

Response to Comments

Consent Decree

**Harris Avenue Shipyard Cleanup Site
201 Harris Avenue, Bellingham
Whatcom County**

Toxics Cleanup Program

Washington State Department of Ecology

Northwest Region Office

Bellingham, Washington

April 2025

Publication Information

This document is available on the Department of Ecology's [Harris Avenue Shipyard site page](#).¹

Cover photo credit

- Port of Bellingham, October 2019

Related Information

- Cleanup Site ID: 2922
- Facility Site ID: 193

Contact Information

[Toxics Cleanup Program](#)²

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Language Access

The Department of Ecology offers free translation and interpretation services. If you need help in your preferred language, please call Kristen Forkeutis at 425-240-4353 and request an interpreter, or email Kristen.Forkeutis@ecy.wa.gov.

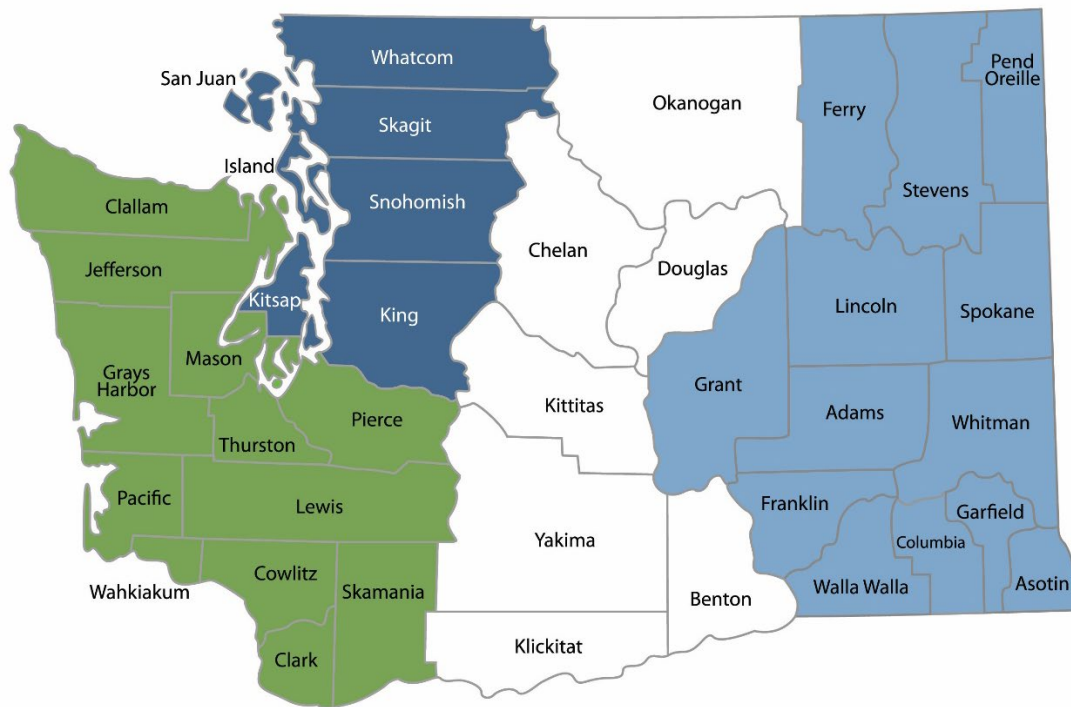
¹ <https://apps.ecology.wa.gov/cleanupsearch/site/193>

² <https://ecology.wa.gov/About-us/Who-we-are/Our-Programs/Toxics-Cleanup>

³ <https://ecology.wa.gov/ADA>

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

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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DEPARTMENT OF
ECOLOGY
State of Washington

Table of Contents

List of Figures and Tables 5

 Figures.....5

 Tables5

Public Outreach Summary 6

Comment Summary 8

Next Steps 9

Public Comments and Responses..... 9

 Comment from: Daniel Martinson.....9

 Comment from: Erol Morey.....9

 Comment from: Janet Higbee-Robinson.....11

 Comment from: Magnolia Riley.....12

Appendix – Comments in Original Format 14

List of Figures and Tables

Figures

Figure 1: Washington's cleanup process.....	9
---	---

Tables

Table 1: List of Commenters	8
-----------------------------------	---

Public Outreach Summary

The Harris Avenue Shipyard cleanup site located on the Bellingham waterfront is continuing Washington State's [formal cleanup process](https://ecology.wa.gov/MTCA-process)⁴ as directed under the Model Toxics Control Act ([MTCA](https://ecology.wa.gov/mtca)⁵). The Port of Bellingham is addressing contamination at the site under a legal agreement with Ecology.

The Department of Ecology's public involvement activities related to this site's 30-day comment period (February 10 – March 12, 2025) included:

- **Fact Sheet:**
 - US mail distribution of a fact sheet providing information about the cleanup documents and the public comment period to over 1900 addresses including neighboring businesses and other interested parties.
 - Email distribution of the fact sheet to over 300 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](https://apps.ecology.wa.gov/cleanupsearch/site/193)⁶ in English. Language access information was provided in Spanish.
- **Legal Notices:**
 - Publication of one paid print display ad in the *Bellingham Herald*, dated Sunday, February 9, 2025.
- **Contaminated Site Register newsletter:**
 - Publication of three notices in Ecology's Toxics Cleanup Program Contaminated Site Register:
 - Comment Period Notice:
 - February 6, 2025
 - February 20, 2025
 - March 6, 2025
 - Visit [Ecology's Contaminated Site Register website](https://apps.ecology.wa.gov/publications/UIPages/PublicationList.aspx?IndexTypeName=Program&NameValue=Toxics+Cleanup&DocumentTypeName=Newsletter)⁷ to download PDFs.

⁴ <https://ecology.wa.gov/MTCA-process>

⁵ <https://ecology.wa.gov/mtca>

⁶ <https://apps.ecology.wa.gov/cleanupsearch/site/193>

⁷ <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, February 6, 2025, to the *Bellingham Herald*, *The Cascadia Daily News*, [My Bellingham Now website](#),⁸ [Whatcom News website](#),⁹ [Whatcom Watch website](#),¹⁰ [Northwest Citizen news website](#),¹¹ KGMI 790 AM radio station, [Western Washington University's The Front newspaper](#),¹² and [Western Washington University's The Planet magazine](#).¹³
- **Media Coverage:**
 - The Bellingham Herald ran a [story](#)¹⁴ on February 10, 2025
 - Cascadia Daily News ran a [story](#)¹⁵ on February 6, 2025
 - My Bellingham Now ran a [story](#)¹⁶ on February 7, 2025
- **Social Media:**
 - Ecology posted on [Facebook](#),¹⁷ [Threads](#),¹⁸ and [Bluesky](#).¹⁹
- **On-site Walking Tour:**
 - Ecology collaborated with RE Sources, an Ecology [Public Participation Grant](#)²⁰ recipient, on an [on-site walking tour](#)²¹ on Wednesday, February 26, 2025.
- **Websites:**
 - Ecology announced the public comment period and walking tour, posted the fact sheet, and made the review document available on Ecology's [Harris Avenue Shipyard webpage](#)²² and [Ecology's Public Inputs & Events webpage](#).²³
- **Document Repositories:**
 - Copies of the review documents and fact sheets were available for review at the Bellingham Public Library's Central Branch.
 - Outreach materials also directed the public to contact Kristen Forkeutis, Outreach Specialist, for document review assistance.

⁸ <https://mybellinghamnow.com/>

⁹ <https://whatcom-news.com/>

¹⁰ <https://whatcomwatch.org/>

¹¹ <https://www.nwcitizen.com/>

¹² <https://www.thefrontonline.com/>

¹³ <https://www.theplanetmagazine.net/>

¹⁴ <https://www.bellinghamherald.com/news/politics-government/article299925539.html>

¹⁵ <https://www.cascadiadaily.com/2025/feb/06/cleanup-to-begin-at-harris-avenue-shipyard-site-on-bellingham-bay/>

¹⁶ <https://mybellinghamnow.com/news/297792-department-of-ecology-seeks-public-comment-on-cleanup-of-harris-avenue-shipyard/>

¹⁷

<https://www.facebook.com/EcologyWA/posts/pfbid02u3CjGB9LXzXzGhEnYMoTgHUsoSuTB435p2NE8MhgfBmAdtgp35vU7Arh1nZh3iQl>

¹⁸ <https://www.threads.net/@ecologywa/post/DF8SCEUSHgQ>

¹⁹ <https://bsky.app/profile/ecologywa.bsky.social/post/3lhwan66upk2i>

²⁰ <https://ecology.wa.gov/About-us/Payments-contracts-grants/Grants-loans/Find-a-grant-or-loan/Public-participation-grants>

²¹ <https://www.re-sources.org/2025/02/tour-a-bellingham-waterfront-cleanup-site-harris-ave-shipyard/>

²² <https://apps.ecology.wa.gov/cleanupsearch/site/193>

²³ <https://ecology.wa.gov/Events/Search/Listing>

Comment Summary

From February 10 to March 12, 2025, Ecology solicited comments on a legal agreement, called a consent decree, between Ecology and the Port of Bellingham (Port). It requires the Port to implement the Cleanup Action Plan for the upland area of the site.

Ecology received four formal comments during the 30-day comment period.

Table 1: List of Commenters

	First Name	Last Name	Agency/Organization/Business	Submitted By
1	Erol	Morey		Individual
2	Daniel	Martinson		Individual
3	Janet	Higbee-Robinson		Individual
4	Magnolia	Riley		Individual

Next Steps

Ecology has reviewed and considered the comments received on the Consent Decree. 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](#)²⁴ to learn more about Washington's cleanup process.

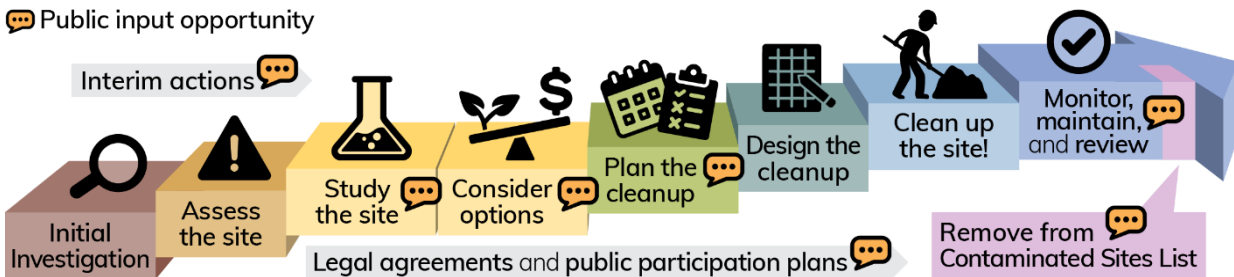


Figure 1: Washington's cleanup process

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: Erol Morey

Section VI (Work to be Performed): The decree states that the Port has elected to take the lead in remedial actions but also holds all defendants jointly and severally liable.

Recommendation: Clarify the specific obligations of each defendant to avoid future disputes over responsibility.

Suggested language: "The Port shall take the lead in execution of remedial actions, while Univar Solutions USA LLC remains fully liable for compliance and cost-sharing, as outlined in financial assurance provisions."

Section VI(6) (Financial Assurance Mechanisms): The decree requires financial assurance estimates within 60 days but lacks explicit consequences for failure to comply.

Recommendation: Specify enforcement measures, such as penalties or Ecology's right to suspend work until compliance is met.

²⁴ <https://ecology.wa.gov/MTCA-process>

Suggested addition: "Failure to submit required financial assurances within the prescribed period may result in penalties, including suspension of remedial activities or Ecology undertaking actions at the expense of the Defendants."

Thank you for the opportunity to review the draft decree.

Response:

Thank you for your comment and thorough review.

Regarding the first recommendation, please see the below response.

As noted by the language in paragraph 3 of Section VI (Work to be Performed), both the Port of Bellingham (Port) and Univar Solutions USA, LLC (Univar) are responsible to perform all tasks required under the Decree. A dispute between the Port and Univar will not excuse them from complying with the requirements of the Decree and its exhibits. The last sentence in paragraph 3 effectively addresses this concern, by stating that if the lead defendant fails to perform the Section VI's requirements, "all Defendants must perform the remaining work" under the Decree.

Regarding the second recommendation, please see the below response.

The state's Model Toxics Control Act (MTCA) provides Ecology with the power to seek civil penalties only against individuals who have failed to comply with a MTCA order or agreed order. See RCW 70A.305.050(1). Ecology's statutory penalty authority does not extend to a defendant's failure to comply with the terms of a MTCA consent decree. However, once a consent decree is entered by a court it becomes a judicial order, which is subject to continued judicial policing and injunctive relief. A defendant's failure to comply with the requirements of a consent decree (e.g., fails submit financial assurances) potentially subjects that party to a court's contempt powers, in the form of remedial contempt sanctions. See RCW 7.21.060. One of those remedial contempt sanctions is a court order designed to ensure compliance with the court's prior order (in this case, that would be the consent decree itself). RCW 7.21.030(2)(c). It is Ecology's position that it is not necessary to include references to this statutory contempt authority in its consent decrees.

Comment from: Daniel Martinson

WA State Dept of Ecology, Kristen Forkeutis, John Rapp,

This comment pertains to the "in water" portion of the cleanup.

Hello, I was employed by Maritime Contractors Inc. at the shipyard site from 1988 until MCI sold in 1998. I worked mostly on the water as a crane operator and boat operator.

There were six anchors that held the large concrete drydock in place. If they are still there, the chains may be covered with silt. If these anchors will be removed, there is one that has significant historical value and can not be mixed with the others. The reason is for the preservation of history.

If these anchors will be left on the bottom, and divers will be used to scan the sea floor, I would very much appreciate confirmation that this anchor is still there.

The drydock went to Hawaii in 2019 or 2020.

I have the whole story on this anchor, and its current location coordinates.

Thank You, I hope to hear from you when the "in Water" portion begins.

Daniel Martinson, 907-434-1576, alaskadlm@gmail.com, PO Box 1424, Nome, AK 99762

Response:

Thank you for your comment. We appreciate you sharing this historic information about the site location and specifically the anchor.

You have been added to our mailing list to receive future updates about the Harris Avenue Shipyard cleanup site. When the next public comment period takes place for the in-water portion of this site (expected in late 2026), we encourage you to reach back out about this issue. That way all individuals involved in the project at that time will be aware of your concerns and Ecology can recommend that the Port of Bellingham work with their contractor to set aside the anchors if found.

Comment from: Janet Higbee-Robinson

Question: Is current tenant going to be held to high standards to prevent further pollution?

Lay comment: Thanks for Osprey Nesting Plank. Please add more sea bird friendly features. Native tree and bush plantings, grasses, at least in the pocket beaches, and posts off of the beach. Can a kelp garden be planted? Speaking of the pocket beaches, do make them as vibrant as possible. Make the bits of beach natural for forage fish eggs to mature successfully, Consider adding further plantings up on the high ground, in order to provide peace for employees when on break.

Response:

Thank you for your question and comment.

The contamination present at the Harris Avenue Shipyard site is from former shipbuilding and other historical operations that began in the early 1900s. During these times, environmental regulations were lax or non-existent, which is why we're addressing this legacy contamination. Today, any future tenants and associated use of Port property will have to adhere to environmental rules and laws that regulate the use, storage, and transportation of hazardous chemicals, as well as the treatment/discharge of wastewater/stormwater. Ecology would like to prevent sediment, soil and groundwater contamination wherever and whenever possible. We encourage you to visit the following links to learn more about the current regulations around hazardous waste and water quality.

[Water quality - Washington State Department of Ecology](#)²⁵

[Hazardous Waste & Toxics Reduction - Washington State Department of Ecology](#)²⁶

Based on the appropriated cleanup funding, Ecology only has authority over the cleanup of the contamination and subsequent monitoring. Funding for habitat restoration, such as native plantings and pocket beach enhancements, have not been appropriated for this site. This is not to say that the upland and in-water cleanups will not improve the aquatic habitat.

In addition, Ecology has limited ability to require restoration-based activities during cleanup, depending on site-specific information such as the degree of contamination impacts to natural resources, future land use, and the results of biological evaluations performed during the cleanup process. Potential risk and impacts to natural resources will be evaluated during cleanup activities, as required under the Model Toxics Control Act (MTCA) and [Sediment Management Standards \(SMS\)](#).²⁷

The Port of Bellingham, the Potential Liable Person (PLP) for this site, is invested in this site and the entire Bellingham Bay cleanup. During the 2018 Interim Action at this site, the Port covered the small pocket beach at this site with a fish mix to enhance nearshore habitat for forage fish.

Comment from: Magnolia Riley

I believe that the Harris Avenue Shipyard and the surrounding area would benefit from a major revamp. Plans were made and discussed over with the public via a tour and a consent decree. I was able to be in attendance for the event. The clean-up initiative is for contamination of the groundwater and soil that lies near and around the shipyard harming and destroying the ecosystem that thrives there—these actions previously date back many decades ago such as oil storage and ship maintenance. The City of Bellingham is trying to reverse the damage that has been caused by formulating a plan to remove bad sedimentary elements and backfill the area with cleaner, more natural materials, as well as monitoring and sampling the environment for further issues. I agree that these changes are necessary for Bellingham Bay's future success and improvement. I hope to see this implemented in the years to follow and to be a part of this widespread movement of revitalization.

Response:

Thank you for your comment and support of the Harris Avenue Shipyard cleanup site. The upland area of the site is expected to be cleaned up by the end of 2025. Cleanup of the in-water area is expected to begin in 2027.

For clarification, it is the Port of Bellingham who is the Potential Liable Person (PLP), or the party responsible for cleaning up the Harris Avenue Shipyard site. The City of Bellingham is not a PLP for this site.

²⁵ <https://ecology.wa.gov/water-shorelines/water-quality>

²⁶ <https://ecology.wa.gov/About-us/Who-we-are/Our-Programs/Hazardous-Waste-Toxics-Reduction>

²⁷ <https://app.leg.wa.gov/WAC/default.aspx?cite=173-204>

Ecology oversees the [Bellingham Bay Cleanup](#)²⁸ and leads the Bellingham Bay Action Team (BBAT). BBAT is a bay-wide multi-agency effort to clean up contaminated sediment, control sources of sediment contamination, and restore habitat, with consideration for land and water uses. The parties comprising this team are working hard to improve Bellingham Bay.

²⁸ <https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Cleanup-sites/Puget-Sound/Bellingham-Bay>

Appendix – Comments in Original Format

I-1: Erol Morey

Submit Date: 02/10/2025 1:47 PM

Submit Method: Website

Comment I-1-1

Section VI (Work to be Performed): The decree states that the Port has elected to take the lead in remedial actions but also holds all defendants jointly and severally liable.

Recommendation: Clarify the specific obligations of each defendant to avoid future disputes over responsibility.

Suggested language: "The Port shall take the lead in execution of remedial actions, while Univar Solutions USA LLC remains fully liable for compliance and cost-sharing, as outlined in financial assurance provisions."

Section VI(6) (Financial Assurance Mechanisms): The decree requires financial assurance estimates within 60 days but lacks explicit consequences for failure to comply.

Recommendation: Specify enforcement measures, such as penalties or Ecology's right to suspend work until compliance is met.

Suggested addition: "Failure to submit required financial assurances within the prescribed period may result in penalties, including suspension of remedial activities or Ecology undertaking actions at the expense of the Defendants."

Thank you for the opportunity to review the draft decree.

I-2: Daniel Martinson

Submit Date: 02/10/2025 11:59 PM

Submit Method: Website

Comment I-2-1

WA State Dept of Ecology, Kristen Forkeutis, John Rapp,

This comment pertains to the "in water" portion of the cleanup.

Hello, I was employed by Maritime Contractors Inc. at the shipyard site from 1988 until MCI sold in 1998. I worked mostly on the water as a crane operator and boat operator.

There were six anchors that held the large concrete drydock in place. If they are still there, the chains may be covered with silt. If these anchors will be removed, there is one that has significant historical value and can not be mixed with the others. The reason is for the preservation of history.

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The drydock went to Hawaii in 2019 or 2020.

I have the whole story on this anchor, and its current location coordinates.

Thank You, I hope to hear from you when the "in Water" portion begins.
Daniel Martinson, 907-434-1576, alaskadlm@gmail.com, PO Box 1424, Nome, AK 99762

I-3: Janet Higbee-Robinson

Submit Date: 03/06/2025 6:57 PM

Submit Method: Website

Comment I-3-1

Question: Is current tenant going to be held to high standards to prevent further pollution?

Lay comment: Thanks for Osprey Nesting Plank. Please add more sea bird friendly features. Native tree and bush plantings, grasses, at least in the pocket beaches, and posts off of the beach. Can a kelp garden be planted? Speaking of the pocket beaches, do make them as vibrant as possible. Make the bits of beach natural for forage fish eggs to mature successfully, Consider adding further plantings up on the high ground, in order to provide peace for employees when on break.

I-4: Magnolia Riley

Submit Date: 03/12/2025 11:01 PM

Submit Method: Website

Comment I-4-1

I believe that the Harris Avenue Shipyard and the surrounding area would benefit from a major revamp. Plans were made and discussed over with the public via a tour and a consent decree. I was able to be in attendance for the event. The clean-up initiative is for contamination of the groundwater and soil that lies near and around the shipyard harming and destroying the ecosystem that thrives there—these actions previously date back many decades ago such as oil storage and ship maintenance. The City of Bellingham is trying to reverse the damage that has been caused by formulating a plan to remove bad sedimentary elements and backfill the area with cleaner, more natural materials, as well as monitoring and sampling the environment for further issues. I agree that these changes are necessary for Bellingham Bay's future success and improvement. I hope to see this implemented in the years to follow and to be a part of this widespread movement of revitalization.