



Response to Comments: Final Cleanup Action Plan

Public Comment Period: June 12 – July 14, 2007

BNSF Former Maintenance and Fueling Facility, Skykomish, Washington

**Prepared by:
Washington State Department of Ecology**

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1 Introduction

The Washington State Department of Ecology (Ecology) and BNSF Railway Company (BNSF) have agreed on the plans to clean up the remaining areas of the BNSF Skykomish Site in Skykomish, Washington. The following draft documents were presented to the public for comment from June 12 to July 14, 2007: *Draft Consent Decree* and *Draft Supplemental Environmental Impact Statement (SEIS)*. Two exhibits of the *Consent Decree* are documents in themselves and notable for the proposed cleanup. These are: *Exhibit B: Draft Cleanup Action Plan* and *Exhibit F: Draft Public Participation Plan*. This *Response to Comments* summarizes all comments received during the 2007 public comment period and comments received in 2003 on the 2003 Draft EIS, and provides the responses to them.

BNSF owns a former maintenance and fueling facility that operated in Skykomish from the late 1890s until 1974. Over the decades bunker C and diesel fuel oil were released to the environment on the rail yard. The oil flowed downward to the water table and then horizontally along the water table under the Town of Skykomish (Town) to the South Fork of the Skykomish River. Seasonal rise and fall of the water table resulted in the oil being smeared in soils between the high and low groundwater levels. Sediments in the river were contaminated with oil. Petroleum in the form of free product occurs at the groundwater table. Groundwater contains dissolved contamination.

BNSF conducted an interim action in the summer of 2006 under Ecology oversight. The interim action marked the beginning of the cleanup of the Town. During this interim action, more than 70,000 cubic yards of contaminated soil and sediment were removed from the Skykomish River and adjacent uplands. Additionally, over 23,700 gallons of oil were removed from the site for recycling. In order to conduct the cleanup, five homes were relocated and returned to their original locations toward the end of 2006. The levee along the Skykomish River west of the bridge was replaced, and the shoreline was restored to provide habitat for fish. The top of the levee was replaced as a park according to the Town's vision.

Under the *Consent Decree*, BNSF will conduct a cleanup of the residential areas of the site by 2011 (including Former Maloney Creek), remove over 7,500 cubic yards of contamination on the rail yard, and install an active hydraulic control and containment system along the rail yard boundary and possibly to the south of the yard adjacent to the Former Maloney Creek channel. Ecology will oversee all of these activities.

Through the efforts of many people and organizations over a number of years, the community was engaged in an intensive effort to understand and to contribute to the cleanup process. These efforts have led to the development of the cleanup plans, a public participation plan, and an environmental impact statement. Ecology has made this cleanup as much of a community-based cleanup as possible by facilitating important decisions to be made by the community and individuals. The continuation of the cleanup in Skykomish will be extensive and will occur over a period of years. It will involve moving people in and out of their homes, moving historic buildings, and rebuilding infrastructure. Such actions will require the constant involvement, collaboration, and patience of the community.

Ecology sincerely thanks the Skykomish community for allowing this important work to proceed and for its constant support during this cleanup. It is our hope that the cleanup restores the Town's land, water, and environment to a healthy condition, and that the cleanup will contribute to a vibrant and thriving economy for the Skykomish community.

2 Comments Received

This Response to Comments includes comments received from 47 commentors. Commentors included Skykomish citizens, business owners and groups, environmental interest groups, and local, state, and government agencies.

Comments from the 2007 and the 2003 public comment periods that pertained to the 2003 Draft Environmental Impact Statement are included in this Response to Comments. A number of comments were received as well on the 2003 draft Remedial Investigation and Feasibility Study (FS) that were technical in nature and expressed concern about the effectiveness of the proposed technologies or alternatives outlined in the draft FS. The FS was subsequently revised in 2005. Ecology accepted the 2005 FS as containing enough information to begin the remedy selection process. Ecology continued to consider public comment and concerns during the development of the final Ecology remedy.

Also included in this response are editorial comments (typos, clarifications, figure corrections) that Ecology identified during the public comment period. Comments received after the comment period ended are not included in this response.

Ecology received the most comments about construction and economic impacts to individuals and the Town as well as proper care of historic and archaeological buildings and features. People were concerned about how they would be able to review future documents and about restoration activities after cleanup. Commentors were also concerned about the long-term effectiveness of the hydraulic control and containment system located along the rail yard property and asked for clarity about its design and monitoring. Questions about personal liability and technical design details were raised. Overall, the comments reflected an engaged and knowledgeable community.

3 Summary Comments and Responses

Ecology identified 356 individual comments including 17 editorial corrections. Individual comments were grouped together by similar topic and subtopic and, where appropriate, were summarized and assigned a unique number. This summary of the comments groups the concerns of many individuals together so that multiple commentors with similar concerns can see who else had these concerns. It also enables Ecology to provide a thorough response by topic and subtopic. In some cases Ecology expanded the response to elaborate on other aspects of the concern which may not have been directly addressed by the comment.

All comments were read carefully. Individual comments based on topics and subtopics were identified and numbered in the margin of copies of the original comment letter or form. These marked-up copies are included in Appendix A. The comments in Appendix A are arranged

alphabetically by commentor name, except that public hearing comments are at the end of Appendix A. Each comment was assigned a unique number consisting of the commentor identification number and separate comments made by that commentor such as 001.001 and 001.002, etc. for the first and second comments made by commentor 001.

Table 1 lists each commentor alphabetically and indicates the commentor's identification number (*Commentor ID*).

Table 2 is organized in order of comment number. Some comment numbers have a second set of numbers in parentheses next to them. The numbers in parentheses refer to the 2003 DEIS commentor number and the comment number indicated in the margin of those letters in Appendix A. Similar comments were summarized by topic and subtopic. The topic and subtopic of each individual comment number and the corresponding summary comment number are also included in Table 2.

The 356 individual comments yielded 173 summary comments. Table 3 presents these summary comments, Ecology's response, and notes whether the comment(s) resulted in a change to one of the review documents, and if a change was made, indicates the change.

Table 4 summarizes the changes made to the review documents.

4 Locating Ecology's Response to Individual Comments

Together, the tables and Appendix A provide a way to see each individual comment in its original form and then quickly find Ecology's response. To use the tables:

- Use Table 1 to look up the commentor name and Commentor ID. Turn to Appendix A and locate the original comment document. The Commentor ID is noted on the upper right corner of the first page of each document. Individual comment numbers are noted in the margin of the document.
- Use Table 2 to locate the comment number of interest. The Summary Comment number responding to that comment is given in the right column.
- Use Table 3 to look up the summary comments and responses.

Note: There are gaps in the number sequence where Ecology combined summary comments as the responses were developed. This does not mean that comments were omitted.

5 Next Steps

Based on the comments received, the documents have been changed as noted (see Table 4) and finalized. The *Environmental Impact Statement* and *Cleanup Action Plan* were issued on October 18, 2007. It is anticipated that the *Consent Decree* will be filed into King County Superior Court on October 19, 2007. After the Decree is filed, the follow-on documents such as

the *Engineering Design Report* and other reports will be submitted to Ecology per *Schedule C* in the *Consent Decree*.

TABLES 1-4

TABLE 1

Commentors

<i>Name</i>	<i>Affiliation</i>	<i>Commentor ID</i>
Anonymous1	Skykomish Citizen	101
Anonymous2	Skykomish Citizen	102
Aydelotte, George Richard	Skykomish Citizen	103
Bakel/Garner, Rex/Janet	Business owners (Stove Shop)	104
Barnett, Tanya	School District	021
Berg, Jewels	Skykomish Citizen	105
Brown, Charles	Skykomish Citizen, Business Owner (Whistling Post Tavern)	023
Cleveland, Theo	Skykomish Citizen	022
Cyrus, Linda	Skykomish Library	006
Dickinson, Joe	Skykomish Citizen	106
Fernandez, Michael	Skykomish Environmental Coalition	020
Goebel, Lorna	Skykomish Environmental Coalition; Town Council Member	005
Goranson, Richard and Susan	Business owners (Sky River Inn)	012
Goranson, Susan	Skykomish Citizens, Business owner (Sky River Inn)	013
Gould, Bill	Skykomish Citizen	024
Jensen, Howard	Skykomish Hotel	017
Johnson, Larry	Town Planning Commission; property owner	009
King Co. Historical Preservation	County agency	120
King Co. Public Health	County agency	122
King Co. Water, Bean	County agency	121
Mackay, Robert	Skykomish Citizen	109
Mackner, Charlotte	Mayor of Skykomish	111
McGowan, Kathy	Skykomish Citizen	008
Mitchell, Dick and Roberta	Skykomish citizen	112
Moore, Michael	Skykomish Citizen, Skykomish Environmental Coalition, School District	011
Petrarca, Daryl	Skykomish Environmental Coalition	004
Quiring, Madelle	Skykomish Citizen	113
Reynolds, Sharon	Skykomish Post Office	010
Robinson, John	Skykomish Citizen	019
Romstad, Morten	Skykomish Citizen	115
Sarno, Frank	Skykomish citizen	116
Sekor, Anne	Skykomish citizen	014

<i>Name</i>	<i>Affiliation</i>	<i>Commentor ID</i>
Sky Valley Chamber of Commerce	Business organization	123
Skykomish Environmental Coalition	Local Environmental group	126
Skykomish School	School District	127
Skykomish Town	Local government	125
Sladek, Henry	Business owner (Cascadia Inn)	118
Snohomish Economic Council	Business Organization	128
Soltis, Jerry	Skykomish citizen	119
Stanovsky, Clinton S.	Town of Skykomish	003
Sundberg, Charlie	King County Historic Preservation Program	015
Trim, Heather	People for Puget Sound	025
U.S. Forest Service	Federal Agency	018
WA Arch/Hist Preservation	State Agency	130
Walls, Timothy	Snohomish County Surface Water Management	016
Washington State Department of Ecology	State Agency	001
West, Gary	Skykomish Property Owner	007
Woodford, Dan	Skykomish School Board	002

TABLE 2

Comments by Commentor Identifier

Washington State Department of Ecology	State Agency	Commentor ID 001
<i>2007 (2003) Comment#</i>	<i>Topic, Subtopic</i>	<i>Summary Comment#</i>
001.001	Editorial, Typographical	ED-26
001.002	Editorial, Clarification	ED-25
001.003	Editorial, Clarification	ED-24
001.004	Editorial, Clarification	ED-33
001.005	Editorial, Clarification	ED-27
001.006	Editorial, Clarification	ED-28
001.007	Editorial, Clarification	ED-30
001.008	Editorial, Clarification	ED-31
001.011	Editorial, Typographical	ED-34
001.012	Editorial, Clarification	ED-37
001.014	Editorial, Clarification	ED-35
001.015	Editorial, Clarification	ED-29
001.016	Editorial, Update	ED-08
001.017	Editorial, Clarification	ED-38
Woodford, Dan	Skykomish School Board	Commentor ID 002
<i>2007 (2003) Comment#</i>	<i>Topic, Subtopic</i>	<i>Summary Comment#</i>
002.001	Construction Impacts, Pedestrian safety	CI-12
002.002	Construction Impacts, Pedestrian safety	CI-12
Stanovsky, Clinton S.	Town of Skykomish	Commentor ID 003
<i>2007 (2003) Comment#</i>	<i>Topic, Subtopic</i>	<i>Summary Comment#</i>
003.001	General Comment, General	GEN-04
003.002	Remedy Selection, Disproportionate cost analysis	REMSEL-02
003.003	Editorial, Figure Correction	ED-01
003.004	Natural Resource Damages, Town/Ecology arrangements	NRD-04
003.005	Compliance Monitoring, Compliance Monitoring Plan	CM-01
003.006	Liability, Contribution protection	LIA-01
003.007	Restrictive Covenants, Code consistency	RC-02
003.008	Review, Permit	RVW-04
003.009	Review, Community	RVW-01
003.010	Conditional Point of Compliance, Comment noted	CPOC-03

003.011	Remedy Selection, Disproportionate cost analysis	REMSEL-02
003.012	Remedy Selection, Disproportionate cost analysis	REMSEL-02
003.013	Railyard Zone, HCC	RY-01
003.014	Railyard Zone, HCC	RY-01
003.015	Railyard Zone, HCC	RY-01
003.016	Restoration after cleanup, Review	RST-06
003.017	Restoration after cleanup, Review	RST-06
003.018	Former Maloney Creek, Change in status	FMC-02
003.019	Liability, School future liability	LIA-04
003.020	Review, Community	RVW-01
003.021	Geology, Soils, Flooding, Erosion, Changes due to backfill properties	GSFE-01
003.022	Geology, Soils, Flooding, Erosion, Topsoil	GSFE-05
003.023	Vegetation and Terrestrial Habitat, No broadleaf maple	V&TH-03
003.024	Construction Impacts, Vibration	CI-19
003.025	Aesthetics, Town appearance	AES-01
003.026	Historic and Archaeological, General	HA-04
003.027	Construction Impacts, Coordination	CI-04
003.028	Relocation, Mediation	RELOC-06
003.029	Review, Town	RVW-11
003.030	Natural Resource Damages, Town/Ecology arrangements	NRD-04
003.031	Restrictive Covenants, Compensable taking?	RC-03
003.032	Liability, Liens	LIA-03
003.033	Review, Town	RVW-11
003.034	Restrictive Covenants, Code consistency	RC-02

Petrarca, Daryl

2007 (2003)

*Comment#***Skykomish Environmental Coalition *Commentor ID 004****Summary**Comment#*

<i>Comment#</i>	<i>Topic, Subtopic</i>	<i>Summary Comment#</i>
004.001	Compliance Monitoring, Compliance Monitoring Plan	CM-01
004.002	Editorial, Typographical	ED-03
004.003	Natural Resource Damages, Editorial	NRD-01
004.004	Liability, Individual	LIA-02
004.005	Review, Data	RVW-02
004.006	Review, Substantial change	RVW-08
004.007	Liability, Individual	LIA-02
004.008	Liability, Individual	LIA-02
004.009	Remedy Selection, Technology selection	REMSEL-07

004.010	Compliance Monitoring, Empirical demonstrations	CM-03
004.011	Compliance Monitoring, Compliance Monitoring Plan	CM-01
004.012	School, Additional investigation	SCH-01
004.013	Operation and Maintenance, Emergency planning	O&M-02
004.014	General Comment, General	GEN-02
004.015	Liability, Individual	LIA-02
004.016	Review, Substantial change	RVW-08
004.017	Compliance Monitoring, Compliance Monitoring Plan	CM-01
004.018	Review, Substantial change	RVW-08
004.019	Natural Resource Damages, Editorial	NRD-01
004.020	Natural Resource Damages, Editorial	NRD-01
004.021	Restrictive Covenants, BNSF nonRY owned property	RC-01
004.022	Review, Community	RVW-01
004.023	Review, Data	RVW-02
004.024	Remedy Selection, Technology selection	REMSEL-07
004.025	General Comment, General	GEN-03
004.026	Restoration Time Frame, When complete?	RTF-04
004.027	Restoration after cleanup, Review	RST-06
004.028	Review, Community	RVW-01
004.029	Operation and Maintenance, Air-sparging compressor noise	O&M-01
004.030	Schedule, Editorial	SCHED-01
004.031	Review, Community	RVW-01
004.032	Former Maloney Creek, Editorial	FMC-04
004.033	Review, Community	RVW-01
004.034	Railyard Zone, How clean	RY-02
004.035	Railyard Zone, HCC	RY-01
004.036	Remedy Selection, Initial assessment	REMSEL-03
004.037	Remedy Selection, Initial assessment	REMSEL-03
004.038	Bridge, Bridge	BRDG-01
004.039	Review, Interim action	RVW-03
004.040	Review, Community	RVW-01
004.041	Review, Community	RVW-01
004.042	Relocation, Expenses	RELOC-05
004.043	Restoration after cleanup, Utilities	RST-07
004.044	Editorial, Clarification	ED-20
004.045	Editorial, Clarification	ED-19
004.046	Operation and Maintenance, Air-sparging compressor noise	O&M-01

004.047	Restoration Time Frame, Start cleanup	RTF-02
004.048	Operation and Maintenance, Air-sparging compressor noise	O&M-01
004.049	Railyard Zone, HCC	RY-01
004.050	School, Technology selection	SCH-03
004.051	Construction Impacts, Centennial	CI-03
004.052	Editorial, Clarification	ED-17
004.053	Editorial, Clarification	ED-12
004.054	Restoration after cleanup, Landscaping	RST-03
004.055	Former Maloney Creek, Editorial	FMC-04
004.056	Restoration after cleanup, Landscaping	RST-03
004.057	Relocation, Building move	RELOC-02
004.058	Construction Impacts, Adjacent properties	CI-01
004.059	Operation and Maintenance, Air-sparging compressor noise	O&M-01
004.060	Editorial, Clarification	ED-09
004.061	Editorial, Clarification	ED-18
004.062	Editorial, Clarification	ED-21
004.063	Construction Impacts, Duration	CI-06
004.064	Editorial, Clarification	ED-04
004.065	Construction Impacts, Library	CI-10

Goebel, Lorna	Skykomish Environmental Coalition; Town Council Member	Commentor ID 005
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<i>2007 (2003) Comment#</i>	<i>Topic, Subtopic</i>	<i>Summary Comment#</i>
005.001	Former Maloney Creek, Bus Barn	FMC-01
005.104 (7, 4)	Historic and Archaeological, General	HA-04

Cyrus, Linda	Skykomish Library	Commentor ID 006
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<i>2007 (2003) Comment#</i>	<i>Topic, Subtopic</i>	<i>Summary Comment#</i>
006.001	Construction Impacts, Library	CI-10
006.002	Construction Impacts, Library	CI-10

West, Gary	Skykomish Property Owner	Commentor ID 007
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<i>2007 (2003) Comment#</i>	<i>Topic, Subtopic</i>	<i>Summary Comment#</i>
007.001	Restoration after cleanup, Environmental	RST-02
007.002	Geology, Soils, Flooding, Erosion, Changes due to backfill properties	GSFE-01

McGowan, Kathy <i>2007 (2003)</i> <i>Comment#</i>	Skykomish Citizen <i>Topic, Subtopic</i>	Commentor ID 008 <i>Summary</i> <i>Comment#</i>
008.008	Construction Impacts, Stress	CI-16
Johnson, Larry <i>2007 (2003)</i> <i>Comment#</i>	Town Planning Commission; property owner <i>Topic, Subtopic</i>	Commentor ID 009 <i>Summary</i> <i>Comment#</i>
009.001	Aesthetics, Town appearance	AES-01
009.002	Restoration after cleanup, Long-term	RST-04
009.003	Restoration after cleanup, Utilities	RST-07
Reynolds, Sharon <i>2007 (2003)</i> <i>Comment#</i>	Skykomish Post Office <i>Topic, Subtopic</i>	Commentor ID 010 <i>Summary</i> <i>Comment#</i>
010.001	Remedy Selection, Restoration time frame	REMSEL-05
010.002	Restoration after cleanup, Long-term	RST-04
010.003	Schedule, Fast completion	SCHED-02
Moore, Michael <i>2007 (2003)</i> <i>Comment#</i>	Skykomish Citizen, Skykomish Environmental Coalition, School District <i>Topic, Subtopic</i>	Commentor ID 011 <i>Summary</i> <i>Comment#</i>
011.001	Historic and Archaeological, King County Preservation Program	HA-06
011.002	Restoration after cleanup, Long-term	RST-04
011.003	Restoration after cleanup, Long-term	RST-04
011.004	Restoration after cleanup, Long-term	RST-04
011.005	Historic and Archaeological, Documentation	HA-02
011.006	Review, Community	RVW-01
011.007	Review, SEC	RVW-07
011.008	Review, Community	RVW-01
011.009	Relocation, Building move	RELOC-02
011.010	General Comment, General	GEN-07
011.011	Restoration after cleanup, Rail crossing	RST-05
011.012	Relocation, Building move	RELOC-02

011.013	Relocation, Coordination	RELOC-03
011.014	Former Maloney Creek, Bus Barn	FMC-01
011.088 (10, 8)	Air Quality, Vapors	AQ-01
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Goranson, Richard and Susan	Business owners (Sky River Inn)	Commentor ID 012
2007 (2003)		Summary
Comment#	Topic, Subtopic	Comment#
012.001	Economic Impacts, Business losses	EI-02
012.002	Relocation, Access agreements	RELOC-01
012.003	Economic Impacts, Property values	EI-06
012.004	Construction Impacts, Disruption	CI-05
012.005	Restoration Time Frame, Start cleanup	RTF-02
012.006	Economic Impacts, Business losses	EI-02
012.022 (8, 2)	Economic Impacts, Business losses	EI-02
012.044 (8, 4)	Construction Impacts, Appearance	CI-02
012.055 (8, 5)	Septic systems, Editorial	SEP-01
012.066 (8, 6)	Restoration after cleanup, Long-term	RST-04
012.101 (8, 1)	Economic Impacts, Business losses	EI-02
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Goranson, Susan	Skykomish Citizens, Business owner (Sky River Inn)	Commentor ID 013
2007 (2003)		Summary
Comment#	Topic, Subtopic	Comment#
013.001	Economic Impacts, Overall	EI-05
013.002	Liability, Contribution protection	LIA-01
013.003	Construction Impacts, Coordination	CI-04
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Sekor, Anne	Skykomish citizen	Commentor ID 014
2007 (2003)		Summary
Comment#	Topic, Subtopic	Comment#
014.001	Remedy Selection, Disproportionate cost analysis	REMSEL-02
014.002	Review, Town	RVW-11
014.003	Liability, Individual	LIA-02
014.004	School, Technology selection	SCH-03
014.005	Air Quality, Vapors	AQ-01
014.006	Former Maloney Creek, Habitat restoration	FMC-06
014.011 (17, 1)	Economic Impacts, Community	EI-03

Sundberg, Charlie	King County Historic Preservation Program	Commentor ID 015
<i>2007 (2003) Comment#</i>	<i>Topic, Subtopic</i>	<i>Summary Comment#</i>
015.001	Historic and Archaeological, King County Preservation Program	HA-06
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Walls, Timothy	Snohomish County Surface Water Management	Commentor ID 016
<i>2007 (2003) Comment#</i>	<i>Topic, Subtopic</i>	<i>Summary Comment#</i>
016.001	Natural Resource Damages, Potential projects	NRD-03
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Jensen, Howard	Skykomish Hotel	Commentor ID 017
<i>2007 (2003) Comment#</i>	<i>Topic, Subtopic</i>	<i>Summary Comment#</i>
017.001	Review, Time for review	RVW-10
017.002	Remedy Selection, Disproportionate cost analysis	REMSEL-02
017.003	Conditional Point of Compliance, Agreement to	CPOC-01
017.004	Relocation, Access agreements	RELOC-01
017.005	Relocation, Building move	RELOC-02
017.006	Liability, Contribution protection	LIA-01
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U.S. Forest Service	Federal Agency	Commentor ID 018
<i>2007 (2003) Comment#</i>	<i>Topic, Subtopic</i>	<i>Summary Comment#</i>
018.001	General Comment, General	GEN-08
018.002	Cleanup Standards, Origin of	STDS-01
018.003	Railyard Zone, Metals	RY-03
018.004	Air Quality, Contingency Measures	AQ-02
018.005	Liability, Individual	LIA-02
018.006	Remedy Selection, Technology selection	REMSEL-07
018.007	Remedy Selection, Disproportionate cost analysis	REMSEL-02
018.008	Remedy Selection, Disproportionate cost analysis	REMSEL-02
018.009	Natural Resource Damages, Use of funds	NRD-05
018.010	Relocation, Editorial	RELOC-04
018.011	Review, USFS	RVW-12
018.012	Review, USFS	RVW-12

018.013	Natural Resource Damages, Who proposes projects?	NRD-06
018.014	Editorial, Include Reference List	ED-05
018.015	General Comment, General	GEN-06
018.016	Editorial, Clarification	ED-10
018.017	Editorial, Clarification	ED-22
018.018	Compliance Monitoring, Compliance Monitoring Plan	CM-01
018.019	Geology, Soils, Flooding, Erosion, Editorial	GSFE-02
018.020	Air Quality, Vapors	AQ-01
018.021	Former Maloney Creek, Monitoring	FMC-07
018.022	Construction Impacts, Erosion control	CI-09
018.023	Editorial, Clarification	ED-13
018.024	Editorial, Clarification	ED-14
018.025	Editorial, Clarification	ED-15
018.026	Former Maloney Creek, Habitat restoration	FMC-06
018.027	Cleanup Standards, Origin of	STDS-01
018.028	Railyard Zone, HCC	RY-01
018.110 (29, 10)	Former Maloney Creek, Editorial	FMC-04

Robinson, John	Skykomish Citizen	Commentor ID 019
<i>2007 (2003)</i>		<i>Summary</i>
<i>Comment#</i>	<i>Topic, Subtopic</i>	<i>Comment#</i>
019.001	Review, Time for review	RVW-10
019.002	South Developed Zone, Additional investigation needed	SDZ-01
019.003	Former Maloney Creek, General	FMC-05
019.004	Schedule, Phase length	SCHED-03
019.005	Schedule, Railyard	SCHED-04
019.006	Former Maloney Creek, Construction Impacts	FMC-08
019.007	Relocation, Expenses	RELOC-05
019.008	Construction Impacts, Monitoring	CI-11
019.022 (14, 2)	Health, Complete cleanup	HLTH-01

Fernandez, Michael	Skykomish Environmental Coalition	Commentor ID 020
<i>2007 (2003)</i>		<i>Summary</i>
<i>Comment#</i>	<i>Topic, Subtopic</i>	<i>Comment#</i>
020.001	Review, Community	RVW-01
020.002	Remedy Selection, Technology selection	REMSEL-07
020.003	School, Vapor monitoring	SCH-04
020.004	Cleanup Standards, Origin of	STDS-01

020.005	Compliance Monitoring, Compliance Monitoring Plan	CM-01
020.006	Vegetation and Terrestrial Habitat, FMC	V&TH-02
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Barnett, Tanya	School District	Commentor ID 021
<i>2007 (2003)</i>		<i>Summary</i>
<i>Comment#</i>	<i>Topic, Subtopic</i>	<i>Comment#</i>
021.001	Cleanup Standards, Mitigation	STDS-04
021.002	Construction Impacts, Pedestrian safety	CI-12
021.003	Construction Impacts, Pedestrian safety	CI-12
021.004	Construction Impacts, School	CI-13
021.005	Review, School	RVW-06
021.006	Liability, School relocation costs	LIA-05
021.007	Restrictive Covenants, School	RC-06
021.008	Liability, School future liability	LIA-04
021.009	Review, Community	RVW-01
021.010	Editorial, Clarification	ED-02
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Cleveland, Theo	Skykomish Citizen	Commentor ID 022
<i>2007 (2003)</i>		<i>Summary</i>
<i>Comment#</i>	<i>Topic, Subtopic</i>	<i>Comment#</i>
022.001	Health, Town water supply	HLTH-05
022.002	Northwest Developed Zone, BNSF-owned property	NWDZ-01
022.003	Historic and Archaeological, General	HA-04
022.004	Economic Impacts, Tourist	EI-07
022.005	Railyard Zone, HCC	RY-01
022.006	Remedy Selection, Disproportionate cost analysis	REMSEL-02
022.007	Economic Impacts, BNSF	EI-01
022.008	General Comment, General	GEN-05
022.801	Health, Town water supply	HLTH-05
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Brown, Charles	Skykomish Citizen, Business Owner (Whistling Post Tavern)	Commentor ID 023
<i>2007 (2003)</i>		<i>Summary</i>
<i>Comment#</i>	<i>Topic, Subtopic</i>	<i>Comment#</i>
023.801	Conditional Point of Compliance, Agreement to	CPOC-01
023.802	Liability, Individual	LIA-02
023.803	Compliance Monitoring, Compliance Monitoring Plan	CM-01
023.804	Restoration Time Frame, Start cleanup	RTF-02

Gould, Bill <i>2007 (2003)</i> <i>Comment#</i>	Skykomish Citizen <i>Topic, Subtopic</i>	Commentor ID 024 <i>Summary</i> <i>Comment#</i>
024.801	Restrictive Covenants, Effectiveness	RC-04
Trim, Heather <i>2007 (2003)</i> <i>Comment#</i>	People for Puget Sound <i>Topic, Subtopic</i>	Commentor ID 025 <i>Summary</i> <i>Comment#</i>
025.901	Conditional Point of Compliance, Clarify	CPOC-02
025.902	Cleanup Standards, Sediment	STDS-05
025.903	Restrictive Covenants, Groundwater restrictions	RC-05
025.904	Remedy Selection, Empirical Demonstration	REMSEL-04
025.905	Remedy Selection, Standards	REMSEL-06
025.906	Former Maloney Creek, Dioxin/furan removal	FMC-03
025.907	Cleanup Standards, Groundwater	STDS-03
025.908	Railyard Zone, HCC	RY-01
025.909	Health, Studies done?	HLTH-04
025.910	Economic Impacts, BNSF	EI-01
025.911	Review, Document clarity	RVW-05
025.912	Air Quality, Vapors	AQ-01
Anonymous1 <i>2007 (2003)</i> <i>Comment#</i>	Skykomish Citizen <i>Topic, Subtopic</i>	Commentor ID 101 <i>Summary</i> <i>Comment#</i>
101.001 (1, 1)	General Comment, General	GEN-05
Anonymous2 <i>2007 (2003)</i> <i>Comment#</i>	Skykomish Citizen <i>Topic, Subtopic</i>	Commentor ID 102 <i>Summary</i> <i>Comment#</i>
102.001 (2, 1)	General Comment, General	GEN-05
Aydelotte, George Richard <i>2007 (2003)</i> <i>Comment#</i>	Skykomish Citizen <i>Topic, Subtopic</i>	Commentor ID 103 <i>Summary</i> <i>Comment#</i>
103.003 (3, 3)	Economic Impacts, Property values	EI-06
103.007 (3, 7)	Construction Impacts, Dust	CI-07
103.008 (3, 8)	River and Habitat, Levee Restoration	RH-01
103.009 (3, 9)	Health, Lead and PCB	HLTH-03

103.801	Restoration after cleanup, Long-term	RST-04
103.802	Remedy Selection, Technology selection	REMSEL-07
103.803	School, Technology selection	SCH-03
103.804	Geology, Soils, Flooding, Erosion, Changes due to backfill properties	GSFE-01
103.805	General Comment, General	GEN-09
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Bakel/Garner, Rex/Janet	Business owners (Stove Shop)	Commentor ID 104
2007 (2003)		Summary
Comment#	Topic, Subtopic	Comment#
104.002 (4, 2)	Historic and Archaeological, General	HA-04
104.003 (4, 3)	Restoration Time Frame, Start cleanup	RTF-02
104.004 (4, 4)	Historic and Archaeological, General	HA-04
104.005 (4, 5)	Historic and Archaeological, General	HA-04
104.006 (4, 6)	Historic and Archaeological, General	HA-04
104.007 (4, 7)	Construction Impacts, Duration	CI-06
104.008 (4, 8)	Economic Impacts, Business losses	EI-02
104.009 (4, 9)	Health, Gardening	HLTH-02
104.012 (4, 12)	Construction Impacts, Traffic	CI-17
104.013 (4, 13)	Historic and Archaeological, General	HA-04
104.015 (4, 15)	Historic and Archaeological, Editorial	HA-03
104.016 (4, 16)	Historic and Archaeological, Editorial	HA-03
104.020 (4, 20)	Historic and Archaeological, General	HA-04
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Berg, Jewels	Skykomish Citizen	Commentor ID 105
2007 (2003)		Summary
Comment#	Topic, Subtopic	Comment#
105.005 (5, 5)	Northwest Developed Zone, General	NWDZ-02
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Dickinson, Joe	Skykomish Citizen	Commentor ID 106
2007 (2003)		Summary
Comment#	Topic, Subtopic	Comment#
106.001 (6, 1)	General Comment, General	GEN-05
106.002 (6, 2)	General Comment, General	GEN-05
106.003 (6, 3)	Health, Complete cleanup	HLTH-01
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Mackay, Robert	Skykomish Citizen	Commentor ID 109
2007 (2003)		Summary
Comment#	Topic, Subtopic	Comment#

109.008 (9, 8)	Economic Impacts, Overall	EI-05
Mackner, Charlotte <i>2007 (2003)</i> <i>Comment#</i>	Mayor of Skykomish <i>Topic, Subtopic</i>	Commentor ID 111 <i>Summary</i> <i>Comment#</i>
111.022 (11, 2)	Restoration after cleanup, Landscaping	RST-03
Mitchell, Dick and Roberta <i>2007 (2003)</i> <i>Comment#</i>	Skykomish citizen <i>Topic, Subtopic</i>	Commentor ID 112 <i>Summary</i> <i>Comment#</i>
112.066 (12, 6)	Historic and Archaeological, General	HA-04
Quiring, Madelle <i>2007 (2003)</i> <i>Comment#</i>	Skykomich Citizen <i>Topic, Subtopic</i>	Commentor ID 113 <i>Summary</i> <i>Comment#</i>
113.001 (13, 1)	General Comment, General	GEN-05
113.002 (13, 2)	Remedy Selection, Technology selection	REMSEL-07
113.003 (13, 3)	General Comment, General	GEN-05
113.004 (13, 4)	General Comment, General	GEN-05
Romstad, Morten <i>2007 (2003)</i> <i>Comment#</i>	Skykomish Citizen <i>Topic, Subtopic</i>	Commentor ID 115 <i>Summary</i> <i>Comment#</i>
115.033 (15, 3)	Restoration after cleanup, Long-term	RST-04
Sarno, Frank <i>2007 (2003)</i> <i>Comment#</i>	Skykomish citizen <i>Topic, Subtopic</i>	Commentor ID 116 <i>Summary</i> <i>Comment#</i>
116.033 (16, 3)	Economic Impacts, BNSF	EI-01
116.055 (16, 5)	Restoration after cleanup, Long-term	RST-04
Sladek, Henry <i>2007 (2003)</i> <i>Comment#</i>	Business owner (Cascadia Inn) <i>Topic, Subtopic</i>	Commentor ID 118 <i>Summary</i> <i>Comment#</i>
118.004 (18, 4)	Restoration after cleanup, Long-term	RST-04
118.801	Railyard Zone, HCC	RY-01
118.802	Conditional Point of Compliance, Agreement to	CPOC-01

Soltis, Jerry <i>2007 (2003)</i> <i>Comment#</i>	Skykomish citizen <i>Topic, Subtopic</i>	Commentor ID 119 <i>Summary</i> <i>Comment#</i>
119.001 (19, 1)	Economic Impacts, Property values	EI-06
119.008 (19, 8)	Construction Impacts, Duration	CI-06
King Co. Historical Preservation <i>2007 (2003)</i> <i>Comment#</i>	County agency <i>Topic, Subtopic</i>	Commentor ID 120 <i>Summary</i> <i>Comment#</i>
120.001 (20, 1)	Historic and Archaeological, General	HA-04
120.002 (20, 2)	Historic and Archaeological, Documentation	HA-02
120.003 (20, 3)	Historic and Archaeological, Documentation	HA-02
120.004 (20, 4)	Historic and Archaeological, Editorial	HA-03
120.005 (20, 5)	Historic and Archaeological, Editorial	HA-03
120.006 (20, 6)	Historic and Archaeological, Editorial	HA-03
120.007 (20, 7)	Historic and Archaeological, Editorial	HA-03
120.008 (20, 8)	Historic and Archaeological, Editorial	HA-03
120.009 (20, 9)	Editorial, Figure Correction	ED-23
120.010 (20, 10)	Editorial, Clarification	ED-16
120.011 (20, 11)	Historic and Archaeological, General	HA-04
120.012 (20, 12)	Economic Impacts, Business losses	EI-02
120.013 (20, 13)	Construction Impacts, Disruption	CI-05
120.014 (20, 14)	Historic and Archaeological, General	HA-04
King Co. Water, Bean <i>2007 (2003)</i> <i>Comment#</i>	County agency <i>Topic, Subtopic</i>	Commentor ID 121 <i>Summary</i> <i>Comment#</i>
121.002 (21, 2)	River and Habitat, Levee Restoration	RH-01
King Co. Public Health <i>2007 (2003)</i> <i>Comment#</i>	County agency <i>Topic, Subtopic</i>	Commentor ID 122 <i>Summary</i> <i>Comment#</i>
122.001 (22, 1)	Septic systems, Editorial	SEP-01
122.002 (22, 2)	Septic systems, Editorial	SEP-01
122.003 (22, 3)	Septic systems, Editorial	SEP-01
122.004 (22, 4)	Septic systems, Editorial	SEP-01
122.005 (22, 5)	Septic systems, Editorial	SEP-01
122.006 (22, 6)	Septic systems, Editorial	SEP-01

122.007 (22, 7)	Septic systems, Editorial	SEP-01
122.008 (22, 8)	Septic systems, Editorial	SEP-01
122.009 (22, 9)	Septic systems, Editorial	SEP-01
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Sky Valley Chamber of Commerce	Business organization	Commentor ID 123
2007 (2003)		Summary
Comment#	Topic, Subtopic	Comment#
123.006 (23, 6)	Economic Impacts, Overall	EI-05
123.007 (23, 7)	Economic Impacts, Business losses	EI-02
123.009 (23, 9)	Economic Impacts, Business losses	EI-02
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Skykomish Town	Local government	Commentor ID 125
2007 (2003)		Summary
Comment#	Topic, Subtopic	Comment#
125.067 (25, 71)	Economic Impacts, Overall	EI-05
125.068 (25, 67)	Economic Impacts, Overall	EI-05
125.069 (25, 68)	Economic Impacts, Overall	EI-05
125.070 (25, 69)	Economic Impacts, Overall	EI-05
125.071 (25, 70)	Economic Impacts, Overall	EI-05
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Skykomish Environmental Coalition	Local Environmental group	Commentor ID 126
2007 (2003)		Summary
Comment#	Topic, Subtopic	Comment#
126.052 (26, 52)	Geology, Soils, Flooding, Erosion, Stormwater system	GSFE-04
126.056 (26, 56)	Vegetation and Terrestrial Habitat, Editorial	V&TH-01
126.057 (26, 57)	Editorial, Clarification	ED-07
126.060 (26, 60)	Editorial, Clarification	ED-06
126.061 (26, 61)	Economic Impacts, Editorial	EI-04
126.062 (26, 62)	Editorial, Clarification	ED-11
126.114 (26, 114)	Levee Zone, River	LV-01
126.121 (26, 121)	Levee Zone, River	LV-01
126.123 (26, 123)	Construction Impacts, Duration	CI-06
126.135 (26, 135)	Restoration after cleanup, Editorial	RST-01
126.159 (26, 159)	Vegetation and Terrestrial Habitat, Editorial	V&TH-01
126.160 (26, 160)	Economic Impacts, Editorial	EI-04
126.170 (26, 170)	Levee Zone, River	LV-01
126.171 (26, 171)	Geology, Soils, Flooding, Erosion, River bank erosion	GSFE-03

126.173 (26, 173)	Restoration after cleanup, Long-term	RST-04
126.180 (26, 181)	Construction Impacts, Editorial	CI-08
126.181 (26, 180)	Construction Impacts, Editorial	CI-08
126.182 (26, 182)	Construction Impacts, Editorial	CI-08
126.183 (26, 183)	Construction Impacts, Traffic	CI-17
126.184 (26, 184)	Construction Impacts, Traffic	CI-17
126.185 (26, 185)	Construction Impacts, Traffic	CI-17
126.192 (26, 192)	Restoration after cleanup, Long-term	RST-04
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Skykomish School	School District	Commentor ID 127
2007 (2003)		Summary
Comment#	Topic, Subtopic	Comment#
127.009 (27, 9)	Historic and Archaeological, Editorial	HA-03
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Snohomish Economic Council	Business Organization	Commentor ID 128
2007 (2003)		Summary
Comment#	Topic, Subtopic	Comment#
128.001 (28, 1)	Economic Impacts, Overall	EI-05
128.002 (28, 2)	Historic and Archaeological, General	HA-04
128.003 (26, 159)	Construction Impacts, Duration	CI-06
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WA Arch/Hist Preservation	State Agency	Commentor ID 130
2007 (2003)		Summary
Comment#	Topic, Subtopic	Comment#
130.002 (30, 2)	Historic and Archaeological, Documentation	HA-02
130.003 (30, 3)	Historic and Archaeological, Coordination	HA-01
130.004 (30, 4)	Historic and Archaeological, Preservation	HA-05

TABLE 3

Summary Comments and Responses

Aesthetics, Town appearance

Summary Comment #:

AES-01

Comment #s: 003.025, 009.001

Summary Comment:

What actions will be taken to ensure the Town's appearance isn't negatively affected by remediation structures?

Response:

BNSF will work with the Town to preserve its aesthetic appeal in accordance with the Town's vision for the future as required by applicable regulations and the Design Guidelines for Skykomish (See Skykomish Municipal Code, Chapter 18.9). BNSF will consult with the Town to ensure remediation equipment that will operate over the long term is housed in structures that blend with the Town's character.

If it is necessary to build any "semi-permanent" remediation structures in the historic district, they will be designed to minimize visual impacts. A structure will be considered "semi-permanent" if it is anticipated to be in place five years or longer.

Any design enhancements to new structures in the historic district that are required to meet current code or regulations would not be considered as "optional" items. Existing structures that are temporarily relocated will be restored to current conditions consistent with existing codes, including the Design Guidelines.

Document Change?: No

Air Quality, Vapors

Summary Comment #:

AQ-01

Comment #s: 011.088, 014.005, 018.020, 025.912

Summary Comment:

What impacts will there be from the vapors coming from the excavation areas and from the air sparging system?

Response:

MTCA requires protection monitoring during cleanup activities, and BNSF will monitor the air quality during all phases of the town's cleanup. Compliance monitoring plans, including air monitoring, will be developed for each phase and will be available for informal review and comment through the Department of Ecology. During the levee zone cleanup, air monitoring was conducted daily, and the levels of hydrocarbon vapors and dust emissions never exceeded action levels. The weekly air monitoring reports were posted on the cleanup website for easy public access. A similar process is envisioned for implementation of the remainder of the cleanup.

Ecology understands that at times during the 2006 excavation, the odor coming from the levee excavation was strong and caused concern to the town's residents. It is important to note that odor does not necessarily imply unhealthy levels of vapors. The type of large-scale, multi-year excavation anticipated in the CAP will necessarily create odors that cannot be avoided.

Air sparging will be performed in the diesel-impacted area only after excavation of higher concentration areas. The lower diesel concentrations that will remain do not contain a significant volatile fraction. The design of the air sparging system will be flexible enough to have as few wells as possible on private property and no wells beneath buildings in the town. The CAP requires that vapor concentrations be below a protective threshold for unexcavated areas that exceed 3,400 mg/kg TPH, if any such areas exist.

Document Change?: No

Air Quality, Contingency Measures *Summary Comment #:* AQ-02

Comment #s: 018.004

Summary Comment:

After initial cleanup has been conducted in the Northwest Developed Zone, how will ambient (outdoor) air be remediated if concentrations exceed the cleanup level (CUL)?

Response:

Following excavation of soil to the remediation level (RL) of 3400 ppm in the Northwest Developed Zone, ambient air quality is expected to meet the CUL of 1346 ug/m³ APH. If the air CUL is exceeded, then additional remedial actions will be conducted to meet the standards. Additional remedial actions that can be conducted include more excavation in problem areas or actions that can be performed on the soil while remaining in place, such as vapor extraction, bioremediation through air-sparging/chemicals in the groundwater, or installation of vapor barriers in appropriate locations.

Document Change?: No

Bridge, Bridge *Summary Comment #:* BRDG-01

Comment #s: 004.038

Summary Comment:

Because the bridge is such a critical piece of Skykomish's infrastructure, what is going to be done about replacing or improving the bridge if remediation activities weaken the bridge or require the south abutment to be removed?

Response:

Ecology and BNSF realize the bridge is an important piece of Skykomish's infrastructure. It is also considered a historic structure. A plastic liner was installed last summer to impede further flow of contamination from the soils around the south abutment to the river. Currently, subsurface investigation is taking place around the bridge to better delineate the distribution and concentrations of petroleum in that area in order to plan for remediation actions in that area. RETEC has already notified Washington's Department of Transportation (WSDOT) about the possibility of future reconstruction or replacement of a portion of the bridge. Before any work occurs on the bridge abutment, WSDOT will be consulted and it will be determined if the work can be accomplished without endangering the bridge stability. Should the town wish to enhance the bridge with additional lanes and/or add a sidewalk on the eastern side, BNSF would work with the town to get this accomplished, within the constraints associated with the historical designation of the bridge. BNSF would not be responsible for additional expenses associated with bridge enhancements.

Document Change?: No

Construction Impacts, Adjacent properties

Summary Comment #:

CI-01

Comment #s: 004.058

Summary Comment:

How will homeowners be protected from damage to their houses from excavations adjacent to their property?

Response:

To protect structures from damage due to adjacent excavations, excavation side walls will be sloped or supports may be used, either in the excavation or on structures. Monitoring may be used to identify when additional measures are necessary.

A deep excavation is one that extends to the bottom of the smear zone, approximately 15 feet below the ground surface. Houses that are adjacent to deep excavations aren't expected to experience any damage; however, an inspection and structural survey will be conducted on identified structures that may be affected by adjacent excavations both before and after excavation work. The surveys will be compared, and any damage to these structures will be repaired. This process was effectively used for the interim actions completed in 2001 and 2006.

Section 4.1.2 of the Final EIS provides that owners of property adjacent to and near construction work will be provided an opportunity to have any concerns regarding construction impacts addressed. Property owners should contact Ecology and BNSF.

Document Change?: No

Construction Impacts, Appearance *Summary Comment #:* CI-02

Comment #s: 012.044

Summary Comment:

What is going to be done during construction to mitigate the aesthetic disruption of these activities?

Response:

Mitigation of aesthetic impacts of the project are discussed in Section 4.2.2 of the Final EIS. The cleanup activities will necessarily be very visible for a period of years. Ecology and BNSF are committed to reducing these impacts as much as possible.

Document Change?: No

Construction Impacts, Centennial *Summary Comment #:* CI-03

Comment #s: 004.051

Summary Comment:

Is it necessary for cleanup work to occur during the Town's Centennial Year, 2009?

Response:

The cleanup schedule requires that all construction seasons from 2008 -2011 be utilized. The Town of Skykomish requested that the phasing of cleanup work begin in the historic district in 2008 (the eastern part of NWDZ). The main business area is in this historic district that, once cleaned up, would be operational for the celebration in 2009. The western area of the NWDZ will be cleaned up during the centennial year 2009.

Document Change?: No

Construction Impacts, Coordination *Summary Comment #:* CI-04

Comment #s: 013.003, 003.027, 012.004, 012.044, 119.008, 120.013, 128.003

Summary Comment:

What is being done to inform and coordinate construction activities with property owners and the railroad in order to reduce the inconvenience to town members?

Response:

Ecology and BNSF will be engaged with the community throughout the cleanup. The consent decree requires that a public meeting be held in the Fall to discuss upcoming cleanup work. At this meeting, the draft Annual Engineering Design Report (EDR) will be presented to the public. Public input will be sought on how the work can be conducted in the least

disruptive manner.

The annual EDRs will also be the basis for BNSF to work with individual property owners on access agreements. Those agreements will permit BNSF and landowners to coordinate any planned construction activities. BNSF and the Town will also negotiate access to public streets and public facilities. Such agreements will ensure access to homes and businesses that do not require individual agreements.

Document Change?: No

Construction Impacts, Disruption	Summary Comment #:	CI-05
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Comment #s: 003.027, 012.004, 120.013

Summary Comment:

Section VI. A. 2. Provides that there will be cleanup of the soil contaminated with lead and arsenic by removal of the tainted soils. But, BNSF maintains that its operations cannot be disrupted. Can these two goals be reconciled?

Response:

Cleanup of soil contaminated with lead and arsenic will not disrupt rail operations. Disruption of rail operations would occur only by excavation of petroleum to such an extent that moving the rails would be required.

All lead- and arsenic-contaminated soil within two feet of the surface on the railyard will be excavated and replaced with clean backfill except where such actions would imperil the structural integrity of the tracks. Close to the tracks, more shallow excavation or containment will be performed.

Document Change?: No

Construction Impacts, Duration	Summary Comment #:	CI-06
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Comment #s: 004.063, 104.007, 119.008, 126.123, 128.003

Summary Comment:

How will disruptions and impacts to homes and businesses (noise, odor, utilities, limited access) be shortened and mitigated?

Response:

Ecology and BNSF will be engaged with the community throughout the cleanup. The consent decree requires that a public meeting be held in the Fall to discuss upcoming cleanup work. At this meeting, the draft Annual Engineering Design Report (EDR) will be presented to

the public. Public input will be sought on how the work can be conducted in the least disruptive manner.

Noise and odor impacts will be mitigated as described in the environmental impact statement. Utility interruptions will be short and temporary. Residents who will be affected by utility disruptions will be provided notice as early as possible. Puget Sound Energy will inform affected property owners of upcoming power outage times and durations so that residents can plan around them. The annual Engineering Design Reports will be the basis for BNSF to work with individual property owners on access agreements. These agreements will permit BNSF and property owners to identify ways to reduce disruption to their homes and businesses. BNSF and the Town will also negotiate access related to public streets and facilities. These agreements will ensure to the extent possible, uninterrupted access to homes and business that do not require individual access agreements.

Section 4.1.2 of the Final EIS provides that owners of property adjacent to and near construction work will be provided an opportunity to have any concerns regarding construction impacts addressed. Property owners should contact Ecology and BNSF.

Document Change?: No

Construction Impacts, Dust

Summary Comment #:

CI-07

Comment #s: 103.007

Summary Comment:

How will dust and lead in home interiors be cleaned up?

Response:

During construction, homeowners or businesses who believe that cleanup activities are creating an unusual amount of dust inside their buildings should call the construction contact to discuss an appropriate cleaning service. A construction contact will be provided prior to each phase of the project. See Section 3.2.2 of the 2007 Final EIS.

The exteriors of buildings that are impacted by construction dust (or mud) will be cleaned as necessary after construction is complete. In the event specified limits for nuisance airborne dust are exceeded, the health and safety plan officer on site will assess the concern and take appropriate action as outlined in the air quality monitoring plan.

Document Change?: DSEIS

A mitigating measure has been added to Table 1-2, under Dust and Air, and to Section 3.2.2 in the 2007 Final EIS. The measure provides that the exterior of any building affected by dust from construction will be cleaned as necessary, and that if cleanup activities create an unusual

amount of dust inside a building the owner may call the construction contact to discuss an appropriate cleaning service.

Construction Impacts, Editorial	Summary Comment #:	CI-08
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Comment #s: 126.180, 126.181, 126.182

Summary Comment:

The descriptions of adverse impacts from construction truck traffic are inconsistent. The size of the trains is inaccurate.

Response:

A traffic plan is required for each phase of the cleanup. The plan will be provided to the public review during public meetings that will be held during the annual planning process. Dust control best management practices will be used. Noise will be monitored and reduced as necessary. See Final EIS Section 4.3.1.

Train size information was provided by BNSF.

Document Change?: No

Construction Impacts, Erosion control	Summary Comment #:	CI-09
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Comment #s: 018.022

Summary Comment:

What specific methods will be implemented to ensure that no impacted sediments reach the river during construction activities? Will sediment retention ponds be used?

Response:

A construction erosion control and sedimentation plan is required for all construction in Washington State. An appropriate plan will be prepared for each phase of the cleanup. BNSF will comply with the 2005 Stormwater Management Manual for Western Washington in order to prevent contaminated sediments from reaching the river.

Sediment retention ponds will be included if appropriate when developing construction erosion and sediment control plans for each phase of work.

Document Change?: No

Construction Impacts, Library	Summary Comment #:	CI-10
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Comment #s: 004.065, 006.001, 006.002

Summary Comment:

What assurances do the employees and patrons of the library have that steps are being taken to protect them from impacted dust and construction traffic, and that muddy water doesn't accumulate in front of their building? What will be done to maintain a safe parking area for their patrons?

Response:

The annual engineering design reports will include plans for traffic and dust control. These reports will be discussed with the public in public meetings held each Fall. The public may also discuss concerns with Ecology and BNSF at any time.

Ecology and BNSF will work with the Library during development of detailed construction plans to specifically address the Library's concerns, including specific library mitigation, such as furnace maintenance, replacing furnace filters, paving or dust suppressant, sweeping, maintaining public access, safe, and accessible parking, and accumulation of muddy construction water.

Air quality must comply with standards set by the Puget Sound Clean Air Agency and the Department of Ecology. One of the standards is for nuisance dust. Air quality monitoring will be conducted to assess whether standards are being met or whether measures need to be taken to meet standards. If nuisance dust standards are exceeded, actions will be taken to reduce dust. Short-term air monitoring may be conducted at locations of specific concern identified as construction occurs.

The library will remain open and accessible to the public during construction activities. Parking for the library is addressed in Final EIS Section 4.3.1. Library parking spaces affected by excavation activities will be temporarily moved to an alternate parking area as needed. Contractors will be required to practice good housekeeping with regard to dust and mud. Any property owner, including the library, who believes that cleanup activities are creating an unusual amount of mud or dust on their property should call the construction contact to discuss an appropriate cleaning service.

Document Change?: DSEIS

The Final EIS includes exterior and interior cleaning after construction as a mitigation measure (Section 3.2.2). Ecology and BNSF will work with the Library during development of construction plans to address Library-specific concerns including mitigation such as furnace maintenance, replacing furnace filters, paving or dust suppressant, sweeping, maintaining public access, safe and accessible parking, and accumulation of muddy construction water.

Comment #s: 019.008

Summary Comment:

During Phase I noise levels were unacceptably loud at times. How can we mitigate this effect now?

Response:

Noise will be monitored daily during construction to ensure compliance with noise regulations. Construction equipment will have mufflers in good repair and will not idle for extended periods. Noise enclosures will be used for stationary equipment.

BNSF and Ecology will meet with impacted landowners and residents to discuss issues and specific concerns, and subsequently take measures to address these issues and identify reasonable and appropriate mitigation measures. During the 2006 work, two residents were moved in order to reduce the impact of noise following noise monitoring on their properties, and similar mitigation would be available for future phases of the work.

Section 4.1.2 of the Final EIS provides that owners of property adjacent to and near construction work will be provided an opportunity to have any concerns regarding construction impacts addressed. Property owners should contact Ecology and BNSF.

Document Change?: No

Construction Impacts, Pedestrian safety

Summary Comment #:

CI-12

Comment #s: 002.001, 002.002, 021.002, 021.003

Summary Comment:

Can there be a 15 mph speed limit when school is in session and flaggers stationed at major intersections before and after school?

Response:

Speed limits are set by the Town of Skykomish. The contractor will develop a traffic control plan for each phase of the cleanup. BNSF will work with the School Board and the Town to implement appropriate safety measures.

Document Change?: No

Construction Impacts, School

Summary Comment #:

CI-13

Comment #s: 021.004

Summary Comment:

The School District is generally concerned about potential impacts to school operations during treatment beneath the school. The basement of the school contains classrooms, bathrooms, a kitchen, and lockers.

Response:

Mitigation measures for impacts on school operations will be closely coordinated with the School District. Ecology and BNSF will coordinate closely with the school as a treatment technology is identified.

The cleanup action plan provides that, because of the unique nature of the school’s role in the Skykomish community, BNSF and Ecology will conduct early and open communication with the school board regarding development of cleanup plans for the school to minimize and mitigate impacts on the learning environment and the community as a whole. See Section 4.1.2.3.

Document Change?: No

Construction Impacts, Stress	Summary Comment #:	CI-16
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Comment #s: 008.008

Summary Comment:

Proceed with the cleanup as quickly and efficiently as practicable to minimize stress on residents, particularly on children.

Response:

Comment noted. Ecology and BNSF will complete the work as quickly as possible. Completing the work safely and in an orderly manner will take several years. The cooperation and collaboration of the community during construction will be of great assistance in completing the work successfully. The School District may wish to develop ideas for reducing construction impacts on students, and discuss them with Ecology and BNSF.

Document Change?: No

Construction Impacts, Traffic	Summary Comment #:	CI-17
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Comment #s: 104.012, 126.183, 126.184, 126.185

Summary Comment:

Several comments were received regarding traffic, including comments stating a preference for using trains over trucks for hauling material off site; that the increase in traffic was not sufficient to be a concern; and that soil generated from installation of wells is not of sufficient volume to significantly increase traffic when hauled off-site.

Response:

Comments noted. The majority of the time, trains will be used to haul contaminated soil off-site. Some materials may be trucked off-site.

Document Change?: No

Construction Impacts, Vibration

Summary Comment #:

CI-19

Comment #s: 003.024

Summary Comment:

Vibration impacts will result from vibratory compaction of soils during post-cleanup restoration.

Response:

Comment noted.

Document Change?: No

Compliance Monitoring, Compliance Monitoring Plan

Summary Comment #:

CM-01

Comment #s: 003.005, 004.001, 004.017, 004.011, 018.018, 020.005, 023.803

Summary Comment:

How will the success of the cleanup be evaluated? What will happen if the cleanup actions do not achieve the required results?

Response:

The success of the cleanup in achieving the required results is assessed by compliance monitoring. Data will be collected to assess whether human health and the environment are protected during the cleanup and to assess whether cleanup standards have been attained. Corrective actions will be taken if monitoring data indicate standards are not being met.

The specifics of how data are to be collected will be described in a Compliance Monitoring Plan. This is a required document under the regulations governing the cleanup. The type of information in the document will include: type of data to be collected, locations of collection, frequency of collection, methods of laboratory analysis, other observations, and statistical methods for comparing the data collected to the cleanup standards.

For the BNSF Skykomish cleanup, plans for compliance monitoring will be developed in phases as the cleanup proceeds. Compliance monitoring plans are deliverables under the

Consent Decree. The timing of the development of compliance monitoring plans is specified in Consent Decree Exhibit C, List and Schedule of Deliverables. Once Ecology and BNSF have agreed on the Compliance Monitoring Plan for each phase, it becomes an integral and enforceable part of the Consent Decree. The plans, and the data collected under them, will be available to the public.

The Compliance Monitoring Plan will specify contingency actions to be taken if compliance monitoring data show standards are not being met. In some cases the contingency action may be very specific, such as if dust is observed a water truck will be dispatched or a work stoppage may be ordered. In other cases, the contingency action may be more flexible so that it can be tailored to the specific standards that are not being met.

Some commentors had specific questions regarding several topics. Regarding these:

USFS, Comment# 018.018: If air sparging does not reduce groundwater and soil petroleum concentrations at desired rates, air injection rates may be increased, oxygen content of the injected air may be increased, additional air-injection wells may be installed, and addition of appropriate bacteria to increase biodegradation rates may be considered.

Town of Skykomish, Comment# 003.005: The Town of Skykomish commented on the potential for breaching of the redundant barrier component of the hydraulic control and containment system. The Town believed that while the financial and performance assurances are sufficient if the primary barrier is breached but the secondary barrier holds, these assurances are not sufficient if the secondary barrier is breached. The Town believed that breaching of the secondary barrier should be presumptive proof of failure of the hydraulic control and containment system design, and that upon such failure, complete excavation of all contamination remaining on the railyard, including under the mainline should be required in the Consent Decree.

Ecology understands the Town's concern and the desire to have a firm course of action if certain things occur. Contingency actions will be included in the compliance monitoring plan, which will be an integral and enforceable part of the Consent Decree. When developing contingency actions in case compliance monitoring shows standards are not being met (such as a breach of the secondary containment), one of the challenges is to develop sufficient specificity to require appropriate actions be taken in a timely manner when the nature of the failure is not known. If the cause of such a breach was an isolated crack that could easily be repaired, it would not make sense to impose the disruption on the Town and cost on BNSF that complete excavation would cause. The Cleanup Action Plan currently provides that, "If free product is detected outside of BNSF's railyard facility property at any time, measures to stop its migration and control any future migration are to be taken immediately. Compliance monitoring will be done to evaluate whether the migration has been stopped and controlled. The size and distribution of the free product outside BNSF's railyard facility property boundary

will be assessed to evaluate whether additional remedial actions should be taken." Ecology believes the functional requirements to take immediate action and assess whether additional actions should be taken provide the necessary specificity about the results that need to be achieved in case of containment failure while allowing the flexibility to tailor the method of achieving those results to the (currently unknown) specifics of the failure.

Fernandez, Comment# 020.005: Concern was also expressed about the actions to be taken if school basement air exceeds standards, and noted that ventilation with capture and treatment of the contaminated air should be required. Contingency measures for this possibility will also be included in compliance monitoring plans. Ventilation is certainly a good candidate as a possible measure to be taken to reduce contaminant concentrations. In such a cause, the concentrations in exhaust air would be assessed and it would be determined what, if any, sort of permitting would be required for discharge. Capture and treatment would be performed if necessary to meet permit requirements.

Petrarca, Comment# 004.017: One commentor noted that provisions have not been made to address the possible ineffectiveness of the river and levee remediation done in 2006. Compliance monitoring plans will be developed to monitor the effectiveness of this cleanup action, and will include contingencies in case standards are not met.

Brown, Comment# 023.803: Finally, one commentor wondered who would be responsible for implementing contingency actions, if required. BNSF Railway will be responsible for implementing the actions. One of the considerations bringing the site back into compliance with standards will be the disruption caused by such actions. On this point, it is likely that if standards are exceeded, the exceedance will be much less than currently exists (i.e., before any cleanup actions have been taken), and any needed contingency actions will be much less disruptive than the primary cleanup actions.

Document Change?: No

Compliance Monitoring, Empirical demonstrations

Summary Comment #:

CM-03

Comment #s: 004.010

Summary Comment:

How will timing and sampling protocols for the empirical demonstration that remediation levels are protective of groundwater, sediment, and surface water be selected by Ecology?

Response:

The timing and sampling protocols will be selected in a compliance monitoring plan that covers the empirical demonstration component of the cleanup. Data will be collected to assess whether petroleum concentrations meet the required standards immediately or are declining at

sufficient rates. Where applicable, it is anticipated that the concentrations both of petroleum and of other chemicals indicative of natural biodegradation processes will be collected. This data will be statistically analyzed to assess petroleum concentration decline rates and the activity of biological processes. If decline rates are not sufficient, actions which could be taken to increase the rates will be assessed. BNSF and Ecology will review the performance of the air-sparging system annually. This review will be documented in draft and final air-sparging system reports prepared by BNSF that will be submitted to Ecology for review and approval. The final reports will be public documents.

Document Change?: No

Conditional Point of Compliance, Agreement to	Summary Comment #:	CPOC-01
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Comment #s: 017.003, 023.801, 118.802

Summary Comment:

There is confusion between agreement to a Conditional Point of Compliance (CPOC) and agreement to grant access to properties for cleanup. Commentors expressed a need to have more time to consider the impact of agreeing to the CPOC on their particular situations, expressed concerns that approval of a CPOC is a lessening of standards that places a burden on landowners, and stated concerns that the project will be delayed if landowners do not approve the CPOC.

Response:

Agreement by a property owner to a conditional point of compliance allows groundwater exceeding the cleanup level of 208 ug/l to flow beneath that owner's property, but does not grant access to the property for cleanup work. By contrast, agreement to grant access for cleanup allows cleanup work to be performed on the property under the terms in the agreement.

The cleanup level for groundwater at this Site is 208 ug/l. This number was calculated to protect the river and aquatic environment, and is more stringent than the number that restores groundwater for drinking water use (477 ug/l). The MTCA regulation defaults to the more stringent number (208 ug/l), to be achieved throughout the Site except in certain circumstances. The regulation allows for use of a conditional point of compliance when human health and the environment can be protected without applying the standard everywhere, and when certain other conditions are met.

Ecology acknowledges that the conditional point of compliance agreements may have seemed burdensome to some property owners. However, Ecology anticipates the Town and its citizens will realize substantial benefits from implementing this aggressive cleanup in a timely manner. All but three affected property owners have agreed to use of a conditional point of compliance. Ecology has decided the cleanup can move forward, however, without delay, because some

adjustments to the conditional point of compliance boundary were made around these three properties.

Changes have been made to the cleanup action plan regarding use of a conditional point of compliance, as discussed below.

Document Change?: DCAP

The following changes have been made to the cleanup action plan regarding use of a conditional point of compliance:

1. The paragraph preceding Section 3.4 was revised to read as follows: "Ecology carefully reviewed whether these requirements were met before selecting the cleanup actions for the BNSF Skykomish Site from the alternatives and information presented in the Feasibility Study (RETEC, 2005). The manner in which Ecology determined whether the first three requirements were met is discussed further in Chapter 5. The fourth requirement was met based on the mailing of required notices and the receipt and review of comments received on the proposal. Finally, affected property owners have approved the use of the conditional point of compliance in writing, per WAC 173-340-720(8)(d)(ii), as discussed further below."
2. The first paragraph of the Groundwater discussion in Section 3.4 has been revised to read as follows: "Groundwater – The petroleum cleanup level for groundwater is 208 µg/L NWTPH-Dx and absence of sheen or free product. This cleanup level is based upon protection of sediment from recontamination by groundwater flowing through it. The cleanup level point of compliance for groundwater is shown on Figure 6."
3. A paragraph has been added to the Groundwater discussion in Section 3.4 as follows: "Property owners affected by the conditional point of compliance have approved the CPOC in writing. Two property owners did not approve the conditional point of compliance and one property owner could not be located. Ecology has enclosed these properties within a boundary exclusion interior to the larger conditional point of compliance area shown on Figure 6. Therefore, these properties will not be affected by use of the conditional point of compliance. Subject to each owner providing access for cleanup and monitoring, the groundwater cleanup level of 208 µg/L NWTPH-Dx and absence of sheen or free product will be required for these properties. As a contingency measure (if necessary to prevent recontamination), air-sparging, enhanced bioremediation, or similar in-place treatment measures will be taken upgradient of these properties to ensure the groundwater cleanup level will be met on these properties."
4. The fifth paragraph of Section 4.1.2.1 has been revised to read as follows: "Air-sparging, enhanced bioremediation, or other similar in-place treatment measures may be required at the conditional point of compliance at or near the levee river or around individual properties shown on Figure 6 at any time following completion of the primary cleanup activities described above if the petroleum cleanup level of 208 µg/L NWTPH-Dx is not being met at its conditional point

of compliance, or if sheen or free product is observed at the conditional point of compliance. Compliance monitoring data reviews may be conducted at any time. Further contingency cleanup activities will not be required so long as the groundwater cleanup level of 208 ug/L NWTPH-Dx is being met at its conditional point of compliance and no sheen or free product is observed at the conditional point of compliance. If the foregoing conditions are met, soil petroleum contamination of less than 3,400 mg/kg NWTPH-Dx will be considered sufficiently contained for the purposes of groundwater, sediment and surface water protection."

5. The first paragraph of section 6.4 has been revised to read as follows: "Overburden soil is soil above the smear zone. Overburden soil with petroleum concentrations less than the 3,400 mg/kg NWTPH-Dx may be managed on site, but Ecology will leave the final decision to BNSF. However, soil within two feet of final grade must meet the petroleum cleanup level of 1,870 mg/kg NWTPH-Dx. This is to ensure soil petroleum concentrations are protective of soil biota in the near surface. In addition, backfill placed on the three properties whose owners did not approve a conditional point of compliance must have petroleum concentrations less than 22 mg/kg NWTPH-Dx, unless property owners approve a higher concentration." The remainder of the original paragraph was made into a separate paragraph with no changes to the text.

**Conditional Point of Compliance,
Clarify**

Summary Comment #:

CPOC-02

Comment #s: 025.901

Summary Comment:

Why have points of compliance been developed for this site?

Response:

Points of compliance have been established at this site because they are part of the cleanup standards that the regulation requires to be developed for each site. A cleanup standard consists of hazardous substance concentrations (cleanup levels) that protect human health and the environment, and the geographic location (point of compliance) where those cleanup levels must be attained at a site. Cleanup standards may also include additional regulatory requirements that apply to the cleanup action.

The commentor noted that the Cleanup Action Plan referred to Chapter 5 on development of points of compliance, but that this was not found in Chapter 5. To clarify, the Cleanup Action Plan instead referenced Chapter 5 for the development of cleanup levels, not points of compliance. The Cleanup Action Plan referenced Chapter 5 of the Feasibility Study for development of points of compliance.

The method for selecting points of compliance is described in the Model Toxics Control Act

Regulation, Chapter 173-340 WAC. See particularly Section 173-340-720 through 745, and 173-340-750 through 760. These sections describe the means of setting cleanup standards for groundwater, surface water, soil, air, and sediment.

Document Change?: No

Conditional Point of Compliance, Comment noted	Summary Comment #:	CPOC-03
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Comment #s: 003.010

Summary Comment:

One commentor noted that the use of a conditional point of compliance for groundwater appears to be practical and to be reasonably protective of human health and the environment.

Response:

Comment noted.

Document Change?: No

Editorial, Figure Correction	Summary Comment #:	ED-01
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Comment #s: 003.003

Summary Comment:

Ownership and access to this property will be important to the implementation of Ecology's preferred cleanup alternative for the railyard. Is the map showing the railyard facility property in Consent Decree Exhibit A correct?

Response:

The maps showing the railyard facility property in Consent Decree Exhibit A has been revised to reflect the survey of the Railroad Avenue right-of-way that BNSF completed for the Town in August 2006. In Section 2.2 of the Cleanup Action Plan, the last sentence of the bullet "Railyard Zone has been revised to indicate that the Railyard Zone includes five small areas immediately adjacent to the BNSF's railyard facility property, not three.

Document Change?: CD/DCAP

Exhibit A: The maps showing the railyard facility property in Consent Decree Exhibit A has been revised to reflect the survey of the Railroad Avenue right-of-way that BNSF completed for the Town in August 2006.

In Section 2.2 of the Cleanup Action Plan , the last sentence of the bullet "Railyard Zone" has been revised to read as follows: The Railyard Zone includes five small areas immediately

adjacent to the BNSF’s railyard facility property: two with surface soil impacted by arsenic and lead, and three with surface and subsurface soil impacted by petroleum. Figure 5 was updated.

Editorial, Clarification **Summary Comment #:** ED-02

Comment #s: 021.010

Summary Comment:

Are there conflicts in due dates for the school alternatives evaluation report between the DCAP and schedule presented in Exhibit C of the Consent Decree?

Response:

Consent Decree Exhibit C, List and Schedule of Deliverables, and Section 6.2 of the cleanup action plan have been corrected to be consistent with each other and updated to reflect ongoing work performed during preparation of this Response to Comments. The due date for submitting the Final School Alternatives Evaluation Report is July 1, 2009.

Please refer to Cleanup Action Plan Section 6.2 and Exhibit C of the Consent Decree, List and Schedule of Deliverables, to see the final schedule.

Document Change?: CD/DCAP

Consent Decree Exhibit C, List and Schedule of Deliverables, and Section 6.2 of the cleanup action plan have been corrected to be consistent with each other and updated to reflect ongoing work performed during preparation of this Response to Comments. The due date for submitting the Final School Alternatives Evaluation Report is July 1, 2009.

Please refer to Cleanup Action Plan Section 6.2 and Exhibit C of the Consent Decree, List and Schedule of Deliverables, to see the final schedule.

Editorial, Typographical **Summary Comment #:** ED-03

Comment #s: 004.002

Summary Comment:

Is there an error in the units for the groundwater remediation level in the Fact Sheet?

Response:

The Fact Sheet (page 3) has been corrected so that the groundwater remediation level reads 477 ug/L, not 477 mg/L.

Document Change?: FS

The Fact Sheet has been updated to correct a unit error: 477 mg/L was changed to 477 ug/L.

Editorial, Clarification	Summary Comment #:	ED-04
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Comment #s: 004.064

Summary Comment:

Some of the storm drains currently located on library property and other locations are not identified.

Response:

The SEIS discusses storm drains as currently identified. Verification of the locations of the storm drains and identification of additional storm drains will be conducted during detailed engineering design for each phase.

Document Change?: No

Editorial, Include Reference List	Summary Comment #:	ED-05
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Comment #s: 018.014

Summary Comment:

The SEIS should include a bibliography or references cited section.

Response:

A List of References has been added to the environmental impact statement.

Document Change?: DSEIS

A List of References has been added to the Final EIS.

Editorial, Clarification	Summary Comment #:	ED-06
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Comment #s: 126.060

Summary Comment:

Reference dates on fish data appear off.

Response:

Dates are correct and current per WDFW, USFW and NOAA. Dates will be updated as necessary for permits during each construction phase.

Document Change?: No

Editorial, Clarification	Summary Comment #:	ED-07
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Comment #s: 126.057

Summary Comment:

Threatened and endangered fish are not properly acknowledged.

Response:

Threatened and endangered species have been evaluated and are addressed Section 3.4.2 of the SEIS and Final EIS. See also FMC-04.

Document Change?: No

Editorial, Update

Summary Comment #:

ED-08

Comment #s: 001.016

Summary Comment:

The Public Participation Plan has been updated.

Response:

Section 2, Public Participation Tools, has been updated to include access arrangements, as follows:

"Throughout the planning and active cleanup work in Skykomish, BNSF and its contractors will need access to private properties in order to conduct investigations and carry out cleanup activities.

For access to private property, where work does not include drilling holes or removing any structural elements, BNSF will verbally ask the property owner for permission to enter their property. If the work does require drilling or entering a building for detailed structural surveys, BNSF will consult with the property owner in person or over the phone, and confirm this with a mailed letter. If cleanup activities require more extensive access to private property, such as making modifications to buildings, BNSF will develop a formal access agreement that is signed by all parties."

The schedule of events for 2007 has been updated through March 2008.

Document Change?: PPP

Section 2, Public Participation Tools, has been updated to include access arrangements, as follows:

"Throughout the planning and active cleanup work in Skykomish, BNSF and its contractors will need access to private properties in order to conduct investigations and carry out cleanup

activities.

For access to private property, where work does not include drilling holes or removing any structural elements, BNSF will verbally ask the property owner for permission to enter their property. If the work does require drilling or entering a building for detailed structural surveys, BNSF will consult with the property owner in person or over the phone, and confirm this with a mailed letter. If cleanup activities require more extensive access to private property, such as making modifications to buildings, BNSF will develop a formal access agreement that is signed by all parties."

The schedule of events for 2007 has been updated through March 2008.

Editorial, Clarification

Summary Comment #:

ED-09

Comment #s: 004.060

Summary Comment:

It is not clear which of the three tracks running through town are the "mainline". Needs explanation.

Response:

The two northernmost tracks comprise the main line. The third track is a siding.

Document Change?: No

Editorial, Clarification

Summary Comment #:

ED-10

Comment #s: 018.016

Summary Comment:

Change NFS to USFS.

Response:

NFS has been changed to USFS.

Document Change?: DSEIS

NFS has been changed to USFS in the Final Environmental Impact Statement, Section 2.1.1.

Editorial, Clarification

Summary Comment #:

ED-11

Comment #s: 126.062

Summary Comment:

Depot Park is not mentioned in 2003 DEIS.

Response:

Depot Park is mentioned in Section 4.2.6 of the 2007 SEIS.

Document Change?: No

Editorial, Clarification

Summary Comment #:

ED-12

Comment #s: 004.053

Summary Comment:

Sec. 3.1.5, Pg. 3-4, 1st paragraph, last sentence: The levee does not extend to the confluence of Maloney Creek and the Skykomish River. There is a problem in this area; however, the levee stops more than 100 feet east.

Response:

In the referenced section, " ... at the confluence ..." has been changed to "... near the confluence of Maloney Creek and the Skykomish River":

Document Change?: DSEIS

The Final Environmental Impact Statement, Section 3.1.5, Pg. 3-4, 1st paragraph, last sentence, " ... at the confluence ..." has been changed to "... near the confluence of Maloney Creek and the Skykomish River ..."

Editorial, Clarification

Summary Comment #:

ED-13

Comment #s: 018.023

Summary Comment:

Section 3.4.2 Fisheries and Aquatic Habitat, page 3-17, fourth paragraph: Please edit this paragraph to include Puget Sound steelhead as a Threatened species under the Endangered Species Act (it was recently listed).

Response:

Steelhead are included in this section of the 2007 SEIS.

Document Change?: No

Editorial, Clarification

Summary Comment #:

ED-14

Comment #s: 018.024

Summary Comment:

Add MBSNF recommended fish species to Section 3.4.2 of the SEIS.

Response:

MBSNF recommendations will be added to Section 3.4.2 of the SEIS.

Document Change?: DSEIS

MBSNF recommended species have been added to Section 3.4.2 of the Final Environmental Impact Statement.

Editorial, Clarification

Summary Comment #:

ED-15

Comment #s: 018.025

Summary Comment:

Add that listed Steelhead species have been observed in FMC in SEIS, Section 3.4.2, p 3-18

Response:

Observation added to SEIS.

Document Change?: DSEIS

Observation of listed steelhead species has been added to Section 3.4.2 of the Final Environmental Impact Statement.

Editorial, Clarification

Summary Comment #:

ED-16

Comment #s: 120.010

Summary Comment:

Title of Figure 2-2 (Town Street Map) is misleading.

Response:

The title of Figure 2-2 has been revised to "Town of Skykomish Street Map." The street names have been changed to red for easier readability.

Document Change?: DSEIS

The title of Figure 2-2 has been revised to "Town of Skykomish Street Map." The street names have been changed to red for easier readability.

Editorial, Clarification

Summary Comment #:

ED-17

Comment #s: 004.052

Summary Comment:

There was a 3 to 4 magnitude earthquake in 1994 or 1995. The epicenter was about 6 miles from Skykomish.

Response:

Comment noted.

Document Change?: No

Editorial, Clarification

Summary Comment #:

ED-18

Comment #s: 004.061

Summary Comment:

Include the Skykomish library as a public building on p. 4-22.

Response:

The public library has been added to the environmental impact statement as a public building.

Document Change?: DSEIS

The public library has been added to the environmental impact statement as a public building on DSEIS p. 4-22.

Editorial, Clarification

Summary Comment #:

ED-19

Comment #s: 004.045

Summary Comment:

There is a levee on the east side of the bridge.

Response:

Comment noted.

Document Change?: No

Editorial, Clarification

Summary Comment #:

ED-20

Comment #s: 004.044

Summary Comment:

The school is not included in the list of major structures in Section 2.1.1, Par. 2.

Response:

The school has been added to the list of major structures.

Document Change?: DSEIS

The school has been added to the list of major structures in Section 2.1.1. paragraph 2.

Editorial, Clarification

Summary Comment #:

ED-21

Comment #s: 004.062

Summary Comment:

Omission of the Sprint fiber optic cable located on north side of Old Cascade Hwy.

Response:

All utilities will be located and all site work will be coordinated with Sprint and other utilities. Text has been added to Section 4.4.3 of the Final EIS to indicate a map showing locations of both public and private utilities, including the location of the Sprint fiber optic cable, will be included in the Engineering Design Report.

Document Change?: DSEIS

Text has been added to Section 4.4.3 of the Final EIS to indicate a map showing locations of both public and private utilities, including the location of the Sprint fiber optic cable, will be included in the Engineering Design Report.

Editorial, Clarification

Summary Comment #:

ED-22

Comment #s: 018.017

Summary Comment:

Correct footnote 1, Section 2.1.1, p. 2-1 to read "...reaches of the South and North Forks of the Skykomish River which are proposed for Wild, Scenic, and/or Recreation status under the National Wild Scenic Rivers Act, and currently designated as Scenic Rivers under Washington State law."

Response:

Footnote 1, Section 2.1.1, p. 2-1 has been corrected to read "...reaches of the South and North Forks of the Skykomish River which are proposed for Wild, Scenic, and/or Recreation status under the National Wild Scenic Rivers Act, and currently designated as Scenic Rivers under Washington State law..."

Document Change?: DSEIS

Footnote 1, Section 2.1.1, p. 2-1 has been corrected to read "...reaches of the South and North

Forks of the Skykomish River which are proposed for Wild, Scenic, and/or Recreation status under the National Wild Scenic Rivers Act, and currently designated as Scenic Rivers under Washington State law..."

Editorial, Figure Correction *Summary Comment #:* ED-23

Comment #s: 120.009

Summary Comment:

Incorrect boundary on Figure 2-16 of the 2003 Draft EIS.

Response:

The boundary was corrected in the Final EIS figure.

Document Change?: DSEIS

The boundary was corrected in the Final EIS figure.

Editorial, Clarification *Summary Comment #:* ED-24

Comment #s: 001.003

Summary Comment:

Made correction.

Response:

Section 3.4, on Page 14, second paragraph, add to the last sentence and Section 4.2, on Page 34, third paragraph, add to the second sentence: "... will be contained >>with two feet of clean soil backfill<<."

Document Change?: DCAP

"... will be contained >>with two feet of clean soil backfill<<." was added at the following two locations: Section 3.4, on Page 14, second paragraph, last sentence and Section 4.2, on Page 34, third paragraph, second sentence.

Editorial, Clarification *Summary Comment #:* ED-25

Comment #s: 001.002

Summary Comment:

Made correction.

Response:

On DCAP Figure 6, the two south plumes and far east plume have been labeled with XFP to

clarify these two plumes will be excavated. Also, the registration of the overlay showing the location of the surface metals areas has been corrected. Also, the location of the hydraulic control and containment system along the north railyard boundary needs to be shifted south to show it on the railyard as well as potentially underneath Railroad Avenue.

Document Change?: DCAP

On DCAP Figure 6, the two south plumes and far east plume have been labeled with XFP to clarify these two plumes will be excavated. Also, the registration of the overlay showing the location of the surface metals areas has been corrected. Also, the location of the hydraulic control and containment system along the north railyard boundary needs to be shifted south to show it on the railyard as well as potentially underneath Railroad Avenue.

Editorial, Typographical

Summary Comment #:

ED-26

Comment #s: 001.001

Summary Comment:

Made correction.

Response:

Chapter 5 equations: The divide sign in the Word document changes to a 4 when the Word document is converted to Acrobat. The symbol has been changed to a slash (/).

Document Change?: DCAP

Chapter 5 equations: The divide sign in the Word document changes to a 4 when the Word document is converted to Acrobat. The symbol has been changed to a slash (/).

Editorial, Clarification

Summary Comment #:

ED-27

Comment #s: 001.005

Summary Comment:

Made correction.

Response:

Page 19, section 4.1.2.1, 3rd paragraph, second sentence add “(see Section 4.1.2.3)” after “under the school”.

Document Change?: DCAP

Page 19, section 4.1.2.1, 3rd paragraph, second sentence “see the next section” after “under the school” has been added.

Editorial, Clarification	Summary Comment #:	ED-28
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Comment #s: 001.006

Summary Comment:

Made correction.

Response:

Page 31, first paragraph, first sentence: Insert the words "any extracted" between "pump" and "groundwater".

Document Change?: DCAP

Page 31, first paragraph, first sentence: Inserted the words "any extracted" between "pump" and "groundwater".

Editorial, Clarification	Summary Comment #:	ED-29
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Comment #s: 001.015

Summary Comment:

Design considerations may result in the redundant barrier system shown on Figure 9 extending beyond BNSF's property boundary.

Response:

A note has been added to Figure 9 reading, "Design considerations may result in the redundant barrier system shown on Figure 9 extending beyond BNSF's property boundary."

Document Change?: DCAP

A note has been added to Figure 9 reading, "Design considerations may result in the redundant barrier system shown on Figure 9 extending beyond BNSF's property boundary."

Editorial, Clarification	Summary Comment #:	ED-30
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Comment #s: 001.007

Summary Comment:

Made correction.

Response:

Page 62, 3rd full paragraph, first sentence. Insert the words “, and upon which remediation resulted in relocation of the structure or removal of the pre-existing onsite septic system,” between the words “structure” and “BNSF”.

Document Change?: DCAP

Page 62, 3rd full paragraph, first sentence. Inserted the words “and upon which remediation resulted in relocation of the structure or removal of the pre-existing onsite septic system,” between the words “structure,” and “BNSF”.

Editorial, Clarification*Summary Comment #:*

ED-31

Comment #s: 001.008*Summary Comment:*

Made correction.

Response:

Page 64, section 6.2, first paragraph. After the 4th sentence, added the following sentence: “Pre-excavation explorations, discussions with stakeholders, and the results of confirmation sampling during construction may result in modification of some of the excavation boundaries shown on Figure 13.”

Document Change?: DCAP

Page 64, section 6.2, first paragraph. After the 4th sentence, added the following sentence: “Pre-excavation explorations, discussions with stakeholders, and the results of confirmation sampling during construction may result in modification of some of the excavation boundaries shown on Figure 13.”

Editorial, Clarification*Summary Comment #:*

ED-33

Comment #s: 001.004*Summary Comment:*

Section 4.1.2, Page 18 and Section 4.1.3, Page 24, after last sentence. Add this sentence at the end of the first paragraph: "No structures will be relocated to facilitate surface metal contamination removal unless the metals contamination is coincident with TPH contamination that requires a structure to be relocated.

Response:

Made correction.

Document Change?: DCAP

Section 4.1.2, Page 18 and Section 4.1.3, Page 24, after last sentence. Added this sentence at the end of the first paragraph: "No structures will be relocated to facilitate surface metal contamination removal unless the metals contamination is coincident with TPH contamination that requires a structure to be relocated."

Editorial, Typographical	Summary Comment #:	ED-34
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Comment #s: 001.011

Summary Comment:

Made correction.

Response:

Page 52, first bullet, 3/4 of way through paragraph, in in (word repeated).

Document Change?: DCAP

Corrected: Page 52, first bullet, 3/4 of way through paragraph, in in (word repeated) - extra "in" deleted.

Editorial, Clarification	Summary Comment #:	ED-35
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Comment #s: 001.014

Summary Comment:

Made correction.

Response:

Exhibit C, Schedule: Per BNSF: There are numerous final document due dates that did not include "or x days after receipt of Ecology's comments".

Document Change?: CD

Consent Decree Exhibit C, List and Schedule of Deliverables, has been changed where appropriate.

Editorial, Clarification	Summary Comment #:	ED-37
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Comment #s: 001.012

Summary Comment:

Table 1 says 1,870 on RY, but Page 68, section 6.4 says overburden soils must meet the 1,870 concentration, too.

Response:

In Table 1, "within the Railyard Zone" has been deleted from the description of the point of compliance for soil with respect to the 1,870 mg/kg concentration so that the requirement applies generally.

Document Change?: DCAP

In Table 1, "within the Railyard Zone" has been deleted from the description of the point of compliance for soil with respect to the 1,870 mg/kg concentration so that the requirements applies generally.

Editorial, Clarification**Summary Comment #:**

ED-38

Comment #s: 001.017**Summary Comment:**

Make clarification.

Response:

The CD Exhibit H, "Model Restrictive Covenant" has been edited as follows: "Section 10. By signing this Covenant, the Owner does not intend to affect the scope of existing federal preemption."

Document Change?: CD

The CD Exhibit H, "Model Restrictive Covenant" has been edited as follows: "Section 10. By signing this Covenant, the Owner does not intend to affect the scope of existing federal preemption."

Economic Impacts, BNSF**Summary Comment #:**

EI-01

Comment #s: 022.007, 025.910, 116.033**Summary Comment:**

What economic impact has site contamination had on BNSF Railway? One commentor indicated BNSF should pay 50% of taxes (presumably Town taxes on citizens of Skykomish) until cleanup is complete. Another commentor provided several historical letters regarding oil seeping as long ago as 1926 and noted that BNSF Railway and its predecessor corporations had saved money by not cleaning up oil and metal releases as they occurred.

Response:

Ecology notes these comments. Ecology cannot comment on the economic impacts on BNSF. However, BNSF is responsible for cleaning up contamination at this site and is responsible for providing funds to address natural resource damages that occurred over time.

Another commentor asked the cost of the cleanup. The current estimate of cleanup costs is \$44 million. In addition, BNSF Railway will be providing \$5.5 million for natural resource damages caused by the releases. The natural resource damage funds will be used for various environmental enhancement projects in the area.

Document Change?: No

Economic Impacts, Business losses *Summary Comment #:* EI-02

Comment #s: 012.001, 012.006, 012.022, 012.101, 104.008, 120.012, 123.007, 123.009

Summary Comment:

The cleanup will result in an economic hardship for the town's businesses.

Response:

The Department of Ecology and BNSF are very sensitive to the need for a healthy economy for a small town such as Skykomish, and to the fact that this cleanup will disrupt business operations and have an impact on the local economy. It is a goal of Ecology and BNSF to help the Town of Skykomish not only be a cleaner community, but also to have a more vibrant and successful economy when cleanup activities are finished.

Toward that goal, Ecology and BNSF are assisting The Skykomish Chamber of Commerce in developing an Economic Development and Recovery Strategy. One objective of the strategy is to assist businesses with their operations and economic recovery during and after cleanup activities. Another objective is to develop a vision of the local economy in general, and a strategy to achieve that vision. Ecology and BNSF are assisting the Chamber of Commerce in developing this strategy, but their larger role will be to advance this vision and strategy once the Chamber of Commerce has developed it.

Document Change?: No

Economic Impacts, Community *Summary Comment #:* EI-03

Comment #s: 014.011

Summary Comment:

Socioeconomic impacts should be analyzed.

Response:

The term "socioeconomic" is not used in the SEPA analysis because the term does not have a uniform meaning. Since this comment was made regarding the 2003 DEIS, the Town has conducted an Ecology-funded visioning process that considered socioeconomic values. The Skykomish Chamber of Commerce is developing plans to assist businesses with their operations and economic recovery during and after cleanup activities. BNSF and Ecology are assisting the Chamber in this effort.

Document Change?: No

Economic Impacts, Editorial *Summary Comment #:* EI-04

Comment #s: 126.061, 126.160

Summary Comment:

The largest employer is the school not the USFS.

Response:

The school is the largest employer within Skykomish. The USFS is the largest employer in the area, and the reference is to the largest employer "in the area".

Document Change?: No

Economic Impacts, Overall

Summary Comment #:

EI-05

Comment #s: 013.001, 109.008, 123.006, 125.067, 125.068, 125.069, 125.070, 125.071, 128.001

Summary Comment:

General concerns about the overall economic impacts and disruptions that will result during the cleanup.

Response:

Economic impacts are being considered by all decision makers throughout the cleanup process. The Skykomish Chamber of Commerce is developing plans to assist businesses with their operations and economic recovery during and after cleanup activities. BNSF and Ecology are assisting the Chamber in this effort.

Document Change?: No

Economic Impacts, Property values

Summary Comment #:

EI-06

Comment #s: 012.003, 103.003, 119.001

Summary Comment:

The cleanup will adversely impact property values. The Goranson's raised several questions regarding whether there is a plan in place to compensate the property owners for their losses.

Response:

Compensation for impacts to individual properties from contamination is a matter for the property owners to resolve with BNSF. BNSF needs to obtain access to individual properties in order to implement cleanup. Although the cleanup action plan selects a cleanup that meets minimum requirements under State law and regulation, but does not dictate the terms under which an owner must agree to provide access.

With respect to questions raised by the Goranson's:

(1) Air-sparging in the Northeast Developed Zone will take ten years, requiring property owners to wait that long for their properties to be cleaned up. The contamination in the areas to be air-sparged is of a composition and concentration amenable to air-sparging. Ecology chose air-sparging for this area because it is a much less intrusive technology than excavation, which requires the temporary relocation of buildings. Once installed, the system will be largely underground. The comment concerned the availability of mortgage financing while the air-sparging system is in operation. Ecology acknowledges that having contamination issues on a property makes obtaining mortgage financing more difficult. Ecology notes that homes in cleanup areas do receive mortgage financing from some lenders. Ecology believes that obtaining mortgage financing will be easier once the final cleanup action plan in place and the actions to be taken are known.

(2) The onus of obtaining access agreements is the responsibility of BNSF. It is difficult to require 100% participation because each individual property owner may grant access or not. Ecology will provide mediation services for those times when BNSF and a property owner are having difficulty reaching a fair and equitable agreement. It was suggested that there be an independent entity set up to review the cleanup as it relates to the home and business owner's needs, and to see that there is a fair and equitable disbursement of moneys to all the affected homeowners. It is difficult to see how this could be done in such a manner that the independent entity would have any real legal authority.

(3) With respect to ensuring property owner's legal rights are not waived by BNSF or Ecology: MTCA authorizes contribution protection to be provided to Potentially Liable Persons (i.e., BNSF in this case) that settle their cleanup liability under a consent decree with the state, in exchange for performing cleanup. However, the term "contribution protection" covers only a claim for remedial action costs brought against a PLP under RCW 70.105D.080. This section does not preclude other potential claims by property owners under any other applicable statute or common law.

Pursuant to Item 2, above, the following bullet point has been added to Consent Decree Exhibit G: "If BNSF and residents cannot agree to terms of access, relocation, or property restoration, Ecology will provide a neutral mediator to assist the parties in reaching agreement."

Document Change?: CD

See change to Consent Decree Exhibit G noted under RELOC-06.

Economic Impacts, Tourist

Summary Comment #:

EI-07

Comment #s: 022.004

Summary Comment:

The town's historic buildings are important to the town's future economy.

Response:

Comment noted. All listed historic buildings that will be relocated in conjunction with the cleanup will be surveyed, monitored, and restored to existing conditions. Historic preservation efforts will be documented and reported to King County, Department of Archaeological and Historic Preservation, and the Town. These buildings will receive the utmost care and handling.

Document Change?: No

Former Maloney Creek, Bus Barn

Summary Comment #:

FMC-01

Comment #s: 005.001, 011.014

Summary Comment:

Will cleanup occur between bus barn and fire station based upon earlier documentation for underground petroleum tank removals?

Response:

There were three underground storage tanks (UST) removed between the bus barn and the fire station building in 1999. Ecology has received the UST removal report prepared by AAA Tank Service Inc. of Kirkland. It described the presence of a transformer oil or similar light oil in two soil samples, even though the tanks did not appear to have leaked. Soil samples N-1 and E2-1 taken from the sidewalls of the tank excavation found concentrations of 410 mg/kg and 440 mg/kg petroleum, respectively. These concentrations are above the site cleanup level of 22 mg/kg, but below the remediation level of 3400 mg/kg for upland areas. Both samples were analyzed for PCB's, but analyses indicated that no PCB's were present above the method analytical detection limit of 0.1 mg/kg and were less than the site cleanup level of 0.65 mg/kg. Three other soil samples from the bottom of the excavation were analyzed for lead, but all had concentrations that were below the site cleanup level of 250 mg/kg.

During the 2001 supplemental remedial investigation, a soil boring was placed directly behind (3-B-1) and to the northeast (3-B-2) of the bus barn. These borings were installed in response to public concerns regarding this area. The borings were sampled for petroleum and PCB's. PCB's were not detected. Petroleum was found only in surface soils at a concentration of less than 50 mg/kg. No detections were made in the smear zone.

Based on this information, no cleanup for petroleum, metals, or PCB's is planned for the bus barn and the fire station.

Document Change?: No

Former Maloney Creek, Change in status

Summary Comment #:

FMC-02

Comment #s: 003.018

Summary Comment:

The Town noted it may work with BNSF to seek regulatory approvals for restoration of the FMC Zone as a non-wetland, mitigating this loss by developing a more ecologically significant and better-located wetland elsewhere near Town. Because the necessary regulatory approvals are uncertain and beyond Ecology's control, the Town did not request a modification to the Draft CAP for the FMC Zone. The Town indicated it would be helpful if the CAP allowed for a possible future change in the regulatory status of the FMC wetland, allowing for appropriate adjustments to the cleanup action without formal amendment of the CAP.

Response:

Ecology understands the Town's concern on this point. However, at the present time it is difficult to know how to revise the CAP to provide for appropriate adjustments to the cleanup action since the details of the future use are unknown. Ecology believes it is more appropriate to wait until the future land use is known and appropriate cleanup actions can be developed. Such changes may require an amendment of the Consent Decree and a public comment period. However, amendment of the Consent Decree and public comment on the amendment may very likely be included with other public outreach activities that are anticipated to occur for such a land use change.

Document Change?: No

Former Maloney Creek, Dioxin/furan removal

Summary Comment #:

FMC-03

Comment #s: 025.906

Summary Comment:

Will dioxin/furan contamination in sediments be fully removed?

Response:

Dioxin/furan contamination is located within the area of petroleum release and will be fully removed with the petroleum contamination removal actions.

Document Change?: No

Former Maloney Creek, Editorial

Summary Comment #:

FMC-04

Comment #s: 004.032, 004.055, 018.110

Summary Comment:

The Former Maloney Creek Zone wetland is not accurately described. What species are found in the Former Maloney Creek Zone?

Response:

Former Maloney Creek wetlands will be delineated, surveyed, and characterized as part of permitting. A separate biological evaluation (also referred to as a biological assessment) also will be prepared or the existing one updated to evaluate habitat functions.

Species lists have been developed for Former Maloney Creek. Plant species are listed in Appendix B (Wetland Detailed Study) of the Final Feasibility Study (March 2005). Fish and other species are listed in the Skykomish Levee Remediation Project Biological Evaluation (March 2005) developed for the USACE Nationwide Permit. Copies of these are available upon request and may already be available in the SEC and town repository.

Document Change?: No

Former Maloney Creek, General

Summary Comment #:

FMC-05

Comment #s: 019.003

Summary Comment:

How will contamination in the Former Maloney Creek site cleanup zone be addressed?

Response:

Contaminated soil and sediment in the Former Maloney Creek zone will be addressed by excavation of contaminated soil and sediment, followed by monitoring to assess whether the cleanup actions have been successful in meeting the cleanup standards. The specific actions to be taken are described in Section 4.1.5 and Figure 8 of the CAP. After excavation, the wetlands will be restored as appropriate habitat.

Document Change?: No

Former Maloney Creek, Habitat restoration

Summary Comment #:

FMC-06

Comment #s: 014.006, 018.026

Summary Comment:

Further evaluate current drainage management plans for FMC and clarify plans for fish passage and mitigation.

Response:

Future drainage and fish habitat functions of FMC will be further detailed in permitting the restoration and mitigation work in FMC.

Document Change?: No

Former Maloney Creek, Monitoring *Summary Comment #:* FMC-07

Comment #s: 018.021

Summary Comment:

FMC water quantity and quality should be quantifiably monitored during and post cleanup.

Response:

Water quantity and quality monitoring will be conducted in FMC. Details of the monitoring will be described in the wetland mitigation and restoration reports to be developed in 2009. Water quality will be monitored and reported as required under the National Pollutant Discharge Elimination System Permit for the site cleanup.

Document Change?: No

Former Maloney Creek, Construction Impacts *Summary Comment #:* FMC-08

Comment #s: 019.006

Summary Comment:

Will the trees in the wetland area be removed and, if so, will they be replaced? If the trees are removed, what temporary measures will be put in place during the cleanup to provide equivalent screening between the railyard and adjacent properties?

Response:

The trees will be removed and replaced during wetland restoration. BNSF will work with property owners adjacent to the railyard to develop appropriate measures to address the loss of screening when the wetland is cleaned up.

Document Change?: No

General Comment, General *Summary Comment #:* GEN-02

Comment #s: 004.014

Summary Comment:

Comments about upholding provisions in the Cleanup Action Plan and Natural Resource

Damages settlement portion of the Consent Decree. Provide adequate compensation for inconveniences caused by this cleanup and the stigma from the pollution.

Response:

All provisions in the CAP must be upheld by BNSF. The CAP will be an exhibit to the Consent Decree that will be filed in court and be enforceable. Furthermore, the natural resource restoration outlined in the Natural Resource Damages settlement Section XIII of the Consent Decree is enforceable as well.

Compensation for impacts from contamination and cleanup is a matter for property owners to address with BNSF.

Document Change?: No

General Comment, General**Summary Comment #:**

GEN-03

Comment #s: 004.025

Summary Comment:

It is good that the point of compliance for the River and [Former Maloney] Creek are the same.

Response:

Comment noted.

Document Change?: No

General Comment, General**Summary Comment #:**

GEN-04

Comment #s: 003.001, 126.042

Summary Comment:

The Town supports Ecology's aggressive approach to cleanup of the non-BNSF land within the Town.

Response:

Comment Noted.

Document Change?: No

General Comment, General**Summary Comment #:**

GEN-05

Comment #s: 022.008, 101.001, 102.001, 106.001, 106.002, 113.001, 113.003, 113.004

Summary Comment:

Perform a thorough cleanup without harming the citizens of Skykomish. One commentor feels Ecology is doing its best to provide a thorough cleanup but believes that the site should be 100% clean and that politics have interfered.

Response:

Comment noted.

Document Change?: No

General Comment, General

Summary Comment #:

GEN-06

Comment #s: 018.015

Summary Comment:

Explain why the SEIS does not discuss direct, indirect, or cumulative effects, especially cumulative effects on the terrestrial and aquatic environment.

Response:

The SEIS indicates that there are temporary impacts to terrestrial and aquatic environments but are off-set by the long-term benefits.

SEIS Sections 3.4.2 through 3.4.5 discuss impacts to the terrestrial and aquatic environment. These sections note that there will be both direct and indirect impacts during project construction. Restoration after project construction will minimize long-term cumulative impacts, although a period of time following restoration will be necessary for the vegetation to mature.

Document Change?: No

General Comment, General

Summary Comment #:

GEN-07

Comment #s: 011.010

Summary Comment:

BNSF representatives should communicate better with Ecology.

Response:

Comment noted. Ecology, BNSF, and their contractors are in frequent contact by telephone and email. BNSF will submit regular progress reports.

Document Change?: No

General Comment, General

Summary Comment #:

GEN-08

Comment #s: 018.001

Summary Comment:

Clarify soil and groundwater sampling results and plans for the Robinson property. Clarify natural background studies conducted for the site.

Response:

The well described in the comment is number 2B-W-4 which is located in the driveway of John Robinson. The soil boring logs documented the presence of very minor petroleum which was well below the remediation level of 3400 mg/kg. Ecology was present when this boring and well were developed and took a split sample for independent verification at our state laboratory and can corroborate the findings. The groundwater has been monitored and has been shown to have dissolved petroleum constituents but at low levels that do not pose a health concern. The boring log is available in the March 2005 Final Feasibility Study or available upon request. Groundwater data are available in multiple documents for the site and are also available upon request.

The final plans for excavation of this property have not been made at this time since there are supplemental soil/groundwater investigations necessary for final remedial design. These investigations are already underway. Final identification for structures to be relocated will be made during the annual Engineering Design Report process.

Natural background levels: There are no natural background levels for petroleum. A metals background study was conducted by BNSF that studied the distribution of lead and arsenic. These studies were evaluated along with hundreds of soils samples across the site and were used to help develop the cleanup standards for these elements. These studies and the development of cleanup levels are part of the site record.

Document Change?: No

General Comment, General

Summary Comment #:

GEN-09

Comment #s: 103.805

Summary Comment:

One commentor expressed concerns regarding settlement agreements between the Railroad and Town Council.

Response:

Comment noted.

Document Change?: No

Geology, Soils, Flooding, Erosion, Changes due to backfill properties

Summary Comment #:

GSFE-01

Comment #s: 003.021, 007.002, 103.804

Summary Comment:

What are the effects of the manufactured aggregate backfill material on local hydrology and Skykomish's storm water drainage system throughout the town?

Response:

Imported backfill may have somewhat different hydrological properties than the soils excavated. Overall, site-wide hydrology is not expected to change significantly. In response to questions from the public regarding the flooding that occurred in November 2006, Ecology is currently assessing possible changes to local hydrology due to backfill imported in 2006. BNSF will test the hydrological properties of fill source materials that are needed for groundwater flow modeling that will be performed to design the Hydraulic Control and Containment System.

Document Change?: No

Geology, Soils, Flooding, Erosion, Editorial

Summary Comment #:

GSFE-02

Comment #s: 018.019

Summary Comment:

Define "floodways" on Figure 3-1

Response:

A definition of "floodway" has been included on SEIS Figure 3-1.

Document Change?: DSEIS

Included a definition of "floodway" on Figure 3-1.

Geology, Soils, Flooding, Erosion, River bank erosion

Summary Comment #:

GSFE-03

Comment #s: 126.171

Summary Comment:

The project could cause erosion on the other side of the river.

Response:

The levee and river bed were reconstructed to the pre-remediation elevations, dimensions, topography, and locations to the extent possible. Therefore, no changes in erosion patterns on the north side of the river are anticipated. The elevation data are included in the Levee Zone Interim Action for Cleanup 2006 - As-Built Completion Report. It is the opinion of King County, Ecology, and BNSF's technical consultants that the potential for erosion on the north side of the river has not significantly changed as a result of the levee reconstruction.

Document Change?: No

Geology, Soils, Flooding, Erosion, Stormwater system

Summary Comment #:

GSFE-04

Comment #s: 126.042

Summary Comment:

Will the stormwater system be effective?

Response:

Yes. During construction, stormwater will be managed in accordance with general National Pollutant Discharge Elimination System Permit and Washington State stormwater management requirements. Existing stormwater systems that are affected by the cleanup will be replaced to current applicable standards. The systems will be at least as effective as they are currently, and likely the system performance will be improved as a result of meeting current code requirements.

Document Change?: No

Geology, Soils, Flooding, Erosion, Topsoil

Summary Comment #:

GSFE-05

Comment #s: 003.022

Summary Comment:

The Town requested that Ecology develop a specification limiting the amount of glass and rigid plastic in any manufactured topsoil products used in the restoration.

Response:

The state already has a specification limit of 1% for inert material to be present in manufactured topsoil. Inert material refers to the amount of glass and rigid plastic that comes from composted urban yard waste. Manufactured topsoil generally is made by mixing composted

urban yard waste and quarry sand. This mixture is screened to allow no more than 1% inert material.

Topsoil used in the levee zone restoration activities had 1% inert material and homeowners were unhappy about its appearance; some questioned its safety. The topsoil manufacturer heard these concerns, and together with representatives of Ecology, the Town, and the Snohomish County Health District, visited the restored yards to assess whether the topsoil delivered to these homes were within specifications. It was.

Document Change?: DSEIS

Section 3.1.2: added after the last sentence of mitigation measures, "The Engineering Design Report will include specifications for the chemical and physical quality of the replacement topsoil. If manufactured topsoil is used, it must meet specification limits already set by the state for manufactured topsoil products, e.g. < 1% inert material.

Historic and Archaeological, Coordination

Summary Comment #:

HA-01

Comment #s: 130.003

Summary Comment:

Section 106 of the National Historic Preservation Act must be followed when federal grants or permits are involved.

Response:

Section 106 is noted as a potentially applicable standard in the CAP and will be followed in each instance where it applies to the work. The next phase of work to be performed in 2008 does not require federal grants or permits. County and Town standards for documenting and restoring historic structures and locating facilities in historic districts will be followed in each phase of the work which involves historic structures or districts.

Document Change?: No

Historic and Archaeological, Documentation

Summary Comment #:

HA-02

Comment #s: 011.005, 120.002, 120.003, 130.002

Summary Comment:

Historic structures and archaeology need to be identified, surveyed, and documented by a professional archaeologist.

Response:

Historic structures will be surveyed by a civil engineer and documented by an historic architect. Historic structures will be restored to current conditions. Archaeologic resources will be surveyed and documented by a professional archaeologist.

Archaeological resources are described in a report prepared for the project, "Cultural Resource Assessment" (Northwest Archaeological Associates, July 11, 2005). This report includes an assessment of both historic structures and archaeological resources. Northwest Archaeological Associates is preparing a cultural resources monitoring and discovery plan to be implemented as cleanup proceeds. This plan will be included in the Engineering Design Report.

Document Change?: No

Historic and Archaeological, Editorial *Summary Comment #:* HA-03

Comment #s: 104.015, 104.016, 120.004, 120.005, 120.006, 120.007, 120.008, 127.009

Summary Comment:

Show the Historic District and more accurately identify the historic status of buildings in SEIS.

Response:

The SEIS has been corrected to more accurately identify historic structures and recognized districts.

Document Change?: DSEIS

The first paragraph of Section 4.2.3 of the Final EIS has been revised to more accurately identifies historic structures and recognized districts.

Historic and Archaeological, General *Summary Comment #:* HA-04

Comment #s: 003.026, 005.104, 022.003, 104.002, 104.004, 104.005, 104.006, 104.013, 104.020, 112.066, 120.001, 120.011, 120.014, 128.002

Summary Comment:

Maintain the Town's historic character through preservation efforts.

Response:

Historic preservation will occur through surveying, monitoring, and restoration. Ecology and BNSF will coordinate historic preservation requirements during design, permitting, and infrastructure restoration as each phase of the cleanup occurs. The "Cultural Resource Monitoring and Discovery Plan for the Interim Action for Cleanup of the Levee Zone" was prepared for the work done in 2006. It will be updated and expanded for future work. Updated historic preservation plans will be available during the Fall review periods for the annual

Engineering Design Reports.

Document Change?: No

Historic and Archaeological, Preservation

Summary Comment #:

HA-05

Comment #s: 130.004

Summary Comment:

The State Department of Historical, Archaeological, and Preservation (DHAP) requested copies of all correspondence between Ecology and Tribes and other concerned parties regarding cultural resource issues.

Response:

This comment was made in 2003 and Ecology provided the requested material. Ecology will keep DHAP informed regarding cultural resource issues and the stakeholders interested in them.

Document Change?: No

Historic and Archaeological, King County Preservation Program

Summary Comment #:

HA-06

Comment #s: 011.001, 015.001

Summary Comment:

The SEIS should include a description of the Town's landmark code. Comply with applicable federal, state, and local historic preservation regulations. Identify a historic resources coordinator for the project. Coordinate archaeological and historic preservation efforts. Evaluate landscape and streetscape resources, impacts, and mitigation. Provide surveys, documentation, and restoration for all historic structures. Property lines need to be established to accurately relocate historic structures. Michael Moore would like an opportunity to investigate historic sites immediately following movement of the structures.

Response:

Comments noted. A professional archaeologist or structural historian will be on site at appropriate times to monitor and document potential discoveries. Access may be limited on private property or for health and safety reasons. All artifacts will be relinquished to the Town of Skykomish Historical Society.

Document Change?: DSEIS

A description of historic preservation codes and regulations has been added to Section 4.2.3 of the 2007 Final EIS.

Health, Complete cleanup**Summary Comment #:**

HLTH-01

Comment #s: 019.022, 106.003**Summary Comment:**

Due to health concerns, the site should be cleaned up 100%.

Response:

Comment noted.

Document Change?: No

Health, Gardening**Summary Comment #:**

HLTH-02

Comment #s: 104.009**Summary Comment:**

Is gardening safe in Town?

Response:

The petroleum contamination at this site generally is distributed beneath the ground surface at a depth of approximately seven feet - far below the depth of most garden crops. Normal gardening is not a risk. In 2001, Ecology published a bulletin that addressed how to garden safely at this site. This bulletin suggests safe gardening practices that apply generally. These guidelines were developed with the assistance of Public Health - Seattle & King County and were distributed to Town residents. By following these guidelines, residents should be able to garden safely in Skykomish. The gardening bulletin is available in the Skykomish Library or may be obtained by contacting Ecology.

Document Change?: No

Health, Lead and PCB**Summary Comment #:**

HLTH-03

Comment #s: 103.009**Summary Comment:**

What are the past and future health effects from lead and PCB's?

Response:

Past health effects from lead have been evaluated at this site. Blood-lead level sampling of children was done by the Washington State Department of Health in 1996. No elevations were detected. Sampling for PCBs has been done across the site, but PCBs have not been found off

the railyard property. Only one sample on the railyard slightly exceeded the state cleanup level. Given the low occurrence and concentration, PCB's are not a threat at this site. Public Health - Seattle & King County did a preliminary cancer study in 2000 but did not find any unusual occurrence. Copies of studies are available in the SEC and Town repository at the library.

Future health effects are being addressed by aggressively removing the contamination at this site through excavation over the next few years.

Document Change?: No

Health, Studies done? **Summary Comment #:** HLTH-04

Comment #s: 025.909

Summary Comment:

Have health studies been done at this site?

Response:

A number of health studies have been done at this site. Some are outlined in an Environmental Update bulletin from the Washington State Department of Health dated January 1998. Copies are available upon request and are also available in the SEC and Town repository at the library.

- 1) Drinking water sampling - The Town gets its drinking water from two deep wells approximately one mile upgradient of Town. The wells are sampled regularly but have never had any contamination issues regarding petroleum. Several times the drinking water has been tested within Town from various indoor faucets. Testing was done in conjunction with the WDOH. No contamination has been found. (See also HLTH-05)

- 2) Blood tests for lead in children - Testing was done in 1996 by the WDOH for children in Town considered most at risk for lead exposure. Blood levels were considered normal.

- 3) Indoor air testing for petroleum vapors - Indoor air testing was done in conjunction with WDOH, Public Health - Seattle & King County (PHSKC) and ATSDR on five homes within Town over a year-and-a-half period. The testing found elevated concentrations of some volatile organic compounds. The report was inconclusive in determining the source of the elevated concentrations. The WDOH concluded that no immediate measures were necessary to protect human health. Also, outdoor air monitoring was conducted throughout the levee remediation work and inside the school during September 2006. The measurements found that air quality was safe.

- 4) Cancer Evaluation - PHSKC conducted a preliminary study in 2000 of the types and rates of cancer in Town. Their conclusion was no unusual occurrence was observed.

Document Change?: No

Health, Town water supply

Summary Comment #:

HLTH-05

Comment #s: 022.001, 022.801

Summary Comment:

Will the public water supply be contaminated if the water line pressure is lost?

Response:

Previous testing of the municipal water supply in town has not found any indications of contaminants entering the pipes. Also, it is not currently known by Ecology or the Town if contamination is ever in contact with the existing water system. This will be even less likely after cleanup has occurred. In the event of a broken water line or pressure loss, the ensuing maintenance and procedures performed by the water service provider are required to alleviate the possibility of contaminated water entering the domestic supply.

Document Change?: No

Liability, Contribution protection

Summary Comment #:

LIA-01

Comment #s: 003.006, 013.002, 017.006

Summary Comment:

Various comments expressed concern that BNSF would receive contribution protection upon entry of the CD, but before access agreements are negotiated with the property owners. The comments noted the concern that this will preclude actions by third parties (e.g., local businesses) against BNSF for common law claims for past damages or future claims related to relocation costs, and/or that owners will lose the ability to compel BNSF to do anything more on their properties than what is spelled out in the DCAP. The comments requested that BNSF be forced to reach access agreements with all affected property owners before receiving contribution protection, or that the CD not “waive or limit any legal recourse.” One comment asserted that Ecology had assured in public representations that access agreements would be required before contribution protection would be provided.

Response:

MTCA authorizes contribution protection to be provided to Potentially Liable Persons (i.e., BNSF in this case) that settle their cleanup liability under a consent decree with the state, in exchange for performing cleanup. However, the term “contribution protection” covers only a claim for remedial action costs brought against a PLP under RCW 70.105D.080. This section does not preclude other potential claims by property owners under any other applicable statute or common law.

BNSF must obtain access to individual properties in order to implement cleanup. Although the CAP proposes a cleanup that meets minimum requirements under state law and regulation, it does not dictate the terms under which an owner must agree to provide access or accept the impacts to his/her property. The terms of access are subject to negotiation between the owner and BNSF.

The cleanup proposed will take multiple years to complete. Different properties will be subject to cleanup actions in different years. It is not practical to require that all access agreements be obtained before the CD is entered in court. Issuing the final CAP and filing the CD in court are required first steps to implementing cleanup, and pave the way for preparation of required design documents that will determine in more detail the actions to be taken on individual properties. The yearly design documents may be necessary or helpful to negotiate access agreements for individual properties in each year. Ecology has tried to be clear and consistent in notifying owners and explaining this, but can certainly appreciate any lingering confusion given the complexity of this cleanup.

Document Change?: No

Liability, Individual

Summary Comment #:

LIA-02

Comment #s: 004.004, 004.007, 004.008, 004.015, 014.003, 018.005, 023.802

Summary Comment:

A few comments noted concern that property owners would be forced to accept containment of contamination on their properties if they cannot reach agreement on access with BNSF. One comment noted that this means Ecology would forcibly require the owner to grant access to install containment, to record a restrictive covenant on their property, to be responsible for the containment system on their property, and that the owner would not be able to obtain the benefit of a free connection to the Town’s new wastewater treatment system. Meanwhile, BNSF would face no penalty if the parties cannot reach agreement. The commentator noted this is unfair and a likely violation of constitutional rights. The commentator also noted Ecology cannot force access without a court order, or record a restrictive covenant without signature of the owner.

One commentator asked what specific circumstances regarding the timing of construction activities would make it impractical to connect properties refusing access for excavation to the wastewater treatment system?

Response:

Comments noted. If an owner chooses containment over excavation, BNSF is responsible for the operation and maintenance of the containment structures around the perimeter of the property. However, the owners would be accepting a long-term impact on the use of their property, because state regulations would then require that a deed restriction be applied to limit

the use of their property, and they must abide by the restrictions. Compensation for the impact the owners are agreeing to accept, either way, is thus a matter for the owners to address with BNSF. The terms for access to each property will therefore be based on factors unique to that property and owner. If necessary, Ecology will help facilitate their reaching reasonable terms with BNSF for access. In particular, Ecology will provide for mediation of any such disputes as appropriate and helpful.

It is impractical to connect buildings to the wastewater treatment system (WWTS) if property owners refuse access for excavation because the WWTS infrastructure must be installed when the property is being restored after excavation to be cost efficient.

Document Change?: No

Liability, Liens

Summary Comment #:

LIA-03

Comment #s: 003.032

Summary Comment:

Comment asked for the CD Section XXV to be clarified to provide that while Ecology has authority to file a lien pursuant to RCW 70.105D.055 against property owned by BNSF, it does not have authority to file a lien against property owned by the Town or a citizen even if their property is subject to remedial actions.

Response:

Ecology will look to BNSF for cost recovery, and does not intend to file liens on any Town or private property at this Site. The CD language referenced is a boilerplate contract provision now included in all CDs filed by the state. It simply provides notification of the general lien authority provided to Ecology by statute, RCW 70.105D.055. This language does not define how Ecology will use its authority at any given site. Liens can be filed against a property only for unrecovered remedial action costs. Here BNSF is made responsible to pay such costs under the CD.

Document Change?: No

Liability, School future liability

Summary Comment #:

LIA-04

Comment #s: 003.019, 021.008

Summary Comment:

Who would be responsible for long-term management of containment remaining under the school once treatment is complete? Comment asked that the cleanup action plan (CAP) require that any contamination remaining under the school following implementation of the recommended cleanup action, be completely cleaned up by BNSF if the school is ever

abandoned or demolished.

Response:

The school district wants to maintain the school building as an active facility. Moving the building would be a multiple-year undertaking that would impact school operations for a longer period than was acceptable to the School District. Ecology consequently selected a remedy that assumes the building will remain in place during cleanup.

The CAP requires that BNSF employ an alternate, aggressive treatment method to reduce or eliminate contamination underneath the school to the extent possible. It is not yet known how much contamination can be removed — this still must be analyzed. Even after treatment, containment of remaining contamination may be necessary. BNSF would be responsible for operation and maintenance of any containment or other structures necessary to prevent migration.

Even if significant contamination can be removed, it may not be possible (or practicable) to remove all contamination under the building. Practicable measures can be taken to protect human health and the environment in this event, including: (1) an administrative prohibition on well drilling in the area, and (2) a restrictive covenant on the school property.

BNSF must obtain access to the school property to implement the CAP. Although the CAP proposes a cleanup that meets minimum requirements under state law and regulation, it does not dictate the terms under which the school district must agree to provide access or accept impacts (like a restrictive covenant) on school property. The terms of access, including any conditions on access plus compensation for impacts, are matters for negotiation between the school district and BNSF; these are not matters for Ecology to address in remedy selection.

Ecology will help facilitate agreement on access being reached, and will provide mediation services if necessary and appropriate to help the school district and BNSF reach resolution on access issues.

Document Change?: No

Liability, School relocation costs

Summary Comment #:

LIA-05

Comment #s: 021.006

Summary Comment:

The School District indicated they understood that under the Consent Decree, BNSF would be required to assume all costs of relocating school activities, if that becomes necessary for cleanup actions to be taken.

Response:

BNSF Railway must gain access for cleaning up the school by negotiating an access agreement with the school. Ecology fully anticipates that costs for relocating school activities incurred by the School District as a result of cleanup activities will be borne by BNSF.

Document Change?: No

Levee Zone, River	Summary Comment #:	LV-01
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Comment #s: 126.114, 126.121, 126.170

Summary Comment:

Impacts to the river and sediments noted.

Response:

Comments noted.

Document Change?: No

Natural Resource Damages, Editorial	Summary Comment #:	NRD-01
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Comment #s: A portion of 003.030 (See also NRD-04), 004.003, 004.019, 004.020,

Summary Comment:

The Natural Resource Damages section in the Fact Sheet and Consent Decree is written too broadly. Please provide more background regarding the decision-making process used to reach settlement, where the restoration monies will be focused, and provide more clarification on the relationship between Ecology and the Town.

Response:

General information was included in the fact sheet for brevity. More information about the injured resources and how they will be compensated is included in the Consent Decree.

To provide some background on how Ecology approached natural resource damages, we reviewed and evaluated the amount of contamination released, for the length of time, and the known and suspected impacts to state resources. Groundwater is the original contamination pathway and the original resource impacted. As the contaminated groundwater flowed to the river and surface waters, other resources were also impacted. The NRD settlement addresses not only injury to the groundwater but also injury from the contaminated groundwater to adjacent surface waters, fish and aquatic habitat, terrestrial and waterfowl habitat, as well as the services these resources provide, such as human recreational use. Ecology developed a preliminary estimate of damages for each resource impacted and grouped these injuries into three general areas: injury to the groundwater; injury to the fish and aquatic habitat; and, injury

to the waterfowl, terrestrial habitats, and recreational uses.

Document Change?: No

Natural Resource Damages, Potential projects *Summary Comment #:* NRD-03

Comment #s: 016.001

Summary Comment:

Snohomish County submitted projects from the Snohomish River Basin Salmon Recovery forum as possible restoration projects for funding.

Response:

Thank you for submitting projects for consideration. Ecology and the Trustees will evaluate these projects for potential funding during the project evaluation phase. We will be in touch with you and appreciate your input.

Document Change?: No

Natural Resource Damages, Town/Ecology arrangements *Summary Comment #:* NRD-04

Comment #s: 003.004, a portion of 003.030 (See also NRD-01)

Summary Comment:

Can the interest accrued be kept within the restoration accounts and used for restoration? And, can funds be transferred from one account to another at the Town's discretion?

Response:

Ecology also has a strong desire that interest accrued on the NRD settlement account remain in the account and be used for restoration. Arrangements have been made with the State Treasurer's Office to ensure this happens.

Regarding a remainder of funds for the Skykomish Water Quality Protection, Ecology will clarify the consent decree language so that any remaining money can be used for Phase III or can be transferred to the Recreational and Terrestrial Restoration effort. Money already earmarked for recreational and terrestrial restoration projects, however, cannot be transferred to make up for a shortfall in the wastewater treatment system (WWTS) account. The goal of the settlement is to fairly compensate all resources injured. Ecology and BNSF agreed to allocate \$1,500,000 to protect the groundwater. Transferring money intended to restore lost recreational uses or terrestrial and waterfowl habitat to the operation of the WWTS would not fairly compensate those injured resources.

Document Change?: CD

Changed CD language in XVIII, part D last line from "If the Town does not implement the Plan, the funds will be transferred to the Skykomish Recreational and Terrestrial Restoration effort." to "Any remainder of funds can be used to implement other portions of the Town's Wastewater Facility Plan dated June 2007. If the Town does not implement the plan or expend all the funds, the funds or any remainder will be transferred to the Skykomish Recreational and Terrestrial Restoration effort."

Natural Resource Damages, Use of funds	Summary Comment #:	NRD-05
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Comment #s: 018.009

Summary Comment:

Does the funding for the Waste Water Treatment System (WWTS), mentioned in the DCAP, come from the NRD settlement?

Response:

The funding referred to in the DCAP, Community-Based Cleanup, for the construction of a municipal wastewater treatment plant originates from the State Toxics Control Account, not the NRD settlement. The preferred cleanup is removal, requiring major excavation under the Town, including the removal of current septic systems. Because current regulations do not allow for new septic systems, it became necessary that the Town switch to a municipal wastewater treatment plant. Given that Skykomish is a rural town with a very small population, Ecology quickly realized that the Town could not afford to build one. So, to ensure the cleanup be a permanent solution and continue to move forward, Ecology is using \$6 million from the State Toxics Control Account to build a WWTS for the Town.

The NRD settlement is providing only supplemental funding for construction cost increases and future operation and maintenance. Ecology believes the best way to ensure future protection of the groundwater resource is to ensure the continued future operation of the wastewater treatment system (WWTS). Thus, the portion of the funds earmarked for restoring groundwater, \$1,500,000, is being used for future WWTS construction phases (\$700,000) and offsetting future costs to the citizens of Skykomish to run and maintain the system (\$800,000), as described in section XVIII, part D of the CD.

Document Change?: No

Natural Resource Damages, Who proposes projects?	Summary Comment #:	NRD-06
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Comment #s: 018.013

Summary Comment:

Please clarify who can submit projects for and how much money can be spent on each category within the Skykomish Recreational and Terrestrial Restoration effort.

Response:

The Town of Skykomish has been negatively impacted economically from the contamination for many years. Thus, the Town is specifically mentioned in part XVIII, section E to add emphasis that the money is to be spent locally and that the Town has a vested interest in how the money is to be spent. Ecology will work through the Town to determine which projects can provide the highest value for restoring waterfowl and terrestrial habitats as well as improving recreational access and use. It is not Ecology's intent to not accept other parties' proposals. Ecology is anticipating that the Town will submit projects, and is hoping that USFS and other parties will work with the Town to also present projects for consideration.

Without knowing which projects will be presented for consideration, Ecology intentionally kept the CD language somewhat flexible. Thus, there is no stated amount of money to be spent on waterfowl and terrestrial habitat projects versus recreational use projects. To fairly address injuries to waterfowl and terrestrial habitats as well as lost recreational uses, a reasonable proportion of the money will go toward both types of projects.

We will not be making any additional changes to the CD.

Document Change?: No

Northwest Developed Zone, BNSF-owned property

Summary Comment #: NWDZ-01

Comment #s: 022.022

Summary Comment:

Does BNSF need to clean up properties that they purchase from residents?

Response:

BNSF is required to clean up all public and private properties per the plans outlined in the Cleanup Action Plan. It doesn't matter who the owner is. If BNSF is the owner, they are required to clean up the property.

Document Change?: No

Northwest Developed Zone, General

Summary Comment #: NWDZ-02

Comment #s: 105.005

Summary Comment:

Can historic buildings be moved?

Response:

All historic buildings will be evaluated by qualified structural engineers before moving. Reports will be developed to document conditions. Buildings will be monitored before and after moving. The historic registry buildings are extremely important to the Town and residents and will undergo the greatest care during this cleanup. It is likely their condition will be improved when restoration is complete.

Document Change?: No

Operation and Maintenance, Air-sparging compressor noise

Summary Comment #:

O&M-01

Comment #s: 004.029, 004.046, 004.048, 004.059

Summary Comment:

Air sparging equipment will produce significant noise and disruption to the town.

Response:

The air sparging equipment will be housed in noise-reducing enclosures to decrease noise levels to acceptable levels. Equipment locations will be chosen as far from residences as possible. The equipment will comply with applicable noise regulations.

Document Change?: No

Operation and Maintenance, Emergency planning

Summary Comment #:

O&M-02

Comment #s: 004.013

Summary Comment:

Will generators for the hydraulic control and containment system be on standby for power outages?

Response:

Emergency procedures will be developed to bring the system back on line rapidly in case of shut-down due to power outages. The procedures will be part of the Operation and Maintenance Plan for the system. The need for standby generators will be assessed during the plan's development.

Document Change?: No

Restrictive Covenants, BNSF nonRY owned property *Summary Comment #:* RC-01

Comment #s: 004.021

Summary Comment:

Sec. XXI, pg. 27, Ln. 19 states a restrictive covenant will be required on BNSF’s railyard. Comment asks for restrictive covenants to be required on all BNSF owned property that exceeds cleanup levels.

Response:

BNSF must clean up soil contamination on off-railyard property that it owns to standards such that restrictive covenants will not be required.

Document Change?: No

Restrictive Covenants, Code consistency *Summary Comment #:* RC-02

Comment #s: 003.007, 003.034

Summary Comment:

Comment asked that restrictive covenants should be subject to substantive legal review by the Town (Skykomish Planning Commission) so the Town can ensure there are no conflicts with local codes, ensure consistency with the Town’s Comprehensive Land Use Plan and Visions Plan, and consider and propose as necessary specific zoning provisions for adoption by the Town Council.

Response:

Ecology will consult with the Town of Skykomish on proposed restrictive covenants and substantive requirements that may be applicable to cleanup.

WAC 173-340-440(10) provides that Ecology “shall notify and seek comment from a city or county department with land use planning authority for real property subject to the restrictive covenant.” In addition, under RCW 70.105D.090(1) and 173-340-710(9), Ecology is required to ensure that the cleanup meets the substantive requirements of applicable local laws, and to consult with local jurisdictions to establish such requirements.

Document Change?: No

Restrictive Covenants, Compensable taking?	Summary Comment #:	RC-03
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Comment #s: 003.031

Summary Comment:

Do the restrictive covenants proposed in Section XXI of the CD constitute a compensable taking?

Response:

No. The Washington State Constitution requires that state government not take or damage private property for public or private use without paying just compensation.

Private property in Skykomish is impacted by contamination from historic railroad operations, not by state action. Cleanup under state law will eliminate the public and environmental threat posed by this contamination, and restore value to private property. Although Ecology is requiring that BNSF clean up contamination, Ecology has not authorized BNSF access to private property. BNSF must obtain property owners' agreement to access property and implement cleanup. Ecology is likewise not imposing deed restrictions on private property. The Cleanup Action Plan requires that BNSF clean up property to avoid deed restrictions, subject to agreement with each property owner.

On many properties, structures will need to be moved temporarily to excavate contamination underneath. Property owners can choose not to relocate for excavation, but must understand that contamination will then remain on their property. In that event, containment plus a deed restriction become the minimum measures required by regulation to protect human health and the environment from contamination that remains on the property. Although these measures are required by regulation, BNSF still must obtain an owner's agreement to accept such impacts, and it is reasonable to expect property owners would receive compensation as consideration for accepting impacts either way. Compensation for impacts from contamination and cleanup are therefore matters for property owners to address with BNSF in access negotiations.

Document Change?: No

Restrictive Covenants, Effectiveness	Summary Comment #:	RC-04
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Comment #s: 024.801

Summary Comment:

Institutional controls are not effective over time because people do not remember them and because people ignore them.

Response:

Ecology recognizes this concern. The cleanup was selected to minimize use of restrictive covenants.

Document Change?: No

Restrictive Covenants, Groundwater restrictions *Summary Comment #:* RC-05

Comment #s: 025.903

Summary Comment:

Can groundwater in the Town ever be used after cleanup is complete if contamination remains on the railyard?

Response:

It is correct that the railyard is likely to remain contaminated for an extensive period of time, so there will be a restriction on new drilling under WAC 173-160-171 that prohibits drilling within 100 feet of a hazardous waste site. There are numerous state, county, and local regulations that apply to drilling of new water wells within the Town of Skykomish. Hence, most individual properties in the Town of Skykomish could not avoid all of the restrictions on well drilling, due both to the contamination remaining on the railyard and to the close proximity of other potential contaminant sources in this urban environment. Nevertheless, Ecology's goal is to restore groundwater resources to greatest extent practicable in order to provide future generations clean water sources so that they have a choice on whether to use them.

Document Change?: No

Restrictive Covenants, School *Summary Comment #:* RC-06

Comment #s: 021.007

Summary Comment:

The School District indicated it agreed that moving the school would be risky, and that treatment methods to be used are expected to leave some contamination behind. The School District noted that a restrictive covenant would be required.

Response:

Comment noted. A restrictive covenant would be required only if soil remains above 3400 mg/kg.

Document Change?: No

Relocation, Access agreements *Summary Comment #:* RELOC-01

Comment #s: 012.002, 017.004

Summary Comment:

Jensen, (017.004): One comment noted the CAP requires excavation of contamination off BNSF's railyard property, but that excavation cannot occur unless BNSF and the affected property owners reach agreement on the terms and conditions for the excavation work. The commenter was concerned that the DCAP offered no benchmarks or guidance for how access agreements are to be structured, other than to state they must be "fair and equitable," and that this was an impossible standard to assess or enforce.

Jensen (017.004) and Goranson (012.002): One comment noted that individual property owners are at a disadvantage when negotiating with a large corporation. Another comment noted that BNSF has not been active at addressing contamination except when forced to do so, has not minimized the impact to the community as promised, and has been "less than friendly" toward "the community and certain individuals who have been involved in the cleanup effort." This comment asked how people can be assured that BNSF will work in good faith with the citizens of Skykomish? The comment also noted that owners have fully supported all actions necessary for cleanup to date, but noted concern that owners seem destined to delay cleanup while they try to negotiate a fair access agreement with BNSF that addresses their needs.

Response:

Jensen, (017.004): Comments noted. It is difficult to provide guidance for how access agreements should be structured because circumstances are unique to each individual. Compensation for the impacts to the property and owner are a matter for the owner to address with BNSF. If necessary, Ecology will help facilitate owners' reaching reasonable terms with BNSF for access. In particular, Ecology will provide for the mediation of disputes as appropriate and helpful.

Jensen (017.004) and Goranson (012.002): Comments noted. BNSF is required to negotiate for access with property owners in good faith. BNSF could be subject to penalties if, in failing to do so, it is prevented from performing the cleanup under the terms of the CD.

Document Change?: No

Relocation, Building move

Summary Comment #: RELOC-02

Comment #s: 004.057, 011.009, 011.012, 017.005

Summary Comment:

Impacts of moving buildings and relocation issues: What are cosmetic and structural damages? What is existing vs. new damage? Homes need a better inspection to identify pre-existing damage in advance of preparation for relocation. Also, how can I be assured that BNSF will hire competent carpenters and finish workers and that the quality of the restoration work is

precise, especially for historic buildings? Does the cleanup action plan give BNSF an easy out to perform a less permanent cleanup on the hotel property? Skykomish Hotel LLC requests that it be given the right to review in advance all plans, studies, and reports pertinent to the Hotel and its property.

Response:

Petrarca Comment: Cosmetic damage is damage to the appearance to the building. Structural damage is damage that impairs the structural integrity of the building. Existing damage is damage that was present before relocation. New damage is damage that occurs as a result of the relocation. Any damage to property resulting from relocation will be repaired by BNSF.

Moore Comments re: rebuilding and restoration: It is the property owner's responsibility to make arrangements for the quality of the work that will be done on their buildings. The property owners should agree upon procedures for work acceptance with BNSF when negotiating access agreements. Ecology recommends property owners arrange to perform walk-through inspections at appropriate times to develop a list of items that need further work, in the same manner as is done for any home construction or remodeling job.

Jensen Comment: The DCAP does not give an "easy out" to BNSF. Ecology expects that excavation will occur beneath the hotel. If the building cannot withstand excavation, it must be well documented and agreed to by several structural engineers, including independent contractors for Ecology. A request has been made that the "Skykomish Hotel LLC be given the right to review and approve all plans, studies and reports pertinent to the Hotel and its property." The CAP specifies a cleanup that meets minimum requirements but that does not dictate the terms of access. BNSF must obtain access from the Skykomish Hotel LLC to implement cleanup on its property. The terms of access, including the right to review and approve plans, studies, and reports pertinent to its property, are matters for the hotel to address with BNSF when discussing access.

BNSF and Ecology will involve the Skykomish Hotel LLC in any cleanup planning and work. It is expected that the Skykomish Hotel LLC will work with Ecology and BNSF to enable the best cleanup possible for this property. Best efforts are being made by Ecology and BNSF to work together with Skykomish Hotel LLC to enable the best cleanup for that property.

Document Change?: DSEIS

Section 4.2.4 - A new paragraph was inserted under mitigating measures, after "...vibrations will be repaired": A post restoration inspection will be conducted with the property owner, the contractor conducting the work, and BNSF or their representative to assess whether restoration has been completed appropriately and in accordance with the access agreement between the property owner and BNSF.

Added this also to section 4.2.5 and 4.4.2 - same places.

Relocation, Coordination

Summary Comment #: RELOC-03

Comment #s: 011.013

Summary Comment:

There should be a person un-related to the railroad assigned to work with relocated residents.

Response:

Comment noted.

Document Change?: No

Relocation, Editorial

Summary Comment #: RELOC-04

Comment #s: 018.010

Summary Comment:

The U.S. Forest Service recommended that the last bullet of Section 6.1, paragraph 3 be edited to clarify that property owners will be able to hook up to the wastewater treatment system if they agree to have their homes temporarily relocated while excavation occurs on their property. The second paragraph on page 63 does state this, but some readers may focus on the list of four bullets.

Response:

This clarification has been made.

Document Change?: DCAP

Changed: Section 6.1 Community-Based Cleanup: Integrating Community Concerns, page 61 paragraph three: The last bullet has been edited to clarify that property owners will be able to hook up to the wastewater treatment system if they agree to have their homes temporarily relocated while excavation occurs on their property.

Relocation, Expenses

Summary Comment #: RELOC-05

Comment #s: 004.042, 019.007

Summary Comment:

Monetary compensation should be provided for relocated residents. "Reasonable expenses" should be defined in CD.

Response:

Comment noted. It is difficult to anticipate each and every individual need. "Reasonable

expenses" is a broad category that allows flexibility to address individual needs as much as possible.

Document Change?: No

Relocation, Mediation

Summary Comment #: RELOC-06

Comment #s: 003.028

Summary Comment:

Comment asked that, in relation to the temporary relocation of residents for cleanup, thought should be given to providing for a mediation process to be implemented when requested by either the affected landowner or BNSF; comment asked for this to be reflected in the "Guidelines for Temporary Relocation," Exhibit G of the CD.

Response:

Ecology has committed to making mediation services available to help resolve access disputes, as necessary. This includes provision for mediation to resolve disputes over the temporary relocation of people, homes, and businesses. The cleanup action plan reflects this commitment by Ecology.

The following bullet point has been added to Consent Decree Exhibit G: "If BNSF and residents cannot agree to terms of access, relocation, or property restoration, Ecology will provide a neutral mediator to assist the parties in reaching agreement."

Document Change?: CD

The following bullet point has been added to Consent Decree Exhibit G, Guidelines for Temporary Relocation: "If BNSF and residents cannot agree to terms of access, relocation, or property restoration, Ecology will provide a neutral mediator to assist the parties in reaching agreement."

Remedy Selection, Disproportionate cost analysis

Summary Comment #: REMSEL-02

Comment #s: 003.002, 003.011, 003.012, 014.001, 017.002, 018.007, 018.008, 022.006

Summary Comment:

Why was hydraulic control and containment chosen for the Railyard rather than complete excavation to the soil petroleum remediation level of 3,400 mg/kg? Several commentors wondered why Ecology chose the hydraulic control and containment approach for the railyard rather than complete excavation. Commentors noted that there is sufficient space on the railyard to construct a temporary line to bypass areas being cleaned up - a shoe-fly line - and wondered why BNSF couldn't shift the tracks to the north or south. Also noted was that the

quantitative analysis portion of the remedy selection process found complete excavation preferable to the hydraulic control and containment system. One commentor asked what specific benefits would be in PB5 that are not in Ecology's remedy.

Response:

There are impacts associated with full excavation on the railyard that BNSF maintained were not captured in the quantitative portion of the remedy selection process. Temporary tracks - a shoe-fly - would have to be constructed to allow excavation. Such a detour would require trains to slow down to a significant degree. This was unacceptable to railroad operations because it would impede interstate transportation. The main line tracks are already on the very northern edge of BNSF's property and there is no room to shift rail traffic farther north.

The disproportionate cost analysis, a part of the remedy selection process, may be quantitative but is often qualitative and requires the use of best professional judgment. This reflects the fact that for complex sites, the information available for use in comparing various cleanup alternatives may not capture the full spectrum of costs and benefits for each, and some costs and benefits may not be amenable to quantification. Ecology has the discretion to favor or disfavor qualitative benefits and use that information in selecting cleanup actions. Ecology must in any event ensure that the cleanup meets minimum cleanup standards. Ecology therefore considered BNSF's concerns qualitatively in conjunction with considering what actions on the railyard would meet cleanup requirements.

Because containment can be effective to protect human health and the environment from contamination on the railyard, Ecology allowed BNSF the option of containment rather than complete excavation on the railyard. BNSF will be required to design, construct, , operate, and maintain a robust and reliable active hydraulic control and containment system incorporating a redundant barrier system, groundwater pumping, and groundwater treatment. The redundant barrier system will be capable of detecting leaks of free product that may occur anywhere along the length of the barrier system. If at any time the system is shown not to be effective, the redundant barrier system and an early detection system of wells along the railyard boundary will alert Ecology with adequate time to address the problem, either through adjustments to the system or additional required measures. This ensures contaminants are managed on railway property as long as there is the potential of off-site migration and that all off-railyard property that will be cleaned up will remain so.

Document Change?: No

Remedy Selection, Initial assessment **Summary Comment #:** REMSEL-03

Comment #s: 004.036, 004.037

Summary Comment:

The initial assessment of the Feasibility Study Alternative (Section 5.3 of the Draft Cleanup

Action Plan) does a good job of spelling out the reasons that alternatives were eliminated. The second paragraph on page 42, which indicates Ecology uses many of the technologies discussed in the Feasibility Study, should list some of the technologies used.

Response:

Ecology has changed the paragraph, inserting the text between the arrows: ECY relies on many of the technologies used in the alternatives developed in the Feasibility Study as well as technologies developed by Ecology, >>primarily excavation and air-sparging<<. ECY uses enhanced bioremediation at lower petroleum concentrations, where this technology can be effective. Natural attenuation will be an ongoing process, but is not relied upon for meeting cleanup standards.

Document Change?: DCAP

Section 5.3, page 42, inserted as noted: ECY relies on many of the technologies used in the alternatives developed in the Feasibility Study as well as technologies developed by Ecology, ***Insert>>primarily excavation and air-sparging<<End Insertion***. ECY uses enhanced bioremediation and natural attenuation only at lower petroleum concentrations, where these technologies have a greater chance of being effective.

Remedy Selection, Empirical Demonstration
Summary Comment #: REMSEL-04

Comment #s: 025.904
Summary Comment:

Why is a pump and treat system not required for the empirical demonstration areas shown on Figure 6 of the Cleanup Action Plan?

Response:

The empirical demonstration areas are expected to meet groundwater cleanup standards after the primary cleanup actions are complete. Therefore, no pump and treatment system has been required. Groundwater quality will be monitored to assess whether this is indeed the case.

Observations of the relation between soil contamination and groundwater quality made during past site investigations indicate to Ecology that the empirical demonstration approach is appropriate for those portions of the site to which it applies.

Document Change?: No

Remedy Selection, Restoration time frame
Summary Comment #: REMSEL-05

Comment #s: 010.001

Summary Comment:

The Railyard Zone will be cleaned up over an indefinite period of time. Will properties owned by BNSF outside the Railyard Zone also have an indefinite timeframe for cleanup or will they be excavated?

Response:

Properties owned by BNSF Railway in zones other than the Railway Zone will be cleaned up the same as the other properties in the zone.

Document Change?: No

Remedy Selection, Standards

Summary Comment #: REMSEL-06

Comment #s: 025.905

Summary Comment:

Have different cleanup standards been used for this site than for other sites?

Response:

The process for setting cleanup standards is specified in the Model Toxics Control Act Regulations. The process is applied uniformly throughout the state. Because each site has different characteristics, the resulting numerical standards and locations of the points of compliance where those numerical standards must be met vary from site to site. Ecology strives to make site cleanup decisions that reach a uniform level of protection of human health and the environment statewide.

Document Change?: No

Remedy Selection, Technology selection

Summary Comment #: REMSEL-07

Comment #s: 004.009, 004.024, 018.006, 020.002, 103.802, 113.002

Summary Comment:

Commentors noted that no pilot studies have yet been conducted, particularly for air-sparging and assessment of natural attenuation. One commentor believed that pilot studies should be completed prior to finalizing the Consent Decree. One commentor noted that the Feasibility Study did not develop sufficient information to provide useful estimates of actual removal rates and asked what peer reviewed studies were referenced to make these assumptions on natural attenuation rates at the project site, and what were the confidence bounds of these rates? The commentor noted that many of the cleanup strategies greatly rely on these quoted rates of natural attenuation to augment their effects. If these rates are inaccurate, it is likely that the long-

term cleanup standards will never be met.

One commentor noted that while natural attenuation can be acceptable, that for this site it is estimated that over 500 years would be required for the process to near completion because of the nature, both physical and chemical properties of Bunker C. The commentor stated that this time period is unacceptable.

Response:

Ecology understands the prudence of ongoing monitoring of past remediation activities and performing pilot studies for future efforts where appropriate. Ecology also is sensitive to the citizens' wishes to conduct cleanup activities as fast as possible. Ecology will strive to every extent possible to strike a balance between these ideals.

The lack of pilot studies in the Feasibility Study and the uncertainties in the rates at which air-sparging and natural attenuation would operate on bunker-C and free-product diesel were significant factors in developing cleanup actions that would meet the cleanup standards in a timely manner (that is, reach cleanup levels and remediation levels at their respective points of compliance in a timely manner). Air-sparging is a standard treatment technology used in areas contaminated with low-to-moderate concentrations of diesel (i.e., not free product) and does not require pilot studies. Air-sparging diesel-contaminated soil is used only after excavation of the most highly-contaminated diesel areas. The air-sparging system will be monitored and adjusted as necessary.

At the BNSF Skykomish Site, monitored natural attenuation may be appropriate for soil and groundwater after more active treatment methods have been applied. Natural attenuation is not expected to be effective on Bunker-C and diesel until their concentrations have been significantly reduced by more active treatment methods.

While natural attenuation may assist in meeting cleanup standards in the areas where an empirical demonstration after excavation has been completed, it is not the primary means of meeting standards. Source removal off the Railyard and hydraulic control and containment of contaminated soil and groundwater and source removal in selected areas within the Railyard are the primary approaches to meeting cleanup standards.

With respect to cleanup beneath the school, the Cleanup Action Plan requires a special design investigation to select the treatment technology to be used. Thermal technology is considered the baseline. Other technologies may be considered in comparison to thermal technology. Physical testing of technologies considered is required. See Section 6.2 of the Cleanup Action Plan.

With respect to the estimate that "over 500 years would be required for the process to near completion", Ecology believes there is some confusion over what constitutes cleanup. At this

site, contamination if being contained on the railyard and excavation and air-sparging off the railyard is reducing soil petroleum concentrations to below the remediation level of 3,400 mg/kg. This is expected to achieve the groundwater cleanup level of 208 µg/L at its point of compliance, and achieve or closely approach the groundwater remediation level of 477 µg/L throughout the off-railyard portion of the site. Soil will be safe for direct contact immediately after excavation or completion of air-sparging (10 years after start of air-sparging). Off-railyard groundwater will be at or near drinking water quality. Significant contamination will remain contained on the railyard indefinitely. So long as the remediation levels and cleanup levels are met at their respective points of compliance, the cleanup is protective of human health and the environment and is complete. Long-term monitoring will be performed to assess the continued integrity of the cleanup actions, and any necessary repairs or additional remedial actions will be implemented if necessary to maintain the integrity of the cleanup actions.

Document Change?: DCAP

Section 6.2, School Alternatives Evaluation Work Plan - Inserted a space between "for" and "comparative" in the following sentence: "A work plan for comparative physical testing will be prepared by January 31, 2008."

River and Habitat, Levee Restoration *Summary Comment #:* RH-01

Comment #s: 103.008, 121.002

Summary Comment:

Will King County be involved in the levee restoration work? The Skykomish River should be removed from the Wild and Scenic list until it is cleaned up.

Response:

The Levee was cleaned up and reconstructed in 2006. Restoration work is in progress. Ecology and BNSF contractors will continue to work with King County on the levee restoration work as well as other aspects of the project. King County's assistance with the levee cleanup was greatly appreciated and made a positive contribution to the project.

The Skykomish River was cleaned up in 2006, after this comment was made, so it is appropriate for it to remain listed as a Wild and Scenic River.

Document Change?: No

Restoration after cleanup, Editorial *Summary Comment #:* RST-01

Comment #s: 126.135

Summary Comment:

The number of trains is low. The south approach to the bridge should be replaced.

Response:

Train size information was provided by BNSF. The south approach to the 5th Street Bridge will be reconstructed following cleanup of that area as necessary.

Document Change?: No

**Restoration after cleanup,
Environmental**

Summary Comment #:

RST-02

Comment #s: 007.001

Summary Comment:

The old mill pond should be restored at the site of Former Maloney Creek.

Response:

Comment noted. This area is anticipated to be evaluated as a potential mitigation project under the Natural Resource Damages settlement.

Document Change?: No

**Restoration after cleanup,
Landscaping**

Summary Comment #:

RST-03

Comment #s: 004.054, 004.056, 111.022

Summary Comment:

Replanting and landscape restoration should be low maintenance and completed ASAP.

Response:

Comment noted. See also V&TH-03.

Document Change?: No

Restoration after cleanup, Long-term

Summary Comment #:

RST-04

Comment #s: 009.002, 010.002, 011.002, 011.003, 011.004, 012.066, 103.801, 108.801, 115.033, 116.055, 118.004, 126.173, 126.192

Summary Comment:

General comments and opinions on long-term restoration efforts. Infrastructure should not impede future development.

Response:

Comments noted. Infrastructure planning is being done with the Town of Skykomish, King County, and utilities to enhance future development rather than impede it.

Document Change?: No

Restoration after cleanup, Rail crossing

Summary Comment #:

RST-05

Comment #s: 011.011

Summary Comment:

A request was made that Ecology, the Washington Utilities and Transportation Commission (WUTC), and BNSF work together to make it safer for school children to cross the tracks.

Response:

Safety concerns regarding the rail crossing are a bigger issue than just the cleanup, and will be taken into consideration during development of any restoration plans. Please contact John Li, Manager with BNSF Public Projects at (206) 625-6146 or Vicki Elliot with WUTC Railway Safety Program at (360) 664-1100 to review any concerns you have with crossing safety.

Document Change?: No

Restoration after cleanup, Review

Summary Comment #:

RST-06

Comment #s: 003.016, 003.017, 004.027

Summary Comment:

The cleanup actions plan describes the outcomes of failing to sign an access agreement, including the consequences with the wastewater connections. How will the Town grant access to Town properties which are to be cleaned in the upcoming year, and on what conditions will access be based? The Town of Skykomish is a public entity and should be allowed an exception to annual agreement.

Response:

Access needs to be provided by December 31st of each year in order for the cleanup schedule to be met. Given the unique role the Town plays, the Town may condition the grant of access based upon receiving drafts of the engineering design report and construction plans and specifications deliverables specified in Exhibit E of the consent decree at the same time as these deliverables are submitted to Ecology.

Ecology has added a substantive requirement to Appendix E of the Consent Decree that BNSF must submit the engineering design documents and draft construction plans and specifications specified in Exhibit C of the Consent Decree to the Town at the same time these documents are

submitted to Ecology.

The Town will need to provide review comments on the February submittals within 14 days of receipt of the documents in order to incorporate them into Ecology's comments to BNSF. The Town may also provide comments directly to BNSF, but must do so in a timely manner.

Document Change?: CD

CD, Exhibit E, added a substantive requirement to Appendix E of the Consent Decree that BNSF must submit the engineering design documents and draft construction plans and specifications specified in Exhibit C of the Consent Decree to the Town at the same time these documents are submitted to Ecology.

Restoration after cleanup, Utilities	Summary Comment #:	RST-07
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Comment #s: 004.043, 009.001, 009.003

Summary Comment:

Can all utilities be placed underground in conduits large enough to provide for future expansion?

Response:

BNSF and the Town of Skykomish have held meetings with Puget Sound Energy and Verizon to discuss installing subsurface conduits/wires that would be capable of handling the Town's power, cable, and telephone, etc. BNSF is working with the Town to install these conduits during reconstruction.

Document Change?: No

Restoration Time Frame, Start cleanup	Summary Comment #:	RTF-02
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Comment #s: 004.047, 012.005, 023.804, 104.003

Summary Comment:

Several commentors noted the length of time that site investigations take and the impact of being a contaminated site on the Town of Skykomish. They indicated a strong preference for starting and completing cleanup in a timely manner. There was concern over the length of time cleanup actions would continue on the railyard.

Response:

Ecology agrees that it is time for cleanup to start, and that the most disruptive cleanup operations should be completed in a timely manner. Cleanup actions such as air-sparging, operation of the hydraulic control and containment system, and some excavation on the railyard

will not be disruptive to the Town. Operation of the air-sparging and hydraulic control and containment systems will be conducted with underground installations to the degree possible. Surface equipment will be placed in suitable, noise-reducing enclosures, and will be placed on the railyard as much as possible. Excavation on the railyard will not be on the scale that will occur during the most active part of the cleanup. BNSF plans to perform the excavations on the railyard in conjunction with other projects to the degree possible. The 20-year time period within which to perform some excavations on the railyard was set to allow BNSF to have a significant window of time in which to schedule them so as not to interfere with rail operations.

Document Change?: No

Restoration Time Frame, When complete?	Summary Comment #:	RTF-04
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Comment #s: 004.026

Summary Comment:

One commentor noted that, with respect to sediment monitoring, the Cleanup Action Plan says that BNSF must monitor and clean up for 10 years after completion or until approximately 2021, but MCTA requires cleanup until specifications are reached, and that contaminated groundwater is currently entering the Levee Zone.

Response:

Sediment in the Skykomish River has been cleaned up to applicable standards, and sediments in Former Maloney Creek will be cleaned up to applicable standards. Sediments will be monitored to assess whether they continue to meet the cleanup standard. If they do not, the Cleanup Action Plan requires additional cleanup be done. Sediments may be excavated if heavily contaminated. Alternatively, groundwater flowing into the sediments may be treated to lower petroleum concentrations so that sediment may naturally recover. If the latter is done, the sediments must recover within ten years. If this does not occur, additional cleanup actions must be taken so that the sediment meets the cleanup standard.

Groundwater with dissolved petroleum contamination may still enter the Levee Zone because cleanup of upgradient areas is not complete. The concentrations and duration of contaminated groundwater entering the Levee Zone are not such as to recontaminate soil and sediment above cleanup standards. Completing the cleanup will achieve cleanup standards.

Document Change?: No

Review, Community	Summary Comment #:	RVW-01
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Comment #s: 003.009, 003.020, 004.022, 004.028, 004.031, 004.033, 004.040, 004.041, 011.006, 011.008, 020.001, 021.009

Summary Comment:

What is the best way to engage citizens with respect to cleanup issues and concerns?

Response:

The community has made it clear that timely cleanup is a priority, and the cleanup schedule has been established with this in mind. Several commentors expressed a desire for formal public comment on all follow-on documents developed under this CD. A formal public comment period process takes a minimum of 3 months to complete. Therefore, timely cleanup precludes formal comment periods for follow-on documents.

Ecology and BNSF will be engaged with the community throughout the cleanup. The consent decree requires that a public meeting be held in the Fall to discuss upcoming cleanup work. At this meeting, the draft Annual Engineering Design Report (EDR) will be presented to the public. Public input will be sought on how the work can be conducted in the least disruptive manner.

Ecology and BNSF also will continue to be available to the community on cleanup issues and concerns in informal settings like workshops and meetings. Cleanup documents also will be available upon request for informal comment.

Specific issues with the cleanup may come up throughout the process that affect only certain parties or properties. Ecology and BNSF may conduct or participate in meetings with those affected parties to resolve the issues.

The final Cleanup Action Plan requires development of numerous follow-on documents, where contingencies will be specified. Once approved by Ecology, each follow-on document becomes an integral and enforceable part of the Consent Decree. Ecology will engage the public throughout the development of these documents, through the tools stated in the Public Participation Plan. In addition, Ecology will always solicit and remain available to receive input from the public through tools not explicitly stated in the Public Participation Plan, and to give the public the most ample opportunity possible to obtain information and participate in decision-making.

Ecology may implement additional work requirements of BNSF through the EDR. To the extent that these requirements do not substantially change the scope of work required by the CD, no formal public hearings or comment periods will be required. However, a public workshop or meeting will be held so that Ecology may receive input from the public.

Document Change?: No

Comment #s: 004.005, 004.023

Summary Comment:

When, where, and how will residents be able to review laboratory results? How can the public stay informed of future groundwater monitoring results? How will monitoring data be reviewed? How will the public be able to review the monitoring results and periodic review reports? Will monitoring procedures change with changing administrations?

Response:

As specified in Sections X and XI of the Draft Consent Decree, BNSF will be required to submit the results of all sampling, laboratory reports, and/or test results to Ecology. Once submitted to Ecology, these reports and test results are public-record documents and are available upon request.

Ecology conducts periodic reviews of all site monitoring results at least every five years. Conducting periodic reviews is a regulatory requirement (WAC 173-340-420) and is required in Consent Decree Section XXVII. The methods for conducting these reviews are specified in the regulation (WAC 173-340-420). These periodic review reports are a required deliverable in Exhibit C of the CD and thus their submittal is an integral and enforceable element of the CD.

Both the Model Toxics Control Act and the provisions of the Consent Decree obligate Ecology and BNSF to collect monitoring data, to conduct data reviews, and to make the data and the reviews available to the public. This obligation will not change with changing administrations.

Document Change?: No

Review, Interim action

Summary Comment #:

RVW-03

Comment #s: 004.039

Summary Comment:

Where and how were the comments on the levee interim action used?

Response:

Comments from the levee interim action in 2006 were incorporated in development of the final Levee Design Report and FEIS for the Levee. The Responsiveness Summary dated April 2006 addressed all comments received from the public and is available on the site website, the SEC, or in the Town repository at the library. Copies are available upon request.

Document Change?: No

Review, Permit

Summary Comment #:

RVW-04

Comment #s: 003.008

Summary Comment:

Additional cleanup measures that might not be exempt from local permitting procedures should give adequate time (30-60 days) for local agencies to review plans.

Response:

BNSF and Ecology will make every effort to provide the Town with sufficient time for the review of reconstruction plans. BNSF will be the lead for all cleanup activities and restoration work, but none of these activities require state or local permits due to the MTCA exemption. Property owners, including the Town, will be in the lead for any additional activities that are above and beyond cleanup work even if BNSF agrees to perform or pay for that additional work, and the property owners will need to secure whatever permits might be required for those additional activities.

Document Change?: No

Review, Document clarity

Summary Comment #:

RVW-05

Comment #s: 025.911

Summary Comment:

Can DCAP include 3-D images of geology and water table?

Response:

For reference, there are numerous cross-sections in the Supplemental RI (RETEC, 2002) and Feasibility Study (RETEC, 2005) that depict the geology and the relative locations of the water table in a 2-D format. These documents have been available for reference since published, and are currently available for review at the Ecology information repositories. If and when 3-D images are generated, they will be available to the public and will become part of the Consent Decree if presented in a deliverable in a report that is a deliverable as listed in Exhibit C of the Consent Decree.

Document Change?: No

Review, School

Summary Comment #:

RVW-06

Comment #s: 021.005

Summary Comment:

How will Ecology and BNSF ensure that the School Board has the earliest possible communication about cleanup impacts to the school?

Response:

Comments noted. Ecology is sensitive to the unique role of the school in the community, and accordingly will make every effort to identify impacts of cleanup and communicate them as early as possible, so that the School Board has as much time as possible to prepare for these impacts. The School Board will be part of the team that will plan the cleanup effort beneath the school.

Document Change?: No

Review, SEC

Summary Comment #:

RVW-07

Comment #s: 011.007

Summary Comment:

In order to help the citizens understand the issues and in order to comment to Ecology, SEC needs a larger role in independent confirmation and verification that the work performed is effective.

Response:

Ecology will remain committed to be available to the Skykomish Environmental Coalition (SEC) to help citizens understand and respond to issues affecting them from the cleanup. Ecology will also be available as much as possible to support SEC.

All compliance monitoring data is a matter of public record, available on public request. SEC may take on as large a role as they wish, to independently review cleanup data. However, as the regulatory agency overseeing the cleanup, only Ecology has the authority to approve that the work has been performed in accordance with the Cleanup Action Plan.

Document Change?: No

Review, Substantial change

Summary Comment #:

RVW-08

Comment #s: 004.006, 004.016, 004.018

Summary Comment:

A few comments asked for clarification on the difference between a “minor” and “substantial” change to the CD, as those terms are used in Section XV (Amendment of Decree).

Response:

A minor change is one that does not change the fundamental scope of the settlement, which includes the scope of work required for cleanup under the attached CAP. A substantial change is one that does change the fundamental scope of the settlement or cleanup. For example, a change in the cleanup standards made applicable to the Site is likely to be a substantial change, whereas a change in the location of any particular monitoring well based on technical concerns

is not likely to be a substantial change.

Document Change?: No

Review, Time for review **Summary Comment #:** RVW-10

Comment #s: 017.001, 019.001

Summary Comment:

Why was the public comment period only 30 days? Can it be extended?

Response:

Comment noted. The timing and length of the public comment period was established as part of the overall project schedule. Ecology could not extend the public comment period because of the extremely tight schedule of entering the Consent Decree and the related documents as well as all the planning and permitting time needed for construction to begin in 2008. The schedule is so tight that any further delays at this time would likely result in at least a year delay in beginning the cleanup for the 2008 construction season. The schedule is aggressive in order to respond to the community's clear priority to complete the cleanup for the Town and its residents in the most timely way possible. Public input is extremely important to Ecology and BNSF. Therefore, there will continue to be opportunities to comment informally on all future engineering design reports and plans.

Document Change?: No

Review, Town **Summary Comment #:** RVW-11

Comment #s: 003.029, 003.033, 014.002

Summary Comment:

Document reviews and records: The Town should have review privileges over design and construction changes. BNSF should give all records to the Town after the record retention period. The Town should be included in periodic reviews as described in the CD section XXVII.

Response:

Sekor, Comment 014.002: Comment noted. The cleanup should take about 5 years to complete. The Town has input on the designs through the Skykomish Design Review Board and through the permit and oversight process.

Stanovsky, Comment 003.029: Comment noted. The Town would need its own agreement with BNSF regarding their retention and handling of records. Ecology will retain a complete record documenting the cleanup in our files.

Stanovsky, Comment 003.033: Comment noted. Periodic Reviews are a MTCA requirement. A notice of the periodic review will be published in the Site Register and an opportunity for public comment will be provided. [WAC 173-340-420(5)]

Document Change?: No

Review, USFS

Summary Comment #:

RVW-12

Comment #s: 018.011, 018.012

Summary Comment:

Can USFS review and comment on the former Maloney Creek zone cleanup and Hydraulic Control and Containment plans and reports?

Response:

Yes, the USFS may review and comment on the aforementioned reports. Ecology will provide opportunities for the community to review pertinent design plans for the Former Maloney Creek Zone and the Hydraulic Control and Containment system (HCC).

The HCC design report is a rapidly evolving report that is to be complete by January 15, 2008 or 30 days after receipt of Ecology's comments. Ecology plans to hold some community design meetings starting in the Fall 2007. A draft Former Maloney Creek Wetlands Special Design Report is due March 31, 2008. A draft Hydraulic Control and Containment System Special Design Report is due December 5, 2007.

Document Change?: DCAP

Railyard Zone, HCC

Summary Comment #:

RY-01

Comment #s: 003.013, 003.014, 003.015, 004.035, 004.049, 018.028, 022.005, 025.908, 118.801

Summary Comment:

Will the hydraulic control and containment (HCC) system be designed to contain product even during emergency situations, such as power outages, abnormal physical abuses from heavy traffic or train vibrations, or natural calamities (flooding, seismic)?

Response:

The details of the HCC system have not been defined yet, but plans are being made to provide technical review, during the design review process, for all situations and conditions. The HCC will have redundant containment features that will be robust and suffice as adequate back-up during emergency situations without the need to rely on contingencies in the event of product containment failure. The HCC will be designed to prevent releases indefinitely. Whereas

containment will be the primary goal of the system, as groundwater control is being maintained there is expected to be significant product and dissolved contaminant removal taking place. Control, as well as containment, will exist vertically from the silt layers to the surface, and laterally around the plume on the railyard. The contaminant removal, both through flushing in association with the HCC system and by excavation of contaminated soil over a period of 20 years, also will provide a reduced risk of release with time.

Document Change?: No

Railyard Zone, How clean

Summary Comment #:

RY-02

Comment #s: 004.034

Summary Comment:

One commentor said that it was good that the Cleanup Action Plan states in Section 4.1.6, page 32, that the work will continue until standards are met.

Response:

Ecology believes this comment refers to the continued operation of the hydraulic control and containment system, which must be operated until groundwater standards are met. The Cleanup Action Plan notes in the same section that the operating time for the system is currently considered to be indefinite.

Document Change?: No

Railyard Zone, Metals

Summary Comment #:

RY-03

Comment #s: 018.003

Summary Comment:

How will heavy metal contaminants in the upper two feet of soil be "contained" in the railyard?

Response:

The upper two feet of metals-contaminated soil will be excavated, not contained as the comment suggested. Excavations will be backfilled with clean material. This will result in the upper two feet of soil having metals contamination less than cleanup levels.

In areas close to the tracks, excavations may need to be less than two feet; such areas will be addressed in the Engineering Design Report.

Metals-contaminated soil deeper than two feet will be contained beneath two feet of clean material. Restrictive covenants will be placed on the railyard to ensure containment remains effective.

Document Change?: No

School, Additional investigation *Summary Comment #:* SCH-01

Comment #s: 004.012

Summary Comment:

What additional focused subsurface characterization work is proposed around the school prior to ultimate cleanup remedy selection?

Response:

As evaluation of the remedial technologies for the school progresses, the extent of the contamination beneath the school will be determined. The Cleanup Action Plan states (Section 6.2) that an investigation will be required to assess how to clean up contamination beneath the school to the degree technically possible. A work plan for alternatives evaluation will be prepared by November 30, 2007. Also, a work plan for comparative physical testing will be prepared by January 31, 2008. This work plan will include a technology review report on available information from literature research and accompanying work plan for conducting comparative physical tests to assess and compare the technologies being considered, and a report on the results of comparative physical testing. A final school alternatives evaluation report will be prepared that will provide a basis for deciding which technology will be used. The final report will be due no later than October 31, 2008. Thus, it is expected that a focused subsurface evaluation will be performed throughout this process and will be completed within a year's time.

Document Change?: No

School, Technology selection *Summary Comment #:* SCH-03

Comment #s: 014.004, 004.050, 103.803

Summary Comment:

The method for cleaning up beneath the school should be defined prior to finalizing the agreement between Ecology and BNSF. Thought needs to be given to the impact of the chosen treatment technology, such as generation of steam by thermal treatment, on the school building.

Response:

Ecology and BNSF recognize the importance of the school and any cleanup actions that affect the school. Section 6.2 of the Cleanup Action Plan specifies a process by which the method for cleaning up beneath the school will be developed. A Special Design Report will be prepared that will result in selection of the technology to be used. Once selected, the implementation of the technology will be specified in the Engineering Design Report. These reports are deliverables under Exhibit C of the Consent Decree. Once approved by Ecology, these reports

are integral and enforceable parts of the Consent Decree. This approach avoids delaying the rest of the cleanup until the method for cleaning up under the school was decided upon.

BNSF has hired Farallon Consulting, whose sole responsibility is designing the remediation plan beneath the school. The Final School Alternatives Work Plan discussed in Section 6.2 of the DCAP will be submitted no later than November 30, 2007, and will describe the technologies to be considered. Selection of a final cleanup technology for the school is expected to be made by October 31, 2008, almost two years before treatment at the school is scheduled for implementation.

Document Change?: No

School, Vapor monitoring	<i>Summary Comment #:</i>	SCH-04
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Comment #s: 020.003

Summary Comment:

Can there initially be daily vapor monitoring in the Skykomish School’s basement when thermal treatment begins so that we can ensure the safety of the students, faculty, and staff?

Response:

An industrial hygienist will be hired to assist BNSF in developing an air monitoring program specific to the school and any treatment systems installed at the school to ensure the health and safety of students, teachers, staff, and visitors. The frequency of monitoring will depend on the selected treatment method and level of occupation of the school building during treatment. The air monitoring plan will be part of the Compliance Monitoring Plan prepared for 2010, or the year that treatment beneath the school is performed. Ecology will review and approve this plan. Ecology will coordinate review with the Washington Department of Health and other appropriate parties.

Document Change?: No

Schedule, Editorial	<i>Summary Comment #:</i>	SCHED-01
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Comment #s: 004.030

Summary Comment:

Sec. 4.1.3, P. 24, 5th paragraph: GOOD that multiple seasons can be considered, if needed.

Response:

Comment noted.

Document Change?: No

Schedule, Fast completion**Summary Comment #:** SCHED-02**Comment #s:** 010.003**Summary Comment:**

One commentor expressed an interest in seeing the cleanup be completed as soon as possible, and Ecology has informally heard this comment from many others.

Response:

Comment noted.

Document Change?: No**Schedule, Phase length****Summary Comment #:** SCHED-03**Comment #s:** 019.004**Summary Comment:**

Will the remediation in the South Developed Zone be completed in the summer of 2009 or will activities in that area carry on into 2010 as well?

Response:

BNSF's goal is to complete construction activities in the SDZ during the 2009 construction season. Restoration may extend into 2010.

Document Change?: No**Schedule, Railyard****Summary Comment #:** SCHED-04**Comment #s:** 019.005**Summary Comment:**

The railyard is not going to be cleaned up in 2007, as discussed in preliminary presentations of the cleanup plans. Is it possible that cleanup activities on the railyard can be finished in 2009?

Response:

The degree of planning necessary for this cleanup meant that cleanup could not occur in 2007. The current cleanup schedule took into account the Town's wish to have the primary commercial district cleaned up in time for the town's centennial celebration. The hydraulic control and containment system (HCCS) construction on the railyard is scheduled to occur in 2008. Additional excavation of source material on the railyard may be performed anytime over a 20-year period.

Cleanup activities on the railyard will occur throughout the cleanup because it will be used as an office, equipment staging, and soil handling area.

Document Change?: No

South Developed Zone, Additional investigation needed	Summary Comment #:	SDZ-01
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Comment #s: 019.002

Summary Comment:

Is there going to be a supplemental drilling investigation in the SDZ to further determine the extent of contamination there?

Response:

Supplemental investigations are underway in this area and will be completed in 2007.

Document Change?: No

Septic systems, Editorial	Summary Comment #:	SEP-01
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Comment #s: 012.055, 122.001, 122.002, 122.003, 122.004, 122.005, 122.006, 122.007, 122.008, 122.009

Summary Comment:

Comments on the 2003 DEIS asking for additional information pertaining to septic systems.

Response:

The current plan is to connect affected residents to a town wastewater treatment system. The current septic systems will be decommissioned as connections are made.

Document Change?: No

Cleanup Standards, Origin of	Summary Comment #:	STDS-01
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Comment #s: 018.002, 018.027, 020.004

Summary Comment:

Where can the origin of soil cleanup levels (CULs) and remediation levels (RLs) be found?
Where is the origin of cleanup standards for indoor and ambient air documented?

Response:

Development of the CUL's and RL's for the site are in Chapter 5 of the 2005 Feasibility Study. This document is available on the Ecology web site. The detailed development of the petroleum cleanup level for soil to protect soil biota is in Appendix D of the Feasibility Study.

The establishment of the Method B air cleanup level is provided in a technical memorandum prepared by Ecology (12/10/2004) that pertained to the development of all the petroleum cleanup levels at this site. The establishment of the Method C air cleanup level of 2944 ug/m³ is discussed in a memo from RETEC, 2007 and Argus Pacific, 2007. These memoranda are available from Ecology upon request.

Document Change?: No

Cleanup Standards, Groundwater	Summary Comment #:	STDS-03
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Comment #s: 025.907

Summary Comment:

Is the groundwater being cleaned up to a standard that is protective of drinking water and of sediments?

Response:

Groundwater entering the Skykomish River and the Former Maloney Creek wetland will be cleaned up to a standard which protects sediments. The petroleum cleanup level in groundwater necessary to protect sediments is 208 µg/L. This concentration is less than the petroleum cleanup level in groundwater necessary to protect drinking water use, which is 477 µg/L.

The cleanup action plan requires groundwater to meet the cleanup level protective of sediments of 208 µg/L where groundwater flows south out of the railyard into the Former Maloney Creek wetland. Groundwater flowing north out of the railyard under the Town is required to meet the petroleum concentration protective of drinking water, 477 µg/L. The concentration protective of drinking water of 477 µg/L is a remediation level rather than a cleanup level. Meeting it beneath the Town is a goal rather than a requirement.

The cleanup action plan provides that if groundwater leaving the railyard meets the 477 µg/L concentration and if excavation, air-sparging, school cleanup activities, and containment at properties where access for excavation is not obtained are conducted in the off-railyard areas, no further actions to meet the 477 µg/L remediation level will be required. This allows flexibility in case some areas downgradient from properties not allowing access for cleanup, or the school, do not meet the 477 µg/L standard. Ecology anticipates that it is likely that the 477 µg/L concentration will be met everywhere except directly under the school and directly under properties that do not allow access for excavation. If this is not the case, Ecology expects groundwater will be close to drinking water standards.

Clarification has been made in Section 3.4 of the Cleanup Action Plan under the paragraph on Groundwater. "(See Figure 6)" has been added to the end of 3rd sentence, so that it reads, "...at the points where groundwater enters the Skykomish River and the FMC Zone (see Figure 6)."

Document Change?: DCAP

Clarification has been made in Section 3.4 of the Cleanup Action Plan under the paragraph on Groundwater. "(See Figure 6)" has been added to the end of 3rd sentence, so that it reads, "...at the points where groundwater enters the Skykomish River and the FMC Zone (see Figure 6)."

Cleanup Standards, Mitigation	Summary Comment #:	STDS-04
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Comment #s: 021.001

Summary Comment:

If an SEIS mitigation is included in the EDR, is it enforceable?

Response:

Yes. Any mitigation that is placed in the Consent Decree (CD), including any exhibit to the CD, such as the Cleanup Action Plan (CAP), and any CD deliverables such as an Engineering Design Report, Special Design Report, Confirmational Monitoring Plan, etc. is enforceable. BNSF and Ecology will incorporate any mitigations described in the final environmental impact statement into the enforceable documents.

The sentence in the cleanup action plan on page 65 stating, "Mitigating measures described in the Final Environmental Impact Statement (Ecology 2007) are to be incorporated in the engineering design report and other follow-on documents, as appropriate" has been revised to clarify that the "as appropriate" applies to placing the mitigating measure in the appropriate document, as follows, "Mitigating measures described in the Final Environmental Impact Statement (Ecology 2007) are to be incorporated in the engineering design report or other appropriate deliverables specified in Exhibit C of the Consent Decree."

Document Change?: DCAP

The sentence in the cleanup action plan on page 65 stating, "Mitigating measures described in the Final Environmental Impact Statement (Ecology 2007) are to be incorporated in the engineering design report and other follow-on documents, as appropriate" has been revised to clarify that the "as appropriate" applies to placing the mitigating measure in the appropriate document, as follows, "Mitigating measures described in the Final Environmental Impact Statement (Ecology 2007) are to be incorporated in the engineering design report or other appropriate deliverables specified in Exhibit C of the Consent Decree."

Cleanup Standards, Sediment	Summary Comment #:	STDS-05
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Comment #s: 025.902

Summary Comment:

How does the site sediment cleanup level compare to Canada's freshwater cleanup standards, and can a method to determine the long-term impacts on the biotic community be employed?

Response:

The site's sediment cleanup level of 40.9 mg/kg total petroleum hydrocarbon (TPH) was determined using bioassay methods that are standard in the State of Washington and authorized through the Model Toxics Control Act Cleanup Regulation and the Sediment Management Standards. Washington State's Department of Ecology does not have the authority to require other state or international freshwater sediment standards to be met at cleanup sites. Hence, consideration of Canada's standards is beyond the scope of cleanup level development for this site.

Long-term impacts are assessed in the river when biological or chemical evaluation is performed at the required periodic monitoring events. A schedule of the periodic monitoring events for sediments will be developed in the Compliance Monitoring Plan that is required under the site's Consent Decree.

Document Change?: No

**Vegetation and Terrestrial Habitat,
Editorial**

Summary Comment #:

V&TH-01

Comment #s: 126.056, 126.159

Summary Comment:

Bald Eagle seen along river. Vine maple not included.

Response:

Comment noted. Addressed in ESA section of SEIS.

Document Change?: No

**Vegetation and Terrestrial Habitat,
FMC**

Summary Comment #:

V&TH-02

Comment #s: 020.006

Summary Comment:

Protect wildlife in Former Maloney Creek (FMC) prior to and after cleanup.

Response:

A biological evaluation will be completed for work in FMC. Mitigation will include habitat restoration designed to protect and promote wildlife.

Document Change?: No

Vegetation and Terrestrial Habitat, No broadleaf maple **Summary Comment #:** V&TH-03

Comment #s: 003.023

Summary Comment:

Do not use broadleaf maple trees as mitigation or landscape plantings.

Response:

Comment noted. Work on the levee required a permit from the U.S. Army Corps of Engineers under the Clean Water Act. This permit is known as a Nationwide 38 permit. Under this permit, the Corps required the inclusion of broadleaf maples in the vegetation restoration plan. Work for Former Maloney Creek has not been permitted yet and may have a different vegetation restoration plan.

Document Change?: No

TABLE 4

Summary of Document Changes

CD

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- ED-35 Consent Decree Exhibit C, List and Schedule of Deliverables, has been changed where appropriate.
- ED-38 The CD Exhibit H, "Model Restrictive Covenant" has been edited as follows: "Section 10. By signing this Covenant, the Owner does not intend to affect the scope of existing federal preemption."
- EI-06 See change to Consent Decree Exhibit G noted under RELOC-06.
- NRD-04 Changed CD language in XVIII, part D last line from "If the Town does not implement the Plan, the funds will be transferred to the Skykomish Recreational and Terrestrial Restoration effort." to "Any remainder of funds can be used to implement other portions of the Town's Wastewater Facility Plan dated June 2007. If the Town does not implement the plan or expend all the funds, the funds or any remainder will be transferred to the Skykomish Recreational and Terrestrial Restoration effort."
- RELOC-06 The following bullet point has been added to Consent Decree Exhibit G, Guidelines for Temporary Relocation: "If BNSF and residents cannot agree to terms of access, relocation, or property restoration, Ecology will provide a neutral mediator to assist the parties in reaching agreement."
- RST-06 CD, Exhibit E, added a substantive requirement to Appendix E of the Consent Decree that BNSF must submit the engineering design documents and draft construction plans and specifications specified in Exhibit C of the Consent Decree to the Town at the same time these documents are submitted to Ecology.

CD/DCAP

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- ED-01 Exhibit A: The maps showing the railyard facility property in Consent Decree Exhibit A has been revised to reflect the survey of the Railroad Avenue right-of-way that BNSF completed for the Town in August 2006.
- In Section 2.2 of the Cleanup Action Plan, the last sentence of the bullet "Railyard Zone" has been revised to read as follows: The Railyard Zone includes five small areas immediately adjacent to the BNSF's railyard facility property: two with surface soil impacted by arsenic and lead, and three with surface and subsurface soil impacted by petroleum. Figure 5 was updated.
- ED-02 Consent Decree Exhibit C, List and Schedule of Deliverables, and Section 6.2 of the cleanup action plan have been corrected to be consistent with each other and updated to reflect ongoing work performed during preparation of this Response to Comments. The due date for submitting the Final School Alternatives Evaluation Report is July 1, 2009.

Please refer to Cleanup Action Plan Section 6.2 and Exhibit C of the Consent Decree, List and Schedule of Deliverables, to see the final schedule.

DCAP

CPOC-01

The following changes have been made to the cleanup action plan regarding use of a conditional point of compliance:

1. The paragraph preceding Section 3.4 was revised to read as follows: "Ecology carefully reviewed whether these requirements were met before selecting the cleanup actions for the BNSF Skykomish Site from the alternatives and information presented in the Feasibility Study (RETEC, 2005). The manner in which Ecology determined whether the first three requirements were met is discussed further in Chapter 5. The fourth requirement was met based on the mailing of required notices and the receipt and review of comments received on the proposal. Finally, affected property owners have approved the use of the conditional point of compliance in writing, per WAC 173-340-720(8)(d)(ii), as discussed further below."
2. The first paragraph of the Groundwater discussion in Section 3.4 has been revised to read as follows: "Groundwater – The petroleum cleanup level for groundwater is 208 µg/L NWTPH-Dx and absence of sheen or free product. This cleanup level is based upon protection of sediment from recontamination by groundwater flowing through it. The cleanup level point of compliance for groundwater is shown on Figure 6."
3. A paragraph has been added to the Groundwater discussion in Section 3.4 as follows: "Property owners affected by the conditional point of compliance have approved the CPOC in writing. Two property owners did not approve the conditional point of compliance and one property owner could not be located. Ecology has enclosed these properties within a boundary exclusion interior to the larger conditional point of compliance area shown on Figure 6. Therefore, these properties will not be affected by use of the conditional point of compliance. Subject to each owner providing access for cleanup and monitoring, the groundwater cleanup level of 208 µg/L NWTPH-Dx and absence of sheen or free product will be required for these properties. As a contingency measure (if necessary to prevent recontamination), air-sparging, enhanced bioremediation, or similar in-place treatment measures will be taken upgradient of these properties to ensure the groundwater cleanup level will be met on these properties."
4. The fifth paragraph of Section 4.1.2.1 has been revised to read as follows:

"Air-sparging, enhanced bioremediation, or other similar in-place treatment measures may be required at the conditional point of compliance at or near the levee river or around individual properties shown on Figure 6 at any time following completion of the primary cleanup activities described above if the petroleum cleanup level of 208 µg/L NWTPH-Dx is not being met at its conditional point of compliance, or if sheen or free product is observed at the conditional point of compliance. Compliance monitoring data reviews may be conducted at any time. Further contingency cleanup activities will not be required so long as the groundwater cleanup level of 208 ug/L NWTPH-Dx is being met at its conditional point of compliance and no sheen or free product is observed at the conditional point of compliance. If the foregoing conditions are met, soil petroleum contamination of less than 3,400 mg/kg NWTPH-Dx will be considered sufficiently contained for the purposes of groundwater, sediment and surface water protection."

5. The first paragraph of section 6.4 has been revised to read as follows:
 "Overburden soil is soil above the smear zone. Overburden soil with petroleum concentrations less than the 3,400 mg/kg NWTPH-Dx may be managed on site, but Ecology will leave the final decision to BNSF. However, soil within two feet of final grade must meet the petroleum cleanup level of 1,870 mg/kg NWTPH-Dx. This is to ensure soil petroleum concentrations are protective of soil biota in the near surface. In addition, backfill placed on the three properties whose owners did not approve a conditional point of compliance must have petroleum concentrations less than 22 mg/kg NWTPH-Dx, unless property owners approve a higher concentration." The remainder of the original paragraph was made into a separate paragraph with no changes to the text.

- ED-24 " ... will be contained >>with two feet of clean soil backfill<<." was added at the following two locations: Section 3.4, on Page 14, second paragraph, last sentence and Section 4.2, on Page 34, third paragraph, second sentence.
- ED-25 On DCAP Figure 6, the two south plumes and far east plume have been labeled with XFP to clarify these two plumes will be excavated. Also, the registration of the overlay showing the location of the surface metals areas has been corrected. Also, the location of the hydraulic control and containment system along the north railyard boundary needs to be shifted south to show it on the railyard as well as potentially underneath Railroad Avenue.
- ED-26 Chapter 5 equations: The divide sign in the Word document changes to a 4 when the Word document is converted to Acrobat. The symbol has been changed to a slash (/).
- ED-27 Page 19, section 4.1.2.1, 3rd paragraph, second sentence "see the next section" after "under the school" has been added.

ED-28	Page 31, first paragraph, first sentence: Inserted the words "any extracted" between "pump" and "groundwater".
ED-29	A note has been added to Figure 9 reading, "Design considerations may result in the redundant barrier system shown on Figure 9 extending beyond BNSF's property boundary."
ED-30	Page 62, 3rd full paragraph, first sentence. Inserted the words "and upon which remediation resulted in relocation of the structure or removal of the pre-existing onsite septic system," between the words "structure," and "BNSF".
ED-31	Page 64, section 6.2, first paragraph. After the 4th sentence, added the following sentence: "Pre-excavation explorations, discussions with stakeholders, and the results of confirmation sampling during construction may result in modification of some of the excavation boundaries shown on Figure 13."
ED-33	Section 4.1.2, Page 18 and Section 4.1.3, Page 24, after last sentence. Added this sentence at the end of the first paragraph: "No structures will be relocated to facilitate surface metal contamination removal unless the metals contamination is coincident with TPH contamination that requires a structure to be relocated."
ED-34	Corrected: Page 52, first bullet, 3/4 of way through paragraph, in in (word repeated) - extra "in" deleted.
ED-37	In Table 1, "within the Railyard Zone" has been deleted from the description of the point of compliance for soil with respect to the 1,870 mg/kg concentration so that the requirements applies generally.
RELOC-04	Changed: Section 6.1 Community-Based Cleanup: Integrating Community Concerns, page 61 paragraph three: The last bullet has been edited to clarify that property owners will be able to hook up to the wastewater treatment system if they agree to have their homes temporarily relocated while excavation occurs on their property.
REMSEL-03	Section 5.3, page 42, inserted as noted: ECY relies on many of the technologies used in the alternatives developed in the Feasibility Study as well as technologies developed by Ecology, ***Insert>>primarily excavation and air-sparging<<End Insertion***. ECY uses enhanced bioremediation and natural attenuation only at lower petroleum concentrations, where these technologies have a greater chance of being effective.
REMSEL-07	Section 6.2, School Alternatives Evaluation Work Plan - Inserted a space between "for" and "comparative" in the following sentence: "A work plan forcomparative physical testing will be prepared by January 31, 2008."

RVW-12	
STDS-03	Clarification has been made in Section 3.4 of the Cleanup Action Plan under the paragraph on Groundwater. "(See Figure 6)" has been added to the end of 3rd sentence, so that it reads, "...at the points where groundwater enters the Skykomish River and the FMC Zone (see Figure 6)."
STDS-04	The sentence in the cleanup action plan on page 65 stating, "Mitigating measures described in the Final Environmental Impact Statement (Ecology 2007) are to be incorporated in the engineering design report and other follow-on documents, as appropriate" has been revised to clarify that the "as appropriate" applies to placing the mitigating measure in the appropriate document, as follows, "Mitigating measures described in the Final Environmental Impact Statement (Ecology 2007) are to be incorporated in the engineering design report or other appropriate deliverables specified in Exhibit C of the Consent Decree."

DSEIS

CI-07	A mitigating measure has been added to Table 1-2, under Dust and Air, and to Section 3.2.2 in the 2007 Final EIS. The measure provides that the exterior of any building affected by dust from construction will be cleaned as necessary, and that if cleanup activities create an unusual amount of dust inside a building the owner may call the construction contact to discuss an appropriate cleaning service.
CI-10	The Final EIS includes exterior and interior cleaning after construction as a mitigation measure (Section 3.2.2). Ecology and BNSF will work with the Library during development of construction plans to address Library-specific concerns including mitigation such as furnace maintenance, replacing furnace filters, paving or dust suppressant, sweeping, maintaining public access, safe and accessible parking, and accumulation of muddy construction water.
ED-05	A List of References has been added to the Final EIS.
ED-10	NFS has been changed to USFS in the Final Environmental Impact Statement, Section 2.1.1.
ED-12	The Final Environmental Impact Statement, Section 3.1.5, Pg. 3-4, 1st paragraph, last sentence, "... at the confluence ..." has been changed to "... near the confluence of Maloney Creek and the Skykomish River ..."
ED-14	MBSNF recommended species have been added to Section 3.4.2 of the Final Environmental Impact Statement.
ED-15	Observation of listed steelhead species has been added to Section 3.4.2 of the

	Final Environmental Impact Statement.
ED-16	The title of Figure 2-2 has been revised to "Town of Skykomish Street Map." The street names have been changed to red for easier readability.
ED-18	The public library has been added to the environmental impact statement as a public building on DSEIS p. 4-22.
ED-20	The school has been added to the list of major structures in Section 2.1.1. paragraph 2.
ED-21	Text has been added to Section 4.4.3 of the Final EIS to indicate a map showing locations of both public and private utilities, including the location of the Sprint fiber optic cable, will be included in the Engineering Design Report.
ED-22	Footnote 1, Section 2.1.1, p. 2-1 has been corrected to read "...reaches of the South and North Forks of the Skykomish River which are proposed for Wild, Scenic, and/or Recreation status under the National Wild Scenic Rivers Act, and currently designated as Scenic Rivers under Washington State law..."
ED-23	The boundary was corrected in the Final EIS figure.
GSFE-02	Included a definition of "floodway" on Figure 3-1.
GSFE-05	Section 3.1.2: added after the last sentence of mitigation measures, "The Engineering Design Report will include specifications for the chemical and physical quality of the replacement topsoil. If manufactured topsoil is used, it must meet specification limits already set by the state for manufactured topsoil products, e.g. < 1% inert material.
HA-03	The first paragraph of Section 4.2.3 of the Final EIS has been revised to more accurately identifies historic structures and recognized districts.
HA-06	A description of historic preservation codes and regulations has been added to Section 4.2.3 of the 2007 Final EIS.
RELOC-02	Section 4.2.4 - A new paragraph was inserted under mitigating measures, after "...vibrations will be repaired": A post restoration inspection will be conducted with the property owner, the contractor conducting the work, and BNSF or their representative to assess whether restoration has been completed appropriately and in accordance with the access agreement between the property owner and BNSF.
	Added this also to section 4.2.5 and 4.4.2 - same places.

FS

ED-03 The Fact Sheet has been updated to correct a unit error: 477 mg/L was changed

to 477 ug/L.

PPP

ED-08

Section 2, Public Participation Tools, has been updated to include access arrangements, as follows:

"Throughout the planning and active cleanup work in Skykomish, BNSF and its contractors will need access to private properties in order to conduct investigations and carry out cleanup activities.

For access to private property, where work does not include drilling holes or removing any structural elements, BNSF will verbally ask the property owner for permission to enter their property. If the work does require drilling or entering a building for detailed structural surveys, BNSF will consult with the property owner in person or over the phone, and confirm this with a mailed letter. If cleanup activities require more extensive access to private property, such as making modifications to buildings, BNSF will develop a formal access agreement that is signed by all parties."

The schedule of events for 2007 has been updated through March 2008.