

Cowlitz Food & Fuel Site Response to Comments

Today's Date: May 14, 2024

Cleanup Site ID: 7025
Facility ID: 1166
Address: 101 Mulford Rd, Toledo
County: Lewis
More information: [Cowlitz Food & Fuel webpage¹](#)
Public Comment Period: March 28 to April 29, 2024

Documents for review and comment

- Agreed Order (AO) DE 21413
- Revised Feasibility Study
- Cleanup Action Plan
- State Environmental Policy Act (SEPA) Determination of Non-Significance

Background

The Cowlitz Food & Fuel cleanup site has a gas station and mini-mart operating at the site. During operations, petroleum hydrocarbons, including gasoline and oil, leaked into the environment and contaminated soil and groundwater.

Agreed Order DE 21413 is a legal agreement between Ecology and some of the potentially liable parties (PLPs) responsible parties to carry out the cleanup described in the Cleanup Action Plan. These PLPs are Texaco Inc, Exit 59 Food and Fuel LLC, and Candid Travel Center Land LLC.

The Cleanup Action Plan describes our plan for cleaning up the contamination. The plan combines soil excavation and treatment to reduce the amount of contamination and groundwater testing to make sure there is a reduction in the amount of contamination over time. If contamination remains at the site, then institutional controls are proposed to make sure the cleanup is effective.

Comment period and next steps

During the comment period, March 28 to April 29, 2024, we received one comment. We considered the comment and made no changes to the documents after the comment period. We will sign the AO and finalize the documents.

The comment submitted and our responses are listed in the following section.

¹ <https://apps.ecology.wa.gov/cleanupsearch/site/7025>

You can follow the progress of cleanup at the [Cowlitz Food & Fuel webpage](https://apps.ecology.wa.gov/cleanupsearch/site/7025).²

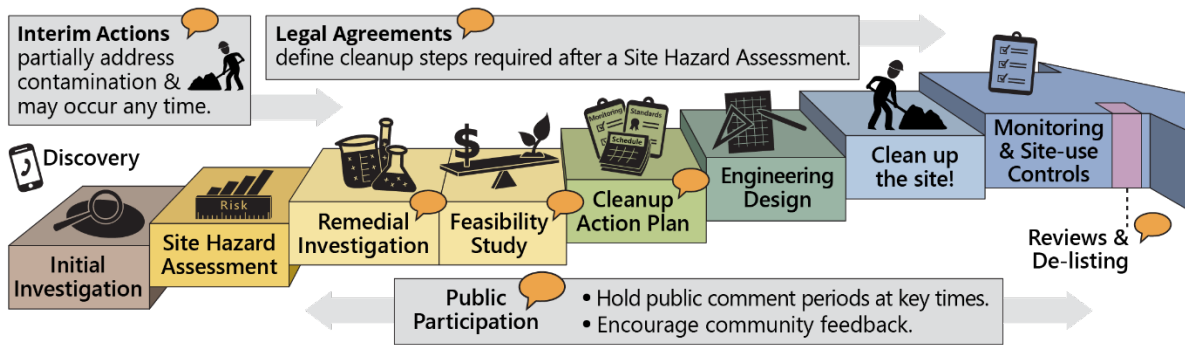


Figure 1. The Model Toxics Control Act (MTCA) is Washington’s cleanup law. There are several steps in the MTCA cleanup process. The comment bubbles indicate major milestones in the process when there is an opportunity for public comment.

Prepared by

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Cleanup Project Manager
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² <https://apps.ecology.wa.gov/cleanupsearch/site/7025>

Concerns and Responses from Ecology

The concerns expressed by the Cowlitz Indian Tribe and Ecology's responses are shown below. The comment letter received from the Cowlitz Indian Tribe is included in the next section.

Concern:

This project is of particular interest to the Tribe since groundwater from the site flows toward our namesake river, the Cowlitz River, which lies approximately 0.25 miles to the south. We are concerned about contaminants in the area, their potential for movement, and the health and wellbeing of our members and community. Clean water and healthy, harvestable populations of fish, wildlife, and plants are integral to our culture and way of life.

Response from Ecology:

Comment noted. Ecology shares your concern, and we are committed to ensuring that the Site is cleaned up promptly and does not cause any impact to the Cowlitz River.

Concern:

Alternative 4 (property-wide excavation in conjunction with service station upgrades, institutional controls, and monitored natural attenuation) is identified in the Draft Cleanup Action Plan as the preferred cleanup action. While all proposed alternatives have lengthy restoration timeframes, Alternative 4 was ranked least protective in the Feasibility Study since it has the longest restoration timeframe (as much as 10-25 years according to Table 3/Disproportionate Cost Analysis). We recognize there are costs/benefits and uncertainties associated with every alternative, but we urge the Department of Ecology to look for opportunities to further reduce the restoration timeframe; solidifying the timing of service station upgrades (and associated excavation of contaminated soil) is central to this effort.

Response from Ecology:

It is Ecology's understanding that the PLPs are ready to begin implementing the cleanup as soon as the Agreed Order is issued. Ecology will work with them to complete the cleanup as soon as possible.

Concern:

We also underscore the importance of a robust monitoring program to assess the adequacy and effectiveness of cleanup actions, and adaptive management to support continued progress toward cleanup goals.

Response from Ecology:

Ecology agrees that this is important and will ensure that the monitoring program is robust and effective.

Concern:

Please keep us informed as the site cleanup is implemented and send copies of reports and other technical documents to permitreview@cowlitz.org.

Response from Ecology:

We will add you to the distribution list for project reports and documents.

Concern:

In addition, we recommend that an Inadvertent Discovery Plan for Cultural Resources be in place throughout the cleanup process; we have enclosed suggested language for your consideration.

Response from Ecology:

We will require the Inadvertent Discovery Plan (IDP) to be in place throughout the cleanup process. Thank you for providing suggested IDP language. We will consider your suggested language when we review the IDP that is prepared for the project.

Comment from Cowlitz Indian Tribe



April 29, 2024

Steve Teel, Site Manager
Washington Department of Ecology
PO Box 47775
Olympia, WA 98504-7775

SENT VIA EMAIL:
steve.teel@ecy.wa.gov

RE: Cowlitz Food & Fuel Site Cleanup

Dear Mr. Teel:

Thank you for the opportunity to comment on the Cowlitz Food & Fuel Site Cleanup. The cleanup site is located at 101 Mulford Road in Toledo, Washington. We understand that the Washington Department of Ecology is entering into Agreed Order DE 21413 with several potentially liable persons who are responsible for cleaning up the site. An active gas station has been at this location since at least 1955, and petroleum leaking from underground storage tanks and/or fuel dispensing systems has contaminated soil and groundwater in the area.

The Cowlitz Indian Tribe is a federally recognized Indian Tribe of southwest Washington and northern Oregon. The cleanup site lies within our aboriginal homelands, and we have landholdings, enterprises, and program activities in close proximity. This project is of particular interest to the Tribe since groundwater from the site flows toward our namesake river, the Cowlitz River, which lies approximately 0.25 miles to the south. We are concerned about contaminants in the area, their potential for movement, and the health and wellbeing of our members and community. Clean water and healthy, harvestable populations of fish, wildlife, and plants are integral to our culture and way of life.

Alternative 4 (property-wide excavation in conjunction with service station upgrades, institutional controls, and monitored natural attenuation) is identified in the Draft Cleanup Action Plan as the preferred cleanup action. While all proposed alternatives have lengthy restoration timeframes, Alternative 4 was ranked least protective in the Feasibility Study since it has the longest restoration timeframe (as much as 10-25 years according to Table 3/Disproportionate Cost Analysis). We recognize there are costs/benefits and uncertainties associated with every alternative, but we urge the Department of Ecology to look for opportunities to further reduce the restoration timeframe; solidifying the timing of service station upgrades (and associated excavation of contaminated soil) is central to this effort. We also underscore the importance of a robust monitoring program to

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assess the adequacy and effectiveness of cleanup actions, and adaptive management to support continued progress toward cleanup goals.

Please keep us informed as the site cleanup is implemented and send copies of reports and other technical documents to permitreview@cowlitz.org. In addition, we recommend that an Inadvertent Discovery Plan for Cultural Resources be in place throughout the cleanup process; we have enclosed suggested language for your consideration.

For questions concerning this letter, please contact Christina Donehower, Natural Resources Policy Analyst, or James Gordon, Tribal Historic Preservation Officer. Christina can be reached at cdonehower@cowlitz.org or (360) 506-1848, and James can be reached at jgordon@cowlitz.org or (360) 957-3004.

Sincerely,

COWLITZ INDIAN TRIBE

Patricia Kinswagaiser

Patty Kinswa-Gaiser
Tribal Chairwoman

Enclosures

- 1) Cowlitz Indian Tribe Inadvertent Discovery Language
- 2) Cultural Resource Protection Laws

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COWLITZ INDIAN TRIBE

INADVERTENT DISCOVERY LANGUAGE

In the event any archaeological or historic materials are encountered during project activity, work in the immediate area (initially allowing for a 100' buffer; this number may vary by circumstance) must stop and the following actions taken:

1. Implement reasonable measures to protect the discovery site, including any appropriate stabilization or covering; and
2. Take reasonable steps to ensure the confidentiality of the discovery site; and,
3. Take reasonable steps to restrict access to the site of discovery.

The project proponent will notify the concerned Tribes and all appropriate county, state, and federal agencies, including the Department of Archaeology and Historic Preservation. The agencies and Tribe(s) will discuss possible measures to remove or avoid cultural material, and will reach an agreement with the project proponent regarding actions to be taken and disposition of material.

If human remains are uncovered, appropriate law enforcement agencies shall be notified first, and the above steps followed. If the remains are determined to be Native, consultation with the affected Tribes will take place in order to mitigate the final disposition of said remains.

See the Revised Code of Washington, Chapter 27.53, "Archaeological Sites and Resources," for applicable state laws and statutes. See also Washington State Executive Order 21-02, "Archaeological and Cultural Resources." Additional state and federal law(s) may also apply.

It is strongly encouraged copies of inadvertent discovery language/plan are retained on-site while project activity is underway.

Contact information:

James Gordon – Tribal Historic Preservation Officer
Cowlitz Indian Tribe
PO Box 2547
Longview, WA 98632

Cellular: 360-957-3004 jgordon@cowlitz.org

Revised 20 February 2024

Cultural Resource Protection Laws

Note: This list is not all-inclusive and does not take the place of consultation. Not all laws will apply in all situations. (Revised 29 January 2024)

Federal Laws

National Historic Protection Act (NHPA)	36 CFR 60	https://www.achp.gov/sites/default/files/regulations/2017-02/regs-rev04.pdf
Native American Graves Protection and Repatriation Act (NAGPRA)	43 CFR 10	https://www.nps.gov/subjects/nagpra/compliance.htm
Executive Order 13175 – Consultation and Coordination with Indian Tribal Governments		https://www.federalregister.gov/documents/2000/11/09/00-29003/consultation-and-coordination-with-indian-tribal-governments

Washington State Laws

Archaeological Sites and Resources	27.53 RCW	https://apps.leg.wa.gov/RCW/default.aspx?cite=27.53
Executive Order 21-02		https://governor.wa.gov/sites/default/files/exe_order/eo_21-02.pdf
Notice of Forest Practices to Affected Indian Tribes	WAC 222-20-120	https://apps.leg.wa.gov/WAC/default.aspx?cite=222-20-120

Oregon State Laws

Indian Graves and Protection Act	ORS 97.740-S 97.760	https://oregon.public.law/statutes/ors_chapter_97
Archaeological Objects and Sites	ORS 358.905 - 358.995	https://oregon.public.law/statutes/ors_chapter_358