

**Responsiveness Summary  
Agreed Order No. 8940**

**Former Reynolds Metals Site  
4029 Industrial Way  
Longview, WA 98632**



**Prepared by  
Washington State Department of Ecology**

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## INTRODUCTION

This document addresses questions and comments received by the Department of Ecology during the public comment period on Model Toxics Control Act (MTCA) Agreed Order No. 8940 issued to Millennium Bulk Terminals Longview (Millennium) and Northwest Alloys at the former Reynolds Metals aluminum smelter in Longview, WA. Agreed Order No. 8940 supersedes and replaces Agreed Order No. 8027 that was issued to former site operator Chinook Ventures and Northwest Alloys in 2007. The public notice and comment period was only for cleanup activities addressed in the Agreed Order and did not address environmental permitting associated with future development of the site.

The MTCA Agreed Order No. 8940:

- Adds Millennium, the current site operator, as a potentially liable person for the cleanup.
- Requires investigation and sampling of 10 new areas on the site.
- Establishes an enforceable schedule to complete and submit a revised Remedial Investigation/Feasibility Study (RI/FS).

Ecology published notice of an opportunity to comment on the Agreed Order on January 10, 2012 in The Daily News published in Longview, WA. In the notice, Ecology invited public review of the proposed Agreed Order and provided a 30-day public comment period. The deadline for submittal of written comments was February 9, 2012.

Written comments were received from eighteen individuals and the Columbia Riverkeeper. Since many of the comments addressed the same issue, Ecology compiled and summarized where appropriate to avoid repeating the same comment and response. The original comment letters are posted on the following Internet site:

<https://fortress.wa.gov/ecy/gsp/Sitepage.aspx?csid=2497>

A comment letter from one individual has not been posted based on the commenter's request to protect their privacy.

After considering the written comments, Ecology determined that changes to the Agreed Order were not warranted. Ecology will send a copy of this responsiveness summary to each party who provided written comments.

More information regarding the cleanup of this site is available at Ecology's Industrial Section in Lacey, WA and on the website noted above.

## COMMENTS AND RESPONSES

Comments appear in regular text, followed by Ecology's response in italicized text.

### **Comments from Lauren Goldberg of the Columbia Riverkeeper**

1. Decades of aluminum smelting left a legacy of heavily contaminated groundwater and soil at the 416 acre site. Riverkeeper urges Ecology to continue and expand its recent focus on the former Reynolds site. This requires moving forward with strict cleanup investigation deadlines and enhanced agency oversight to ensure that the culture of delay and deception that persisted during Chinook Ventures' tenure is not repeated with Millennium.

*Comments noted. The cleanup of the site is a priority for Ecology. The purpose of the agreed order is to move investigation and cleanup forward.*

2. The new Order, which includes revised deadlines and adds Millennium as a potentially liable person, is one step toward changing the culture of delay at this site. The Order, however, will not change Ecology's workload and ability to move cleanup forward. Riverkeeper therefore recommends a new approach. Under the 2007 Agreed Order Ecology had the option of hiring a contractor. The department never took advantage of this provision. Moving forward, Ecology should hire a contractor based at the cleanup site. By hiring a contractor Ecology can also ensure the timely review, revision and approval of future sampling action, the RI/FS, and the cleanup action plan.

*Ecology generally does not contract out regulatory work such as cleanup review, compliance inspections, order preparation or regulatory oversight on cleanup sites where there are viable parties responsible for the cleanup. Our experience has shown that contracting regulatory functions represents challenges in several areas, including the availability of staff resources to oversee contracts and the time and investment necessary to train contractors to fill a regulatory role. Also, in order to recover costs, Ecology must first incur the costs—which means money for the contacting must first be identified in the agency's budget.*

*Ecology does use contactors to perform non-regulatory work (engineering, investigation, cleanup construction, etc.) when a site does not have a responsible party that has the resources to do a cleanup. The money to cleanup these "orphan sites" must be planned and requested well in advance through the state's capital budgeting process.*

3. The former Reynolds Aluminum site is prime river-access industrial real estate. Riverkeeper supports responsible redevelopment of brownfield sites along the Columbia River. Development, however, cannot come at the cost of protective, thorough hazardous waste cleanup. While Chinook Ventures was allegedly cleaning up the site, it was also creating new contamination with its petcoke operations and handling of site cleanup. Ecology should therefore take a new approach with Millennium: require investigations and cleanup before sanctioning any expansion of the industrial operations at the Site.

*Comment noted. Cleanup of the site is Ecology's first priority. The agreed order is intended to move the investigation phase of the cleanup forward. The agreed order does not address or "sanction" potential future uses of the site.*

4. The Order calls for ten (10) Supplemental Study Activities (SSAs). Riverkeeper supports Ecology's decision to expand sampling at the site, particularly sampling to understand the impact of Chinook Ventures' operations and recently discovered historic contamination.

*Comment noted.*

5. Riverkeeper supports Ecology's decision to execute a new Order adding Millennium as a PLP. This decision, however, in no way reduces Northwest Alloys' duties under MTCA to clean up its property.

*Comment noted. Under MTCA, Potentially Liable Persons or "PLPs" are "jointly and severally" liable for cleanup. That means each party can be held liable for the entire cost of the cleanup. Adding Millennium does not change Northwest Alloys' responsibilities under MTCA.*

6. Ecology ranked the former Reynolds Aluminum site on the State's Hazardous Sites List in 1999. Given new information and recent actions, the Riverkeeper urges Ecology to reassess and change the site's ranking to reflect current conditions.

*MTCA requires that sites be ranked according to the relative health and environmental risk each site poses. Site ranking is used by Ecology to determine the order in which sites are worked on. Because of the community's interest, Ecology has made cleanup of this site a priority. If information gathered during the remedial investigation suggests that the site's current ranking does not accurately reflect risks posed by the site, Ecology will consider re-evaluation of the site's ranking.*

7. Riverkeeper supports the revised Public Participation Plan, which calls for regular communication regarding the status of cleanup, formal and informal comment periods, and presentations at community group meetings. The Plan would also benefit from an addition to the “website” section: Ecology should post all public comments on the website to increase the public dialogue on the future of this important cleanup process.

*Ecology is committed to making documents associated with the cleanup process accessible to those who want to review them. As resources and the volume of comments received allow, Ecology will work to make the comments received available on the website. The comments received on Agreed Order No. 8940 have been posted on the website –with the exception of one commenter who asked that we not forward or publish their comment to protect privacy.*

#### **Comment from Multiple Parties**

8. Multiple parties requested that the liable parties, Millennium and Northwest Alloys, be made to pay for the cleanup and all of the State of Washington costs.

*Millennium and Northwest Alloys are paying for all cleanup costs at the site. The Model Toxics Control Act directs Ecology to recover its oversight expenses for cleanups completed in the state. Former operator Chinook Ventures, current operator Millennium, and site property owner Northwest Alloys have paid all costs to date for Ecology’s oversight, review, and site inspections. Agreed Order No. 8940 continues Ecology’s ability to recover these costs.*

#### **Comment from Multiple Parties**

9. Multiple parties questioned whether Millennium or Northwest Alloys had the experience to conduct the cleanup.

*In most cases, PLPs do not perform sampling, investigation, and cleanup work themselves. PLPs hire environmental and engineering consultants with experience in investigation and remediation to complete the required investigation and analysis work. Similarly, following development of cleanup plans, PLPs hire experienced contractors to complete actual cleanup construction.*

*Ecology works with the PLPs to develop and review work plans, review lab results, plans and specifications, and other cleanup documents to ensure that they meet the MTCA requirements. Ecology also conducts inspections and site visits during cleanup to ensure that the work is proceeding according to the approved plans.*

*While the choice of which contractor or consultant is hired to do the work is completely up to the PLPs, if Ecology determines that work is incomplete or does not meet the*

*applicable requirements under an order or legal agreement Ecology has the ability to challenge the finished product and require that the work be redone. At the present time, both Millennium and Northwest Alloys are using experienced consultants and laboratories to do the investigation work required under Agreed Order No. 8940.*

#### **Comment from Multiple Parties**

10. Multiple parties expressed their opposition to development of a future coal port on the site. Some stated that cleanup should be completed before any new site use is considered.

*Agreed Order No. 8940 does not address future use of the site. The purpose of the agreed order is to complete the investigation phase of the cleanup project. Cleanup of the site is a priority for Ecology.*

*Proposals for future development at the site will be subject to their own environmental review and permitting process. That process should include consideration of the nature and extent of contamination at the site.*

#### **Comment from Multiple Parties**

11. The time for cleanup is now. Ecology should prioritize this cleanup.

*The cleanup of this site is a priority for Ecology. The purpose of Agreed Order No. 8940 is to provide the legal framework for completing the investigation and evaluation of the feasibility of remedial alternatives for the site. The agreed order includes enforceable timelines for completing this work—including responding to Ecology’s comments and finalizing the studies following public review.*

*Once the Remedial Investigation and Feasibility Study has been finalized, Ecology will develop a proposed Cleanup Action Plan and negotiate a proposed legal agreement with the PLPs to complete the cleanup construction. Before finalizing this cleanup plan, Ecology will hold a hearing and seek public input.*

*The time necessary to complete these steps and get to actual cleanup construction will be determined by the results of the investigation work, the complexity and cost of the cleanup alternatives identified, the level of cooperation from the PLPs, and the level of interest from the community.*

#### **Comment from Multiple Parties**

12. Cleanup should not be tied to approval of a coal terminal.

*The investigation and cleanup of the property will move forward regardless of the future plans for the property. Agreed Order No 8940 is for completion of the investigation work at the site and does not authorize or address future development of the property.*

### **Comments from Sandra Davis**

13. In August 2011, Ecology stated that Millennium was actively seeking to remove the petcoke pile on the subject property. To date the petcoke pile has not been removed.

*Removal of the petroleum coke or "petcoke" from the plant site will begin in late March. The owner of the petcoke (ConocoPhillips) had difficulty finding a purchaser and shipper for the material. Ecology and the Southwest Clean Air Authority have approved the plans to begin removing the petcoke by the end of March. The material will be moved by truck to the Port of Longview and shipped overseas by ship. The first ship is due into the Port of Longview in late April. It will take up to six months to completely remove all petcoke from the site. It is anticipated that the petcoke piles will fill at least three ships.*

14. No reference of sampling is made to the acreage on the northern portion of the site—north of Industrial Way. Has this acreage been reviewed for past waste burial practices or contamination from other means?

*The 2007 Agreed Order directed Northwest Alloys to complete an aerial photo study to search for any disturbed areas in the northern portion of the site. The study located one area of soil disturbance which was sampled during previous investigations. No significant contamination was found. The data from that sample event will be presented in the 2012 draft RI/FS.*

15. The sloughs surrounding the 416-acre site are designated as direct tributaries to the Columbia River. The sloughs need extra attention and continuous sampling for the possibility of contamination.

*The site is surrounded by Consolidated Diking Improvement District No. 1 (CDID) ditches. These ditches collect stormwater drainage from a number of areas including the former Reynolds Metals site. The water in the ditches at the site have been sampled for fluoride. Soils adjacent to the site have also been sampled. Ecology will review the water and soil data presented in the 2012 draft RI/FS to determine if additional sampling is needed.*

16. There has been much discussion regarding the large black mud pond in the northwestern site area. As stated by Ecology to the Longview City Council, this mud pond has been capped and the hazardous wastes will not be removed. Leaving these dangerous materials in the ground with only a partial liner will eventually prove a health hazard to

Longview residents and workers. Many residents feel it would be important to completely remove the mud pond.

*The Black Mud Pond was closed under the State's Dangerous Waste Regulations in 1993. Black mud is a potential source of fluoride, cyanide, and polycyclic aromatic hydrocarbons (PAHs). Closure of the Black Mud Pond included installing a waterproof cover system over the waste, pumping groundwater from underneath the area, and treating the groundwater to remove fluoride and cyanide. The groundwater pump and treatment system is still active and groundwater monitoring has continued since the closure.*

*Direct contact and groundwater contaminant pathways of exposure were addressed by capping the Black Mud Pond. Ecology will review the 2012 draft RI/FS to assess the effectiveness of the closure in reducing threats to human health and the environment.*

17. There are no references in the draft Agreed Order of permitted construction or operation of an export terminal while cleanup is performed. What requirements will there be to Millennium while they continue building and operating this site for other purposes besides the implementation of this Agreed Order?

*The purpose of Agreed Order No. 8940 is to complete the investigation work at the site. The agreed order does not address future uses of the site. MTCA does not preclude or prohibit using contaminated properties while investigation and cleanup occur. However, site uses must not contribute to contamination at the site, mobilize existing contamination, or result in unsafe exposure to workers. Millennium, as the current operator at the site, must comply with existing permits for their current operations.*

### **Comments from Margaret Green**

18. It is documented that further contamination of the site took place during Chinook Venture's tenancy. Consequently there should be additional sampling and testing of sections previously tested under the 2007 Order DE 4263.

*The sampling conducted for the 2007 RI/FS was completed by two experienced environmental consultants and consisted of work completed prior to the sale of the property to Chinook Ventures and during the period that Chinook Ventures operated the site. A number of areas of concern associated with Chinook Venture's management of the site were identified following the sale to Millennium. These areas are being investigated under Agreed Order 8940. The data from these investigations will be presented in the 2012 draft RI/FS.*

19. Past Reynolds employees have given anecdotal accounts of toxic dumping toward the NE section of the property (Weyerhaeuser property line). Therefore, additional sampling of



soils around and under the white and black mud ponds in the NE section should be required.

*Ecology will review the soil and groundwater data presented in the 2012 draft RI/FS and determine if additional sampling is needed near the black and white mud ponds on the east side of the plant.*

20. The sections identified for additional soil sampling (SSA-1 – SSA-7) have a varied chemistry list for testing criteria. It is unclear why each site is not tested for a full list of contaminants.

*When a sampling plan is developed for a large contaminated site, several sources of information are used to determine a list of probable chemicals of concern, including: historical activities at the site, interviews with current and past employees, chemicals used in individual processes and found in wastes generated from these processes, and preliminary investigations and inspections of each sampling area of the site. The chemicals of concern are specific to the activities and waste generated in each area of the site. In some cases where there was limited information for an area at this site, samples were analyzed for a full list of pollutants.*

21. Mercury is a possible errant by-product of industrial activities. Testing of this chemical in soils and water should be required.

*Mercury is typically found in aluminum smelters in the high voltage switching areas and rectifier rooms. Soils and waste in these areas at the former Reynolds facility were sampled for mercury. Low levels of mercury were found in the rectifier building. This data will be presented in the 2012 draft RI/FS.*

22. I ask that the test results be posted to the Ecology website in a timely manner as well as at the Longview Public Library. To facilitate layman comprehension, the reports should indicate test results as compared to the maximum acceptable contaminant level for each contaminant.

*The results from environmental sampling will be included in the 2012 draft RI/FS report. Ecology will post the draft RI/FS report on the former Reynolds Metals cleanup website and place a printed copy in the information repository for the site at the Longview Public Library. The report should contain information on the cleanup levels that are applicable to the site.*

23. Testing of all stormwater should be required.

*All stormwater collected at the Millennium site is routed through the plant's stormwater or wastewater treatment system. The National Pollutant Discharge Elimination System*

*(NPDES) permit for the site requires stormwater and process water be tested regularly for pollutants of concern. The monitoring results are reported to Ecology monthly.*

24. The CDID ditches are currently considered waters of the state and are connected to the Columbia. It is likely that highly contaminated stormwater has washed a cocktail of toxins into the ditches. Testing the soils of the ditches for contaminants should be required. Responsibility for remedial action to the CDID ditches should remain with the parties of this Order.

*Soils adjacent to the CDID ditches and the water in the ditches at the former Reynolds Metals site have been sampled for fluoride. As discussed in the response to Comment #15, a number of entities discharge stormwater to the CDID ditches. Under MTCA, a cleanup site is defined by where contamination has come to be located and not by boundaries of ownership or use. Ecology will review the 2012 draft RI/FS to determine if there is potential to impact the sediment in the ditches and if sampling of the sediment is warranted.*

25. On page 11 of the Order, it is suggested that the schedule can be delayed by project permitting requirements. Schedule delays should not be allowed.

*Ecology could not find a reference to delays on page 11. Section K on page 17 of the Order contains the provisions for when an extension of the schedule is allowed under the order. Project delays can occur for a variety of reasons beyond the control of the PLPs or Ecology and this must be provided for in the order. Ecology understands the interest in expediting this cleanup and will work to ensure the project proceeds in a timely manner.*

26. Priority should be given to cleanup work using a company that excels in this work.

*See the response to Comment #9.*

27. I request that a public hearing be held in Cowlitz County as part of the public process, once the draft RI/FS report is issued.

*Ecology will notify interested parties when the draft RI/FS is received. A copy of the document will also be posted on the website and made available in the local information repository. Ecology will welcome written or verbal input from interested parties based on their review of the initial draft. While we won't be formally responding to comments on the initial draft, community input will help us ensure that we are considering this information as we do our own review of the initial report.*

*Ecology's review of the 2012 draft RI/FS will include an assessment of the data, an identification of any remaining data gaps, and an in-depth review of the remedial*

*alternatives identified. Ecology's findings from the review will be provided to the parties responsible for cleanup as comments to be addressed.*

*Once Ecology's comments have been addressed, the draft RI/FS will be made available for public comment—including a public meeting and hearing in Cowlitz County. Ecology will respond in writing to all comments received during the public comment period including those presented at the public hearing.*