

Memorandum

August 26, 2015

To: Community Advisory Committee
From: Rich Faith, Senior Land Use Planner
Re: Parking Lot Item #21 (a policy requiring the County to take a position on proposals with adverse impacts)

OVERVIEW

21	6/24/15 CAC	Would like a policy requiring the County to take a position on proposals by outside agencies or companies that could have adverse impacts on County residents. (Dumping dredge materials in Columbia River; coal trains; oil trains, etc.)
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This policy topic was raised in the context of the Army Corps of Engineers' plans to dump dredged materials from the Willamette Harbor into the Columbia River in the vicinity of Sauvie Island. The concern is that contaminated dredgings from the Willamette Harbor -- a stretch of the river designated as a super fund site -- could adversely impact residents of the island and others who use this stretch of the river. Although the question was raised with this particular activity in mind, it would apply to many activities with potential adverse impacts. The topic was placed on the parking lot list for staff to research further.

STAFF ANALYSIS

The question was put to Assistant County Attorney, Jed Tomkins, for his analysis. The following emailed response from Jed provides guidance on this topic.

"The breadth of this policy is a problem---this policy would apply to every action by any legal entity other than the county itself or an individual person. This is because every action can be described as negatively impacting others. As such, this policy has a broader application than the issue it is intended to address---i.e., the Board would have to weigh in on more matters than the proponents of this policy intend.

Without more information, I cannot conceive how to draft a policy with sufficiently narrow scope---very very difficult to categorically describe the kinds of matters they want the Board to address, which is one reason why Boards and Councils adopt positions on a case by case basis which I think remains the better approach here. Citizens can always petition their elected officials to take a position on a matter of concern.

I definitely cannot support this policy as currently proposed because it lacks any discernable sideboards. Presumably, a policy along these lines with sufficient sideboards would present policy rather than legal concerns."

In view of Jed's analysis of this policy question, does the CAC want to pursue this any topic any further?