

**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

In the Matter of Remedial Action by: )  
 )  
City of Bellingham ) **AGREED ORDER**  
 ) **FOR RI/FS**  
 ) **No. DE 2016**  
 )

To: The City of Bellingham  
210 Lottie Street  
Bellingham, WA 98225-4089

**I.  
Jurisdiction**

This Agreed Order ("Order") is issued pursuant to the authority of RCW 70.105D.050(1).

**II.  
Findings of Fact**

The Washington State Department of Ecology ("Ecology") makes the following Findings of Fact, without admission of such facts by the City of Bellingham ("City").

1. Little Squalicum Park is located at 604 Marine Drive in Bellingham, Washington (the "Site") and is owned by the City, Whatcom County (County), Burlington Northern & Santa Fe Railway and the Port of Bellingham. The portion owned by the County is leased to the City pursuant to a lease dated February 18, 1992 (the "Lease"). The Site area is generally depicted in Exhibit A of this Agreed Order.
2. Investigations conducted at the Site include:
  - (i) The Oeser Company Superfund Site Bellingham, Washington, Remedial Investigation Report, dated June 2002, by Ecology and Environment, Inc.
  - (ii) Little Squalicum Creek Biological Toxicity Assessment, dated April 2004, by the Washington State Department of Ecology Environmental Assessment Program.
3. The above-listed investigations have confirmed the presence of hazardous substances in the following: Site surface water, groundwater, soil and sediments, including pentachlorophenol, dioxin, copper, zinc and polycyclic aromatic hydrocarbon ("PAH") compounds.

4. In February 2004 Ecology conducted a Site Hazard Assessment and placed the Site on the Hazardous Sites List. The Site is ranked Number 1, where 1 represents the highest relative risk and 5 the lowest relative risk.
5. In order to protect human health and the environment and to prevent the release or threatened release of hazardous substances from the Site, Ecology has determined that a Remedial Investigation and Feasibility Study (RI/FS) should be developed pursuant to WAC 173-340-350 and WAC 173-204-560 for the Little Squalicum Creek site.

### III.

#### Ecology Determinations

Ecology makes the following determinations, without admission or agreement of the accuracy or completeness of the determinations by the City:

1. The City is an "owner" as defined at RCW 70.105D.020(11) of a "facility" as defined in RCW 70.105D.020(4).
2. The facility is known as Little Squalicum Park and is located at 604 Marine Drive in Bellingham, Washington.
3. The substances found at the facility as described above are "hazardous substances" as defined at RCW 70.105D.020(7).
4. Based on the presence of these hazardous substances at the facility and all factors known to Ecology, there is a release or threatened release of hazardous substances from the facility, as defined at RCW 70.105D.020(19).
5. By letter dated February 18, 2004, without admitting liability and for purposes of facilitating this Order, the City voluntarily waived its right to the 30-day notice and comment period and accepted its status as a "potentially liable person" under RCW 70.105D.040.
6. Pursuant to RCW 70.105D.030(1) and 70.105D.050, Ecology may require potentially liable persons to investigate or conduct other remedial actions with respect to the release or threatened release of hazardous substances, whenever it believes such action to be in the public interest.
7. Based on the foregoing facts, Ecology believes the remedial action required by this Order is in the public interest.

IV.  
Work to be Performed

Based on the foregoing Facts and Determinations, it is hereby ordered that the City complete a Remedial Investigation/ Feasibility Study (RI/FS) for the Site pursuant to WAC 173-340-350 and WAC 173-204-560, as follows:

1. The RI/FS shall be conducted in accordance with the Scope of Work attached as Exhibit B and hereby incorporated by reference as an enforceable part of this Agreed Order.
2. All data collected shall be submitted to Ecology in SEDQUAL and EIM electronic data formats.
3. All documents shall be submitted to Ecology in hard copy and electronic form.
4. During performance of this Order, the City shall submit written progress reports to Ecology in accordance with Exhibit B.

V.  
Terms and Conditions of Order

1. Definitions  
Unless otherwise specified, the definitions set forth in chapter 70.105D RCW and chapter 173-340 WAC shall control the meanings of the terms used in this Order.
2. Public Notices  
WAC 173-340-600(10)(c) requires a 30 day public comment period before this Order becomes effective. Ecology shall be responsible for providing such public notice and reserves the right to modify or withdraw any provisions of this Order should public comment disclose facts or considerations which indicate to Ecology that the Order is inadequate or improper in any respect.
3. Remedial Action Costs  
The City shall pay to Ecology costs incurred by Ecology pursuant to this Order. These costs shall include work performed by Ecology or its contractors for investigations, remedial actions, and Order preparation, oversight and administration. Ecology costs shall include costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2). The City shall pay the required amount within 90 days of receiving from Ecology an itemized statement of costs that includes a summary of costs incurred, an identification of involved staff, and the amount of time spent by involved staff members on the project. A general description of work performed will be provided

upon request. Itemized statements shall be prepared quarterly. The City may invoke the Dispute Resolution process under §V, paragraph (9) of this Order if it disagrees with Ecology's oversight cost charges. Failure to pay Ecology's uncontested costs and costs for which a final decision has been issued under the Dispute Resolution process within 90 days of receipt of the itemized statement of costs or the date of the Dispute Resolution final decision will result in interest charges.

4. Designated Project Coordinators

The project coordinator for Ecology is:

Name: Mary O'Herron  
Address: Department of Ecology  
Bellingham Field Office  
1204 Railroad Avenue, Suite 200  
Bellingham, Washington 98225  
Phone: 360-738-6246

The Project coordinator for the City is:

Name: Tim Wahl  
Address: City of Bellingham  
Parks and Recreation Department  
3424 Meridian Street  
Bellingham, Washington 98225-1764  
Phone: 360-676-6985

The project coordinators shall be responsible for overseeing the implementation of this Order. To the maximum extent possible, communications between Ecology and the City, and all documents, including reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order, shall be directed through the project coordinators. Should Ecology or the City change project coordinators, written notification shall be provided to Ecology or the City at least ten (10) calendar days prior to the change.

5. Performance

All work performed pursuant to this Order shall be under the direction and supervision, as necessary, of a professional engineer or hydrogeologist, or similar expert, with appropriate training, experience and expertise in hazardous waste site investigation and cleanup. The City shall notify Ecology as to the identity of such engineer(s) or hydrogeologist(s), and of any contractors and subcontractors to be used in carrying out the terms of this Order, in advance of their involvement at the Site. The City shall provide a copy of this Order to all agents, contractors and subcontractors retained to perform work

required by this Order and shall ensure that all work undertaken by such agents, contractors and subcontractors will be in compliance with this Order.

Except where necessary to abate an emergency situation, the City shall not perform any remedial actions at the Site outside that required by this Order unless Ecology concurs, in writing, with such additional remedial actions.

6. Access

Ecology or any Ecology authorized representative shall have the authority to enter and freely move about the Site at all reasonable times for the purposes of, inter alia: inspecting records, operation logs, and contracts related to the work being performed pursuant to this Order; reviewing the progress in carrying out the terms of this Order; conducting such tests or collecting samples as Ecology or the project coordinator may deem necessary; using a camera, sound recording, or other documentary type equipment to record work done pursuant to this Order; and verifying the data submitted to Ecology by the City. By signing this Order, the City agrees that this Order constitutes reasonable notice of access to the City, and agrees to allow access to the Site at all reasonable times for purposes of overseeing work performed under this Order. Ecology shall allow split or replicate samples to be taken by the City during an inspection unless doing so interferes with Ecology's sampling. The City shall allow split or replicate samples to be taken by Ecology and shall provide seven (7) days notice before any sampling activity.

7. Public Participation

Ecology shall prepare a public participation plan for the site in cooperation with the City. Ecology shall maintain the responsibility for public participation at the site. The City shall help coordinate and implement public participation for the site.

8. Retention of Records

The City shall preserve in a readily retrievable fashion, during the pendency of this Order and for ten (10) years from the date of completion of the work performed pursuant to this Order, all records, reports, documents, and underlying data in its possession relevant to this Order. Should any portion of the work performed hereunder be undertaken through contractors or agents of the City, then the City agrees to include in their contract with such contractors or agents a record retention requirement meeting the terms of this paragraph.

9. Dispute Resolution

In the event a dispute arises as to an approval, disapproval, proposed modification or other decision or action by Ecology's project coordinator, the City shall utilize the dispute resolution procedure set forth below. Upon receipt of the Ecology project coordinator's

decision, the Defendant has fourteen (14) days within which to notify Ecology's project coordinator of its objection to the decision.

- A. The parties' project coordinators shall then confer in an effort to resolve the dispute. If the project coordinators cannot resolve the dispute within fourteen (14) days, Ecology's project coordinator shall issue a written decision.
- B. Defendant may then request Ecology management review of the decision. This request shall be submitted in writing to the Northwest Region Section Manager for the Toxics Cleanup Program within seven (7) days of receipt of Ecology's project coordinator's decision.
- C. Ecology's Section Manager shall conduct a review of the dispute and shall issue a written decision regarding the dispute within thirty (30) days of the Defendant's request for review. The Section Manager's decision shall be Ecology's final decision on the disputed matter.

10. Reservation of Rights/No Settlement

This Agreed Order is not a settlement under ch. 70.105D RCW. Ecology's signature on this Order in no way constitutes a covenant not to sue or a compromise of any Ecology rights or authority. Ecology will not, however, bring an action against the City to recover remedial action costs paid to and received by Ecology under this Agreed Order. In addition, Ecology will not take additional enforcement actions against the City to require those remedial actions required by this Agreed Order, provided the City complies with this Agreed Order.

- A. Ecology reserves the right; however, to require additional remedial actions at the Site should it deem such actions necessary. The City expressly reserves their rights with regard to any future agency action.
- B. Ecology also reserves all rights regarding the injury to, destruction of, or loss of natural resources resulting from the releases or threatened releases of hazardous substances from the Site.
- C. In the event Ecology determines that conditions at the Site are creating or have the potential to create a danger to the health or welfare of the people on the Site or in the surrounding area or to the environment, Ecology may order the City to stop further implementation of this Order for such period of time as needed to abate the danger. Any verbal order by Ecology to stop work shall be followed within forty eight (48) hours of such verbal order by written confirmation from Ecology to the City of such verbal order.

- D. Nothing herein shall be a waiver of the City's right to pursue any other responsible party for costs associated herewith.

11. Extension of Schedule

- A. An extension of schedule shall be granted only when a request for an extension is submitted in a timely fashion, generally at least 30 days prior to expiration of the deadline for which the extension is requested, and good cause exists for granting the extension. All extensions shall be requested in writing. The request shall specify the reason(s) the extension is needed.
- B. An extension shall only be granted for such period of time as Ecology determines is reasonable under the circumstances. A requested extension shall not be effective until approved by Ecology. Ecology shall act upon any written request for extension in a timely fashion. It shall not be necessary to formally amend this Order when a schedule extension is granted.
- C. The burden shall be on the City to demonstrate to the satisfaction of Ecology that the request for such extension has been submitted in a timely fashion and that good cause exists for granting the extension. Good cause includes, but is not limited to, the following:
- (1) Circumstances beyond the reasonable control and despite the due diligence of the City including delays caused by unrelated third parties or Ecology, such as (but not limited to) delays by Ecology in reviewing, approving, or modifying documents submitted by the City; or
  - (2) Acts of God, including fire, flood, blizzard, extreme temperatures, storm, or other unavoidable casualty; or
  - (3) Endangerment of the health or welfare of the people on the Site or in the surrounding area or to the environment.

However, neither increased costs of performance of the terms of the Order nor changed economic circumstances shall be considered circumstances beyond the reasonable control of the City.

- D. Ecology may extend the schedule for a period not to exceed ninety (90) days, except where an extension is needed as a result of:

- (1) Delays in the issuance of a necessary permit which was applied for in a timely manner; or
- (2) Other circumstances deemed exceptional or extraordinary by Ecology; or
- (3) Endangerment of the health or welfare of the people on the Site or in the surrounding area or to the environment.

Ecology shall give the City written notification in a timely fashion of any extensions granted pursuant to this Order.

12. Transference of Property

No voluntary or involuntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Site shall be consummated by the City without provision for continued implementation of all requirements of this Order.

Prior to transfer of any legal or equitable interest, the City may have in the Site or any portions thereof, the City shall serve a copy of this Order upon any prospective purchaser, lessee, transferee, assignee, or other successor in such interest. At least thirty (30) days prior to finalization of any transfer, the City shall notify Ecology of the contemplated transfer.

13. Compliance with Other Applicable Laws

- A. All actions carried out by the City pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements, including requirements to obtain necessary permits, except as provided in paragraph B of this section.
- B. Pursuant to RCW 70.105D.090(1), the substantive requirements of chapters 70.94, 70.95, 70.105, 75.20, 90.48, and 90.58 RCW and of any laws requiring or authorizing local government permits or approvals are to be included in the work documents approved by Ecology for this remedial action. Ecology has determined that the work under this Order does not implicate laws or regulations covered under RCW 70.105D.090(1).
- C. The City has a continuing obligation to determine whether additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order. In the event the City determines that additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order, they shall promptly notify Ecology of this determination. Ecology shall determine whether Ecology or the



City shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, the City shall promptly consult with the appropriate state and/or local agencies and provide Ecology with written documentation from those agencies of the substantive requirements those agencies believe are applicable to the remedial action. Ecology shall make the final determination on the additional substantive requirements that must be met by the City and on how the City must meet those requirements. Ecology shall inform the City in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. The City shall not begin or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination.

- D. Ecology shall ensure that notice and opportunity for comment is provided to the public and appropriate agencies prior to establishing the substantive requirements under this section.
- E. Pursuant to RCW 70.105D.090(2), in the event Ecology determines that the exemption from complying with the procedural requirements of the laws referenced in RCW 70.105D.090(1) would result in the loss of approval from a federal agency which is necessary for the State to administer any federal law, the exemption shall not apply and the City shall comply with both the procedural and substantive requirements of the laws referenced in RCW 70.105D.090(1), including any requirements to obtain permits.

14. Indemnification

To the extent permitted by law, the City agrees to indemnify and save and hold the State of Washington, its employees, and agents harmless from any and all claims or causes of action for death or injuries to persons or for loss or damage to property arising from or on account of acts or omissions of the City, its officers, employees, agents, or contractors in entering into and implementing this Order. However, the City shall not indemnify the State of Washington nor save nor hold its employees and agents harmless from any claims or causes of action arising out of the negligent acts or omissions of the State of Washington, or the employees or agents of the State, in implementing the activities pursuant to this Order.

VI.  
Satisfaction of this Order


The provisions of this Order shall be deemed satisfied upon receipt by the City of written notification from Ecology that the City has completed the remedial activity required by this Order, as amended by any modifications, and that all other provisions of this Agreed Order have been complied with.

VII.  
Enforcement

1. Pursuant to RCW 70.105D.050, this Order may be enforced as follows:
  - A. The Attorney General may bring an action to enforce this Order in a state or federal court.
  - B. The Attorney General may seek, by filing an action, if necessary, to recover amounts spent by Ecology for investigative and remedial actions and orders related to the Site.
  - C. In the event the City refuses, without sufficient cause, to comply with any term of this Order, the City will be liable for:
    - (1) up to three times the amount of any costs incurred by the state of Washington as a result of its refusal to comply; and
    - (2) civil penalties of up to \$25,000 per day for each day it refuses to comply.
  - D. This Order is not appealable to the Washington Pollution Control Hearings Board. This Order may be reviewed only as provided under RCW 70.105D.060.

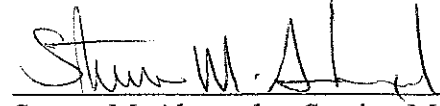
Effective date of this Order: 3.22.05

**CITY OF BELLINGHAM**

  
\_\_\_\_\_  
Mark Asmundson  
Mayor

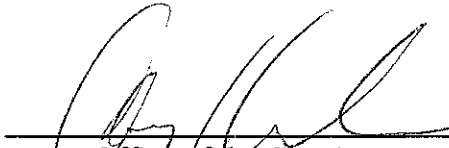
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**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

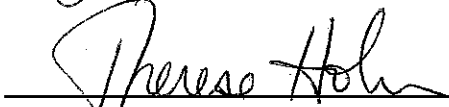
  
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Steven M. Alexander, Section Manager  
Toxics Cleanup Program

Date 3-22-05

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Office of the City Attorney

ATTEST:

  
\_\_\_\_\_  
Theresa Hohn  
Finance Director

DEPARTMENTAL APPROVAL:

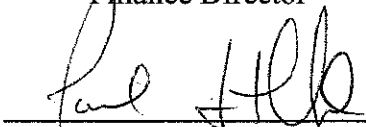
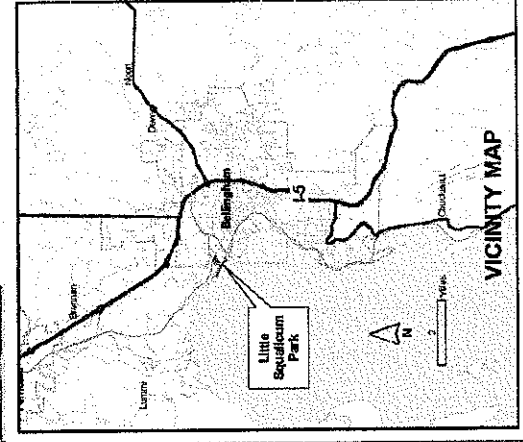
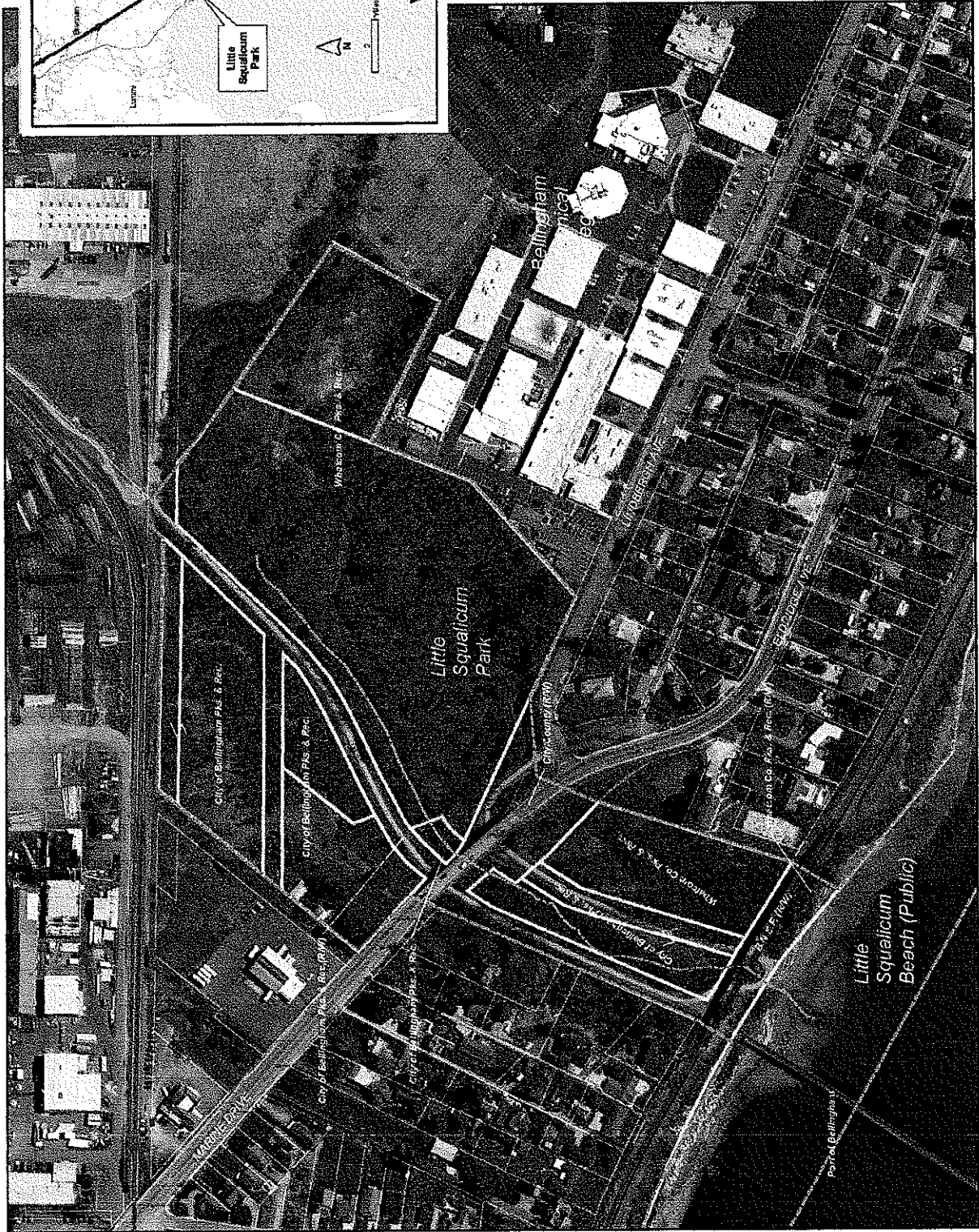
  
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Paul Hill  
Department Head

EXHIBIT A

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**City of Bellingham  
Little Squalicum Park  
Site Map**



0 100 200 400 Feet  
1" = 200'

- Parcel
- Park Area Ownership
- Little Squelicum Park Boundary

Map Sources:  
Topographic data: City of Bellingham website.  
Aerial imagery: Bing Maps.  
Park boundaries: Various local government records.  
© 2012 Integral LLC  
2012 Aerial Image: City of Bellingham website

integral **DRAFT**

EXHIBIT A Little Squelicum Park and Vicinity Map

EXHIBIT B

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**City of Bellingham  
Little Squalicum Park  
Remedial Investigation/Feasibility Study  
Scope of Work**

**EXHIBIT B**

**LITTLE SQUALICUM PARK  
REMEDIAL INVESTIGATION/FEASIBILITY STUDY  
SCOPE OF WORK**

## **PURPOSE**

The purpose of this Remedial Investigation/Feasibility Study (RI/FS) Scope of Work (SOW) for the Little Squalicum Park is to implement the Agreed Order (Order) entered into by the Department of Ecology (Ecology) and the City of Bellingham (City), to which this SOW is an Exhibit.

The RI/FS is intended to provide sufficient data, analysis, and evaluations to enable Ecology to select a cleanup action alternative.

The RI/FS Scope of Work (SOW) is divided into five major tasks as follows:

- 1) Progress Reports
- 2) Work Plan
- 3) Sampling and Analysis Plan (includes Quality Assurance Project Plan and Health and Safety Plan)
- 4) Remedial Investigation
- 5) Feasibility Study

The five major tasks listed above and described below will also be managed under a Cooperative Agreement between the City and the Environmental Protection Agency (the EPA) under its Brownfields Program. It is expected that completion of these tasks will be coordinated to include requirements under both the Order and the Cooperative Agreement.

## **TASK 1      PROGRESS REPORTS**

The City shall submit progress reports every two months unless a longer reporting period is approved by Ecology in writing. Progress reports shall be submitted to Ecology until satisfaction of the Order in accordance with section VI of the Order. Progress Reports shall be submitted to the Ecology project coordinator by the 10th of every second month following the effective date of the Order. If this day is a weekend or holiday, deliverables will be submitted to Ecology on the next business day. At a minimum, progress reports shall contain the following information regarding the preceding reporting period:

- A description of the actions which have been taken to comply with the Order and SOW during the previous reporting period;
- An estimate of the percentage of RI/FS work completed to date;
- Summaries of sampling and testing reports and other data reports received by the City;



- Summaries of deviations from approved work plans;
- Summaries of contacts with representatives of the local community, public interest groups, press, and federal, state or tribal government;
- Summaries of problems or anticipated problems in meeting the schedule or objectives set forth in the SOW and Work Plan;
- Summaries of solutions developed and implemented or planned to address any actual or anticipated problems or delays;
- Changes in key personnel; and
- A description of work planned for the next reporting period.

## **TASK 2      WORK PLAN**

In order to plan and manage the RI/FS, the City shall document project tasks and management strategies in a RI/FS Work Plan. This Work Plan shall include an overall description and schedule of all RI/FS activities. The Work Plan shall not be implemented until approved by Ecology.

The Work Plan shall specify and describe all tasks to be accomplished to complete the RI/FS, in accordance with the Order and this SOW. Since standards for freshwater sediment are "Reserved" under WAC 173-204-340, the City shall coordinate closely with Ecology prior to and during Work Plan development in order to clarify site specific requirements.

The Work Plan shall clearly describe the overall project management strategy for implementing and reporting on RI/FS activities. The responsibility and authority of all organizations and key personnel involved in conducting the RI/FS will be outlined.

Elements of the Work Plan include, but are not limited to, the following:

- A project management strategy for achieving timely submittal of high quality deliverables;
- A draft outline of the final RI and FS Reports including the types of data evaluation, figures, and tables that will be included;

- A description of individual RI/FS subtasks; and
- A proposed schedule, including a timeline for completion of all RI/FS subtasks and for submittal to Ecology of interim and final deliverables, including but not limited to the deliverables enumerated in this SOW.

### **TASK 3      SAMPLING AND ANALYSIS PLAN**

The City will prepare for Ecology review and approval a Sampling and Analysis Plan (SAP) which provides specific guidance for field and laboratory methodology. A Quality Assurance Project Plan (QAPP) and Health and Safety Plan (HASP) shall also be submitted as appendices to the SAP. The HASP is not subject to Ecology approval. Details of these plans are provided below.

Sampling and Analysis Plan - The City shall prepare a SAP for RI sampling and analysis activities in accordance with WAC 173-340-820, WAC 173-204-600, and the Sediment Sampling and Analysis Appendix, as updated. The purpose of the SAP is to provide an overview of the RI sampling program that will obtain information needed to meet the data needs described in Task 4 of the SOW.

The SAP shall provide a review of existing and available data to support the development of RI/FS tasks which may include, as appropriate, the following:

- a. Soil, surface water and groundwater data, including contaminant concentrations and conventional parameters, depths and location of samples, and comparison to MTCA;
- b. hydrogeologic data;
- c. sediment chemical and biological data, including contaminant concentrations and conventional parameters, depths and locations of samples, and comparison to MTCA, SMS and Water Quality standards;
- d. location and composition of current and historical contaminant sources;
- e. current property ownership and zoning;
- f. current or planned land uses and their location, which may affect investigation and cleanup activities;
- g. historical uses of the site; and
- h. general inventory of current and anticipated biological resources with emphasis on threatened and endangered species.

The SAP shall describe the sampling objectives and the rationale for the sampling approach. A detailed description of sampling tasks shall then be provided, including

specifications for sample identifiers; the type, number, and location of samples to be collected; the analyses to be performed; descriptions of sampling equipment and collection methods to be used; description of sample documentation; sample containers, collection, preservation and handling. The SAP shall describe sample custody and handling procedures, decontamination procedures, and the handling of investigative-derived wastes.

Quality Assurance Project Plan (Appendix to SAP). The City shall prepare a QAPP for RI sampling and analysis activities. The QAPP shall identify and describe laboratory methods and the QA/QC measures that will be taken during the performance of all sampling and analysis tasks to ensure the fulfillment of data quality objectives. Data quality objectives will reflect the criteria or threshold values used for remedial decisions. Laboratory methodology and QA/QC requirements shall be developed in accordance with Ecology guidance and the requirements of the Ecology Laboratory Accreditation Program and the Puget Sound Estuary Program (PSEP) and shall include the following elements:

- A brief project description, referencing the Work Plan and/or SAP for details;
- Project personnel and QA responsibilities;
- Quality assurance objectives; and
- Field QA measures, including sample acceptability criteria, field QA samples, and calibration of field instruments, referencing the SAP for a discussion of decontamination procedures and sample custody and handling.

The City shall use an Ecology-accredited laboratory for the specific analyses to be performed under this Order.

Health and Safety Plan (Appendix to SAP) - The City shall prepare a HASP for RI activities in accordance with WAC 173-340-810. The HASP must be consistent with the requirements of the Washington Industrial Safety and Health Act of 1973, Chapter 49.17 RCW, including any updates or amendments. The HASP shall identify specific monitoring and management responsibilities and activities to ensure the protection of human health activities associated with the RI.

#### **TASK 4      REMEDIAL INVESTIGATION (RI)**

The City shall conduct a remedial investigation to delineate the area requiring cleanup and to identify sources that may need to be eliminated or reduced as part of the cleanup. Key components of the RI are as follows:

- Nature and extent of contamination exceeding MTCA and SMS;
- Assessment of potential human health and ecological health concerns;
- Natural resource characterization; and
- Source Control and recontamination evaluation.

#### **TASK 5 FEASIBILITY STUDY (FS)**

The City shall use the information obtained in the RI to conduct a Feasibility Study. The FS shall include:

- Determination of cleanup standards and applicable laws;
- Identification and screening of cleanup technologies;
- Basis for assembly of cleanup action alternatives;
- Description of cleanup alternatives; and
- Comparative evaluation of cleanup alternatives.

#### **DELIVERABLES**

All plans, reports and studies listed below shall be prepared as follows: A draft shall be submitted to Ecology for review and comment; Ecology comments shall be addressed and a draft final submitted to Ecology for public review; Ecology, with assistance from the City, will prepare a Responsiveness Summary; The City will prepare a final document addressing public comments for Ecology approval. Revisions to final documents shall be in accordance with Section V of the Order. Modifications to final documents that Ecology determines are not significant will not be subject to public review.

- a) RI/FS Work Plan and Other Project Plans – The City shall submit for Ecology review and approval an RI/FS Work Plan, SAP, and QAPP in accordance with the schedule below. The HASP shall also be submitted but not approved by Ecology.

- b) RI Report – The City shall summarize and compile the results of Task 4 into an RI Report. The RI report shall follow the draft outline contained in the work plan as revised during the course of work. Revision of the outline shall require approval of Ecology.
- c) FS Report – The City shall prepare an FS in accordance with Task 5.
- d) Additional Studies – The City shall submit draft addenda to the Work Plan, SAP, and QAPP, as well as any other planning documents, reports, and other deliverables associated with any additional studies necessary as identified by Ecology, or the City, in accordance with Section IV of this Order within thirty (30) days of receipt of a written request by Ecology to prepare such documents, unless otherwise specified by Ecology.

## SCHEDULE

The schedule for all tasks described in this SOW is presented below. If, at any time during the RI/FS process, unanticipated conditions or changed circumstances are discovered which may result in a schedule delay, the City shall bring such information to the attention of Ecology. Pursuant to Section V (11) of the Order, Ecology will determine whether a schedule extension is warranted.

For each and every deliverable, report, memorandum, plan, or other item required under this SOW, if Ecology disapproves or requires modification or revision of any deliverable, report, memorandum, plan, or other item, in whole or in part, the City shall submit a modified or revised version thereof to Ecology in accordance with Section IV of the Order.

Completion times are calendar days. Any deadline which falls on a holiday or weekend will be extended to next business day.

<u>RI/FS Actions</u>	<u>Completion Time</u>
Draft RI/FS Work Plan, SAP, QAPP, and HASP	60 days from effective date of Order
Draft Final RI/FS Work Plan, SAP, QAPP, and HASP	30 days from receipt of Ecology comments on Draft RI/FS Work Plan, SAP, and QAPP
Public Review of Draft Final Work Plan,	30 days minimum

SAP, QAPP, and HASP

Final Work Plan, SAP, QAPP,  
and HASP

30 days from the close of public  
comment period

Draft RI Report

210 days from Ecology approval of Final  
Work Plan, SAP, and QAPP

Draft FS Report

120 days from submission of  
Draft RI Report

Draft Final RI/FS  
Report

30 days from receipt of Ecology  
comments on draft RI/FS

Public Review of Draft  
Final RI/FS Report

30 days minimum

Final RI/FS Report

60 days from the close of public  
comment period

EXHIBIT C

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**City of Bellingham  
Little Squalicum Park  
Public Participation Plan**

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# **PUBLIC PARTICIPATION PLAN**

**LITTLE SQUALICUM PARK SITE  
BELLINGHAM, WASHINGTON**

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**March 2005**



**Prepared by  
Washington State Department of Ecology**



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## **INTRODUCTION**

The Washington State Department of Ecology (Ecology) has developed this draft public participation plan in cooperation with the City of Bellingham (City) and in accordance with the Model Toxics Control Act (MTCA) to promote meaningful community involvement during the investigation and cleanup of the Little Squalicum Park site (Site) in Whatcom County, Washington. Ecology, working with the City, retains lead responsibility for implementation of the draft public participation plan.

Public participation is an integral part of Ecology's responsibilities under MTCA. Ecology's goal is to provide the public with timely information and meaningful opportunities for participation that are commensurate with each site. The purpose of this draft public participation plan is to provide a framework for promoting public understanding and participation in the Site cleanup. Public participation plans are intended to encourage coordinated and effective public involvement tailored to the public's needs at a particular facility. This draft public participation plan describes the tools that Ecology plans to use to inform the public about the Site and identifies opportunities for the community to become involved.

## **SITE BACKGROUND**

The Site has multiple owners including the City and Whatcom County. The portion of the property owned by Whatcom County has been leased to the City for development as a park. The Site is located at 604 Marine View Drive (Figure 1) and is currently an undeveloped open space with public access.

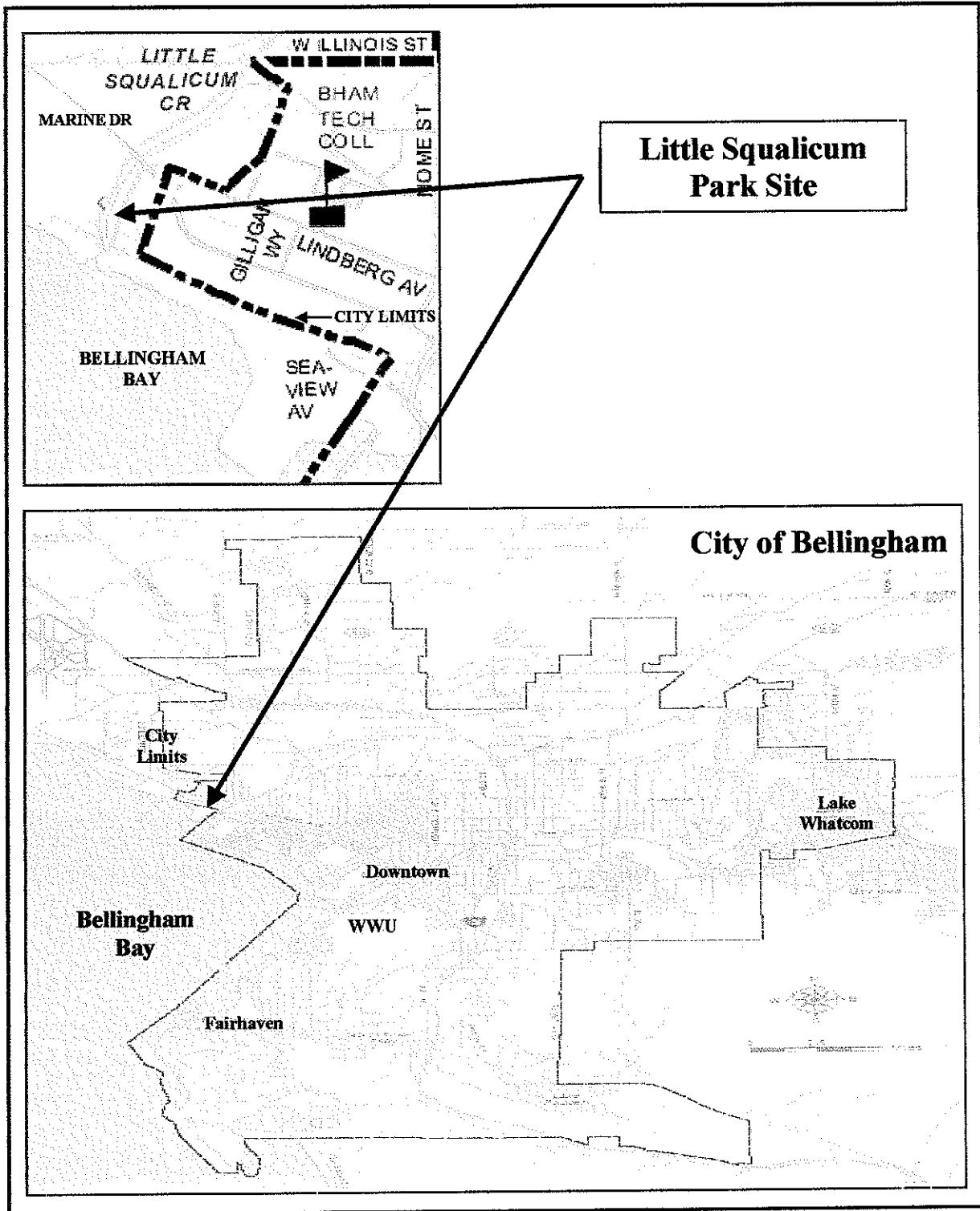
Properties in the vicinity of Little Squalicum Park include: the Oeser Company, which is a federal Superfund site, immediately adjacent to the north bank of the Little Squalicum Creek (the "Creek"); residential neighborhoods to the north and south; Morse Industrial Park to the east; and Burlington Northern Santa Fe Railroad to the northwest and crossing the southern end of the Creek, including an old railroad grade along the Creek's west bank. Also located west of Little Squalicum Park are heavy industrial facilities including steel fabrication and fiberglass manufacturing facilities, warehouses, electrical repair shops, storage facilities, and the Tilbury Cement Company.

The Creek headwaters originate with the storm drain outflows from the combined Oeser/Birchwood neighborhood outfall to the northwest and the Birchwood neighborhood/Bellingham Technical College outfall to the northeast of the site. An outfall from the Marine Drive area south and west of the Oeser Company flows into the Creek above the Marine Drive Bridge. The Creek is also fed by springs.

Environmental investigations of the surface water, ground water, soil and sediments at the Little Squalicum Park site have confirmed the presence of hazardous substances including pentachlorophenol, dioxin, copper, zinc and polycyclic aromatic hydrocarbon ("PAH") compounds. As a result, the Site is subject to the investigation and cleanup requirements of the MTCA.

Ecology has conducted a Site Hazard Assessment and placed the Little Squalicum Park site on the Hazardous Sites List with a ranking of 1, where 1 represents the highest relative risk and 5 the lowest relative risk.

# Location Map of the Little Squalicum Park Site, 604 Marine Drive



## **COMMUNITY PROFILE**

### **COMMUNITY DESCRIPTION**

The Little Squalicum Park site is located near the northwestern limit of the City, in an area of mixed land use including commercial, heavy and light industry, and residential neighborhoods. Little Squalicum Creek and the surrounding area are part of a passive-use open space area identified as Little Squalicum Park. The Park site is located adjacent to Bellingham Bay and is currently used by the public.

### **KEY COMMUNITY CONCERNS**

Ecology has preliminarily identified the following concerns and interests that may apply to the investigation and cleanup of the Little Squalicum Park site:

- Type and level of contamination and threats to human health or the environment
- Assessment and control of contaminant sources
- Timely cleanup of the site to expedite enhancement of public access and park features
- Implications of cleanup for other property owners at and adjacent to the Site
- Relationship to the Oeser Company Superfund cleanup
- Alteration and control of water inputs to Little Squalicum Creek
- Opportunities for public involvement
- Compliance with regulatory requirements

Additional public concerns may be identified over the course of the Site cleanup through: public comment periods; community interviews; surveys; meetings; and other contacts with individuals, community groups, or organizations.

## **HOW THE SITE WILL BE CLEANED UP**

### **INVESTIGATION AND STUDY**

Initial work at the Site will focus on completing a remedial investigation and feasibility study (RI/FS). The remedial investigation will determine the type, level, location and sources of contamination at the Site. The feasibility study will evaluate a range of remedial alternatives that address the contamination, minimizing or eliminating the human health and environmental threats.

A Work Plan, Sampling and Analysis Plan, and a Quality Assurance Project Plan will be prepared to define the RI/FS work. Drafts of these documents will be issued for public review and a public information meeting will be held during this public review period. Implementation of these plans will lead to the generation of a draft RI/FS report. The draft RI/FS will be issued for public comment and an additional public information meeting will be held prior to the finalization of this report.

### **CLEANUP**

After the RI/FS is finalized, a draft Cleanup Action Plan (CAP) will be completed by Ecology that describes the remedial alternative preliminarily selected by Ecology. The CAP will be an exhibit to a legal agreement compelling cleanup of the site. The legal agreement and CAP will

be issued for public review and comment prior to finalization. Actual cleanup including the design, construction, operation and monitoring of cleanup actions will occur as part of implementing the CAP.

## **PUBLIC PARTICIPATION ACTIVITIES AND RESPONSIBILITIES**

The purpose of this draft public participation plan is to promote public understanding and participation in the MTCA cleanup activities planned for this Site. This section of the plan addresses how Ecology and the City will share information and receive public comments and community input on the Site activities.

### **PUBLIC INVOLVEMENT ACTIVITIES**

Ecology uses a variety of activities to facilitate public participation in the planning and cleanup of MTCA sites. The following is a list of the public involvement activities Ecology will use, the purpose of these activities, and how these activities will be used during the Site cleanup.

#### ***Formal Public Comment Periods***

Public comment periods usually last 30 days and are the primary method Ecology uses to obtain feedback from the public on proposed cleanup decisions. Public comment periods are required on all agreed orders, consent decrees and enforcement orders. Public comment periods are also required for all Ecology-conducted remedial actions.

During a comment period, the public can comment in writing. Verbal comments are taken if a public hearing is held. After formal comment periods, Ecology reviews all comments received and may respond in a document called a *responsiveness summary*. A responsiveness summary is 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.

Ecology will consider the need for changes or revisions based on input from the public. If significant changes are made, then a second comment period may be held. If no significant changes are made, then the draft document(s) will be finalized.

#### ***Public Meetings***

Public meetings will be held at key points during the investigation and cleanup process to provide opportunities for the community to ask questions and voice concerns. At a minimum, public meetings will be held during public comment periods on drafts of the following documents: RI/FS Project Plans, the RI/FS, and the CAP. These meetings will be held at locations convenient to the community.

#### ***Information Repositories***

During public comment periods, Site documents will be available for review at information repositories and on Ecology's website. Ecology can also make copies of documents for a fee.

For the Little Squalicum Park site, the information repositories are:

- Bellingham Technical College Library, Building A, 3028 Lindburgh Avenue  
Phone: (360) 752-8383
- Bellingham Public Library, 210 Central Avenue

Phone: (360) 676-6860

- Department of Ecology, Bellingham Field Office, 1204 Railroad Avenue, Suite 200  
Phone (360) 738-6250
- Department of Ecology, Northwest Regional Office, 3190 160<sup>th</sup> Avenue SE, Bellevue  
Phone: (425) 649-7190

Information on the Little Squalicum Park site will also be posted on the Ecology website at:  
[http://www.ecy.wa.gov/programs/tcp/sites/blhm\\_bay/sites/bel\\_bay\\_sites.html](http://www.ecy.wa.gov/programs/tcp/sites/blhm_bay/sites/bel_bay_sites.html)

### ***Site Register***

The Site Register is published by Ecology bi-monthly to inform the public of:

- Activities related to the study and cleanup of contaminated sites
- Public meetings/hearings and public comment periods
- Discussion or negotiations of legal agreements
- Availability of cleanup reports
- Hazard rankings of sites

If you would like to regularly receive the Site Register, please contact:

Site Register  
Department of Ecology-Toxics Cleanup Program  
PO Box 47600  
Olympia WA 98504-7600  
(360) 407-7170

If you would like to be placed on the Site Register's e-mailing list, complete the electronic form at [http://www.ecy.wa.gov/programs/tcp/pub\\_inv/pub\\_inv2.html](http://www.ecy.wa.gov/programs/tcp/pub_inv/pub_inv2.html).

### ***Mailing List***

Ecology, with assistance from the City, has compiled a mailing list for the Site. The list includes individuals, groups, public agencies, elected officials, private businesses, potentially affected parties, and other known interested parties. The list is maintained at Ecology's Bellingham Field Office and will be updated as needed.

### ***Fact Sheet***

Ecology will mail fact sheets to persons and organizations interested in the Site to inform them of public meetings and comment opportunities and important Site activities. A fact sheet may also be used to informally update the community regarding progress of the Site cleanup.

### ***Display Ad***

At a minimum, Ecology will place an ad in *The Bellingham Herald* to announce public comment periods and public meetings or hearings for the Site.

### **PLAN UPDATE**

This public participation plan may be updated as the project proceeds. If an update is necessary, the revised plan will be submitted to the public for comment.

## **PUBLIC POINTS OF CONTACT**

### **Washington State Department of Ecology**

#### *Site Manager and Public Involvement*

Mary O'Herron  
Washington State Department of Ecology  
Northwest Regional Office  
3190 160<sup>th</sup> Avenue SE  
Bellevue, WA 98008-5452  
(425) 649-7187

### **City of Bellingham**

#### *Project Manager*

Tim Wahl  
City of Bellingham  
Parks and Recreation Department  
3424 Meridian Street  
Bellingham, WA 98225-1764  
(360) 676-6985



## GLOSSARY

**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 CAP 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 period during which the public can review and comment on various documents and Ecology actions. For example, a comment period is provided to allow community members to review and comment on proposed cleanup action alternatives and proposed plans. Also, a comment period is held to allow community members to review and comment on draft feasibility studies.

**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) on what will take place during the remedial investigation/feasibility study and/or cleanup action. 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 (FS):** This study uses information obtained in a remedial investigation to develop and evaluate a range of cleanup options for a site.

**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 the State of Washington 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.

**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:** A study characterizing the site and defining the type and extent of contamination.

**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.

**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.

