

Congress of the United States

Washington, DC 20515

February 17, 2010

The Honorable Gary Locke
Secretary
Department of Commerce
1401 Constitution Avenue, NW
Washington, D.C. 20230

The Honorable Jane Lubchenco
Under Secretary for Oceans and Atmosphere
Department of Commerce
1401 Constitution Avenue, NW
Washington, D.C. 20230

Secretary Locke and Under Secretary Lubchenco:

We continue to have serious concerns about NOAA's proposed move of its Marine Operations Center-Pacific (MOC-P) from its decades-long home in the Puget Sound to a new flood-prone location in Newport, Oregon. In particular, we are concerned that work continues at the Newport site in preparation for the MOC-P, even though the legal underpinnings of NOAA's decision remain uncertain and unresolved.

As you know, in December the Government Accountability Office (GAO) sustained a protest filed by the Port of Bellingham challenging the fairness and validity of the MOC-P lease competition. The GAO ruled that NOAA violated Executive Order 11988 as well as its own Solicitation for Offers by awarding the MOC-P to a site that was clearly within a flood plain. NOAA recently submitted a response to the GAO outlining the procedural steps it will take to comply with the requirements of E.O. 11988. Specifically, NOAA indicated that it would work with FEMA and possibly an independent assessor to assess flood plain issues at the final four sites, as well as seek public notice and comment, before finalizing its decision as to whether there is or is not a practicable alternative to the flood-prone Newport site.

While NOAA undertakes these obligations, we question why work continues to be performed at the flood-prone Newport site in preparation for the MOC-P. We note statements by Newport commission president, Ginny Goblirsch, in an article in the December 10, 2009 *Oregon Statesman Journal* that "[w]e are in full tilt. We have hired contractors and engineers. Nothing's changed although this is a bit frustrating." In numerous public comments, NOAA Spokesman David Hall has reiterated this point that NOAA has "no plans to suspend work at the Newport facility."

NOAA has professed to take the GAO process seriously, but actions speak louder than words. We believe that NOAA's MOC-P award decision was flawed from the beginning. Unraveling that single decision would prove challenging enough. But since that time, and despite the progress of the GAO investigation in the intervening six months and NOAA's obligation to follow E.O. 11988, NOAA has encouraged the Port of Newport to move forward with construction, purposefully becoming entangled in a web of contractual obligations that stem from that initial flawed decision. Further, it sends the wrong signals on whether the Assessment

of Practicable Alternatives process laid out in NOAA's January 29, 2010 letter to GAO is actually a genuine reassessment, or just a bureaucratic exercise designed to preserve NOAA's original decision. We believe that the prudent option would be to immediately cease construction at the Newport site performed pursuant to the flawed lease competition until NOAA has completed the necessary work it neglected to perform as part of its original site selection.

Finally, as we have repeatedly requested on numerous occasions, we once again request that you take a fresh look at the many policy questions that still remain unanswered by conducting a formal independent review in the context of whether moving NOAA's Marine Operations Center – Pacific to Newport, Oregon is truly a wise decision for NOAA, its employees, and its scientific missions.

Respectfully,



Patty Murray
United States Senator



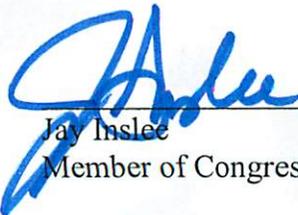
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United States Senator



Norm Dicks
Member of Congress



Jim McDermott
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Brian Baird
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