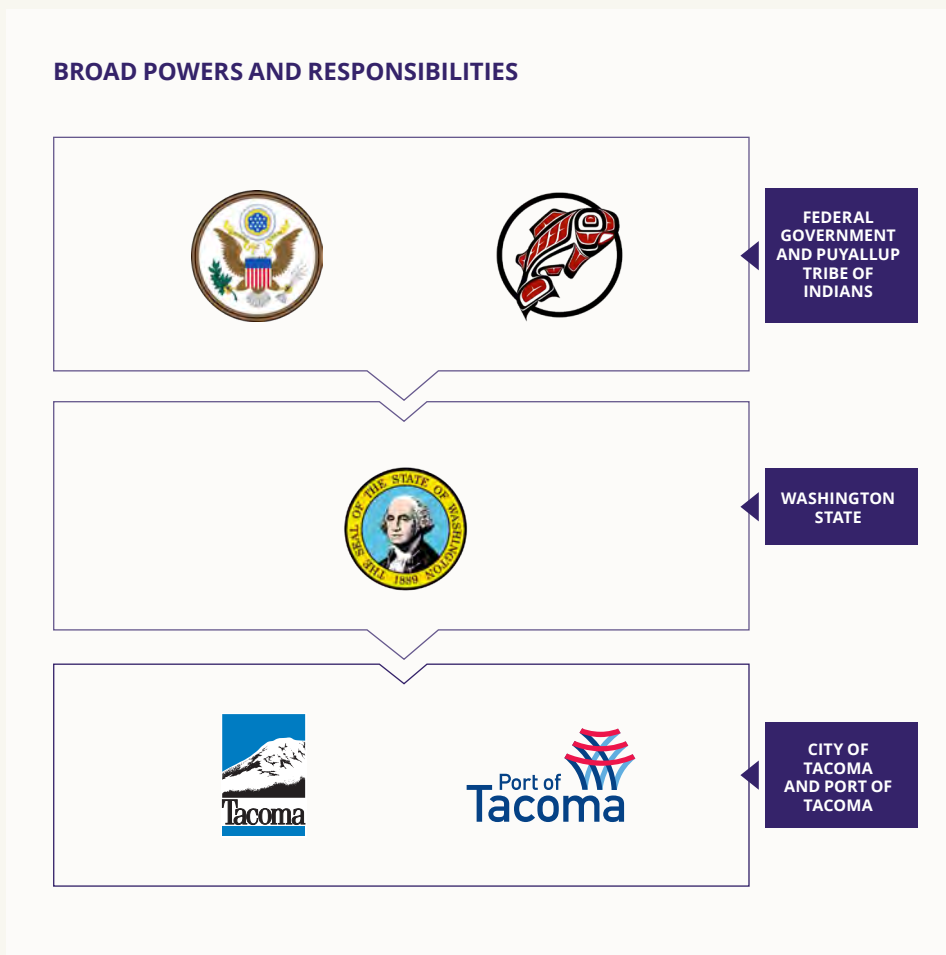
NWSA has three overarching duties which regard port land uses:

1. In partnership with federal, state, and local stakeholders, facilitate improvement projects for major roadways which serve alliance members
2. Update and manage the Port of Seattle and Port of Tacoma's Land Use and Transportation Plans
3. Design and develop rail infrastructure in accordance with Tacoma Rail

NWSA goals for 2019 include initiation of a Tideflats Subarea planning process with the City of Tacoma, coordination of shoreline permit condition requirements for Terminal 5, coordination with Sound Transit on the Sound Transit 3 Link extensions (northbound and southbound), increased coordination and communication with the NWSA Operations and Commercial teams, and management of grant applications (Northwest Seaport Alliance, 2019).

INSTITUTIONAL ARRANGEMENTS: BROAD POWERS AND RESPONSIBILITIES

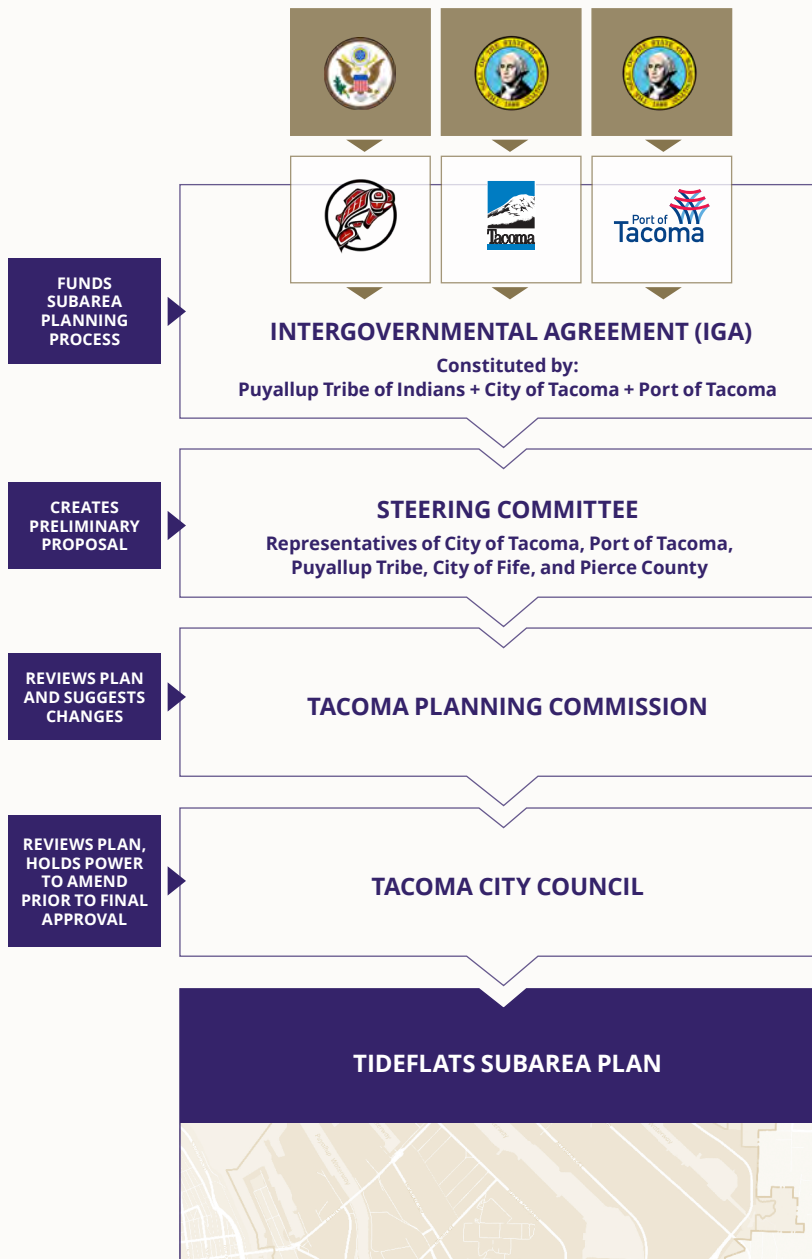
The graph below illustrates how the key institutional actors mentioned above operate amongst one another within the context of the local tideflats/port area. At the top of the chart, the sovereign-to-sovereign relationship between the US federal government and the Puyallup Tribe of Indians is represented. Below, Washington State is shown as it upholds federal law and respects the sovereignty and rights of federally recognized tribes and obtains consent from tribes related to projects that stand to impact them. The last tier of the chart represents local land use planning, policymaking, and zoning created by the City of Tacoma and the Port of Tacoma, with the Port of Tacoma including local port authority operations as well as operations of the Northwest Seaport Alliance.



INSTITUTIONAL ARRANGEMENTS: TIDEFLATS SUBAREA PLANNING PROCESS

A variety of institutional players and legal frameworks are necessarily brought to the fore in the Tideflats Subarea planning process. This is captured by the Tideflats Subarea Planning Work Plan (2019), which states that “at a minimum, [the plan will] address requirements under Washington State law to include State Environmental Policy Act (SEPA) environmental review, Growth Management Act (GMA), Shoreline Management Act (SMA), the Puyallup Land Claims Settlement, and the Container Port Element and elements for certification of a Manufacturing and Industrial Center (MIC) by the Puget Sound Regional Council (PSRC)” (p. 3). Through an Intergovernmental Agreement (IGA), the City of Tacoma, Puyallup Tribe of Indians, and Port of Tacoma have agreed to fund the \$1.2 million planning process. A Steering Committee, formed of two elected leaders from each of the three IGA governments, as well as additional representatives from the City of Fife and Pierce County, is responsible for developing an initial proposal. The City of Tacoma’s Planning Commission will then review the proposal and suggest changes prior to turning the plan over to Tacoma’s City Council. Tacoma’s City Council holds power to amend aspects of the plan prior to approving it. In the subarea planning process, the legal roles and responsibilities of the City of Tacoma, the Puyallup Tribe of Indians, and the Port of Tacoma are unique and intertwined. The ongoing process enlists in the individual authorities of these three governments and requires them to engage as a collective in the formalization of a plan which adheres to federal and state law and which aligns around broader visions and goals outlined within the aforementioned regulatory and planning frameworks.

ORGANIZATIONAL CHART FOR THE SUBAREA PLANNING PROCESS



This organizational chart represents how the Tideflats Subarea planning process is set to occur. In order to understand how the three IGA institutions work together in this process, it is important to appreciate their independent powers and responsibilities, referred to previously in this chapter.

Arrows between gold boxes represent how the power of each institution is established. In the case of the Puyallup Tribe of Indians, power results out of a sovereign-to-sovereign relationship between the United States and the Puyallup Tribe. For both the City of Tacoma and the Port of Tacoma, power is derived from the State of Washington.

Purple outline and solid rectangles should be read together to understand milestones en route to finalizing the Tideflats Subarea Plan as well as who is involved at each stage.

CONCLUSION

Today we view a unique opportunity for local leaders who represent the City of Tacoma, Puyallup Tribe of Indians, Port of Tacoma, City of Fife, and Pierce County to gather around the same planning table to produce the Tideflats Subarea Plan. For the first time, this assortment of local governments is combining their resources, expertise, visions, and priorities, to piece together a shared course of action for the tideflats/port area. These institutions are committed to aligning the Tideflats Subarea Plan around missions and objectives reflected by an array of other plans and regulatory frameworks, including the Washington State Growth Management Act (GMA) and Shoreline Management Act (SMA), the Puyallup Land Claims Settlement, and the Puget Sound Regional Council's elements for certification of a Tideflats Manufacturing and Industrial Center (MIC). The current moment, in which these governments are found working together, is also an educational opportunity for broad public constituencies of Tacoma and the South Puget Sound. All of us who consider ourselves local to the area can develop and improve our understandings of the roles of different government institutions involved in decision making processes that direct development and management of the tideflats/port area. Ultimately, with heightened awareness of who is doing what and how, local residents, business owners, employees, and others stakeholders may view new ways to become involved and to give voice to bright and bold visions for the tideflats of Tacoma.

Prior to motioning toward unifying objectives and potential projects that would reflect local leaders' commitment to social responsibility, environment health, and economic prosperity, it is essential to unearth current realities and foundational structures already in place.

No single institution holds supreme power to determine the future trajectory of Tacoma's tideflats/port. Were this the case, a first chapter dedicated to "institutional arrangements" would need not exist within this document. Prior to motioning toward unifying objectives and potential projects that would reflect local leaders' commitment to social responsibility, environment health, and economic prosperity, it is essential to unearth current realities and foundational structures already in place. Thus, an initial focus on the legal rights and responsibilities of key institutional actors, now arranging themselves around forming a Tideflats Subarea Plan, foregrounds the suggestions presented in the subsequent chapters of this document. By tracing lines through history to present time, we've refined our understandings of the authorities of the City of Tacoma, Puyallup Tribe of Indians, and Port of Tacoma, and we've proceeded to map out their distinct and intersecting powers to influence tideflats/port development and management. In doing so, and by considering them in view of federal regulations and state policy frameworks, we move forward to provide visionary, practicable suggestions.

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