

Summary Response to Public Comment on:

Draft Agreed Order with the Navy

East Waterway
Everett, WA

Puget Sound Initiative:
*Reaching the goal of a healthy,
Sustainable Puget Sound*

September 2017

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Focus
Puget Sound



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Puget Sound Initiative

Protecting and Restoring Puget Sound

The Puget Sound Initiative, established by the Washington State Legislature, is a collaborative effort between local, tribal, state and federal governments, business, agricultural and environmental interests, and the public to restore and protect the Sound.

Contaminated sites around the shorelines are a leading source of pollution to the Sound. The Washington State Department of Ecology (Ecology) has accelerated its efforts to clean and restore these contaminated sites within identified priority bays. Within these bays, Ecology is cleaning up 50-60 sites within one-half mile of the Sound. Cleanup actions will help to reduce pollution and restore habitat and shorelines in Puget Sound, resulting in larger areas of usable shoreline habitat for fish, wildlife and people.



Port Gardner Baywide Cleanup

In Port Gardner Bay, local, state and federal agencies, local Native American tribes, businesses and property owners are working to restore the waterfront – cleaning up several old industrial sites and restoring waterfront areas for fish, animals and people. This unique, baywide collaboration means cleanup and restoration are happening faster. Important waterfront uses – shipbuilding, parks, recreation, housing, fishing, cultural uses and others – can thrive in a revitalized and healthy waterfront environment.

Sites in the Port Gardner Bay area include (see map on page 21):

- **Bay Wood Products** (FSID 4438651)
- **East Waterway** (FSID 2733)
- **Everett Shipyard** (FSID 2794)
- **Everett Smelter (Lowlands)** (FSID 2744)
- **ExxonMobil ADC** (FSID 2728)
- **Jeld-Wen** (FSID 2757)
- **Kimberly-Clark Worldwide, Inc.** (FSID 9)
- **North Marina Ameron/Hulbert** (FSID 68853261)
- **North Marina West End** (FSID 3306834)
- **TC Systems, Inc.** (FSID 10587741)
- **Weyerhaeuser Mill A Former** (FSID 1884322)

For more information on the sites listed above, visit:

<https://fortress.wa.gov/ecy/gsp/SiteSearchPage.aspx>, and search either by site name or the FSID.

For reference, acronyms used in this document are listed below.

- **AO** (Agreed Order)
- **BMP** (Best Management Practices)
- **DCAP** (Draft Cleanup Action Plan)
- **DMMP** (Dredge Material Management Agency)
- **DNR** (Washington Department of Natural Resources)
- **Ecology** (Washington State Department of Ecology)
- **FSID** (Facility Site ID)
- **FS** (Feasibility Study)
- **K-C** (Kimberly-Clark Worldwide, Inc.)
- **MTCA** (Model Toxics Control Act)
- **Navy** (U.S. Department of the Navy)
- **PAH** (Polycyclic aromatic hydrocarbon)
- **PCB** (Polychlorinated biphenyl)
- **PLP** (Potentially Liable Person)
- **Port** (Port of Everett)
- **PPP** (Public Participation Plan)
- **RI** (Remedial Investigation)
- **RI/FS** (Remedial Investigation/Feasibility Study)
- **SEPA** (State Environmental Policy Act)
- **SVOC** (Semivolatile Organic Compound)

East Waterway Site

Site Background and Cleanup Status

Background

The East Waterway Site (Site) was developed in the early 1900s. It was transformed into a deepwater port in the early 1930s. The waterway has been used primarily for saw milling, pulp and paper manufacturing, deepwater shipping, log rafting and storage, and naval activities. It has also been used to store wood chips and hog fuel on barges.

Due to their historic and current operations at the Site, the Potentially Liable Persons (PLPs) for Site cleanup are Kimberly-Clark Worldwide, Inc. (K-C), the Port of Everett (Port), the Washington Department of Natural Resources (DNR) and the U.S. Department of the Navy (Navy).



Environmental investigations at the Site conducted from the 1980s to 2013 found marine sediments contaminated with the following chemicals: metals (arsenic, mercury, zinc, copper, lead), polycyclic aromatic hydrocarbons (PAHs), semivolatile organic compounds (SVOCs), total polychlorinated biphenyls (PCBs) and dioxins/furans.

Cleanup Status

In December 2012, Ecology and K-C entered into an Agreed Order (AO) to clean up the K-C upland area located to the east and next to the waterway. To clean up remaining in-water contaminants, Ecology is pursuing two separate AOs:

- The first East Waterway AO is with K-C, the Port and DNR and went into effect on February 16, 2016. It requires the PLPs (K-C, Port, DNR) to conduct a remedial investigation/feasibility study (RI/FS) and develop a draft cleanup action plan (DCAP) to address in-water contamination at the Site.
- The second East Waterway AO is the subject of this public comment period and this response to public comment. This draft AO requires the Navy to cooperate with the other PLPs to ensure the completion of the RI/FS and DCAP.

Some key events and dates are summarized below.

April 2012 – Operations ceased at the K-C facility.

Summer 2012 – Demolition of buildings began at the K-C facility and was completed by summer 2013.

October 15 – November 14, 2012 – Public comment period was held for an upland portion of the East Waterway Site known as the K-C upland area. A separate cleanup agreement (i.e., the draft AO), draft Public Participation Plan (PPP) and draft State Environmental Policy Act (SEPA) Checklist and Determination of Non-Significance were available for review.

December 2012 – The K-C upland area AO was finalized. The AO requires K-C to develop and perform a RI/FS, conduct interim cleanup actions as opportunities exist during demolition, complete an RI/FS report and prepare a DCAP. K-C's in-water area, which is within the East Waterway, was not included in the K-C upland area AO.

August 2013 – May 2014 – Interim actions were conducted in the K-C upland area. These interim cleanup actions removed about 38,000 cubic yards of contaminated soil and 6,000 gallons of petroleum-impacted groundwater from 15 areas.

June 30 – July 30, 2015 – Public comment period was held for the East Waterway Site. A draft AO and draft PPP were available for review. K-C, the Port and DNR are all parties to the AO. The Navy elected to not be part of the multi-party AO with the other PLPs. Ecology is currently pursuing a separate AO with the Navy on the Site.

February 2016 – The first East Waterway AO was finalized. It requires the PLPs (K-C, Port, DNR) to conduct an RI/FS and develop a DCAP to address in-water contamination at the Site.

What's next?

A second East Waterway AO was developed between Ecology and the Navy. According to the AO with the Navy for the East Waterway Site, the Navy will:

- Provide access to its property to allow PLPs to gather data needed for conducting a RI/FS and a DCAP for the Site.
- Provide available data for the Site to the PLPs to the maximum extent possible.
- Review and comment on draft documents developed as part of the prior AO and submit work plans if conducting a portion of the RI/FS activities.

Proposed Cleanup

The following documents have been issued for the East Waterway Site and describe the anticipated cleanup actions for the Site.

First Agreed Order (AO) with K-C, Port of Everett, and DNR

The AO is a legal document between Ecology and the PLPs which outlines the agreement to provide remedial action (for example, investigation and cleanup) at the Site where there has been a release or threatened release of hazardous substances. The AO describes the studies the PLPs agree to perform on the Site and provides guidance on the following studies, documents and actions:

- *RI/FS*: This document explains the work needed to look for, identify and analyze contamination at the Site.
- *DCAP*: This document uses RI/FS information to identify a preferred cleanup action at the Site and sets a schedule to remove and treat the contamination.
- *Interim Actions*: These may be completed during cleanup if required by Ecology.

Public Participation Plan (PPP)

Ecology is committed to providing the public with timely information and meaningful opportunities to participate in the cleanup process. As part of this commitment, Ecology developed a PPP, which outlines how citizens and interested parties can learn about and provide input on the cleanup.

The PPP explains how Ecology will do the following:

- Notify the public when and where documents are available for review and comment.
- Notify the public about how they can get involved.
- Provide public participation opportunities.
- Consider public comments in cleanup decisions

Second Agreed Order (AO) with the Navy

The draft AO with the Navy is a legal document between Ecology and the Navy (a PLP). This proposed agreement outlines Navy cooperation in the completion of the RI/FS and DCAP, which includes, but is not limited to providing access to its property and available data, and review and comment on draft reports.

Introduction to Summary Response

A significant milestone was reached recently with the development of the following draft document at the East Waterway Site:

- Draft Agreed Order with the Navy

This draft document was issued for public comment on April 20, 2017 and the public comment period ran through May 19, 2017. During the public comment period, Ecology provided the following public involvement materials and opportunities:

1. Distributed a fact sheet describing the Site and the documents through a mailing to addresses in the area and other interested parties.
2. Published a paid display ad in *The Daily Herald* and the *Snohomish County Tribune*.
3. Published a notice in the Toxics Cleanup Program Site Register.
4. Published a public comment period notice in the Ecology Public Involvement Calendar.
5. Posted draft documents on the Ecology website.
6. Provided copies of the documents through information repositories at:
 - Ecology's Headquarters Office
 - Everett Public Library

This Summary Response to Public Comment provides information about the East Waterway Site and responds to public comments received during the public comment period. Ecology has reviewed and carefully considered all comments received on the draft documents, and determined that no significant changes to the documents issued for public review were needed.

Frequently Asked Questions

This section answers some of the questions heard about this Site and the overall cleanup process from public comments periods held on the first AO with K-C, the Port, and DNR, and the second AO with the Navy. Specific written comments received during the comment period on the AO with the Navy are summarized and responded to in the section that begins on page 9.

Who is responsible for cleanup?

Ecology maintains overall responsibility and approval authority for the activities outlined in the AOs for the Site. K-C, the Port, DNR, and the Navy are identified as PLPs responsible for cleanup of the East Waterway Site. Ecology will oversee all future cleanup activities conducted by the PLPs and their contractors to ensure that contamination on the Site is cleaned up to concentrations that protect human health and the environment, as established in state regulations. Ecology may enter into agreements with the other PLPs for the site.

It sounds like the PLPs have a choice in whether or not to join the AO to clean up the Site. Is this true?

An AO is a legal document of agreement between Ecology and the PLPs to provide remedial cleanup action at the Site. If a PLP refuses to cooperate in a cleanup process or refuses to take part in negotiations for an AO, Ecology may issue an Enforcement Order requiring that party to undertake required cleanup activities. Although Ecology has the legal authority to issue an Enforcement Order, the department prefers to achieve cleanups cooperatively.

Who pays for cleanup? If the PLPs do not sign the AO, is there a way to force them to pay for cleanup?

The PLPs share the cost of cleanup. After the cleanup is completed, the PLPs that have signed the AO and conducted the cleanup may seek reimbursement from non-participating PLPs for a portion of the cleanup cost.

When will cleanup occur? What will cleanup look like?

On average, it takes five to seven years to clean up a Site. The RI/FS will determine what contaminants need to be cleaned up and a range of options for conducting the cleanup. Ecology makes the final cleanup decision and documents it in the Site's Final Cleanup Action Plan. Cleanup will likely occur by using a combination of three different methods: dredging, with material disposed of either in-water or upland; capping the contaminants; or monitoring to ensure contamination does not move. Cleanup could be a combination of all three tools. For more information on the cleanup process, please review the Public

Participation Plan for the East Waterway Site, available at <https://fortress.wa.gov/ecy/gsp/Sitepage.aspx?csid=4297>.

Is there a risk of redistributing contaminants during cleanup activities?

The cleanup option selected for the site must provide a cleanup that is protective of human health and the environment. Yes, there is a risk associated with cleanup activities. These risks are minimized because cleanup crews use best management practices (BMPs). BMPs are specified under permit conditions established by various federal and state agencies along with tribal input. The most appropriate cleanup technologies are used to prevent accidental redistribution of materials and to limit the residual levels of contamination. The success of the site cleanup is evaluated after the cleanup is completed to assure that it was effective and met the required expectations. Ecology oversees cleanup activities and ensures contamination on the Site is cleaned up to concentrations that are set in state regulations and that protect human health and the environment.

How many outfalls lead to the East Waterway Site?

There are four combined city outfalls that lead to the Site along with other stormwater and industrial outfalls. The RI/FS study will evaluate contamination resulting from historical and active outfalls that discharge to East Waterway.

Where will dredged contaminated sediments be disposed? Is there a designated open water disposal area that may be used?

Currently there are no plans to utilize a designated open water disposal area as part of the cleanup. This will be taken into consideration based on the investigation results and during the development of cleanup options for the Site. Should this or any other designated open water disposal site be used for sediment disposal, The Dredge Material Management Agency (DMMP), which is comprised of several federal and state agencies including Ecology, determines if the sediment meets state and federal standards for open water disposal. Any dredged material which does not meet these standards must be disposed of in an upland designed landfill authorized to accept contaminated sediment and soil designated as Hazardous or Dangerous Waste.

Will there be a public hearing to address questions on the cleanup?

A public meeting will be held if requested by ten or more people during the comment period, or if Ecology decides it would be useful.

Comments and Responses

The comments received on the draft Agreed Order with the Navy were reviewed and evaluated by the Ecology cleanup team. Comments were categorized into six areas for response, though many comments touched on aspects of more than one comment category. The comment categories include:

1. Cleanup and Restoration

Comments about cleaning Port Gardner Bay to provide a healthy and clean area supportive of a wide variety of future uses.

2. K-C cleanup

Comments about the K-C uplands cleanup.

3. Human and wildlife health risk

Comments about the potential human and wildlife health risk from toxins, soil contamination and discharge at the Site.

4. Cleanup timeline

Comments about the timing of cleanup or concern for delay of the process.

5. Navy cleanup work and responsibility

Comments about the work and recognition of cleanup performed by the Navy, and their responsibility for additional contamination as it relates to the AO.

A total of 17 persons provided comments through letters and email messages regarding the draft documents. In the comment table, each commenter is referenced by an assigned comment number.

List of Commenters:

- Jacqueline Vajdik, local resident, Comment 1
- Sister Mohammad, local resident, Comment 2
- M.J. Donovan Creamer and Bob Creamer, local residents, Comment 3
- Janice Tullis, local resident, Comment 4
- Betty Woodley, local resident, Comment 5
- Linda Studley, local resident, Comment 6
- Lembi Kongas, local resident, Comment 7
- Jeanine Sanclement, local resident, Comment 8
- Mike Hapointe, local resident, Comment 9
- Christopher Glans, local resident, Comment 10
- Pam Kapfund, local resident, Comment 11

- Ken Dammand, local resident, Comment 12
- Karen Winchell, local resident, Comment 13
- Jennie Lindberg and Dean Smith, local residents, Comment 14
- Sherry Steele Hayden, local resident, Comment 15
- Linden Kimbrough, local resident, Comment 16
- Lisa Morden, Kimberly-Clark Corporation, Comment 17

1. *Cleanup and Restoration*

Responses included in this category relate to comments about cleaning the Port Gardner Bay to provide a healthy and clean area supportive of a wide variety of future uses.

Comment	Ecology’s Response
<p>1.1 [<i>Comment 1</i>] I am a resident in Everett. I’m right by the Port of Everett and by the naval base and I am reading about the East Waterway cleanup – why wouldn’t we do this. This needs to be done and we are responsible for doing what we can to clean up our planet and I just believe that we need to make sure that this is done to preserve our wildlife, to preserve our water, to preserve what God left us responsible for. I’m 54 years old, I pick up garbage, I pick up litter, I’ve called before – right by the Kimberly-Clark there was all kinds of dumpage over there and I called the City Hall, and they sent out people to clean it up. I am absolutely all for this. I have been a resident of Seattle Washington since 2001, and proud to be and it’s very important to me that we do this. I believe it’s important to God that we are responsible for what he gave us. Thank you so much and I will be looking forward to hearing more from you guys. Thank you.</p>	<p>Ecology appreciates you taking the time to comment on the draft AO with the Navy for the East Waterway Site and your support for a healthy and clean Port Gardner Bay. We agree that East Waterway needs to be cleaned up and restored to protect human health and the environment. You can receive updates on the East Waterway cleanup, as well as all of our Puget Sound Initiative Sites in Port Gardner Bay, via our web page listed on page 2.</p>
<p>1.2 [<i>Comment 2</i>] I live in Everett Washington and I’m calling regarding facility site ID number 2733, cleanup site number 4297, and the East Waterway Draft Agreed Order with the navy that’s available for public review and comment.</p>	

Comment	Ecology's Response
<p>I'm leaving a public comment because the cleanup action that you're asking the general public to consider will help to reduce pollution and restore habitat and shorelines in Puget Sound. I'm all for it and thank you for your time.</p>	
<p>1.3 [Comment 3] We are joining our neighbors in Port Gardner Neighborhood about cleanup/East Waterway. We urge you to take this on so our water ways are clean/healthy for future generations. Thank you for your attention to this matter!</p>	
<p>1.4 [Comment 4] Please help push to finish the clean up of the water front in Everett. All the land along the East Water Way needs to be cleaned so the community can reuse the land.</p>	

2. K-C cleanup

Responses included in this category relate to comments in part about the K-C uplands cleanup, which is part of the East Waterway.

Comment	Ecology's Response
<p>2.1.[Comment 5] Summary of call with commenter: Ecology received a call today from an Everett citizen. She lives on the bluff above K-C and received the fact sheet for the Navy Order. Her comment was on the K-C uplands, which is part of East Waterway. She viewed the tear down of the mill and crushing operation from her house. She is concerned with the ground up cement that K-C incorporated into the site. She feels that it must be contaminated based on so many years of industrial activity. She thinks it should be removed.</p>	<p>Ecology appreciates you taking the time to share your concerns about the upland cleanup at K-C. Ecology is working with K-C to determine appropriate measures to assure that the cleanup of all media (e.g., soil, groundwater, crushed cement, etc.) at the Site complies with our state cleanup law (i.e., Model Toxics Control Act or MTCA) and is protective of human health and the environment. You can receive updates on the East Waterway and K-C cleanups, as well as all of our Puget Sound Initiative Sites in Port Gardner Bay, via our web page listed on page 2.</p>

Comment	Ecology's Response
<p>2.2.[<i>Comment 8</i>] Please clean up the old Kimberly Clark Site on the Everett Waterfront. The people of Everett and along the Puget Sound deserve clean water and soil without contaminates. In addition, a waterfront clean up would encourage development that could revitalize the Port of Everett.</p>	<p>Ecology appreciates you taking the time to share your concerns about the upland cleanup at K-C and the East Waterway. Ecology is working with K-C to determine appropriate measures to assure that the upland cleanup is protective of human health and the environment. We agree that the East Waterway also needs to be cleaned up and restored to create a revitalized and healthy waterfront environment so the Everett community can prosper. You can receive updates on the East Waterway and K-C cleanups, as well as all of our Puget Sound Initiative Sites in Port Gardner Bay, via our web page listed on page 2.</p>
<p>2.3.[<i>Comment 9</i>] I was very involved with the issues around the Kimberly Clark property cleanup. It is time steps are taken to remove all toxic elements both on land and in the East Waterway. The in water cleanup is an urgent concern. The pollution is so high that the waterway is a dead zone keeping fish from swimming that passageway due to oxygen depletion. Please start the process to restore our pristine conditions to this area.</p>	

3. Human and wildlife health risk

Responses included in this category relate to comments about the potential human and wildlife health risk from toxins, soil contamination, air-borne pollutants and discharge at the Site.

Comment	Ecology's Response
<p>3.1.[<i>Comment 6</i>] I am writing this to urge the cleanup of the East Waterway in Everett. It would be such a bonus to this community to clean up the waterfront. It is difficult to know if I can breathe or hold my breath when in the area. If it's cleaned up the problems solved.</p>	<p>Ecology appreciates you taking the time to comment on the draft AO with the Navy for the East Waterway Site and your support for a healthy and clean Port Gardner Bay. The type and extent of contamination will be evaluated as part of the cleanup investigation (i.e., RI) to understand how to best perform cleanup actions. A study (called a Feasibility Study or FS) will be conducted to determine the best option for cleanup of the Site so that it is protective of human health and the environment. You can receive updates on the East Waterway cleanup, as well as all of our Puget Sound</p>

Comment	Ecology's Response
	Initiative Sites in Port Gardner Bay, via our web page listed on page 2.
<p>3.2. [Comment 7] I strongly agree with the Ecology Agreed Order for the Navy to cleanup its section of the East Waterway Site in the Everett, WA Harbor. I live within walking distance of this site which is close by to DT Everett, residential Everett and the public use waterfront, not to mention the harbor workers. It is essential for public health, the health of wildlife and the beauty of our natural world that these poisons, whether heavy metals or chemicals, be removed from the Port Gardner Bay.</p> <ul style="list-style-type: none"> • people fish and crab along the 13th Street dock and eat what they catch • people swim and wind surf off of Jetty Island • people boat in Port Gardner Bay • our orca population is endangered with only about 82 orcas left in the K, L, M pods. If that number falls into the 60's, the orcas will no longer be able to breed to maintain themselves and we will lose the species. Just recently we have had orca deaths from starvation and blunt trauma from the Navy's underwater noise exercises the Grey whales that pass through this area in their migrations are also affected by the poison in the water. <p>It is crucial that we clean up the Sound and that the Navy does its part.</p> <p>I support and request a public hearing on this as a way for more people to become aware of this issue. Local participation in environmental health depends on people knowing what is going on and then using their civic duty to speak up.</p>	<p>Ecology appreciates you taking the time to comment on the cleanup process for the East Waterway Site. We agree the East Waterway Site is contaminated and needs to be cleaned up and restored to protect human health and the environment. The type and extent of contamination will be evaluated as part of the cleanup investigation (i.e., RI) to understand how to best perform cleanup actions. A study (called a Feasibility Study or FS) will be conducted to determine the best option for cleanup of the Site so that it is protective of human health and the environment.</p> <p>A public meeting will be held if requested by ten or more people during the comment period, or if Ecology decides it would be useful. We did not receive at least 10 requests. We will consider holding a public meeting as needed for future notices.</p> <p>You can receive updates on the East Waterway cleanup, as well as all of our Puget Sound Initiative Sites in Port Gardner Bay, via our web page listed on page 2.</p>

Comment	Ecology's Response
"Grow where you are planted. Love who you are with."	

4. Cleanup timeline

Responses included in this category relate to comments about the timing of cleanup or concern expressed for delay.

Comment	Ecology's Response
4.1.[<i>Comment 10</i>] I support the clean up of the East Waterway in Everett. We need action, not just words. Please take action to clean up our site and water but NO Tankers Allowed!	Ecology appreciates you taking the time to comment on the draft AO with the Navy for the East Waterway Site and your support for a healthy and clean Port Gardner Bay. You can receive updates on the East Waterway cleanup, as well as all of our Puget Sound Initiative Sites in Port Gardner Bay, via our web page listed on page 2.
4.2.[<i>Comment 11</i>] What is the holdup? We need the Everett Harbor to full functioning! Proceed with cleaning up the East Waterway. Action-not just words!	Ecology appreciates you taking the time to comment on the draft AO with the Navy for the East Waterway Site and your support for a healthy and clean Port Gardner Bay.
4.3.[<i>Comment 12</i>] As a long time Everett area resident I am concerned at the protracted delay in cleaning up the East Waterway in Everett. I strongly support any effort your department can make to expedite this cleanup.	On average, it takes five to seven years to clean up a Site. Currently, we are developing the RI work plan, which describes the approach to evaluate the type and extent of contamination at the East Waterway Site. The draft RI and associated draft FS outlining cleanup alternatives will be available for public comment once drafted. For more information on the cleanup process, please review the Public Participation Plan for the East Waterway Site, available at https://fortress.wa.gov/ecy/gsp/Sitepage.aspx?csid=4297 .

Comment	Ecology's Response
	<p>You can receive updates on the East Waterway cleanup, as well as all of our Puget Sound Initiative Sites in Port Gardner Bay, via our web page listed on page 2.</p>
<p>4.4.[<i>Comment 13</i>] Everett has lived with this dangerous, toxics area called the Everett East Waterway for too long. It's time for a public hearing on the issue. Now that the marine maintenance yards have been closed, it cannot be developed as is. This is an important economic issue.</p>	<p>Ecology appreciates you taking the time to comment on the draft AO with the Navy for the East Waterway Site and your support for a healthy and clean Port Gardner Bay.</p> <p>A public meeting will be held if requested by ten or more people during the comment period, or if Ecology decides it would be useful. We did not receive at least 10 requests. We will consider holding a public meeting as needed for future notices.</p> <p>Environmental cleanups can pave the way for future economic development opportunities. Information on Port of Everett development projects are available online at their website.</p> <p>You can receive updates on the East Waterway cleanup, as well as all of our Puget Sound Initiative Sites in Port Gardner Bay, via our web page listed on page 2.</p>
<p>4.5.[<i>Comment 14</i>] I support immediate and thorough clean up of the Everett Waterfront especially the East Waterway.</p>	<p>Ecology appreciates you taking the time to comment on the draft AO with the Navy for the East Waterway Site and your support for a healthy and clean Port Gardner Bay. You can receive updates on the East Waterway cleanup, as well as all of our Puget Sound Initiative Sites in Port Gardner Bay, via our web page listed on page 2.</p>
<p>4.6.[<i>Comment 15</i>] As a concerned citizen of Everett, I want to tell you to please move forward with cleanup of the East Waterway on Everett's west side. Please don't drop the ball on this!</p>	

5. Navy cleanup work and responsibility

Responses included in this category relate to comments about the work and recognition of cleanup performed by the Navy, and their responsibility for additional contamination as it relates to the AO.

Comment	Ecology's Response
<p>5.1. [Comment 16] Thank you for the update on the information at the library. I had a chance to review the documentation on the order for the Navy. It looks like the Dept of Ecology has a case for the clean up on the part of the Navy for its history of the use of the property in question. I am in agreement with the D of E for the Navy part in taking action to initiate clean up of the said property.</p>	<p>Ecology appreciates you taking the time to comment on the draft Agreed Order with the Navy for the East Waterway Site and your support for a healthy and clean Port Gardner Bay. You can receive updates on the East Waterway cleanup, as well as all of our Puget Sound Initiative Sites in Port Gardner Bay, via our web page listed on page 2.</p>
<p>5.2. [Comment 17] Please find attached Kimberly-Clark's comments in reference to the draft AO between Ecology and the US Navy.</p> <p>Thank you for your consideration of this input.</p> <p>See Appendix 1 on page 18</p>	<p>Thank you for your comments on the draft Agreed Order with the Navy.</p> <p>Ecology is reviewing your request to modify the AO language and will follow up once our decision has been made.</p>

Appendix 1 - Comment from Kimberly-Clark

Mr Andy Kallus
Site Manager
P O Box 47600
Olympia, WA
98504-7600

Transmitted Via Email @ Andrew.Kallus@ecy.wa.gov

Re: Comments on Draft Agreed Order between Ecology & U S Navy, East Waterway

Dear Mr Kallus

Thank you for the opportunity to comment on the above-referenced draft agreed order ("Navy Order"). As you know, Kimberly-Clark Worldwide, Inc, ("K-C") is a party to Agreed Order DE 11350 ("Order 11350"), which requires investigation and development of a cleanup action plan for the East Waterway. K-C and the Port of Everett ("Port") are working with Ecology to implement that Order's requirements. The Washington Department of Natural Resources ("DNR") is also a party. K-C, the Port, DNR and Ecology are referred to collectively as the "Order 11350 Parties." K-C is aware that the U.S Navy ("Navy"), although also identified by Ecology as a PLP for the East Waterway, declined to sign Order 11350, citing limitations on its authority. K-C appreciates Ecology's efforts to involve the Navy in the East Waterway cleanup effort in a formal, although limited manner. K-C's comments relate to the effects the proposed Navy Order would have on the implementation of Order 11350.

Section VII.C. Section VII.C would require the Navy to comment on draft documents developed under Order 11350, "in accordance with the schedule [of Order 11350]." K-C notes that Order 11350 requires its parties to perform tasks on a schedule, but that that schedule does not provide for separate review by the Navy or other third parties (other than formal public review at designated points in the process). Neither does it excuse the Order 11350 Parties' noncompliance with deadlines resulting from delays due to third parties' review and comment. K-C therefore concurs that any review and comment provided by the Navy with respect to documents developed under Order 11350 occur with the consent of Order 11350 Parties and in a manner that does not slow progress or interfere with those parties' compliance with Order 11350's schedule.

Section VIII.D. The Port of Everett, K-C and the Navy have negotiated a separate right-of-entry agreement that will, when fully executed, provide the Port and K-C access to the Navy's property for work necessary to implement Order 11350. Section VIII D of the Navy Order would grant the Order 11350 Parties access to the Navy's property, and would make that access subject to certain conditions. The draft specifies that the conditioned grant of access would not limit Ecology's rights under

other authority. K-C requests that language be added (shown as the underlined insert below) to clarify that the grant would also not limit access rights that other Order 11350 Parties obtain separately.

Without any limitation on any authority conferred on Ecology by law, or to the PLPs by separate agreement. Ecology and the PLPs under Agreed Order 11350, and/or their authorized representatives, shall be allowed to enter the Naval Station Everett property within the Site and the naval restricted area within the Site (see CFR 334.1215) at reasonable times for purposes consistent with the provisions of this Agreed Order, subject to any statutory or regulatory requirements necessary to protect national security or mission essential activities (e.g., immediate deployment of Naval vessels).

Thank you for considering these comments.

Sincerely,



Lisa Morden
Senior Director
Global Sustainability

Explanatory Figures



Figure 1. Port Gardner baywide area cleanup sites under the Puget Sound Initiative.

Ecology Contact Information

For more information on the East Waterway Site, contact:

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Website: <http://epls.org>

Department of Ecology Headquarters

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<https://fortress.wa.gov/ecy/gsp/Sitepage.aspx?csid=4297>

To request ADA accommodation or materials in a format for the visually impaired, call Ecology at 360-407-7170, Relay Service 711, or TTY 877-833-6341.