

COPY



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Southwest Region Office
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August 13, 2024

Meghan Garriques
Bradford Island Project Manager
U.S. Army Corps of Engineers, Portland District
P.O. Box 2946
Portland, OR 97208-2946
meghan.e.garriques@usace.army.mil

Re: U.S. Army Corps of Engineers' Response to Department of Ecology Identification of Applicable or Relevant and Appropriate Requirements for the Bradford Island Site

Dear Meghan. Garriques,

This letter is in reply to the U.S. Army Corps of Engineers' (USACE) June 24, 2024 response rejecting application of the Washington state applicable or relevant and appropriate requirements (ARARs) at this time for the Bradford Island NPL Site (Site). In your June 24 letter, you state:

ARARs cannot apply until the selection of the remedial action. Any request that ARARs be incorporated into Supplemental RI work plans for the river [Operable Unit] cannot be accommodated at this point in the process because it would conflict with the procedural requirements and phased approach under CERCLA and the National Contingency Plan (NCP).

The Washington State Department of Ecology (Ecology) strongly disagrees that Washington state ARARs cannot apply until selection of the remedial action for the Site. As I addressed in my February 27, 2024 letter to you, Washington's regulations under WAC Chapter 173-303 (Sediment Management Standards) and WAC Chapter 173-340 (Model Toxics Control Act Cleanup Regulations) meet CERCLA's criteria for ARARs under 42 U.S.C. § 9621. These state regulations set forth the state's requirements for all stages of cleanup including remedial investigations, interim cleanup actions, feasibility studies, and final cleanup actions of contaminated sites.

As a preliminary matter for the Bradford Island Site, USACE should identify state ARARs that will be expected to apply to Site characterization and site remediation activities before it begins its remedial investigation of the Site's River Operable Unit. The remedial investigation for the River Operable Unit will need to be evaluated to determine whether sampling results reflect levels of

contamination in sediments that exceed remedial levels in the State's ARARs. During the feasibility study, USACE will need to develop remedial alternatives for the Site and establish acceptable exposure levels that must be protective under the State's ARARs. USACE's failure to comply with the State's ARARs will result in the Site staying the 303d list, which Washington provides to U.S. EPA, as a category 4b waterbody – this will prohibit Washington's ability to allow any new permitted NPDES discharges to the Columbia River in that area. Thus, USACE should include Ecology's regulations under Washington's Sediment Management Standards and Model Toxics Control Act Cleanup Regulations as pre-CERCLA remedial action ARARs for the River Operable Unit at the Bradford Island Site.

Should you have any questions, please contact Ecology's project coordinator for the Bradford Island Site, Valerie Chu at 564-669-0298 or valerie.chu@461@ecy.wa.gov.

Sincerely,



Jerome Lambiotte
Section Manager
Toxics Cleanup Program
Southwest Region Office

cc: Valerie Chu, Ecology Toxics Cleanup Program, valerie.chu@ecy.wa.gov
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