

Navigation and Dredging Issues

Beth S. Ginsberg, Esq.
Stoel Rives LLP

OREGON

WASHINGTON

CALIFORNIA

UTAH

IDAHO



Overview



- Universe of Approvals
- Port Roles
- Litigation and Related Hot Topics

Universe of Approvals



- Federal
- State
- Local

Federal



- WRDA
- NEPA
- ESA
- Clean Water Act
- Coastal Zone Management Act
- Ocean Dumping Act

Port Roles



- WRDA Nonfederal Sponsor
- NEPA Co-lead agency
- Commenter 
- ESA Nonfederal Designee
- Intervenor

State



- Water Quality Certification
- Coastal Zone Consistency Determination
- For a list of states that have state NEPA requirements see:
<http://ceq.eh.doe.gov/nepa/regs/states/states.cfm>

Local



- Relationship To State Approvals
- Upland disposal sites

Hot Litigation Topics

- NEPA Scope of Analysis
- NEPA Cumulative Impacts
- NEPA for Maintenance Dredging
- NEPA alternatives analysis beyond Corps' authority
- NEPA/WRDA Cost/Benefit Analysis
- ESA Take Surrogates

Overdepth dredging



- Dredging lower than the amount authorized
- Agencies have begun to raise as violation of approvals
- Result: contractor caution leading to “underdepth” dredging