



Amended Agreed Order for Barbee Mill Site

The Washington State Department of Ecology (Ecology) is amending the Agreed Order of 2009 for the Barbee Mill cleanup site. The Barbee Mill Site (Site) is generally located at 4101 Lake Washington Blvd N., in Renton, Washington. The approximately 22 acre site is on the eastern shore of Lake Washington at the mouth of May Creek. The Site is bordered to the west by Lake Washington, to the east and south by Lake Washington Blvd N. and an active Burlington Northern rail line, and to the north by the Quendall Terminals Superfund site.

Amended Agreed Order

Department of Ecology (Ecology) and Barbee Mill Co., Inc., a Potentially Liable Party (PLP) for the site has amended the 2009 Agreed Order. Conner Homes at Barbee Mill, LLC is also a PLP for the site as a current owner, but is not a signatory to the Agreed Order or this amendment.

The Agreed Order describes what actions Barbee Mill Co., agrees to perform on the site. The Agreed Order ensures that cleanup happens according to Washington State cleanup law, the Model Toxics Control Act (MTCA).

In this amendment to Agreed Order, Barbee Mill agrees to:

- Conduct additional interim action activities at the Site which include:
 1. Final Interim Action Design and Implementation Report.
 2. Final Sediment Data Gaps Evaluation Report.
 3. Ground-water monitoring and evaluation of the ground-water treatment system.
 4. Performance Monitoring Report.

Comments Accepted March 2 – April 2, 2012

Submit Comments and Technical Questions to:

Ching-Pi Wang - Site Manager
Washington State Department of Ecology
NWRO Toxics Cleanup Program
3190 160th Ave SE
Bellevue, WA 98008
Phone: (425) 649-7134
E-mail: cwan461@ecy.wa.gov

DOCUMENT REVIEW LOCATIONS

Renton Public Library

100 Mill Avenue South
Renton, WA 98057
Phone: (425) 226-6043
Hours: Monday-Thursday 10 am – 9 pm
Friday 10 am – 6 pm
Saturday 10 am – 5 pm
Sunday 10 am – 5 pm

Washington State Department of Ecology – Northwest Regional Office

3190 160th Avenue SE
Bellevue, WA 98008
By appointment only:
(425) 649-7190

Ecology's Toxics Cleanup Website

[https://fortress.wa.gov/ecy/gsp/
Sitepage.aspx?csid=2368](https://fortress.wa.gov/ecy/gsp/Sitepage.aspx?csid=2368)

Help with other languages and formats?

If you need this publication in an alternative format, call the Toxics Cleanup Program at (425) 649-7117. Persons with hearing loss, call 711 for Washington Relay Service. Persons with speech disability call 877-833-6341.

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Barbee Mill Site

5. Installing a gravel layer on top of the sand layer of the storm water detention pond.

- Complete a Remedial Investigation/Feasibility Study (RI/FS) report.
- Complete a draft Cleanup Action Plan (DCAP).

Public Comment Invited

You are invited to review the Amended Agreed Order for the Barbee Mill Site. This Order does not recite all of the provisions in the original Order (Dec. 1, 1991) or the First Amended Order (Dec. 16, 2010). Send your comments to Ecology's Site Manager Ching-Pi Wang. See the box on the front page for details.

Site Background

The Barbee Mill Co., Inc. developed the property in the 1920's, first as a small lumber mill and then a combined lumber mill/shipyard operation. The shipyard closed shortly after World War II, and the lumber mill was expanded. Most of the mill equipment was removed in 2005 and 2006; the remainder was removed in 2007. Conner Homes at Barbee Mill, LLC bought the property in 2006, and built houses on the site. Future owners of the Barbee Mill property will include individual lot homeowners. The City of Renton also has an interest in the street right-of-ways.

Contaminants of Concern

Remedial action began in the mid-1990s with a series of soil, ground water, and sediment studies. Data obtained during investigations showed that soils beneath the Barbee Mill property are contaminated with organic and inorganic hazardous substances. Off-shore sediment in Lake Washington contained

excessive wood debris. Shallow ground water beneath the property and the southwest corner of the property to the north (Quendall Terminals) is also contaminated, primarily with arsenic.

At Barbee Mill, pollutants found in soil include:

- Diesel-range petroleum hydrocarbons
- Arsenic and zinc
- Pentachlorophenol (PCP)

Pollutants found in ground water include:

- Diesel-range petroleum hydrocarbons
- Arsenic and zinc

Pollutants in the sediments include:

- Carcinogenic Polycyclic Aromatic Hydrocarbons (cPAHs)
- Total organic carbon (TOC)
- Wood waste

Barbee Mill Co., Inc. has conducted a number of interim actions to address contamination, including:

- removal of sediments contaminated with cPAHs, TOC and wood waste;
- removal of soils contaminated with arsenic, zinc, diesel-range petroleum hydrocarbons, and pentachlorophenol;
- installation of a passive attenuation zone to treat ground water in-situ; and
- installation of a ground-water extraction and treatment system.

MTCA LIABILITY

Under the law, liability for cleanup extends to current owners of contaminated property, among other categories of liable persons (see RCW 70.105D.040). Based on this law, residential homeowners can fall within the category of Potentially Liable Persons (PLPs), for the site. However Ecology has an enforcement policy

Barbee Mill Site

(see Policy 540A on page 5 of this fact sheet) which describes that Ecology generally uses its enforcement discretion under MTCA not to pursue residential property owners, subject to certain conditions explained in the policy.

In providing this general information, Ecology makes no guarantees about the risks or benefits of purchasing property associated with the site.

What Happens Next?

After the comment period, Ecology will review all comments. The document may be changed based on the comments. As the cleanup continues, you will be notified of future comment periods. A public meeting is not planned for this site. However, one will be held if 10 or more people request a public meeting.

Photograph of the Barbee Mill Site, 1976.



Barbee Mill Site Map





Toxics Cleanup Program Policy

Policy 540A

Resource Contact: Policy and Technical Support Staff *Effective:* April 8, 1992

References: Ch. 173-340 WAC *Revised:* June 25, 2004

Policy 540A Enforcement

This policy applies whenever the department intends to issue Model Toxics Control Act orders requiring a Potentially Liable Person (PLP) to provide remedial action or pay for cleanup costs or natural resource damage assessments. This policy is intended to supplement requirements specified in statute and rule. Regional Directors should be kept informed about enforcement actions against local governments.

1. Emergency Orders May Be Issue At Any Time During The Cleanup Process

In general, emergency orders should be used only in situations when the normal process of issuing an enforcement order would be longer than the deadline necessary for initiating remedial action.

2. The Toxics Cleanup Program Generally Attempts To Negotiate Or Have Discussions With PLPs Prior to Issuing Orders.

Prior to issuing orders, TCP staff is encouraged to attempt negotiations for a consent decree or discussions for an agreed order with PLPs, whenever possible. However, there are cases where potential delays in the cleanup process make negotiations impracticable or not in the public interest; for example, emergency conditions, the time required for negotiations or discussions would be longer than the deadline necessary for initiating remedial action, PLP unresponsiveness, or a PLP request for an enforcement order.

Attempts to negotiate a consent decree or discuss an agreed order should be documented in the site file.

3. The Site Manager May Withdraw From Negotiations Or Discussions.

The site manager may withdraw from negotiations for a consent decree or discussions for an agreed order if it is determined that:

- A. Reasonable progress is not being made toward the consent decree or order acceptable to the department, see WAC173-340-520(1)(1), WAC 173-340-520(2)(e), and WAC 173-340-530(6); or

- B. The consent decree or order is no longer appropriate based on new information or changed circumstances.

Decisions to withdraw should be made in consultation with the assigned Assistant Attorney General.

The site manager may begin enforcement action after notifying the PLP in writing, of its intent to withdraw from the negotiations or discussions. See WAC 173-340-520(1)(1), WAC 173-340-520(2)(e), and WAC 173-340-530(6).

4. Generally, TCP Issues Orders Requiring PLPs To Conduct Remedial Actions Before Using Funds From The Toxics Account.

When attempts at negotiations or discussions are unsuccessful, TCP site managers generally will issue an order before proceeding with cleanup work utilizing state toxics control account monies. Toxics account funds may be used prior to issuing orders if emergency conditions exist at the site.

5. Site Managers Shall Use The Boilerplates As A Basis For Drafting Orders.

The Boilerplates for Agreed Orders and Enforcement Orders can be found on the Toxics Cleanup Program's intranet site. Use of the documents shall be in accordance with the provisions of WAC 173-340-130 and Part V of Chapter 173-340 WAC. Significant deviations from these boilerplates should be discussed with the assigned Assistant Attorney General.

6. Generally, TCP Will Not Take Enforcement Actions Against Residential Landowners.

Although residential landowners are PLPs, in the exercise of its enforcement discretion, TCP generally will not pursue enforcement actions toward residential landowners to require such an owner to take response actions or pay response costs unless:

- A. The residential homeowner's activities lead to a release or threatened release of hazardous substances which results in the need for remedial actions at the site;
 - B. The property owner fails to comply with any MTCA obligations (e.g., reporting the release of a hazardous substance);
 - C. The property owner fails to provide access to the site or information, or fails to cooperate with TCP's investigation or cleanup at the site;
 - D. The property owner develops or improves the property in a manner inconsistent with residential use, or the development of the property leads to a release or threatened release of hazardous substances; or
 - E. The property owner fails to comply with any institutional controls established at the site.
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7. Effect Of Policy

This policy does not affect any other obligations required of owners of contaminated property under the MTCA or other federal, state and local laws. It provides guidance for the exercise of Ecology's enforcement discretion. It is intended only for Ecology's internal use and may not be relied upon by any person to create a right or a benefit, substantive or procedural, enforceable at law or in equity. The policy is not a covenant not to sue any person and does not affect or negate the liability or defenses any person may have under the MTCA or other law. Ecology may withdraw or change this policy at any time. Ecology may act at variance with this policy.

Approved:

A handwritten signature in black ink, appearing to read 'James J. Pendowski', written over a horizontal line.

James J. Pendowski, Program Manager
Toxics Cleanup Program



DEPARTMENT OF

ECOLOGY

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**Barbee Mill Site,
Renton, King County, WA**

Ecology Seeks Public Comment on the
Amended Agreed Order

**Public Comment Period:
March 2, 2012 – April 2, 2012**

Cleanup ID#: 2368

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Nancy Lui at (425) 649-7117. Persons with hearing
loss, call 711 for Washington Relay Service.
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What can you do?

- 1.** Read about the cleanup in this handout.
- 2.** To get more detailed information, review the supporting documents at the locations listed in this document.
- 3.** Write down your comments and questions. Send them to the Department of Ecology at the address provided in this document.

We appreciate your comments and concerns. *Thank you.*