



Responsiveness Summary

For comments on the following documents:

- **Prospective Purchaser Consent Decree**
- **State Environmental Policy Act (SEPA)**
- **Determination of Non-Significance (DNS)**
- **Public Participation Plan**

To Address Additional Cleanup at the North Yard Property

**(Aka King County Metro Transit Facilities North Site and former
Chevron Bulk Fueling Terminal #100 - 1327 Site)**

**1602 N. Northlake Way,
Seattle, Washington**

June 2007

**Prepared by the Washington State Department of Ecology
Northwest Regional Office, Bellevue, Washington**

Table of Contents

Introduction.....	1
Summary of Public Involvement Actions.....	3
Key Concerns Identified	3
Summary of Ecology’s Decision	3
Summary of the Proposed Plans to Address Additional Cleanup	4
Proposed Prospective Purchaser Consent Decree	4
Proposed Cleanup Action Plan	4
Compliance Monitoring and Sampling and Analysis Plan:	5
State Environmental Policy Act (SEPA) Checklist and Determination of Non Significance:.....	5
Site Background.....	5
Contaminants of Concern.....	6
Previous Cleanup Work	6
Phase 1 Cleanup Activities.....	6
Phase 2 Cleanup Activities.....	6
Proposed Additional Cleanup for the North Yard Property.....	7
Comments Received and Ecology Responses	9
Comment 1: Genevieve Vayda.....	9
<i>Key Concerns: SEPA Process for Cleanup and Development</i>	9
Comment 2: Susan Deneen.....	11
<i>Key Concerns: SEPA Process for Cleanup and Development</i>	11
Comment 3: Toby Thaler.....	12
<i>Key Concerns: SEPA Process for Cleanup and Development</i>	12
Comment 4: Bob Young.....	13
<i>Key Concerns: Public Comment Period Extension</i>	13
Comment 5: Genevieve Vayda.....	13
<i>Key Concerns: Public Participation Process and Public Disclosure Request.....</i>	13
Comment 6: M. Yvonne Heuving	15
<i>Key Concerns: Community Impacts resulting from Cleanup Activities.....</i>	15
Comment 7: North Yard Property - Public Meeting - Questions and Answers.....	16
<i>Chief Respondent: Maura O’Brien, Department of Ecology.....</i>	16

Comment 8: Public Hearing Comment.....23
 Key Concerns: SEPA Process for Cleanup and Development 23
Contact Information and Repositories26
Information Repositories26
Appendix B: Copies of Written Comments.....30

Note: *These comments were placed in a random order in this document; there is no rationale for the order.*

Introduction

The Washington State Department of Ecology (Ecology) held a public comment period from February 1, 2007 to March 29, 2007 on the proposed Prospective Purchaser Consent Decree, State Environmental Policy Act (SEPA) Checklist, Determination of Non-Significance and Public Participation Plan for the additional cleanup at the North Yard property. The North Yard property is approximately one-half of the King County Metro Transit Facilities North/Metro Lake Union site and former Chevron Bulk Fueling Terminal #100-1327 located near the north shore of Lake Union at 1602 N. Northlake Way in Seattle, Washington (see site map on page 8). This document provides a summary of comments received during the public comment period, and summarizes Ecology's responses to those comments.

The King County Metro Transit Facilities North/Metro Lake Union Site (Metro Lake Union Site) consists of two parcels—a South Yard and a North Yard. Since 1999, King County and Chevron conducted cleanup at the entire site. However, petroleum hydrocarbon contamination continues in localized pockets of the site. These localized pockets exceed the established cleanup levels for the site. Touchstone Corporation (Touchstone) intends to purchase the North Yard Property to conduct cleanup and to construct an office building with an underground parking garage.

In January, 2007, Ecology and Touchstone negotiated a new legal agreement called a Prospective Purchaser Consent Decree (PPCD) for additional soil cleanup at the North Yard property. The proposed PPCD requires Touchstone to cleanup soil contamination within the property it purchases. The proposed cleanup will result in removal, treatment and off site disposal of contaminated soil from the property. This proposed Prospective Purchaser Consent Decree and cleanup is in addition to the existing Consent Decree between Ecology and King County Metro and Chevron signed in 1999. The PPCD proposes using more stringent cleanup levels for the soils within the North Yard. Soils outside of the North Yard property and groundwater cleanup remain the responsibility of King County Metro Transit and Chevron under the existing Consent Decree.

Ecology invited the public to comment on the proposal to enter into a legal agreement with Touchstone and made available the following related documents for public review and comments:

- Prospective Purchaser Consent Decree including the Cleanup Action Plan (CAP).
- State Environmental Policy Act (SEPA) Checklist.
- SEPA Determination of Non-Significance (DNS)
- Public Participation Plan

The initial comment period ran from February 1 through March 2, 2007. This comment period was extended for a public meeting and public hearing on March 22, 2007 and the comment period was extended to March 29, 2007. The extension was in response to requests from members of the community to hold a public meeting.

Ecology held a public meeting and hearing at the Hamilton Middle school on March 22, 2007 to provide information and take comments. The public meeting included an open house, a presentation on the proposed cleanup, a question and answer session, and a public hearing. The question and answer session was designed to provide immediate responses to the public's questions and concerns.

Ecology appreciates the input and the time and effort of those who submitted comments. Ecology received six written comment letters from interested individuals during the comment period ending March 29, 2007. Each comment letter was reviewed and we identified significant comments within each submission. In this document, the written comments are quoted directly and are presented in bold. Each comment letter is divided into sections in order to adequately address significant issues raised in each of the comments. Ecology's response, presented in regular type, follows each comment. The oral comments received during the question and answer section of the meeting are written largely verbatim in this document. Transcribed notes of questions and answers during the public meeting and the public hearing are included in this Responsiveness Summary, **see Comment 7 below**.

Appendix B contains the original comment letters in their entirety.

Summary of Public Involvement Actions

Public Involvement activities related to this public comment period included:

- Fact sheet describing the site and the proposed cleanup activities was mailed to approximately 1800 people and organizations.
- Display ads were published in *Seattle Times* and the *North Seattle Herald Outlook* on February 1, 2007 and March 15, 2007.
- Press releases announcing the proposed plans, comment period and public meeting/hearing were sent to Seattle daily papers and broadcast media. Seattle Weekly, North Central Outlook, Ballard News Tribune, Queen Anne News, Capitol Hill Times, and to subscribers who receive all of the department's news releases.
- Washington State Site Register published notice on February 1, 2007, February 15, 2007, March 1, 2007; and March 15, 2007.
- The documents were posted on the Washington State Department of Ecology (Ecology) web site: http://www.ecy.wa.gov/programs/tcp/sites/metro/fn_main.html
- Notices were posted on public bulletin boards at the Fremont and Wallingford Public Libraries and at the proposed cleanup site on the fence of the property announcing the public meeting and hearing.
- Copies of the above documents were available at three locations including Ecology's Northwest Regional Office, the Fremont and Wallingford Public Libraries.
- Informal meetings were held with concerned community members.

Key Concerns Identified

The main concerns expressed during the public comment period and public meeting included the following:

- SEPA process.
- Land use Issues.
- Potential impacts from land development.
- The preferred alternative and community impacts.
- Public participation process.

Summary of Ecology's Decision

The comments received from the public are important to the proposed additional cleanup actions at this site. These comments have been addressed. These comments do not represent a substantial change to the proposed cleanup and associated documents. They do not require substantial changes to the Proposed Prospective Purchaser Agreement, SEPA checklist and DNS or the Public Participation Plan. We have finalized these documents and we do not plan to schedule an additional public comment period at this time.

Summary of the Proposed Plans to Address Additional Cleanup

Proposed Prospective Purchaser Consent Decree

The Prospective Purchaser Consent Decree negotiated between Ecology and Touchstone requires Touchstone to cleanup soil contamination located within the property it purchases. The proposed cleanup will result in removal, treatment, and off-site disposal for the contaminated soil at the North Yard Property.

Touchstone will cleanup soils within the North Yard Property to cleanup levels for unrestricted use. These cleanup levels are more stringent than the industrial cleanup levels in the existing Consent Decree with King County Metro Transit and Chevron and Ecology. The more stringent cleanup levels will remove existing restrictions that limit the use of the property to industrial uses. King County Metro Transit and Chevron will continue their existing responsibilities for cleanup for soil outside of the North Yard property and groundwater underlying the entire site.

Proposed Cleanup Action Plan

The proposed Cleanup Action Plan (CAP) describes the selected cleanup actions and outlines steps Touchstone will take to cleanup the North Yard property. The selected cleanup actions include:

- Construction of temporary sumps to remove the saturated pockets of petroleum substances.
- Excavation and off-site treatment and disposal of petroleum contaminated soil.
- Dewatering, testing, treatment and disposal of petroleum contaminated water prior to and during construction, if required.
- Soil compliance monitoring to confirm that contaminated soil has been removed as required in the PPCD.

In order to protect human health and the environment, the cleanup plan also includes an environmental contingency plan. The contingency plan provides a summary of the chemicals identified at the North Yard property and guidelines for addressing the chemical hazards during construction.

The protective measures to be taken include a temporary and five-year cover if cleanup work is stopped after it begins. If cleanup work is stopped for 14 days, Touchstone will install and maintain a temporary cover over any exposed soil on the North Yard property with storm water controls. If work stoppage is expected for more than 60 days, then a cover with storm water controls capable of being in service for five years will be constructed and maintained.

Compliance Monitoring and Sampling and Analysis Plan:

The compliance monitoring and sampling and analysis plan describes the sampling procedures, analytical methods, and the compliance monitoring requirements for completion of the cleanup actions at the North Yard property. This plan is required as part of the site cleanup and monitoring process under Model Toxic Control Act.

State Environmental Policy Act (SEPA) Checklist and Determination of Non Significance:

The State Environmental Policy Act (SEPA) requires an evaluation whether the proposal is likely to have significant adverse environmental impacts. The SEPA environmental checklist asks a series of questions designed to assist the lead agency in making a determination of whether or not the proposal will likely have a significant adverse impact on the environment.

In this case, the City of Seattle Department of Planning and Development and Ecology agreed to share lead agency responsibilities. Ecology is the lead agency for the cleanup part of the proposal, and the City of Seattle is the lead agency for the development. SEPA review of the proposed cleanup and redevelopment of the property was conducted as a phased review. SEPA authorizes phased review of a proposal to assist agencies and the public to focus on issues that are ready for decision and exclude from consideration issues already decided or not yet ready. In this case, the remedial action phase was ready for review by Ecology, which is the agency with the expertise to best analyze the environmental impact of the remedy.

Ecology reviewed the SEPA checklist submitted by Touchstone for the cleanup phase of the proposal and other site documents and determined that significant adverse environmental impacts are not likely to be caused by this project. Ecology therefore issued a Determination of Non-Significance (DNS) for this proposed cleanup action. Ecology's decision on phase 1, the cleanup, does not determine the ultimate land use or development of the property nor foreclose options the City of Seattle may have as part of its SEPA review of the impacts of any proposed development.

Site Background

In 1925, Standard Oil of California constructed the facilities, and operated a diesel and bulk fueling and storage facility for several decades. In 1982, Metro (formerly the King County Department of Metropolitan Services) purchased the property. King County Department of Transportation Metro Transit operated a fueling station during the mid-1980s and closed the tanks in 1989. By April 1992, all of the aboveground storage tanks were drained, cleaned and locked, and the piping to the tanks was flushed, cleaned and capped. King County Department of Transportation Metro Transit began using the facilities as an office and maintenance base.

In 1999 Metro and Chevron signed a Consent Decree with Ecology and began cleanup at the entire site including both the North Yard and South Yard.

Contaminants of Concern

In 1993, a study called a *Remedial Investigation/Feasibility Study* (RI/FS) was conducted to determine the extent of contamination and cleanup options for the site. Additional work was conducted between 1994 and 1998. The RI/FS study found the following:

- Shallow soils near the aboveground storage tanks were contaminated with metals (arsenic, cadmium, lead, and mercury). The shallow soils were contaminated by the sandblasting of the storage tanks and painting operations.
- Deeper soils and ground water were contaminated with petroleum hydrocarbons including total petroleum hydrocarbons (TPH), volatile organic compounds for benzene, toluene, ethylbenzene and xylenes (BTEX), and poly-aromatic hydrocarbons (PAHs).

Previous Cleanup Work

In 1999, King County Metro Transit and Chevron entered into a Consent Decree with Ecology to clean up the entire Facilities North site, also called the Metro Lake Union or Metro Tank Farm site and former Chevron Bulk Terminal #100-1327. The 1999 Cleanup Action Plan included two phases.

Phase 1 Cleanup Activities

Phase 1 work was conducted in 1999 and removed the above ground tanks and shallow piping and tank structures.

Phase 1 cleanup removed the shallow soils in the tank farm area that were contaminated with metals. The metal contamination resulted from painting operations at the tanks using sand blasting and lead based paint. After excavation of the shallow soils with metal contamination, the compliance monitoring showed that all metal contaminated soils were removed from the former tank area for off-site treatment and disposal. Ecology issued a notice of completion for the phase 1 cleanup actions in 2000.

Phase 2 Cleanup Activities

Phase 2 work was conducted from 1999-2007 to cleanup the deeper soils and groundwater with petroleum contamination. This contamination includes total petroleum hydrocarbons for diesel and oil, volatile organic compounds for benzene, toluene, ethylbenzene and xylenes, and poly-aromatic hydrocarbons (PAHs). Phase 2 cleanup used three methods of bioremediation:

1. Hydrogen peroxide injection involves adding hydrogen peroxide to the soil which increases the amount of oxygen available to microorganisms. The microorganisms eat and digest the petroleum substances, changing them into different substances that are not dangerous to the environment. The increased oxygen increases the microbial activity of the microorganisms allowing them to breakdown the petroleum substances at a faster rate.

2. Extraction Pumping involves removing petroleum substances from saturated soil and groundwater using an extracting pumping method and a vacuum truck to remove the extracted substances and take the substance off-site for treatment and disposal.
3. Biosparging involves pumping air into the groundwater to increase circulation adding oxygen and breakdown of the petroleum substances.

The cleanup actions conducted by KCDT Metro Transit and Chevron since 1999 are mostly complete and a large part of the site has achieved cleanup to industrial cleanup levels and is in compliance with the MTCA cleanup regulations.

However, there are small zones of petroleum contamination remaining on site primarily in the North Yard. These localized pockets or residual pockets contain petroleum contamination. These localized pockets of petroleum contamination require additional cleanup.

Proposed Additional Cleanup for the North Yard Property

The proposed additional cleanup by Touchstone will remove the petroleum pockets and remove the sources of contamination at the North Yard Property. Touchstone will use stringent cleanup levels for unrestricted land use. KCDT Metro Transit and Chevron will continue their responsibilities for cleanup for the soils outside of the North Yard Property and for groundwater through out the entire site. Cleaning up this site will help better protect Seattle and the North Lake Union community from contamination, and provide greater protection to Lake Union and its aquatic life and endangered species and it will provide less cost for long-term monitoring.

This cleanup will increase protection to human health and the environment including Lake Union and the aquatic life within Lake Union. This cleanup will provide greater protection for salmon and Endangered Species, as shown in the following reports:

- Gas Works Sediment Western Study Area Data Report (Floyd Snider, December 7, 2005).
- Gas Works Sediment Western Study Area Current Situation Report and Remedial Investigation/ Feasibility Study (RI/FS) Work Plan (Floyd Snider, March 21, 2005).
- RI/FS Report (Floyd Snider, May 2007), Joint Source Control Evaluation (Floyd Snider, February 27, 2007), and US Fish and Wildlife (Roger Tabor, oral communication, February 20, 2007).



Comments Received and Ecology Responses

Comment 1: Genevieve Vayda

Key Concerns: SEPA Process for Cleanup and Development

- 1.1 I request a "public meeting" on the above decisions before you make them. Ecology's February 2007 notice says this opportunity for public input into decisions affecting this public property will happen if "ten or more people request." I also request an extension of the comment period, for reasons elucidated below in this letter.**

Ecology's Response:

The Model Toxics Control Act (MTCA) requires a 30-day public comment. The comment period for this site was initially scheduled for February 1-March 2, 2007. The comment period was extended to March 29, 2007, and the public meeting and public hearing were held on March 22, 2007.

- 1.2 We further request that you combine consideration of the two "phases" of this project (clean up and development) for purposes of the SEPA checklist. These two decisions are intimately related. The development proposed by Touchstone could not occur without hauling away 95,000 yards of soils, an essential step for their proposed parking garage. The soil removal is justified as a MTCA clean up, but the proposed soil removal is not legally required, and does not necessarily constitute a "higher level" or "superior" clean up.**

Ecology's Response:

For SEPA, Ecology and the City of Seattle Department of Planning and Development (City) agreed to share lead agency status and conducted a phased review of the project. Ecology agreed to be the lead agency for phase 1 of the project (cleanup) and the City agreed to be the lead agency for phase 2 (development). Phased review is authorized under the SEPA rules, see WAC 197-11-060(5). Phased review is used to assist agencies and the public to focus on issues that are ready for decision and exclude from consideration issues already decided or not yet ready. Ecology's decision on phase 1, the cleanup, does not determine the ultimate land use or development of the property nor foreclose options the City may have as part of its SEPA review of the impacts of any proposed development.

Ecology made a SEPA threshold determination for the proposed cleanup action. Ecology evaluated the SEPA checklist and site documents and determined the cleanup portion of the project would not result in probable significant adverse impacts to the environment. Ecology then issued a DNS. The proposed cleanup using excavation and off-site treatment and disposal is a standard method of site cleanup. This method uses a permanent solution to the maximum extent possible and provides a reasonable restoration time frame thus following the threshold requirements under the MTCA, see WAC 173-340-360(2)(b).

The proposed removal of contaminated soil by Touchstone will result in a more complete cleanup of the property.

Chevron and KCDT Metro Transit have conducted six years of cleanup treatment at the site using three methods of Bioremediation. These treatment methods have removed as much of the soil contamination as they are able to given the site substrate and site characteristics. In other words, treatment methods used at the site have been exhausted and it appears these methods will no longer work to provide more cleanup, see Third Quarter 2003 Groundwater Monitoring and Site Status Report (SAIC, January 9, 2004).

Localized pockets of soil contamination remain that exceed the industrial cleanup levels that were set for the site under the Consent Decree with Chevron and KCDT Metro Transit. Excavation of that soil is the remaining feasible method to remove the contamination and prevent its potential migration. Ecology had contacted both Chevron and KCDT Metro (Ecology memorandum, July 13, 2005) about the need to excavate these localized pockets to attain the industrial cleanup levels required by the prior decree.

At this time, Touchstone is agreeing to clean up the soil at the property to a lower, or more stringent, level than industrial cleanup levels established in the prior Consent Decree between Ecology, Chevron, and KCDT Metro Transit. This will remove restrictions that currently limit the property to industrial uses.

1.3 There are a number of errors and omissions in the SEPA checklist signed on January 19. Ecology's February notice has similar problems. No decision should be made until these problems have been fixed, and the public and affected neighbors are given the chance to review complete and accurate environmental impact analyses.

You as decision makers should require no less.

Please make sure I am on your lists to receive notice of further actions.

Ecology's Response:

No list of errors and omissions has been provided to Ecology. The following errors and omissions were mentioned via telephone:

- **The South Wallingford Neighborhood twenty-year plan was not included in the checklist.** City of Seattle stated that this plan was not an approved plan by the City (oral communication by Scott Kemp 3/02/07). The South Wallingford Neighborhood plan is to develop the North Yard site as a community center with an aquatic and alternative energy center. Ecology did not review this plan. This plan does not shed light on the environmental impacts of the cleanup remedy. The cleanup phase of the project is not a decision about the future land use. That decision will be made by the City as part of the development phase of the project.
- **The South Wallingford proposed aquatic park/alternative energy and community center plan was not included in the checklist.** Ecology did not review this plan. See above response.

- **The listed name, the KCDT Metro Transit Facilities North site name was not meaningful to the neighborhood.** The neighborhood uses the name the Metro Tank Farm. Note, KCDT Metro Transit has the name “Metro Facilities North” posted on the building in large letters readable from the street. This name has been posted on the building since at least 1993. After Ecology received this request, Ecology added the Metro Tank Farm as an alternative name to the listed name for all documents for public involvement such as the public meeting notice, display ads, postings for the public meeting, and newspaper press releases.
- **Ecology’s use of 0.5 mile radius to identify the geographical extent of concerned persons and businesses surrounding a site for proposed public comment was inadequate.** Ecology was following its own guidance for conducting a public comment process. This guidance recommends for Ecology to use the 0.5 mile radius. This is in addition to other requirements such as the state standard list requesting notification and tribal notification.

Ms Genevieve Vayda’s name and address were added to the mailing list and Ecology requested other additional names and organizations to be added to the mailing list. Ms Vayda supplied additional people and organizations to be added to the mailing list and this was completed prior to and was used for the notice of the public meeting and public hearing.

Comment 2: Susan Deneen

Key Concerns: SEPA Process for Cleanup and Development

- 2.1 In the interest of transparency, please hold a public meeting on the above issues before you make your final decisions.**

Ecology’s Response:

See response to comment 1.1 and a public meeting and public hearing were added to the schedule and held on March 22, 2007 in the neighborhood at Hamilton Middle School.

- 2.2 Also, it appears as though the developer is poised to get a free basement excavation and pollution cleanup at taxpayer expense. That's all the more reason to be transparent in your dealings... and to look at the big picture before you leap.**

Ecology’s Response:

The proposed Cleanup at the North Yard Property will be paid for by the prospective purchaser, Touchstone Corporation and will not be at taxpayers’ expense.

- 2.4 You should combine consideration of the two "phases" of this project (cleanup and development) for purposes of the SEPA checklist. These two decisions are intertwined.**

Please make sure I am on your lists to receive notice of further actions.

Ecology's Response:

See response to comment 1.2. Ms Susan Deneen was added to the public involvement mailing list as requested.

Comment 3: Toby Thaler

Key Concerns: SEPA Process for Cleanup and Development

- 3.1 **At its regular meeting of February 26, the board of the Fremont Neighborhood Council authorized submittal of the letter below. The FNC represents hundreds of Fremont residents, including a number who live in the vicinity of the project.**

Please contact me if you have any questions. If you wish to attend the next FNC board meeting, please contact me; it is Monday, March 26th at 7 p.m.

**Toby Thaler,
FNC board member**

We request a "public meeting" on the above decisions before you make them. Ecology's February 2007 notice says this opportunity for public input into decisions affecting this public property will happen if "ten or more people request."

Ecology's Response:

See response to comment 1.1 and a public meeting and public hearing were added to the schedule and held on March 22, 2007 in the neighborhood at Hamilton Middle School.

- 3.2 **We further request that you combine consideration of the two "phases" of this project (clean up and development) for purposes of the SEPA checklist. These two decisions are intimately related. The development proposed by Touchstone could not occur without hauling away 95,000 yards of soils, an essential step for their proposed parking garage.**

Ecology's Response:

See response to comment 1.2.

- 3.3 **The soil removal is justified as a MTCA clean up, but the proposed soil removal is not legally required, and does not necessarily constitute a "higher level" or "superior" clean up.**

There are a number of errors and omissions in the SEPA checklist signed on January 19. Ecology's February notice has similar problems.

Ecology's Response:

See response to comment 1.2 and 1.3.

- 3.4 No decision should be made until these problems have been fixed, and the public and affected neighbors are given the chance to review complete and accurate environmental impact analyses.**

Ecology's Response:

See response to comment 1.3.

Comment 4: Bob Young

Key Concerns: Public Comment Period Extension

- 4.1 Please extend the public comment period on this proposal. Given the complexity of the project and site. I feel very strongly that one month is not enough time for those of us with busy jobs. I live about 2.5 blocks from the site. Also can you please acknowledge that you received this message.**

Thanks,

Bob Young

Wallingford resident.

Ecology's Response:

See response to comment 1.1 and a public meeting and public hearing were added to the schedule and held on March 22, 2007 in the neighborhood at Hamilton Middle School.

Comment 5: Genevieve Vayda

Key Concerns: Public Participation Process and Public Disclosure Request

- 5.1 I am awaiting from you a break down of the ` 1200 contacts you provided me – with a ‘group title’ or ‘source name/title’, and then those contacts listed under each.**

I am specifically wanting a list of King County Council Chambers attendees/testifiers re: this site (no fewer than 3 KC Chamber meetings), with names addresses, emails and phone numbers, as provided in their records.

AND

A breakdown of the 400 or so ‘contacts’ which Metro provided you, perhaps Metro could provide a break down for you, while providing some of the missing parties,:

Ecology's Response:

The 1200 contact mailing list for this site is not broken down into subgroups nor listed by source names, so this is not available. The request to breakdown the 1200 mailing list, is a request to create a new document. Under the Public Disclosure Act Ecology is required to provide a copy

of existing documents requested. The existing mailing list is also available at Ecology's Central Records. Ecology is not required to create a new document, thus this request is beyond Ecology's scope of work.

Ecology did not receive a copy of the King County Council Chambers attendees/testifiers list. The commenter was referred to make this request to King County Council and was given a contact name to inquire.

ALSO

5.2 Metro's Citizen Advisory Council Group list, including the King County Metro 'leaders' of said group, and all attending or involved. (names, addresses, ph numbers, agency names, and email addresses).

I would also like to see the meeting notes from above convened meetings, and I think they would be of great value to you, as well, as I understand there is much related to clean up methods, etc, in the bids and contracts discussed.

Thank you!

Ecology's Response:

The scope of work and objective for the Metro Citizen Advisory Council Group and King County Metro leaders are substantially different than Ecology's scope of work for the proposed cleanup and the proposed public involvement process for this site.

Ecology did not receive nor request a copy of the Advisory Council or King County Metro's meeting notes. The person was referred to make this inquiry with Metro Citizen Advisory Council Group or King County Metro and was given a contact name.

5.2 I look forward to the information I requested by phone, yesterday, Justine! (for instance, your adding the names of the EMPLOYEES of companies in the area, like Essential and AvTech, where I is the employees who will be breathing the air in the area during any movement of soils.

And to hearing from you today or tomorrow, as to when you can provide this information.

(It is clear that Metro did not hand you a complete list of interested, involved or potentially affected parties, unfortunately. I am sorry that Ecology is going to have to do a lot more research, just to collect outreach contacts, and to be sure that it is thorough!) More soon, but this is a start, in helping you get outreach on the right track!

Ecology's Response:

We followed Ecology's guidance to create a mailing list for this public involvement process for this site. Ecology mails a fact sheet to all addressees within 0.5 mile radius of the proposed site in addition to those listed requesting notice. This mailing will go to residents and to businesses and it is up to the business to post the notice for employees to read. In addition, Ecology uses several methods to reach all concerned including placing display ads in the prominent newspapers, at the two neighborhood libraries, at the property (at the fence at the proposed site), and in the State Register and Ecology's webpage.

Comment 6: M. Yvonne Heuving

Key Concerns: Community Impacts resulting from Cleanup Activities

- 6.1 In regards to the excavation to clean up the soil –will any attempt be made to minimize all the dust, dirt, hauling trucks, etc. involved in the process? Also once the excavation is completed will I be looking at an ugly gaping hole for months to come?
Yvonne Heuving
Densmore Avenue North resident.**

Ecology's Response:

During soil cleanup and excavation, Touchstone or its contractor will be required to minimize dust, dirt and noise following the City of Seattle permit requirements and Ecology's Cleanup Action Plan requirements including best management practices.

As stated in the Cleanup Action Plan dust control measures will be conducted to minimize dust generated during excavation activities including spraying of water to suppress dust (see page A-5). Also, if trucks enter the property into a zone that is potentially contaminated, then these trucks will pass through a decontamination zone to remove any potentially contaminated soil and dust and to minimize transport of contaminated material out of the zone.

Touchstone or its contractor will follow the City of Seattle permit requirements for excavation. In past examples, the City has restricted truck hauling to minimize traffic, dust and noise. For traffic, often the City restricts hauling to specific hours such as 9 am to 3 pm and requires the trucks to be covered with a tarp to minimize dust. The specific requirements for this project will be determined by the City and will comply with Ecology's cleanup requirements.

The proposed excavation for the cleanup will be implemented to minimize the time the excavation will remain open prior to development. The proposed work plan for cleanup will be completed as soon as the compliance monitoring sampling results confirm cleanup is completed.

Also, Ecology required the installation and maintenance of a temporary and 5-year cover at the excavation if work is stopped for more than 14 days. The purpose for this cover is to minimize dust and dirt, and to protect the excavation should work be stopped for more than 14 days. The 5-year cover is required if work stoppage will be for more than 60 days. The required financial assurance for the cover includes storm water controls and maintenance, see Cleanup Action Plan section 4.2 Contingency for Cover, page 8.

Comment 7: North Yard Property - Public Meeting - Questions and Answers

Chief Respondent: Maura O'Brien, Department of Ecology

7.1 Question: I have a question about how do we know and how does Touchstone know when the cleanup is complete? Actually, will Touchstone be doing the testing to see if the cleanup has been adequate? Will Touchstone come in and test if that cleanup is adequate?

Answer: Touchstone will conduct the cleanup and will conduct the sampling during and after the cleanup to evaluate if the cleanup is complete. Touchstone will conduct the sampling; and Compliance Monitoring. The cleanup and the Compliance Monitoring will be done under the oversight of Ecology. The sampling for Compliance Monitoring is to confirm that Touchstone meets the cleanup levels which they chose and Ecology approved-Method A-the unrestricted use cleanup levels. If they have achieved these unrestricted cleanup levels, then Ecology will sign the Notice of Completion. If Touchstone does not achieve the cleanup level, then they have the option to do additional excavation and to test again. If they still do not achieve the cleanup level, then they can do additional excavation and re-test. The Cleanup Action Plan talks about doing this additional excavation and re-testing. After two additional efforts to conduct excavation and retesting and if they still do not achieve the cleanup level, then Touchstone may excavate again or request to do a disproportionate cost analysis. This is explained in the Cleanup Action Plan.

7.2 Question: If the cleanup level is not achieved and they do a disproportionate cost analysis, what does that mean? What happens then? Do they continue the level of use to be sort of restricted? I guess, I am curious because they are the prospective buyers and they are footing the bills. Why are the prospective buyers footing so many bills? Is it basically that they want to get the property? And secondly if the cleanup does not happen the way it is supposed to what options do they have? I am just kind of curious about the prospective buyers putting so many resources into this and not having the desired results

Answer: This is a complex question and it takes several steps. As I said earlier, Ecology has an existing Consent Decree with King County Metro Transit and Chevron for the entire site at industrial levels. Touchstone has come in and offered to

cleanup the North Yard soils to a more stringent level. Based on our review of the sampling today, Touchstone thinks they can accomplish the more stringent cleanup level. I think that is a good estimate.

Whenever you are cleaning up a site, there is always the “if”. Touchstone will test if they have achieved the cleanup and are able to substantiate that with the compliance monitoring, then they will have completed the cleanup and will receive their Notice of Completion. If they have not achieved it, then Touchstone has the opportunity to go back and do additional excavation and testing. If they still do not achieve it, then they can go back and do additional excavation and testing. After two additional excavation and testing efforts, then Touchstone has the opportunity to do disproportionate cost analysis. The disproportionate cost analysis is explained in the MTCRA rules, Washington Administrative Code (WAC) 173-340-360(3)(b) and (e). It will allow Touchstone to explain to Ecology why the costs of further excavation are disproportionate to any incremental benefits. From our evaluation, I estimate that Touchstone will be able to accomplish the cleanup to the proposed unrestricted cleanup levels.

7.3 Question: My question is a follow up to that. So my understanding looking at the cross section here (see *the figure of cross section referred to on page 22*) –they are basically digging out the site. So my understanding is –following up with your exchange, if the cleanup is not adequate, what that means is you take out all the pink as indicated in the cross –section.

Am I right in assuming that if there is a problem, it is because you have not gone deep enough so that the second level will be to test to figure out how much further you have to dig – to excavate to remove the contamination to meet the standards. Is that a fair assessment of what is happening with this cleanup?

Answer: I think the dash pink line (see *the figure of cross section referred to on page 22*) estimates soil with hydrocarbon contamination that will be excavated and removed for off-site treatment and disposal. The dash pink line shows petroleum or hydrocarbon contaminated soil that will be excavated. These soils are above 100 parts per million for gasoline and above 200 parts per million for diesel.

The dash pink line is based on existing sampling. We have several borings that go deeper than that pink area. You notice the diagonal line below that- we estimate these soils to be clean and there shall be new sampling to confirm if these soils are clean. Ecology’s estimate is based on field sampling that was conducted by Chevron and KCDT Metro Transit in 1992, 1993, 1994 and additional investigations even sampling during recent installation of new monitoring wells.

Ecology describes that pink zone as the smear zone. We believe that the mechanism of contamination at this site is that the petroleum or oil, gasoline and diesel are pushed up and down by the fluctuation of the water table. The groundwater forms a water table below the surface. The groundwater rises in the wet season and becomes lower in the dry season. This fluctuation of the groundwater up and down pushes the petroleum up and down (petroleum is less dense than water and floats on water). This is what we refer to as the smear zone. Soil sampling will be done within the North Yard Property and groundwater sampling will be done offsite above the water table, in the water table, below the water table to confirm- so this is my estimate of the extent.

Now there could be variations—when they begin to excavate, we could find nothing. Or we could find some additional contamination. You run that risk of discovering additional contamination on any site. That is why Ecology negotiated the section in the Cleanup Action Plan that when they get to the bottom of the dash pink line and sampling shows there are contaminants of concern above the cleanup level, then they will excavate another six inches and test. If they do not get it all out, then they have the option to do additional excavation and retesting. This excavation is now in that footprint of the clean materials below the pink zone.

7.4 Question: Follow up to the above question: The summary is that if you take everything out, that hole has no contamination. It is only the soil at the bottom of the hole that is contaminated. There is some contamination in the air of the hole. It is the soil below the hole that is the issue. That seem pretty clear but you do not want to say it for some reason. Any further contamination is below the level of the dig right?

Answer: Yes. The soil at the bottom of the hole needs to pass the cleanup level. If it fails, then there is contamination and more excavation is required and another six inches of soil is removed and tested. If it fails again, then another six inches of soil is removed and tested, and if it fails a third time, then Touchstone may excavate more or prepare a disproportionate cost analysis.

For the air pathway, Touchstone evaluated the air pathways and their evaluation shows that the air pathways are not a hazard at this site.

7.5 Comment: That is the only place that there could be contamination if you are right.

Answer: Based on sampling to date as I said, the pink zone with the dash line (*see figure referred to on page 22*) represents soil that we know is above 100 parts per million gasoline and above 200 parts per million diesel. That represents approximately 60 percent of the excavation. You notice the green line, they are

going to be excavating below depth and that area is estimated to be clean. Could there be some contamination? Possibly, and if so, then cleanup will be conducted and compliance monitoring will be conducted.

7.6 Question: Monitoring indicate that there are still some problem areas. I believe that map shows the areas. Could the cleanup be done to the next level that just remove these areas or that is not feasible? That is one question.

Answer: Yes, the map shows the areas that are contaminated in pink and the map shows the “hot spot areas” in pink with diagonal lines. This proposed Additional Cleanup at the North Yard Property will removed these contaminated soils to the Method A unrestricted cleanup levels.

7.7 Question: How much is the problem here? What is the proportionate effectiveness of the cleanup in terms of what levels of contamination was effectively addressed? In other words 300 parts per million down to 100 or 200 parts per million or was it a lot more reduction? How effective was that cleanup? Was it quantified somewhere? Is there an estimate of what will happen if you kept doing it (bioremediation) for five more years?

Answer: The cleanup levels negotiated in the King County Metro Transit/Chevron Cleanup Action Plan are based on industrial cleanup levels. These soil cleanup levels are what we classify as residual saturation levels. This is one method under industrial cleanup levels allowed under the Model Toxics Control Act. Approximately, I do not have the exact numbers with me, the industrial cleanup levels at this site are:

- Gasoline is about 4500 parts per million
- Diesel is about 5100 parts per million.
- Heavy oil is about 5700 parts per million in soils.

So the industrial cleanup levels are much more lenient and much less stringent compared to Method A unrestricted use cleanup levels proposed for this Additional Cleanup at the North Yard Property.

The “hot spot” or localized pockets of contaminated soil represent something close to saturation. In other words, in some locations at these localized pockets, there is product (also called single phase hydrocarbon). At some locations, there are elevated levels of petroleum.

In terms of monitoring the cleanup progress during the time we were using bioremediation as the cleanup methods, we monitored benzene in groundwater. So as the benzene concentration decreased, then cleanup was progressing. When the benzene concentration was at or below the cleanup level and continued at or below the cleanup level for four quarters, then the cleanup is complete.

Here, the cleanup brought the benzene concentration down from several 100s to at or below cleanup level in several wells. Benzene cleanup level in groundwater is 43 parts per billion to protect surface water. Notice when we change from soil to groundwater cleanup levels we are changing from parts per million to parts per billion so we are changing units.

Bioremediation was used to clean up both soil and groundwater and used benzene in groundwater to monitor the progress of cleanup. Prior to cleanup, benzene was measured at several thousand parts per billion to a few tens parts per billion. These measurements were spread across the site. Now, the benzene concentration at several wells is at or close to cleanup with the exception of the localized pockets. Note, the benzene cleanup level is 43 parts per billion which is protective for surface water.

Also, what we find at this site is a subsurface or substrate which geologically we can say is heterogeneous. It is irregular with a mixture of silt, fine sand and clay. We have old channels that were old drainage channels cut through the substrate and later filled with very fine or coarser material. So geologically, you have this difference of texture which also talks about the difference of why some of these residual zones and localized pockets are more difficult to clean up.

We have used three methods of bioremediation at the site over a six year period. The three methods are:

- Hydrogen Peroxide injection.
- Extraction pumping.
- Biosparging.

In terms of addressing the soil at the North Yard—part of the substrate is fine grained and quite tight meaning there is low permeability and it is more difficult to cleanup using bioremediation. Even with the pressurized injection that was used in the North Yard during the hydrogen peroxide injection, we had limited success. The zone of injection was limited even with pressurized injection. The zone of injection describes the lateral extent of cleanup treatment. In other words, the lateral extent of cleanup is the area or zone from the east to the west or from the right to the left from the point of injection/the point of cleanup. So bioremediation using Hydrogen Peroxide Injection was successful in the South Yard and had only moderate success in the North Yard. The same with the other two methods of bioremediation. The substrate at the North Yard is more fine grained and has a much tighter substrate with less permeability and bioremediation was less successful at the North Yard, see Third Quarter 2003 Groundwater Monitoring and Site Status Report (SAIC, January 9, 2004).

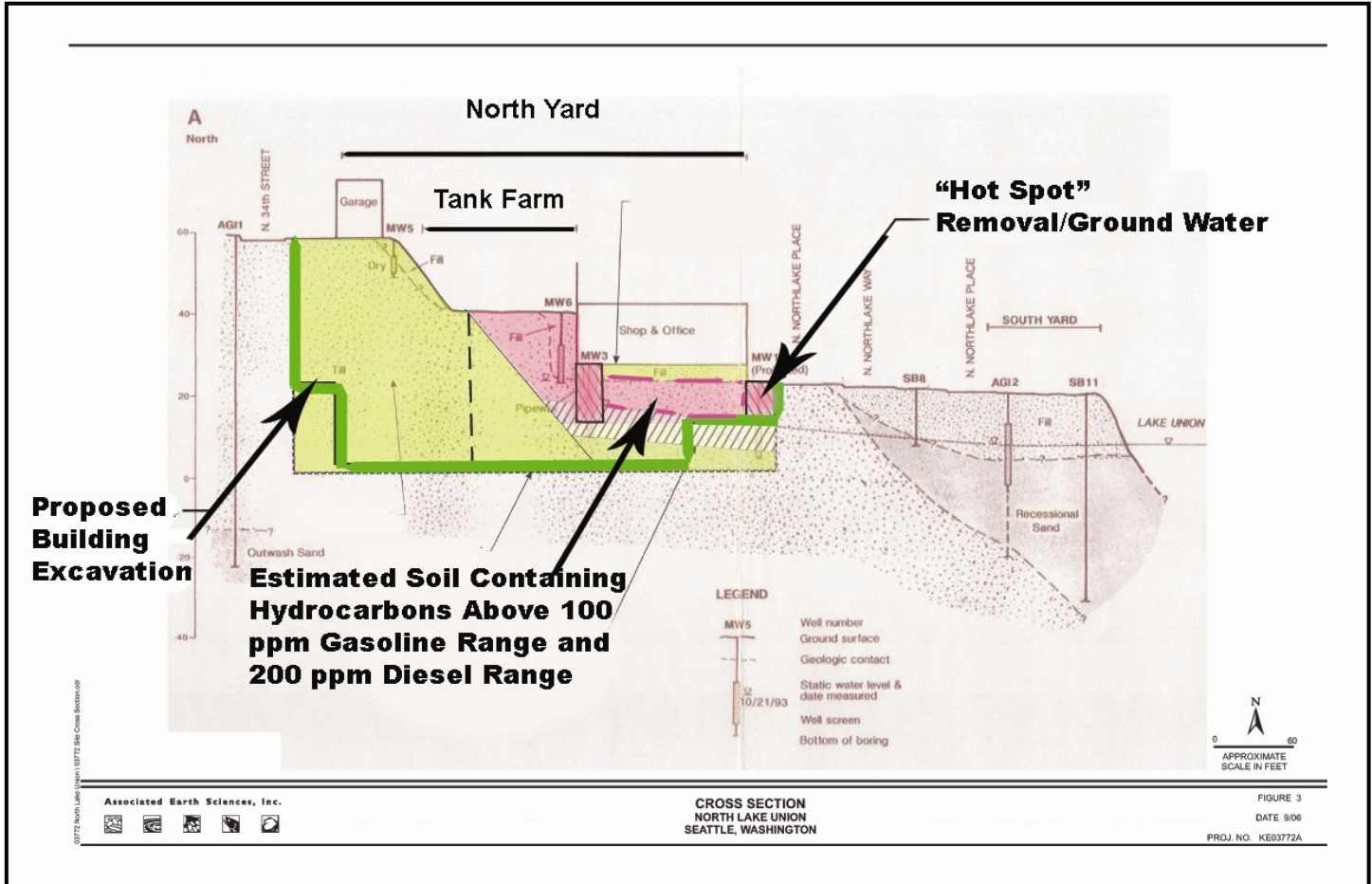
Therefore, the bioremediation treatment technologies used at the site for the past 6 years have been partially successful but are not likely to remove any further soil contamination. These methods of bioremediation have accomplished all the cleanup that they are able to accomplish given the site substrate and site characteristics. To finish this cleanup, another method must be used.

7.8 Question: You did not mention the SEPA decision making process and how it relates to the project?

Answer: See answer to Comment 1.2 above.

Proposed Cleanup Action Plan

Figure shows the cross section and depth of excavation



Responsiveness Summary – June 2007
North Yard Property/King County Metro Transit Facilities North/Metro Lake Union Site and former Chevron Bulk Terminal #100-1327, 1602 N Northlake Way, Seattle, Washington

Comment 8: Public Hearing Comment

Key Concerns: SEPA Process for Cleanup and Development

8.1 My name is Toby Thaler. I reside at 4212 Baker Avenue Northwest, in Fremont. I'm here primarily as a member of the board of the Fremont Neighborhood Council. Testimony will start with a couple of questions, one which I asked and was not completely answered that I hope Ecology will be clear in its responsive summary as to the SEPA process, the explicit decision, and what appeal is available for that decision, of that decision.

Ecology's Response:

For SEPA, Ecology and the City of Seattle Department of Planning and Development (City) agreed to take a joint lead with a phased determination. Ecology agreed to take phase 1 for cleanup and the City agreed to take phase 2 for development. Phased review is authorized under the SEPA rules, see WAC 197-11-060(5). Phased review is used to assist agencies and the public to focus on issues that are ready for decision and exclude from consideration issues already decided or not yet ready.

Ecology made the SEPA determination for the proposed cleanup action based on cleanup activities. Ecology evaluated the SEPA checklist and site documents and determined there is no significant impact to the environment. The proposed cleanup using excavation and off site treatment and disposal with recycling where feasible is a standard method of site cleanup. This method uses a permanent solution to the maximum extent possible and provides a reasonable restoration time frame thus following the threshold requirements under the MTCA, see WAC 173-340-360(2)(b).

In addition, Chevron and KCDT Metro Transit have conducted six years of cleanup treatment at the site using three methods of Bioremediation. These methods have accomplished all the feasible cleanup given the site substrate and site characteristics. In other words, these three methods used at the site have been exhausted and these methods appear that they are no longer applicable to provide more cleanup.

Regarding appeal of the SEPA process, SEPA appeals are governed by RCW 43.21C.075. Ecology does not have an administrative appeal procedure for its SEPA decisions as authorized under RCW 43.21C.075(3). Ecology does not have a statutory time limit imposed for SEPA appeals.

8.2 The second comment/question that I didn't get to in the question period, I would like to see, to support the asserted benefit of the cleanup to reduce risk to water quality and ESA-listed species in Lake Union, a description of the risk of off-site contamination, specific monitoring of hydro-chemicals and other contaminants off-site, monitoring, et cetera, and hopefully some documentation or comment concerning

what's going into the lake, if anything. Is there actually material showing up in Puget Sound Chinook going by? That's the ESA-listed species of concern here, I believe, and what does the Washington Department of Fish and Wildlife have to say about it?

Ecology's Response:

Under the proposed Consent Decree, Touchstone has agreed to cleanup the soils at the North Yard Property to unrestricted cleanup levels. Unrestricted cleanup levels are based on estimates of the reasonable maximum exposure expected to occur under both current and future site use conditions. Ecology has determined that residential land use generally requires the most protective cleanup levels. Exposure to hazardous substances under residential land use conditions represents the reasonable maximum exposure scenario. Also, cleanup levels are to be established at concentrations that do not directly or indirectly cause violations of groundwater, surface water, or sediment cleanup standards. Lake Union is a known migration path for Endangered Species, specifically for Chinook salmon and protection to surface water and sediment at Lake Union is required by MTCA regulations; see WAC 173-340-760.

For example of direct pathway of contamination from upland to lake surface water and sediment, see work at the neighboring site, Gas Works Park Sediment Area Remedial Investigation/Feasibility Studies Report (estimated publication date September 2007). At this neighboring site, there is confirmation of upland contamination entering surface water and sediment. This contamination represents a significant risk to aquatic species and Chinook salmon. The responsible parties, City of Seattle and Puget Sound Energy have agreed to cleanup the sediments in north Lake Union adjacent to Gas Works Park and to protect the Endangered Species. The responsible parties at Gas Works Park site are evaluating the potential remedial actions that will eliminate, reduce or control risks resulting from contamination. At the Gas Works Park site, the direct pathway is known and documented. Based on the similarities of these two neighboring sites, it is Ecology's best professional estimate, that upland contamination has a direct pathway to Lake Union surface water and sediment. Therefore upland contamination represents a significant risk to human health and the environment including the aquatic species and Chinook salmon at Lake Union surface water and sediment.

US Fish and Wildlife (USFW) has documented that Chinook smolts (juvenile salmon) migrate through Lake Union and have documented decreased numbers and health of the young salmon. The USFW conducted acoustic tracking studies for Chinook smolts in Lake Washington, Lake Union and the Ship Canal and there is concern. Actual documentation of impact is under study (Roger Tabor, USFW oral communication).

8.3 Finally, I would like to reiterate comments that were submitted in writing and concerning the segmentation of the SEPA process. It's been mentioned that the City is looking at the development of the site. And in fact, Touchstone has been meeting with the neighbors concerning design of the building already. I don't believe the City of Seattle is even present tonight. I think that this is

segmentation of the two processes. This cleanup would not necessarily have to occur but for the digging out of the site for the garage, for the development. The City permitted action is a connected action, and I believe that a separate SEPA decision is impermissible.

Thank you very much.

Ecology's Response:

In review of the sign in sheet for this public meeting and hearing, no one signed representing the City of Seattle.

The City of Seattle Department of Planning and Development and Ecology agreed to share lead agency responsibilities. Ecology is the lead agency for the cleanup part of the proposal, and the City is the lead agency for the development. SEPA review of the proposed cleanup and redevelopment of the property was conducted as a phased review. SEPA authorizes phased review of a proposal to assist agencies and the public to focus on issues that are ready for decision and exclude from consideration issues already decided or not yet ready. Here the remedial action phase was ready for review by Ecology, which is the agency with the expertise to best analyze the environmental impact of the remedy action.

Ecology reviewed the SEPA checklist submitted by Touchstone for the cleanup phase of the proposal and other site documents and determined that significant adverse environmental impacts are not likely to be caused by this project. Ecology therefore issued a Determination of Non-Significance (DNS) for this proposed cleanup action. The phased approach for this project does not create exempt fragments nor avoid consideration of the impacts associated with the project. Ecology's decision on phase 1, the cleanup, does not determine the ultimate land use or development of the property nor foreclose options the City may have as part of its SEPA review of the impacts of any proposed development.

-END OF PUBLIC COMMENTS RECEIVED AND RESPONSES-

Contact Information and Repositories

If you have questions about the site or this summary, please feel free to contact:

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Information Repositories

You can review information about the site including documents that are the subject of this public comment period at the following locations:

- Seattle Public Library – Wallingford, 1501 North 45th Street, Seattle.
- Seattle Public Library – Fremont, 731 North 35th Street, Seattle.
- Washington State Department of Ecology, 3190 160th Avenue SE, Bellevue, WA 98008, (425) 649-7190. Please call for an appointment.

Some site information also will be posted on Ecology's web site at
http://www.ecy.wa.gov/programs/tcp/sites/metro/fn_main.html

Appendix A: Glossary

Agreed Order: A legal agreement between Ecology and a potentially liable person to conduct work toward a cleanup.

Aquifer: A water-bearing layer of rock or sediment that is capable of yielding useable amounts of water. Drinking water and irrigation wells draw water from underlying aquifers.

Cleanup: Actions taken to deal with a release, or threatened release of hazardous substances that could affect public health and/or the environment. The term "cleanup" is often used broadly to describe various response actions or phases of remedial responses such as the remedial investigation/feasibility study.

Cleanup Action Plan (CAP): A document that explains which cleanup alternative(s) will be used at sites for the cleanup. The cleanup action plan is based on information and technical analysis generated during the remedial investigation/feasibility study and consideration of public comments and community concerns.

Comment Period: A time during which the public can review and comment on various documents and proposed actions. For example, a comment period may be provided to allow community members to review and comment on proposed cleanup action alternatives and proposed plans.

Contaminant: Any hazardous substance that does not occur naturally or occurs at greater than natural background levels and could have negative impacts on air, water, or soil.

Consent Decree: A formal legal document approved and issued by a court which formalizes an agreement reached between the state (and EPA if involved) and the potentially liable person(s) (PLPs) on what will take place during the Remedial Investigation and Feasibility Study. A Consent Decree is similar to an Agreed Order except that a Consent Decree goes through the courts. Consent Decrees are subject to public comment. If a decree is substantially changed, an additional comment period is provided.

Feasibility Study: This study is designed to develop and evaluate cleanup options for a given site (also see Remedial Investigation/Feasibility Study).

Groundwater: Water found beneath the earth's surface that fills pores between materials such as sand, soil, or gravel or that fills cracks in bedrock. In some aquifers, groundwater occurs in sufficient quantities that it can be used for drinking water, irrigation and other purposes.

Information Repository: A file containing current information, technical reports, and reference documents available for public review. The information repository is usually located in a public building that is convenient for local residents such as a public school, city hall, or library.

Model Toxics Control Act (MTCA): Legislation passed by citizens of the State of Washington through an initiative in 1988. Its purpose is to identify, investigate, and clean up facilities where hazardous substances have been released. It defines the role of Ecology and encourages public involvement in the decision making process. MTCA regulations became effective March 1, 1989 and are administered by the Washington State Department of Ecology.

Potentially Liable Person (PLP): Any individual(s) or company(s) potentially responsible for, or contributing to, the contamination problems at a site. Whenever possible, Ecology requires these PLPs, through administrative and legal actions, to clean up sites.

Prospective Purchaser Consent Decree: A formal legal document approved and issued by a court which formalizes an agreement reached between the state (and EPA if involved) and the prospective purchaser - potentially liable person(s) (PLPs) on what will take place during the Remedial Investigation and Feasibility Study and cleanup.

Public Notice: A series of activities that provide adequate notice mailed to all persons who have made a timely request of Ecology and to persons residing in the potentially affected vicinity of the proposed action; mailed to appropriate news media; published in the local (city and county) newspaper of largest circulation; and the opportunity for the interested persons to comment.

Public Participation Plan: A plan prepared to encourage coordinated and effective public involvement designed to the public's needs at a particular site.

Remedial Investigation/Feasibility Study: Two distinct but related studies. They are usually performed at the same time, and together referred to as the "RI/FS." They are intended to:

- Gather the data necessary to determine the type and extent of contamination;
- Establish criteria for cleaning up the site;
- Identify and screen cleanup alternatives for remedial action; and
- Analyze in detail the technology and costs of the alternatives.

Responsiveness Summary: A summary of oral and/or written public comments received by Ecology during a comment period on key documents, and Ecology's responses to those comments. The responsiveness summary is especially valuable during the Cleanup Action Plan phase at a site when it highlights community concerns.

Risk: The chance that a hazardous substance, when released into the environment, will cause an adverse effect in the exposed humans or living organisms.

State Environmental Policy Act (SEPA): A state policy that requires state and local agencies to consider the likely environmental consequences of a proposal before approving or denying the proposal

Site: Any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, vessel, or aircraft; or any site or area where a hazardous substance, other than a consumer product in consumer use, has been deposited, stored, disposed of, or placed, or otherwise come to be located.

Toxicity: The degree to which a substance at a particular concentration is capable of causing harm to living organisms, including people, plants and animals.

Appendix B: Copies of Written Comments

Please note: Appendix B will not be available on the website.