



*Elevating the voices of those impacted by the Duwamish River pollution and other environmental injustices to advocate for a clean, healthy, and equitable environment for people and wildlife. Promoting place-keeping and prioritizing community capacity and resilience.*

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Sandra Matthews [sandra.matthews@ecy.wa.gov](mailto:sandra.matthews@ecy.wa.gov) Site Manager

AND

Meredith Waldref [meredith.waldref@ecy.wa.gov](mailto:meredith.waldref@ecy.wa.gov) Public Involvement Coordinator

Washington Department of Ecology

Re: Snopac Property Uplands Draft Cleanup Action Plan and In-water Feasibility Study

Dear Sandra Matthews and Meredith Waldref,

Thank you for the opportunity to comment on the Uplands Draft Cleanup Action Plan and In-water Feasibility Study for the Snopac Property cleanup site located at 5055 and 5053 East Marginal Way South in Seattle.

It is vitally important that community voices are heard on the issues that directly impact them. The Duwamish River Community Coalition (DRCC) has long been a community steward for environmental justice in the Duwamish Valley, which is one of the most polluted areas in the entire Pacific Northwest following over a century of industrial dumping and release of toxic waste. We seek to amplify the will and voices of community members harmed by the combined impacts of environmental, economic, and health inequities present in the Duwamish Valley.

1. Groundwater Monitoring and Monitored Natural Attenuation

We would like to reiterate our concerns expressed in DRCC's October 24, 2023 comment letter (and attached) on the Uplands RI/FS. Specifically our concerns were the following:

We are concerned about the groundwater monitoring stopping after 4 consecutive results comply with cleanup levels for two reasons.

*“i. It is our understanding that sea-level rise has potential to impact groundwater in the Duwamish Valley aquifers migration to the river and more contamination may reach the river than originally modeled. We do not see this analysis in the RI/FS. As climate change becomes a bigger concern in overburdened communities, Ecology should include more information in all MTCA planning documents outlining climate resilience considerations.*

*ii. The December 27, 2022 Duwamish River overtopping event occurred approximately 25 years earlier than expected. No analysis has been made how a flood event like this would potentially release contamination into the river. If there are more events like this, we believe that groundwater monitoring should be restarted to ensure that no new contamination is reaching the river.”*

Section 4.1.2 Groundwater Monitored Natural Attenuation of the Uplands Draft Cleanup Action Plan again states that the Groundwater Compliance Monitoring Plan will include a step to “Monitor groundwater until four consecutive results below the CULs are achieved at the point of compliance to verify upland groundwater compliance.”

We are concerned Ecology has not taken DRCC comments into account in this cleanup plan. The Groundwater Compliance Monitoring Plan should be developed in coordination with community partners and should address the potential inland and/or vertical migration of contaminants due to changes in groundwater conditions resulting from altered surface-groundwater interactions, changes in water levels due to changes in precipitation and/or sea level rise, and changes in topography due to onsite design and impacts of adjacent sites.

Further, due to these potential changes in surface-groundwater connectivity, we recommend additional compliance monitoring to assess cleanup status and success of Monitored Natural Attenuation to include the full range of historic and projected hydrologic cycles in the river. This should include a review of the 2024 U.S. Geological Survey (USGS), and Washington State Department of Ecology (Ecology) study to describe the [surface-water interactions in the lower Duwamish Waterway](#).

Lastly, the monitoring should address climate change impacts as noted in revised MTCA (WAC 173-340) and guidance document for [Addressing Sea Level Rise in Shoreline Master Programs](#). Please provide any documents related to this analysis that were reviewed regarding potential climate change impacts and vulnerabilities.

**Response:**

The 2021 uplands interim action permanently removed from the portion of the Site inland of the shoring wall the contaminated material that was posing a threat to groundwater quality. The pending in-water cleanup action will permanently remove the remaining contaminated material at the Site, including the small remaining quantity located in the upland (above mean higher high-water elevation) seaward of the shoring wall. Because the Site cleanup action will accomplish comprehensive removal of the sources of Site groundwater contamination, future climate-induced rises in LDW tide levels and Site groundwater levels would not contact contaminated material, and therefore groundwater quality would not be impacted. As such, the upland CAP's groundwater monitored natural attenuation monitoring program, including compliance criteria, is deemed appropriate for the Site.

**2. Source Control**

DRCC's 2023 comments requested more details that connect the preferred alternative to Source Control Sufficiency. The Draft Uplands Cleanup Action Plan notes that removal of contaminated fill will result in complete source control.

The Draft Cleanup Action Plan also notes that "if uplands soil compliance is not achieved after the remaining SBG-containing fill is removed, a restrictive environmental covenant would be prepared and recorded." This uncertainty speaks to an additional need to evaluate source control and monitoring. The Plan also notes that while it is possible to meet the CUL at the shoreline, meeting the CUL throughout the site has an uncertain timeline, and "there would be negligible environmental benefit (risk reduction) from meeting marine-based groundwater CULS at monitoring wells located tens to hundreds of feet inland from the point of groundwater discharge."

Additionally, since the Draft Cleanup Action Plan "determined that the cost to implement an alternative adding an active groundwater remediation technology would not be reasonable", the monitoring plan needs to provide assurances to the community that full source control has been achieved prior to the discontinuation of monitoring efforts.

**Response:**

The planned Site cleanup action will remove all contaminated source material: soil and sediment from the uplands and in-water portions of the Site to the mean low-low water line to achieve respective cleanup standards. This is the most permanent source control action for this Site. The proposed groundwater monitoring plan will continue until groundwater cleanup standards are achieved, ensuring full source control is accomplished. All groundwater monitoring reports will be publicly available on the [site's webpage](https://apps.ecology.wa.gov/cleanupsearch/site/12463)<sup>4</sup>.

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<sup>4</sup> <https://apps.ecology.wa.gov/cleanupsearch/site/12463>

### 3. Shoreline Design and Management

The Draft Uplands Cleanup Action Plan notes that stable slopes will be re-established by adding the smallest sized substrate that would remain stable on the slopes, but that large rock may be needed to provide stability. This will include a shallow slope up to the existing retaining wall. The retaining wall is approximately 7 ft high, 270 ft long, and extends the full length of the shoreface on the western property boundary. The Sediment Feasibility Study notes that a shoring wall was installed in 2020 to stabilize the existing “makeshift retaining wall”. Additionally, the Snopac site has been cleared and the building removed, leaving space for additional habitat.

The future use of the shoreline is in the interest of the public trust and cleanup should reflect this. At a minimum the cleanup should consider future use of this buffer to include terrestrial and/or aquatic habitat that will be in the best interest of the public trust.

Further, Washington State Shoreline Management Act of 1971 (SMA) considers the basic policy areas: shoreline use, environmental protection, and public access. The SMA is intended to ensure the development of shorelines in a manner that will *promote and enhance the public interest and that will protect shorelines of the state, including the land, vegetation, wildlife, and aquatic habitats, against adverse environmental effects*. Additionally, the SMA (RCW 90. 58) establishes a hierarchy of preference for uses in shorelines of state-wide significance: recognizing and protecting the state-wide interest over local interest; preserving the natural character of the shoreline; resulting in long term over short term benefit; protecting the resources and ecology of the shoreline; increasing public access to publicly owned areas of the shorelines; increasing recreational opportunities for the public in the shoreline; and providing for any other element as defined in RCW 90. 58. 100 deemed appropriate or necessary. As noted in the Draft Uplands Cleanup Action Plan the City Shoreline Master Program Regulations (SMC 23.60A) impose requirements and standards for work conducted

within 200 feet of the shoreline, including standards for achieving no net loss of ecological functions, shoreline stabilization, dredging, filling/grading, and vegetation and impervious surface management.

Ecology should consider the public trust and interest and the needs of the State’s wildlife in the cleanup of the site. Because the existing retaining wall appears to be unstable, Ecology should request removal and replacement of dilapidated infrastructure to support a shallow slope from the river to the shoreline, which should include riparian vegetation. This would help reduce runoff from the existing upland property which consists of

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unvegetated dirt. This would also provide habitat connectivity to the property to the north, 4737 E Marginal Wy S, and connectivity to habitat at Kellogg Island.

If a retaining wall is maintained, we request a long-term bond (100 yrs) for protection and maintenance of any constructed wall to ensure that it remains protective for the long term and is maintained through unanticipated changes to sea level rise and other river dynamics resulting from climate change.

This recommendation would be consistent with the interim Institutional Controls proposed that will restrict human access with chain link fencing and signage around the edges of the Property 4) will be maintained at the Site until the SBG-containing fill removal and the shoreface restoration are completed. If uplands soil compliance is not achieved after the remaining SBG-containing fill is removed, a restrictive environmental covenant would be prepared and recorded to notify construction workers of residual contaminated materials and require appropriate protection measures to prevent worker exposure.

## Response:

### Retaining walls

Currently, there are two existing retaining walls along the shoreline of the site: one “makeshift retaining wall” and a permitted engineered sheet pile shoring wall installed in 2020. As outlined in the Sediment FS, the existing “makeshift retaining wall” structure will be removed along with other debris, including metal, concrete, wood, and sediment. The sheet pile shoring wall installed in August 2020 will remain but will be cut below grade. The shoreface slope will be reestablished based on the physical constraints of the site ([see Figure 8 of Sediment FS](#)<sup>5</sup>).

### Site restoration

The Sediment and Upland FS documents share details of the planned bank restoration at the site. Backfill material and native vegetation will be selected for placement along the shoreface after the contaminated material is removed.

#### *Below MHHW restoration:*

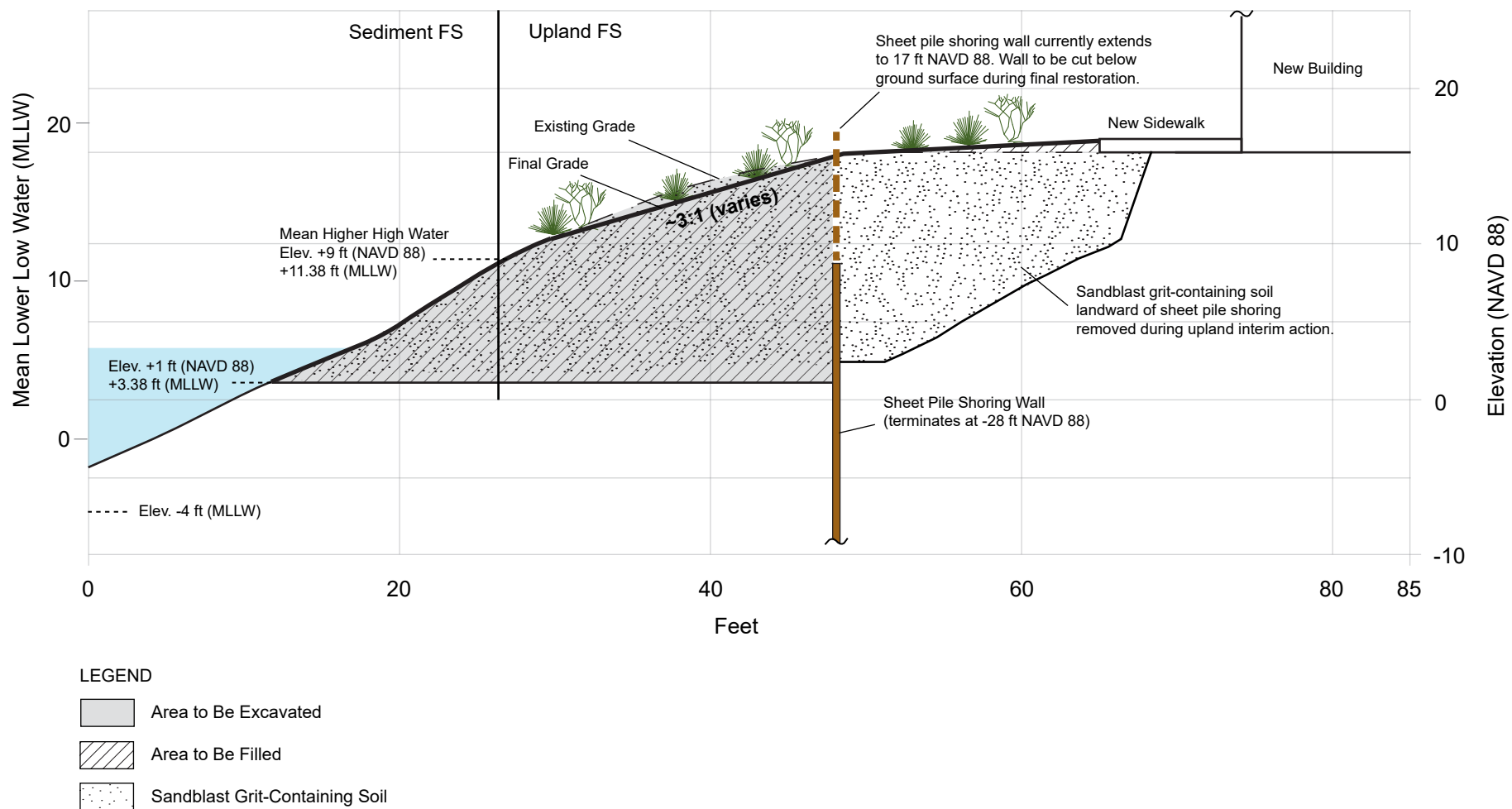
The surface of the new and re-sloped shoreface would likely need rock to prevent erosion, but a sandy gravel habitat mix would be applied over and between the larger rocks to improve the ecological function. This will provide greater habitat function than what currently exists.

#### *Above MHHW restoration:*

Following slope adjustment, all areas landward of the ordinary high water mark, within the project area along the shoreline, would be planted with native trees, shrubs, and plants to increase riparian habitat in this area. The plantings would be designed to integrate with human upland uses where an office building is expected while creating an aesthetically pleasing, yet functioning, native riparian habitat.

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<sup>5</sup> <https://apps.ecology.wa.gov/cleanupsearch/document/151068>



**Figure 8.**  
 Conceptual Design for Shoreface Remedy  
 Sediment Feasibility Study  
 Snopac Property

#### 4. Environmental Justice and Tribal Engagement and Impacts

We would like to reiterate our concerns expressed in DRCC's October 24, 2023 comment letter on the Uplands RI/FS. Both the Uplands Draft Cleanup Action Plan and In-water Feasibility Study should include information on tribal review as groundwater metal contamination will have a significant impact on clamming, which is part of the local Tribe's fishing rights. As a whole, Ecology should provide more transparency around Tribal consultation frameworks, particularly related to decisions that will impact Tribes. Feasibility Studies and Cleanup Action Plan should include an environmental justice analysis, especially for MTCA sites in overburdened communities, as required by the HEAL Act

P. 10 of the Draft Uplands Cleanup Action Plan has a short section stating that Ecology's public outreach and comment processes for the RI, Upland FS, and CAP, considered public concerns in selecting the cleanup action, including tribes. However, the section is only a paragraph long and does not outline the efforts taken to engage the public and tribes (e.g., number of meetings or comments received) nor does it discuss the impacts to vulnerable communities. We do note the Feasibility Study includes that the Muckleshoot Tribe will be consulted for any changes in work windows, but this is the bare minimum needed to address community concerns.

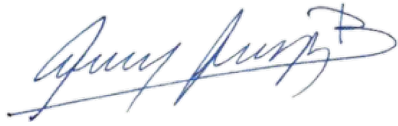
#### **Response:**

**Ecology will continue to maintain an ongoing dialogue with the public throughout the cleanup process. The Public Participation Plan (PPP) outlines the methods we'll use for this project, and you can also find this information as part of the broader engagement strategy for the Lower Duwamish Waterway site.**

**While this site's activities do not trigger a formal Environmental Justice Assessment under the HEAL Act, our Public Participation Plans for all sites along the Lower Duwamish Waterway are designed to enhance engagement within this community because of the environmental justice concerns this community faces.**

**We are beginning to develop Tribal Engagement Plans for cleanup sites. The Plan will document how Ecology and the Tribes will work together, and will be a publicly available document when it is completed. The Plan should provide more structure and transparency around how we work with the Tribes.**

We appreciate this opportunity to provide comments. Please do not hesitate to contact us if you have any questions.



Paulina López Executive Director  
Duwamish River Community Coalition/TAG  
206-251-2038

