



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).

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

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; or to the City’s project manager Tim Wahl by phone (360) 676-6985 or by e-mail 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; or to the City's project manager Tim Wahl by phone (360) 676-6985 or by e-mail 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

O'Herron, Mary

From: Henning, Marcia J
Sent: Thursday, January 13, 2005 8:59 AM
To: Trejo, Barbara; O'Herron, Mary
Subject: RE: Little Squalicum Park (adjacent to Oeser)

Hi Mary,

I just read the Public Participation Plan and I thought it looked good. My only comment is regarding the text under the subtitle, Display Ad. It says, "At a minimum, Ecology will place an ad in the Bellingham Herald to announce public comment periods....." I would delete "At a minimum" because when I first read it I thought that may be meant as the only way Ecology plans to notify the public and that would be insufficient. I would delete "At a minimum". I might add a sentence saying something like Ecology welcomes suggestions from the community regarding placing notification in other local publications. (That's only if there are any other publications there). Also it may be a good idea to ask if there are immigrant populations using the creek as you may need to provide translated materials. I know Ecology has a good translation team within their agency. You may want to ask the community about it in your plan or at your public meetings.

Thanks for the opportunity to comment.

Marcia Henning
Community Outreach Educator (360) 236-3378
Washington Dept. of Health
Environmental Health Assessments
P.O. Box 47846
Olympia, WA 98504-7846
Toll free: 1-877-485-7316

Public health - always working for a safer and healthier Washington



STATE OF WASHINGTON

DEPARTMENT OF HEALTH

Office of Environmental Health Assessments

NewMarket Industrial Campus Building 2 • P.O. Box 47846 • Olympia, Washington 98504-7846

TDD Relay Service (800) 833-6388

January 13, 2005

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JAN 18 2005

**DEPT. OF ECOLOGY
BELLINGHAM FIELD OFFICE**

Ms. Mary O'Herron
Washington State Department of Ecology
1204 Railroad Avenue, Suite 200
Bellingham, Washington 98225

Dear Mary,

Re: Little Squalicum Park Site
604 Marine View Drive
Whatcom County, Washington

Thank you for the opportunity to review and comment on the Washington State Department of Ecology (Ecology) draft agreed order for the Little Squalicum Park site located in Whatcom County, Washington. During its review, the Washington State Department of Health (DOH) identified some concerns with the remedial investigation and feasibility study (RI/FS) scope of work, which is an attachment to the agreed order. Those concerns are summarized below:

- One of the purposes of a RI/FS work plan is to document site information that was evaluated and used to make decisions regarding RI/FS tasks. The scope of work for Little Squalicum Park site includes RI/FS tasks as one element of the work plan. However, it does not include important evaluation and decision elements such as:
 - Site background (e.g., site history, physical setting including hydrogeological information, environmental investigations).
 - Conceptual site model describing contaminant sources, release mechanisms, migration pathways, routes of exposures, and receptors.
 - Evaluation of existing data.
 - Identification of data gaps.

These are critical elements of a work plan and provide the basis for selecting RI/FS tasks. DOH recommends that Ecology add these evaluation and decision elements to the scope of work.

- DOH recommends that method detection limits and reporting limits for each analytical method be added as a scope of work element for the RI sampling and analysis plan. This will ensure the selection of appropriate analytical methods for the RI.

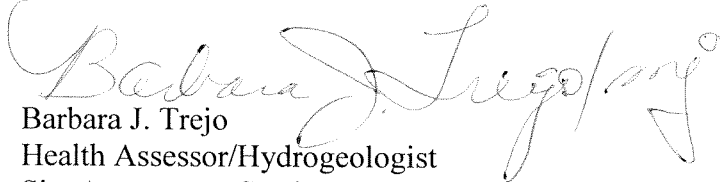


Ms. Mary O'Herron
Page 2
January 13, 2005

A portion of the Little Squalicum Park site was investigated by the U.S. Environmental Protection Agency (EPA) as part of the Oeser Company Superfund RI. DOH is reviewing all of EPA's RI data, including the Little Squalicum Park data, as part of a public health assessment. The public health assessment will discuss the EPA data, summarize health conclusions, and recommend public health actions, if appropriate. Because of DOH's involvement with the Little Squalicum Park site, DOH requests that Ecology provide DOH an opportunity to review draft and final RI/FS plans and reports for the Little Squalicum Park site.

Please feel free to contact me at (360) 236-3373 if you have any questions.

Sincerely,



Barbara J. Trejo
Health Assessor/Hydrogeologist
Site Assessment Section

cc: Wayne Clifford, DOH
Marcia Henning, DOH

RECEIVED

JAN 13 2005

To: Mary O'Herron
Site Manager
Dept. of Ecology
1204 Railroad Ave. Suite 200
Bellingham, Wn. 98225

DEPT. OF ECOLOGY
BELLINGHAM FIELD OFFICE

January 12, 2005

Fr: Art Runestrand
Re: Comments on Little Squalicum Park Site

I called your offices this day and spoke to Sharon, (I believe that was the name of the person behind a very kind and thoughtful manner), regarding the nature of comment you were desiring as expressed in the publication number 04-09-114 that I received yesterday. I said that I had little to say about specific toxic issues that your offices are already aware. I have lived in Bellingham 77 years, 21 of them at 3100 Meridian St. and 50 at 2826 Cedarwood Avenue. My boyhood was spent in Cornwall Park, the Milwaukee Railroad tracks to Bellingham Bay, Squalicum Creek valley, the Little Squalicum creek and valley, Graham Airport, and the Cement Plant area. I am served well with wonderful memories of those carefree days. I remember well the many steel balls, 3 inches in diameter, we would gather from the Cement Plant dumpsite on the west bank of the Little Squalicum valley. It was very common for the homeowners and builders to use the banks and the creek as a dumping ground for just about everything not wanted. Old car bodies were easily dispatched over the hill and into the valley. Bottles, and all forms of garbage were deposited all along the banks of the old Little Squalicum creek. Barefoot days were sometimes treacherous days playing in that area. Homeowner's waste, Cement plant dust and debris, Bellingham Coal Mine slag and coal dust, and material dropped from the railcars were all part of the intrigue for the boys of Cornwall Park. Summer days were swimming days at Cornwall Park's major swimming hole just below the bridge until the city quarantined the swimming area because of the contamination from horses and cattle using the stream just upstream of the park. That caused many of us to find ways to get to the Little Squalicum beach area for swimming. We also used the swimming area created at the mouth of Squalicum Creek. The concerns that we had at that location were a soggy bottom from all of the lumber mill sawdust and waste, also barnacles, broken glass, and rusty cans were a few of the worst plagues of that day.

Today the route of the old Little Squalicum creek is my backyard at 2826 Cedarwood Avenue. We moved into our present home 50 years ago this year. I can attest to the banks of the creek being used as dumping grounds for all of that of which I have referred. I have been uncovering car parts, bottles, coal slag, etc. for all of those years. I have smelled the stuff used by Oeser Mill on certain "winddrift" days. The fumes were occasionally bad but I accepted this as part of living where I do. Kind of like accepting the smell of manure if you choose to live in a farming area. I did not complain. I am pleased however that the management has done much to improve this condition.

I would like to ultimately see that the Little Squalicum valley and beach become a wonderful, safe playground once again. Safe from stuff I never new existed. I hope that this site and all of the Squalicum Creek and Valley, and new park will become a wonderful place for children of all ages to play, re-create, and build great memories.

Respectfully,
Art Runestrand

O'Herron, Mary

From: Tom Demma [prezbna@hotmail.com]
Sent: Friday, February 04, 2005 12:08 PM
To: O'Herron, Mary
Subject: Request to be added to the mailing list - Little Squalicum Park site

Ms. O'Herron:

This might be the second sending of a similar message, but the first one got away from me by way of a random key stroke. Perhaps it did not arrive.

Recently, a circular was disseminated in the Birchwood Neighborhood regarding the Little Squalicum Park site. It indicated that you should be contacted for being put on to a mailing/email list.

Please add me to your mailing list/email list relative to the Little Squalicum Park site.

One comment I would like to make at this time is the fact that Little Squalicum Park remediation would logically be dependent upon ending point of source effluents. I believe that would point to the Oeser plant. How is Little Squalicum Park remediation to be linked to the point of source? Is it not the case that recontamination of the Little Squalicum Park site would only reoccur following remediation efforts because the upstream source was not attended to at the same time?

Contact Information:

Tom Demma, President
Birchwood Neighborhood Association
2727 Cedarwood Avenue
Bellingham, Washington
98225

Telephone: 360-738-8136

Email: prezbna@hotmail.com

Thank you.

Regards,

Tom Demma

Don't just search. Find. Check out the new MSN Search!
<http://search.msn.click-url.com/go/onm00200636ave/direct/01/>

O'Herron, Mary

From: Alice Drabik [seabik@earthlink.net]
Sent: Friday, February 11, 2005 1:39 AM
To: O'Herron, Mary
Subject: Little Squalicum Beach Cleanup

Little Squalicum Beach is one of my favorite places to walk and explore. It is a treasure to our community.

I support immediate clean up of this area. Heavy industrial facilities should not be allowed to continue to pollute this treasure. In fact, they should be integral and responsible for the cleanup effort.

Thank you for helping my voice to be heard.

Alice Drabik
2906 Elizabeth St.
Bellingham, WA 98225
360-676-0530



February 12, 2005

Mary O'Herron
Site Manager
Department of Ecology
1204 Railroad Avenue, Suite 200
Bellingham, WA 98225
Mohe461@ecy.wa.gov

RE: Draft Agreed Order and Draft Public Participation Plan for Little Squalicum Park Site, Whatcom County

Dear Ms. O'Herron,

Thank you for the opportunity to comment on the *Draft Agreed Order* and *Draft Public Participation Plan* for the Little Squalicum Park Site, 604 Marine View Drive, Bellingham. The redevelopment of this brownfield site is a good opportunity to redefine the water's edge both for humans and for wildlife – for the economy and the environment. The combination of the spring-fed (and stormwater-fed) creek and the existing public access at this site makes it a prime opportunity to repair one of the thousand cuts to the health of Puget Sound as part of the effort begun under the Waterfront Futures Plan.

People for Puget Sound is a citizens' organization whose mission is to protect and restore Puget Sound and the Northwest Straits. We focus on water quality and habitat, advocating that the State of Washington devote more resources to the prevention of further degradation of the Sound.

Our specific comments follow:

1. Extent of nearshore and creek habitat. People for Puget Sound requests that high quality habitat be developed along the water's edge and along the creek for fish and other Puget Sound species. Restoration of habitat in the nearshore zone is a high priority for People for Puget Sound. In general, the water's edge should have a softened edge and plantings of native vegetation. Recent research shows that 50% of the stomach contents of juvenile salmon is terrestrial insects, demonstrating the importance of native vegetation along the shoreline. The creek should be realigned and improved, including upstream connections to maximize habitat function. Further, controls should be put into place to protect from upstream contamination from the Oeser site.

MAIN OFFICE

911 Western Avenue, Suite 580
Seattle, WA 98104
(206) 382-7007
fax (206) 382-7006
people@pugetsound.org

NORTH SOUND

407 Main Street, Suite 201
Mount Vernon, WA 98273
(360) 336-1931
fax (360) 336-5422
northsound@pugetsound.org

SOUTH SOUND

1063 Capitol Way South, Suite 206
Olympia, WA 98501
(360) 754-9177
fax (360) 534-9371
southsound@pugetsound.org

2. High quality cleanup. The contaminants of concern at this site - pentachlorophenol, dioxin, copper, zinc, and PAHs - must be thoroughly addressed, especially those in the water column and sediment of the creek. Because this site will be available for human recreational use, including fishing, it is imperative that this site be cleaned up to the highest level possible.

4. Persistent bioaccumulative toxins (PBTs). People for Puget Sound is especially concerned about the persistent bioaccumulative toxin (PBTs) present at this site: dioxin. Because by definition PBTs are persistent, neither the passage of time nor dilution can immediately rid the Sound of their effects. Since organisms become contaminated with PBTs by direct contact with or ingestion of toxics, and by eating organisms that they have eaten or absorbed contaminants, PBTs accumulate and persist in the Puget Sound food chain from bottom-dwelling organisms to fish and other wildlife to the top predators. The accumulation of toxics has become so high at the top level of the Puget Sound food web that our resident orca whales are now among the most contaminated marine mammals in the world. It is critical that PBTs at this site be cleaned up and removed from contact with the Puget Sound ecosystem.

Please add People For Puget Sound to your list of interested parties of record.

If you have any questions, please feel free to call me at (206) 382-7007. Again, thank you for the opportunity to comment, and we look forward to working with you on this project.

Sincerely,

Heather Trim,
Urban Bays Project Coordinator

RECEIVED

FEB 14 2005

DEPT. OF ECOLOGY
BELLINGHAM FIELD OFFICE

February 11, 2005

VIA EMAIL AND US MAIL

Ms. Mary O'Herron
Site Manager
Washington State Department of Ecology
1204 Railroad Ave.
Suite 200
Bellingham WA 98225

Re: Little Squalicum Creek Proposed Agreed Order / Scope of Work

Dear Ms. O'Herron:

This law firm represents The Oeser Company on certain environmental matters. We write this letter to submit comments to Ecology regarding the Agreed Order documents for Little Squalicum Creek.

First, we note that neither the Exhibit B, Scope of Work, nor the Public Participation Plan contain an adequate description of the background of the site to allow people to succinctly understand the site's history or the role of the City with respect to this Agreed Order. Oeser requests that the introduction provided in the Department of Ecology's "Little Squalicum Creek Screening Level Assessment" (April 2004) be used for both the Scope of Work, Sampling Analysis Plan and the Public Participation Plan. In a section entitled, "Background and Problem Statement," Ecology notes as follows:

Over the last century, Little Squalicum Creek and the surrounding ravine have been subjected to considerable physical disturbance and episodes of pollution. The City of Bellingham is now proposing to redevelop this site into a community park and trail corridor. The City plans to divert the creek into a meandering path through the park and to remove a culvert that is blocking fish from moving up the creek...

Past physical alteration of the creek has included a shortening of its length and reduction of its flow due to the diversion of the upper reach through a stormwater drain to nearby Squalicum Creek (Ecology and Environment, 2001). Sand and gravel were mined from parts of the ravine until the late 1960s. The Ecology and Environment report states, "The entire ravine has been altered substantially from natural conditions with rerouting of the original creek bed and significant changes

to the soils and lithology (e.g., backfilling of gravel pit excavations, release of log storage debris, landfilling activities, temporary road maintenance, rail bed and track placement and subsequent track removal, and filling and paving of some areas).”

Known or suspected historical pollution of the creek and ravine is varied (Ecology and Environment, Inc., 2001). The City operated a landfill in the ravine beginning in 1936. Refuse from an adjacent sugar plant also was reportedly dumped in the ravine. Burlington Northern Railroad disposed of wastes (possibly oil wastes) in the vicinity that may have migrated into the ravine through groundwater transport. Storm drain discharges may also have been contributors. An adjacent wood treating facility, Oeser Company, has had spills into the creek. At least some of these spills were of pentachlorophenol preservative in carrier oil.

We understand from reviewing Ecology's records that the City has waived its right to a 30 day notice and comment period and accepted its status as a “potentially liable person” under RCW 70.105D.040. *See Draft Order at page 3, Ecology Determination Number Five.* In addition, according to Ecology's records, Whatcom County has received a similar letter indicating its status as a potentially liable party for the site.

Second, Oeser also requests that Ecology make use of the substantial investment EPA has already made in analyzing the creek and adjacent properties. As you may know, EPA has incurred more the \$8,000,000 in response costs studying the creek, Oeser facility and adjacent areas. This \$8,000,000 represents a substantial investment of public funds in thoroughly analyzing and assessing the groundwater hydrology and potential for environmental contaminants in the vicinity. We note that the Scope of Work and Work To Be Performed sections of the Proposed Agreed Order are quite generic, and do not appear to reflect any intent to begin work with the substantial body of knowledge EPA has already developed. We note also a particularly unfortunate comment in the record in the informal preliminary comments Ecology submitted to the City. Ecology's hydrogeologist states that the Sampling Analysis Plan omits further examination of the groundwater transport pathway and asks for further sampling that would help assess the “impact of contaminated groundwater from Oeser upon LSC.”

Of course this is exactly the question that EPA so thoroughly analyzed in its \$8,000,000 RI/FS for the Oeser facility, creek and south slope areas. As EPA's Oeser Company Record of Decision notes in Section 8.1.6.2 regarding deep groundwater, “The deep groundwater *potentially* discharges to Little Squalicum Creek and to Bellingham Bay, *but it is only a de minimus source of contamination.*” (EPA, September 2003) (Emphasis added). Similarly, in response to a citizen's question as to whether sediment samples and creek water samples were sufficient, EPA responds as follows:

Given the small size of the creek, EPA considers the number and placement of samples to be adequate for a site characterization and risk assessment. Approximately 44 soil samples were collected on the north and south banks of the creek and analyzed...Creek sediment samples were collected from depositional areas and reflect the worst case situation. Collection of additional sediment samples would not significantly improve or alter our current understanding of conditions in the creek area. Since there is very little impact to the creek from unregulated groundwater from The Oeser Company property, the water quality in the creek is regulated by other agencies and programs. Overall, the sampling conducted for the RI was adequate to characterize the creek area. See Responsiveness Summary at page 112.

Finally, this is all reflected in an October 30, 2002 letter from EPA's associate director for the environmental cleanup office, Michelle L. Pirzadeh, to the City of Bellingham:

EPA is pleased to report that we did not find any soil or sediment contamination that we believe would require cleanup action under the Superfund program in the Little Squalicum Creek area. Also, there are no groundwater problems radiating out from Oeser that would threaten the environmental integrity of the creek. (Emphasis added).

We note in closing that Ecology's regulations for Remedial Investigation and Feasibility Study specifically state "This requires that the process remain flexible and *be streamlined when possible to avoid the collection and evaluation of unnecessary information so that the cleanup can proceed in a timely manner. Where information...is available in other documents for the Site, that information may be incorporated by reference to avoid unnecessary duplication.*" WAC 173-340-350(6) (Emphasis added).

In fact, the very first step identified in scoping activities and procedures for conducting a remedial investigation is stated as follows in the MTCA rules:

"(i) assemble and evaluate existing data on the site, including the results of any [other studies]. WAC 173-340-350(7)(b)(i).

As a final note, Oeser supports and lauds the City's efforts to convert the creek area to a park and to rehabilitate this old gravel pit for public use. As you may imagine, however, Oeser

Ms. Mary O'Herron
February 11, 2005
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believes public funds should be used effectively to improve the property rather than using public funds to reexamine issues already studied at great length and great expense.

Very truly yours,

PRESTON GATES & ELLIS LLP

By 
William H. Chapman

WHC:mw

K:\29274\00006\WHC\WHC_L212B

O'Herron, Mary

From: sue denadel [suedenadel@hotmail.com]
Sent: Friday, February 11, 2005 9:09 PM
To: O'Herron, Mary
Cc: jweiss@memes.com; dimity@attbi.com; mherrenkohl@fwenc.com
Subject: RE: Little Squalicum

Mary O'Herron,

In regards to the public comment on the public participation plan regarding Little Squalicum Park Plan, I have reviewed the plan and I do have a few comments to make.

I am on the board of directors for the Birchwood Neighborhood Association and I am the president of the Oeser Cedar Cleanup Coalition that worked with the EPA regarding Oeser becoming a Superfund site so I am familiar with the site and the EPA's process. As a board member of the OCCC I have worked with Jack Weiss who is our executive director and with Mark Herrenkohl who is our consultant. I also live next door to Oeser and near Little Squalicum Creek. Therefore I have a lot of time and personal investment and interest in the clean up of both Oeser and the creek.

I have some concerns however to the fact that Oeser being one of the main polluters of the creek has continued to violate environmental laws. They have a past history of ignoring these as is evident in their becoming a Superfund site as well as recent violations as was levied on them as recently as February 7, 2005. Mike Bussell, EPA's regional director for its Office of Compliance and Enforcement is Quoted as saying " Poor management practices contributed to the site's status as a Superfund site, and unfortunately those practices have continued."

Unfortunately Oeser recieved a huge break by the EPA in their not including Little Squalicum Creek in the Superfund clean up in spite of the efforts of the OCCC and Jack Weiss and Mark Herenkohl, and another huge break in the meager fine that was levied by the EPA for their recent violations.

We as a neighborhood still are seriously affected by the noxious extremely offensive odors that Oeser supposedly was installing equipment to elimanate. Either the epuipment does not work or they are not using it correctly or not using it at all.

In conclusion although I am glad the creek is being studied again and slated for clean up I hope that during the process that Oeser is being monitored very thoroughly and continually to make sure that it is not work done in vain.

Please keep me informed of any future documents, public comment time frames, or any other ways of being involved.

Sue DenAdel, 3005 Edens Ave. Bellingham, WA 98225 phone number 360-733-5954.

Diane A. Lynch
3002 Cedarwood
Ave
Bellingham
Washington 98225

Mary O'Herron
Site Mgr.
Dept of Ecology
1204 Railroad Ave. Ste #200
Bellingham, Washington
Dear staff 98225

From hearing the Old Timers
talk, there are some still
around who worked in the
Old Coal Mine; a space now
occupied by condos and
apartments and close by Albertson's
store. It's full of water! Under there,
these miners say a good
deal of this area clear to
Bellingham Bay is all
undermining under our homes
and businesses by the diggings
for coal in the Olden days,
How do you intend to

7 Clean up any pollution,
when the sea water from
the bay back washes thru
these tunnels and slope
areas and flushes back
out again into the bay?

I am no authority on the
subject. It is just what
the ones who worked the
mines have said.

"You can't fix it; its broke!
Its all under mined around
this area of Birchwood, Cedarwood
and little Soudicum area,
catches it too.

Lots of water running
under there. In fact that is one
reason, I understand, that the mine
was closed.

your's Truly,
Signed: Samuel Lynock

Mary

P.S.

and while you are at
it, can't Bellingham
find a prettier name for
"Railroad Ave"?

I suggest the name
"Hawthorn", as a nice name,
a small tree from the Rose
family.

It has pink or white
blossoms and seems to
grow wild ^{Hereabouts} in flower, and would require
little care if planted here
in Bellingham on Railroad Ave,
as Ever

Dane A. Lynch