



# **RESPONSIVENESS SUMMARY**

**LITTLE SQUALICUM PARK  
Bellingham, Washington**

***AGREED ORDER DOCUMENTS***

**April, 2005**

**ISSUED BY:**

**WASHINGTON STATE DEPARTMENT OF ECOLOGY**

**TOXICS CLEANUP PROGRAM**

## Introduction

On January 12, 2005 the draft agreed order documents (draft agreed order, draft public participation plan) for the Little Squalicum Park site (Site) in Bellingham were issued for a 30-day public comment period. Public involvement activities related to this public comment period included:

- Distribution of a fact sheet describing the site and the documents through a mailing to over 900 people, including neighboring businesses and other interested parties;
- Publication of a paid display ad in *The Bellingham Herald*, dated January 9, 2005;
- Publication of notice in the Washington State Site Register, dated January 12, 2005;
- Posting of the documents on the Ecology web site; and
- Providing copies of the documents through information repositories at Ecology's Bellingham Field Office and Northwest Regional Office, the Bellingham Technical College, and the Bellingham Public Library – Downtown Branch.

A total of nine (9) comment letters or e-mails were received regarding the draft agreed order documents, as follows:

1. **Washington Department of Health** (Henning; e-mail)
2. **Washington Department of Health** (Trejo; letter)
3. **Runestrand** (letter)
4. **Birchwood Neighborhood Association** (Demma; e-mail)
5. **Drabik** (e-mail)
6. **People for Puget Sound** (Trim; letter)
7. **Preston/Gates/Ellis LLP for The Oeser Company** (Chapman; e-mail and letter)
8. **Oeser Cedar Cleanup Coalition** (Denadel; e-mail)
9. **Lynch** (letter)

The comment letters are summarized below along with Ecology's response to the comments. Copies of the comment letters are also attached.

## Background

The Site is located at 604 Marine View Drive and is currently undeveloped open space with public access. The Site has multiple owners including the City and Whatcom County. The portion of the Site owned by Whatcom County has been leased to the City for development as a park. Little Squalicum Creek runs through the Site and is fed by springs and storm water runoff from adjacent properties.

The Site is located next to both residential neighborhoods and heavy industrial facilities including the Oeser Company, an active wood-treating facility. The Oeser Company is a designated federal Superfund site and historic and on-going contamination issues at this facility are currently being addressed by the Environmental Protection Agency (EPA). (For more information about the status of EPA's activities at the Oeser Company Superfund site which is

located adjacent to the Little Squalicum Park site, please contact Mary Jane Nearman by phone (206) 553-6642 or by email [nearman.maryjane@epa.gov](mailto:nearman.maryjane@epa.gov)).

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 Washington State Model Toxics Control Act (MTCA).

The draft agreed order requires the City to complete a remedial investigation/feasibility study (RI/FS). This study will summarize existing environmental conditions at the Site, present and evaluate a range of cleanup alternatives, and identify a preferred cleanup approach. It will build on previous site investigations and will provide the information necessary for Ecology to select a preferred alternative for site cleanup. The RI/FS will detail:

- Results of previous investigations.
- The nature and extent of contamination for soil, sediment, groundwater and surface water.
- Other important Site information relevant to Site cleanup.
- Multiple alternatives for cleanup of the Site, including evaluation of those alternatives against MTCA criteria including effectiveness, implementability, and cost-effectiveness.
- Definition of a preferred alternative.

The RI/FS will be issued for public review and comment in 2005.

## **Comments Received and Ecology Response**

### **Comment # 1 – Washington Department of Health (Henning; e-mail)**

#### **Comment Summary:**

Recommended additional public outreach to determine if notification ads are needed in publications other than the Bellingham Herald and if there is a need for translated materials.

#### **Response:**

In regards to a need for notification ads in other publications, the Model Toxics Control Act (MTCA) addresses the issue in WAC 173-340-600 Public notice and participation. Section 4 (c) specifies that “notice of the proposed action shall be published in the newspaper of largest circulation in the city or county of the proposed action”. In Whatcom County, the Bellingham Herald is the newspaper of record.

Section 4 (d) addresses the question of providing notification via other news media. It states that notice of the proposed action shall be mailed to any other news media that the department determines to be appropriate. However, at this time, no other publication appears to serve the local population as widely and consistently as the newspaper of record.

Ecology may also use any of the following methods to provide information to the public: (a) press releases; (b) fact sheets; (c) public meetings; (d) publications; (e) personal contact by department employees; (f) posting signs at the facility; (g) notice in the *Site Register*; (h) notice through the Internet; (i) any other methods as determined by the department. A good source of up-to-date site information is the site web-page at [www.ecy.wa.gov/programs/tcp/sites/blhm\\_bay/sites/Little\\_Squalicum/Little\\_Squalicum\\_hp.htm](http://www.ecy.wa.gov/programs/tcp/sites/blhm_bay/sites/Little_Squalicum/Little_Squalicum_hp.htm)

In regards to a need for translated materials, MTCA addresses the issue of communication and notification in RCW 70.105D.110 (6): “If a significant segment of the community to be notified speaks a language other than English, an appropriate translation of the notice must also be posted and mailed to the department in accordance with the requirements of this section”.

The Public Participation Plan for this site acknowledges that 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.

Ecology has not yet determined if there is a significant segment of the community that speaks a language other than English. In anticipation of the next public review period, the agency will seek to answer this question. Any additional information that other agencies or local residents might possess (i.e. through DOH preparation of a public health assessment for the adjacent Oeser Superfund site) would be a welcome addition in shaping a more complete picture of community needs. Such information should be forwarded to either the Ecology site manager Mary O’Herron by phone (360) 738-6250 or by e-mail [mohe461@ecy.wa.gov](mailto:mohe461@ecy.wa.gov); or to the City’s project manager Tim Wahl by phone (360) 676-6985 or by e-mail [twahl@cob.org](mailto:twahl@cob.org).

## **Comment # 2 - Washington Department of Health (Trejo; letter)**

### **Comment Summary:**

Suggested additional evaluation and decision criteria be included in scope of work for Work Plan. Requests DOH review of draft Remedial Investigation and Feasibility Study (RI/FS) documents due to agency’s involvement in preparing public health assessment for Oeser Superfund site (including Little Squalicum data).

### **Response:**

The Agreed Order (Order) contains a general scope of work that calls for the development of draft plans that will detail the work to be performed. It does not provide specific evaluation and decision criteria. These plans will be subject to public review prior to finalization and Ecology

will specifically solicit comment from DOH and other stakeholders. The same is true for the draft RI/FS.

It has been Ecology's policy to involve local, state and federal agencies in the decision-making process for all Bellingham Bay sites. The Scope of Work for Little Squalicum Park specifies that: "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. A key element identified in the Scope of Work is Assessment of potential human health and ecological health concerns". Both the DOH and Whatcom County Health and Human Services (WCHHS) will be consulted in order to make that health assessment.

### **Comment # 3 – Runestrand (letter)**

#### **Comment Summary:**

Provided historical background for site uses, including dumping of domestic garbage, cement dust and coal mine slag.

#### **Response:**

The Sampling Analysis Plan (SAP) will provide a review of existing and available data to support the development of RI/FS tasks including the location and composition of current and historical contaminant sources and the historical uses of the site. In addition, a section of the RI/FS report will synthesize all available information into a comprehensive "site history."

Much information, both documented and anecdotal, is available concerning the Little Squalicum Park site. Any additional information that local residents might possess would be a welcome addition in shaping a more complete picture of the property. Such information should be forwarded to either the Ecology site manager Mary O'Herron by phone (360) 738-6250 or by e-mail [mohe461@ecy.wa.gov](mailto:mohe461@ecy.wa.gov); or to the City's project manager Tim Wahl by phone (360) 676-6985 or by e-mail [twahl@cob.org](mailto:twahl@cob.org).

### **Comment # 4 – Birchwood Neighborhood Association (Demma; e-mail)**

#### **Comment Summary:**

Park development will depend on identification and control of contaminant sources. Recontamination after remediation needs to be avoided.

#### **Response:**

A key element identified in the Scope of Work is source control and recontamination evaluation.

The Scope of Work states that the SAP will provide a review of existing and available data to support the development of the Remedial Investigation and feasibility Study tasks (including) location and composition of current and historical contaminant sources. The Scope of Work also

states that the City will conduct an RI to delineate the area requiring cleanup and to identify sources that may need to be eliminated or reduced as part of the cleanup.

**Comment # 5 – Drabik (e-mail)**

**Comment Summary:**

Supports cleanup of the area, including source control from industrial sites. Liable parties should be part of cleanup effort.

**Response:**

As stated above (see comment #4), a key element identified in the Scope of Work is source control and recontamination evaluation.

The City of Bellingham, as owner/operator, was determined to be a potential liable party (PLP) for the site in March 2004. In January 2005, Ecology also sent a preliminary PLP letter to Whatcom County (owner of a portion of the site). At this time, no final PLP determination has been made for the County or for any other business, organization or property owner other than the City. However, Ecology reserves the option to name additional PLPs at a later date.

The City of Bellingham has elected to enter into an Agreed Order with Ecology for the purpose of assessing the site and preparing an RI/FS. In the Order (finalized and signed on March 22, 2005), the City is directed to conduct these preliminary activities. A separate legal document (a Consent Decree) will be prepared after the RI/FS is completed. It will spell out cleanup actions at the site and their associated costs. Other PLPs (in addition to the City) may be identified and be signatory to the Consent Decree. Cost allocation may occur at that time under the framework of the Consent Decree.

It should be noted that Ecology and the City are working to keep nearby businesses, organizations and property owners up-to-date regarding work at the site. The purpose is two-fold: to solicit input and to ensure “no surprises” for all parties involved throughout the process.

It should also be noted that the City, in entering into the Order, did not obligate itself to incur all costs associated with site assessment and cleanup. The Order specifically addresses this in section 10-d where it states that “Nothing herein shall be a waiver of the City’s right to pursue any other responsible party for costs associated herewith”.

**Comment # 6 – People for Puget Sound (Trim; letter)**

**Comment Summary:**

Good opportunity to improve both habitat and public access. Water’s edge and creek’s path should be improved. Upstream contaminant sources should be controlled. Chemical cleanup should be to highest level possible. Concerned about persistent bioaccumulative toxin (PBT) at the site.

**Response:**

As stated above (see comment #4), a key element identified in the Scope of Work is source control and recontamination evaluation.

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. Dioxin, along with the other contaminants known to be present at the site, will be assessed as to its distribution, concentration and necessary cleanup levels during the RI/FS process.

Access and habitat considerations, either as part of or auxiliary to the site cleanup, will be factored into both the selection of a cleanup method and the final design. Ecology must necessarily focus on the regulatory cleanup element of the project. Restoration of the creek and improved public access are elements of the City's overall park redevelopment which can be integrated with the cleanup but are not requirements of the cleanup. The public will be encouraged to provide input during the decision-making process.

**Comment # 7 – Preston/Gates/Ellis LLP for The Oeser Company (Chapman; e-mail and letter)****Comment Summary:**

1) Background information presented is inadequate and suggests substitute text from Ecology's 2004 Screening Level Assessment. The City and County's PLP status with respect to the Agreed Order is not clear. 2) Request that Ecology make use of EPA analysis of creek and adjacent properties. Preliminary Ecology comments during drafting of the Order ask for further investigation of the groundwater transport pathway. The EPA RI/FS and related correspondence for the Oeser facility, creek and south slope have already addressed this issue. 3) Approve City's work to improve area for community use. Public funds should be used for property improvements rather than reexamination of issues previously studied.

**Response:**

The background information provided in the Agreed Order, Scope of Work and Public Participation Plan is intended to provide general background for the Site, but not go into such detail that it constitutes a site history. As noted in Ecology's response to Comment #3, a primary function of the RI/FS is to research and compile a comprehensive site history.

The City's PLP status is noted in the Agreed Order for the Little Squalicum Park site where it states that, on February 18, 2004, the City accepted its status as a "potentially liable person" (PLP) under RCW 70.105D.040. However, as mentioned in Ecology's response to Comment # 5, no final PLP determination has been made for the County or for any other business, organization or property owner other than the City.

The SAP shall provide a review of existing and available data to support the development of RI/FS tasks (including) ...

- 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;

The City shall conduct a RI to delineate the area requiring cleanup and to identify sources that may need to be eliminated or reduced as part of the cleanup. A key element identified in the Scope of Work is Source Control and recontamination evaluation.

**Comment # 8 – Denadel (e-mail)**

**Comment Summary:**

Concerned about management practices and environmental violations at/by Oeser. Concerned about ongoing problem with noxious odors from Oeser and affect on neighborhood. Oeser should be monitored to prevent recontamination of Little Squalicum site after remediation.

**Response:**

The Oeser Company is a designated federal Superfund site and historic and on-going contamination issues at this facility are currently being addressed by the EPA. They are dealing with all site management and contamination issues within the property boundaries. Concerns about these issues should be directed to the EPA project manager Mary Jane Nearman at (206) 553-6642.

In addition to EPA work at the site, noxious odors and other health-related issues are being investigated by the Washington State Department of Health as part of a Health Assessment. The WDOH contact person for the Health Assessment is Barb Trejo (360) 236-3373 or Barbara.Trejo@DOH.WA.GOV). Noxious odors should also be reported to the Northwest Air Pollution Authority (NWAPA) in Mount Vernon at 1-800-622-4627.

The City, under the AO, will conduct a RI to delineate the area requiring cleanup and to identify sources that may need to be eliminated or reduced as part of the cleanup. As stated above (see comment #4), a key element identified in the Scope of Work is Source Control and recontamination evaluation.

**Comment # 9 – Lynch (letter)**

**Comment Summary:**

Provided historical background on coal mines in area. Questions how cleanup will address presence of water in old mines and network of tunnels under neighboring properties.



**Response:**

The SAP will provide a review of existing and available data to support the development of RI/FS tasks including the historical uses of the site.

As noted in Ecology's response to Comment #3, much information, both documented and anecdotal, is available concerning the Little Squalicum Park site. Additional information that local residents possess is a welcome addition in shaping a more complete picture of the property. Any additional information regarding the site should be forwarded to either the Ecology site manager (Mary O'Herron) or to the City's project manager (Tim Wahl).

## **PUBLIC COMMENTS**