Response to Comments

Phase 2 Site Areas Consent Decree and Cleanup Action Plan Amendment; Public Participation Plan update

Whatcom Waterway Cleanup Site Bellingham, WA

Toxics Cleanup Program

Washington State Department of Ecology

Northwest Regional Office

Shoreline, Washington

July 2023

DEPARTMENT OF ECOLOGY
State of Washington

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- Drone picture of Bellingham Waterfront, May 2019 (Port of Bellingham)

Related Information

- Clean-up site ID: 219
- Facility site ID: 2899

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Website[1]: Washington State Department of Ecology

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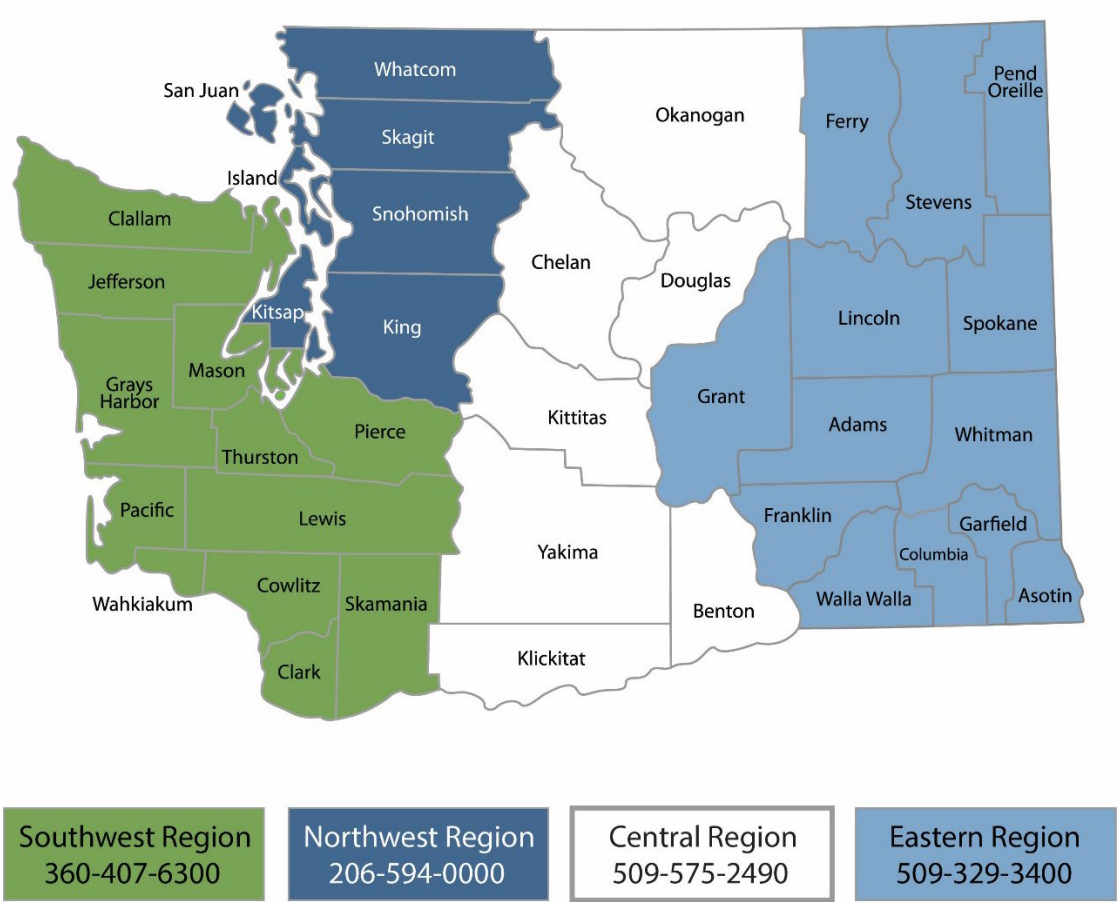
[1] www.ecology.wa.gov/contact

Department of Ecology's Regional Offices

Map of Counties Served



Region	Counties served	Mailing Address	Phone
Southwest	Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Mason, Lewis, Pacific, Pierce, Skamania, Thurston, Wahkiakum	PO Box 47775 Olympia, WA 98504	360-407-6300
Northwest	Island, King, Kitsap, San Juan, Skagit, Snohomish, Whatcom	PO Box 330316 Shoreline, WA 98133	206-594-0000
Central	Benton, Chelan, Douglas, Kittitas, Klickitat, Okanogan, Yakima	1250 W Alder St Union Gap, WA 98903	509-575-2490
Eastern	Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman	4601 N Monroe Spokane, WA 99205	509-329-3400
Headquarters	Across Washington	PO Box 46700 Olympia, WA 98504	360-407-6000

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Table of Contents

List of Figures and Tables

Figures

Tables

Public Outreach Summary

The over 700-acre, in-water Whatcom Waterway site (Site) is located within Bellingham Bay south of the Holly Street bridge in Bellingham, Washington. The Site is continuing Washington State's formal cleanup process[2] as directed under the Model Toxics Control Act (MTCA[3]).

Ecology invited public review of an amendment to the existing Cleanup Action Plan (CAP) for the Site. The CAP amendment is part of a legal agreement between Ecology, the Port of Bellingham (Port), the City of Bellingham (City), and the Department of Natural Resources (DNR). The CAP amendment:

- sequences design and construction activities to prioritize early cleanup at the Bellingham Shipping Terminal (BST).
- documents a possible future change to the cleanup action at the head of the Whatcom Waterway to provide habitat benefit.
- revises the cleanup action for the Aerated Stabilization Basin (ASB), including dredged material disposal, due to changes in land use plans.
- adds a cleanup standard for dioxin and furan compounds due to regulatory changes.

An updated Public Participation Plan for the Site was also available for review. This removed the Public Participation Plan as an exhibit to the legal agreement and makes it a standalone document.

The Department of Ecology's public involvement activities related to this 30-day comment period (April 24 – May 23, 2023) included:

- **Postcard and Fact Sheet:**
  - US mail distribution of a postcard providing information about the cleanup documents, the public comment period, and outreach events to approximately 4,200 addresses including neighboring businesses and other interested parties.
  - Email distribution of the fact sheet to over 250 people, including interested individuals, local/county/state/federal agencies, neighborhood associations, and interested community groups.
  - The postcard and fact sheet were also available digitally through Ecology's cleanup site webpage[4].
- **Legal Notice:**
  - Publication of one paid display ad in *The Bellingham Herald*, dated Friday, April 21, 2023.

[2] https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Cleanup-process
[3] https://ecology.wa.gov/mtca
[4] https://apps.ecology.wa.gov/cleanupsearch/site/219

- **Site Register:**
  - Publication of 4 notices in Ecology's Toxics Cleanup Site Register:
    - Comment Period Notice:
      - April 20, 2023
      - May 5, 2023
      - May 18, 2023
    - Response Summary Notice:
      - July 27, 2023
  - Visit Ecology's Site Register website[5] to download PDFs.
- **Media Notification:**
  - Ecology sent a media notice on Monday, April 17, 2023, to Whatcom County area media outlets.
- **Media Coverage:**
  - *The Cascadia Daily News* ran a story online[6] on Wednesday, May 3, 2023, and *The Bellingham Herald* ran a story online[7] on Friday, May 5, 2023. Both stories cover the Whatcom Waterway walking tour (hosted by RE Sources), cleanup progress, public outreach, and next steps.
- **Social Media:**
  - **Blog:** On Monday, April 17, 2023, Ecology's Northwest Regional Office posted a story on Ecology's blog[8], which has approximately 1,200 email subscribers.
  - **Twitter:** Ecology – Northwest Region @ecyseattle posted a tweet[9] on Monday, April 17, 2023 connecting readers to the open house and walking tour, blog post, and comment period including the cleanup site webpage.
- **May 3, 2023 Outreach Events**
  - Ecology and RE Sources hosted consecutive outreach events on Wednesday, May 3, 2023 to provide project information and answer questions. RE Sources hosted a walking shoreline tour[10] of the Site followed by an open house hosted by Ecology. Ecology and Port site managers joined both the walking tour and open house.
  - RE Sources' walking tour is funded by a Public Participation Grant[11] from Ecology.

[5]https://apps.ecology.wa.gov/publications/UIPages/PublicationList.aspx?IndexTypeName=Program&NameValue=Toxics+Cleanup&DocumentTypeName=Newsletter
[6] https://www.cascadiadaily.com/news/2023/may/03/ecology-seeks-public-comment-on-whatcom-waterway-cleanup/
[7] https://www.bellinghamherald.com/news/local/article275069576.html
[8] https://ecology.wa.gov/Blog/Posts/April-2023/Cleaning-up-Making-progress-on-the-Bellingham-wate
[9] https://twitter.com/ecyseattle/status/1648062666970382341?cxt=HHwWioDShfGQjN8tAAAA
[10] https://www.re-sources.org/event/bellingham-waterfront-cleanup-tour-whatcom-waterway-site/
[11] https://ecology.wa.gov/About-us/Payments-contracts-grants/Grants-loans/Find-a-grant-or-loan/Public-participation-grants

- **Websites**:
  - Ecology announced the public comment period, outreach events, posted the postcard and fact sheet, and made the review documents available on Ecology's Whatcom Waterway webpage[12] and Ecology's Public Inputs & Events webpage[13].
- **Document Repositories:**
  - Copies of the review documents and fact sheets (including translations) were available for review at the Bellingham Public Library's Central Branch.
  - Outreach materials also directed the public to contact Ian Fawley, Outreach Planner, for document review assistance.

Comment Summary

From April 24 – May 23, 2023, Ecology invited public comments on an amendment to the Consent Decree (legal agreement) including an amendment to the Cleanup Action Plan as well as an updated Public Participation Plan.

Ecology received comments from twelve commenters during the 30-day comment period.

Table 1: List of Commenters

	First Name	Last Name	Agency/Organization/Business	Submitted By
1	Thomas	Horton		Individual
2	Judith	Akins		Individual
3	Michael	McQuarrie		Individual
4	Janis	Olson		Individual
5	Robert	Barnard		Individual
6	Stephanie	Shaffer		Individual
7	Mary	Hess		Individual
8	Susan	Wright		Individual
9	George	Dyson		Individual
10	Pete	Granger	Working Waterfront Coalition of Whatcom County	Organization

[12] https://apps.ecology.wa.gov/cleanupsearch/site/219
[13] https://ecology.wa.gov/Events/Search/Listing

	First Name	Last Name	Agency/Organization/Business	Submitted By
11	Walt	Burkett		Individual
12	Theo	Matts		Individual

Next Steps

Ecology has reviewed and considered the public comments received on the documents and no edits to the documents are necessary. Ecology is finalizing the documents.

In fall 2023, construction of the Bellingham Shipping Terminal dredging project will begin with completion scheduled by spring 2024.

Engineering design of the cleanup action for remaining Phase 2 Site Areas will start in 2023. Construction is scheduled to begin in 2025 and be completed by 2028.

See graphic below and visit Ecology's cleanup process webpage[14] to learn more about Washington's formal cleanup process.

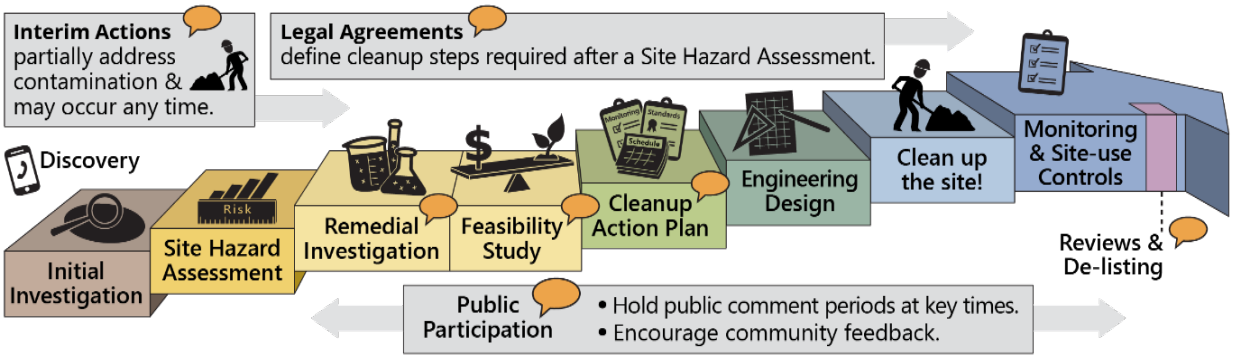

Figure 1: Washington's formal cleanup process (download a text explanation[15])

[14] https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Cleanup-process
[15] https://apps.ecology.wa.gov/publications/SummaryPages/1909166.html

Comments and Responses

The public comments are presented below, along with Ecology's responses. Appendix A, page 18, contains the comments in their original format.

Comment from: Thomas Horton

Bellingham's waterfront is a classic case of industrial degradation of marine environments that occurred in many places in the Salish Sea and Washington state. Its case has been well documented historically and photographically. I suggest that the cleanup also fund some kind of informational site or small museum reminding visitors of this history and of the tremendous cost of remediation.

Response:

The Port of Bellingham is eligible for up to 50% grant funding from Ecology for cleanup-related expenses and the scope of what can be funded with state cleanup funds is limited. However, Ecology will pursue the idea of interpretive signage with the Port.

Comment from: Judith Akins

Thank you for your presentation on May 3. It was very thorough. When asked about the number of years the caps etc. are rated for we were told 50 years. I find this very discouraging. It is a very short term fix. Houses and buildings crack and settle after that many years! How many cracks etc will there be in 50 years? I completely understand your system of monitoring but is it enough? Can other systems be added to the caps? How is this all going to stand up to a tsunami, or earthquake?

I am also very concerned about the ASB pond. I am concerned about the workers and removing such hazardous materials. I am concerned about opening up the waterway from the pond to Bellingham Bay. Can you truly remove ALL toxic materials? I never understood why these toxic waters weren't covered to prevent birds from flying in. I am concerned about exposure of animals and people during active cleanup. What safeguards will be in place?

The best plan would be to turn back the clock and stop all this devastation before it happened. Since this cannot happen I ask that you put in the best safe guards and monitors you can. I really hope that the next century "Hampsters" will think this was an OK plan.

Response:

During future remedial design activities the sediment caps will be designed to isolate contamination and withstand natural (e.g., storm and seismic events) and manmade disturbances (e.g., propwash). The caps are designed to become permanent elements of the environment. They are appropriate for use at the Whatcom Waterway Site, because in most areas the sediments are depositional, meaning that they tend to become buried over time with natural sedimentation.

Storm modeling for cap design will use a 100- year recurrence storm event. Cap design will also include review and modeling under a range of potential seismic events (earthquakes) with appropriate measures incorporated into the design to maintain protectiveness should ground movement occur. Changes to sea level rise are also considered as part of cap design to ensure long-term climate resilience.

Following construction, the caps will be monitored for 30 years to ensure that they are stable and are being incorporated into the natural conditions of Bellingham Bay as designed. Then Ecology will review the cleanup action at least every five years in-perpetuity to ensure it continues to protect human health and the environment.

The Compliance Monitoring and Contingency Response Plan developed previously for the cleanup in Phase 1 Site Areas also includes special monitoring events to be performed after extreme events such as earthquakes or tsunamis to verify that the caps remain protective, or if applicable to identify any needed repairs. We will update that plan to incorporate the caps in the Phase 2 Site areas.

Also, under the legal agreement with Ecology, the Port and other signatories must inform Ecology of any significant changes in conditions at the site. Lastly, property within the site will be subject to legal environmental covenants which contain prohibitions and restrictions to ensure the long-term integrity of the cleanup action.

Regarding concerns about the ASB, prior to conducting any work at the site, the construction contractor will develop a state-required health and safety plan to ensure worker safety.

As much contaminated sediment as possible will be removed from the half of the ASB that the Port intends to open to Bellingham Bay. Any contaminated sediment that cannot be removed due to engineering constraints will be isolated with clean material.

The ASB is currently operating as an upland stormwater detention pond. Multiple rounds of water quality testing performed under the Port's NPDES Permit confirms that the ASB is appropriately treating stormwater and meeting applicable water quality requirements.

Lastly, the construction contractor will be required to develop a plan to secure the site during construction activities.

Comment from: Michael McQuarrie

Your figure used for the transportation and disposal ($200) seem to be quite high. How did you arrive at the $200/CY.

Response:

Sediment transportation and disposal costs have been increasing over time within the Puget Sound region. Sediment transportation and disposal costs cited in the draft CAP Amendment include over-water (i.e., barge) transportation to an off-site transload location, transload and stockpiling, dewatering, rail transport to a commercial landfill facility and final sediment disposal. Costs are based on current estimates obtained from a commercial landfill facility. Cost

accuracy is estimated to be within +/- 30%, which is appropriate for a disproportionate cost analysis.

Comment from: Janis Olson

Please work with the Lummi tribe on projects. Hy'shqe

Response:

The Lummi Nation is a member of the Bellingham Bay Action Team working to address sediment contamination on a bay-wide scale. In addition, it's Ecology's understanding that the Port of Bellingham and the City of Bellingham regularly work with the Lummi Nation on their projects.

Comment from: Robert Barnard

The plans for the wet side of the reconfigured ASB are not clear. Understanding what you are going to build and the goals to gauge its success are critical. In particular, the "fish passage structure" is not described. In order to be worthwhile, the connection between the new basin and Bellingham Bay must do many things to truly benefit fish and the ecosystem that supports them. I recommend that the designers use WDFW's 2013 Water Crossing Design Guidelines, Appendix D: Tidally Influenced Crossings, p. 244. This appendix is a comprehensive approach to sizing tidally influenced openings for fish passage and habitat enhancement.

As a general comment, rarely are "commercial uses" and habitat compatible.

Response

The cleanup plan will be further detailed during future remedial design activities. The cleanup goal is to eliminate exposure to potentially harmful levels of contamination in sediment. In terms of the fish passage structure and breaching the ASB berm, these are Port of Bellingham projects to be conducted in parallel with but separate from the cleanup project. These Port projects will be designed and permitted separately, which will include review by WDFW and various federal natural resource protection agencies.

Comment from: Stephanie Shaffer

Please do incorporate wildlife habitat in the Whatcom waterway as you progress in the clean up.

Response

The primary goal of the cleanup project is to eliminate human and environmental exposure to potentially harmful levels of contamination in sediment. The cleanup will incorporate appropriate substrate and soften shorelines where possible, but under Ecology's cleanup authority we cannot stray too far from the primary cleanup goal. Having said this, as the project moves through future permitting, natural resource protection agencies may have additional requirements that will be incorporated into the cleanup action. In addition, the Port

plans to open about 14-acres of the cleaned up ASB to Bellingham Bay and conduct other habitat restoration actions in conjunction with the cleanup project.

Comment from: Mary Hess

The Unit 8 Full Dredge/Off-site Landfill Disposal alternative is the preferred option as it removes the contamination from marine waters and it reduces the risk of any reintroduction of the contaminated sediments into the marine environment.

There are still a lot of contaminated sediments in the clean up project areas. How can the required CDF volume be determined accurately at this point in time? Will the Unit 8 Half Dredge/Unit 8 CDF Disposal and Capping alternative really be able to handle the volume of sediments that need to be removed? (After participating in oil spill cleanups in Georgia Strait, I believe volume of affected sediments may be greater than estimated.)

I did not see any mention of how the CDF would be constructed to contain contaminated sediments and remain impervious to marine water intrusion or release. Are there successful projects using this CDF approach currently being used in Washington state?

In the Anchor study, I disagree with using Samish Bay flounder mercury levels as a comparison to Bellingham Bay bottom fish mercury levels. Sediment transport in the region is high and this region would also be affected by industrial waste sediment transport. That is like comparing a horribly polluted area to a more diluted polluted area downstream. Yes there is transport causing natural attenuation but dilution is not the solution to pollution.

Response

Under the Model Toxics Control Act one of the requirements for selecting a cleanup action is that it be permanent to the maximum extent practicable. A disproportionate analysis (DCA) process is used to make this determination. Exhibit 3 of the legal agreement issued for public review applied this DCA process and found Unit 8 Half Dredge/Unit 8 CDF Disposal and Capping to be permanent to the maximum extent practicable. Since this alternative meets all the minimum regulatory requirements, it is the preferred alternative and the cleanup action selected by Ecology for Unit 8.

The size of the CDF is based on the Port's land use plan of adding about 14 acres of new upland for Marine Trades uses. The upland CDF has a capacity of approximately 800,000 cubic yards, depending on final retaining structure alignment and sediment composition. Required dredge volumes have been estimated using recent pre-remedial design survey and testing data. The current dredge volume estimate of 626,000 cubic yards for the Whatcom Waterway cleanup action includes applicable over-dredge allowances, leaving a reasonable pre-design volume contingency of over 20 percent. This estimate will be refined during future remedial design activities.

Page 6-4 of Exhibit 3 describes the containment wall to be constructed within the ASB to isolate disposed contaminated sediment in an upland CDF. The containment wall will utilize a cell wall or "coffer dam" construction. These methods include two outer metal and concrete walls

enclosing a clean earthen core. Details for the wall construction will be developed during future remedial design activities.

Multiple CDF projects have been completed in Washington State. Previous examples include the Milwaukee Waterway CDF and the Slip 1 CDFs at the Port of Tacoma and the West Eagle Harbor CDF constructed on Bainbridge Island. All three of these CDFs were developed under the federal Superfund program and have been shown over decades of post-construction monitoring to be protective.

Regarding use of Samish Bay as a reference location, it is one of several reference areas designated by Ecology and EPA under the Puget Sound Estuary Program and Ecology's Sediment Cleanup User's Manual. See https://apps.ecology.wa.gov/publications/SummaryPages/0609096.html.

Comment from: Susan Wright

The cleanup of toxic waste on Bellingham's downtown waterfront is an ongoing process that is well into its second decade. Efforts to develop housing, recreation and business in the same area are dependent on assurance that the cleanup is doing its job. The Port of Bellingham recently entered into a long-term contract with a company to ship scrap metal, replete with residues of unknown toxicity, from the dock adjacent to Bellingham's new downtown development. Unless it can be determined that scrap metal shipping has no negative environmental impacts on our air, water and soil quality, the shipping of scrap metal should be discontinued. Industrial activity on the waterfront must be compatible with the ongoing development of the waterfront for housing, commerce and tourism. DOE should have an interest in assuring that the integrity of the cleanup effort on Bellingham's waterfront is not jeopardized by the contract the Port of Bellingham entered into apparently without concurrence from its partners in the cleanup effort.

Response

The scrap metal recycling operation (ABC Recycling) is occurring within the footprint of a contaminated site, the GP West Chlor-Alkali Remedial Action Unit. The Port of Bellingham is currently designing the cleanup action for this unit under a legal agreement with Ecology. The Port coordinated with Ecology's Toxics Cleanup Program regarding the ABC Recycling operation. Since it is not disturbing existing subsurface contaminated soil and will not interfere with future cleanup activities, Ecology's Toxics Cleanup Program has no objections to the scrap metal recycling operations occurring on this portion of the cleanup site.

Regarding potential surface water impacts, stormwater from the ABC Recycling operation (ABC) is subject to two Port-obtained permits through Ecology's Water Quality Program. To address potential stormwater impacts from ABC and in coordination with Ecology, the Port has modified their required stormwater sampling and is employing best management practices. Also, Ecology has requested that ABC apply for their own stormwater permit to cover their operations. It may take a few months to get the permit in place and the process includes an opportunity for the public to provide comments. If you would like to be notified of the public

comment period, please contact Jen Baptist of Ecology's Water Quality Program at jen.baptist@ecy.wa.gov.

Comment from: George Dyson

As a member of the Marine Trades community, I applaud the general direction of the CAP amendment towards preserving our working waterfront and resolving the Port's liability for the cleanup of the ASB.

As an adjacent property owner and environmentalist, I am delighted to see that at least a "contingent" plan for cleanup of Area 3A (at the head of the waterway) is *finally* under consideration. Monitored natural recovery has delivered little improvement in twenty years.

When the Port of Bellingham (under very different leadership from today) lobbied Congress on our behalf (2005-2007) for the de-authorization of Whatcom Waterway as a federally-designated navigable waterway (maintained by the Corps of Engineers) we were assured that this would not only free the potentially liable parties from the expenses that future disposal of contaminated sediments during routine maintenance of the channel would entail, but that a locally managed waterway would result in a higher standard of cleanup.

For the head of the waterway, still contaminated with locally high concentrations of mercury (just below surface-standard depths) this has not been the case. The creosote pilings stubs left by the removal of Citizen's Dock are exactly as exposed as they were 15 years ago, and the eelgrass beds that were struggling to survive in the inner waterway are still struggling today. That the new Waypoint Park is now a popular swimming beach makes the neglect of Area 3A even more glaring than it was in 2005.

If the ASB is to be used as a CDF (GP's original plan, accepted by all agencies at the time) cleanup of area 3A (again, part of the original plan) should be an essential element of a revised CAP, not contingent on grant funding being obtained (much as we hope and expect it will be).

Response

The costs of partial removal and capping in Unit 3A are eligible for up to 50% remedial action grant funding. Ecology understands that the funding issue is the Port's 50% grant match.

Also note that the 2023-2025 state budget includes $300,000 for habitat restoration work between the Roeder Avenue and Holly Street bridges.

Comment from: Working Waterfront Coalition of Whatcom County (Pete Granger)

The Working Waterfront Coalition of Whatcom County is a non-profit organization representing over 130 firms, organizations, fishing vessels and individuals associated with the maritime industry in Whatcom County.

see: www.whatcomworkingwaterfront.org

We approve of the clean-up action plan amendment for Whatcom Waterway and look forward to its completion by the various partners involved. We are especially supportive of the clean-up and disposal of the sediments in the Aerated Stabilization Basin as it creates additional medium-draft harbor facilities, net lofts and uplands that will be used for enhancement of marine trades and industry.

Pete Granger, Vice-President and Government Relations Committee Chair

Response

Comments noted.

Comment from: Walt Burkett

[See original formatted comment with attachments in Appendix A.]

I have concerns of re-contamination of the Transit Terminal and Log Pond area as a result of ABC Recycling operations.

Attached are Ecology documents of previous violations by ABC and a photo of loading the ship from a barge rafted along side.

Response

The ABC Recycling operation (ABC) is subject to two Port-obtained permits through Ecology's Water Quality Program. To address potential stormwater impacts from ABC and in coordination with Ecology, the Port has modified their required stormwater sampling and is employing best management practices. Also, Ecology has requested that ABC apply for their own stormwater permit to cover their operations. It may take a few months to get the permit in place and the process includes an opportunity for the public to provide comments. If you would like to be notified of the public comment period, please contact Jen Baptist of Ecology's Water Quality Program at jen.baptist@ecy.wa.gov.

Comment from: Theo Matts

Make Georgia Pacific pay for all of this. They broke the law every year since water and air regulations went into place in the 1970's. They should be held liable. It is unfair that the citizens have to pay for what was done by illegal criminals according to the law. The deal made with GP by the Post of Bellingham is non-binding and illegal. It needs to be rescinded and the crimes done by GP over the years need to be rectified in a court of law.

Response

In 1989 Washington's hazardous waste cleanup law, the Model Toxics Control Act (MTCA; chapter 70.105D RCW) went into effect. Ecology is charged with implementing this law to protect the state's citizens and environment.

In 1995, in accordance with the MTCA, Ecology notified the Georgia-Pacific Corporation (GP) of its status as a potentially liable person (PLP) for contaminated sediment at the Whatcom

Waterway Site (Site). Between 1995 and 2005, under a legal agreement with Ecology, GP completed a remedial investigation and feasibility study of the Site and early cleanup of the Log Pond area of the Site.

In 2005 the Port of Bellingham acquired GP-owned property within the Site and became a PLP. It is Ecology's understanding that as part of the purchase and sale agreement with GP the Port agreed to perform the environmental cleanup at several MTCA sites in Bellingham Bay in exchange for approximately 137-acres of Georgia-Pacific's waterfront property. In addition, GP purchased an insurance policy to fund a significant portion of the cleanup costs.

In 2007 the Port and others entered a legal agreement with Ecology, called a consent decree, to implement Ecology's selected cleanup action for the Site. This legal agreement settles MTCA liability for contamination at the Site. GP did not sign this legal agreement and therefore has not settled their MTCA liability.

Appendices

Appendix A. Public comments in original format

Thomas Horton

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In the Anchor study, I disagree with using Samish Bay flounder mercury levels as a comparison to Bellingham Bay bottom fish mercury levels. Sediment transport in the region is high and this region would also be affected by industrial waste sediment transport. That is like comparing a horribly polluted area to a more diluted polluted area downstream. Yes there is transport causing natural attenuation but dilution is not the solution to pollution.

Susan Wright

The cleanup of toxic waste on Bellingham's downtown waterfront is an ongoing process that is well into its second decade. Efforts to develop housing, recreation and business in the same area are dependent on assurance that the cleanup is doing its job. The Port of Bellingham recently entered into a long-term contract with a company to ship scrap metal, replete with residues of unknown toxicity, from the dock adjacent to Bellingham's new downtown development. Unless it can be determined that scrap metal shipping has no negative environmental impacts on our air, water and soil quality, the shipping of scrap metal should be discontinued. Industrial activity on the waterfront must be compatible with the ongoing development of the waterfront for housing, commerce and tourism. DOE should have an interest in assuring that the integrity of the cleanup effort on Bellingham's waterfront is not jeopardized by the contract the Port of Bellingham entered into apparently without concurrence from its partners in the cleanup effort.

George Dyson

As a member of the Marine Trades community, I applaud the general direction of the CAP amendment towards preserving our working waterfront and resolving the Port's liability for the cleanup of the ASB.

As an adjacent property owner and environmentalist, I am delighted to see that at least a "contingent" plan for cleanup of Area 3A (at the head of the waterway) is *finally* under consideration. Monitored natural recovery has delivered little improvement in twenty years.

When the Port of Bellingham (under very different leadership from today) lobbied Congress on our behalf (2005-2007) for the de-authorization of Whatcom Waterway as a federally-designated navigable waterway (maintained by the Corps of Engineers) we were assured that this would not only free the potentially liable parties from the expenses that future disposal of contaminated sediments during routine maintenance of the channel would entail, but that a locally managed waterway would result in a higher standard of cleanup.

For the head of the waterway, still contaminated with locally high concentrations of mercury (just below surface-standard depths) this has not been the case. The creosote pilings stubs left by the removal of Citizen's Dock are exactly as exposed as they were 15 years ago, and the eelgrass beds that were struggling to survive in the inner waterway are still struggling today. That the new Waypoint Park is now a popular swimming beach makes the neglect of Area 3A even more glaring than it was in 2005.

If the ASB is to be used as a CDF (GP's original plan, accepted by all agencies at the time) cleanup of area 3A (again, part of the original plan) should be an essential element of a revised CAP, not contingent on grant funding being obtained (much as we hope and expect it will be).

Working Waterfront Coalition of Whatcom County

The Working Waterfront Coalition of Whatcom County is a non-profit organization representing over 130 firms, organizations, fishing vessels and individuals associated with the maritime industry in Whatcom County.
see: www.whatcomworkingwaterfront.org

We approve of the clean-up action plan amendment for Whatcom Waterway and look forward to its completion by the various partners involved. We are especially supportive of the clean-up and disposal of the sediments in the Aerated Stabilization Basin as it creates additional medium-draft harbor facilities, net lofts and uplands that will be used for enhancement of marine trades and industry.

Pete Granger, Vice-President and Government Relations Committee Chair

Walt Burkett

I have concerns of re-contamination of the Transit Terminal and Log Pond area as a result of ABC Recycling operations.

Attached are Ecology documents of previous violations by ABC and a photo of loading the ship from a barge rafted along side.

State of Washington Department of Ecology
Northwest Regional Office

PERMIT COMPLIANCE INSPECTION REPORT

WADOE Permit Compliance Inspection Form
Last updated 08/7/20

SECTION A: GENERAL DATA

Inspection Date:	NPDES Permit #:	County:	Receiving Waters:	Inspector(s):	Facility Type:
11/2/2022	WAR 305536	Whatcom	Bellingham Bay	Elizabeth Fint, Sylvia Graham, Mak Kaufman	Industrial

Weather at time of inspection: ºF

Discharges to: Surface Water ☒ Ground Water ☐

SECTION B: FACILITY DATA

Name and Location of Facility Inspected

Bellingham Shipping Terminal Port of Bellingham
Alice Cords
629 Cornwall Ave.
Bellingham WA 98225

Entry Time	Permit Effective Date
9:25 AM	
Exit Time	**Permit Expiration Date**
12:00 PM	

Name(s) of On-Site Representative(s)/Title(s)/Contact Information

Alice Cords
Port of Bellingham (Port)
(360) 820-0108
alicec@portofbellingham.com

Andy Anthony
ABC Recycling (ABC)
8081 Meadow Ave.
Burnaby, BC C3N 2V9
360-305-0344
Andy.anthony@abcrecycling.com

Additional Participants:

Dave Warter (Port), Andy Anthony (ABC Recycling)

Mailing Address of Responsible Official/Title/Contact Information

Robert Fix
Executive Director
PO Box 1677
Bellingham WA 98225
360-676-2500
Robf@portofbellingham.com

	Yes	No
Samples Taken?	☐	☒
Photos Taken?	☒	☐

SECTION C: AREAS EVALUATED DURING INSPECTION

☒ Erosion & Sediment Control Plan	☒ Permit	☒ Source Control BMPs	☐ Wheel Wash
☒ Monitoring Plan	☒ Documented Visual Inspections	☒ Fuel, Chemical, & Waste Storage & Handling	☒ Catch Basins
☒ Stormwater Pollution Prevention Plan	☒ Runoff Conveyance & Treatment BMPs	☐ Equipment/Vehicle Washing	☐ Exterior Storage & Parking Areas

☒ Spill Control Plan	☒ Oil/Water Separator	☒ Equipment/Vehicle Maintenance	☒ Outfall/Effluent/Receiving Waters
☒ Site Map	☐ Process Water Treatment System	☒ Fueling Operations	☒ Discharge Monitoring Report Submittals

SECTION D: SUMMARY OF OBSERVATIONS AND FINDINGS

PERMIT COMPLIANCE CONCERN(S) AND REQUIRED CORRECTIVE ACTION(S)

Required Corrective Actions:

1.) The permittee for the Industrial Stormwater General Permit (ISGP) WAR305536 is Alice Cords, a part time environmental specialist with the Port of Bellingham – Violation of General Condition G2 Signatory requirements.

- General Permit G2.A of the permit requires that permit applications shall be signed by:
  1. In the case of corporations, by a responsible corporate officer.
  2. In the case of a partnership, by a general partner of a partnership.
  3. In the case of sole proprietorship, by the proprietor.
  4. In the case of a municipal, state, or other public facility, by either a principal executive officer or ranking elected official.

2.) The permittee failed to submit a modification of permit coverage for the new industrial activity (metal recycling), which requires addition of North American Industrial Class System (NAICS) code 423930, as well as failing to modify the permit coverage area and site map to include the operational industrial footprint of ABC Recycling. ABC Recycling has already started operation and has been operating for several months – Violation of Special Condition S2.B Modification of Permit Coverage.

- Special Condition S2.B requires the permittee to modify permit coverage when the permittee anticipates a significant process change, or otherwise requesting a modification of permit coverage, shall submit a complete Modification of Coverage Form to Ecology. The Permittee shall:

  1. Apply for modification of coverage at least 60 days before implementing a significant process change.

  2. *Complete the public notice* requirements in WAC 173-226-130(5) as part of a complete application for modification of coverage.

  3. *Comply with SEPA* as part of a complete application for modification of coverage if undergoing a significant process change.

Significant Process Change means any modification of the facility that would result in any of the following:

1. Add different pollutants in a significant amount to the discharge.
2. Increase the pollutants in the stormwater discharge by a significant amount.
3. Add a new industrial activity (SIC) or NAICS that was not previously covered.
4. Add additional impervious surface or acreage such that stormwater discharge would be increased by 25% or more

ABC Recycling's industrial activity is considered a significant process change – **the permittee failed to comply with S2.B.1-3 of the ISGP.**

Note Special Condition S4.B.8: A Permittee who has a significant process change **shall not use previous sampling results** to demonstrate consistent attainment. The permittee failed to sample for all parameters for the 2022 first fall flush sampling event, and instead claimed consistent attainment for some or all parameters at discharge points. **Port must begin sampling for all parameters at all discharge points.**

3.) The permittee failed to update the site SWPPP to adequately reflect ABC Recycling's industrial activity and industrial footprint/operational area – Violation of Special Condition S3.A.3.

- The SWPPP provided to Ecology via email from the Port on November 8, 2022 does not effectively eliminate or significantly minimize pollutants in stormwater discharges from the site. The SWPPP did not incorporate the change in operation, design, or maintenance at the facility regarding ABC Recycling's industrial activities.
    - **Special Condition S3.b** requires the permittee to modify the SWPPP whenever there is a change in design, construction, operation, or maintenance at the facility that significantly changes the nature of pollutants discharged in stormwater from the facility, or significantly increases quantities of pollutants discharged.

4.) The permittee failed to evaluate and obtain representative stormwater samples– Violation of S4.B.1.d Sampling Requirements.

- The permittee failed to evaluate stormwater discharges and add a discharge point at the moorage area (middle wharf) north of the warehouses, where ABC recycling stages piles for loading/unloading barges – this area was documented to have rusty (iron oxide) stormwater discharges to Bellingham Bay.
    - **Special condition S4.B.1.d** requires the permittee to obtain *representative samples,* which may be a single grab sample, a time-proportional sample, or a flow-proportional sample.

Representative sample means a sample of the discharge that accurately characterizes stormwater runoff generated in the designated drainage area of the facility.

5.) The permittee failed to designate sampling locations at the point where it discharges stormwater associated with ABC Recycling's industrial activity from the stormwater vault in the stockpile yard off-site – Violation of S4.B.2.a Sample Locations.

- The permittee failed to designate a sample point at the point where stormwater from ABC Recycling's stockpile yard discharges to the stormwater vault. The stormwater vault discharge to the pump station, which carries the stormwater to the Aeration Stabilization basin (ASB). The ASB is a shared basin which has potential to discharge to Bellingham Bay through an outfall pipe or emergency overflow.
    - **Special Condition S4.B.2.a** requires the permittee to designate sampling locations at the point(s) where it discharges stormwater associated with industrial activity off-site.

6.) The permittee failed to implement operational, source control, and treatment BMPs for ABC Recycling's activities to prevent contaminants from comingling with stormwater – Violation of Special Condition S3.B.4 Best Management Practices (BMPs).

- The source control BMP (rumble pad ingress/egress) for vehicle and equipment track out at the access gate for ABC's stockpiles was bypassed by a truck maneuvering around the BMP. The BMP is meant to be driven over to reduce sediment and contaminant track out as vehicles move metal scrap to and from the stockpile area and moorage area.
- The Stockpile yard consisted of some gravel areas, deteriorating pavement, and sediment/mud. The yard was a large source of sediment and turbidity, and was not adequately stabilized to reduce pollutants from comingling with stormwater discharges.

- **Special Condition S3.B.4.v.** requires the permittee to implement BMPs necessary to prevent the erosion of soils and other earthen materials, control off-site sedimentation, and prevent violations of water quality standards.

- ABC recycling uses dumpsters to deposit trash metal items that will not be recycled. Ecology observed at least two trash dumpsters with no lids/covers – lids/cover are required on dumpsters to prevent stormwater from comingling with the contents of the trash dumpsters to prevent contamination of stormwater.

    - **Special Condition S3.B.4.b.i.2.d** requires the permittee to keep all dumpsters under cover or fit with a storm resistant lid that must remain closed when not in use.

- We observed petroleum sheen, emulsified oil, as well as petroleum spills/leaks on the ground and in stormwater puddles throughout ABC Recycling's stockpile yard. There were no operational, structural, or treatment BMPs in place to prevent contamination of stormwater or to treat or prevent contaminated stormwater from leaving the site. The petroleum sheen and emulsified petroleum throughout site was egregious. We did not observe any spill kits in the stockpile area. Oil sheen was also observed near the moorage area (middle wharf) at catch basin B2A. Dave was able to grab some floor dry and clean-up the spill during the inspection.

    - **Special Condition S3.B.4.b.i.3.d** requires the permittee to clean-up spills and leaks *immediately* to prevent discharge of pollutants.

    - **Special Condition S3.B.4.b.i.4.g** requires the permittee to locate materials, equipment, and activities so that leaks are contained in the existing containment and diversion systems.

    - **Special Condition S3.B.4.b.iii.2** requires the permittee to employ oil/water separators, booms, skimmers, or other methods to eliminate or minimize oil and grease contamination in stormwater discharges.

- Vehicle maintenance activities were being performed outdoors in ABC's stockpile yard at the time of inspection. The mechanic was fixing two vehicles with no cover or containment of parts, contaminants, or fluids.

    - **Special Condition S3.B.4.b.i.4.g** requires the permittee to locate materials, equipment, and activities so that leaks are contained in the existing containment and diversion systems.

- ABC Recycling trucks stockpile scrap metal from the stockpile area south of the log pond and dumps the piles on the pavement of the moorage area (middle wharf) north of the warehouses. From here the scrap metal is loaded on to barges. Similarly, this is how ABC Recycling also off-loads materials from barges.

- A photo provided by Port of Bellingham on November 8, 2022, in an email from Alice Cords, showed sorbent wattles surrounding the metal stockpile at the moorage area (middle wharf). The BMP was not installed correctly – there were gaps underneath the wattles where stormwater comingled with the scrap metal piles. The BMP was not adequate in preventing contaminants from comingling with stormwater discharges.

    - **Special Condition S3.B.4.b.ii.2** requires the permittee to implement BMPs to minimize the exposure of manufacturing, processing, and material storage areas (*including loading and unloading, storage*, disposal, cleaning, maintenance, and fueling operations) to rain, snow, snowmelt, and runoff by either locating these industrial materials and activities inside or protecting them with storm resistant coverings.

7.) The permittee failed to maintain the stormwater vault that collects stormwater discharges from ABC Recycling's stockpile yard - Violation of S3.B.4.b.i.3.b Preventative Maintenance.

- The stormwater vault collects stormwater dischargers from the strip drain north of site as well as ABC Recycling's stockpile yard. At the inspection, the Port said the vault was last serviced about 6 months ago but could not provide an exact date or record of maintenance.

    - **Special Condition S3.B.4.b.i.3.b** requires the permittee to maintain ponds, tanks/vaults, catch basins, swales, filters, oil/water separators, drains, and other stormwater drainage/treatment facilities in accordance with the maintenance standards set forth in the applicable Stormwater Management Manual for Western Washington (SWMMWW).

    - **Appendix V-A: BMP Maintenance Tables from the SWMMWW** requires maintenance of stormwater vaults when accumulated sediment depth exceeds 10% of the diameter of the storage area for 1/2 length of storage vault or any point depth exceeds 15% of diameter.

8.) The permittee failed to document quarterly sweeping activities for paved surfaces of the permitted facility – Violation of Special Condition S9.D.1 – Records Retention.

- In an email to Port of Bellingham dated November 4, 2022 Ecology requested sweep logs for permit WAR305536 since July 2022. In an email on November 8, 2022 the Port provided invoices for services rendered, but the invoices do not indicate what permitted areas were swept, or that vacuum sweeping actually occurred.
    - **Special Condition S9.D.1.e** requires the permittee to retain any documentation of compliance with permit requirements.

Note:

Using conveyor bulk leaders, grapple units, tilt pans, and harbor cranes to load and unload bulk cargo from barge vessels over surface waters *may not be industrial activities authorized by the ISGP.*

SUMMARY OF FINDINGS/COMMENTS

Documentation:

- In an email to Port of Bellingham dated November 4, 2022 Ecology requested the most recent inspection records pertaining to tightness tests and integrity tests for the ASB, pump station, and piping. In an email dated November 8, 2022 the Port provided a copy of the tightness tests for the pipes running from the pump station to the ASB but did not include any testing or documentation regarding the integrity of the liner for the ASB.

- In an email to Port of Bellingham dated November 4, 2022 Ecology requested sweep logs for permit WAR305536 since July 2022. In an email on November 8, 2022 the Port provided invoices for services rendered, but the invoices do not indicate what permitted areas were swept, or that vacuum sweeping actually occurred.

- We reviewed recent monthly inspection reports and stormwater monitoring logs before we left the facility – the records we reviewed seemed complete and up to date. We did not review the entire SWPPP during the inspection.

Site Inspection:

- We arrived on site at 9:25 and called Alice Cords to announce our arrival. At 9:45 a Port of Bellingham representative met with us – Dave Warter, Terminal manager for the shipping terminal here and the Port's terminal in the Fairhaven district. Dave oversees terminal operations.

- We began our inspection South near the Cornwall Ave. entrance and moved north towards ABC recycling's ingress/egress to the metal stockpiles. We watched a haul truck purposefully drive *around* the rumble pad (photo 1), contributing to the track out observed (photo 2).

- Andy Anthony met up with us as we were beginning the inspection of the stockpile area. ABC Recycling is leasing 6 acres from the Port of Bellingham for their operations, and only a portion of the area has permit coverage. Portions where ABC Recycling is operating east of the terminal warehouses are not authorized to discharge stormwater associated with the industrial recycling activity.

- Andy said ABC Recycling plans to build a processing facility in the next two years north of the terminal to process metals for recycling. ABC Recycling buys metals from businesses in Canada, Seattle, and Skagit County and fills barges to be sent worldwide. The last barge went to India. The shredded metal they stockpile is from Seattle Iron and Metal Inc.

- Near the stockpile entrance, a mobile mechanic was actively repairing two broken vehicles, without cover and exposed to stormwater (photo 3). Andy said they are installing a half dome covered space for maintenance and storage. They are also bringing two storage containers on site to store spill materials, lubricants, and other misc. items.

- We walked parallel to the stormwater trench north of site, heading east, that intercepts stormwater from ABC's working footprint and discharges to the stormwater vault centrally located in ABC's operating yard (photo 4). From there the stormwater is eventually pumped to Port of Bellingham's aeration stabilization basin (ASB). The stabilization basin is lined to prevent infiltration to the bay, however, the ASB does have an outfall pipe to the bay as well as an emergency overflow. The port said the pipe is closed and does not currently discharge to the bay.

- Andy said ABC averages 20 truck/day which is a combination of scrap, plate, and structural heavy melt steel (HMS). ABC conducts visual inspections of the scrap where they look for unacceptable materials and free liquids. Each barge holds approximately 24 tons. Barges are shipped worldwide – the last barge went to India. From public Port of Bellingham documents, the anticipated cargo volumes that will pass through the Bellingham Shipping Terminal are:

    - Import (via barge): In 2022: 20,000 metric tons ("mt") / Subsequent years: 60,000 mt.
    - Export (via ship): In 2022: 81,000 mt/Year Two: 242,000 mt/Year Three and subsequent years: 320,000 mt.

- We observed petroleum sheen, emulsified oil, as well as petroleum spills/leaks on the ground and in stormwater puddles throughout ABC Recycling's stockpile yard (photos 5 and 6). There were no operational, structural, or treatment BMPs in place to prevent contamination of stormwater or to treat or prevent contaminated stormwater from leaving the site. The petroleum sheen and emulsified petroleum throughout site was egregious. We did not observe any spill kits in the stockpile area. Oil sheen was also observed near the moorage area (middle wharf) at catch basin B2A. Dave was able to grab some floor dry and clean-up the spill during the inspection (photo 7).

- Andy said ABC does not sort piles on site, but if they see an item that is not allowed in the pile, they will pull it out and put it in the roll-off trash dumpsters. The roll-off trash dumpsters observed during the inspection had items that were covered in oil/grease (photo 8). The dumpsters did not have lids or covers to prevent stormwater from comingling with contaminants.

- For inbound loads, haul trucks will come into the site from the Cornwall Ave. entrance gate and drive to the truck scale between warehouse 1 and 2. The trucks then drive counterclockwise around warehouse 2 and into ABC Recycling's stockpile yard.

- For outbound loads, haul trucks will load at the stockpiles and drive between warehouse 1 and 2 and drive left to drop the load at the moorage area (middle wharf), and then head back to the yard.

Background

Department of Ecology has received public complaints (ERTS #718591) regarding ABC's operation on Port property – the complaints range from rusty water discharging to the bay to noise complaints from the activity occurring between 5PM and 3AM.

Port of Bellingham hired a sound consultant, SAA Acoustics, to conduct a **sound study** at the Port's Shipping Terminal. Ecology has received resident noise complaints from ABC Recycling's operations. The sound study may not accurately represent the sound pollution from ABC Recycling's activities – it does not discuss limitations of the study, such as equipment and equipment calibration, temperature, sample point location, and timing – Andy Anthony said the site operations are typically from 7AM to 5 PM *Monday through Friday*, with some longer days operating until 3:00 AM. The sound study was conducted from Sunday October 16 at 6:00 pm to Monday October 17 at 8:00 am, *which is outside the operating hours for ABC Recycling*. Additionally, *this is only a 10-hour period* for sound sampling.

Site Drainage:

ABC Recycling's industrial footprint is located east of the current permitted area for Port of Bellingham Shipping Terminal – south of the log pond. This area currently does not have permit coverage or authorization to discharge stormwater off-site.

This area's stormwater discharges are captured in a conveyance trench running west to east, which carries flows to the pump station before discharging to the ASB. The rest of the stockpile yard operated by ABC Recycling drains to a stormwater vault centrally located within the stockpile operating area, that conveys discharges to the pump station before ultimately discharging to the ASB. ABC Recycling's industrial activity also impacts portions of Port of Bellingham's current permitted footprint, south and north of warehouses 1 and 2, which ABC uses for haul routes and material transfer to and from the moorage area (middle wharf).

If you have any questions concerning this inspection report, or to request additional time to complete the above corrective actions, please contact Sylvia Graham at 360-927-4900 or Sylvia.Graham@ecy.wa.gov.

Section E: Signatures

01-04-2023		Reviewed and approved by: Sylvia Graham	01-04-2023
Elizabeth Fint Water Quality Specialist Water Quality Program	Date	Sylvia Graham Water Quality Specialist Water Quality Program	Date

Washington State Department of Ecology – Bellingham Field Office
913 Squalicum Way, Suite 101
Bellingham, WA 98225-2078
(360) 255-4400

Choose an item.Inspection

Photo 1
Description: Flatbed truck purposely bypassing the track out BMP while exiting the stockpile yard. Bypassing the track out BMP doesn't reduce track out of sediments and other pollutants from the stockpile yard.

Photo 2
Description: Sediment and debris tracked out to pavement from trucks bypassing the track out BMP.

Photo 3
Description: Mechanic actively repairing two pieces of heavy equipment without cover or containment to reduce pollutants from comingling with stormwater.

Photo 4
Description: Stormwater vault located approximately in the middle of ABC Recycling's stockpile yard. Vault was full of turbid water and sediment accumulation surrounded the vault.

Photo 5
Description: Oil sheen floating on top of a stormwater puddle in ABC Recycling's stockpile yard.

Photo 6
Description: Emulsified oil/petroleum mixed with stormwater in ABC Recycling's stockpile yard.

Photo 7
Description: Petroleum spill clean up at catch basin B2A.

Photo 8
Description: Trash items removed from recycling piles – trash items have oil/grease residue exposed to stormwater – dumpsters did not have a cover or storm proof lid.

Photo 9
Description: Muddy stockpile yard that has not been stabilized to prevent pollutants from comingling with stormwater.

Photo 10
Description: Metal stockpile to be loaded on barges.

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
Bellingham Field Office
913 Squalicum Way, Suite 101, Bellingham, WA 98225 • 360-255-4400

January 4, 2022

Robert Fix
Executive Director
PO Box 1677
Bellingham WA 98225
360-676-2500
Robf@portofbellingham.com

RE: WARNING LETTER – NONCOMPLIANCE WITH NDPES INDUSTRIAL STORMWATER GENERAL PERMIT NO. WAR305536

Dear Robert Fix,

On November 2, 2022 Ecology employees Sylvia Graham, Mak Kaufman, and I inspected your facility at 629 Cornwall Ave. known as Port of Bellingham Shipping Terminal. The purpose of the inspection was to assess the facility's compliance with Industrial Stormwater General Permit (ISGP) permit No. WAR305536. As discussed with Alice Cords, Dave Warter, and Andy Anthony, the facility is in violation of the terms and conditions of the ISGP. The purpose of this letter is to identify the outstanding violations at Port of Bellingham Shipping Terminal and outline steps to return to compliance with ISGP permit No. WAR305536.

The following ISGP violations have been documented at Port of Bellingham Shipping Terminal. To come into compliance with ISGP No. WAR305536, Port of Bellingham Shipping Terminal must complete the actions identified in this letter.

1.) The permittee for the Industrial Stormwater General Permit (ISGP) WAR305536 is Alice Cords, a part time environmental specialist with the Port of Bellingham – Violation of General Condition G2 Signatory requirements.

- General Permit G2.A of the permit requires that permit applications shall be signed by:
    1. In the case of corporations, by a responsible corporate officer.
    2. In the case of a partnership, by a general partner of a partnership.
    3. In the case of sole proprietorship, by the proprietor.

4. In the case of a municipal, state, or other public facility, by either a principal executive
officer or ranking elected official.

Within 7 days of receipt of this notice, the permittee must:

- Submit a modification of permit coverage form to update the permit signatory requirements with the principal executive officer or ranking elected official. The permittee must follow the requirements outlined in G2 Signatory Requirements by indicating the required permittee for WAR305536.

2.) The permittee failed to submit a modification of permit coverage for the new industrial activity (metal recycling), which requires addition of North American Industrial Class System (NAICS) code 423930, as well as modifying the permit coverage area and site map to include the operational industrial footprint of ABC Recycling – Violation of Special Condition S2.B Modification of Permit Coverage.

- Special Condition S2.B requires the permittee to modify permit coverage when the permittee anticipates a significant process change, or otherwise requesting a modification of permit coverage, shall submit a complete Modification of Coverage Form to Ecology. The Permittee shall:

  1. Apply for modification of coverage at least 60 days before implementing a significant process change.

  2. *Complete the public notice* requirements in WAC 173-226-130(5) as part of a complete application for modification of coverage.

  3. *Comply with SEPA* as part of a complete application for modification of coverage if undergoing a significant process change.

Significant Process Change means any modification of the facility that would result in any of the following:

1. Add different pollutants in a significant amount to the discharge.
2. Increase the pollutants in the stormwater discharge by a significant amount.
3. Add a new industrial activity (SIC) or NAICS that was not previously covered.
4. Add additional impervious surface or acreage such that stormwater discharge would be increased by 25% or more

ABC Recycling's industrial activity is considered a significant process change – the permittee failed to comply with S2.B.1-3 of the ISGP.

Note Special Condition S4.B.8: A Permittee who has a significant process change **shall not use previous sampling results** to demonstrate consistent attainment. The permittee failed to sample for all parameters for the 2022 first fall flush sampling event, and instead claimed

consistent attainment for some or all parameters at discharge points. Port must begin sampling for all parameters at all discharge points.

Within 7 days of receipt of this notice, the permittee must:

- Apply for modification of permit coverage to Ecology.
- Complete the public notice requirements in WAC 173-226-130(5) as part of a complete application for modification of coverage.
- Comply with SEPA as part of a complete application for modification of coverage for undergoing a significant process change.
- Through the modification of permit coverage, update the industrial footprint acreage to include the operational industrial footprint of ABC Recycling's activity, including the stockpile yard.
- Immediately begin sampling all ISGP pollutant parameters identified in Table 2 and Table 3 of the permit corresponding to current NAICS codes identified on Port of Bellingham Shipping Terminal ISGP Notice of Intent (NOI), in addition to NAICS code 423930. Port of Bellingham Shipping Terminal must not claim consistent attainment of any parameters.

Within 14 days of receipt of this notice, the permittee must:

- Provide Ecology with an updated Stormwater Pollution Prevention (SWPPP) site map that includes the industrial activities and operational footprint of ABC Recycling's activity. The map must include all required information outline in Special Condition S3.

3.) The permittee failed to update the site SWPPP to adequately reflect ABC Recycling's industrial activity and industrial footprint/operational area – Violation of Special Condition S3.A.3.

- The SWPPP provided to Ecology via email from the Port on November 8, 2022 does not effectively eliminate or significantly minimize pollutants in stormwater discharges from the site. The SWPPP did not incorporate the change in operation, design, or maintenance at the facility regarding ABC Recycling's industrial activities.
    - **Special Condition S3.b** requires the permittee to modify the SWPPP whenever there is a change in design, construction, operation, or maintenance at the facility that significantly changes the nature of pollutants discharged in stormwater from the facility, or significantly increases quantities of pollutants discharged.

Within 14 days of receipt of this notice, the permittee must:

- Provide Ecology with an updated SWPPP that adequately reflects ABC Recycling's industrial activity and impacts to Port of Bellingham permitted facility, complying with all requirements outlined in Special Condition S3.

4.) The permittee failed to evaluate and obtain representative stormwater samples– Violation of S4.B.1.d Sampling Requirements.

- The permittee failed to evaluate stormwater discharges and add a discharge point at the moorage area (middle wharf) north of the warehouses, where ABC recycling stages piles for loading/unloading barges – this area was documented to have rusty (iron oxide) stormwater discharges to Bellingham Bay.
    - **Special condition S4.B.1.d** requires the permittee to obtain *representative samples,* which may be a single grab sample, a time-proportional sample, or a flow-proportional sample.

Representative sample means a sample of the discharge that accurately characterizes stormwater runoff generated in the designated drainage area of the facility.

Within 7 days of receipt of this notice, the permittee must:

- Evaluate the stormwater discharges impacted by ABC Recycling's activity at the moorage area (middle wharf) and add a discharge point to obtain representative samples from the industrial activity at the moorage area. Update the SWPPP to reflect this change.

5.) The permittee failed to designate sampling locations at the point where it discharges stormwater associated with ABC Recycling's industrial activity from the stormwater vault in the stockpile yard off-site – Violation of S4.B.2.a Sample Locations.

- The permittee failed to designate a sample point at the point where stormwater from ABC Recycling's stockpile yard discharges to the stormwater vault. The stormwater vault discharge to the pump station, which carries the stormwater to the Aeration Stabilization basin (ASB). The ASB is a shared basin which has potential to discharge to Bellingham Bay through an outfall pipe or emergency overflow.
    - **Special Condition S4.B.2.a** requires the permittee to designate sampling locations at the point(s) where it discharges stormwater associated with industrial activity off-site.

Within 7 days of receipt of this notice, the permittee must:

- Submit a modification of permit coverage to add a stormwater sampling point at the stormwater vault that discharges ABC Recycling's stormwater to the ASB.

6.) The permittee failed to implement operational, source control, and treatment BMPs for ABC Recycling's activities to prevent contaminants from comingling with stormwater – Violation of Special Condition S3.B.4 Best Management Practices (BMPs).

- The source control BMP (rumble pad ingress/egress) for vehicle and equipment track out at the access gate for ABC's stockpiles was bypassed by a truck maneuvering around the BMP. The BMP is meant to be driven over to reduce sediment and contaminant track out as vehicles move metal scrap to and from the stockpile area and moorage area.

- The Stockpile yard consisted of some gravel areas, deteriorating pavement, and sediment/mud. The yard was a large source of sediment and turbidity and was not adequately stabilized to reduce pollutants from comingling with stormwater discharges.

    - **Special Condition S3.B.4.v.** requires the permittee to implement BMPs necessary to prevent the erosion of soils and other earthen materials, control off-site sedimentation, and prevent violations of water quality standards.

- ABC recycling uses dumpsters to deposit trash metal items that will not be recycled. Ecology observed at least two trash dumpsters with no lids/covers – lids/cover are required on dumpsters to prevent stormwater from comingling with the contents of the trash dumpsters to prevent contamination of stormwater.

    - **Special Condition S3.B.4.b.i.2.d** requires the permittee to keep all dumpsters under cover or fit with a storm resistant lid that must remain closed when not in use.

- We observed petroleum sheen, emulsified oil, as well as petroleum spills/leaks on the ground and in stormwater puddles throughout ABC Recycling's stockpile yard. There were no operational, structural, or treatment BMPs in place to prevent contamination of stormwater or to treat or prevent contaminated stormwater from leaving the site. The petroleum sheen and emulsified petroleum throughout site was egregious. We did not observe any spill kits in the stockpile area. Oil sheen was also observed near the moorage area (middle wharf) at catch basin B2A. Dave was able to grab some floor dry and clean-up the spill during the inspection.

    - **Special Condition S3.B.4.b.i.3.d** requires the permittee to clean-up spills and leaks *immediately* to prevent discharge of pollutants.

    - **Special Condition S3.B.4.b.i.4.g** requires the permittee to locate materials, equipment, and activities so that leaks are contained in the existing containment and diversion systems.

    - **Special Condition S3.B.4.b.iii.2** requires the permittee to employ oil/water separators, booms, skimmers, or other methods to eliminate or minimize oil and grease contamination in stormwater discharges.

- Vehicle maintenance activities were being performed outdoors in ABC's stockpile yard at the time of inspection. The mechanic was fixing two vehicles with no cover or containment of parts, contaminants, or fluids.

    - **Special Condition S3.B.4.b.i.4.g** requires the permittee to locate materials, equipment, and activities so that leaks are contained in the existing containment and diversion systems.

- ABC Recycling trucks stockpile scrap metal from the stockpile area south of the log pond and dumps the piles on the pavement of the moorage area (middle wharf) north of the warehouses. From here the scrap metal is loaded on to barges. Similarly, this is how ABC Recycling also off-loads materials from barges.

- A photo provided by Port of Bellingham on November 8, 2022, in an email from Alice Cords, showed sorbent wattles surrounding the metal stockpile at the moorage area (middle wharf). The BMP was not installed correctly – there were gaps underneath the wattles where stormwater comingled with the scrap metal piles. The BMP was not adequate in preventing contaminants from comingling with stormwater discharges.

    - **Special Condition S3.B.4.b.ii.2** requires the permittee to implement BMPs to minimize the exposure of manufacturing, processing, and material storage areas (*including loading and unloading, storage*, disposal, cleaning, maintenance, and fueling operations) to rain, snow, snowmelt, and runoff by either locating these industrial materials and activities inside or protecting them with storm resistant coverings.

Within 7 days of receipt of this notice, the permittee must provide documentation or evidence to Ecology that the following actions are complete:

- Implement a source control BMP to prevent track out from vehicles entering/exiting ABC's Stockpile yard.

- Implement source control BMPs in the stockpile yard to prevent the erosion of soils and other earthen materials, control off-site sedimentation, and prevent violations of water quality standards.

- Provide all dumpsters with a cover or storm-resistant lid to prevent contamination of stormwater. The dumpsters must remain closed when not in use.

- Implement BMPs to prevent spills and leaks. Clean up spills and leaks immediately.

- Provide a spill log that has documented spills and leaks from industrial activities at the facility. The spill log must have all information required by the ISGP.

- Locate materials, equipment, and activities so that leaks are contained in the existing containment and diversion systems at the facility. This includes maintenance and service

of vehicles and fueling operations. This may require a change in ABC Recycling's operation.

- Implement oil/water separators, booms, skimmers, or other methods to eliminate or minimize oil and grease contamination in stormwater discharges at ABC's stockpile yard and the associated stormwater vault.

- Implement BMPs, other than the sorbent wattles previously implemented, to minimize the exposure of manufacturing, processing, and material storage areas (*including loading and unloading, storage*, disposal, cleaning, maintenance, and fueling operations) to rain, snow, snowmelt, and runoff by either locating these industrial materials and activities **inside** or protecting them with storm resistant coverings. This may require a change in ABC Recycling's operation.

- Update the SWPPP to reflect the implemented changes.

7.) The permittee failed to maintain the stormwater vault that collects stormwater discharges from ABC Recycling's stockpile yard - Violation of S3.B.4.b.i.3.b Preventative Maintenance.

- The stormwater vault collects stormwater dischargers from the strip drain north of site as well as ABC Recycling's stockpile yard. At the inspection, the Port said the vault was last serviced about 6 months ago but could not provide an exact date or record of maintenance.

    - **Special Condition S3.B.4.b.i.3.b** requires the permittee to maintain ponds, tanks/vaults, catch basins, swales, filters, oil/water separators, drains, and other stormwater drainage/treatment facilities in accordance with the maintenance standards set forth in the applicable Stormwater Management Manual for Western Washington (SWMMWW).

    - **Appendix V-A: BMP Maintenance Tables from the SWMMWW** requires maintenance of stormwater vaults when accumulated sediment depth exceeds 10% of the diameter of the storage area for 1/2 length of storage vault or any point depth exceeds 15% of diameter.

Within 7 days of receipt of this notice, the permittee must provide documentation or evidence to Ecology that the following actions are complete:

- Maintain the stormwater vault located in ABC Recycling's stockpile yard – clean and remove all debris and accumulated sediment.

- Create a maintenance log to track current and future maintenance of stormwater infrastructure used to comply with the ISGP, specifically created to comply with WAR305536.

8.) The permittee failed to document quarterly sweeping activities for paved surfaces of the permitted facility – Violation of Special Condition S9.D.1 – Records Retention.

- In an email to Port of Bellingham dated November 4, 2022 Ecology requested sweep logs for permit WAR305536 since July 2022. In an email on November 8, 2022 the Port provided invoices for services rendered, but the invoices do not indicate what permitted areas were swept, or that vacuum sweeping actually occurred.

    - **Special Condition S9.D.1.e** requires the permittee to retain any documentation of compliance with permit requirements.

Within 7 days of receipt of this notice, the permittee must provide documentation or evidence to Ecology that the following actions are complete:

- Create a sweep log to track current and future required sweeping activities at the permitted facility. The sweep log must include, date/time, activity completed, location of sweeping completed, person completing the activity, and signature/initial of the person completing the activity.

Note:

Using conveyor bulk leaders, grapple units, tilt pans, and harbor cranes to load and unload bulk cargo from barge vessels over surface waters *may not be industrial activities authorized by the ISGP.*

Failure to meet the required actions and deadlines of this notice demonstrates the Port of Bellingham's unwillingness to comply with ISGP WAR305536. Failure to meet the required actions and deadlines outlined in this notice will result in escalated enforcement from Department of Ecology.

If you have any questions regarding this letter or Port of Bellingham's obligations under the IGSP, please contact Sylvia Graham at Sylvia.Graham@ecy.wa.gov or (360)-927-4900.

Sincerely,

Elizabeth Fint
Water Quality Specialist

By Certified Mail: 9489 0090 0027 6459 3880 54

Ecc: Sylvia Graham (ECY), Alice Cords (Port of Bellingham)

Theo Matts

Make Georgia Pacific pay for all of this. They broke the law every year since water and air regulations went into place in the 1970's. They should be held liable. It is unfair that the citizens have to pay for what was done by illegal criminals according to the law. The deal made with GP by the Post of Bellingham is non-binding and illegal. It needs to be rescinded and the crimes done by GP over the years need to be rectified in a court of law.