



Response to Comments

Prospective Purchaser Consent Decree and Public Participation Plan

**Morningside Acres Cleanup Site
5001, 5015, & 5021 Rainier Avenue South
Seattle, WA**

Toxics Cleanup Program

Washington State Department of Ecology

Northwest Region Office

Shoreline, Washington

December 2024

Publication Information

This document is available on the Department of Ecology's [Morningside Acres cleanup site page](#).¹

Cover photo credit

- Image courtesy of SouthEast Effective Development

Related Information

- Cleanup Site ID: 12408
- Facility Site ID: 4321

Contact Information

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¹ <https://apps.ecology.wa.gov/cleanupsearch/site/12408>

² <https://ecology.wa.gov/About-us/Contact-us>

Department of Ecology's Region Offices

Map of Counties Served



Southwest Region 360-407-6300	Northwest Region 206-594-0000	Central Region 509-575-2490	Eastern Region 509-329-3400
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Region	Counties served	Mailing Address	Phone
Southwest	Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Mason, Lewis, Pacific, Pierce, Skamania, Thurston, Wahkiakum	PO Box 47775 Olympia, WA 98504	360-407-6300
Northwest	Island, King, Kitsap, San Juan, Skagit, Snohomish, Whatcom	PO Box 330316 Shoreline, WA 98133	206-594-0000
Central	Benton, Chelan, Douglas, Kittitas, Klickitat, Okanogan, Yakima	1250 W Alder St Union Gap, WA 98903	509-575-2490
Eastern	Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman	4601 N Monroe Spokane, WA 99205	509-329-3400
Headquarters	Across Washington	PO Box 47600 Olympia, WA 98504	360-407-6000

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**Morningside Acres Cleanup Site
5001, 5015, & 5021 Rainier Avenue South, Seattle, WA**

Toxics Cleanup Program
Washington State Department of Ecology
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Shoreline, WA

December 2024



DEPARTMENT OF
ECOLOGY
State of Washington

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Public Outreach Summary

The Morningside Acres cleanup site (Site) located in the Columbia City neighborhood of South Seattle is continuing Washington State's [formal cleanup process](#)³ as directed under the Model Toxics Control Act ([MTCA](#)⁴). SouthEast Effective Development (SEED), a non-profit community development corporation based in South Seattle, is addressing contamination at the Site under a legal agreement called a Prospective Purchaser Consent Decree (PPCD) with Ecology.

The Department of Ecology's public involvement activities related to this Site's 30-day comment period (October 7 – November 7, 2024) included:

- **Fact Sheet:**
 - US mail distribution of a fact sheet providing information about the cleanup documents and the public comment period to over 4,800 addresses including neighboring businesses and other interested parties.
 - Email distribution of the fact sheet to over 130 people, including interested individuals, local/county/state/federal agencies, neighborhood associations, and interested community groups.
 - The fact sheet was available digitally through Ecology's [cleanup site webpage](#)⁵ in English, Chinese, Vietnamese, Spanish, Somali, Amharic, and Arabic.
- **Legal Notices:**
 - Publication of one paid print display ad in the *Seattle Times*, dated Friday, October 4, 2024, and multiple digital ads in *The Stranger*, dated Oct 7, Oct 9, Oct 16, Oct 21, and Oct 22, 2024.
- **Contaminated Site Register newsletter:**
 - Publication of four notices in Ecology's Toxics Cleanup Program Contaminated Site Register:
 - Comment Period Notice:
 - October 3, 2024
 - October 17, 2024
 - October 31, 2024
 - Response Summary Notice:
 - November 27, 2024
 - Visit [Ecology's Contaminated Site Register website](#)⁶ to download PDFs.

³ <https://ecology.wa.gov/MTCA-process>

⁴ <https://ecology.wa.gov/mtca>

⁵ <https://apps.ecology.wa.gov/cleanupsearch/site/12408>

⁶ <https://apps.ecology.wa.gov/publications/UIPages/PublicationList.aspx?IndexTypeName=Program&NameValue=Toxics+Cleanup&DocumentTypeName=Newsletter>

- **Media Notification:**
 - Ecology sent a media notice on Thursday, October 3, 2024, to the *Seattle Times*, *The Seattle Medium*, the *South Seattle Emerald*, and *The Facts*.
- **Social Media:**
 - Ecology posted a [blog](#)⁷ on Friday, October 11, 2024, introducing two Seattle sites to be cleaned up for affordable housing, including the Morningside Acres Site. The article summarized the background, status, future cleanup work, events, and public comment period details for each site.
- **In-person and Online Open House:**
 - Ecology hosted an in-person open house at [L.E.M.S Bookstore](#)⁸ on Tuesday, October 22, 2024, from 5:30 pm to 7:30 pm. A simultaneous online open house and [online slideshow](#)⁹ was offered through the Zoom meeting application. Ecology staff and SEED staff were available to discuss the project and answer questions. In-person interpretation was available in Chinese, Vietnamese, Spanish, Somali, Amharic, and Arabic.
- **Websites:**
 - Ecology announced the public comment period and open house, posted the fact sheet, and made the review document available on Ecology’s [Morningside Acres webpage](#)¹⁰ and [Ecology’s Public Inputs & Events webpage](#).¹¹
- **Document Repositories:**
 - Copies of the review documents and fact sheets (including translations) were available for review at the Seattle Public Library, Columbia Branch.
 - Outreach materials also directed the public to contact Kristen Forkeutis, Outreach Specialist, for document review assistance.

⁷ <https://ecology.wa.gov/blog/october-2024/two-seattle-cleanup-sites>

⁸ <https://sites.google.com/keytechlabs.org/lemsbookstore/home>

⁹ <https://apps.ecology.wa.gov/cleanupsearch/document/147308>

¹⁰ <https://apps.ecology.wa.gov/cleanupsearch/site/12408>

¹¹ <https://ecology.wa.gov/Events/Search/Listing>

Comment Summary

From October 7 to November 7, 2024, Ecology solicited comments on the documents listed below, a legal agreement with SouthEast Effective Development (SEED), and a Public Participation Plan.

- **Prospective Purchaser Consent Decree (PPCD):** a legal agreement that directs the purchaser(s) to implement cleanup at the site and provides the purchaser(s) a settlement of liability.
- **Public Participation Plan:** a document that explains how people can participate in the cleanup process.

Ecology received ten comments during the 30-day comment period.

Table 1: List of Commenters

	First Name	Last Name	Agency/Organization/Business	Submitted By
1	Jill	Lightner		Individual
2	Jason	Rock		Individual
3	Thomas	Marshall		Individual
4	Rodrigo	Prudencio		Individual
5	Ben	Neiman		Individual
6	Derrek	Studebaker		Individual
7	Nicole	Gaudette		Individual
8	Coral	Marcus		Individual
9	Coral	Marcus		Individual
10	NA	NA	Duwamish Tribal Historic Preservation	Tribe

Next Steps

Ecology has reviewed and considered the comments received on the Prospective Purchaser Consent Decree and Public Participation Plan. Based on Ecology's evaluation of the comments, no significant changes to the documents were necessary.

Ecology will finalize the documents and proceed with the cleanup for this Site. See the graphic below and visit Ecology's [cleanup process webpage](#)¹² to learn more about Washington's cleanup process.



Figure 1: Washington's cleanup process

Public Comments and Responses

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

Comment from: Jill Lightner

Hi Zak,

I've lived a block away from these parcels since 2009 (across Rainier Ave on 39th Ave S), and am thrilled to have gotten the mailer about the cleanup and long-term plan laid out by SEED. Looks like a great plan with the full support of at least one nearby resident homeowner!

My only two real comments:

1. I hope the sidewalk will be left accessible during the cleanup, lots of people use it daily on that side of the street. Pedestrian safety along S Rainier Ave is a big deal.

3. The 7 or 8 trees that are in the parking/planting strip (and next to the parking lot at the corner of S Hudson St) are older and seem healthy to my casual viewing over the last two decades. I don't know if they are considered contaminated as well and thus require replacement, or if they can be left protected as-is, but replacing them with trees of equivalent size would be an expense. If possible, keeping them is the right choice.

¹² <https://ecology.wa.gov/MTCA-process>

Hope your inbox isn't flooded with people freaking out about the decontamination process itself!

Jill Lightner

Response:

Thank you for your comment and your support. Unfortunately, Ecology only has authority over the cleanup of the contamination, and we are not involved in decisions regarding either pedestrian access or the preservation of trees located in the planter strip of the adjoining sidewalk during construction. The City of Seattle [Office of Sustainability and Environment](https://www.seattle.gov/environment)¹³ may be a good resource.

Comment from: Jason Rock

As a resident within the .5 mile ring around this site, I strongly support the PPCD as a mechanism to address the existing contaminants on the Morningside Acres site while allowing SEED to pursue this project. Such agreements are necessary to allow for contaminated parcels like this to be redeveloped and as the parking lot at the northern portion is a major hole in the Rainier Ave business district today I strongly support anything that will move a project to completion.

As a local resident I also understand that many historic parcels have similar backgrounds and therefore likely contamination. I support addressing the soil contamination fully as soon as possible rather than allowing it to remain and potentially diffuse into ground water, adjoining parcels, or public land (as seems to possibly be the case for this parcel V.1.R). I strongly support the use of Ecology's Affordable Housing Cleanup Grant Program for this project.

Response:

Thank you very much for your support. Next steps include studying the site (Remedial Investigation) and considering options for cleanup (Feasibility Study). Ecology will require that the selected cleanup action address all contamination at the site, including on adjoining parcels or public land.

Comment from: Thomas Marshall

This looks like another great project from SEED! I live a block away on the east side of Rainier Ave. I'm glad these properties can be cleaned up and used for affordable housing and a permanent location for Jazz Night School and LEMS. If you need anything from a local supporter, let me know.

Keep up the great work.

¹³ <https://www.seattle.gov/environment>

Response:

Thank you very much for your support.

Comment from: Rodrigo Prudencio

Glad to see this cleanup project going forward. As a local to the neighborhood, a mixed use development will be most welcome on that part of S. Rainier and Hudson and the remediation will assure that the site is safe and clean for future development.

Response:

Thank you very much for your support.

Comment from: Ben Neiman

As a neighbor to this project I am very excited for prime land in the heart of Columbia City's commercial district redeveloped into affordable housing! I hope SEED will explore the possibility of adding even more units. Please approve this cleanup!

Response:

Thank you very much for your support.

Comment from: Derrek Studebaker

I'm fully supportive of the project and look forward to this moving forward.

Response:

Thank you very much for your support.

Comment from: Nicole Gaudette

I fully support this project. It is a win-win for the community as it both removes contamination and provides much needed housing

Response:

Thank you very much for your support.

Comments from: Coral Marcus

October 26, 2024

Hello!

I was able to attend a virtual session about the Morningside Acres cleanup project this past Tuesday, and had a question that the folks there weren't able to answer, but they

recommended I send you a message. I was hoping you'd be able to share how the minimum required percentage of affordable (income restricted) units in the consent decree was set to twenty, instead of something higher?

Given existing MHA requirements, this is only a moderate increase over baseline. Since both project coordinators will need to agree on the affordable housing restrictions, it seems reasonable to expect that nothing will be approved beyond the bare minimum. I'd personally love to see that number higher, and given the purchaser is a nonprofit, ideally they'd be willing to increase that number in case they choose to sell the project to another entity.

Any information you could give me about that aspect of the project would be much appreciated!

Many thanks,
Coral

November 3, 2024

I am definitely in support of this plan! However, I would like to see more strict affordable housing requirements incorporated into the consent decree.

The current minimum of 20% of units is only a moderate improvement over the existing baseline set by Mandatory Housing Affordability requirements, and should be increased. Additionally, there should be a minimum unit count included, so that this isn't developed into 50 luxury apartments instead of the 100 suggested in the decree. MHA requirements set by the city last for 75 years, these requirements should as well. Ecology and the state is pouring resources into this project, and we should expect a meaningful return on that investment.

Ideally, VI.10.A would define a maximum duration and kinds of affordability restrictions, and not require the approval of the SEED project coordinator. Much like the cleanup requirements, the state should not expect SEED to agree to anything besides the bare minimum, and build the provisions of the decree acknowledging that expectation.

I am aware that the use of the Affordable Housing Cleanup Grant Program imposes additional restrictions on the purchaser, however the purchaser is under no obligation to leverage the grant.

As an administrative note, several of the section titles in XXVII.1 (Duration of Decree) are incorrect.

Response:

Thank you for your comment. As mentioned in our response to Jill Lightner above, Ecology only has authority over the cleanup of contamination, and we are not typically involved in decisions for future development once cleanup has been completed.

In the case of affordable housing projects, the 20% minimum requirement you are referring to was negotiated in earlier affordable housing prospective purchaser consent decrees (PPCDs) and was carried forward into the PPCD for Morningside Acres.

Thank you for the note regarding section titles, we have corrected this error.

Tribal Comment and Response

A tribal comment is presented below, along with Ecology's response. The Appendix contains the comment in its original format.

Comment from: Duwamish Tribal Historic Preservation

10/30/2024

WA State Department of Ecology
Site Cleanup ID 12408

Dear Zak Wall,

Thank you for the opportunity to comment on the Morningside Acres to cleanup and redevelop the contaminated Site located at 5001, 5015 and 5021 Rainier Ave S in Seattle. Based on the information provided and our understanding of the project and its APE, the Duwamish Tribe would recommend an inadvertent discovery plan, especially if any groundbreaking activity occurs below fill, topsoil or other impervious surfaces into native soil. This is an area that the Duwamish Tribe considers culturally significant and has a Moderate probability to have unknown archaeological deposits. We note that there are 3 historical and ancestral Duwamish place names within about a mile of the project location. The DAHP WISAARD predictive model indicates that an archaeological survey is highly advised with a high risk for encountering cultural resources.

We request that if any archaeological work or monitoring is performed, we would like notification. Cultural and archaeological resources are non-renewable and are best discovered prior to ground disturbance. The Tribe would also like the opportunity to be present if or when an archaeologist is on site.

In addition, the Tribe strongly recommends only native vegetation be used for any proposed landscaping to enhance habitat for fish and wildlife, and native avian life and native pollinators. The Tribe supports observing critical area tracts and stream buffers to preserve any remaining wetlands and stream buffers. Loss of wetland habitat is known to affect the viability of fish, water quality and increase the effects of seasonal urban flooding.

Finally we request that any lighting be dark sky compliant to reduce light pollution. Darkened skies were favorable conditions to practice traditional life pathways.

Thank you,

Duwamish Tribal Historic Preservation

Response:

Thank you for your comment. Please note that, since the cleanup planned for Morningside Acres will be an Ecology-supervised remedial action, Ecology will perform a cultural resource review consisting of the following efforts:

- Consult with the department of archaeology and historic preservation (DAHP) and affected tribes (including the Duwamish) on the potential effects of planned remedial actions on cultural resources at the site.
- Based on the consultations, Ecology may require the development and implementation of a cultural resources work plan, such as a survey or monitoring plan to avoid, minimize, or mitigate adverse impacts to cultural resources at the site.
- Prepare or require an inadvertent discovery plan for the site.

Regarding your recommendations for the use of native vegetation and dark sky-compliant lighting, as mentioned in our responses to Jill Lightner and Coral Marcus above, Ecology only has authority over the cleanup of contamination, and we are not typically involved in decisions for future development once cleanup has been completed.

Appendix – Comments in Original Format

From: Jill Lightner <cookie.diva@gmail.com>
Sent: Sunday, October 6, 2024 12:35 PM
To: Wall, Zak (ECY) <ZWAL461@ECY.WA.GOV>
Subject: Morningside Acres comment

External Email

Hi Zak,

I've lived a block away from these parcels since 2009 (across Rainier Ave on 39th Ave S), and am thrilled to have gotten the mailer about the cleanup and long-term plan laid out by SEED. Looks like a great plan with the full support of at least one nearby resident homeowner!

My only two real comments:

1. I hope the sidewalk will be left accessible during the cleanup, lots of people use it daily on that side of the street. Pedestrian safety along S Rainier Ave is a big deal.
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Jason Rock

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Keep up the great work.

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Glad to see this cleanup project going forward. As a local to the neighborhood, a mixed use development will be most welcome on that part of S. Rainier and Hudson and the remediation will assure that the site is safe and clean for future development.

Ben Neiman

As a neighbor to this project I am very excited for prime land in the heart of Columbia City's commercial district redeveloped into affordable housing! I hope SEED will explore the possibility of adding even more units. Please approve this cleanup!

Derrek Studebaker

I'm fully supportive of the project and look forward to this moving forward.

Nicole Gaudette

I fully support this project. It is a win-win for the community as it both removes contamination and provides much needed housing.

From: Coral Marcus <coral@coralmarcus.com>

Sent: Saturday, October 26, 2024 9:06 PM

To: Wall, Zak (ECY) <ZWAL461@ECY.WA.GOV>

Subject: Questions about Morningside Acres

External Email

Hello!

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Coral Marcus

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DUWAMISH TRIBE

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10/30/2024

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Site Cleanup ID 12408

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Finally we request that any lighting be [dark sky compliant](#) to reduce light pollution. Darkened skies were favorable conditions to practice traditional life pathways.

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Duwamish Tribal Historic Preservation

Duwamish Tribal Historic Preservation

