LUMMI INDIAN BUSINESS COUNCIL
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DEPARTMENT_____DIRECT NO. _____

DATE: April 29, 2024

Sunny Becker, Environmental Engineer
Washington Department of Ecology
Sent via Email

Subject: Lummi Natural Resources Departments Comments on the Draft Remedial Investigation

After reviewing the Draft Treoil Industries Biorefinery Remedial Investigations Report (dated March 27, 2024) (RI), we identified the following points as being of particular concern to us for inclusion in the final Remedial Investigation Report and subsequent inclusion in the Conceptual Site Model and feasibility studies. The concerns should be addressed to assure resource protection for Lummi tribal members to take fish and shellfish at their usual and accustomed grounds and stations, as reserved for them in perpetuity through Treaty of Point Elliot.

Surface Water and Wetland Contamination:

The Conceptual Site Model states there are no water or wetland contaminants of concern. There is concern the full extent of the contamination within the wetlands adjacent to the site was not characterized, nor was the potential of discharge off the contaminated site into adjacent wetlands and/or surface water (which includes ditch conveyance to surface water). Wetland boundaries and hydrologic connectivity on and off the contaminated site to adjacent wetlands and to fresh and marine surface water should be adequately characterized during the wet season. Hydrologic connectivity is of greater concern if it is to the Strait of Georgia.

In Section 2.6.3 (Wetlands) it is stated there is presence of wetlands adjacent to and encroaching the contaminated site. In Section 3.1 (Deviations from the Work Plan) proposed sample locations were excluded that were not accessible due to the presence of dense vegetation and fence lines. There is concern that the full extent of the contamination was not characterized, and the dense vegetation area that was avoided was a wetland. Additional concern would be if the wetland has hydrologic connectivity to the contaminated site and to surface water.

The Conceptual Site Model states there are no surface water contaminants of concern. This would insinuate that there is not surface water contamination, which is not well supported by the evidence presented in the report. Until the site is adequately cleaned up, there is potential for surface water contamination through stormwater runoff and wetland hydrologic connectivity from the site.

In section 2.2, (Site History and Use) it is stated there are hydraulic connections from active portions of the property with three drainage ditches that connect with an unnamed intermittent stream that ultimately discharge into the Strait of Georgia. In Section 2.6.2 (Hydrogeology) it is stated precipitation appears to flow southwest toward a wetland and a larger drainage ditch. The Conceptual Site Model and

feasibility studies should include contaminants of concern that have the potential to discharge off the site into adjacent wetlands/surface water. The potential for offsite contamination is identified in the draft RI, and we concur with the finding that additional impacts remain—i.e., the concerns raised above, and those explicitly and implicitly identified in the RI.

Groundwater Contamination:

The position that there is not groundwater contamination is not well supported by the evidence presented. The position is largely implied and not tested. In addition, if there are concerns about downstream impacts, the potential for contaminated surface water to infiltrate into the ground and contaminate groundwater should be evaluated.

We request more investigation to make sure there is not potential groundwater contamination. It appears that the study was more focused on toxics than hydrogeology. The RI concludes that there is not groundwater contamination based on 1) not finding groundwater in borings on-site, and 2) the presence of standing water on site during the wet season—not a truly definitive approach.

Thirteen (13) borings were advanced to between 20 and 55 feet below ground surface (bgs) that did not encounter groundwater. Logs of the borings are not provided, nor are well logs for wells in the area. Based on well logs from the area, there is groundwater at depth ~138-152 ft bgs, 204-218 ft bgs, 170 ft. bgs (see attached logs). The logs do indicate the presence of clay. However, nearby 20 ft deep wells drilled for Burlington Northern Santa Fe (BNSF) railroad indicate silty sand and gravel from 0 to 20 ft bgs (example attached), very different than what is shown in the cross sections in the RI.

There are other studies that may also be helpful. Attached is a groundwater study of the Mountain View Upland. There is a recent geomorphic map which may be helpful [Geomorphic map of western Whatcom County, Washington | U.S. Geological Survey (usgs.gov)], and insight can also be found in the Whatcom Groundwater Model and related documents [Quality Water for Future Generations - Groundwater Model Documents (whatcomcounty.org)].

The position that there is not groundwater contamination may be accurate, but that position is not well supported by the evidence presented—i.e., the position is largely implied and not tested. In addition, if there are concerns about downstream impacts, the potential for contaminated surface water to infiltrate into the ground and contaminate groundwater should be evaluated.

Cultural Resources

Because this site is within the Lummi Nation usual and accustomed grounds and stations, as reserved for them in perpetuity through Treaty of Point Elliot, the Lummi Cultural Resources Department should be notified of all activities that include excavation, if they haven't been notified already.

Please continue to keep us informed throughout the cleanup process, and we request a site visit; please call to arrange a visit when you will be out there.

Merle Jefferson, LNR Director