



Response to Comments: Interim Action for Cleanup of the Levee Zone

Public Comment Period: March 3 to April 3, 2006

**BNSF Skykomish Site
(Former Fueling and Maintenance Facility)
Skykomish, Washington**

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

April 2006

Responsiveness Summary Interim Action for Cleanup of the Levee Zone

BNSF Skykomish Site Skykomish, Washington

Table of Contents

1.0	Introduction	3
1.1	Organization of Responsiveness Summary.....	3
1.2	Next Steps	3
2.0	Comments and Responses	4
2.1	Agreed Order	4
2.1.1	Engineering Design Report	4
2.1.2	Public Participation Plan	8
2.1.3	Temporary Relocation and Disruption of Nearby Properties	10
2.1.4	Construction Schedule	10
2.1.5	Scope of Work	11
2.1.6	Additional Changes to the Agreed Order	14
2.2	National Pollutant Discharge Elimination System Permit	14
2.3	Environmental Impact Statement	17
2.3.1	General Comments	17
2.3.2	Economics	23
2.3.3	Historic and Archaeological	24
2.3.4	Infrastructure	24
2.3.5	Property Surveys	25
2.3.6	Septic	26
3.0	Commentors	30
3.1	Commentors by Name	30
3.2	Commentors by Number	32
4.0	Original Comments	34

1.0 Introduction

The Washington State Department of Ecology (Ecology) and BNSF Railway Company (BNSF) have prepared the plans to begin an interim action to clean up the Levee Zone of the BNSF Skykomish Site in Skykomish, Washington. The following draft plans were presented to the public for comment from March 3 to April 3, 2006: *Agreed Order*, *National Pollutant Discharge Elimination System (NPDES) Waste Discharge Permit*, and *Draft Environmental Impact Statement*. Two exhibits of the *Agreed Order* are documents in themselves and notable for the proposed cleanup. These are: *Exhibit C: Engineering Design Report – Levee Remedial Action* and *Exhibit F: Public Participation Plan*. Public comment for the *National Pollutant Discharge Elimination System (NPDES) Waste Discharge Permit* completed on April 6, 2006, to allow for the required time for public comment under Ecology's Water Quality Program. This *Responsiveness Summary* summarizes all comments received during the public comment period 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 results in the oil being smeared in soils between the high and low groundwater levels. Sediments in the river are contaminated with oil. Free product occurs at the groundwater table, and groundwater contains dissolved contamination as well. Oil continues to seep into the Skykomish River.

Under the proposed *Agreed Order* BNSF will conduct, and Ecology will oversee, cleanup in the levee and nearby upland areas and sediments in the Skykomish River in the summer of 2006. Five residences are expected to be relocated temporarily.

1.1 Organization of Responsiveness Summary

This *Responsiveness Summary* is organized by document – *Agreed Order* (including the *Engineering Design Report* and *Public Participation Plan*, which are exhibits of the Order,) *NPDES Waste Discharge Permit*, and *Draft Environmental Impact Statement*. Summarized comments are listed with comment numbers following. See Section 3.0 List of Commentors to cross-reference who made what comment. All original comments are included in Section 4.0 of this document.

1.2 Next Steps

Following the publication of this *Responsiveness Summary*, the documents will be changed as noted herein and finalized. The *Draft Environmental Impact Statement* is due to be finalized and published concurrent with the *Responsiveness Summary*. According to State Environmental Policy Act (SEPA) requirements, the remaining documents will be finalized no sooner than 7 days later. Work at the site is scheduled to begin on May 15, 2006. Under the

Agreed Order, major construction activities are due to be completed by October 2006, and all associated work during 2007.

Ecology is continuing to prepare the plans to clean up the remaining areas of the site while this levee cleanup proceeds. A public comment period on the Cleanup Action Plan is anticipated for fall of 2006, with work on the next area anticipated to begin in 2007.

2.0 Comments and Responses

2.1 Agreed Order

2.1.1 Engineering Design Report

Comment: Paragraph 3.10.2. Consider removing the reference to BNSF's preferred plan in sentence 4. This interim action is not BNSF's preferred cleanup. (15.06)

Response: Ecology agrees that this interim action does not constitute the Preferred Alternative presented by BNSF in its *Draft Supplemental Remedial Investigation and Final Feasibility Study March 2005*, and the reference will be removed.

Comment: Paragraph 3.6. Groundwater and product migration assumptions based on previous groundwater modeling for the 2001 barrier wall installation may or may not be relevant depending on sheet piling depths, free product flow rates, etc. There is no description on how monitoring would be performed to ensure no recontamination or contingency to remove and prevent further recontamination. (15.05)

Response: The excavation site for the interim action will be engineered to reduce the likelihood of recontamination. Also, monitoring of the levee cleanup including replacement of groundwater monitoring wells, will be incorporated into the final cleanup action, and the final cleanup action is expected to occur within a time period that ensures any recontamination will be minimal or nonexistent given the extremely slow contamination migration rates. It is consequently anticipated that there would not be enough time to both conduct monitoring as part of this interim action and evaluate the results of monitoring before the next work phase begins. If the final cleanup is delayed for any reason, contingent actions to prevent longer term recontamination can be implemented as necessary.

BNSF will continue monitoring activities in accordance with the current site-wide Groundwater Monitoring Plan. BNSF will prepare and submit a revised Groundwater Monitoring Plan no later than January 15, 2007, according to the Agreed Order.

Comment: Figure C-8. Requirements on the design report indicate that the portable equipment staging area is to be returned to normal by August 25, 2006. Who is responsible for enforcing these requirements? How will they be enforced? (18.01)

Response: This area will no longer be used for the Town's annual car show on August 25, 2006, so the requirement to restore the area to normal conditions by this date is no longer necessary.

Ecology is ultimately responsible for enforcement of all requirements contained in the Engineering Design Report. The Engineering Design Report is an exhibit of the Agreed Order, which is the enforceable legal mechanism used under the Model Toxics Control Act to clean up this portion of the site.

Comment: Page 3-1, Section 3.1.1. Include citations when referencing Town building codes and design guidelines. (7.12)

Response: Citations will be added to the Engineering Design Report according to Exhibit H.2 of the Agreed Order.

Comment: Sampling and Analysis Plan, Section 3.1, page 3-1. One grab sample mixed to single composite may not be representative if one quadrant is highly contaminated and others not. (16.02)

Response: The Sampling and Analysis Plan will be revised to require that one discrete sample be taken for each quadrant.

Comment: Sampling and Analysis Plan, paragraph 3.2. There is a concern about the proposed compositing of collected Excavation Performance Samples. Grab sample/composite sample protocol could miss localized heavily contaminated areas. Field observation may be difficult with standing water and turbidity. It would be prudent to implement contingency protocols. (15.07)

Response: The Sampling and Analysis Plan will be revised to require discrete samples for compliance with remediation levels and cleanup levels. Ecology is requiring that additional samples be taken of visually impacted areas within the excavation. Field observations may be difficult with the standing water, but controlling water quality will assist in determining if contaminated soil remains in the excavation.

Comment: Sampling and Analysis Plan, Section 4.1, page 4-1. Make public record and publicize sampling frequency and testing requirement for stockpiles of impacted materials designated for disposal when agreed upon by Ecology and BNSF. (16.04)

Response: Sections 4.2 through 4.4 of the Sampling and Analysis Plan contain the requirements for stockpile sampling, and is a public document. On-site stockpile sampling will be performed to assess whether material can be used on-site. Material sent off-site to a permitted disposal facility will be tested according to the disposal facility requirements. All results are public documents as well.

Comment: Composite samples are inappropriate for compliance sampling. Discrete samples should be used. (8.06)

Response: The Sampling and Analysis Plan will be revised to require discrete samples for compliance sampling.

Comment: Deviations from standard sampling procedures should not only be recorded in a field log book, but should also be presented in the ensuing investigation report. (18.09)

Response: Deviations from the standard sampling procedures will be included in BNSF's weekly status report to Ecology as well as recorded in field notebooks at the time of the deviation to avoid omission in the final report.

Comment: Trip blanks should be required for purposes of quality control. (18.07)

Response: Trip blanks are used for water samples particularly when sampling for volatile organic compounds. The Sampling and Analysis Plan is for soil samples to be tested for Total Petroleum Hydrocarbons, and trip blanks are not a necessary quality control element. Equipment rinsate blanks will be collected in accordance with Section 7.1.2.

Comment: Rejection/Acceptance criteria for percent recovery of matrix spikes and precision should be specified in the Sampling and Analysis Plan and subject to Ecology approval. (18.08)

Response: All Quality Control and Quality Assurance information and documentation will be considered in determining acceptability of data. Predetermination of Rejection/Acceptance criteria is not as prudent as considering high bias/low bias effects upon the reported result. The affect of this bias will then be determined relative to its impact upon the Practical Quantitation Limit of the individual sample and how close the Practical Quantitation Limit is to the required cleanup level.

Comment: Consider localized "confirmation monitoring" of the Levee Zone prior to the creation of the Cleanup Action Plan in the event of unforeseen delays. Incorporate local Levee Zone confirmation monitoring activities into the larger site "confirmation monitoring plan" at a later date. (15.01)

Response: The necessity of localized Levee Zone confirmation monitoring will be considered when preparing the final Cleanup Action Plan.

Comment: Is groundwater movement an issue? How do you know groundwater will not recontaminate cleaned up areas? (22.13)

Response: Sheet piling will be left in place at the upgradient edge of excavation areas to minimize oil from entering clean areas. The water table is not expected to be significantly different after work is complete. Although dissolved hydrocarbons in groundwater may flow under and around the sheet piling, the concentration of dissolved hydrocarbons is not expected to be high enough to recontaminate soil above concentrations required to be met by the cleanup. Given the timing of this interim action and that additional upland excavation of oil and

contaminated soils will be required in the final cleanup plan, it is expected that future contamination of newly placed clean soils will not occur above cleanup levels.

Comment: How would high water levels impact the cleanup of the Levee Zone? (22.12)

Response: High water levels within the river are not expected to interfere with the project schedule. Engineering designs have anticipated significantly higher water levels than current snow-pack would indicate. If even higher water levels exist than those anticipated, the start date of the project could potentially be delayed while still meeting the completion date. This might be accomplished by increasing work days per week, work hours per day, or a combination of both.

Comment: How far down will contractors dig to remove contaminated soil? (22.14)

Response: Excavation depth will be approximately 15 to 20 feet or until the end of the contaminated material. Samples will be taken at the bottom of the excavation to confirm contamination was removed consistent with remediation levels and cleanup levels.

Comment: How will contractors address the potential for replaced houses to settle on fill? (22.07)

Response: Appropriate backfill material will be placed in a way that will not allow for substantial settlement to occur. Aggregate placed below the water table will be composed of sandy and gravelly soil that compacts well when placed through water. Soil placed above the water table will be compacted as structural fill that will accept foundation loadings normal in residential and commercial areas without unacceptable settlement - that is, without settlement in excess of that which normally occurs in such structures and tolerable by the structures without cosmetic or structural damage.

The bid documents contain the specifications for backfill type and placement. The fill will be tested to ensure it meets the specifications. (See Sections 2060 and 2310 of Specifications, Skykomish Levee Remediation, Skykomish, Washington, dated March 30, 2006, which is available for review at the Skykomish Library and at Ecology's Northwest Regional Office in Bellevue.)

Comment: Is recovered oil going to be recycled? (11.02)

Response: BNSF's contractor will select a disposal company and facility that are licensed with the State of Washington and are permitted by Ecology to handle waste oil. Most liquid disposal companies either incinerate or recycle the waste oil, depending on the most economical method.

Comment: There is a concern that contaminated oil could enter water lines at leaking points. (5.01)

Response: It is extremely unlikely that contamination would enter the lines because: 1) the lines are currently buried above the contamination; 2) the lines must maintain a positive

pressure and this prevents fluids from being drawn into leak points; and 3) the lines will be replaced in clean backfill.

Demolition and subsequent replacement of all piping and water distribution system equipment will occur and be brought up to current code. A leakage test will be conducted to ensure all modern standards are met or exceeded. The new water distribution lines for the homes in the cleanup areas will be connected to the main distribution line for the Town.

Comment: Regarding contaminated oil entering water lines at leaking points: Will you address this by putting in a complete new system? (6.01)

Response: No new water distribution system is planned for the entire Town. Only areas being cleaned up are due to receive new lines.

Comment: Include the Town in participating in oversight for sampling and analysis or other monitoring. Give people an opportunity to review activities on and affecting their properties. (20.02)

Response: The excavation must meet specific standards that are set by law and enforced through the Agreed Order. Discussions with property owners will occur throughout the project, and information will be shared at that time. In addition, BNSF will submit weekly progress reports to Ecology that will be available to the Town, property owners and the public, and on a website specifically for this cleanup.

2.1.2 Public Participation Plan

Comment: The Public Participation Plan provides multiple excellent resources and ample opportunity for information sharing about the construction work. (15.04, 18.10)

Response: Thank you for the comment.

Comment: It appears the Public Participation Plan of 1993 for the entire site has been replaced. Will there be another plan to address the next phases of work in the other areas? (20.03)

Response: Yes, at least one more plan will be developed to accompany the Consent Decree for the Cleanup Action Plan for the remaining work to be accomplished on the site.

A Public Participation Plan is intended to be applicable to the communication needs of a particular phase of work. The plan is presented to the public as an attachment to a legal agreement to perform that phase of work. At each new phase of work, the plan can be left the same as the previous plan, updated, or completely rewritten.

This is the fourth Public Participation Plan for this site. The first plan was prepared in 1993 with the Agreed Order to perform the Remedial Investigation and Feasibility Study. The next

plan was prepared in 2001 to accompany the Agreed Order for the Interim Action to install a barrier wall. An interim plan was prepared in 2005 to document the communication tools that were being used while preparing cleanup plans and to be consistent with our community-based cleanup commitment. Public comment has just been completed on this latest version of the Public Participation Plan for the Agreed Order for the Interim Action to clean up the Levee Zone. Plans will continue to be updated as the work and communication needs change.

Comment: The website is a tool for updates about the project, but how will Ecology ensure that residents without computers are kept informed? (18.11)

Response: The notices on the website will also be printed and posted in Town and put into the Information Repositories weekly during construction. (See pages 9 and 13 of the Public Participation Plan.) The notices will be posted on the bulletin boards at the Skykomish Community Center, Library, Post Office, Town Hall, the Whistling Post Tavern, and the Cascadia Hotel. (See pages 9-10 of the Public Participation Plan.)

In addition, BNSF and Ecology will publish a newsletter monthly and mail it to all people on the mailing list, and Ecology may send direct communication at any time by letter from the Site Manager with an update on the progress of cleanup. (See page 9 of the Public Participation Plan.)

Comment: Provide an opportunity to review other documents for the cleanup as they become available. (i.e., Design and construction details, remediation contractor bid package, sample frequency and testing requirement of stockpiles of impacted materials designated for disposal.) (16.05, 20.01, 23.03)

Response: It is the intent of Ecology to provide the necessary materials for residents and other stakeholders to keep informed of and follow the cleanup. All documents received by Ecology are public information and are available for review at Ecology's Northwest Regional Office. Major documents can be found in the information repositories for this site. (See page 16 of the Public Participation Plan.)

A website for detailed information regarding this cleanup is under development. The cleanup website will contain specific information that may be of interest to residents living with and following the cleanup daily. The cleanup website can be found at:
www.SkykomishCleanup.com.

The cleanup website for this project is in addition to the formal Ecology website of major documents and public notices for the BNSF Railway Co. Skykomish (formerly Burlington Northern Santa Fe Railway) Former Maintenance and Fueling Facility at Skykomish found at:
www.ecy.wa.gov/programs/tcp/sites/bnsf_sky/bnsf_sky.html. The websites will be linked.

The cleanup website address and a list of the kinds of documents that will become available at a later date will be added to the Public Participation Plan.

Comment: Include the Town in participating in oversight for sampling and analysis or other monitoring. Give people an opportunity to review activities on and affecting their properties. (20.02)

Response: The Town’s technical coordinator will be consulted by Ecology and BNSF to determine compliance with the Town’s substantive codes and regulations. The Town’s technical coordinator will also be given an opportunity to review the documents pertaining to the cleanup as they become available.

Throughout the cleanup, BNSF, Ecology, and the Town will be working closely and interacting regularly with the people who are having their property cleaned up.

Comment: BNSF does not respond to citizen concerns in a timely manner. (8.04)

Response: Ecology and BNSF do intend to respond timely to the concerns of residents at all times, and have written the intention as a goal into the Public Participation Plan. (See page 4.) During construction, there will be several ways for residents and interested parties to share questions or concerns regarding cleanup activities. These methods include speaking with the community outreach person who is on-site during construction, and reporting comments through the call line or cleanup website. Ecology and BNSF will work together to address concerns and respond as quickly as possible.

2.1.3 Temporary Relocation and Disruption of Nearby Properties

Comment: Several comments indicated concern regarding the significant disruption to homeowners who are temporarily relocated and to the use of properties near the cleanup. (12.03, 12.05, 12.09, 12.16, 12.17, 14.01, 14.04, 14.05, 14.06)

Response: The cleanup activities are expected to create levels of disruption similar to any significant public works project that requires extensive excavation, clearing, grading, and temporary closure of public streets and sidewalks. BNSF and Ecology will take measures to reduce the impacts that are consistent with and similar to other such projects. These measures include limiting work hours, controlling dust, controlling noise, and providing flaggers to maintain smooth traffic flow.

Ecology’s review of the comments found that each comment expressed concerns specific to a particular situation. BNSF and Ecology will meet with impacted landowners or residents to discuss issues and specific concerns, and subsequently to take measures to address these issues and identify reasonable and appropriate mitigating measures.

2.1.4 Construction Schedule

Comment: One comment expressed concern that the start work date might interfere with the Artrain event occurring in Skykomish from April 29 through May 2. (1.01)

Response: Although some walk-throughs and site inspections may occur in early May, no significant mobilization of equipment to the site or construction work is expected to occur that will interfere with the Artrain event. House relocations will begin in mid-May.

Comment: BNSF had several comments on the construction schedule presented as Exhibit E of the Agreed Order. (21.01, 21.02, 21.03, 21.04)

Response: As a result of these comments, the schedule will be revised to provide more detail and more flexibility. The changes are as follows:

- The date by which Ecology must be notified whether all relocation/access agreements have been signed will be changed from April 15 to May 1, so as to be after entry of the Agreed Order. The date by which a revised work plan must be submitted if all relocation agreements have not been signed will be changed from May 1 to May 15.
- The draft Agreed Order proposed the date of October 30, 2006, for having all stockpiled contaminated material sent to an off-site disposal facility. To provide more flexibility, this date will be changed to a December 31, 2006, deadline to either have all stockpiled contaminated material off-site or submit a contingency plan to remove all stockpiled material off-site by March 30, 2007. Ecology believes this to be a reasonable alternative. If issues arise regarding these dates, Ecology will work with BNSF toward a timely and effective solution.
- The date for completing all work will be changed from December 30, 2006, to June 30, 2007, to accommodate the need for landscaping and paving activities to occur in the spring. Additional completion dates will be added for specific project activities.
- The submittal date for the draft As-Built Report of March 30, 2007, will remain unchanged, but will include only work performed in 2006. A draft As-Built Report for work completed between January 1, 2007, and June 30, 2007, is to be submitted by July 31, 2007.

2.1.5 Scope of Work

Phasing of Cleanup

Comment: Several comments expressed concern that complete cleanup plans are still being developed. (8.02, 9.01, 12.01, 17.02, 17.08, 17.09, 17.10, 22.10, 23.05, 23.06)

Response: Ecology's conceptual cleanup plan for the entire site was presented to BNSF and the community in individual meetings and a series of public meetings and workshops in December 2005. BNSF's preferred cleanup plan was initially presented to the community in September 2004, and is included in the *Draft Supplemental Remedial Investigation and Feasibility Study March 2005*. Ecology and BNSF were working toward developing a final

cleanup plan for the entire site with the intent to have it available in early 2006; however, it became apparent that due to workload constraints and our mutual desire to begin cleanup in 2006, this was not feasible. As a result, at this time our collective efforts are focused on the levee and river cleanup to be conducted this year. The cleanup that will occur this year is consistent with Ecology's broader cleanup plan for the entire site, both in terms of phasing and the actual cleanup work.

Ecology and BNSF are continuing to develop the plans necessary for cleanup of the entire site. Ecology anticipates presenting draft plans to the community in fall 2006, with work to begin in 2007. It is likely that Ecology will be discussing the plans with the community before this time. It is also likely that experience with the cleanup of the levee and river in 2006 will improve the plans as well as provide the public with a better basis on which to comment on the entire cleanup.

Comment: Some comments above also noted that the prior installation of the underground slurry wall in 2001 failed to be effective in stopping oil from seeping into the river.

Response: The seeps still visible today are likely from oil already between the wall and the river. This assumption is based on extensive soil and sediment borings done during 2005 in and around the levee and in the river bed. The barrier wall was installed as a temporary measure until the final cleanup took place. The total gallons of recovered oil from the recovery wells adjacent to the wall and the upland area have increased at least two-fold since the wall was installed.

Completion of Cleanup

Comment: Several comments expressed concern that a complete cleanup would not happen, that the cleanup being done this summer was only being done at the behest of the U.S. Environmental Protection Agency (EPA), and that no more cleanup would be done after cleanup of the levee and river this summer. (5.04, 5.05, 12.02, 12.09, 17.01, 17.03, 17.05, 17.07, 22.09, 22.11)

Response: Final cleanup of this site is a high priority for the state, and will be accomplished under state cleanup law versus federal cleanup law, which does not regulate the remediation of petroleum in particular. This cleanup is not being done at the behest of EPA. Indeed, Ecology determined that the plan proposed by EPA was a stop-gap measure that would not address the long-term cleanup goals for the site and would result in an unnecessary expenditure of BNSF resources. Hence, Ecology proposed, and BNSF concurred, to work toward a final cleanup for the levee and river that was consistent with the overall cleanup objectives of the entire site. As stated in previous responses to comments, Ecology and BNSF are continuing to develop the plans necessary for cleanup of the entire site. It is anticipated that a draft plan will be presented to the community in fall of 2006.

Comment: Some of these comments expressed concern about starting the cleanup at the levee and river rather than on the rail yard.

Response: Alleviating the extensive ongoing impacts to natural resources in the river is a top priority and outweighs concerns for recontamination by phasing cleanup this way – especially in light of the steps being taken to mitigate this concern and the short time period expected between this first interim phase and final cleanup. Although dissolved hydrocarbons in groundwater may flow under and around the sheet piling, the concentration is not expected to be high enough to recontaminate soil above concentrations required to be met by the cleanup. Given the timing of this interim action and that additional upland excavation of oil and contaminated soils will be required in the final cleanup plan, it is expected that future recontamination of newly-placed clean soils will not occur above cleanup levels.

Of import on how one manages this cleanup are the extensive problems associated with the relatively confined space and logistical issues associated with construction equipment. Ecology recognizes that there will be significant impacts to the community during this cleanup. These impacts need to be minimized to the extent practicable.

Town of Skykomish Requirements

Comment: Concerns were expressed that redevelopment of infrastructure after cleanup will be consistent with Town requirements. (24.05, 24.06, 24.07, 24.08)

Response: Agreed Order Exhibit H.2 presents the Town’s substantive requirements and requires that redevelopment meet these requirements. Ecology will determine compliance in consultation with the Town as necessary and appropriate. Exact specifications are being developed in detailed plans and specifications for the work. These detailed plans will be available to the public when received by Ecology.

Consistency of Action with Town’s Vision

Comment: Several comments expressed concern that elements of the Town’s vision are labeled optional in the cleanup plans. An example is placing utilities underground. (10.02, 13.01, 13.05, 24.01, 24.02, 24.03, 24.04)

Response: In collaboration with Ecology, the Town defined a vision of what the Town could look like after cleanup actions have been completed. The visioning process included elements not required for cleanup, but that still need to be considered in order to allow implementation during or after cleanup.

Utilities have to be returned only to their original configuration, with any updates needed to meet current building codes. If the utilities are to be placed underground, there are at least two options: 1) if the cost for doing so is about the same as for replacing the utilities above ground, BNSF may replace the utilities underground at the Town’s request; or 2) if there is a significant cost difference, BNSF and the Town may come to an agreement to pay the difference.

In any case, improvements for utilities are not directly necessitated by cleanup of this site. Such improvements must be coordinated between the Town and BNSF.

2.1.6 Additional Changes to Agreed Order

Comment: Additional ongoing discussions among stakeholders have enhanced the formal comment process.

Response: These discussions have resulted in the following changes:

- The King County Levee Special Use Permit requirements will be added to the Agreed Order as needed substantive requirements.
- Seattle-King County Public Health is providing documentation to Ecology that temporary permits will be valid until a permanent system is in place.

2.2 NPDES Permit

Comment: The NPDES permit is stringent as written. Snohomish County Public Works requests to see monitoring data and any changes to the project that will affect downstream resources. (3.01)

Response: The discharge monitoring data that BNSF will be submitting to Ecology as required by their NPDES Permit are public records and are available for public review upon request. Our public disclosure officer at the NWRO is Sally Perkins. She can be reached at 425-649-7190 or by email at sper461@ecy.wa.gov. Please make arrangements with Ms. Perkins to view data or request copies of the discharge monitoring reports.

The Spill Prevention Plan will include Snohomish County Public Works on the list of contacts to call in case of a release of contaminated water that will affect downstream Skykomish and Snohomish Rivers.

Comment: After the excavated water is treated, oil is removed from it and treated water is returned to the river. What happens to the recovered oil? Is it recycled? (11.01)

Response: BNSF's contractor will select a disposal company and facility that are licensed with the State of Washington and permitted by Ecology to handle waste oil. Most liquid disposal companies either incinerate or recycle the waste oil, depending on the most economical method.

Comment: The approach for wastewater control and monitoring in the discharge permit appears reasonable. (15.03)

Response: Thank you for the comment.

Comment: No water discharge permits should be issued until a complete plan and schedule are completed. (17.07, 28.02)

Response: Selecting a final cleanup action for this complex cleanup site will take additional time. Currently, petroleum product is seeping into the river channel from the base of the existing levee. This has caused adverse impacts to aquatic organisms in the river and downstream resources. It is imperative to conduct cleanup activities as soon as possible. To do this, beginning in the summer of 2006, Ecology and BNSF are addressing the first phase of the cleanup, which involves the in-water work on the flood control levee along the south shoreline of the river. Ecology and BNSF are continuing to develop the plans necessary for cleanup of the entire site. Ecology anticipates presenting draft plans to the community in fall 2006 with work to begin in 2007.

In-water work is allowed only during the fish window that generally is between July and August of each year. In order to authorize such activity and to require pollution control and monitoring of the discharges to protect water quality, the above-referenced NPDES Permit must be issued by Ecology's Water Quality Program.

Comment: How were effluent monitoring frequencies determined? (18.04)

Response: The monitoring frequencies for the discharge permit were determined based on: 1) continuous discharge during the cleanup period; 2) variability of contaminated zones; and 3) state requirements of compliance with the water quality standards and effluent limits 100% of the time. The dewatering water is expected to be variable in quality. In accordance with WAC 173-220-210(1)(b), monitoring frequencies for variable effluent flows and variable pollutant concentrations may be set at more frequent intervals than relatively constant effluent flows and pollutant concentrations.

Comment: What is the basis for the PAH effluent limits? (18.05)

Response: The individual PAH limits imposed in the permit are the numeric health-based criteria which were promulgated by the U.S. Environmental Protection Agency in its National Toxics Rule (Federal Register, Volume 57, No. 246, December 22, 1992). Because cleanup of extensive contamination can take years, human health-based limits were imposed in the discharge permit for protection of human health and prevention of recontamination of sediment in the river.

Comment: We request a hearing on this permit. (28.05, 31.01)

Response: Chapter 173-220-090 WAC states that "any interested agency or person may request a public hearing with respect to a draft permit determination.....The Department (Ecology) shall hold a hearing if it determines there is significant public interest." In this case, Ecology's Water Quality Program has determined that the requests do not constitute significant public interest to warrant a hearing on the NPDES permit, additional to the public comment period and public meetings that have already been held regarding the cleanup plans. However, Ecology's Water Quality Program is available to meet with you in person or to discuss your comments and concerns over the phone. Please contact Jeanne Tran at 425-649-7078 to make arrangements.

Comment: Regarding S1.E. Untreated Overflow. How would the “90% storage capacity” of the excavation pit be determined? (29.01)

Response: The permit requires the Permittee to prevent overflow from occurring. The “90% storage capacity” can be determined based on visual observation.

Comment: Regarding S1.G. Outfall Location. BNSF will position the outfall pipe to discharge treated water directly into the river at a location that has flow exceeding the discharge flow. Under this circumstance, and given the rocky nature of the riverbed substrate at the anticipated outfall location, the construction of energy dissipation structure may not be necessary. (29.02)

Response: The purpose of discharging over an energy dissipation structure is to prevent scouring from occurring. Unless the Permittee can prove that erosion and scouring of the stream bottom would not occur during the course of the discharge, the Permittee is required to use an energy dissipation structure at the outfall.

Comment: Regarding S2.A. Monitoring Requirements. The analysis for benzene and BTEX should be consolidated into one test using test method SW8260 B. (29.03)

Response: The test method specified for BTEX in S2.A on page 8 of the permit will be changed to the “SW8260 B” test method, which is the same as the benzene analytical test method. This means that one sample should be collected for BTEX analysis, and the analytical results for benzene and BTEX (sum) should be reported separately on the discharge monitoring reports. The benzene information presented in the Table of S2.A will remain as proposed.

Comment: Regarding S2.A. Monitoring Requirements. BNSF requests that Ecology include a provision in the permit that allows for a reduction of weekly PAH monitoring to monthly should the monitoring database from this first phase of remediation (i.e., levee remediation) clearly support TPH as a surrogate for PAH. (29.04)

Response: The request is reasonable. Ecology’s Water Quality Program will add a conditional footnote for those individual PAHs listed in the Table of S2.A to read as follows: “The sampling frequency for the PAH compounds will be reduced from weekly to monthly if the monitoring data collected during the first phase of remediation (i.e., levee remediation) clearly support the use of TPH as a surrogate for PAH.”

Comment: Regarding footnote “a” in S2.A. Monitoring Requirements. Change-out decisions should be based on time and containment loading before breakthrough and whether the system has sufficient sorptive capacity to cover the balance of the remediation phase underway at any given time. (29.05)

Response: Ecology’s Water Quality Program agrees that the internal process monitoring for TPH should begin with the first Granular Activated Carbon (GAC) column to determine when the media in the first column is saturated with organics. Operating and maintaining, including

change-out to ensure compliance with effluent limitations, requires monitoring. Using the data from the first GAC column to determine the change-out time for the columns is reasonable.

However, please keep in mind that laboratory turn-around time is at least 24 hours, and by the time the data are available, breakthrough for the second column may have already occurred. When this happens, especially for continuous discharge, the Permittee would be in violation, which will be subject to enforcement. We encourage prevention to be implemented to the fullest extent possible.

Ecology's Water Quality Program will change footnote "a" to read as follows: "For each sampling event, the Permittee shall collect one sample before and after the first GAC column for TPH analysis. Results from samples collected from the first GAC column will be used to evaluate the performance and removal efficiency of the GAC columns. (See S4, Operations and Maintenance (O&M) of the permit for details.) The Permittee shall change out the GAC columns as often as necessary to ensure compliance with the effluent limits."

Comment: The Permittee requests plans and due dates to be consolidated as follows: 1) Operation and Maintenance Manual – no change; 2) Storm Water Pollution Prevention Plan (SWPPP) – combine with Spill Control Plan in one document (as attachment to the SWPPP) submitted according to SWPPP due date; 3) Solid Waste Control Plan – the Interim Action for Levee Zone Cleanup is essentially a solid waste control project. The Engineering Design Report, Plan and Specifications satisfy this plan requirement and a separate plan is not necessary for solid wastes, 4) Spill Control Plan – combine with SWPPP. (29.06)

Response: The Permittee may attach the Spill Control Plan with the Storm Water Pollution Prevention Plan (SWPPP) as one document. The submittal date for the Spill Control Plan listed on the Submittal section on page 4 and S7 (Spill Plan) on page 16 of the permit will be changed to read "30 days prior to construction," with the same submittal date as the SWPPP.

The excavated soils have a potential to cause pollution of the waters of the State from leachate of solid waste, if not managed properly. A Solid Waste Management Plan is required to be developed to address how the soils are being managed and disposed. The Permittee may submit a Solid Waste Management Plan developed under other regulatory requirements or extract the necessary information from the Engineering Design Report and other site documents and consolidate it into one plan to satisfy the Solid Waste Management Plan requirement of the permit.

2.3 Environmental Impact Statement

2.3.1 General Comments

Comment: Various comments noted corrections or updates to Town ordinances. Comments were noted and changes made as appropriate as summarized herein. (4.01, 7.01, 7.03, 7.04, 7.07, 7.08, 7.09, 7.11, 10.04)

- Page FS-ii. The substantive requirements of the Town of Skykomish zoning, flood plain management, and Critical Areas Ordinance must also be met.
- Page 2-1, Section 2.1.1 (Town of Skykomish Description). Add the following as the 2nd paragraph: "The Town has recently updated its Comprehensive Plan under Ordinance 350, Critical Areas Ordinance under Ordinance 362 and Shoreline Master Program under Ordinance 284. All documents have been reviewed and appropriate approvals given."
- Page 2-1, Section 2.1.1 (Town of Skykomish Description). Update last two paragraphs to reflect Ordinance 350 adopting current Comprehensive Plan.
- Page 4-5, Section 4.2.1.1 (Current Land Use Designations). Update paragraph 1 to reference Ordinance 362 adopting current Critical Areas Ordinance. Update paragraphs 2 and 4 to reference Ordinance 350 adopting Comprehensive Plan. Mention in paragraph 6 the Town's adopted Shoreline Master Program Ordinance 284.
- Page 4-6, Section 4.2.1.3 (Cultural and Historic Resources). Update paragraph 2 to reference Ordinance 350 adopting Comprehensive Plan. Design Guidelines and Design Review Board adopted under Ordinances 234, 259, and 351.
- Page 4-11, Section 4.2.3.1 (Aesthetic Mitigation). Specify in paragraph 3 the Town's historic design guidelines.
- Page 5-2. Update reference to reflect current Comprehensive Plan 350, Critical Areas Ordinance 362, Shoreline Master Plan 284, and Historic Design Guidelines Ordinances 234, 259, and 351.
- Correction in Section 4.2.2.5 on page 4-10 (Parks and Recreation Impacts). A park is being impacted – the school park north of the tennis courts and south of Mike Moore's house.
- Correction in Section 4.2.1.1 (Current Land Use Designations), 3rd paragraph. The ballpark is inside Town limits.

Response: The *Draft Environmental Impact Statement* has been updated in response to these comments. (See the *Final Environmental Impact Statement*.)

Comment: Section 2.2.2 (Excavation of Levee, Soils and Sediments), on page 2-8. When contaminated soils are hauled to the rail yard and disposed of offsite, we are concerned that one area is cleaned up and another area is contaminated. (11.03)

Response: Contaminated soils will be disposed of at a facility designed and permitted to contain contaminated soils.

Comment: Section 4.4.3.2 (Utilities Mitigation). There is not adequate detail here. Include the following additional measures: 1) coordinate with utility owners to minimize extent of alteration; and 2) give utilities adequate notice of design changes, including requirements for placing electrical line underground, which may affect utility relocation design and/or schedule. (19.05)

Response: The *Draft Environmental Impact Statement* has been updated in response to these comments. (See the *Final Environmental Impact Statement*.)

Utilities impact mitigation will include coordination with utility owners. Notice of design changes, including requirements for placing electrical line underground that could affect utility relocation design and/or utility relocation schedule will be provided to the utility owners.

BNSF is working directly with Puget Sound Energy and Verizon to ensure that temporary power and telecommunications services are available during construction and that permanent services are restored after construction.

Comment: Page FS-ii. Work must also comply with the Town's Shoreline Master Program and the codes and permits listed in Exhibit H.2 of the Agreed Order. (7.02)

Response: The work will comply with the substantive requirements of the Town's Shoreline Master Program and codes listed in Exhibit H.2 of the Agreed Order. No local shoreline permit is required, as described in RCW 70.105D.090.

Comment: What are the noise restrictions established for construction work hours? Are exceptions allowed?

- Page 4-4, Sec. 4.1.3.2 (Noise Mitigation). Noise mitigation should include specific working hours and a request to the Town if the hours are to be exceeded. (7.06)
- Page 4-15, Sec. 4.3.2.2. Specify the conditions under which work would be allowed outside normal hours according to Town's noise ordinance. (7.10)
- Will there be construction noise after normal business hours? (22.06)

Response: The *Draft Environmental Impact Statement* has been updated in response to these comments. (See the *Final Environmental Impact Statement*.)

Normal work hours for this cleanup are 7:00 a.m. to 7:00 p.m. Monday through Saturday. State regulations establish construction work hours as 7:00 a.m. to 9:00 p.m. Monday through Friday and 9:00 a.m. to 9:00 p.m. Saturday and Sunday. BNSF will request a variance in order to begin work at 7:00 a.m. on Saturdays. If other hours are to be exceeded, a variance would be requested, and Ecology would confer with the Town before determining if the substantive requirements for a variance exist. The Town would not be required to issue a variance since the interim action is exempt from this requirement, as described in RCW 70.105(D).090.

Work will be allowed outside normal hours if necessary to complete in-river work before the close of the fish window or to complete work prior to the end of the dry season.

Comment: Mitigation measures are vague. For example, excessive noise refers to Best Management Practices. Specify mitigation measures to the degree possible. (18.02)

Response: The *Draft Environmental Impact Statement* has been updated in response to these comments. (See the *Final Environmental Impact Statement*.)

Mitigation measures will be as specific as possible. In addition, cleanup documents may also provide specific detail as to how the measures will be implemented. With regard to excessive

noise, site activities will comply with the Washington Noise Control Act (RCW 70.107; WAC 173-60). Noise control will include the use of mufflers on heavy and other construction equipment, turning off equipment when not in use, hearing protection for workers, and limited hours of operation.

Comment: Page 3-7, Section 3.2.4 (Dust and Odor Mitigation Measures). Mitigation measures should include the availability of dust masks and other personal safeguards, and washing structures, windows, outdoor equipment, plants, and cars. (7.05)

Response: The *Draft Environmental Impact Statement* has been updated in response to these comments. (See the *Final Environmental Impact Statement*.)

Dust will be controlled according to Section 9.15 of Puget Sound Clean Air Agency Regulation 1. This regulation provides that it is unlawful to allow visible emissions of fugitive dust unless reasonable precautions are employed to minimize emission. The regulation provides reasonable precautions. In addition, there are stringent limits on the amount of dust that can be emitted even if reasonable precautions are used.

These provisions as applied to the work to be done, are included in BNSF's bid specifications. (See *Specifications: Skykomish Levee Remediation*, page 01580-2, Section 1.05. The specifications are available at the Skykomish Library.) Ecology expects that normal dust suppression techniques will be quite effective during the work being done this summer. If necessary, BNSF will arrange for washing the exterior of adjacent structures upon completion of the active portion of cleanup. Implementation details will be included in cleanup documents such as the Engineering Design Report, contractor bid specifications, and Health and Safety Plan.

Comment: Who will be responsible for ensuring appropriate mitigation measures are implemented? Are there penalties for failing to implement appropriate mitigation measures? (18.03)

Response: BNSF is responsible for ensuring that the mitigating measures are implemented. Ecology is responsible for overseeing the cleanup to assure that all requirements are met.

This cleanup is being conducted through an Agreed Order, the terms of which BNSF has committed to meet. Although there are no project-specified penalties for failing to implement appropriate mitigation measures, regulatory-specific fines and/or penalties may be applicable for failing to comply with certain regulatory requirements.

Comment: What is the vibration impact to houses stored next to the rail lines? (22.05)

Response: The *Draft Environmental Impact Statement* has been updated in response to these comments. (See the *Final Environmental Impact Statement*.)

Professional house movers have been retained to relocate houses. They anticipate that vibration from passing trains will not result in damage to the houses. BNSF is required to

repair any damage resulting from temporary relocation of houses. The houses will be inspected periodically for security and to maintain structural support for the houses.

Comment: How will dust be controlled? (22.08)

Response: The *Draft Environmental Impact Statement* has been updated in response to these comments. (See the *Final Environmental Impact Statement*.)

Dust will be controlled using appropriate dust control methods including air quality monitoring, wetting or applying chemical dust suppression agents, applying temporary surfaces, vehicle speed control and construction site access aprons. These methods are further described in the Engineering Design Report.

Comment: A combined business and residence adjacent to the Levee Zone cleanup area have concerns as follows:

- The draft Environmental Impact Statement refers to mitigation measures for properties neighboring Levee Zone. They should have taken place before now. Our business is already affected as we must stop future work due to the uncertainty of our situation. (12.04)
- Our showroom and office will be severely impacted from proximity to construction with noise, vibrations, dust, and vehicle traffic. Phone conversations will be difficult, the showroom unpleasant, and it will be impossible to perform outdoor evaluations to equipment loaded on customer's vans, trucks and trailers. (12.07)
- Impact from traffic congestion will be inconvenient, unpleasant, and unsafe for pedestrians and motorists. There will be no room to accommodate customers in motor homes, travel trailers, and trucks or cars pulling trailers. Deliveries by UPS and suppliers will be hindered. (12.08)
- There will be an impact to infrastructure. Any disruption in water, power, phone and Internet will affect productive time in both office and workshop. Power, phone and Internet are especially important for communication with customers and suppliers. (12.10)
- There may be a health impact for someone who suffers from hearing problems that are aggravated by noise, stress and lack of sleep. (12.14)
- Our residence here is not acknowledged in the cleanup documents, yet noise will have a significant impact on the quality of our living space, yard, and garden. Construction activities will intrude on our relaxation and sleep time, and will make our yard unusable. (12.11)
- The upstairs living space is overly warm in summer, and we rely on open windows for ventilation and cooling. Dirt, dust, odors from traffic, trains and cleanup will make this practice unhealthy. (12.13)

Response: These comments request that the draft Environmental Impact Statement specifically identify this business and residence as a highly impacted property. It is located outside of, but directly adjacent to, the construction site and as a corner lot on the truck route, will be subject to ongoing disruption due to construction traffic and on-site cleanup actions.

Ecology recognizes that additional mitigation is warranted due to specific and documented health concerns as identified during the comment period. Ecology intends to work with BNSF and this property owner to identify and agree upon additional mitigating measures that are warranted. Notwithstanding this specific business/residence location, Ecology recognizes that other properties that are directly adjacent to the construction site may experience significant impacts due to noise, dust, and other construction activities. Therefore, Ecology will work with BNSF to identify and agree upon additional mitigating measures that could be used in these circumstances.

Ecology will also address generally the impacts noted by this comment. Major site construction activities are expected to begin after May 15 and be completed by November 30, 2006. Mitigation measures intended to reduce unavoidable impacts will be implemented when the cleanup actions begin this spring, including measures to minimize noise, dust, emissions, odor, and vibrations. Ecology and BNSF will provide a process for arranging for business access.

With the exception of some relatively short and unavoidable service disruptions (approximately 2-4 hours in duration), the utilities such as water, power, phone, and internet services will be maintained throughout the duration of the project.

In order to address unexpected impacts or problems, a call line will be established for residents and business owners to contact BNSF and Ecology to discuss and resolve complaints.

Comment: Cover excavated soil at the end of each work day to control odor. Evaluate the use of odor suppressing foam to reduce nuisance odors from excavations. (27.01)

Response: The *Draft Environmental Impact Statement* has been updated in response to these comments. (See the *Final Environmental Impact Statement*.)

Sediment and erosion control Best Management Practices and odor control mitigation includes covering excavated and stockpiled soil as needed to control odor, dust, and runoff. Odor-suppressing foam is available during excavation as needed.

Comment: The impact of cleanup will be dramatic. It is important for Ecology to realize we are dependent on the cleanup for: 1) home; 2) livelihood; 3) retirement; 4) future; and 5) literally, the food on our table. We hope people doing the work and overseeing the cleanup will take it seriously. Our lives are in your hands. (25.01)

Response: Ecology and BNSF take the concerns expressed by individuals and groups seriously as it seeks ways to eliminate or reduce impacts to the community.

The cleanup activities are expected to create levels of disruption similar to any significant construction project that requires extensive excavation, clearing, grading, and redevelopment. BNSF and Ecology will take measures to reduce the impacts that are consistent with and similar to other such projects. Such measures include limiting work hours, controlling dust, controlling noise, and providing flaggers to maintain smooth traffic flow. Ecology and BNSF

will also provide a call line for residents and business owners to contact BNSF and Ecology to discuss and resolve complaints.

Comment: Ecology's informational and public comment meetings have provided numerous comments, so the Skykomish Environmental Coalition will not include additional items at this time. (15.02)

Response: Thank you for the comment.

2.3.2 Economics

Comment: There is a concern that a construction project planned to extend 6 days a week, 10-12 hours per day will reduce tourism and thus negatively impact local businesses during the busiest seasons. What will the economic impact of the cleanup action on the local economy be, and how will businesses be compensated? How many people will be in Town working on the cleanup? (8.03, 12.06, 22.04, 24.09)

Response: The purpose of an Environmental Impact Statement is to identify and evaluate impacts and develop mitigating measures that will reduce adverse environmental impacts. Ecology recognizes the cleanup will cause some level of unavoidable impact to relocated residents and to adjacent neighbors. Actions will be taken during cleanup to minimize environmental as well as economic disruption and impacts to businesses, the school, and residents.

Mitigating measures in the Environmental Impact Statement are specific to addressing environmental impacts and do not expand to address local economic impacts, nor do they include financial compensation for disruption to businesses. The Town and businesses should work directly with BNSF to resolve cleanup-related economic impacts to businesses during construction. Businesses and services that are located adjacent to the cleanup include the public school and The Homestead Vintage Stove Company.

Mitigating measures are identified in the Environmental Impact Statement. It describes steps that should be taken to minimize disruption, including signage, property access, and parking to local businesses during the construction as well as measures to reduce odor, noise, vibration and dust due to vehicle traffic.

The number of workers will depend on the contractor that is chosen, but there will likely be approximately 20 to 25 workers, not including truckers. Ecology encourages BNSF and contractors to use local services. Additionally, the contractor-bid request asks that contractors use local goods and services as much as possible.

The economic impact is not known. However, there may be temporary negative impacts due to the potential for decreased tourism because of disruption in the Town, and there may also be positive impacts since construction crews may utilize local lodging, food, and fuel services. The work itself also may draw visitors to the town.

Comment: It is unreasonable to expect us to occupy this property as a business or residence during construction. We will suffer loss of income and future sales. The business may shut down. Construction this year and in future years will render our property uninhabitable. Should we want to place property on the market, it would not be sellable. (12.15)

Response: A concerted effort is being made to mitigate environmental impacts and avoid potential economic impacts resulting from the cleanup action. This Environmental Impact Statement does not mitigate economic loss. It addresses impacts to the natural and built environment. Mitigation measures may minimize the impacts of cleanup that may lead to economic loss.

2.3.3 Historic and Archaeological

Comment: Keep a complete record of archaeological and historic articles unearthed during cleanup – photograph them and advise the Skykomish Historical Society of any such findings. Significant artifacts may surface in excavation. Develop a procedure to retrieve and map locations of buried objects, footprints, or other significant cultural items. Provide a copy of the Northwest Archaeological Associates, Inc. report #WA-05-16. (2.01, 10.03, 10.05)

Response: The *Draft Environmental Impact Statement* has been updated in response to these comments. (See the *Final Environmental Impact Statement*.)

A Cultural Resources Monitoring and Discovery Plan will be prepared by Northwest Archaeological Associates, Inc. The plan will be reviewed by the Washington State Office of Archaeology & Historic Preservation and King County Historic Preservation Program. The Cultural Resources Monitoring and Discovery Plan will include and describe standard methods and procedures for documenting, handling and managing any cultural or historic resources that may be discovered during site work. The plan will be placed in the information repositories for this site. The draft Cultural Resources Assessment #WA-05-16 by Northwest Archaeologists Associates, Inc. will also be placed in the information repositories for this site. (See page 16 of Public Participation Plan for the locations of the information repositories.)

Due to the confidential nature of archaeological resources (RCW 42.17.310(k)), information sharing related to any cultural or historic material discoveries will be determined by the State Office of Archaeology & Historic Preservation.

2.3.4 Infrastructure

Comment: Electrical facilities along the levee must be removed prior to moving homes. A by-pass connector will maintain electric service to existing customers in the area. (19.01)

Response: Electrical facilities currently located along the levee will be disconnected and removed prior to moving the homes. With the exception of some temporary interruptions in

service of approximately 2 to 4 hours, an interim by-pass will maintain electric service to existing customers in the area.

Comment: Disconnection of electric services must be requested by the customer, and the timing must be carefully coordinated with other components. Customers may initiate the disconnection by calling Puget Sound Energy at 1-888-225-5773. (19.02)

Response: The removal and disconnection of electrical service utilities will be requested and coordinated with Puget Sound Energy.

Comment: The location of reconstructed electric facilities has not yet been determined. We encourage the project team to closely coordinate subsequent stages of the project and to provide additional information, including updated plans, as soon as they become available. (19.03)

Response: The design and proposed schedule for electrical utilities installation will be closely coordinated with Puget Sound Energy. The design and proposed schedule for electrical utilities installation for subsequent stages of the project will be provided to Puget Sound Energy as they become available.

Comment: Puget Sound Energy will facilitate the relocation of electric facilities, however, the cost of adjustments to the system for the Interim Action and subsequent cleanup phases will be the sole responsibility of the proponent. (19.04)

Response: The cost of adjustments to the electric facilities necessary to facilitate this phase of cleanup activity will be the responsibility of BNSF.

2.3.5 Property Line Surveys

Comment: There is a concern about apparent conflicts between surveys of property lines and discrepancies of overlapping property boundaries. Which surveys are accurate and appropriate? How can they be adjusted? Who pays for the adjustments? What the cost is to “correct” them with King County? (13.04, 16.09, 23.04)

Response: The Town’s technical coordinator is currently working to resolve property boundary survey discrepancies between Town-owned and privately-owned properties.

Individual property owners with conflicting surveys may want to discuss the results with their neighbors to determine which survey is likely to be the most accurate. Neighbors who disagree over property boundaries, easements, right-of-ways, or encroachments do not need to agree with BNSF survey results for the cleanup to be accomplished. Currently, BNSF plans to return property back to its current condition and location when the cleanup is complete. Property owners with official, stamped, survey results that differ from the survey conducted by BNSF are encouraged to provide a copy of the survey to BNSF.

BNSF has contracted with a professional land surveying company that employs experienced and registered surveyors. As a courtesy, BNSF will provide copies of these surveys to individual property owners.

Property owners may contact the King County Recorders Office to determine what options are available for disputing a survey.

2.3.6 Septic Systems

Septic System Planning

Comment: How will a permanent system be developed? (5.06, 14.03, 16.07, 17.04, 22.02)

Response: The *Draft Environmental Impact Statement* has been updated in response to these comments. (See the *Final Environmental Impact Statement*.)

The Town has hired a firm to develop a combined General Sewer Plan and Facility Plan. The plans will determine the viability of the proposal to use the airfield to accommodate a community sewer system including a drain field, and to identify the type and cost of a system needed to accommodate properties both within the cleanup zone and the remaining properties in the town. The plan will also consider additional capacity for future growth. The Facility Plan will include a hydrogeological investigation and evaluation to determine if the proposed use of the perimeter of the airfield is a feasible disposal site adequate to dispose of the daily volume of treated wastewater. If the site is determined to be inadequate, the firm will propose and evaluate another method of effluent disposal.

Upon receiving Ecology approval, a Sewer Construction Design Plan for the community will be developed. Ecology has contributed funding for the development of the combined General Sewer Plan and Facility Plan for the Town. A King County Community Block Grant may be available for use in the construction phase of the project.

As part of the cleanup action in the Levee Zone, it will be necessary for individual septic systems to be replaced. While permitted on a temporary basis, the engineering and design will be consistent with requirements for a typical permanent system. Ecology has coordinated with King County to ensure that the temporary permits will remain in effect until a permanent system is available for connection, as long as the temporary system is operated as designed and in accordance with permit requirements. Property owners within the cleanup zone are not liable for the cost of site cleanup and thus will not be held responsible for the cost of replacing the system on their property.

Comment: Issue no permits until a complete cleanup plan, sewer system plan, and funding are in place. (17.06, 28.01)

Response: Ecology and BNSF were working toward developing a final cleanup plan for the entire site with the intent to have it available in early 2006; however, it became apparent in

2005 that due to workload constraints and our mutual desire to begin cleanup in 2006 that this was not feasible. As a result, at this time our collective efforts are focused on the levee and river cleanup to be conducted this year. The cleanup that will occur this year is consistent with Ecology's broader cleanup plan for the entire site, both in terms of phasing and the actual cleanup work.

Currently, petroleum product is seeping into the river channel from the base of the existing levee. This has caused adverse impacts to aquatic organisms in the river and loss of natural resources. It is imperative to conduct cleanup activities as soon as possible. To do this, Ecology and BNSF are addressing the first phase of the cleanup, which involves the in-water work on the flood control levee along the south shoreline of the river beginning in the summer of 2006.

Comment: What are the septic issues with the school? (23.02)

Response: The existing school septic system and drain field will not be disturbed during this phase of cleanup.

Comment: There is a concern about the safety of the Town's water supply with a community septic system near the well site. (5.02, 6.02)

Response: Any new community septic drain field will be permitted through Ecology and designed in compliance with applicable health codes. Ecology guidelines and King County Health Code include provisions requiring the identification of existing water supply wells and for the adequate separation of new septic systems and any nearby wells based on hydrogeological and other considerations.

Construction Plans

Comment: Will the contractors draw maps of underground septic lines for displaced homeowners? (22.15)

Response: Yes. As-built drawings of the new temporary septic systems will be provided to the property owners.

Comment: Will the temporary drain fields be removed after a permanent system is in place? (22.03)

Response: The temporary septic systems will probably not be removed after a permanent system is in place, because it is anticipated that the new temporary septic systems will be an integral component of the permanent system.

Temporary and Permanent Systems

Comment: When will a permanent system be constructed for the Town and will the temporary systems be approved for use until that time?

- How long is temporary for the septic systems? How will the permanent system be coordinated with cleanup? (22.02)
- What is the lifespan of the temporary system and what assurance do we have that it can be used for as long as needed to get a permanent system? (22.01, 23.01)
- There is a concern about using a temporary sewage disposal system without a plan for a permanent solution, and that the community system would serve only properties in the cleanup zone, not the Town. (16.07, 17.04)
- A temporary system will be on our property, yet we do not know if a community system will ever come about. If it does, there is no protection for the monthly costs only a few of us would carry for years. (14.03)

Response: Ecology has coordinated with King County to ensure that the temporary permit will remain in effect until a permanent system is available for connection, as long as the temporary system is operated as designed and in accordance with permit requirements.

Currently, funding for a permanent community-wide system for the Town is still being identified. Development of a future community system is being evaluated and will ultimately be managed between the Town and Ecology in consultation with King County.

The construction and design of the temporary replacement septic systems is to be integrated into the permanent system. As the cleanup proceeds and temporary systems are constructed, an effort will be made to coordinate placement of permanent septic lines concurrent with cleanup activities.

The monthly cost and allocation of fees for a permanent system have not yet been determined.

Cost of Septic System

Comment: Who will pay for the installation the temporary systems and the community drain field? The Town should not have to use its grant money to help pay for the cost of providing permanent systems for those in the cleanup zones.

- BNSF should pay for the installation of the drain field and the initial cost of individual units. (5.03, 16.08)
- BNSF should pay for a septic system, not a grant for the Town. Only cleanup properties will benefit from the treatment plant. It is discrimination if people being cleaned up have their lines put in and the rest of the homeowners will have to pay. (8.01)
- Who will pay to hook up to a permanent system? Who will pay the monthly fee? What is the expected life and operating/maintenance cost of temporary systems? (23.01)
- Regarding the temporary septic systems: What if funding does not come for a permanent system? Who decides what 'temporary' means? We need a written guarantee that the temporary permit will hold until a community system is in place. (10.01)
- The planned community drain field only accommodates part of the community. A grant for a septic system should be for all property owners, not a few select people.

If the drain field is only for a few people, those few people should be responsible for the cost. (5.06)

- Lack of economic development and the decline of the Town are due to pollution. Just compensation for economic hardship to the Town would be to solve wastewater problems. (13.06)
- We installed an expensive and state of art septic system, and now BNSF intends to remove the system and replace it with a temporary system. What happens if we cannot agree on compensation for the existing system? (14.02)

Response: BNSF will pay for the replacement of individual septic systems within the cleanup area because they are required to be removed to accommodate this cleanup activity. BNSF's share of responsibility for a commensurate portion of the permanent system has not yet been determined at this time.

For cleanup to occur, it is necessary to construct temporary septic systems for those residences that are within the cleanup of the Levee Zone. Funding for the design and installation of design and installation of temporary systems will be covered by BNSF as part of the cost of cleanup. Further participation by BNSF in the community system is being discussed. Currently, funding for a permanent community-wide system for the Town is still being identified, but funds have been provided to begin preparing a combined General Sewer and Facility Plan for the Town. A block grant, if used, would fund a part of the permanent system for the community.

While the expected cost of the life of the temporary system has not yet been determined, a monthly fee for the temporary system is not anticipated. Other than routine maintenance typical for all septic systems, there will be no additional costs. It would be reasonable to expect property owners to be responsible for normal operations and maintenance of the septic system on their property, as they would be for their current systems if not removed for cleanup. The responsibility for paying the cost of hookup to the permanent system within the cleanup zone has not been determined.

Septic tanks require pumping to remove accumulating sludge approximately every 3 to 5 years. The frequency can vary depending on tank size, family size, and garbage disposal use. With proper maintenance, the temporary septic systems will last until the permanent system is in place.

Property owners within the cleanup zone will not be charged for the cost of restoring their property as the cleanup is completed – this includes replacing the septic system, as this is considered a component of the cleanup.

3.0 Commentors

3.01 Commentors by Name

<u>Name</u>	<u>Affiliation</u>	<u>Comment Numbers</u>
Anonymous		9.01
Aydelotte, Rick	Resident	17.01 – 17.10, 31.01
Bakel, Rex/Janet Garner	Residents and Business Owners	12.01 – 12.17
Benz, Dieter	Investors Property Service Corp.	28.01 – 28.05
Cleveland, Nancy	Resident	6.01 – 6.02
Cleveland, Theo	Resident	5.01 – 5.06
Fernandez, Michael	Oregon State University for Skykomish Environmental Coalition	18.01 – 18.11, 27.01
Gallagher-Carlson, Pat	Skykomish Historical Society	2.01
Goebel, Lorna	Skykomish Environmental Coalition	16.01 – 16.09
Goebel, Lorna	Town of Skykomish	13.01 – 13.06
Goranson, Susan & Richard	Residents and Business Owners	25.01
Johnson, Larry & Lisa	Residents	24.01 – 24.09
Kingsbury, Mariamne	Puget Sound Energy	19.01 – 19.05
Mackner, Charlotte	Mayor, Town of Skykomish	7.01 – 7.12
Mitchell, Dick & Roberta	Residents	14.01 – 14.06
Moore, Michael	Resident	10.01 – 10.05
Petrarca, Daryl	LSI Adapt, Inc. for Skykomish Environmental Coalition	15.01 – 15.07
Robinson, John	Resident	1.01
Sekor, Anne	Resident	8.01 – 8.04

Sky High News Team	Skykomish Middle School	11.01 – 11.03
Soine, Candice	Snohomish County Public Works	3.01
Voges, Halah	The RETEC Group, Inc.	21.01 – 21.04, 29.01 – 29.06
West, Gary	Resident	20.01 – 20.03
Yates, Chris	Town of Skykomish	4.01
Notes from Public Meeting March 14, 2006		22.01 – 22.15
Notes from Availability Meeting April 1, 2006		23.01 – 23.06

3.02 Commentors by Number

Comment Numbers	Name	Affiliation
1.01	John Robinson	Resident
2.01	Pat Gallagher-Carlson	Skykomish Historical Society
3.01	Candice Soine	Snohomish County Public Works
4.01	Chris Yates	Town of Skykomish
5.01 – 5.06	Theo Cleveland	Resident
6.01 – 6.02	Nancy Cleveland	Resident
7.01 – 7.12	Charlotte Mackner	Mayor, Town of Skykomish
8.01 – 8.04	Anne Sekor	Resident
9.01	Anonymous	
10.01 – 10.05	Michael Moore	Resident
11.01 – 11.03	Sky High News Team	Skykomish Middle School
12.01 – 12.17	Rex Bakel/Janet Garner	Residents and Business Owners
13.01 – 13.06	Lorna Goebel	Town of Skykomish
14.01 – 14.06	Dick & Roberta Mitchell	Residents
15.01 – 15.07	Daryl Petrarca	LSI Adapt, Inc. for Skykomish Environmental Coalition
16.01 – 16.09	Lorna Goebel	Skykomish Environmental Coalition
17.01 – 17.10	Rick Aydelotte	Resident
18.01 – 18.11	Michael Fernandez	Oregon State University for Skykomish Environmental Coalition
19.01 – 19.05	Mariamne Kingsbury	Puget Sound Energy
20.01 – 20.03	Gary West	Resident

21.01 – 21.04	Halah Voges	The RETEC Group, Inc.
22.01 – 22.15	Notes from Public Meeting March 14, 1006	
23.01 – 23.06	Notes from Availability Meeting April 1, 2006	
24.01 – 24.09	Larry & Lisa Johnson	Residents
25.01	Susan & Richard Goranson Residents and Business Owners	
27.01	Michael Fernandez	Oregon State University for Skykomish Environmental Coalition
28.01 – 28.05	Dieter Benz	Investors Property Service Corp.
29.01 – 29.06	Halah Voges	The RETEC Group, Inc.
31.01	Rick Aydelotte	Resident

4.0 Original Comments

From: John Robinson [jrobinson05@fs.fed.us]
Sent: Thursday, March 09, 2006 11:14 AM
To: Bardy, Louise (ECY); Lee, Susan (ECY)
Cc: John Robinson
Subject: Starting date for BNSF Levee work

Louise/Susan,

I have heard that BNSF will be beginning work on the levee May 1st. I would like to see that date changed to May 3rd due to our Artrain event which will be occurring on April 29th through May 2nd. It would be unfortunatate to have disruptions during the event especially if there will be machinery and equipment moving in or staging.

JR

From: Pat & Warren [mailto:slowdrifters@comcast.net]
Sent: Wednesday, March 08, 2006 4:00 PM
To: Bardy, Louise (ECY)
Subject: "BNSF Skykomish Cleanup"

8 March 2006

Ms Bardy,

As board chair of the Skykomish Historical Society I am commenting with a group concern regarding any archeological articles that may be unearthed during the cleanup of the Levee Zone (as well as for the entire cleanup actions). Our concern is that a complete record of articles found regarding historical evidence be photographed and the area of the finding be identified. I expect you are bound by law to do this, but the Historical Society would also like to be advised of any such findings.

Doing research at the Olympia Office of Archaeology and Historic Preservation I came upon a log of information recorded from the building of the Iron Goat Trail that noted any artifacts found along the way. This is the kind of log / record I expect will be kept by Ecology and Burlington Northern as the oil spill work evolves. Members of the Historical Society will be happy to help with this in any way possible and could be "on call" to observe what ever historical findings may be unearthed.

Since the main area of the Town of Skykomish is on the National Register of Historic Places it makes it even more important that a good record of identify and recording of any items of historical interest are noted for proper Historic Preservation.

Sincerely,

Pat Gallagher- Carlson
Chair: Skykomish Historical Society
827 Pear Ct. N.E.
Olympia, WA 98506
360-596 9037

From: Soine, Candice [mailto:Candice.Soine@co.snohomish.wa.us]
Sent: Tuesday, March 14, 2006 1:41 PM
To: Bardy, Louise (ECY)
Cc: Hubbard, Thomas; Carroll, Janet; Thornburgh, Kathleen; Soine, Candice
Subject: RE: Interim Action for Levee Zone Cleanup/ BNSF Skykomish Site
Importance: High

Louise Bardy
BNSF Skykomish SEPA
WA State Department of Ecology
3190 – 160th Avenue SE
Bellevue, WA 98008-5452

RE: Interim Action for Levee Zone Cleanup/ BNSF Skykomish Site

Snohomish County Public Works has reviewed the documents provided and offers the following comments:

We agree that the NPDES permit is stringent as written, but we would like to see the monitoring data and any changes to the project that will affect downstream resources.

Thank you for the opportunity to comment.

Candice Soine, Environmental Review Coordinator
Snohomish County Public Works
2930 Wetmore, 4th Floor
Everett, WA 98201
(425) 388-3488 ext. 4259
candice.soine@co.snohomish.wa.us

Reviewed and approved by Tom Hubbard, Sr. Environmental Planner

From: chris yates [mailto:townofsky@worldnet.att.net]
Sent: Tuesday, March 21, 2006 8:08 AM
To: Bardy, Louise (ECY)
Subject: Comment on the EIS

Louise:

In Section 4, 4.2.1.1, 3rd paragraph says the town has a public park outside the town limits. The town ball park is inside the town limits. It was annexed into the town. This needs to be corrected.

Thank you,

Christina Yates
Clerk-Treasurer
Town of Skykomish



Comment Form

By Theo M. Cleveland

5355 Sky Lake
Skykomish WA
98288
P.O. Box 331

BNSF Skykomish Site Interim Action Levee Zone Cleanup

The Washington State Department of Ecology (Ecology) and BNSF Railway Company welcome your comments as we prepare for the cleanup of the Levee Zone in Summer 2006. Comments received will be incorporated into the draft documents where appropriate. Please write your comments below and use additional pages if required. Drop your completed form in the comment box or mail to the address listed on the other side of this form.

RECEIVED
MAR 21 2006
DEPT OF ECOLOGY

Please postmark by **April 3, 2006.**

- ① Water Pipes that lay in oil soaked ground in the event that the water system lacks pressure account supply tank on Maloney Mt. running out of water do to, Pumps failing, Power outage, which has happened 3, (THREE) times in recent years and the fact that there is leaks in the system in this possible event water lines laying in oil or contaminated soil could possibly enter the water lines at these leaking points
- ② I'm very concerned about putting a community drainfield in the proximity of the water wells that supply our community in this putting a drainfield at the airport would be uphill and about 100 feet from the town's water wells
- ③ I am also concerned that the problem for septic fields in the community are the responsibility of Burlington Northern Santa Fe Rail Road, why then are the citizens of this community expected to foot the bill for this system. This is not our problem, the problem is a result of Great Northern (BNSF) contamination of our private property.

③ I REALIZE THAT CONTINUAL CONTAMINATION OF THE RIVER AND THE FACT THAT IT HAS BEEN SINCE 1928 WHICH I HAVE RECORDS BETWEEN GREAT NORTHERN AND FISHERIES DEPT. OF THOSE YEARS IS A HOT ISSUE. BUT IT WOULD SEEM TO ME THAT STARTING AT THE SOURCE WOULD BE MORE LOGICAL THAN WHAT YOU PLAN ON DOING, BY STARTING AT THE RIVER MEANS EVENTUALLY THAT SOIL WILL BE CONTAMINATED AGAIN.

④ I HAVE LIVED IN THIS TOWN SINCE 1930 TO 1945. THEN BACK 1949 TO 1956 WORKED ON GREAT NORTHERN 1950 TILL 1992 RETIRED AND HAVE LIVED HERE SINCE 1990 TO THIS DATE. I KNOW FIRST HAND ABOUT THIS OIL SPILL WORKED WITH BARBARA TRAGO IN THE SAME JOB AS YOU LOUISE BARDY WHEN I WAS MAYOR FOR SIX YEARS, BELIEVE ME I KNOW WHEN THE SMOKE IS BEING BLOWED. IM DEEPLY WORRIED THAT THIS TOWN IS BEING BOUGHT OUT AND SOLD OUT BY NOT ONLY BNSF BUT ALSO ECOLOGY DEPT. NO OFFENSE TO YOU LOUISE I THINK YOU TRULY ARE TRYING BUT YOUR HANDS ARE TIED.

OVER



3190 160th Avenue SE
Bellevue, WA 98008-5452

Louise Bardy
BNSF Skykomish Site
WA State Department of Ecology
3190 160th Avenue SE
Bellevue, WA 98008-5452

⑤ I AM ALSO CONCERNED ABOUT THE DRAINFIELD THAT ^{COMMUNITY}
I UNDERSTAND WILL ONLY ACCOMMODATE PART OF THE COMMUNITY
REGARDLESS WHETHER WILL BE GRANTS FOR THIS OR WHETHER ALL
THE CITIZENS AND HOME OWNERS IN THIS TOWN ARE GOING TO
HAVE TO PAY FOR THIS. AS A CITIZEN AND PROPERTY OF
THIS TOWN, I EXPECT AND ASSUME THAT PART OF THAT DRAIN
SHOULD BE FOR ALL OF THE PROPERTY OWNERS AND IF
IT IS ONLY FOR A FEW (SELECTED) PROPERTY OWNERS THEN
THEY ALONE SHOULD BE RESPONSIBLE FOR THE COST OF
SUCH SYSTEM

THANK YOU FOR UNDERSTANDING
RESPECTFULLY
THE W. CLARK



WASHINGTON STATE
DEPARTMENT OF
E C O L O G Y

Comment Form

RECEIVED

MAR 22 2006

DEPT OF ECOLOGY

BNSF Skykomish Site Interim Action Levee Zone Cleanup

The Washington State Department of Ecology (Ecology) and BNSF Railway Company welcome your comments as we prepare for the cleanup of the Levee Zone in Summer 2006. Comments received will be incorporated into the draft documents where appropriate. Please write your comments below and use additional pages if required. Drop your completed form in the comment box or mail to the address listed on the other side of this form.

Please postmark by **April 3, 2006.**

My concern is our water supply. Pressure inside the pipes keeps the oil out. But any drop in pressure, leaks or a shut down of the system will allow contaminants in. Will this be addressed by a complete new system? There are many leaks in the system as it is new. I have a very real concern here. This needs to be looked at closely.

The other question is: How safe is the water supply going to be with a community septic system & about a 1/2 mile site. Water flows downhill along with any contaminants. I don't want to see this addressed after the fact, when our water supply has been contaminated.

Nancy L. Cleveland



March 20, 2006

Response to Draft Agreed Order, Draft EIS and Draft Engineering Design Report

The town appreciates all the hard work and diligence shown by the Department of Ecology, Burlington Northern and Retec throughout this first part of the cleanup effort. The draft documents illustrate the thoroughness of the effort and provide an impressive framework for a successful project.

After reviewing the documents we have the following comments sorted by document and page number:

EIS

Page FS-ii

The substantive requirements of the Town of Skykomish zoning, flood plain management, and Critical Area Ordinance must also be met.

The work must also comply with the Town's Shoreline Master Program and the codes and permits listed in Exhibit H2 of the Agreed Order.

Page 2-1

Add the following to 2.1.1 as the second paragraph:

The town has recently updated its Comprehensive Plan under Ordinance 350, Critical Areas Ordinance under Ordinance 362 and Shoreline Master Program under Ordinance 284. All documents have been reviewed and appropriate approvals given.

Last two paragraphs should be updated to reflect Ordinance 350 adopting the current comprehensive plan.

Page 3-7

3.2.4 Mitigation Measures should include the availability of dust masks and other personal safeguards. In addition to washing structures and windows, outdoor equipment, plants and cars should also be washed.

Page 4-4

4.1.3.2 Noise Mitigation should include specific working hours and that a request to the Town must be made to exceed those hours.

Page 4-5

4.2.1.1 Paragraph 1 needs to be updated to reference Ordinance 362 adopting the current CAO.

Paragraphs 2 &4 need to be updated to reference Ordinance 350 adopting the current comprehensive plan.

Paragraph 6 should mention the Town’s adopted Shoreline Master Program Ordinance 284.

Page 4-6

4.2.1.3 Paragraph 2 needs to be updated to reference Ordinance 350 adopting the current comprehensive plan. The Design Guidelines and design Review Board were adopted under Ordinance 351, Ordinance 259 and Ordinance 234.

Page 4-11

4.2.3.1 paragraph 3 should specify the town’s historic design guidelines

Page 4-15

4.3.2.2 should specify the conditions under which the work would be allowed outside of normal hours according to the Town’s noise ordinance.

Page 5-2

References should be updated to reflect current comprehensive plan 350, critical areas ordinance 362, shoreline master program 284 and historic design guidelines Ordinance 259, Ordinance 351 & Ordinance #234.

Engineering Design Report

Page 3-1

3.1.1 talks about the town building code and references in the footnote Design Guidelines. The building code is found in Title 15 of the Skykomish Municipal Code adopted under Ordinance 360. Design Guidelines should also be referenced, adopted under Ordinance 259, Ordinance 351 & Ordinance 234.

**ANNE SEKOR
P.O. BOX 285
SKYKOMISH, WA 98288**

March 22, 2006

Lousie Bardy
Washington State Dept. Of Ecology
3190 160th Ave, S.E.
Bellevue, WA 98008-5452


Re: BNSF Skykomish Cleanup Interim Action for Cleanup of the levee Zone.

I am taking this opportunity to express my concerns regarding the Skykomish Levee Clean Up. I believe that the burden of the cost for drainage problems that are being created by this clean up should be paid for by BNSF and not by a grant for Skykomish. This grant will be given to the Town of Skykomish and will not profit all of the citizens of the Town and only a small minority will benefit from the treatment plant. In addition I believe this situation would make receiving a grant, which will given for the Town, illegal as all members of the community, who are home owners, will not receive equal treatment. The sewer lines for the final treatment plant will be laid at this time and those homeowners will not have to bear the cost of laying those lines as the rest of us will when the final plant is built and we are required to hook into the system. This is discrimination and will cause more than one citizen to seek legal action against the Town.

My second concern is that once the Levee is cleaned up the rest will not follow as promised. It has taken many many years to have this feasibility study done and I am not agreeable to seeing the cleanup start until the study is finished and all cleanup answers are in place. When will Skykomish receive a final plan?

I am distressed that The Town of Skykomish is not being financially reimbursed for this disruption to its quiet and beautiful surroundings. Skykomish will suffer economically as this interruption continues through the summer tourist and early ski seasons. This is unacceptable and should be a serious concern to BNSF and the DOE.

BNSF repeatedly does not respond, in a timely manner to citizen concerns, ie the soil cement used on R.R. Ave. breaks down and is not attended to in an expedient manner.


Anne Sekor



WASHINGTON STATE
DEPARTMENT OF
E C O L O G Y

Comment Form

BNSF Skykomish Site Interim Action Levee Zone Cleanup

The Washington State Department of Ecology (Ecology) and BNSF Railway Company welcome your comments as we prepare for the cleanup of the Levee Zone in Summer 2006. Comments received will be incorporated into the draft documents where appropriate. Please write your comments below and use additional pages if required. Drop your completed form in the comment box or mail to the address listed on the other side of this form.

Please postmark by **April 3, 2006.**

As a resident of Skykomish, WA, I'm very concerned about the entire cleanup - not just "Phase one", have the strongest feeling that there won't be a "phase two" - NO PHASES should be done until you have it completely funded! We, the town are being "sold out" by the mayor/town council, BNSF (money payoff) "the ecology done a survey to see how the airport being used as a drain field will affect our town water supply? We want our water as pure than as now! Will there really be a septic system from BNSF/ecology? I seriously doubt it - mostly "lip service" - ACTIONS SPEAK Louder than words!

March 31, 2006

Louise Bardy
Washington State Dept. of Ecology
3190 160th Ave S E
Bellevue Wash. 98008

RE: 2006 Skykomish Summer Cleanup

Dear Ms. Bardy;

1. I understand by talking to local representatives of the Septic Summit meetings, that Ecology, BNSF and others have been conducting, that after placing my home back onto my property it must be connected to an up to code septic system. I also understand that code will not allow drain fields to be placed in non native soils. Therefore BNSF has proposed a legitimate, certified temporary system, which will for a time suffice. My understanding is that the temporary system will be in place until a community system has been installed and is up and running.

As of this writing, a community system design is in its infancy. Full funding for this system has not yet developed. What if it never comes to be? My concern is, what does temporary mean? Who decides when the "temporary" is over? I need written assurance from either or both Ecology and BNSF explaining that the temporary septic system installed on my property will be valid until a community system is in place

2. A lot of time and collaborative effort from the community took place last year to develop the Vision for Skykomish: A Community Defined Vision for the Future of Skykomish. Please integrate as many of these concepts and ideas as possible into the reconstruction of Skykomish after the clean up.

3. I had the pleasant opportunity to meet up with representatives from Northwest Archaeological Associates Inc as they were conducting research into the Cultural Resource Assessment for the Former Maintenance and Fueling Facility Project, Skykomish, King County, Washington. NWAA Report Number WA 05-16. Could you provide to me a copy of this report?

4. The EIS addresses parks in 4.2.2.5 on page 4-10. In the first sentence it states "No direct impact to parks have been identified" The space just to the North of the Tennis Court and directly South of my home is considered the "school park" With what I know of this interim action for 2006, and possible plans for 2007, I believe that this park will be heavily impacted for several years. Would you please readdress this section.

5. The EIS describes Cultural and Historic Resources in section 4.2.1.3. I am an active member of the Skykomish Historical Society, and a member of the Skykomish Design Review Board. There are questions that I'm aware of relating to various historical topics of Skykomish that have not yet been answered. It is my experience from digging in my own back yard and the miscellaneous digging I have done or supervised for the school that during this clean up project something significant may surface. It could be an object, or remnants of a foundation to a long forgotten building, or maybe the \$50,000 in gold coins buried in my back yard in a coffee can. I did not see one but I believe that a procedure should be developed to retrieve, and map the locations of buried objects, footprints or other significant cultural items. I'm aware of the time constraints of this project and do not advocate a complete stoppage just to retrieve a bottle or two, so a definition of what is significant needs to be developed (Obviously everything comes to a halt when they uncover my gold coins)

Thank You for the opportunity to comment on this project.

A handwritten signature in cursive script that reads "Michael Moore".

Michael Moore
120 6th St. N.
P.O. Box 193
Skykomish Wash 98299

Skykomish Public School School District No. 404

P.O. Box 325 • 105 - 6th Street North
Skykomish, WA 98288
Phone: (360) 677-2623 • FAX (360) 677-2418

March 31, 2006

Louise Bardy
Wash. State Dept. of Ecology
3190 160th Ave. SE
Bellevue, Washington 98008

RE: 2006 Skykomish Summer Clean up

Dear Ms. Bardy;

The Sky Hi News Team, from the Skykomish Middle School would like to make the following comment and ask two questions

Are you going to recycle the oil that comes out of the ground?

Generally speaking the Draft National Pollutant Discharge System Permit, Fact Sheet bottom of page 7 top of page 8 "Excavation Water", describes treating the contaminated water, by removing the oil and returning the water to the river. What is going to happen to the oil recovered from the water during this process?

In the Draft Environmental Statement Section 2.2.2 on Page 2-8 in the upper 1/3 of the page you describe the contaminated soil being hauled to the rail yard, These materials would then be disposed of at an off site facility. The team is concerned that you are cleaning up one area and moving the contamination to pollute another.

Thank you for giving us the opportunity to comment.

Kyle Wahl	Marshall Gould
Cody Wahl	Chris Bowers
Kelsey Wahl	Kyla Carroll
Katie Musser	Michael Moore (Advisor)

March 31, 2006

TO: Louise Bardy
WA State Dept of Ecology

FROM: Rex Bakel & Janet Garner
PO Box 250
104 Railroad Avenue West
Skykomish WA 98288

RE: Public Comments, BNSF Skykomish Site Interim Action Levee Zone Clean-up

We own the Maloney Building at 104 Railroad Avenue in Skykomish. For 14 years it has been our home and business (antique stove restoration) since we acquired it in 1992. At the time of purchase, we were not aware of any contamination on the property or in the Town in general.

We have always supported an aggressive and thorough clean-up, but fully expected to have the Clean-up Action Plan (CAP) in place before any excavation or construction work began. Having the CAP in place before work starts ensures that the project will be completed in a specified time, alleviates uncertainties, and allows for better planning. It also puts property owners, BNSF and Ecology in a better position to effectively mitigate potential problems.

According to Bruce Sheppard (BNSF), this Interim Action for clean-up of the Levee Zone is fueled by the EPA. He feels once the EPA is satisfied, the clean-up schedule will "slow way down." Further, he does not anticipate any construction in 2007. On the other hand, Ecology says this is not the case, but that the current momentum will be maintained. Who is right? We are left with the uncertainty of not knowing how we will continue our work, where we will live, or when it will all be over. With the Levee work and its disruptions beginning in *less than two months*, we still have no secure knowledge of whether our losses will be mitigated or when our property will be cleaned up, if ever.

Descriptions of the clean-up activities given at public meetings and in the draft documents lead us to believe that we will not be able to remain at this location during construction. Comments made by individual representatives of BNSF and Ecology include "It will probably be far worse than any of us can imagine" and "It could get real ugly."

The draft EIS refers to mitigation measures for properties neighboring the Levee Zone. This mitigation should have taken place by now. Already we are postponing the purchase of new inventory, and have had to stop scheduling future restoration work due to the uncertainty of our situation.

Although we are not directly within the Levee Zone boundary, we are located in the same block and will be "surrounded" by the clean-up activity. When the five homes in the excavation area are moved and the people relocated, our property and the Wheatley's rental will be the only occupied residences remaining in the block. We understand that the tenant in the rental is being relocated and BNSF is paying part if not all of the relocation costs. Further, we understand that BNSF will be renting this property for the next year or longer. That leaves us as the only occupied residence (and business) in the block. Other buildings immediately adjacent to us are either vacant or BNSF owned.

Clean-up of the Levee will be underway 10 to 12 hours a day, six days a week, and may extend to seven. It is taking place during our busiest months. Because Skykomish is a day-trip or longer for many of our customers, most come when the weather is good for traveling and dry enough for transporting their antique stoves. As with our regular customers, few tourists will

want to be in Skykomish this summer. Any sales (including future sales) we would normally gain from tourism will be lost

Because of our large storefront window area and close proximity to the street and railyard, our showroom and office will be severely impacted by intense construction noise, vibrations, dust and vehicular exhaust. The office in the southeast corner of the building is just a few feet from the intersection of Fifth and Railroad. Heavy trucks and equipment traveling between the excavation site and the railyard every few minutes and all the other related commotion will make phone conversation difficult. Our showroom will not be a pleasant place to linger. It will be impossible to perform outdoor evaluations on stoves loaded in customer's vans, trucks and trailers.

Traffic congestion will make access to our building by both pedestrians and motorists inconvenient and unpleasant, if not unsafe. The increased congestion, street closures, and the use of the parking strip across from our store for the staging of equipment will leave no room to accommodate our customers with motor homes and travel trailers, or using rented trucks or cars pulling trailers to pick-up and deliver stoves. Deliveries by UPS and other suppliers may be hindered.

Any temporary water, power, phone and Internet disruptions will affect our productive time in both the office and workshop. A power outage completely shuts down the workshop and stops work. Because of Skykomish's remote location, phone and Internet are especially important for communication with our customers and suppliers.

This building is also our residence. Our home occupies the second floor and a portion of the first floor. Outside is our yard and garden. Neither the draft EDR or EIS acknowledges our residence here, yet noise will have a significant impact on the quality of our living space, both inside and out. After having already endured the construction activity throughout our workday, it will intrude into our relaxation and sleep time, and render our yard unusable.

During the summer, our upstairs living space becomes overly warm and we rely on opening the windows for ventilation and cooling. Dirt, dust and odors generated by vehicular exhaust, idling train engines, exposed petroleum and other clean-up activities will make this practice unhealthy.

Although these circumstances would be difficult for anyone, one of us suffers from multiple hearing problems, which are aggravated by noise, stress, and lack of sleep.

It is unreasonable to expect us to occupy this property as business or residence during construction. We will suffer a loss of income, including a loss of future sales. Our business may be shut down. The construction this year and in future years will render our property uninhabitable. We will lose the enjoyment of our home and yard. Should we want (or be forced) to place our property on the market, it would not be sellable.

A temporary relocation during each phase of the clean-up is not possible since we have an estimated 30 tons of antique stoves and parts, plus our tools, equipment and personal belongings. Even moving for the duration of the entire clean-up, which length is unknown, and then returning, may not be realistic.

With respect to the uncertainties we face, and to minimize impacts to our health and business, we request that Ecology and BNSF assist us in making a permanent transition from Skykomish to another location as remedy to our situation.

INTERIM ACTION FOR LEVEE ZONE CLEANUP
COMMENTS

By Lorna Goebel, Council member and Mayor Pro temp.

The following are the comments made on behalf of the Town of Skykomish.

The word “Optional” continues to be used in this Interim Plan. It was the citizens understanding that the *Vision of Skykomish* guidelines would be followed. We wish to know why this word continues to be used. So far BNSF has been indicating that they would help the Town achieve some of its goals, however, we have not received anything yet not even a promissory note in writing. The Mayor and Bruce Shepard should talk about removal of the word “optional” from these and future documents.

One thing that the *Vision of Skykomish* included was a walkway along the top of the levee and in this Interim Plan it is given as optional. Also it is much cheaper to put in a conduit for utilities at the time of construction of a levee than to go in at a later date when addition permits may be required to install one. Sadly it is my understanding that has been dropped.

A second issue that involves the entire Town of Skykomish is the lack of surveys that agree. How can we determine what the property lines in the Town are when surveys taken a few months apart differ by 2-3 feet? If we find that we can accept a survey of the Town as correct, then how can we legally change the property lines? Would there be a cost to incorporate this “correct” survey into King Counties Files? If so then the cost could be a part of the final settlement between the Town of Skykomish and BNSF.

I personally think that to a large extent the lack of economic development and the actual decline since the first attempts to clean up this site (made in the 1970-1980s) is due to the pollution caused by the railroad. Therefore, I think a just compensation for the economic hardship to the Town of Skykomish would be the solution of the waste water problem. In this first decade of the 21st century there are many options, some of which would not be prohibitively expensive and would have operational/maintenance costs that the citizens could bear.

From: Dick Mitchell
To: Ibar461@ecy.wa.gov
Sent: Sunday, April 02, 2006 1:43 PM
Subject: skykomish oil- response

Hi Louise,

This is Dick and Roberta Mitchell that own two houses that must be moved to make way for the BNSF oil clean up program that starts in May 2006. We have some concerns and want these concern to be on file for the April 3rd, 2006 dead line for citizen's comments.

1st concern: The BNSF provided us an ACCESS AGREEMENT spelling out the procedure of removing our houses and restoring the houses to their original position and condition. Included in the ACCESS AGREEMENT is the statement that the owners will be compensated for the inconvenience of this clean up program and other costs that may incur. We understand that the department of Ecology has no connection with any compensation that is worked out between the owners and BNSF. However our basic concern is that the BNSF have not set a time to meet to discuss the dollar amount. Roberta and I see the time clock ticking and wonder if the BNSF and us can't agree before the dead line, and then what happens.

2nd concern: When we installed our existing septic system for both houses, Retec and King Co health had strong requirements for the type of system that was acceptable because of oil in the ground. This permit process took us many test holes and two years of dealing with King Country before approval. Then Retec had to remove two thousand yards of material and returned fill dirt which we had to pay for grading and landscaping. That septic system has four chambers and an electronic default system with a timer and control rate of liquid. This system was very expensive and the BNSF intends to remove that system and replace it with a temporary system. Roberta and I wonder what happens if the BNSF and us can't agree on compensation for our existing system.

3rd concern: BNSF says that it will install a temporary septic system on or property that will eventually connect to the community septic system of Skykomish . We do not know if that community system will ever come about. If that system does come about, there is no protection for the monthly costs that only a few of us would carry for years.

4th concern: BNSF made the decision not to remove the house that is directly on our south property line. This means that in phase two, the excavation is immediately to our south. In Phase two the plan is to widen

5th St. This means that in phase two, not only do we have excavation to our south property line, we also have excavation to our east property line. Our large white house is the house that is rented. If the BNSF returns the house, will any tenant want to live there during phase two of cleanup? We are questioning if we even want to return to our small brown house that is our private residence during this unsettling time of clean up during phase two.

5th concern: BNSF made the decision to restore our houses back to the original position. Once the houses are returned and utilities are connect, BNSF states in their ACCESS AGREEMENT that they are finished with any compensation. Wonder if the BNSF and us can't agree on whether we want the houses to return

at the end of Phase one or return the houses at the end of phase three.

We have other concerns that will wait until we start talking with BNSF.

Sincerely,

Dick and Roberta Mitchell
cell: 206 953 8875

March 31, 2006

Washington State Department of Ecology
Northwest Regional Office
3190-160th Ave. SE
Bellevue, WA 98008-5452

Attention: Ms Louise Bardy, Site Manager

Subject: Skykomish Environmental Coalition (SEC) Review Comments

Agreed Order
Draft Engineering Design Report
Draft Environmental Impact Statement
NPDES Permit
Public Participation Plan

Dear Ms Bardy:

At the request of the Skykomish Environmental Coalition (SEC), LSI Adapt, Inc (Adapt) completed a technical review of the above referenced documents. The SEC received the documents on March 3, 2006. Independently, SEC members also reviewed the documents and provided Ecology separate comments. The SEC's general comments are presented below, and detailed comments or questions related to specifically cited sections and paragraphs of the documents are included as Attachment A.

General SEC Comments

Agreed Order

The SEC has no comments on this legal document.

Draft Engineering Design Report (DEDR).

“Confirmation monitoring” was briefly discussed in the DEDR document as an activity that would be described in the Clean-up Action Plan for the entire site clean-up, however given the potential for migrating contaminant impacts on the Levee Zone after it has been cleaned, it may be prudent to consider localized “confirmation monitoring” of this area

prior to creation of the CAP in event of unforeseen delays. Current local Levee Zone confirmation monitoring activities could then be incorporated into the larger site “confirmation monitoring plan” at a later date.

Draft Environmental Impact Statement

Ecology’s informational and public comment meetings have provided numerous public comments considering the potential impacts of clean up on the people and environment. therefore the SEC is not including additional comments at this time. The SEC is aware the this interim action is both an attempt to address the river seepage problems in an aggressive and timely manner and provide a “learning experience” to help understand and eliminate, if possible, problems associated with the clean-up prior to implementing the larger scope clean-up of the remainder of the site.

NPDES Permit

The SEC reviewed the document and has no specific comments. In general, the approach for waste water control and monitoring appeared reasonable.

The SEC is relying on the expertise of the various governmental agencies involved in this permitting process to comment appropriately when necessary.

Public Participation Plan

The Public Participation Plan appears to provide multiple excellent resources for allowing public involvement in this difficult process.

Specific LSI Adapt review comments concerning the documents are included as Attachment A.

Please contact Daryl at (206) 654-7045 if you have any questions.

Sincerely,

LSI Adapt.

Daryl Petrarca, L.H.G.
Office Manager

Attachment A

Levee Zone Interim Action for Clean-up

Skykomish Environmental Coalition (SEC) Comments:

Draft Engineering Design Report (March 3, 2006)

Paragraph 3.6, (EDR)

The method described to control migration of contaminants from upland areas is construction of a sheet pile wall along the southern excavation boundary. Groundwater and product migration assumptions are made, based on previous groundwater modeling for the 2001 barrier wall installation, which may or may not be relevant for this current scenario depending on sheet pile depths, free product flow rates etc. There is no description on how monitoring would be performed to ensure re-contamination does not occur or what contingency is in place to remove and then prevent further recontamination. (See general comments)

3. Paragraph 3.10.2

Consider removing reference to BNSF's Preferred Clean-Up Plan in sentence 4. This is an Interim Action and not BNSF's Preferred Clean-UP.

Sampling and Analysis Plan (March 8, 2006)

Paragraph 3.2

Because of the exhibited fate and transport dynamics of the free phase product (fingering and braiding) and lithology of the area, the SEC has concern about the proposed compositing of collected Excavation Performance Samples. As proposed in the SAP, the grab sample/composite sample protocol could conceivably miss localized heavily contaminated areas in the 50 by 50 foot sampling areas. As proposed, identifying localized areas of contamination depends heavily on field observation, which may be difficult given possible standing water and turbidity conditions.

It would be prudent in free phase product "fingering/braiding " areas (and nearby) to consider implementing contingency protocols that involve multiplying the contaminant concentration level exhibited during the composite sample analysis, for a particular quadrant of the excavation, by the number of grab samples it contains to ensure a more confident evaluation of what the highest concentration of soil contaminants might be in that quadrant especially if visibility is limited. Also duplicate discreet grab samples of each quadrant should be held for re- analysis if a composite sample results greatly exceed acceptable levels, to help identify the specific impacted area of the suspect quadrant.

**COMMENTS Re
SAMPLING AND ANALYSIS PLAN**

Published March 8, 2006

By Lorna Goebel

Thank you Louise for giving me this corrected edition of Appendix G. It is a good report and most of my comments are positive. They are as follows:

Section/Page No.	Comment
2.2.8/2-4	Third Bullet: This is good - to document in writing this procedure especially for this location.
3.1/3-1	This sampling has the same problems as stated in my comment included with SEC's i.e. an area 25'x25' containing one grab sample then mixed to a single composite representing an area of 50'x50' may not be representative especially if one of the quadrants was highly contaminated while the others were not.
3.2/3-2	2 nd paragraph: good protocol on sampling location. Last sentence especially good.
4.1/4-1	The sampling frequency and testing requirement of the stockpiles of impacted materials designated for disposal should be made public record and publicized when agreed upon by Ecology, Retec and BNSF.
4.5/4-2	Good corrections were made here.

**COMMENTS FROM
1 April, 2006 Meeting
By Lorna Goebel**

The concerns mentioned seemed to center around the septic problems. Most people and especially those from the moved homes were concerned with the fact that only temporary septics would be left. No final solution has been proposed and these home owners are rightly concerned.

I made public once again that I consider that a part of the final compensation of BNSF to the Town of Skykomish should be some type of waste water treatment for the entire city limits. If a type of system consisting of individual tanks at each property and a community drain field is decided upon then the railroad should pay for installation of the drain field and the initial cost of the individual units. If this is done then the town should be able to finance operation and maintenance of the system without charging the citizens an impossible fee.

Another issue came up that the entire Town is concerned with and that is: "How do you adjust property lines?" Gary West named the problem correctly. There is a monument problem. Many surveys of the central part of town have been done using the monument that is located on the south side of the 5th Street bridge approach. This is located in the concrete sidewalk placed on the surface of 8 feet of fill for the bridge. It moves! How do we actually determine the location of the property lines? How can we resolve this problem? David South pointed out that we first

needed to find out why these surveys do not agree. If it is a monument problem then we can throw out those that used a bad monument.

Then my question is what next? Do we go to King County and tell them the results and have them put these into their books?

From: Rick Aydelotte [rick@raconstruct.com]
Sent: Sunday, April 02, 2006 10:08 PM
To: Lee, Susan (ECY)
Subject: Skykomish comments

Follow Up Flag: Follow up

Flag Status: Flagged

Comments From Rick Aydelotte Sunday, April 02, 2006

Ecology is telling the town, ecology needs to rush the dike portion clean up action, *remember they just installed a barrier wall which leaked*. Now they want to clean the dike and leave the oil uphill, *Oil will just flow back down to the river again*. Instead of removing the oil from the source first. As engineers agree is the best practice. Which is both uphill and upstream.

Ecology said the town must wait for the cleanup plan for the rest of the site. "If they can get the railroad to agree". BNSF has already gotten to several town decision makers, members of the council and other residents to not oppose the BNSF preferred plan. With promises of monetary payments for agreeing to the BNSF preferred plan..

These actions alone constitute sufficient and valid reasons to completely review this process.

Ecology said they are going to excavate the heavier bunker C product. So far So good

Up Side

The land under the Mayors house, a member of Skykomish coalition a few rental houses will be clean. Their houses will get new foundations possibly daylight basements. Fish in the river will be happier for a while, until that oil flows thru the area cleaned again.

The Down Side

Under the school will not be cleaned Ecology said it is possible to move or relocate the school according to ecology.

The School and School playground are a **MUST DO** clean up area.

For the Town to survive.

Under those houses whose owners can be convinced otherwise "Agreed to BNSF's preferred plan." The area would not be cleaned. When I ask Bruce Shepard if BNSF would lobby to have these areas cleaned

? He said he would not even comment.

What this means is: BNSF has already offered and paid many home owners more than 10K, To agree with "not to oppose" the BNSF "preferred plan", I think their plan is the cheapest way out, when considering only the bottom line as seen by a BNSF Dallas boardroom. Skykomish will be a checker board of houses a few clean. The rest sitting on little home size parcels of toxic spill. Then the owners will sell, move or just pack up and leave. Leaving several generations of toxic legacy in Skykomish Those owners the cash likely spent.

With this happening We will have a town full of individual toxic sites where the previous owner took the cash and left the community to suffer a multi generational toxic legacy and probably another clean up later.

This is sufficient reason alone to not do a rush clean up. But rather start when the entire site plan is complete.

The Skykomish valley will be a checker board of individual property owner toxic sites , homes with lots. And no responsible party remaining

Later this is likely to be the problem of King County.

The Town land, streets parks etc. could become exempt from excavating if they agreed to it. Remember The Town council just agreed to underwrite up to 20K the Train systems favorite Public Relations art train, yup those same council members who have signed letters of intent with and paid by BNSF will be deciding the type of cleanup to a greater or lesser degree. I wonder who they represent the voter who hasn't paid ,Or BNSF who has.

The Town residents have recently petitioned the Washington State Public Disclosure commission to compel Public disclosure for ti's officials. The petition has been found sufficient by King County Elections. One council member walked out declaring he quit. Another has promised to quit in a king 5 TV News segment a third has threatened to fight disclosure " all the way to the supreme court" The town council appears to have been bought off by BNSF and has been lobbying Ecology

This is sufficient reason to review the plan in its entirety.

Two members in our town government personally told me they have Taken BNSF money and agreed to their intent letter. I have been told by reliable sources two additional members have succumbed to this offer and have taken money.

The Mayor should be reprimanded for signing permit applications JARPA where her property would be a major beneficiary of the small clean up to is be done. Her new foundation elevated ,new septic. Further complication is this was signed without Skykomish planning commission review as required Town ordinance. Skykomish Municipal Code 19.03.040 **#7, #8, #9**

Water flows from up hill to down hill. Why is ecology starting at the river? I have several postulations.

1. The pressure from the save the fish folks, endangered species will go away for a while. Till the stuff flows down to the river again. The town simply dose not have enough political clout to successfully encourage ecology into the correct action.

2. BNSF has purchased enough of our government to ruin the hope of Skykomish best interest to be at the heart of purchased legislators. These same town legislators accepting money have lobbied The Washington State Department of ecology in Burlington Northern's behalf

There will be diluted free product permeating the cleaned site. Only to be followed by free product down to the river again.

The current plan is 60% complete. This leaves an impossible situation for the residents of Skykomish To give comments. For this reason alone either the comment period should be extended to 30 days past the issuance of the complete cleanup plan.

Things we do know are troublesome.

1 The installation of 5 temporary and substandard sewage disposal systems without a plan in place for a permanent solution. There is talk rumors only of a community drain field however it would not fully serve the town only a few businesses and possibly the mayors house a member of the Skykomish environmental coalition and the few rental houses.

The double standard where one resident can get deviant septic system while others can not is unacceptable.

What will happen if this plan is approved is

1. A small section of the river will be cleaned but to only to be re done in a few years.

1. Property values will continue to decline with a majority of pollution remaining in the ground.

3. The School will continue to only attract those who can only afford a house on or near a toxic site, and allow their children to attend a school sitting on a cleanup site.

5. The free product will permeate the section cleaned and need to be re done. This is ultimate job security for bureaucrats.

6 The Town will face another 14+ years of meetings. These are cheaper than cleanup For BNSF the polluter at the expense of Skykomish residents.

7. There is No plan to clean the diesel in the N.E sector of this site.

8. Currently BNSF is stirring up the lead and metal dust on the rail yard. The cementations coating is ineffective leaving the Schoolyard and neighbors breathing this dust when BNSF works in the area. There is constant traffic.

There is no permanent solution proposed in this plan.

What actions should be taken in Skykomish ?

1. No permits issued or town authorization until complete cleanup plan, sewer system plan and funding are in place.

2. No Water discharge permits issued until a complete plan and schedule are completed.

3. No permits or authorization until a plan which will completely restore property values is chosen.

4. No permit until a defined schedule for entire project is committed to by Washington State dept. of Ecology
Without a schedule for the entire project Skykomish residents will live in limbo for another generation or two This is **Wholly unacceptable**

Rick Aydelotte P.O.221 Skykomish WA 98288.



Τεχνιχαλ Ουτρεαχη Σερπιχεσ φορ Χομμυνιτιεσ (ΤΟΣΧ)
Τεχνιχαλ Ασσιςτανχε το Βρωμφιελδσ Χομμυνιτιεσ (ΤΑΒ)
1148 Κελλεμ Ενγινεερινγ Χεντερ • Χορπαλλις, Ορεγον 97331-5501
Τελεπηονε 800•653•6110 Φαξ 541•737•2735

April 3, 2006

Louise Bardy
Washing Department of Ecology
3190 160th Avenue Northeast
Bellevue, WA 98008-5452

Dear Ms. Bardy:

Please accept the following comments submitted by Technical Outreach Services for Communities (TOSC) on the Draft Engineering Design Report, Draft Public Participation Plan, and Draft Environmental Impact Statement. Thank you for the opportunity to review these documents.

Draft Engineering Design Report

A number of requirements are specified on design report figures (for example, Figure C-8 indicates that the portable equipment staging area must be returned to normal by August 25, 2006). Is Ecology or BNSF responsible for enforcing these requirements? How will they be enforced?

Draft Environmental Impact Statement

While the mitigation measurements in general seem appropriate, they also seem vague. For example, the mitigation measure for excessive noise refers to best management practices. Mitigation measures should be specified in the EIS to the degree possible.

Who will be responsible for ensuring that all appropriate mitigation measures are implemented?
Are there penalties for failing to implement appropriate mitigation measures?

Draft NPDES Permit

How were effluent monitoring frequencies determined?

What is the basis for the PAH effluent limits?

Draft Sampling and Analysis Plan

Composite samples are inappropriate for compliance sampling. Composite samples are acceptable for screening purposes and perhaps disposal characterization but not compliance monitoring. Discrete samples should be required for this purpose.

Trip blanks should be required for the purposes of quality control.

Rejection/Acceptance criteria for percent recovery of matrix spikes and precision should be specified in this plan and subject to Ecology approval.

Deviations from standard sampling procedures should not only be recorded in a field log book but should also be presented in the ensuing investigation report.

Public Participation Plan

The Public Participation Plan is quite thorough and appears to provide ample opportunity for public input as well for BNSF and Ecology to share information about the imminent construction work.

While the idea of a website as a tool for presenting frequent updates about the project, TOSC is concerned that residents who do not own personal computers or have reasonable access to the Internet may be at a disadvantage with respect to current information and updates on the levee project. How will Ecology ensure that residents in this situation are kept informed?

Please feel to contact me at (541) 737-4023 if you have questions. Thank you again for the opportunity to comment.

Sincerely,

Michael A. Fernandez
Technical Assistance Specialist

April 3, 2006

Ms. Louise Bardy
Department of Ecology, NW Regional Office
3190 160th Avenue SE
Bellevue, WA 98008

**RE: Interim Action for Cleanup of the Levee Zone - Skykomish, WA
DEIS Comments**

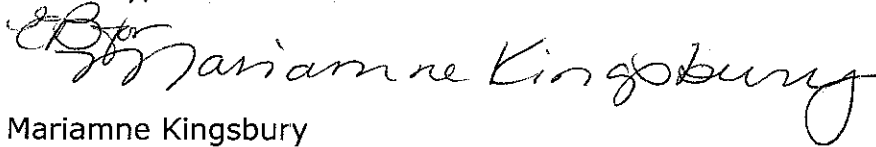
Thank you for the opportunity to comment on the Draft Environmental Impact Statement (DEIS) for the levee cleanup project in Skykomish. Puget Sound Energy (PSE) is the electric provider for this area and commented previously on the EIS Scoping process. As follow-up, I am providing the following additional comments for your review.

- The electric facilities along the levee must be removed prior to moving homes within the cleanup area. A by-pass connection will be made along the temporary access road behind the high school in order to maintain electric service to existing customers in the area.
- The proponent is advised that the disconnection of electric services must be requested by the customer and the timing carefully coordinated with the other components of the cleanup project. Customers are advised to initiate the process by calling PSE at 1-888-225-5773.
- After the excavation work is complete and the levee is replaced, the electric facilities will be re-constructed in a location as yet to be determined. PSE encourages the project team to closely coordinate subsequent stages of the project and provide additional information, including updated plans, as soon as they become available.
- Puget Sound Energy will facilitate the relocation of the electric facilities, however the cost of any adjustments made to our system for both the Interim Cleanup Action as well as subsequent cleanup phases, will be the sole responsibility of the proponent.

- The DEIS does not provide adequate detail in section 4.4.3.2 Utilities Mitigation. Currently the only mitigation measure proposed is to call for utility locates prior to commencing work; already a mandatory requirement under Washington State Law. PSE recommends that additional measures be included in this section, including the following:
 1. Utility adjustments and relocation will be carefully coordinated with utility owners to minimize the extent of alteration. As much as possible, utility impacts and future requirements will be considered during design and construction of levee cleanup.
 2. Utilities will be given adequate notice of design changes, including undergrounding requirements, that may affect the utility relocation design and/or schedule.

Please retain Puget Sound Energy as a party of record on the project and forward additional notices to my attention. If you have further questions please contact me at (425) 356-7511 or mariamne.kingsbury@pse.com.

Sincerely,

A handwritten signature in black ink that reads "Mariamne Kingsbury". The signature is written in a cursive style with a large initial "M".

Mariamne Kingsbury
Municipal Construction Planner

cc: Chris Yates, Skykomish Clerk/Treasurer
Charlotte Mackner, Skykomish Mayor
Mike Byers, RETEC
Karl Kirn, PSE

From: GaryWest3@aol.com [mailto:GaryWest3@aol.com]
Sent: Monday, April 03, 2006 2:08 PM
To: Bardy, Louise (ECY)
Cc: DaryISP@adaptengr.com; mmoore@skykomish.wednet.edu
Subject: BNSF/Skykomish Levee Zone Cleanup Comments

Louise

First my apologies to you, David and Susan for my comments and promotion of discussion without adequately reviewing the current documents. When it was later pointed out to me that the Levee Zone work would be by a design/build process many of the issues I raised were resolved.

ADDITIONAL COMMENTS

1. When design and construction details are developed I feel the Town and appropriate others be provided the opportunity for review. My particular interest is with the potential of soil settlement over time and that infrastructure restoration is in keeping with the discussed Historic theme, the Vision Statement and appropriate Ordinances and Regulations, etc. This especially within the Historic and Commercial District.

2. Sampling and Analysis Plan 2.1. I realize the listing is of operational staff. As the Town also has an interest with the cleanup meeting it's goals I believe the Town should in someway be incorporated within this document for oversight or some other form of formal or informal participation of the monitoring. I don't anticipate they would have any involvement, just that they would be afforded the opportunity for review of activities on, and affecting their properties.

3. In talking with Susan I was left with the understanding the Public Participation Plan of 1993 has been replaced as needed to suit the most current cleanup activity which is now the Levee Zone. Is there, or will there be another Plan to address the upcoming work on the other areas?

Thank you
Gary West

From: Halah Voges [mailto:HVoges@retec.com]
Sent: Monday, April 03, 2006 3:55 PM
To: Bardy, Louise (ECY)
Cc: Bruce.Sheppard@BNSF.com
Subject: Comments on Agreed Order Exhibit E

Louise -

RETEC and BNSF have the following comments on Agreed Order Exhibit E, Construction Schedule:

1. We cannot agree to October 30, 2006 as the date for "All material to be sent off-site for disposal sent off-site" and ask that this milestone be removed from the schedule. The rate at which material is moved off-site is dependent on the availability of rail cars, which can not be predicted.
2. We cannot agree to a December 30, 2006 date for having "All work completed, including infrastructure replacement; all construction equipment demobilized". Larger plants such as shrubs and trees can be planted any time of the year, and therefore will be planted by December 30, 2006. However, it is difficult to establish sod after approximately October 15 when the average temperature drops below 45 degrees Fahrenheit. We are planning to hydroseed bare areas by December 30 to control erosion during the winter. Sod or grass seed would be placed after approximately May 1, 2007 and completed no later than June 30, 2007. Finally, although hot mix asphalt plants in Everett generally remain open year round, driving surfaces can not be placed in temperatures below 45 degrees Fahrenheit. After October 15, 2006 it may not be possible to place the final asphalt road surface until April or May 2007. We intend to complete sidewalks/curbs/gutters/driveways prior to December 30 because their placement is not as restricted by temperature. In the interim, the asphalt-treated base would serve as the driving surface for the winter. Final asphalt paving will be completed no later than May 31, 2007.
3. A Draft As-Built Report to Ecology could be prepared and submitted to Ecology by March 30, 2007, however it will not include all landscaping & final asphalt paving work. Alternatively, the report could be submitted on July 31, 2007 and include all of the restoration work.

Halah M. Voges, P.E.
Senior Program Manager
The RETEC Group, Inc.
1011 SW Klickitat Way, Ste. 207
Seattle, WA 98134

206.624.9349x227
206.624.2839 fax
hvoges@retec.com email

BNSF Skykomish Cleanup

Public Meeting – Interim Action for the Cleanup of the Levee Zone
Skykomish Community Center
March 14, 2006 6:00-8:00 PM

Introductions and Overview:

Louise Bardy, Ecology Site Manager, introduced the five draft documents available for public comment:

- 1) Agreed Order
- 2) Engineering Design Report (EDR)
- 3) Environmental Impact Statement (EIS)
- 4) National Pollutant Discharge Elimination System (NPDES) permit
- 5) Public Participation Plan (PPP)

Louise outlined the comment period for the documents and emphasized the opportunities for making public comment. The comment period concludes on April 3 for all the documents except the NPDES permit, which ends on April 6.

Mike Byers from RETEC described the activities planned during cleanup of the Levee Zone in the summer of 2006, and discussed associated impacts. Two contractors will be used during cleanup of the Levee Zone – one to move, store, and return buildings and another to serve as the primary remediation contractor.

Mike provided a generalized overview in two-week increments of the Levee Zone cleanup activities:

May 15 – June 1:

- Move impacted residences, including structures and utilities
- Re-establish phone and electrical utilities to the western portion of Town
- Prepare levee site for excavation work

June 1 – June 15:

- Complete moving impacted residences and remaining utility work
- Primary remediation contractor mobilizes to the site to begin initial site preparation for cleanup work, including tree removal and other upland work, prepare rail yard, initiate erosion control measures, etc.

June 15 – July 1:

- Finish site preparation work
- Begin excavation work (work that does not depend on the fish window)

July 1 - September 1:

- Once the fish window opens (typically July 1), work in the river begins, including construction of the cofferdam and excavation
- Excavation work will be conducted six days a week, Monday thru Saturday
- Both clean and excavated fill material will be stored at the railyard until disposal by train is completed
- Backfill to grade completed by the end of the fish window
- Re-establish roads

Summary

BNSF Skykomish Public Meeting – Interim Action for the Cleanup of the Levee Zone
March 14, 2006

- Reconnect utilities
- Construct foundations for houses
- Residences moved back by December 1
- Demobilization of construction site complete by December 1

Questions and Comments:

Q: What is the lifespan of the septic systems that will be installed?

Answer: The septic systems are designed to last as long as a typical septic system; however, they are approved only as temporary systems by King County. Ecology and the Town are pursuing opportunities to establish a permanent community septic system.

Q: Regarding the septic systems, how long is temporary? How will the permanent community septic system be coordinated with cleanup?

Answer: The use of temporary septic systems will be based on the time it takes to solve the environmental problem in Skykomish. The temporary systems may be in use for four or five years. Effort is being made to coordinate laying septic lines concurrently with cleanup activities; however, it has yet to be determined if BNSF will lay the needed piping during construction. It was acknowledged that installing the necessary piping is desirable. Currently, funding for a permanent community system is still being identified.

Q. Will the temporary drainfields be removed after a permanent system is in place?

Answer: The plan is to lay lines that are useful to a future permanent system. It has yet to be decided if the temporary systems will remain in place.

Q: How many people will be working on the excavation project? What will the economic impact be for the Skykomish community?

Answer: The number of workers will depend on the contractor that is chosen, but there will likely be approximately 20 to 25 workers excluding truckers. The contractor bid request asks that contractors focus on using local goods and services, but it is a very difficult thing to require.

Q: What is the vibration impact to houses stored next to the rail lines?

Answer: Contractors understand the risks associated with vibrations and will prepare the houses to accommodate for this impact. Damage due to vibrations will be monitored by regular inspections of the outside of buildings. Damage to buildings and contents will be repaired.

Q: Will there be construction noise after normal business hours?

Answer: There are municipal codes that dictate when construction work can be done. If it is necessary to work longer than a 10-hour day, contractors will approach the Town and others for an exception to the code. Construction hours generally run from 7 am – 7 pm with fewer hours on Saturday and none expected on Sunday.

Q: How will contractors address potential for replaced houses to settle on fill?

Answer: The fill is controlled, structural fill that is properly compacted to support house foundations and footings. The footings will be designed to match the fill.

* Editor's Note: Houses will be monitored after the construction work to ensure there have been no settling impacts. If any damage due to settling arises, it will be repaired in a timely way.

Q: Considering the windy conditions in Skykomish during the summer, how will dust be controlled?

Answer: The contractor will use standard dust control measures inside work areas. Outside work areas, there are requirements that must be met to protect the public. A plan is being developed to monitor the air at the perimeter of the site. Dust conditions will be monitored for an exceedance of particulate matter over a specified period of time. If there is too much dust, it can be wet down or work can be stopped as the last resort.

Q: How does the Interim Action for cleanup of the Levee Zone compare to BNSF Railway's preferred cleanup plan?

Answer: The Interim Action starts with and builds on BNSF's preferred cleanup plan. The difference between the Interim Action and BNSF's proposal may be the removal of five residences.

*Editor's Note: In addition, in the March 2005 Feasibility Study, the BNSF Preferred Remedial Alternative proposed to cleanup 135 feet upland from the river bank which included the levee and several homes adjacent to the levee. No historic structures would be relocated. It also included a proposal to install a trench to collect and remove oil which would remain as a permanent fixture without further cleanup. The 2006 Interim Action includes much the same approach except that historic structures will be relocated and a temporary sheet pile wall will be installed instead of a trench that would separate the remediated and contaminated areas. The sheet pile wall is temporary since excavation of contaminated soil will continue upland from there to the railyard.

Q: Why is the plan not written for the entire site?

Answer: Ecology's original intention was to have cleanup plans available for the entire site early in 2006, and for cleanup to begin in the late spring and summer of this year. However, Ecology realized that due to the complex nature of the site and the time involved in developing the necessary plans for cleanup, continuing with this approach would place the 2006 cleanup in jeopardy. Ecology did not want a delay to occur. Hence, the levee portion of the cleanup (the current proposal) was separated from the broader site-wide cleanup. As stated previously, the cleanup that will occur this year is consistent with Ecology's broader cleanup plan for the entire site, both in terms of phasing and the actual cleanup work.

The interim action for the levee cleanup will occur this spring and summer. At the same time, Ecology has begun developing the Cleanup Action Plan (CAP) for the remainder of the site. We expect that the draft CAP will be available for public review next fall and that the next phase of cleanup will begin the following spring. Ecology does not anticipate that the pace of cleanup for the entire site will be reduced by this approach.

Q: Was the involvement of the Environmental Protection Agency (EPA) the driving force for the Interim Action to clean up the Levee Zone? There is a rumor that BNSF says that the cleanup will slow down after the Levee cleanup is completed. Is this true?

Answer: No. EPA was not the driving force behind the Interim Action. Initially, EPA's solution was to construct a cofferdam in the river to manage the discharge of oil. This was determined by Ecology to be nonsensical as it was an expensive solution for a temporary measure that did not solve the environmental problem. Rather, Ecology wanted to solve the problem of on-going discharges to the river and integrate that solution into an effective and complete solution for the entire site. As stated above, the interim action for the levee cleanup will occur this spring and summer, and the interim action is integrated into the overall site-wide comprehensive cleanup strategy.

Since December 2005, Ecology has spoken to and undertaken actions for a comprehensive, site-wide and timely cleanup. This position has not changed. With respect to the rumors, Ecology has no intention to slow down the pace of cleanup or resource levels that are currently applied toward this cleanup.

Q: How would high water levels impact the cleanup of the Levee Zone?

Answer: If water levels are too high during the fish window when cleanup of the sediments can take place, the project could be delayed. The snow pack is now 125% of normal, and water levels could be high this year. Contingencies are built into the plan, though, and we are watching the river levels closely. A delay in beginning work at the fish window could result in the contractor approaching the Town to obtain approval to work longer hours and/or seven days a week. The plan was written to accommodate an above average snow pack.

Q: Is groundwater movement an issue? How do you know groundwater will not re-contaminate cleaned up areas?

Answer: Groundwater monitoring wells provide a good indication of water levels. The excavation site will be engineered to be lower than the water table, to ensure that the flow of water will run towards the excavation site and from there can be pumped out in order to control contaminated material. In addition, sheet piling will be left in place at the edge of excavation areas to keep oil and groundwater from entering clean areas. The water table is not expected to be significantly different after work is complete.

Q: How far down will contractors dig to remove contaminated soil?

Answer: Approximately 15 to 20 feet or until the end of the contaminated material. Samples will be taken at the bottom of the excavation to confirm contamination was removed.

Q: Will the contractors draw maps of underground septic lines for displaced homeowners?

Answer: Yes.

Next Steps:

1. Skykomish Environmental Council (SEC) meeting, March 22, 6:00 pm. at the Skykomish Community Center. SEC Consultants Daryl Petrarca and Michael

Fernandez will present their review of the documents to the community.

2. Ecology Availability Meeting, April 1, 10:00 to 1:00 pm. at the Skykomish Community Center. Staff will be available to talk with community members as they finalize their comments.
3. End of Public Comment period for four of the documents, April 3 (Agreed Order, EDR, EIS, and PPP).
4. End of Public Comment period for the NPDES permit, April 6.
5. Begin preparations for the first phase of cleanup, May 15.

Community Attendees:

Karl Yost
Raney Wright
Zak Collins
Theo Cleveland
Rex Bakel
Janet Garner
Kathy Sullivan
Stan Mey
Michael Moore
Clint Stanovsky
Lorna Goebel
Sharon Reynolds
John Lockmann
Rick Aydelotte
Patrick Carroll
Carol Carroll
Sally Hintz
Dick Mitchell
Desiree Gould
Rick Goranson
Sue Goranson
Chris Yates
Patricia Craig
Anne Sekor

Ecology Attendees:

Tim Nord, Louise Bardy, Dawn Hooper,
Susan Lee, Peter Adolphson, Ecology
David South, Richard Thomas, Ecology
Jeanne Tran

BNSF Attendees:

Mike Byers, RETEC
Sarah Albano, RETEC
John Guenther, RETEC
Gus Melonas, BNSF Railway Co.
Jason Mulvihill-Kuntz, EnviroIssues

From: David L. South [davidsouth@comcast.net]
Sent: Saturday, April 01, 2006 5:04 PM
To: Lee, Susan (ECY)
Cc: Bardy, Louise (ECY)
Subject: BNSF Skykomish - questions from Saturday's meeting

1. Bob Mackner - want assurance that temporary septic systems can stay in use as long as it takes to get a permanent system - concerned about what happens if permanent system takes longer to come on line than expected or doesn't come on line at all. Wants to know who will pay for hookup to permanent system and who will pay the monthly sewer fee. Wants to know how long King County will permit the temporary systems for. Wants to know the expected life and operating and maintenance cost of the temporary system.
2. What are the septic issues with the school?
3. Mayor made public request for bid package. Halah will send eight more copies. Ecology is to distribute to: Gary West, Town Hall, Mayor Mackner, Library, Central Files, Clint Stanovsky, Lorna Goebel, one extra.
3. Much concern over the apparent conflicts between surveys of property lines and how to adjust property lines.
4. Bob Mackner made the point that they expect to see plans for the wetland in the draft cleanup action plan to assess how it accords with the Town's vision.
5. Want to see a plan for the school in the dCAP. Michael Moore said even some strong preservationists are saying it is better to tear the school down because children's safety is paramount. Mr. Moore made the point that they can't put it back. Code calls for single story and this would take 12 acres and cost \$16 to \$26 million.

That is. One thing I didn't know, but you probably do, but just in case: The library has a T-1 computer line into its wireless connection and you don't even have to be in the library to use the wireless connection, just parked beside it.

So anyone who has a laptop with a wireless card can get information from the internet just by parking by the library.

DLS

April 3, 2006

Louise Bardy
BNSF Skykomish Site
WA State Dept. Of Ecology
3190 160th Avenue SE
Bellevue, WA 98008-5452

RECEIVED

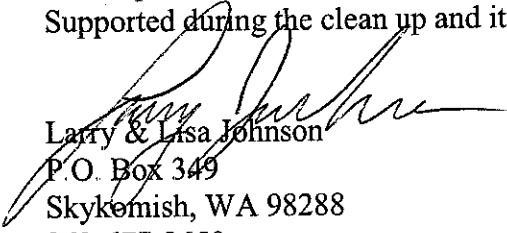
APR - 4 2006

DEPT OF ECOLOGY

Comment Form – Levee Zone Clean up

Items that I feel should be addressed during the first phase of the clean up which will guide us to a better community and living environment.

- 1) All utilities should be located underground after the clean up occurs. This will provide a more esthetic environment and will be safer.
- 2) Underground infrastructure should address ducts, hand holes and vaults.
- 3) The Town of Skykomish should receive extra duct space for future needs.
- 4) The water and future sewer lines need to be included.
- 5) The type of pavement, asphalt, concrete or other needs to be defined.
- 6) Any signage, utilities, streetlights needs to be approved by the Town of Skykomish.
- 7) The look and type of sidewalks needs to be defined and agreed upon by the Town of Skykomish.
- 8) The reconstruction and rebuilding must comply with the Town's comp plan.
- 9) The impact to local businesses must be addressed and if needed economically supported during the clean up and its impact.



Larry & Lisa Johnson
P.O. Box 349
Skykomish, WA 98288
360-677-2650
425-271-7269

RECEIVED

APR - 4 2006

DEPT OF ECOLOGY

April 2, 2006

**Louise Bardy
Washington State Department of Ecology
3190 160th Ave S.E.
Bellevue, WA. 98008-5452**

Dear Louise:

Re: Public Comment on the BNSF Skykomish Area contamination cleanup.

The impact of the Skykomish cleanup on our family will be dramatic. We feel it is important for the Department of Ecology to realize that we are dependent on that cleanup for the following:

Our home

Our livelihood


Our retirement

Our future

And literally the food on our table.

We hope that the people doing the work and overseeing the cleanup will take the matter as seriously as we do. Our lives are in your hands.

Sincerely,



**Susan & Richard Goranson
SkyRiver inn**



Τεχνιχαλ Ουτρεαχη Σερπιχεσ φορ Χομμυνιτιεσ (ΤΟΣΧ)
Τεχνιχαλ Ασσιστανχε το Βρωωνφιελδοσ Χομμυνιτιεσ (ΤΑΒ)
1148 Κελλεμ Ενγινεερινγ Χεντερ • Χορπαλλις, Ορεγον 97331-5501
Τελεπηονε 800•653•6110 Φαξ 541•737•2735

April 3, 2006

Louise Bardy
Washing Department of Ecology
3190 160th Avenue Northeast
Bellevue, WA 98008-5452

Dear Ms. Bardy:

Please accept the following comments submitted by Technical Outreach Services for Communities (TOSC) on the Draft Engineering Design Report, Draft Public Participation Plan, and Draft Environmental Impact Statement. Thank you for the opportunity to review these documents.

Draft Engineering Design Report

A number of requirements are specified on design report figures (for example, Figure C-8 indicates that the portable equipment staging area must be returned to normal by August 25, 2006). Is Ecology or BNSF responsible for enforcing these requirements? How will they be enforced?

Draft Environmental Impact Statement

While the mitigation measurements in general seem appropriate, they also seem vague. For example, the mitigation measure for excessive noise refers to best management practices. Mitigation measures should be specified in the EIS to the degree possible.

Who will be responsible for ensuring that all appropriate mitigation measures are implemented? Are there penalties for failing to implement appropriate mitigation measures?

BNSF should also cover excavated soil at the end of each work day as a means of controlling odor. BNSF should also evaluate the use of odor suppressing foams to reduce nuisance odors in excavations.

Draft NPDES Permit

How were effluent monitoring frequencies determined?

What is the basis for the PAH effluent limits?

Draft Sampling and Analysis Plan

Composite samples are inappropriate for compliance sampling. Composite samples are acceptable for screening purposes and perhaps disposal characterization but not compliance monitoring. Discrete samples should be required for this purpose.

Trip blanks should be required for the purposes of quality control.

Rejection/Acceptance criteria for percent recovery of matrix spikes and precision should be specified in this plan and subject to Ecology approval.

Deviations from standard sampling procedures should not only be recorded in a field log book but should also be presented in the ensuing investigation report.

Public Participation Plan

The Public Participation Plan is quite thorough and appears to provide ample opportunity for public input as well for BNSF and Ecology to share information about the imminent construction work.

While the idea of a website as a tool for presenting frequent updates about the project, TOSC is concerned that residents who do not own personal computers or have reasonable access to the Internet may be at a disadvantage with respect to current information and updates on the levee project. How will Ecology ensure that residents in this situation are kept informed?

Please feel to contact me at (541) 737-4023 if you have questions. Thank you again for the opportunity to comment.

Sincerely,

Michael A. Fernandez
Technical Assistance Specialist

From: Dieter Benz [mailto:dbenz@investpm.com]
Sent: Wednesday, April 05, 2006 1:23 PM
To: Miller, Tricia
Subject: Skykomish River Levee Project

To:

Washington State Department of Ecology:

We represent owners of the Skykomish Hotel in Skykomish, Washington. They have requested us to forward their position regarding the proposed levee project.

1. No permits issued or town authorization until complete cleanup plan, sewer system plan and funding are in place.
 2. No Water discharge permits issued until a complete plan and schedule are completed.
 3. No permits or authorization until a plan which will completely restore property values is chosen.
 4. No permit until a defined schedule for entire project is committed to by Washington State dept. of Ecology
- We request a hearing on this permit

Dieter Benz
VP Operations, Investors Property Service Corporation

NPDES Permit No. WA-003212-3

March 3, 2007 Draft NPDES Permit

BNSF Railway Company (BNSF)

Comments on Permit:

1. S1.E. Untreated Overflow

We do not understand how “90% storage capacity” of the excavation pit would be determined. We are required to maintain hydraulic control inside the excavation pit, not less than 90% capacity.

2. S1.G Outfall Location

BNSF will position the outfall pipe to discharge treated water directly into the river at a location that has flow exceeding the discharge flow. Under this circumstance, and given the rocky nature of the riverbed substrate at the anticipated outfall location, the construction of an energy dissipation structure as shown in the Engineering Report may not be necessary.

3. S2.A Monitoring Requirements

The table calls for monitoring benzene and BTEX with separate sample grabs and by separate analyses. Further, the table specifies that BTEX be analyzed by Method SW8270 or EPA 624 the former of which is for analysis of semivolatile organics (not volatiles) and the latter of which is a prescriptive and largely obsolete method for analyzing volatiles relative to SW8260B. BNSF suggests consolidating the benzene and BTEX requirement into one with analysis by SW8260B.

The table calls for weekly monitoring of TPH and PAH compounds. These two parameters are not unrelated insofar as origin and treatment are concerned. Site data collected during the RI/FS indicate that when groundwater TPH is at or below the cleanup level of 208 ug/l, so too are the PAH compounds below cleanup levels. This relationship should also be true and more reliably so in terms of treatment system performance. BNSF requests that Ecology include a provision in the permit that allows for a reduction of weekly PAH monitoring to monthly should the monitoring database from this first phase of remediation (i.e., levee remediation) clearly support TPH as a surrogate for PAH.

Footnote “a” calls for internal process control sampling and analysis of TPH for determining when to change out carbon in the GAC columns. The 90% removal rate provision in the footnote is often impractical. BNSF recommends internal process monitoring across the first GAC column to determine when the media in the first column is saturated with organics. This is determined when there is no change between influent and effluent concentrations. The time to “breakthrough” (i.e., first detection of TPH above reporting limits) for the first column will provide a gauge on anticipated breakthrough for the second column and therefore a basis for determining whether carbon change-out will be required to complete the ongoing phase of remediation. The GAC columns are sized for the hydraulic load and the organic load and are generally not expected to need carbon change-out during this given phase of remediation. BNSF anticipates demobilizing the treatment system after each phase of remediation such that when remobilized, the GAC columns will be loaded with a fresh batch of carbon. In summary, change-out decisions should be based on time and contaminant loading before breakthrough and whether the system has sufficient sorptive capacity to cover the balance of the remediation phase underway at any given time.

4. General Comment

In reviewing the permit, we have noted several plans that are required and their due dates. We would like to consolidate some of the plans as follows:

Plan Document	Date Due	Comments
O&M Manual	Submit to Ecology 30 days following permit issuance	No change proposed
SWPPP	Submit to Ecology 30 days prior to start of construction	Combine with Spill Control Plan in one document submitted according to SWPPP due date. The Spill Control Plan would be an attachment to the SWPPP.
Solid Waste Control Plan	Submit to Ecology no later than July 15, 2006	The Interim Action for Levee Zone Cleanup is essentially a solid waste control project. The EDR and Plans and Specifications satisfy this plan requirement, and a separate plan is not necessary for solid wastes. The language may be pertinent to industrial facilities but not to remediation.
Spill Control Plan	Submit to Ecology 30 days following permit issuance	Seems redundant to provision S9.B2 (SWPPP) which calls for Spill Prevention and Emergency Control Plan. We would like to combine this with SWPPP and submit according to SWPPP due date.

From: Rick Aydelotte [mailto:rick@raconstruct.com]
Sent: Wednesday, April 05, 2006 12:51 PM
To: 'tmil461@ecy.wa.gov.'
Subject: Skykomish site

Comments From Rick Aydelotte Sunday, April 02, 2006

Ecology is telling the town, ecology needs to rush the dike portion clean up action, remember they just installed a barrier wall which leaked. Now they want to clean the dike and leave the oil uphill, Oil will just flow back down to the river again. Instead of removing the oil from the source first. As engineers agree is the best practice. Which is both uphill and upstream.

Ecology said the town must wait for the cleanup plan for the rest of the site. "If they can get the railroad to agree". BNSF has already gotten to several town decision makers, members of the council and other residents to not oppose the BNSF preferred plan. With promises of monetary payments for agreeing to the BNSF preferred plan..

These actions alone constitute sufficient and valid reasons to completely review this process.

Ecology said they are going to excavate the heavier bunker C product. So far So good

Up Side

The land under the Mayors house, a member of Skykomish coalition a few rental houses will be clean. Their houses will get new foundations possibly daylight basements. Fish in the river will be happier for a while, until that oil flows thru the area cleaned again.

The Down Side

Under the school will not be cleaned Ecology said it is possible to move or relocate the school according to ecology.
The School and School playground are a MUST DO clean up area.
For the Town to survive.

Under those houses whose owners can be convinced otherwise "Agreed to BNSF's preferred plan." The area would not be cleaned. When I ask Bruce Shepard if BNSF would lobby to have these areas cleaned?
? He said he would not even comment.

What this means is: BNSF has already offered and paid many home owners more than 10K, To agree with "not to oppose" the BNSF "preferred plan", I think their plan is the cheapest way out, when considering only the bottom line as seen by a BNSF Dallas boardroom. Skykomish will be a checker board of houses a few clean. The rest sitting on little home size parcels of toxic spill. Then the owners will sell, move or just pack up and leave. Leaving several generations of toxic legacy in Skykomish Those owners the cash likely spent. With this happening We will have a town full of individual toxic sites where the previous owner took the cash and left the community to suffer a multi generational toxic legacy and probably another clean up later.

This is sufficient reason alone to not do a rush clean up. But rather start when the entire site plan is complete.

The Skykomish valley will be a checker board of individual property owner toxic sites , homes with lots. And no responsible party remaining
Later this is likely to be the problem of King County.

The Town land, streets parks etc. could become exempt from excavating if they agreed to it. Remember The Town council just agreed to underwrite up to 20K the Train systems favorite Public Relations art train, yup those same council members who have signed letters of intent with and paid by BNSF will be deciding the type of cleanup to a greater or lesser degree. I wonder who they represent the voter who hasn't paid ,Or BNSF who has.

The Town residents have recently petitioned the Washington State Public Disclosure commission to compel Public disclosure for ti's officials. The petition has been found sufficient by King County Elections. One council member walked our declaring he quit. Another has promised to quit in a king 5 TV News segment a third has threatened to fight disclosure " all the way to the supreme court" The town council appears to have been bought off by BNSF and has been lobbying Ecology
This is sufficient reason to review the plan in its entirety.

Two members in our town government personally told me they have Taken BNSF money and agreed to their intent letter. I have been told by reliable sources two additional members have succumbed to this offer and have taken money.

The Mayor should be reprimanded for signing permit applications JARPA where her property would be a major beneficiary of the small clean up to is be done. Her new foundation elevated ,new septic. Further complication is this was signed without Skykomish planning commission review as required Town ordinance. Skykomish Municipal Code 19.03.040 #7, #8, #9

Water flows from up hill to down hill. Why is ecology starting at the river? I have several postulations.

1. The pressure from the save the fish folks, endangered species will go away for a while. Till the stuff flows down to the river again. The town simply dose not have enough political clout to successfully encourage ecology into the correct action.

2. BNSF has purchased enough of our government to ruin the hope of Skykomish best interest to be at the heart of purchased legislators. These same town legislators accepting money have lobbied The Washington State Department of ecology in Burlington Northern's behalf

There will be diluted free product permeating the cleaned site. Only to be followed by free product down to the river again.

The current plan is 60% complete. This leaves an impossible situation for the

residents of Skykomish To give comments. For this reason alone either the comment period should be extended to 30 days past the issuance of the complete cleanup plan.

Things we do know are troublesome.

1 The installation of 5 temporary and substandard sewage disposal systems without a plan in place for a permanent solution. There is talk rumors only of a community drain field however it would not fully serve the town only a few businesses and possibly the mayors house a member of the Skykomish environmental coalition and the few rental houses.

The double standard where one resident can get deviant septic system while others can not is unacceptable.

What will happen if this plan is approved is

1. A small section of the river will be cleaned but to only to be re done in a few years.

1. Property values will continue to decline with a majority of pollution remaining in the ground.

3. The School will continue to only attract those who can only afford a house on or near a toxic site, and allow their children to attend a school sitting on a cleanup site.

5. The free product will permeate the section cleaned and need to be re done. This is ultimate job security for bureaucrats.

6 The Town will face another 14+ years of meetings. These are cheaper than cleanup For BNSF the polluter at the expense of Skykomish residents.

7. There is No plan to clean the diesel in the N.E sector of this site.

8. Currently BNSF is stirring up the lead and metal dust on the rail yard. The cementations coating is ineffective leaving the Schoolyard and neighbors breathing this dust when BNSF works in the area. There is constant traffic. There is no permanent solution proposed in this plan.

What actions should be taken in Skykomish ?

1. No permits issued or town authorization until complete cleanup plan, sewer system plan and funding are in place.

2. No Water discharge permits issued until a complete plan and schedule are completed.

3. No permits or authorization until a plan which will completely restore property values is chosen.

4. No permit until a defined schedule for entire project is committed to by Washington State dept. of Ecology
Without a schedule for the entire project Skykomish residents will live in limbo for another generation or two This is Wholly unacceptable

We request a hearing on this permit.
Rick Aydelotte P.O.221 Skykomish WA 98288.