

SENATE BILL REPORT

SB 6011

As Reported By Senate Committee On:
Water, Energy & Telecommunications, February 20, 2007

Title: An act relating to protecting Puget Sound water quality by creating an aquatic reserve near Maury Island.

Brief Description: Creating the Maury Island aquatic reserve.

Sponsors: Senators Poulsen, Eide, Brown, Rockefeller, Spanel, Fraser, Weinstein, Murray, Pridemore and Keiser.

Brief History:

Committee Activity: Water, Energy & Telecommunications: 2/16/07, 2/20/07 [DPS, DNP].

SENATE COMMITTEE ON WATER, ENERGY & TELECOMMUNICATIONS

Majority Report: That Substitute Senate Bill No. 6011 be substituted therefor, and the substitute bill do pass.

Signed by Senators Poulsen, Chair; Rockefeller, Vice Chair; Delvin, Fraser, Marr, Oemig, Pridemore and Regala.

Minority Report: Do not pass.

Signed by Senators Honeyford, Ranking Minority Member; Holmquist and Morton.

Staff: Jan Odano (786-7486)

Background: The Department of Natural Resources (DNR) administratively created the Aquatic Reserve Program to promote preservation, restoration, and enhancement of state-owned aquatic lands that provide direct and indirect benefits to the health of native aquatic habitat and species and other resources in the state of Washington.

The program enables DNR to establish aquatic reserves on selected state-owned aquatic lands throughout the state to protect important native aquatic ecosystems. These aquatic lands are of special educational or scientific interests, or lands of special environmental importance and are threatened by degradation.

DNR officially established the Aquatic Reserve Program in September 2002. The Maury Island site was designated an official reserve on November 8, 2004.

Summary of Bill: The Maury Island Aquatic Reserve is statutorily created. The reserve is comprised of state-owned aquatic lands surrounding Maury Island and including Quartermaster Harbor in King County.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

DNR must manage Maury Island Aquatic Reserve primarily to conserve native habitats; protect and restore nearshore ecosystems; promote stewardship of riparian and aquatic habitats; and provide for low-impact public uses that do not adversely affect resource values or detract from long-term ecological processes.

DNR must develop a management plan for the reserve, which may include a previously adopted management plan and policies that are consistent with this chapter. The plan must identify the significant resources to be conserved and identify the areas with potential for low-impact public uses. In addition, the plan must specify the types of management activities and public uses permitted. Prior to approval by the commissioner, the public, state, tribal, and local agencies must have the opportunity to comment on the plan.

DNR may not authorize any part of the aquatic reserve for industrial uses or activities, or for transporting mining materials. DNR may not authorize the construction of docks or other improvements associated with industrial or mining activities.

DNR must ensure that any existing leases or lease renewals within the reserve conform to the use restrictions provided within this chapter.

EFFECT OF CHANGES MADE BY RECOMMENDED SUBSTITUTE AS PASSED COMMITTEE (Water, Energy & Telecommunications): The substitute clarifies that the Department of Natural Resources may not authorize the transportation of material from surface mines and mining operations as defined under RCW 78.44.031. Leases, easements, licenses, permits and rights of way, and any other agreement allowing use of state-owned aquatic lands designated as an aquatic reserve must follow the management plan criteria.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony: PRO: This bill preserves and promotes the recovery of endangered species. It provides significant benefit to the southern resident Orcas, which are listed as endangered. It takes away the uncertainty about protecting Maury Island and settles the priorities as conservation and preservation. Industrial uses in the reserve are in direct contradiction to the reserve and protection of orcas. Nearshore and other areas can not be over-valued for the protection of the Orca and the recovery of other species such as the salmon and eel grass. We know a lot more about the health of Puget Sound since the dock was originally permitted. A barge loading facility is incompatible with a reserve designation. The dock hasn't been used in years and is in disrepair.

CON: The bill would kill the mining project on Maury Island. Without a dock the mine would not be able to continue. The project does not harm the habitat, it creates a 400 ft. buffer between nearshore and the barge. The use has been affirmed by the court of appeals. The project would be less harmful environmentally by using approximately one barge per day rather than 50,000 trucks per year to transport the same amount of material. The Environmental Impact Statement (EIS) shows no environmental impact. Nearshore and

ground water impact studies confirm EIS– no impact. The Maury Island Reserve already exists. It disregards the public processes and notification that were used over the past nine years. This is grossly unfair. It violates the rights of Glacier Northwest and their consent agreement.

OTHER: The bill is inconsistent and redundant to the plan that already exists. DNR went through an extensive stakeholder process and public hearings. This would put only one reserve into statute, leaving the others out.

Persons Testifying: PRO: Michael Racine, Washington SCUBA Alliance; Rick Myers, Bandito Charters; JW Turner, Preserve Our Island; Amy Carey, South Sound Orca Advocates; Robert Furstenberg, Kathy Fletcher, People for Puget Sound; Kathy George, Washington Environmental Council, Preserve Our Islands; Dow Constantine, King County Council.

CON: Steve Gano, Pete Stoltz, Glacier Northwest; Stephen Roos, Ryan Durkan, Glacier Northwest, Hillis, Clark, Martin & Peterson.

OTHER: Fran McNair, DNR.