



Response to Comments

Agreed Order and Public Participation Plan

A Avenue Landfill Site Anacortes, WA

Toxics Cleanup Program

Washington State Department of Ecology

Northwest Regional Office

Shoreline, Washington

June 2024



Publication Information

This document is available on the Department of Ecology's website at:

<https://apps.ecology.wa.gov/cleanupsearch/site/1771>

Cover photo credit

- A Avenue Landfill next to gravel road (2010, City of Anacortes)

Related Information

- Clean-up site ID: 1771
- Facility site ID: 3094179

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¹ www.ecology.wa.gov/contact

Department of Ecology's Regional Offices

Map of Counties Served



Southwest Region 360-407-6300	Northwest Region 206-594-0000	Central Region 509-575-2490	Eastern Region 509-329-3400
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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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DEPARTMENT OF
ECOLOGY
State of Washington

Table of Contents

- List of Figures and Tables 5**
 - Figures..... 5
 - Tables..... 5
- Public Outreach Summary 6**
- Comment Summary 8**
- Next Steps 9**
- Comments and Responses..... 9**
 - Comment from: Tracy W Powell..... 9
 - Comment from: Martha Hall (1) 10
 - Comment from: Martha Hall (2) 12
 - Comment from: Arlene Cook 13
 - Comment from: Jill Bowker 14
 - Comment from: Griffin Greenberg 14
 - Comment from: Ellie Kravets 15
 - Comment from: Evergreen Islands (Kyle Loring) 16
 - Comment from: Mark Nihart 17
 - Comment from: Carol Bordin..... 20
 - Comment from: Paul Vance 22
 - Comment from: Kathleen Lorence-Flanagan..... 22
- Appendices 24**

List of Figures and Tables

Figures

Figure 1: Washington's formal cleanup process.....9

Tables

Table 1: List of Commenters.....8

Public Outreach Summary

The A Avenue Landfill site (Site) located in Anacortes, WA is continuing Washington State's [formal cleanup process](#)² as directed under the Model Toxics Control Act ([MTCA](#))³.

Ecology negotiated a legal agreement called an Agreed Order with the City of Anacortes (City), the Potentially Liable Person, for the Site. The Agreed Order requires the City to address contamination at the Site.

The Department of Ecology's public involvement activities related to this site's 30-day comment period (March 25 – April 23, 2024) included:

- **Fact Sheet:**
 - US mail distribution of a fact sheet providing information about the cleanup documents and the public comment period to over 2,100 addresses including neighboring businesses and other interested parties.
 - Email distribution of the fact sheet to over 140 people, including interested individuals, local/county/state/federal agencies, neighborhood associations, and interested community groups.
 - The fact sheet was available digitally through Ecology's [cleanup site webpage](#)⁴.
- **Legal Notices:**
 - Publication of two paid display ads in the *Anacortes American* and the *Skagit Valley Herald*, dated Wednesday, March 20, 2024.
- **Site Register:**
 - Publication of 4 notices in Ecology's Toxics Cleanup Site Register:
 - Comment Period Notice:
 - March 21, 2024
 - April 4, 2024
 - April 18, 2024
 - Response Summary Notice:
 - June 27, 2024
 - Visit [Ecology's Site Register website](#)⁵ to download PDFs.
- **Media Notification:**
 - Ecology sent a comment period media notice on Wednesday, March 20, 2024, to the [Anacortes American](#)⁶, [Anacortes Now](#)⁷, the [Clamdigger](#)⁸, the [Skaqit Valley Herald](#)⁹,

² <https://ecology.wa.gov/MTCA-process>

³ <https://ecology.wa.gov/mtca>

⁴ <https://apps.ecology.wa.gov/cleanupsearch/site/1771>

⁵ <https://apps.ecology.wa.gov/publications/UIPages/PublicationList.aspx?IndexTypeName=Program&NameValue=Toxics+Cleanup&DocumentTypeName=Newsletter>

⁶ <https://www.goskagit.com/anacortes/>

⁷ <https://www.anacortesnow.com/news>

⁸ <https://anacortesprintingandsigns.square.site/contact>; 360-299-3444

⁹ <https://www.goskagit.com/>

[Cascadia Daily News](#), and [KAPS 102.1 FM](#)¹⁰, [KBRC 102.9 FM](#)¹¹, [KSVR 91.7 FM](#)¹².

- **Media Coverage:**
 - *The Anacortes American* ran two stories online on [April 3, 2024](#)¹³ and [April 5, 2024](#)¹⁴ about the A Avenue Landfill public outreach, cleanup efforts, and prior landfill management.
- **Social Media:**
 - Ecology posted a [blog](#)¹⁵ on Tuesday, March 26, 2024 with a summary of the site’s background, current status, and future cleanup work. The blog included information on how to submit comments and join the public meeting.
 - Ecology’s Northwest Region [posted on X](#)¹⁶ (formerly Twitter) on Thursday, March 28, 2024 connecting readers to the comment period, public meeting, cleanup site webpage, and Ecology’s blog.
- **Public Meeting:**
 - Ecology held a simultaneous public meeting (in-person at Anacortes City Hall and via Zoom) on [Monday, April 15, 2024](#)¹⁷ to provide more information. Ecology staff, City staff, and the City’s environmental engineering consultants presented site details and were available to answer questions.
- **Websites:**
 - Ecology announced the public comment period and public meeting, posted the fact sheet, and made the review documents available on Ecology’s [A Avenue Landfill webpage](#)¹⁸ and Ecology’s [Public Inputs & Events webpage](#)¹⁹.
- **Document Repositories:**
 - Copies of the review documents and fact sheets were available for review at Anacortes City Hall.
 - Outreach materials also directed the public to contact Ian Fawley, Outreach Planner, for document review assistance.

¹⁰ <http://www.kapsradio.com/>

¹¹ <https://tunein.com/radio/KBRC-1029-s307424/>

¹² <https://www.ksvr.org/>

¹³ https://www.goskagit.com/anacortes/news/dept-of-ecology-to-lead-public-meeting-on-a-avenue-landfill/article_99479060-f0c5-11ee-a7c7-5fe46d8efa36.html

¹⁴ https://www.goskagit.com/news/local_news/anacortes-to-study-a-avenue-landfill-for-contamination/article_7f032e8a-f39f-11ee-8ab8-b3334c792399.html

¹⁵ <https://ecology.wa.gov/blog/march-2024/cleaning-up-a-avenue-landfill>

¹⁶ <https://twitter.com/ecyseattle/status/1773374351695618170>

¹⁷ <https://apps.ecology.wa.gov/cleanupsearch/document/139357>

¹⁸ <https://apps.ecology.wa.gov/cleanupsearch/site/1771>

¹⁹ <https://ecology.wa.gov/Events/Search/Listing>

Comment Summary

From March 25 – April 23, 2024, Ecology solicited public comments on a legal agreement (Agreed Order) with the City of Anacortes (City) and a public participation plan.

- **Agreed Order:** legal document that requires the City to investigate environmental conditions, complete a Remedial Investigation, and if determined necessary after completion of the investigation, to prepare a Feasibility Study and a draft Cleanup Action Plan.
- **Public Participation Plan:** describes how Ecology will inform the community about site activities and ways to become involved.

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	Tracy W	Powell		Individual
2	Martha	Hall		Individual
3	Martha	Hall		Individual
4	Arlene	Cook		Individual
5	Jill	Bowker		Individual
6	Griffin	Greenberg		Individual
7	Ellie	Kravets		Individual
8	Kyle	Loring	Evergreen Islands	Organization
9	Mark	Nihart		Individual
10	Carol	Bordin		Individual
11	Paul	Vance		Individual
12	Kathleen	Lorence-Flanagan		Individual

Next Steps

Ecology has reviewed and considered the public comments received on the legal agreement and public participation plan. Based on Ecology’s evaluation of the comments, no changes to the documents were necessary, and they are being finalized.

The City will proceed with the Remedial Investigation. If necessary after completion of the investigation, a Feasibility Study and Draft Cleanup Action Plan will be prepared.

Each of those steps will require a public comment period. The graphic below shows these different stages of cleanup. Sometimes multiple stages occur in one public comment period.

Visit Ecology’s [cleanup process webpage](#)²⁰ to learn more about Washington’s formal cleanup process.



Figure 1: Washington's formal cleanup process

Comments and Responses

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

Comment from: Tracy W Powell

There was a significant oil spill at the city shop around 1990. The contaminated soil was dumped at the A Ave site, and covered with a sand and soil cap layer. Has that oil layer been sampled? And has the downslope forest soil been sampled sufficiently to determine the extent of spreading?

Response:

Thank you for commenting on Ecology’s agreed order at A Avenue Landfill.

The practice of importing contaminated soils and treating them by creating conditions that are favorable for bioretention is often referred to as “land farming” and was documented to have

²⁰ <https://ecology.wa.gov/MTCA-process>

occurred at the landfill in the early 1990's. Measures to prevent the spread of contaminants from the imported soil to adjacent media are usually taken with these practices. However, these and other past activities will be evaluated as part of the remedial investigation (RI) outlined in the agreed order. The nature and extent of contaminated media at the landfill perimeter will also be characterized in the RI.

Comment from: Martha Hall (1)

I support requiring the City of Anacortes to conduct additional studies to measure the amount of contamination in the soils, streams, and wetlands in and surrounding this old City Dump. This old dump is located in the headwaters of and within critical areas including streams and wetlands and major beaver ponds in the ACFL including wetland complexes that include Big Beaver Pond and the 32nd Street Swamp. These wetland complexes are designated and protected as "Critical Areas" and "Fish and Wildlife Habitats" in the Anacortes "Critical Area Ordinances". These wetland complexes provide habitats that are used by a long list of species of plants and animals. These species include aquatic species, invertebrates such as dragonflies and mayflies, and many birds such as trumpeter swans, many species of ducks, grebes, and migrating songbirds. These birds include raptors such as merlins who, like the kingfishers, hunt for dragonflies and other prey in these ponds and wetlands. The beavers are greatly appreciated for the work they do to maintain these wetlands. This work includes keeping water levels high enough during our increasingly hot and dry summers so support all of the species who use and depend on these wetlands. All of these species and these special habitats are highly valued and enjoyed by many residents and non-residents of the City of Anacortes. These "critical areas" Contaminated soils, streams and wetlands may negatively impact these plants and animals.

My biggest concern is the slow response to address contamination from this dump by the City of Anacortes and its Park Department. The potential for contaminated soils, water and streams has been visible and reported for many years. This is especially true for the sides of the old dump seen when walking Trails 124 and 108. A seasonal stream runs along the north end of this old dump and through a low area at the edge of this dump that still contains many items of dumped garbage. This area was ignored when the dump was capped so it is outside of the area the City of Anacortes has addressed. I'm probably one of many residents who sent photos of dumped items in this area to the City of Anacortes over the years. During the winter when plants have few leaves. many items such as dozens of old tires and metal and glass can be seen strewn around in this area. These items are on the dirt bank outside the capped dump and in the season stream below this dump. Some become more visible and are exposed by erosion. This area is in the stream and wetlands and drains into these. Why did the City of Anacortes not remove these items when the old dump was capped? Why were letters and photos sent by the public like me ignored?

The City of Anacortes and its Park Department failed to be interested in this old dump for many years. This only changed when some bike groups and some staff of the Anacortes Park Department decided they wanted to build a bike skills course on this old City Dump. It was

disappointing that this was their motivation to look again at this old dump site. This wasn't because they cared about contamination. This was all about their desire to build the bike skills course in a natural area which is strongly opposed by many people because the ACFL was not protected to build recreational facilities for various user groups such as mountain bikers. Another old Anacortes City Dump is also located near Lovric's Marine off of 12th Street in Anacortes. The trail and its stairs that go down to the Guemes Channel Trail do through this old dump. Erosion and time continues to expose more of the contents of this old dump. The City of Anacortes had an agreement with a local developer to clean up this area and build this small "park" and stairway in exchange for some very expensive city street ends that this developer used to create more waterfront building sites in his adjacent development. The clean-up of this old dump also was not adequate to address possible contamination into the marine ecosystem below, Guemes Channel. Has this area been checked for possible contamination of soil?

I will need to check to see if I still have some of the photos I've sent to the City of Anacortes Park Department documenting the garbage that still remains at these old dumps.

I hope the Department of Ecology closely supervises any work done by the City of Anacortes when addressing contamination at old dump sites. In the past the City of Anacortes and its Park Department has not shown much of an interest in addressing possible contamination caused by these old dump sites.

Thank you for having a comment period and a public meeting on this issue,
Martha Hall
Anacortes, WA

Response:

Thank you for commenting on Ecology's agreed order at A Avenue Landfill.

Prior characterization of the landfill and consideration of remedies for the landfill under Skagit County Health Department requirements are documented in the 10-year Closure Plan prepared in 2009. In that document, the selection of the remedy considers the debris described in your comment and the likelihood of additional buried debris. At that time, the selected remedy proposed removal of debris where practical, physical barriers to limit access to the debris, and leaving debris in place to limit the disturbance of existing soils. The feasibility study (FS) outlined in the current agreed order will consider remedial alternatives (if necessary) and what action, if any, will be taken to address this debris if the debris is determined to be a source of contamination. Public feedback from 2019 was a factor when the site was re-evaluated, and Ecology's No Further Action was withdrawn.

Ecology has a separate concurrent public comment period for an agreed order to address contamination at [Lovrics Sea Craft Inc](https://apps.ecology.wa.gov/cleanupsearch/site/14900)²¹. If the solid waste described in your comment is within

²¹ <https://apps.ecology.wa.gov/cleanupsearch/site/14900>

the scope of that cleanup, you are encouraged to review the agreed order and fact sheet for that work and to consider commenting separately.

Comment from: Martha Hall (2)

I am not hopeful when I hear that the City of Anacortes and its Park Department may be responsible for this clean if this is needed. I had a very unsatisfactory experience with the Dept. of Ecology and its director in my area, North Sound. I live in Anacortes and reported illegal activities by the Anacortes Park Department to Ecology in 2016. I had many photos and had documented these activities carefully over several years. One involved the Park Department adding a large amount of fill on top of an old, logging road through a wetland in Smilely's Bottom, a wetland near my home and adjacent to our high school. People from Ecology visited the site with me and people from the City and its Park Dept. and then wrote an inaccurate report which showed they had not read my extensive reports on this fill and these activities. I was never able to get Ecology's director for this area and the wetland specialist who was involved to fully correct their errors. They also left correcting and addressing illegal fill to the City and its Park Department. Nothing has ever been done that I can see to address these violations such as removing the fill or adequately mitigating all of the many negative impacts caused by this fill and improvements to the old road which has increased traffic and dog use on this road all year which is causing serious impacts to wildlife use of this area. Virginia rails and other interesting species once used and nested in this area, but no more. What did the City do? They formed a secret committee to address these issues and I was not told about this and was not able to participate. Instead, this committee consisted of the people who supported this fill and these illegal activities and a few people who knew little about these illegal activities or their negative impacts. And this is the last I ever heard -that the Park Department formed this committee - about 6 years ago. Is this what Ecology supports when wetlands are negatively and illegally impacted by fill, cutting trees in riparian areas, installing multiple and giant lights on ballfields that light up this entire area and are kept on late into the night and all night, and paving roads and etc. without obtaining proper and required city permits? This is what the City of Anacortes does. The City and Park Department think this is okay.

I took many photos of the old dump in the ACFL which is not being questioned - again - after not being capped and the damaged contained correctly years ago. And Ecology thinks this can be left up to the City and Park Department to fix. The City allowed a small amount of dumping along Guemes Channel, from 12th Street, Oaks Ave, at what is now a small park and stairway to the Guemes Channel Trail. The City traded very valuable street ends in a nearby development to have this developer clean-up this dump and build these stairs. This dump too was not completely clean up. I took and shared photos with the City of this dump too. I also have taken many photos of the dump in the ACFL and all of the garbage, metal, tires, containers, glass, etc that remain in the streambed at the edge of the capped area of this dump. This seasonal stream runs into the wetlands below. I shared some of these photos with the City of Anacortes and received no response. I also photographed areas where the Park Department has filled the shoreline along Little Cranberry Lake and Heart Lake to make or improve old trails made by fishermen years ago. This is fill in wetlands and lakes in areas that are most used by wildlife.

This fill and these trails prevents wildlife from using these shorelines. These also violate the City's CAO. But this does not matter in Anacortes. My photos were mostly ignored - except for the closure of one short section of trail - but without adequate removal of fill and restoration of damaged areas. Many other trails are still damaging our shorelines because of where and how they are built and maintained. Our City supports this. I also documented failures of the City of Anacortes to create the Guemes Channel Trail as a no-net-loss project as promised to the USACE and Ecology and WDFW. This trail system is causing huge and everlasting negative impacts to salmon and other marine life who might use the near-shore habitats which are now filled with armoring and large boulders that continually fall onto this shoreline. These problems have not been addressed. Ecology and WDFW should know about these. I have given both photos and documentation of these violations.

Past behavior and current culture can provide valuable clues for what to expect in the future. I've lived in Anacortes since 1996. I have very low expectations for the City and its Park Department to do the right thing - unless someone else makes them and will pay for it. Ecology needs to ask for adequate funding if it is given the task of protecting and restoring salmon habitat, wetlands, shorelines, etc. Ecology needs adequate and dedicated staff. This self-policing idea only works when the party wants to do the right thing.

Martha Hall

Response:

Thank you for your additional comment on Ecology's agreed order at A Avenue Landfill.

If wetlands or their buffers may be impacted during any potential remedial activities at the A Avenue Landfill site, the City of Anacortes will be responsible for addressing those impacts. The Model Toxics Control Act (MTCA) does not directly regulate wetlands. Visit Ecology's [Wetlands Regulations webpage](#)²² for more information about wetland management.

Comment from: Arlene Cook

Seems to me the Dept of Ecology and City of Anacortes need to determine whether cleaning up the landfill site, with the truck traffic, earthworks, noise, and prolonged general disruption this is likely to entail, will do more harm to the forest than leaving the site as it is. Please don't destroy the forest in order to save it.

Response:

Thank you for commenting on Ecology's agreed order at A Avenue Landfill.

Upon successful completion of the remedial investigation (RI), remedial alternatives will be considered for the landfill (if necessary) and documented in the feasibility study (FS), which will go to public comment. It is unlikely that a selected remedy would have a significant impact on park or forest resources. Adjacent wetlands are protected and require mitigation should they be impacted by a proposed remedy. The State Environmental Policy Act (SEPA) process will be

²² <https://ecology.wa.gov/water-shorelines/wetlands/regulations>

followed for a selected remedy to evaluate the potential environmental impacts of construction. The remedy will be outlined in a cleanup action plan (CAP), which will also ultimately be available for public comment.

Comment from: Jill Bowker

We reside in a neighborhood situated near the A Avenue landfill, precisely on 35th Ct. Estimating the distance to be approximately 1,000 feet from the landfill, I harbor concerns regarding the potential contamination of adjacent regions. Given our lower elevation relative to A Avenue, there is a valid apprehension regarding the likelihood of water and soil contamination in our vicinity. How will you address this concern for our neighborhoods? Thank you.

Response:

Thank you for commenting on Ecology's agreed order at A Avenue Landfill.

The nature and extent of contamination of media will be evaluated through the Remedial Investigation (RI) outlined in the agreed order. Ecology does not anticipate that media impacted above cleanup levels have or will extend beyond the limits of Anacortes Community Forest Lands (ACFL). The nature and extent of contaminated media will be evaluated with more certainty in the RI phase of the cleanup process.

Comment from: Griffin Greenberg

I have some concerns about what the cleanup entails- what steps (besides the MTCA) will be taken to clean up the A Avenue Landfill? I am not local to Anacortes (Kirkland), but upon reading other comments, I noticed concern about the surrounding forest, noise, and further environmental damage. I'm confused about the goal when cleaning up. Is it to build the bike skills park? Is it to create a healthy environment? Who is the clean-up going to benefit? According to the A Avenue Landfill FAQ document, there isn't public access to the landfill. If the contaminant concerns are related to the public, and there isn't any public access to it, will cleaning up be beneficial, or will it cause more harm? It also needs to be clarified how much contaminant has been detected and how it's impacting the local ecosystem. I would argue that public concern isn't as important currently as the native organisms living nearby or in a closed landfill area because there isn't public access.

My last concern is related to the costs of this project. It would be helpful to see a breakdown of the expenses because currently, with my limited knowledge, I'd be worried about corners being cut with the current funding (\$3,969.44).

A vague amount of information has been given to the public. My worries mostly revolve around the impact on the surrounding environment based on what the cleanup would entail, and it would be nice to know if there is a procedure for that.

Thank you.

Response:

Thank you for commenting on Ecology's agreed order at A Avenue Landfill.

The goal of the work under the agreed order is to protect human health and the environment through the Model Toxics Control Act (MTCA) process described in the public outreach materials for the site. The remedial investigation (RI) will aid in determining if contamination impacts are present and whether a remedy is needed at this site. Common remedies for landfill sites include capping of the waste to prevent exposure and limit infiltration, monitoring of groundwater and other media, and institutional controls to protect the remedy. It is unlikely that alterations to park amenities would be included in the proposed remedy or be included in the scope of this work. As part of the MTCA process, the need for a Terrestrial Ecological Evaluation will be considered to determine what plant or animals might be impacted by potential contaminants at a site.

At the stage in the MTCA process for selecting a remedy, a disproportionate cost analysis (DCA) will be used to compare costs of appropriate remedies. Consideration will be made for remedies that are protective, permanent, practicable, feasible, and cost-effective. Municipalities may seek state grant funding opportunities for work at cleanup sites.

The State Environmental Policy Act (SEPA) process will be followed for a selected remedy to evaluate the potential environmental impacts of construction.

Comment from: Ellie Kravets

[See Appendix A for comment in original format and referenced maps.]

The overview map in the public factsheet for this site seems to have an error in the location of Seep 1. I've attached a copy of the map for the sample locations (originally from the 2003 Geomatrix Investigation Plan, but cited in the 2019 Field Report) which shows that the Seep 1 site is much farther to the west (in the area of the debris field) than shown on the current factsheet for this site. The site labelled as "Seep 1" on the current factsheet seems to correspond with soil sampling location S-4 from the 2003 work plan.

Response:

Thank you for commenting on Ecology's agreed order at A Avenue Landfill.

Thank you for noticing and communicating this information. We will share your information with the City of Anacortes and their environmental consultants.

Comment from: Evergreen Islands (Kyle Loring)

Dear Mr. Fawley,

Please see the attached comment letter submitted on behalf of Evergreen Islands.

Sincerely,
Kyle Loring

[See Appendix A for comment in original format]

LORING
ADVISING

By Email

April 19, 2024

Ian Fawley
Washington Department of Ecology
ian.fawley@ecy.wa.gov

**Re: In the Matter of Remedial Action by City of Anacortes
Agreed Order No. DE 22379 and Public Participation Plan
Public Comment**

Dear Mr. Fawley,

I am submitting the comments below on behalf of Evergreen Islands to address the Public Participation Plan ("Plan") and Agreed Order No. DE 22379 ("Order") for the City of Anacortes' ("City") remedial investigation and potential cleanup of hazardous substances at the A Avenue Landfill ("Landfill"). Evergreen Islands appreciates the Department of Ecology's ("Ecology") efforts to ensure that the former landfill is remediated so that it does not continue to present a hazard to the people who recreate in the Anacortes Community Forest Lands ("ACFL") and to the many natural inhabitants that call it home. As you know, that landfill received a wide variety of wastes from the 1970s to 2006 and Evergreen Islands has devoted a significant amount of energy into watchdogging the cleanup and subsequent monitoring. In fact, Evergreen Islands joined other concerned Anacortes residents in 2019 to express concerns about likely contamination when the City proposed to develop a bike skills park for children on top of the landfill.

Evergreen Islands would like to express its support for the robust Public Participation Plan and Agreed Order that Ecology and the City have designed to address contamination from the Landfill. While we are disappointed that it has taken nearly four years to get to this point - the City submitted its formal request to enter into the formal MTCA cleanup program on July 15, 2020 - if implemented as designed, the Order will afford the City the opportunity to investigate and remediate site contamination and the Plan should afford the public the opportunity to monitor these activities. Given the lengthy delay in between notification and the Order, and the ongoing impacts to the ACFL and its inhabitants, we strongly urge the City to meet each deliverable as expeditiously as possible.

We look forward to the implementation of the Order and to meaningful opportunities to review and comment on actions like the remedial investigation work plan and subsequent reports. We also welcome the opportunity to ensure that the current process results in a permanent cleanup of the contamination at the site, unlike the earlier process that resulted in a no further action letter that needed to be set aside within just a decade.

Sincerely,

Kyle A. Loring
Counsel for Evergreen Islands

LORING ADVISING PLLC | PO Box 3356 | Friday Harbor, WA 98250 | 360-622-8060 | kyle@loringadvising.com

Response:

Thank you for your engagement on the cleanup process and Ecology looks forward to continued engagement on the deliverables outlined in the agreed order.

Comment from: Mark Nihart

The Old City Dump contains decades of what is considered today toxic and hazardous wastes. During its active life homeowner products were readily available at the local hardware store such as oil-based paint with lead, red lead primer, zinc chromate primer, copper wood treatment, copper bottom paints; insecticides such as Chlordane and DDT. Some homeowners did their own oil changes, brake work, air conditioning recharges, then put the oil, old brake fluid, transmission fluid, refrigerant and more in the trash.

I believe the trash from local gas stations also made it way to the dump. Additionally, Anacortes had an active industrial base: pulp mill, plywood mill, shake mill, shipyards, and marinas with haul outs where bottom painting took place. Likely industrial materials from these places made their way to the dump; materials such as toluene and benzene and more.

How can the public be sure that the testing will have a full panel screen of these products and other toxic/hazardous waste products buried and leaking in the dump site?

Clearly the dump site was not properly cleaned up and capped. It is a very specious argument, even for a simple-minded small-town boy like me that the debris left were not removed because they would have disturbed the soil: they were just not removed. Standing on the trail one can see items that are above the ground, the many photos concerned citizens took of the site show appliances above ground and stacks of tire above ground and even the Department of Ecology (DoE) photo of the bicycle show the bicycle above the ground. A trail was built alongside the capped dump clearly disturbing the soil.

To provide transparency of process and to better inform the public, is the Department of Ecology and the City of Anacortes going to provide group onsite survey(s) consisting of members of the DoE, City Management, City Council Members, other experts as appropriate and the government organization apparently responsible for the entire problem but not at the table: The Skagit County Department of Health? Is the DoE going to make public the extensive collection of photographs provided them by the concerned citizens?

What event(s) caused concerned citizens to investigate the old dump site, take pictures and engage the DoE to do a formal investigation? Why weren't their photographs included in the DoE presentation?

Before there was a dump it was not a dump but forest lands or wetlands at the old dump site. Does the City have pictures and topography of dump before the site was turned into a dump? Most dumps fill an empty space or dump off a "ledge" into an empty space. The old County dump at Marches Point dumped materials into the tidelands, the one near the Fidalgo School filled an old gravel pit. If the Old City dump site was a wetland or a depression the toxic and hazardous material would be closer to the water table and the material could flow under the surface undetected for long distances. I believe the soil around the dump site is porous.

How will the study be conducted to address the potential underground movement of toxic and hazardous materials via underground water? How will the study be conducted to model different surface water flows? The next "Atmospheric River" could, would change up dramatically, how surface water flows in and around the dump site potentially gouging out previously undisturbed but toxic soil.

For consideration the DoE might review a recent study done by the Department of Transportation (DoT) - "SR 20 Skagit River O'Brian Reach Feasibility Study" – to see how a very comprehensive modeling of surface water flows at different level of flows move through an area... Albeit the modeling of the area around the old dump site would be less complex; however, the DoT model provides a current model for a current problem to leverage as a base model for the Old Dump site.

(The final Skagit O'Brian Feasibility Study Report - Part 1 (PDF 28MB) and the Skagit O'Brian Feasibility Study Report - Part 2 (PDF 26MB) documents the analyses and evaluation used in the study to develop the conceptual alternatives and conceptual design.)

It has been years since concerned citizens provided photographs and their request to review the old dump site for contamination. Tests were done by the DoE and found the site leaking problem toxic wastes. The City of Anacortes was told of DoE findings and a change of status for the site.

Why weren't danger signs posted immediately to warn people to keep their dogs and children from going off trail. Dogs likely have been drinking the toxic water and children may have ventured into the streams out of curiosity or just being kids thus exposed to toxic waste. In the interest of public safety are signs going to be posted in the future?

It is common practice in academia and even government and business to conduct peer reviews of research studies and or fund alternate independent research studies. Indeed, the DoE might fund a study in which the researchers find x, then industry funds a study that contradicts x as their researchers find y. The takeaway is researchers' findings can be different depending on who funds the researcher. The tobacco, fossil fuel and pharmaceutical industries are classical examples of this phenomena. Alas, this why multiple studies are necessary to get a comprehensive understand of what is being studied before a single study is considered solid acceptable research.

To keep public confidence and continue with an open and transparent public process by a public organization is the DoE going to engage other scientists to conduct peer reviews of the city plan funded study and fund independent studies with independent sampling of key areas?

Response:

Thank you for commenting on Ecology's agreed order at A Avenue Landfill.

The City of Anacortes will enter into an agreed order with the Department of Ecology, whereby the City will perform the work described in the public outreach meeting and materials. The public outreach efforts described in the agreed order provide ongoing opportunities for stakeholders to engage with Ecology's work at the landfill.

The landfill is managed by the City Parks and Recreation Department in coordination with the Skagit County Public Health Department (SCPHD). However, there has been no consideration at this stage to engage the County with the proposed work.

Ecology has extensive experience investigating landfills and we understand that many contaminants may be present. Potentially impacted media will be sampled during the remedial investigation (RI). Some of the samples will be analyzed for a wide range of hazardous substances to ensure that we identify all of the potential contaminants at this site. Once the contaminants of potential concern have been identified, analyses will focus on those contaminant classes.

Ecology maintains a directory of legal agreements, technical documents, and other information on its public-facing website for the landfill site. Ecology used an image of the visible refuse at the landfill for slide #13 in the public meeting presentation, and the same image was also used

in the fact sheet. It is uncertain what documentation Ecology received from residents prior to this public outreach event.

The remedial investigation (RI) will examine the impacts of infiltration, surface water, and groundwater flows on the potential for transport of constituents in media. It is unknown if a modeling effort of surface runoff or groundwater flow would be justified at this site.

Ecology made the determination to rescind the No Further Action (NFA) determination in February 2020. This agreed order will start the process for additional characterization of media and exposure pathways at the site.

Ecology has not recommended any immediate changes to institutional controls at the site (such as signage) based on available data. Institutional controls will be evaluated as part of this agreed order.

Ecology strives to maintain consistent processes on cleanup actions across the State based on the Model Toxics Control Act (MTCA) and incorporating best available science. The investigation and any remedial actions will be performed by the City and their consultants and will be submitted for review and approval by Ecology and considered for public comment. Ecology does not currently have any plans to engage any outside agencies in this part of the process.

Comment from: Carol Bordin

Dept of Ecology: I am submitting my brief comments today regarding the A Avenue Landfill/Toxic Dump here in Anacortes, Washington. My comments are as follows: (1) The City of Anacortes needs to restore this entire site including uplands and lowlands from this point source emanating its toxic chemicals. The site needs to be "Restored to Pre-Existing Conditions", period. (2) If the City does not pursue cleaning the area, they should be charged to hire a remediation team/s to conduct the necessary work for however long it takes to return this area to pre-existing conditions with safety precautions utilized during all work/remediation/restoration. (3) The work should be conducted during the low precipitation season of the year/s to avoid unnecessary leaching of chemicals to downstream/lowlands from which they emanate. (3) Contaminated soil/water should be contained in an offsite location for purification. (4) After removing all contaminants from the site, new soil (tested for any chemicals should be used) before covering the area in the amount deemed to meet pre-existing conditions) should be utilized. (5) All safety/health standards and methods should be used/realized in the cleanup at the site and both up/downstream of the site/dump to lessen any contaminants leaving the area. (6) Native plants/trees should be planted at the site and brought to pre-existing conditions to help recover/restore the area. (7) The site should be monitored during cleanup, remediation, full restoration, and frequently (Bimonthly) to determine contaminant containment and/or further leaching of chemicals into the wetlands, beaver ponds, Little Cranberry Lake, and surrounding area/s. (8) Native plants/trees also need to be monitored to ensure survival and if mortality, replaced with new native plants/trees/native grasses. Monitoring needs to be done biannually. (9) This area is a major problem and with it comes with leaching of toxic chemicals into our wetlands, beaver ponds,

and streams flowing into the Salish Sea. This area needs to be entirely free of these chemicals and brought back to Pre-Existing Conditions! (10) Many species of wildlife utilize the forested area/wetlands/pond/lake including: beavers, trumpeter swans, geese, a host of songbirds, bald eagles, prairie falcons/hawks, owls, raccoons, deer, opossum, rabbits, otters, and other native species both aquatic and terrestrial. They are truly affected by the toxic chemicals suspended in the water and latent in the soil (11). Please hold the City of Anacortes accountable for all remediation of this site = A Avenue Landfill/Toxic Dump to Pre-Existing Conditions. (12) Close the dump/landfill area completely for no more use! (13) This site is useless and is not necessary due to the fact that there is a Skagit County dump located in Mt. Vernon. (14) Human residents should no longer be made to be further affected by walking/hiking/playing in the forested area and wetlands with leaching toxic chemicals emanating from this toxic site!

Thank you for your serious and timely consideration and remediation by the City of Anacortes for this A Avenue Landfill/Toxic Dump site. There has been way too much time wasted in not fully cleaning up this site and doing so properly with the correct intentions! Bring the area back to Pre-Existing Conditions for the sake of this beautiful area, its wildlife, and its human inhabitants in the area.

Regards,
Carol Bordin
Resident/Anacortes/Retired Biologist

Response:

Thank you for commenting on Ecology's agreed order at A Avenue Landfill.

The goal of the Model Toxics Control Act (MTCA) is to identify, investigate, and cleanup sites where hazardous substances have come to be located and may pose a threat to human health or the environment. A common remedy for landfill sites is to leave waste in place, and to protect human health through capping, monitoring, institutional controls and other measures.

It is unknown what the selected remedy will be for this site, if a remedy is required by the findings of the remedial investigation (RI). Consideration will be made for remedies that are protective, permanent, practicable, feasible, and cost-effective. A draft feasibility study (FS), if necessary, will allow for analysis of potential remedies and will be submitted for public comment per the agreed order.

Ecology does give consideration for seasonal regulatory stream closure periods (and other habitat considerations), but this issue is not currently anticipated at this site.

Construction specifications and criteria for imported soil, if necessary, will be considered.

There are occasionally planting considerations included as part of a proposed remedy. Tree planting is outside the scope of the work under this agreed order.

Regular monitoring of impacted media is a likely consideration for a selected remedy at this site.

It is Ecology's understanding that the site ceased municipal landfill operations in the early 1970's and the site was used for storage of public works materials in the subsequent years.

Comment from: Paul Vance

Under Order, VII Work to be performed, consider incorporating a requirement to ensure seasonality is considered in the site assessment and remedial investigation since undersoils water level and flow may change with the seasons and specific seasonal conditions may be necessary to transport any hazardous material present outside the landfill and impact the environment and wildlife deleteriously.

Response:

Thank you for commenting on Ecology's agreed order at A Avenue Landfill.

Seasonality is generally considered in characterization of groundwater at the site and will be addressed in the site characterization in the remedial investigation (RI).

Comment from: Kathleen Lorence-Flanagan

Thank you for the public meeting on April 15 regarding the "Agreed Order" and the "Public Participation Plan" for the A Avenue Landfill in the City of Anacortes. It was informative but made me wonder why it was not presented closer to the March 25 opening of the Public Comment Period rather than 8 days before the ending date. That said, the documents seem acceptable and it is appreciated that the "Washington's Cleanup Process" includes multiple additional opportunities for Public Comment.

A significant amount of time has passed since contamination at the site was brought to the attention of the City of Anacortes, Skagit County Public Health and the Department of Ecology. There is some irony that it was community members who, in 2019, raised the alarm about contamination at the site one year before a 10-year post-closure monitoring period was due to end. What happened that the contamination was missed by the involved entities? It is hoped the Remedial Investigation will be more thorough (i.e. not just "2 seep" points). And regardless of the findings, I hope a Clean-Up Action Plan will be prepared and followed. Per photos circulated by a concerned citizen, it is clear significant clean-up is in order for protection of the users and the resident animals of the Anacortes Community Forest Lands. In advance, I'd like to acknowledge the efforts of the City and DOE to remedy the situation, and return the site to some semblance of its pre-existing condition. Thank you.

Response:

Thank you for your comment and for joining us at the public meeting. Regarding the scheduling of the public meeting, Ecology coordinated the earliest date of the meeting with the City of Anacortes as possible. Due to the Anacortes School District's Spring Break (April 1-5, 2024) and a meeting test run from City Hall the following week, we had to schedule the meeting later than normal on Monday, April 15, 2024. Ecology intentionally schedules meetings after the first week of the comment period so that there is enough advance notice for the community to join

after receipt of the fact sheet mailer (approximately Friday, March 22, 2024) and to allow time to review documents before a public meeting.

Ecology made the determination to rescind the No Further Action (NFA) determination in February 2020. This decision was made in response to communications by the public to Ecology in 2019 and a subsequent Initial Investigation in November 2019.

A comprehensive remedial investigation (RI) will be performed under this agreed order. It is unclear what the fate will be of any large debris identified at the site. A draft cleanup action plan (DCAP) will be prepared under this agreed order if deemed necessary by the remedial investigation (RI) and feasibility study (FS).

Appendices

Appendix A. Public comments in original format