DEPARTMENT OF ECOLOGY
State of Washington

Response to Comments
March Point Landfill

March 9 – April 17, 2020
Summary of a public comment period and responses to comments

May 2020

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Publication and Contact Information

This document is available on the Department of Ecology's website at:
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Response to Comments
March Point Landfill | Anacortes, WA

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Toxics Cleanup Program

Washington State Department of Ecology

Olympia, Washington

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Abbreviations

ARAR – Applicable or Relevant and Appropriate Requirements

CAP – Cleanup Action Plan

CD – consent decree

DCAP - Draft Cleanup Action Plan

HMP – Habitat Management Plan

LFG – landfill gas

MTCA – Model Toxics Control Act

PCB – Polychlorinated biphenyls

PLP – Potentially Liable Person

PPP – Public Participation Plan

SEPA – State Environmental Policy Act

SVOC – semi-volatile organic compound

TPH – total petroleum hydrocarbons

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, businesses, agricultural and environmental interests, and the public to restore and protect Puget Sound.

Contaminated sites around the shorelines are a leading source of pollution to the Puget Sound. Ecology has accelerated its efforts to clean and restore these contaminated sites within 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.

Figure 1 Map of the Puget Sound Initiative baywide cleanup areas to reduce pollution and restore shorelines in Puget Sound.

Anacortes Baywide Cleanup – Fidalgo & Padilla Bays

Ecology is taking a baywide approach to cleaning up multiple sites within a geographic area. In Anacortes, we are working to clean up several old industrial sites and restore waterfront areas for fish, animals and people. This unique baywide collaboration means more cleanups and restoration are happening faster. Important waterfront uses – shipbuilding, marinas, parks, recreation, housing, fishing, cultural uses, and others – can thrive in a revitalized and healthy waterfront environment.

Sites in the Anacortes area include:

- **Anacortes Port Log Yard**
- **Cap Sante Marine**
- **Custom Plywood Mill**
- **Dakota Creek Industries**
- **March Point Landfill**
- **MJB Properties**
- **MJB South Hydro Fill**
- **Scott Paper Mill**
- **Shell Oil Tank Farm**
- **Quiet Cove**

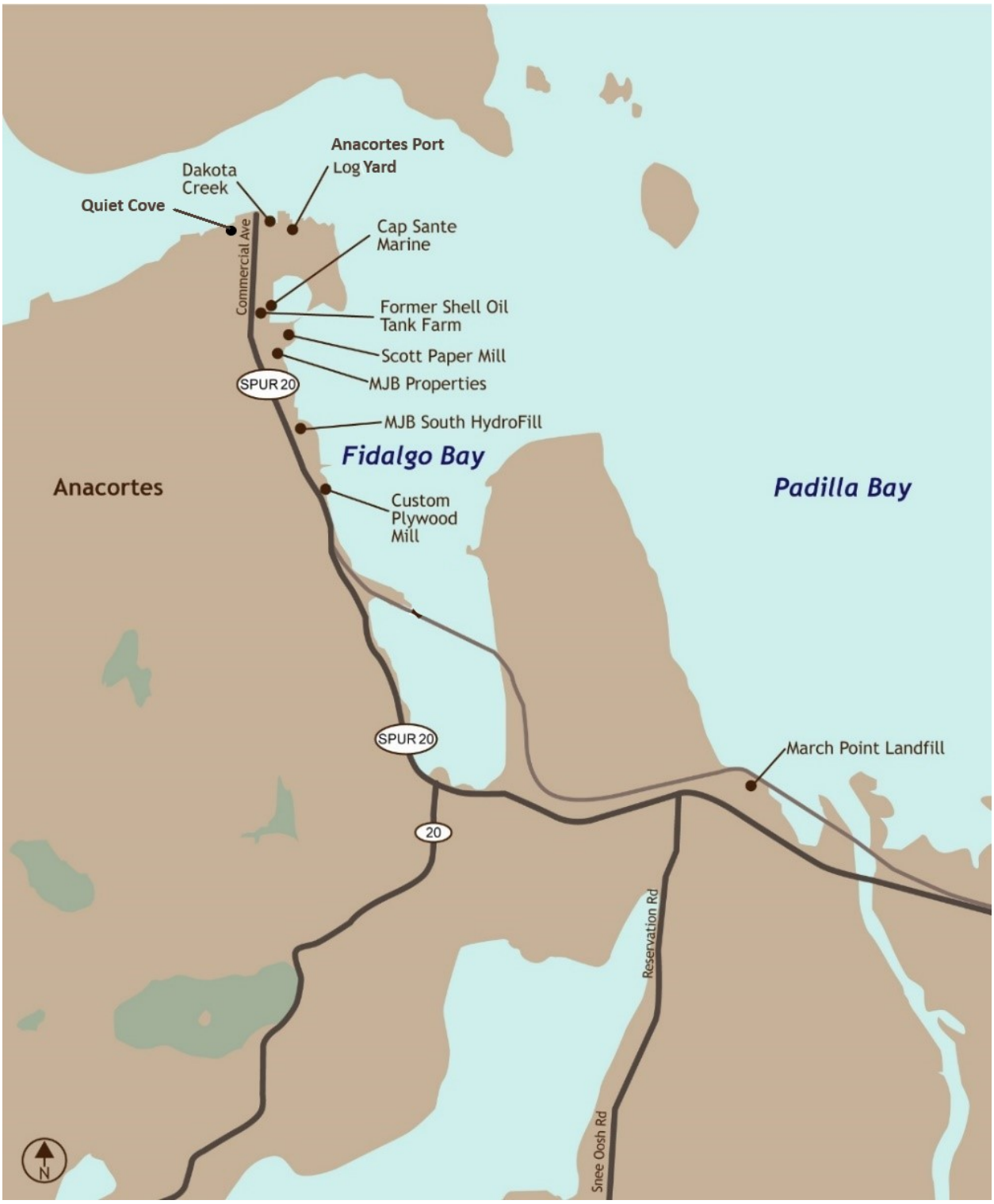

Figure 2: Fidalgo and Padilla baywide area cleanup sites under the Puget Sound Initiative.

For more information on the Anacortes sites, visit: https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Cleanup-sites/Toxic-cleanup-sites/Puget-Sound/Fidalgo-Padilla-baywide

March Point Landfill Site

Site Background

The March Point Landfill, also called Whitmarsh Landfill, is generally located at 9663 South March Point Road in Anacortes, Skagit County, WA. Starting in 1950, the site was used as an unregulated public dump, and then operated as a county landfill from 1961 to 1973.

The site's tidelands were filled in with household, commercial, and industrial solid wastes. A sawmill operated on the closed landfill where methane-generating wood waste accumulated up to ten feet thick over large portions of the site. Most of the wood waste was removed in 2014 and 2015.

Cleanup Status

Ecology and the Potentially Liable Persons (PLPs) – Shell Oil Co., Texaco Inc., Skagit County, and the Washington Department of Natural Resources – entered into a formal legal agreement to clean up the site. In 2017, the PLPs completed a remedial investigation and feasibility study to describe the nature and extent of contamination at the site, evaluate the risks contamination poses to human health and the environment, and identify options for cleanup.

The remedial investigation identified soil and groundwater contaminants at the site, including:

- Total petroleum hydrocarbons (TPHs)
- Benzene
- Semi-volatile organic compounds (SVOCs)
- Polychlorinated biphenyls (PCBs)
- Pesticides
- Metals
- Methane gas

The Feasibility Study includes an evaluation of seven cleanup options to address the contamination. From this analysis, cleanup Alternative 3 was selected as the preferred option.

Proposed plans for cleanup were available for public comment from March 9 – April 17, 2020.

Proposed Cleanup

The following documents were available for public comment March 9 – April 17, 2020 for the March Point Landfill Site. The original comment period was extended by 10 days to allow additional time for document review and comment.

Overview of the Draft Cleanup Action Plan

The Draft Cleanup Action Plan (DCAP) describes the proposed Alternative 3 cleanup action for the Site and outlines requirements for the cleanup, including specifically required cleanup actions:

- Engineering controls and institutional controls
- Landfill cover (vertical/lateral) including demolition and stormwater control
- Leachate (or groundwater), treatment and/or containment as necessary
- LFG collection and venting
- Long-term monitoring, contingency and action triggers

Overview of the Draft Consent Decree

In the draft Consent Decree (CD), Ecology and Shell Oil Co., Texaco Inc., and Skagit County (the PLPs) agree upon the cleanup actions needed to protect human health and environment at the Site. The draft CD, a formal legal document, requires the PLPs to carry out specifically identified cleanup actions as outlined in the DCAP.

Overview of the Draft De Minimis Consent Decree

The draft De Minimis Consent Decree defines the legal agreement between Ecology and one of the potentially liable persons, the Moon Credit Trust. It defines minimal liability and the required access and actions necessary to allow for completion of the cleanup and long-term monitoring and maintenance at the Site.

Overview of the Draft SEPA Mitigated Determination of Non-Significance

SEPA (State Environmental Policy Act) makes sure that environmental values are considered during agency decision-making. A draft SEPA Checklist was prepared to identify potential environmental impacts of the project on the surrounding environment. Ecology determined that use of best management practices and related measures to avoid, minimize and mitigate

adverse impacts during environmental cleanup of the Site will be sufficient to likely not result in a significant adverse impact on the environment.

Overview of the Draft Public Participation Plan

Ecology is committed to providing the public with timely information and meaningful opportunities to participate in the cleanup process. As part of this process, Ecology has developed a Public Participation Plan (PPP). This draft PPP outlines how the public can learn about and provide input on the cleanup.

Introduction to Summary Response

A significant milestone was reached recently with the issuance of the following draft documents for the March Point Landfill Site:

- Draft Cleanup Action Plan
- Consent Decree
- De Minimis Consent Decree
- SEPA Mitigated Determination of Non-significance
- Public Participation Plan

These draft documents were released for a public comment period from March 9, 2020, through April 17, 2020. During the public comment period, Ecology provided the following public involvement materials and opportunities:

1. Distributed a mailed fact sheet describing the site and the documents to addresses in the area and other interested parties.
2. Published a paid display ad in *Anacortes American,* and the *Skagit Valley Herald.*
3. Published a notice in the Toxics Cleanup Program Site Register.
4. Posted draft documents on the Ecology website.
5. Provided copies of the documents through information repositories at:
    a. Ecology's Headquarters Office
    b. Anacortes Public Library
    c. Padilla Bay National Estuarine Research Reserve
    d. Skagit County Public Works Office

This summary response to public comment provides information about the March Point Landfill Site and responds to 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.

Comments and Responses

This Responsiveness Summary consolidates comments that either ask the same question or express similar concerns. Ecology has carefully considered each public comment and responded to the comments consolidated according to major themes.

The comments generally address the following topics:

1. Impacts to Great Blue Heron Habitat
2. Alternative Cleanup Actions
3. Future Land Use/Restoration

A total of 50 people provided comments regarding the draft documents. In the comment table, each commenter is referenced by an assigned commenter number. **See Appendix A** for all comments received.

A total of three people requested an extension of the public comment period, and two commenters requested an in-person public meeting.

List of Commenters:

Impacts to Great Blue Heron Habitat

Table 1: Responses in this category relate to comments about impacts to Great Blue Heron habitat, nesting and breeding.

Comment	Ecology's Response
Ann Eissinger, Commenter A-1	Thank you for your comments. Ecology understands and shares your concerns about protecting the heron rookery. Please see Ecology's response to the Skagit Audubon Society, Commenter A-4, and Skagit Land Trust, Commenter A-9. We received a drawn stormwater and spring map from the last comment period that Ecology can provide to you. In turn, additional surface water investigations will occur after the CAP is finalized during pre-remedial investigations. This along with the necessary biological investigations will be used to assess current conditions to meet the permitting requirements such as the Joint Aquatic Resources Permitting Application under the Army Corps of Engineers, etc. In addition, Ecology provided individual responses to specific comments below and in Table 2.
Commenter A-1 **Comment 1:** Because the herons actively utilize the March Point Landfill project area, the heron habitats need to be identified and incorporated into the site planning process and avoided during construction activities.	**Response 1:** Comment noted. The Habitat Management Plan will be developed under the City of Anacortes' authority. The City will have access to the public comments to aid in the development of the plan. Please see comment responses to the Skagit Land Trust and Skagit Audubon Society.

Comment	Ecology's Response
In addition heron habitat enhancement needs to be incorporated into the remediation plan. The habitat improvement proposed in the DCAP consists of a grassy edge along the shoreline, which has limited value to heron particularly if rodent control measures are employed which usually means the use of poison. Over all, the Alternative 3 plan option has little habitat value for herons or other wildlife except killdeer who nest on gravel. Considering this information it is requested that site design be revised to incorporate heron habitat areas and to enhance these areas to the fullest extent possible.	The primary goal of a cleanup under the Model Toxics Control Act is to mitigate contamination to protect human health and the environment. By minimizing or eliminating the release of toxics in the food chain in and around Padilla Bay, the heron habitat will be improved. You also mention in Comment 4 that rodents provide a food source for heron. There are no current plans to utilize pesticides for rodent control. Shoreline habitat improvement in the conceptual plan is focused on improvements to fisheries, which is also an important heronry consideration. Trees and shrubs with deep root systems can penetrate the low permeability cap and create pathways for contaminants to move through the waste and into the surrounding environment. However, Ecology will consider any suggested shallow-rooted species that would benefit great blue heron during review of the detailed design report.
Commenter A-1 **Comment 3:** Toxins…John Elliot PhD, a respected Canadian toxicologist has worked with Great Blue Herons and understands the effects of environmental toxins in the marine environment and would be recommended to review and comment on the March Point Landfill site toxicology sampling results, and DCAP and to make recommendations.	**Response 3:** Thank you for your recommendation. We used your input on this topic and the input from our main point of contact, Jane Zillig with Skagit Land Trust, to include the necessary details at this stage of the cleanup process. Our goal is to move this cleanup forward in a timely manner to prevent additional contamination from entering Padilla Bay and threatening future heron offspring while making sure the Habitat Management Plan and subsequent detailed schedule allows for protection of the current heron rookery.

Comment	Ecology's Response
Anne Winkes, Commenter A-2	Thank you for your comments. Ecology understands and shares your concerns about protecting the heron rookery. Please see Ecology's response to the Skagit Audubon Society, Commenter A-4, and Skagit Land Trust, Commenter A-9. In addition, Ecology provided individual responses to specific comments below.
Commenter A-2 **Comment 1:** Additionally the public should be allowed to review and comment on the Habitat Management Plan before it is finalized.	**Response 1:** The Heronry Management Plan will be prepared under the authority of the City of Anacortes. Please contact the City of Anacortes to determine if the City of Anacortes plans to hold public comment for the plan. However, Ecology will reach out and continue to solicit informal input from interested parties as deemed necessary through development and review of the plan.
Commenter A-2 **Comment 2:** I request that Ann Eissinger, the pre-eminent great blue heron wildlife biologist with expertise in the March Point Heronry, and Skagit Land Trust as the long time protector of the heronry with years of gathering data about the herons, be included in the development of the Habitat Management Plan for the March Point Heronry.	**Response 2:** Thank you for the recommendation. We will continue to include the Skagit Land Trust, our main point of contact as the managers of the heron rookery, and Ann Eissinger as the Habitat Management Plan is developed.
Sue Ehlers, Commenter A-3	Thank you for your comments. Please see Ecology's response to the Skagit Audubon Society, Commenter A-4, and Skagit Land Trust, Commenter A-9.
Skagit Audubon Society (Jeff Osmundson), Commenter A-4	Thank you for your comments. Please see Ecology's response to the Skagit Land Trust, Commenter A-9.

Comment	Ecology's Response
	In addition, Ecology provided individual responses to comments you provided that were not addressed in the Skagit Land Trust response.
Commenter A-4 **Comment 1:** Given the importance of the lagoons to the herons, these should both be monitored for contaminants during and post construction.	**Response 1:** Ecology agrees that monitoring should occur during and post-construction as appropriate. Our cleanup process requires long-term water quality monitoring of contaminants from the landfill and five-year reviews to track the effectiveness of the cleanup remedy. Water quality monitoring during construction will follow the requirements of any applicable construction permits.
Commenter A-4 **Comment 2:** What is the plan for dealing with the dioxin and furan detected during testing but believed possibly unrelated to the contaminants from the landfill?	**Response 2:** Ecology is working with the Swinomish Tribe to complete a separate investigation to address the dioxins and furans identified during the remedial investigation.
Commenter A-4 **Comment 3:** We note that in the description of construction performance monitoring (pp. xiii – xiv Executive Summary, Draft Cleanup Action Plan, and elsewhere), there is no mention of monitoring disturbance of herons or the heronry. This should be added. Stopping the work when significant disturbance occurs would be fully in accord with the provision of the Draft Consent Decree on page 23, number 1 under "Endangerment": "In the event Ecology determines that any activity being performed at the Site under this Decree is creating or has the potential to create a danger to human health or the environment, Ecology may	**Response 3:** Comment noted. The statement in the consent decree is designed to protect for foreseen and unforeseen scenarios. The SEPA checklist set forth the environmental concern regarding the heron rookery that will need to be mitigated accordingly. Details such as the need for performance monitoring and protocols for when to stop work during construction activities to protect the herons will be determined during development, review, and approval of the Habitat Management Plan. The consent decree provides the enforcement tool under MTCA to meet the requirements set forth in the Habitat Management Plan.

Comment	Ecology's Response
direct Defendants to cease such activities for such period of time as it deems necessary to abate the danger. Defendants shall immediately comply with such direction.	
Commenter A-4 **Comment 4:** Reporting requirements should include information about disturbance to herons near the site and in the heronry. On page 14 of the Draft Consent Degree at #7 is a list of information to be included in monthly reports during the cleanup. Please add to this a requirement to describe disturbance events to herons in the inner lagoon or the heronry, what actions were taken in response, the subsequent behavior of the herons, and the length of the related work stoppage if any.	**Response 4:** Thank you for your comment. The Heronry Management Plan is the appropriate document to evaluate which reporting requirements should be in place to deal with the heronry and to call them out. We will consider these suggestions in developing that plan.
Commenter A-4 **Comment 5:** The Draft Consent Decree at various points (e.g., p.16) requires that all cleanup plans and work be under the direction of professional, appropriately licensed engineers. Please add a similar requirement for involvement of an appropriate biologist in the training and oversight of heronry monitors as well as in the preparation and approval of the Habitat Management Plan.	**Response 5:** Ecology agrees that it would be beneficial to have an experienced professional to develop and/or review the Habitat Management Plan. Your comments were provided to the PLP Group for them to consider including professional biologist recommendations. MTCA requires all cleanup plans be developed by, or under the direction supervision of, qualified and licensed geologists and engineers. However, there is no similar state requirement for the role of qualified or licensed biologists in development of Habitat Management Plans under state cleanup regulations

Comment	Ecology's Response
	(MTCA - Chapter 173-340 WAC and SMS - Chapter 173-204 WAC). The Heronry Management Plan is a permitting requirement within the jurisdiction of the City of Anacortes. It is expected the City of Anacortes will work with the Potentially Liable Persons and their professionals to develop a plan that will protect the heron rookery population.
Mary and Jeff Sinker, Commenter A-5	Thank you for your comments. Please see Ecology's response to the Skagit Audobon Society, Commenter A-4, and Skagit Land Trust, Commenter A-9.
Friends of the San Juans (Lovel Pratt), Commenter A-6	Thank you for your comments. Please see Ecology's response to the Skagit Audobon Society, Commenter A-4, and Skagit Land Trust (Molly Doran), Commenter A-9.
Janice and Keith Wiggers, Commenter A-8	Thank you for your comments. Please see Ecology's response to the Skagit Audobon Society, Commenter A-4, and Skagit Land Trust, Commenter A-9.
Skagit Land Trust (Molly Doran), Commenter A-9	Thank you for your thoughtful suggestions and guidance on how to develop and implement a successful Habitat Management Plan for the Great Blue Herons nesting adjacent to the cleanup site. This plan will dictate what requirements will be in place to protect this important natural resource. Given the Skagit Land Trust's unique position as manager of the rookery, we will reach out soon to discuss keeping the Land Trust and its technical consultants engaged as the Habitat Management Plan is developed.

Comment	Ecology's Response
	Ecology specifically plays a supporting role in the development of the Habitat Management Plan. Our role is to review and provide feedback on the plan that the City of Anacortes develops. In that capacity, we will share your guidance and the other guidance we received with the City and other collaborators, and will use it to inform our review process. Thank you for meeting our request to submit your valuable heron-specific guidance during the DCAP public comment period to allow for a formal incorporation of your input in future development steps. We are encouraged by early responses from the PLP to this comment period. We will continue to engage the Skagit Land Trust as the primary stakeholder of the heron rookery as we move through the development of the HMP. Ecology also provided individual responses to specific comments below.
Commenter A-9 **Comment 1:** …there is an absence of information in the documents provided for review on how the Cleanup Project will impact the heronry, and steps to mitigate this. Nor is there a probable sequencing of Cleanup Project steps.	**Response 1:** The plan developed thus far and presented in the Draft Cleanup Action Plan (DCAP) is a conceptual level plan. After this DCAP is finalized, additional work will be required to develop project sequencing: for instance, the design phase will include pre-design investigations, permitting (including noise evaluations and preparation of the Habitat Management Plan), development of 60% and 90% design project documents, and finally, development of the final design documents. Each step builds on the previous step and provides more detail. We will plan for further

Comment	Ecology's Response
	engagement after those documents are drafted. The CAP is meant to identify the planning factors necessary to safely and successfully complete the cleanup. This includes identifying Applicable or Relevant and Appropriate Requirements (ARARs) not under Ecology's authority through the cleanup requirements set forth in MTCA. Development of a habitat management plan (HMP) will occur under the City of Anacortes' (City) oversight and final approval under their permitting requirements. Construction at the site will use best management practices to comply with applicable clean air standards under the authority of the Northwest Clean Air Agency. The Great Blue Heron is not protected under the endangered species act; however, it is designated as a Species of Local Importance. Regulation and protection of this species fall under the City of Anacortes jurisdiction. The specific requirement to develop a HMP and the current schedule in the DCAP reflects input we solicited from the City of Anacortes, Skagit Land Trust, Ann Eissinger, and several other interested parties to develop the language in the draft CAP to address concerns related to disturbing the adjacent heron rookery. This includes the additional time provided to develop a robust HMP under the City's lead. It also was used to determine the time period needed for pre-remedial investigations. We are aware that the schedule may need to be extended/modified to meet the final

Comment	Ecology's Response
	requirements in the City-approved Habitat Management Plan.
Commenter A-9 **Comment 2:** No blasting should happen during any part of the breeding and nesting season. Construction vehicles should arrive from the north side of the project area, not from the southern side since this part of South March Point Road is directly beneath the heronry.	**Response 2:** The proposed remedy involves reshaping the landfill and applying a low-permeability cover to minimize rainfall infiltration. No blasting will be required. The Potentially Liable Persons agreed to use the north entrance/gate, near the railroad tracks.
Commenter A-9 **Comment 3:** Any road upgrade activity should take place in the non-nesting season because of the noise involved.	**Response 3:** Thank you for your comment. Please refer to the Skagit Land Trust (Commenter A-9) comment Response 1, which details development of the Heronry Management Plan. This plan is where the details introduced in your comment will be addressed.
Commenter A-9 **Comment 4:** A noise investigation report should be required as part of the Habitat Management Plan and should be done prior to cleanup plans and timelines being finalized…	**Response 4:** Thank you for your comment. Please refer to the Skagit Land Trust (Commenter A-9) comment Response 1, which details development of the Heronry Management Plan. This plan is where the details introduced in your comment will be addressed.
Commenter A-9 **Comment 5:** …the noise level at the edge of the heronry during any point of construction should be no greater than what the herons currently experience during the nesting season.	**Response 5:** Thank you for your comment. Please refer to the Skagit Land Trust (Commenter A-9) comment Response 1, which details development of the Heronry Management Plan. This plan is where the details introduced in your comment will be addressed.
Commenter A-9 **Comment 6:** No blasting should happen during any part of the breeding and nesting season.	**Response 6:** The proposed remedy involves reshaping the landfill and applying a low-permeability cover to

Comment	Ecology's Response
Construction vehicles should arrive from the north side of the project area, not from the southern side since this part of South March Point Road is directly beneath the heronry.	minimize rainfall infiltration. No blasting will be required. The Potentially Liable Persons agreed to use the north entrance/gate, near the railroad tracks.
Commenter A-9 **Comment 7:** Any road upgrade activity should take place in the non-nesting season because of the noise involved.	**Response 7:** Thank you for your comment. Please refer to the Skagit Land Trust (Commenter A-9) comment Response 1, which details development of the Heronry Management Plan. This plan is where the details introduced in your comment will be addressed.
Commenter A-9 **Comment 8:** Construction entry and exit, parking and staging, should happen on the northern side of the March Point Land Fill property, as far from the heronry as possible.	**Response 8:** Thank you for your comment. Please refer to the Skagit Land Trust (Commenter A-9) comment Response 1, which details development of the Heronry Management Plan. This plan is where the details introduced in your comment will be addressed.
Commenter A-9 **Comment 9:** Any activities with the Cleanup plan should be limited to daylight hours. Temporary and permanent lighting should be covered and down-shielded.	**Response 9:** Thank you for your comment. Please refer to the Skagit Land Trust (Commenter A-9) comment Response 1, which details development of the Heronry Management Plan. This plan is where the details introduced in your comment will be addressed.
Commenter A-9 **Comment 10:** Construction best management practices should be utilized to minimize erosion and sedimentation. Dust control measures should be employed.	**Response 10:** Thank you for your comment. Please refer to the Skagit Land Trust (Commenter A-9) comment Response 1, which details development of the Heronry Management Plan. This plan is where the details introduced in your comment will be addressed.
Commenter A-9 **Comment 11:** Heron nests should receive the greatest visual screening possible	**Response 11:** Thank you for your comment. Please refer to the Skagit Land Trust (Commenter A-9) comment

Comment	Ecology's Response
from all project disturbances. This is particularly important in the early months when project activities will be in the nesting herons' line-of-sight due to lack of seasonal vegetation. Significant visual actions should be mitigated through project timing and sequencing.	Response 1, which details development of the Heronry Management Plan. This plan is where the details introduced in your comment will be addressed.
Commenter A-9 **Comment 12:** Trees along South March Point Road which are outside of the Cleanup core area are used for roosting and as a source of twigs for nest building. Most importantly, these trees help buffer the heronry visually. Because herons seem most sensitive to actions in their line of sight, screening trees in this area should be maintained if possible.	**Response 12:** Thank you for your comment. Please refer to the Skagit Land Trust (Commenter A-9) comment Response 1, which details development of the Heronry Management Plan. This plan is where the details introduced in your comment will be addressed.
Commenter A-9 **Comment 13:** Because herons use the shoreline and intertidal muds flats beside the Cleanup area for foraging, the Heronry Management Plan must address disturbance of foraging herons.	**Response 13:** Thank you for your comment. Please refer to the Skagit Land Trust (Commenter A-9) comment Response 1, which details development of the Heronry Management Plan. This plan is where the details introduced in your comment will be addressed.
Commenter A-9 **Comment 14:** Herons also use the shoreline surrounding the Outer Lagoon for staging, a gathering of herons in large numbers for a week or two before re-entering the colony for breeding and nest building. The Heronry Management Plan should address disturbance of staging herons.	**Response 14:** Thank you for your comment. Please refer to the Skagit Land Trust (Commenter A-9) comment Response 1, which details development of the Heronry Management Plan. This plan is where the details introduced in your comment will be addressed.
Ann Skinner and Randy King, Commenter A-10	Thank you for your comments. Please see Ecology's response to the Skagit Audubon Society, Commenter A-4, and Skagit Land Trust, Commenter A-9.

Comment	Ecology's Response
Pilchuck Audubon Society (Cynthia Easterson), Commenter A-12	
Ellen Anderson, Commenter I-20	
Howard Armstrong, Commenter I-8	
David Baer, Commenter I-30	
Jim Betz, Commenter I-10	
Mary Brady, Commenter I-14	
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Philip Wright, Commenter I-15	
Evergreen Islands (Tom Glade), Commenter O-4	

MTCA Cleanup (non-heron)

Table 2: Responses in this category relate to comments about remedial investigations, Applicable or Relevant and Appropriate Requirements, consent decrees, cleanup actions, and the Public Participation Plan.

Comment	Ecology's Response
Ann Eissinger, Commenter A-1 **Comment 1:** A public information meeting is needed, followed by another public comment period prior to finalizing the March Point Landfill Cleanup Plan. The remedial process, alternatives, and extensive technical details contained in the March Point Landfill DCAP (167 pages) and associated documents, including the background document (AMEC 2017 244 pages + 888 page Appendix) are non-trivial technical reading, requiring many hours of study by citizens to comprehend the information, even in a basic form. Additional effort on the part of the project planners is needed and requested, to offer real-time explanations of the project, provide greater detail, project components, potential impacts and benefits, etc. and to take Q&A in an open public forum would assist the public in their understanding of this project, and to make well informed comments.	**Response 1:** Thank you for your request for a public meeting. We have finalized the documents in question for this comment period, in accordance with the Model Toxics Control Act, but based on your comments will commit to further public engagement before detailed construction plans are finalized. Much work is still ahead in developing the details of the conceptual plan that is presented in the draft Cleanup Action Plan. This work is described in previous responses to various commenters. Given the conceptual nature of the DCAP and the fact that we expect more relevant, useful details to come in the Engineering Design Plan and Habitat Management Plan, we will plan for more inclusive engagement after those documents are drafted. We will reach out to commenters and other potentially interested people to determine the best outreach approach. The coronavirus pandemic (COVID-19) forces us to be

	creative and agile, particularly in terms of public involvement and our tools will continue to develop. MTCA requires Ecology hold a public meeting if 10 or more people request a meeting. We received less than 10 requests during the public comment period; therefore, we will not be holding a public meeting and an additional public comment period on these documents. Ecology has followed the Public Participation Plan developed at the beginning of the cleanup. In addition to the outreach tools presented in there, we look forward to continuing to give local, informal presentations on the progress of the site to the open public in forums such as Fidalgo Bay Days and the Anacortes Library in partnership with Friends of Skagit Beaches.
Commenter A-1 **Comment 2:** Also the cap and containment concept is fundamentally flawed. Containment alone does not solve the problem and it simply entombs this toxic legacy for future generations to deal with and clean up. Essentially the toxins will certainly remain hazardous far beyond the life of the capping system. The preferred Alternative #3 contains the waste, but by essentially removes any habitat potential for wildlife by creating a fenced gravel surface area – similar to a parking lot, with a perimeter road and a sloped shoreline edge planted in grass. (AMEC recommended using native plants, but that is not described in the GCAP alternative). This Alternative provides negligible habitat value for heron and other wildlife. Without trees for perching,	**Response 2:** Thank you for your comment. Your interest in removing all contamination from the site and avoiding capping is reasonable and very common. We arrive at decisions for what tools to use (like capping vs. removal, referred to here as remedies) through a cost benefit analysis that weighs factors like permanence of the remedy, the practical likelihood of success, the impact of the cleanup itself to the environment, and cost. That work happens in the Feasibility Study stage of the cleanup process, which was completed in 2017. The Cleanup Action Plan is drafted based on those results. In the case of this site, the analysis showed removal of the entire landfill and then restoration to marine habitat and clean fill would have cost over $80M and thus would

shrubs for screening, and grassy margins with rodents for foraging, this design is a negative for herons.	not be feasible. This does not include the concern for finding a location willing to relocate a complete landfill. Landfill capping is a proven and legally allowed strategy for minimizing leachate transport from solid waste sites. The U.S. Environmental Protection Agency considers this approach to be the "Presumptive Remedy" for cleanup of legacy landfill facilities. The cap is proposed to be constructed with mostly natural material, so that it will last, rather than degradable material that will have a finite life and will require servicing. As stated in the DCAP, the intended soil cover above the prescriptive low-permeability layer is designed to support vegetation and will be planted with native grasses essentially creating a large grassy meadow with a road around the perimeter. Meadows provide useful habitat functions for native species. Details regarding the specific mix of native species as well as other planning details will be fleshed out in the design reports to follow.
Commenter A-1 **Comment 3:** Phytotechnology is being used in a wide range of applications including landfill remediation. An article in the New York Times this week provides a good overview of this technology and application https://www.nytimes.com/2020/04/07/science/superfund-plant-microbiome.html I am requesting that the March Point Landfill Remediation project managers, Ecology and the PLPs consider a Phytotechnology based remediation Alternative that is sensitive to the site	**Response 3:** Please see response to comment 2. The selection of the cleanup alternative has already been conducted. Phytotechnology was eliminated during the early stages of the MTCA Feasibility Study process as it did not meet the Minimum Functional Standards for landfill closure in this case. Installation of phytoremediation on the landfill proper is generally incompatible with the objective of source control, particularly in an unlined landfill. The soils transport water readily within and around the landfill evidenced by multiple observed seeps discharging year-round to

conditions, has the ability to treat toxins on site, provides ecosystem services such a carbon sequestration, creates functional habitats and is cost effective. As a citizen, biologist and taxpayer I urge the project managers to contact these Northwest based phytoremediation companies for a proposal and estimate of cost for the March Point Landfill site. Ecolotree https://ecolotree.com Intrisyx Environmental https://www.intrinsyxenvironmental.com/. I understand that an added Alternative could take time to consider, but it may be a superior option and end up saving time and cost over time.	the bay. In this case, the cover system design includes a geomembrane that's intended to separate to the maximum extent practicable the effects of the waste inside the containment on the biota outside the containment, and vice versa. Phytotechnology for landfill remediation is a good technology to help minimize leachate production for some landfill locations in the U.S. The technology is best suited for climates with cold, dry winters and hot, wet summers where the moisture can be contained and then eliminated so that it does not create leachate. It is not well suited to western Washington, where we have high rainfall amounts in the cool winter when evapotranspiration rates are low. In addition, deciduous trees used for phytoremediation, like poplars, rely on evapotranspiration from leaves which is absent during high-rainfall Northwest winters. For these reasons, it may not be a technology particularly well suited to the site conditions.
John Bolte, Commenter A-7	Thank you for your comment. Phytoremediation is a promising technology. Please see Responses 2 and 3 in this table to Ann Eissinger, Commenter A-1.
Skagit Land Trust (Molly Doran), Commenter A-9 **Comment 1:** On-going testing for contaminants of the Inner Lagoon should continue throughout the Cleanup and at regular intervals into the far distant future. Plans should be made for locating the source of contamination and removal of any identified contaminants. Because there is a water connection between the Inner and Outer Lagoons, the Outer Lagoon should also be tested for	**Response 1:** Comment noted. The remedy proposed in the DCAP calls for ongoing monitoring, as well as evaluations of the remedy success every five years. The contingency section of the DCAP includes details for steps that will need to be taken if there are indications of re-contamination above protective cleanup levels discharging from the site after the cleanup is complete. Ecology is currently working with the Swinomish on a separate investigation in

contaminants throughout the Cleanup and into the far distant future at regular intervals.	relation to the dioxin and furans discovered in the inner lagoon sediments. Sediment testing indicates that impacts to sediments found in the inner lagoon of Padilla Bay may be from a stormwater system outside the site boundary. Watershed studies conducted as part of the site investigation show that there is a culvert draining upland areas located south of the landfill.
Commenter A-9 **Comment 2:** All emissions and possible transport of airborne particulates should comply with controls to meet Northwest Clean Air Standards.	**Response 2:** Ecology agrees. Construction at the site is required to be completed in a manner that will comply with applicable clean air standards per Chapter 173-340-700 WAC.
Amber Phillips, Commenter I-33 **Comment 1:** Please consider the following: 1. In situ stabilization 2. Install bottom liner instead of waiting to see if leach leachate migrates 3. Perform an Eco Risk Assessment especially as there is a heronry adjacent to the site.	Thank you for your comments. The site cleanup alternative assessment went through a separate public comment and is not under review for this comment period. Please review the Remedial Investigation and Feasibility Study to answer your questions regarding in situ stabilization and installing a bottom liner as cleanup options. The comment period for this document occurred June 28 - July 28, 2016. Please see responses to the Skagit Land Trust, Commenter A-9, and the Skagit Audubon Society, Commenter A-4 regarding your heron comment.

Future Land Use/Restoration

Table 3: Responses in this category relate to comments about future land use and restoration actions.

Comment	Ecology's Response
Snow Mountain Land Company (Stein Svendsen), Commenter A-11	Thank you for your comments. The proposed maintenance road should be designed in such a way to not block

Comment 1: The proposed maintenance road obstructs any potential future use of the Snow Mountain property. Ecology in the past has assured Snow Mountain that it is not their intent to ask the City of Anacortes to downgrade the existing industrial zoning of the site yet the proposed cleanup plan effectively makes the property unsuitable for industrial activity once the cleanup is completed.	property owners from using their property. The City of Anacortes dictates zoning standards and we are not aware of any plans to change it. Ecology does not have the authority to modify zoning. Any future development or use would need to be designed and engineered to be protective of the nature and intent of the remedial measures; however, this does not exclude industrial applications.
Gary Bletsch, Commenter I-21 …I hope that the project does not turn Whitmarsh into yet another shrubby thicket, which is what so many of these well-intentioned projects do…	Thank you for your comments. When completed, most of the site will be maintained as a grassy field to protect the landfill closure cap from damage that deep rooted plants such as shrubs and trees can cause. Most existing trees outside of the landfill area will not be disturbed and will continue to be available for birds to use as well. This should provide different habitat options for local species already using the area.

Ecology Contact Information

For more information on the March Point Landfill Site, contact:

Arianne Fernandez, Site Manager
Toxics Cleanup Program
PO Box 47600
Olympia, WA 98504-7600

To review documents:

Anacortes Public Library
2702 Hoyt Ave
Everett, WA 98201
Phone: (425) 257-8000
Website: http://epls.org

Department of Ecology Headquarters
300 Desmond Drive SE
Lacey, WA 98503
By appointment only:
Contact Carol Dorn
Phone: (360) 407-7224
Email: Carol.Dorn@ecy.wa.gov

Ecology's Website

https://apps.ecology.wa.gov/gsp/Sitepage.aspx?csid=304

Appendices

Appendix A. (Comments Received)

Ann Eissinger, Commenter A-1

On Saturday March 7, 2020 a notice was sent out by Arianne Fernandez from the Washington Department of Ecology (ECOLOGY) stating that the 30-day comment period for the March Point Landfill Draft Cleanup Action Plan (DCAP) dated February 2020and associated documents had commenced and comments were due on April 7. Due to the Covid-19 outbreak the comment period was extended to April 17, 2020.

I appreciate this opportunity to comment on this proposed project and related planning process. As a tax payer in Skagit County, professional wildlife biologist and heron specialist I am very concerned about legacy toxins in our community and as a citizen I am providing comments on the March Point Landfill DCAP and associated documents under review, the planning process for the March Point Landfill remediation and Alternatives for remediation. Many of my comments will be centered on wildlife, particularly the March Point Heron Colony and habitats associated with the project area. The following comments will be organized in a topical manner and refer to individual documents as applicable.

Planning Process and Public Participation

The public participation process for the DCAP review has been insufficient in duration and effectiveness due to the lack of a public information meeting prior to the release of the DCAP and associated comment period. This public process has been further challenged by the Covid-19 pandemic which has limited access to information for some individuals and required many community members to radically alter their daily lives during the months of March and April 2020. A request was made for a 30 day extension of the public comment period due to the unprecedented circumstances caused by the Covid-19 outbreak and stay-at-home order issued by Governor Jay Inslee on March 23, 2020, and has been extended. In response to this request Ecology extended the comment period for 7 days to April 17. It seems that the project schedule holds greater value than the taxpayer's participation in the review process.

A public information meeting is needed, followed by another public comment period prior to finalizing the March Point Landfill Cleanup Plan. The remedial process, alternatives, and extensive technical details contained in the March Point Landfill DCAP (167 pages) and associated documents, including the background document (AMEC 2017 244 pages + 888 page Appendix) are non-trivial technical reading, requiring many hours of study by citizens to comprehend the information, even in a basic form. Additional effort on the part of the project planners is needed and requested, to offer real-time explanations of the project, provide

greater detail, project components, potential impacts and benefits, etc. and to take Q&A in an open public forum would assist the public in their understanding of this project, and to make well informed comments.

One of the issues that has become clear among those conservation organizations and citizens interested in the March Point Landfill remediation process is the lack of inclusion in the process. The formation of a citizen advisory group would provide a platform for community involvement over time, and such a group would also be useful in this process, by sharing information and providing feedback. After all, the citizens of Skagit are paying a portion of the cost of this project and will have to live with results over the long term. If such a group forms or already exists I would like to participate.

Since working with the March Point Colony beginning in 1997, providing training and guidelines for colony monitoring to the Skagit Land Trust and creating and overseeing the Skagit Heron Foraging Study, a citizen science project beginning in 2014, I have not been invited to provide any information about herons or to participate in the landfill remediation planning process.

I first became aware of the March Point Landfill remediation process in 2019. As the lead biologist for Skagit Heron Foraging Study and informal heron advisor to the Skagit Land Trust, I was contacted by a member of the community and subsequently participated in a conference call in April of 2019, with Arianne Fernandez and others about the remediation planning process, but the call was more informational and although we voiced concerns related to the heron colony, the herons use of the project area and project scheduling which is planned for the heron nesting season, we were instructed to wait for the “public comment period” to submit our comments. Following the phone call I submitted a letter to Arianne Fernandez (attached) describing the significance of the March Point Heron Colony and concerns related to signs of possible toxic effects causing developmental deformities in juvenile herons at March Point in 2017.No follow up or additional information was requested.

Project Lacking Biological Information and Site Assessment

In review of the DCAP and background documents listed on the Document Repository website for the March Point Landfill, plus an earlier document (GeoEngineers 2007), none of the documents include any flora or fauna surveys or biological site assessments for the project area. An assessment of flora and fauna for the project site or associated project area is needed in order to inform the planning process and SEPA for weighing the remediation alternative environmental costs and benefits, evaluating impacts or understanding the scope of toxic influence from the landfill. As summarized by AMEC RI field work in 2008-2013:“numerous field activities were conducted at the site, including a geologic reconnaissance, geophysical survey, groundwater monitoring well installation, methane monitoring well installation and sampling, a marine sediment investigation, several rounds of water sampling (groundwater, seeps, surface water), test pit excavation, archaeological survey, a tidal study, and surveying.” Again, no mention of the biological system, plants, fish or wildlife.

In the March Point Landfill Final Remedial Investigation/Feasibility Study (AMEC2017), 10.1.3 Endangered Species Act Section 7 Consultation, they suggest that "the potential presence of these species (Puget Sound Chinook salmon (Oncorhynchus tshawytscha), coho salmon (O. kisutch), and bull trout (Salvelinus confluentus) in the project area may require consultation with NOAA Fisheries and USFWS regarding the effects of the preferred Alternative on Chinook and coho salmon, and bull trout and associated habitat under Section 7 of the ESA. There is little doubt that juvenile salmon utilize lagoons associated with the project site, however there is no subsequent documentation of field evaluation, record review, description or mention of species associated with the project area, whether listed or otherwise. The SEPA Checklist (2017)for the project cites the USFW website, then provides a generic list of species that may occur near the site.

Overall there has been no biological survey, assessment or field review of flora, fauna or habitats for the project site or associated areas. This indicates a very narrow scope in the project review and planning process and as a consequence, the cumulative effects on the environment as a whole are either minimized or avoided. It is impossible to weigh impacts or benefits on the environment in the absence of site specific data.

Exclusion of Great Blue Heron Information and Consideration in Project Planning Process

Why was the March Point Great Blue Heron Colony excluded from the site review, project planning, Alternative development and impact assessment of remediation Alternatives? An environmental feature of this importance and prominence within the project area should have been included in the planning process and the March Point Landfill DCAP.

The March Point Heron Colony is located adjacent to the March Point Landfill site immediately south, about 150 ft. from the project site boundary. This colony, represents the largest nesting site of Great Blue Heron (Ardea Herodias) on the U.S./Canada west coast, and as of 2018 supports an estimated 38% of Washington's Puget Sound breeding population. A breeding concentration of this magnitude is biologically significant, and critical for the maintenance of the regional, resident (non-migratory) heron population. Disturbance to this nesting site or association habitats including staging, roosting and foraging areas, or disruption to the nesting cycle, feeding activities or to the adult or fledging herons could result in impacts on reproductive success, reproductive failure, abandonment of nests or the colony. In short, this colony is too big to fail and requires extraordinary efforts to protect.

Due to the proximity of the March Point Heron Colony to the landfill remediation site, a preliminary review of field data illustrating the heron's use of the project site was made, using the Skagit Foraging Study observer data. Herons utilize the southside of the project area to collect nest material from trees and occasionally perch in that area. The east side of the project site includes a stream channel used for foraging and large salt marsh dominated by salicornia

which is utilized for staging early in the season, loafing year-round, and by groups of juvnenals following fledging. The northside has a saltmarsh edge used by herons and the tidal flats of the inner and outer lagoon are utilized for foraging year round. In addition the air space over the project site is the primary flyway is utilized by hundreds of herons multiple times per day during the peak of the nesting season to and from Padilla Bay. Herons also utilize the railroad causeway for roosting and loafing. Because the landfill site is located between the colony and Padilla Bay, it provides an important transitional area, protected from wind and surf. A simple map is attached to illustrate the herons use areas as it relates to the March Point Landfill site.

Because the herons actively utilize the March Point Landfill project area, the heron habitats need to be identified and incorporated into the site planning process and avoided during construction activities. In addition heron habitat enhancement needs to be incorporated into the remediation plan. The habitat improvement proposed in the DCAP consists of a grassy edge along the shoreline, which has limited value to heron particularly if rodent control measures are employed which usually means the use of poison. Over all, the Alternative 3 plan option has little habitat value for herons or other wildlife except killdeer who nest on gravel. Considering this information it is requested that site design be revised to incorporate heron habitat areas and to enhance these areas to the fullest extent possible.

Considering the importance of the March Point Heron Colony and the related information and expertise available to the project planners, it is disappointing that this information was not requested, accessed or utilized in the feasibility study (2017), the planning process or the DCAP. To illustrate this point, the March Point Landfill DCAP mentions the March Point Heron Colony only three times in sections:

3.5.11 –by name only relating to local permit requirements,

6.0 -in the Clean-up Action Schedule related to a proposed heron habitat management plan to be developed in November 2020,

Table 15 –Cost estimate for cleanup action table including a line item for a heron habitat management plan.

No mention of herons was found in the Consent Decree or De minimus Consent Decree.

The MDNS (2020) document, refers to the March Point Heron Colony as a rookery (which is an erroneous term) and states that the Determination of Nonsignificance is based on findings which include that“ the potential impact to Great Blue Heron and their adjacent rookery will be mitigated through application of local City of Anacortes ordinance protections...including a plan with best management practices designed to minimize impacts such as excessive noise during construction activities. The plan will be completed under consultation with the City of Anacortes and other relevant parties. ”It is not clear what this means or if this even qualifies as mitigation. From my perspective as a biologist this is not mitigation, but one step in the planning and permitting process that should have been taken place prior to the DCAP

development. It is requested that the WDFW PHS Management Recommendations be used as the guidelines for review and management. But again, applying existing management guidelines does not constitute mitigation.

Monitoring of the heron colony and use areas is imperative during the construction phase of the remediation. A monitoring plan needs to be developed and included as part of the planning process and included in the DCAP.

Surface Water and Wetlands

Is there a surface water map and/or a wetland delineation for the project area?

GeoEng.2007 2.7 Potential Pathways and Receptors of Concern: Surface Water –reference to reports of surface water streams or esturine stream on the southeast, south and southwest sides of the landfill were described as inconsistent reports and a data gap. They also noted during a site visit a dry stream bed on the southwest side of the landfill and referred to its function as a data gap. Other reporting of surface water includes:

- The AMEC also mentions an estuarine stream on the east side of the project area.
- Ecology 1985 groundwater seeps surfacing on the eastern landfill boundary and Ecology 1987 estuarinestream on the southeast edge of the land fill where a sample was taken (NCT092)
- AMEC 3.8 Surface water investigations: sampling 2008-2010 SW-01 through SW-07

A wetland, with a breeding population of amphibians is present on the southeast side of the project area. It is not clear if this is within the project boundary. This area was not described in the DCAP or background documents and needs to be assessed for potential impacts prior to any project actions. This wetland may also be protected under the Anacortes CAO. Amphibians on Fidalgo Island are a resident and finite population due to their confined range on the island and intolerance of marine salt water.

On the SEPA checklist (2017) under surface water, the only waterbody listed was Padilla Bay, no mention of freshwater pond or streams were listed. Were the fresh water systems in the project area not list because it had not been evaluated, delineated or described?

Toxins

Are the toxic compounds from the March Point Landfill affecting fish or wildlife? There is a need for further review of environmental toxins associated with the March Point Landfill.

The compounds and heavy metals identified in the March Point Landfill are legacy toxins. Most are carcinogens, mutagens, endocrine and immune disruptors or nerve agents, they affect biological systems at different trophic levels and because many of these do not readily break down, they may bioaccumulate in the fat tissues of vertebrates and remain as an invisible

plague in our environment for generations. These toxins will remain on site if not removed or treated.

In 2017, young herons rescued from the March Point Heron Colony following a major storm were later identified with developmental deformities requiring euthanasia. The cause of these deformities was not determined, however it did indicate the possibility of environmental toxins. Given the herons frequent use of the inner and outer lagoons and associated shoreline areas, it is possible that toxins from the land fill are affecting lower trophic levels or prey for herons. Although the summary in the March Point Landfill DCAP inferred that low levels of toxic compounds found in the lagoon sediments were not likely to cause biological harm, the fact that toxic compounds are in that area of heron foraging is of concern. Following the review of the AMEC 2017 Investigation and Feasibility study, with documentation of sampling results, it would be relevant to request that this information be reviewed by a professional wildlife toxicologist. John Elliot PhD, a respected Canadian toxicologist has worked with Great Blue Herons and understands the effects of environmental toxins in the marine environment and would be recommended to review and comment on the March Point Landfill site toxicology sampling results, and DCAP and to make recommendations.

DCAP Alternatives and other options

The DCAP Alternatives lack a Bio or Ecological Option. The seven Alternatives presented in the DCAP document were developed and described by AMEC in 2007. These basically consisted of two non-technical options(Alternatives #1-#2)of no action or add a soil cover, three technical variations on cap and contain (Alternatives #3-#6), and one landfill removal and dispose off-site (Alternative #7).

All of the cap and contain Alternatives #3-#6 require the removal of all existing vegetation, followed by grading of the site, particularly the shoreline edges with the risk of toxic releases, and placing a synthetic cap over the whole site then covering in soils or mud and gravel. No trees or other vegetation are allowed to grow on the site other than an edge of grass. Weeds, trees and rodents all need to be controlled using other toxic compounds and the habitat value for wildlife is minimal.

Also the cap and containment concept is fundamentally flawed. Containment alone does not solve the problem and it simply entombs this toxic legacy for future generations to deal with and clean up. Essentially the toxins will certainly remain hazardous far beyond the life of the capping system.

The preferred Alternative #3 contains the waste, but by essentially removes any habitat potential for wildlife by creating a fenced gravel surface area –similar to a parking lot, with a perimeter road and a sloped shoreline edge planted in grass. (AMEC recommended using native plants, but that is not described in the GCAP alternative). This Alternative provides negligible

habitat value for heron and other wildlife. Without trees for perching, shrubs for screening, and grassy margins with rodents for foraging, this design is a negative for herons.

Overall the DCAP document and Alternatives lack details including.

- No risk assessment for fish or wildlife.
- No discussion of disturbance to fish or wildlife caused by the proposed 9-month project.
- No risk benefit analysis.
- An analysis of disturbance to soils and possible release of toxins into the environment.
- Removal of vegetation that is currently stabilizing the site.
- Impacts to wildlife birds, amphibians, small mammals, and marine organisms.
- No ecologically friendly alternatives, such as bio or eco remediation options.

It has become clear from my review of the project documents that Bio and Ecological remediation options were excluded from the Alternative options. The established science and successful applications of Bio and Ecological remedial technologies are well documented, and need to be considered for the March Point Landfill site. These technologies need to be tailored to the site to be effective, but offer the benefit of actually treating toxic waste on site over time while providing other ecosystem services.

One technically viable Alternative is the application of Phytotechnology which is effective in containing and treating the toxic waste as well as controlling surface runoff. The applied science of Phytotechnology is being used in a wide range of applications including landfill remediation. An article in the New York Times this week provides a good overview of this technology and application https://www.nytimes.com/2020/04/07/science/superfund-plant-microbiome.html.

I am requesting that the March Point Landfill Remediation project managers, Ecology and the PLPs consider a Phytotechnology based remediation Alternative that is sensitive to the site conditions, has the ability to treat toxins on site, provides ecosystem services such a carbon sequestration, creates functional habitats and is cost effective. As a citizen, biologist and taxpayer I urge the project managers to contact these Northwest based phytoremediation companies for a proposal and estimate of cost for the March Point Landfill site.

Ecolotree https://ecolotree.comIntrisyx Environmental
https://www.intrinsyxenvironmental.com/

I understand that an added Alternative could take time to consider, but it maybe a superior option and end up saving time and cost over time. Thank you for this opportunity to provide comment and I look forward to greater involvement in this process to find a balanced solution to the March Point Landfill remediation.

Additional Comment Received from Commenter A-1

It was a pleasure to speak with you over the phone regarding the Great Blue Herons of the March Point/Padilla Bay area. This letter is meant to be an overview of herons, habitats and conservation concerns centered on March Point.

I have been working with herons –primarily monitoring nesting colonies -in Puget Sound, particularly in Skagit and Whatcom Counties since 1988. During the past 30 years I have documented colony dynamics, productivity, abandonments, and shifts in the population. In 2007 I authored the Great Blue Herons in Puget Sound for the Puget Sound Nearshore Partnership http://www.pugetsoundnearshore.org/technical_papers/herons.pdf

Currently, I am overseeing a multi-year heron foraging study that includes sites in Padilla, Fidalgo and Samish Bays, and Ship Harbor (see summary attached). I also advise organizations and volunteers in their heron colony monitoring throughout the region.

The nearshore marine area of west Skagit County is a rich ecosystem with abundant fish and wildlife. One sentinel species of this area is the Great Blue Heron (Ardea Herodias). A mosaic of habitats in this area-marine, freshwater, shoreline and terrestrial field and forest, support a year-round population of herons, including the largest breeding center of Great Blue Heron in the Salish Sea.

Great Blue Herons concentrate around Padilla Bay during the nesting season due to the expansive eelgrass beds and associated prey species present, mainly fish. This shallow bay harbors 8,000 acres of eelgrass, the second largest eelgrass meadow on the west coast of North America. Heron thrive due to this resource, in conjunction with suitable nearshore upland forest nesting habitat and other habitats such as grassy fields and marshes also abundant in this area. In addition to Padilla Bay, herons forage in Samish, and Fidalgo Bays, as well as Guemes Channel and Ship Harbor. The greatest concentrations of foraging herons have been documented in southwest Padilla Bay.

Currently (2019) there is one mega-breeding colony and two smaller known nesting sites located between March Point and west Anacortes. These nesting areas are all situated near or in human developments. For over two decades, the March Point Heron Colony, situated on the southwest edge of Padilla Bay, has represented the largest nesting colony in the Salish Sea. The March Pt. colony supported about 757nestingpairsin 2018. Up to 2017, the Samish Island heron colony, on the north side of Padilla Bay, represented another mega-colony, and the oldest continually used heron colony in the Salish Sea. As of 2016 the Samish colony supported about 206 nesting pairs. Together, in 2016 the March Point and Samish Island supported about 800 nesting pairs, the largest heron breeding center in the Pacific Northwest.

Although, both March Point and Samish Island colony sites are protected by the Skagit Land Trust, both suffered setbacks in 2017. The Samish Island Colony abandoned mid-season in 2017. The reason for abandonment is not known, however, certain human related events may have contributed including, land clearing and smoke from slash burning, tanker off-gassing events, and low-flying aircraft.

Disturbances to heron colonies are the primary reason for colony abandonment and human disturbances are preventable. The March Point also suffered a major storm in May of 2017, which blew down trees, nests and young. It is not known how many nests were lost, or young perished, however some young were rescued and sent to Wolf Hollow Wildlife Rehabilitations Center on San Juan Island. Following triage and initial treatments or euthanization, the surviving young were cared for, however over time developed malformed or "bent" bones. A thorough report of this occurrence was documented by Wolf Hollow, but no cause was determined. Toxicology experts were contacted to review the report and to provide possible causes of these malformations, but no conclusions could be made from the report alone.

The March Point heron colony is located next to a large oil and petrochemical complex on March Point. The herons from this colony concentrate their feeding in Padilla, Fidalgo and Samish Bays. Feeding in Padilla and Fidalgo Bays are in areas directly associated with the refinery complex. At the March Point colony, herons begin to gather to nest in February and usually begin recolonizing the nesting areas in March, where they remain until young have fledged in July or August. The nesting season is a sensitive time both in the colony and on the feeding grounds. Disturbances to the herons may disrupt their reproductive success for the year. The number and location of herons on shorelines and intertidal areas for feeding varies daily due to tides, and seasonally due to prey abundance. The greatest numbers of heron are observed on the feeding grounds from April to September, with the highest numbers found May-July on the east side of March Point, up to 600 at one time in optimal conditions.

Given the location of the heron colony and feeding grounds, it is likely the heron adults and young are exposed to toxic compounds, however, no toxicology studies have been conducted on the herons or their eggs from this area. Many of us working with herons are concerned about toxic exposure, particularly given the proximity of the March Point heron colony to the March Point refinery complex and the Whitmarsh Landfill and the herons concentrated use of this area. Herons also forage near other cleanup sites in Fidalgo Bay. Several studies from the late 1980's-1990's identified a number compounds including chlorinated hydrocarbons, dioxins furans and other environmental contaminants in heron eggs from colonies in northern Strait of Georgia B.C. near industrial sites(see numerous papers by JE Elliott etal).These compounds reduced reproductive success, caused deformities and resulted in colony collapse. Although actions have been taken to curb or eliminate the sources of these compounds, for the most part, it raises the question, could that happen here?

In an effort to identify potential toxic exposure to the herons, the Skagit Systems Cooperative was contacted regarding their annual forage fish sampling. One of their cooperators, The Washington Department of Fish and Wildlife, also periodically use some of their samples for toxicology studies, particularly juvenile Chinook salmon. We have recently requested some results, but have not yet received these data. However, it is not clear that their sampling would include heron prey or reflect useful information related to herons.

Given the large number of sites that have contributed to toxic loads over time in and around Fidalgo and Padilla Bays and in order to avoid a potential ecological time bomb, what is needed is an ecosystem-wide sampling and analysis for toxic compounds. This would build on the sediment sampling that has been completed and elucidate fish and wildlife exposure. At this point in time, we lack any data to adequately assess the health of the heron population which depend on this area to reproduce. What are the heron's contaminant loads, what are the prevalent compounds in their eggs, in their prey, what are the sources, and are the consequences? A system-wide toxicology study is needed to determine current levels, before the physical exposure to toxins begins to manifest.

I hope this overview provides some useful information and emphasizes the need to better understand the toxins in the Padilla Bay ecosystem. If you have questions, need more specifics about the herons, heron colonies, or would like to discuss any of the information provided please contact me directly.

Anne Winkes, Commenter A-2

I am writing to comment on the Draft Cleanup Action Plan, Draft State Environmental Protection Act (SEPA) Mitigated Determination of Non-Significance, and the Draft Consent Decree for the cleanup of the March Point Landfill. Thank you for allowing the public to comment. The health of Padilla Bay and the environment around the site of the March Point Landfill will benefit tremendously from the containment of the forever toxic contaminants that have been found at this site, and from ongoing surveillance of the site at regular intervals for the presence of persistent contamination, as well as newly identified contaminants toxic to human health, wildlife and the environment, following completion of the remediation project.

However, I am deeply concerned about the impact of the cleanup activities on the March Point great blue herons who breed, nest, and raise their young in the March Point heronry adjacent to the March Point Landfill site, and who forage along the shoreline and the waters of the intertidal mudflats in close proximity to the landfill site.

I have observed, and continue to observe, the great blue herons of March Point throughout their breeding and nesting seasons as a volunteer citizen scientist collecting data for Skagit Land Trust's monitoring of the March Point heronry. Skagit Land Trust has owned the property on which the heronry sits for many years and is actively engaged in gathering data about the herons in order to protect the heronry from threats to its ongoing existence.

Scientific studies have clearly documented that great blue herons do abandon nesting sites in response to unusual or novel events. These studies are referenced in the Washington Department of Fish and Wildlife's March 2012 Management Recommendations for Washington's Priority Habitats and Species: Great Blue Herons, which states on page 1, "A single event can lead an entire colony to terminate a nesting attempt."

Without any doubt the cleanup of the March Point landfill will be a novel and disturbing event for the March Point herons. Everything possible must be done to prevent the cleanup from resulting in the abandonment of the March Point heronry.

The March Point heronry is not just any heronry. According to Ann Eissinger, an internationally recognized heron biologist who began monitoring the heronries in Skagit County, including the March Point heronry, almost 30 years ago, the March Point heronry is two to three times larger than any other heronry in the Salish Sea and along the west coast of the United States. In 2019, 650 active nests were counted at the March Point heronry.

Ms. Eissinger identifies the March Point heronry as the breeding center for great blue herons in the Salish Sea. The sheer number of herons breeding, nesting and rearing their young at March Point provides the genetic diversity necessary to sustain a healthy population of great blue herons in the Salish Sea.

Ms. Eissinger stresses that the importance of March Point heronry cannot be overstated. March Point heronry cannot be replaced. Its loss would be catastrophic to the Salish Sea's great blue herons.

For great blue herons to survive they need mature coastal forests with trees at least 50 feet tall as they build their nests high above the ground. As herons nest in colonies, these forests must be large enough to accommodate many nests. The hilltop forest within which the heronry is located at March Point provides ideal nesting habitat.

To successfully rear their young, great blue herons need nearby foraging habitat. Padilla Bay's eelgrass beds and intertidal mud flats provide ideal foraging habitat for the March Point herons.

It is this increasingly rare combination of mature coastal forest close to ideal foraging habitat that has resulted in elevating the March Point heronry to its unique status as the major center of the breeding population of the great blue herons of the Salish Sea.

The cleanup of the March Point Landfill poses threats to the survival of the March Point herons as they breed, nest, and rear their young in their hilltop forest and as they forage along the shoreline and intertidal mudflats.

SEPA's Mitigated Determination of Non-significance dated 2/27/2020 mandates that a Heronry Management Plan which must be developed in accordance with the regulations of the City of

Anacortes before the PLPs can begin any remediation activities. To be effective the Habitat Management Plan for the March Point Heronry must identify which cleanup activities might disturb the herons and show how, based on the best available science, the PLPs will conduct the cleanup so that the no disruptions to the herons' breeding and nesting season will occur. The schedule of cleanup activities on page 50 of the Draft Clean-up Action Plan (DCAP) notes that the Heronry Habitat Management Plan will be developed from November 1, 2020 to September 30, 2021.

The PLPs should begin development of the management plan not on November 1, 2020 but now, as a truly protective management plan will dictate what type of remediation activities and what type of equipment can be used to perform those activities, as well as when those activities can be performed, in order to not disturb the herons. The Heronry Management Plan needs to precede the creation of the actual cleanup work schedule, rather than the other way around. Unfortunately, I cannot comment on the work schedule as its details are not included in any of the documents posted for public review. Please send work schedule details to me as they are available.

I understand that the PLPs plan to develop the Heronry Management Plan under the guidance of the City of Anacortes and in consultation with in addition to the City of Anacortes, the Washington Department of Fish and Wildlife, the Swinomish Tribe, and local experts who will guide Ecology's review and approval of the plan.

A biologist experienced in dealing with herons must be consulted to recommend specific timing and proximity of activities around the March Point colony.

I request that Ann Eissinger, the pre-eminent great blue heron wildlife biologist with expertise in the March Point Heronry, and Skagit Land Trust as the long time protector of the heronry with years of gathering data about the herons, be included in the development of the Habitat Management Plan for the March Point Heronry.

Additionally the public should be allowed to review and comment on the Habitat Management Plan before it is finalized.

Page 29 of the DCAP states that a Heronry Management Plan is required by the City of Anacortes "prior to any city development permit for any parcels of property within the city limits that are adjacent to the March Point heronry. This ordinance is currently being updated. The applicability of these substantive requirements will be determined through consultation with the City of Anacortes during the design phase of the final selected clean-up action".

Both the existing City of Anacortes' Critical Areas Regulations (CAR) code and the draft code amendment recommended by the City of Anacortes Planning Commission to the City of Anacortes for adoption into the CAR, state that the great blue herons are to be protected during their breeding and nesting season at March Point from disturbing activities. This means that any disturbing remediation activities by the PLPs should not take place from February

through August. The existing ordinance and the draft amendment ordinance do provide for possible mitigation if construction activities must occur during the breeding and nesting season.

The PLPs must recognize and acknowledge in the Heronry Management Plan that it will not be possible to mitigate the disturbance factor of some, if not all, of their remediation activities, and that any such activities that cannot be mitigated will take place only during the non breeding and nesting season, necessitating that remediation be done in stages over two years.

In the past, the City of Anacortes has used the heronry management plan developed by T. Bailey, Inc, the steel fabrication company that sits adjacent to one side of the heronry, as a model for its required heronry management plans. Though some aspects of the T Bailey management plan, like the establishment of baseline ambient noise levels prior to any construction project, can be useful tools for mitigation planning, the Heronry Management Plan for the March Point landfill cleanup project must be based on the recognition that the March Point heronry is now the preeminent breeding center for the Salish Sea great blue herons. Any consideration of mitigation must take into account the catastrophic consequences if a misstep results in the abandonment of the March Point heronry.

The heronry management plan must take into careful consideration the known and predictable sequence and timing of behaviors displayed by great blue herons throughout the breeding and nesting season at March Point. The Heronry Management Plan must address each stage of breeding and nesting behavior, must provide for monitors professionally trained and supervised by a biologist with heron experience to recognize stress behaviors exhibited by herons during each of these stages, must stipulate that “stop work” orders will be issued immediately if the monitors note any disturbance of the herons and that the work will not resume until it can be shown that the activity can be restarted without further disturbance of the herons.

The use of professionally trained monitors with the authority to halt disturbing cleanup activities is consistent with section XVI of the Consent Decree: Endangerment which on page 23 states:

“1. In the event Ecology determines that any activity being performed at the Site under this decree is creating or has the potential to create a danger to human health or the environment, Ecology may direct Defendants to cease activities for such period of time as it deems necessary to abate the danger. Defendants shall immediately comply with such direction.”

The environment impacted by the landfill site and by the remediation work which will be done to clean it up, certainly extends beyond the site itself. The great blue herons, the March Point heronry itself, and the staging and foraging areas used by the great blue herons are an integral part of the March Point landfill environment.

The great blue heron breeding season begins with a behavior called staging. During staging large numbers of heron gather together outside of the heronry over a 1 to 3 week period before entering the heronry for breeding and nesting purposes.

The March Point herons typically stage on the railroad tracks that parallel the landfill site and on the land along the west side of the Outer Lagoon of the landfill site, directly adjacent to where remediation activities will take place. Some stage on the dredge-fill islands across the channel from the landfill site.

March Point herons typically stage from late February to mid March. Given the proximity of the staging area to the landfill site, the Heronry Management Plan must specify what the PLPs will do to prevent remediation activities from disturbing the staging herons.

Following staging, the herons enter the heronry to build and refurbish nests, and choose mates. Over several weeks, large numbers of herons are seen flying about the heronry, alighting on and then flying off nests, carrying sticks in their bills, standing individually or in pairs on their chosen nests. At March Point this typically occurs during March. In 2019, colony reoccupation was first observed on 3/15/19; this year on 3/4/20.

At March Point incubation of eggs typically lasts from early April to early May. The heronry is very quiet during this time. While one parent incubates the eggs, its mate is often seen nearby preening, sleeping or watching. Eggs are rarely left unattended. In 2019, incubating herons were first observed on 4/12/19; this year a few incubating heron were observed on 3/31/20, with many more noted to be incubating on 4/6/20.

Studies have shown that disturbing human activities during the early part of the breeding and nesting season can delay nesting attempts resulting in poor reproductive success as the chicks then hatch later in the season when less food is available. Following disturbance, many herons may completely abandon their nesting attempts. The Heronry Management Plan must justify why a particular remediation activity must occur at this time; the activity must be described in detail, as must what specific actions the PLPs will take to prevent remediation activities from disturbing the herons during this period of breeding, nest building, egg laying and incubation, and what corrective measures they will immediately employ if any signs of disturbance occur.

At March Point hatching and rearing of chicks generally occurs from mid May to mid July. In 2019 chick sounds were first heard on 5/13/19. Chicks are especially vulnerable to disturbance during this time.

At hatching heron chicks are nearly naked with only a few fluffs of feathers. They are unable to regulate their own bodies' temperature until they are 3 weeks of age. Because great blue herons respond to disturbance by flushing—flying off their nests and then circling high above the heronry—the chicks quickly die from hypothermia without the protective warmth of the parent heron's body and feathers. Additionally, each time the adults leave the nests, their young are left unguarded and they are easy prey for bald eagles.

It is not uncommon for many herons to flush at the same time in response to what they perceive as threats. Any disturbance to a colony the size of March Point causing large numbers of herons to leave their nests will result in the loss of a large number of offspring.

The Heronry Management Plan must justify why a particular remediation activity must occur at this time; the activity must be described in detail, as must what specific actions the PLPs will take to prevent remediation activities from disturbing the herons during this time of rearing their young, and what corrective measures they will immediately employ if any signs of disturbance occur.

Fledging of the young and dispersal from the colony at March Point typically occurs from early July to mid August. In 2019, fledging was first observed on 7/2/19 and dispersal from the colony was complete on 8/2/19.

How tolerant herons are of noise and activity varies from heronry to heronry. The Heronry Management Plan must detail how the PLPs plan to protect the March Point herons from disturbance by noises greater than the ambient noises they now tolerate.

Current ambient noise levels at the edge of the heronry must be measured when deciduous trees are leafless in February and fully leaved in June. Noise levels for all types of machinery and project activities occurring at the project site and leading to and from the project site must be determined.

If proven mitigation measures for all project activities cannot maintain noise at or below the ambient noise level currently tolerated by the March Point herons, those activities must take place in the non-breeding season. The management plan must contain noise monitoring protocols developed and supervised by a qualified professional.

Herons are disturbed by unusual activities, or intensification of activities to which they are accustomed, within their line of sight. The heronry management plan must detail how the heron nests will be shielded as much as possible from the project activities, including, but not limited to, preserving the trees along the northern edge of South March Point Road. Project activity should be limited to daylight hours and any temporary or permanent lighting should be covered and downshielded.

The Management Plan for the March Point Heronry must also address threats to foraging herons. As noted previously, the elevation of the March Point heronry to its unique status as the major center of the breeding population the great blue herons of the Salish Sea is due in part to its close proximity to the nutrient rich eelgrass beds of Padilla Bay. Robert Butler in his authoritative book, The Great Blue Heron, says “At the peak period of chick growth, a pair of herons can consume nearly 10,000 kilojoules of energy each day—equivalent to the energy consumption of the average North American!” During the first 3 weeks of chick life, one heron remains at the nest providing warmth and protection from predators to the chicks, while the other forages for itself and the chicks. After the first 3 weeks, the caloric needs of the chicks

and adults are so great that both adults search for food at the same time, catching large numbers of small fish.

Great blue herons are waders, so their foraging time is limited by tide levels. Any disturbance of the herons while foraging reduces their already limited foraging time so that they and their chicks receive inadequate nutrition.

The heronry management plan for March Point must take into account tide levels during the cleanup so that no heron disturbing remediation activities occur while the herons are foraging along the shorelines and intertidal mudflats nearby the landfill site.

The Heronry Management Plan for March Point must require the daily presence of monitors professionally trained to recognize stress behaviors exhibited by herons during foraging, must stipulate that "stop work" orders will be issued immediately if the monitors note any disturbance of the herons and that the work will not resume until it can be shown that the activity can be restarted without further disturbance of the foraging herons.

The DCAP does not address present and future contamination of the herons' foraging areas.

It is concerning that on page 13, section 2.4.3 titled Subsurface Migration of contaminants" of the DCAP it is noted that "groundwater within the solid waste is seeping, or has the potential to seep, into the surface water" in the "eastern part of the swale south of the site and the northeastern landfill boundary within the inner lagoon."

Citizen science observers have documented large concentrations of juvenile herons in and along the Outer Lagoon as they learn to forage for themselves post fledging in July. The Outer Lagoon is connected to the Inner Lagoon by a waterway.

On page 14 of the DCAP it says that groundwater samples from monitoring wells at the site show that several metals, including arsenic, iron and manganese, exceeded their PCLs. On page 16 of the DCAP, section 2.4.7.1 the second bullet point concludes "The presence of contaminants in the seep water samples suggest that contaminated groundwater from the site is discharging from the seeps into Padilla Bay…" , a conclusion also supported by the presence of orange-staining.

Herons forage along the shorelines and on the intertidal mudflats of Padilla Bay.

On page 10 of the Consent Decree it is noted that though biologic testing of inner bay lagoon sediment didn't show any impacts from the Land Fill, "elevated concentrations of dioxins and furans were found adjacent to the Land Fill." It further states that "Ecology determined that these elevated concentrations may not be associated with the landfill but were from some off-site, possibly up-stream, source" and based on these sediment findings determined that no sediment related corrective measures need to be included in the Clean-up Action Plan.

Page 10 of the Consent Decree dated 2/2017 states “This Decree contains a program designed to protect human health and the environment from known release or threatened release of hazardous substances or contamination at, on, or from the site.”

The juvenile herons of March Point foraging in and along the Outer Lagoon are certainly part of the landfill environment, as are the adult herons foraging on and along the shorelines and mudflats of Padilla Bay.

Contrary to the Consent Decree, the PLPs have failed to provide in their DCAP any program to protect the herons from the known release or threatened release of hazardous substances or contamination at, on, or from the site. This omission must be corrected. The PLPs must provide for ongoing measurement of all toxic substances found now and in the future along the shorelines and intertidal flats of Padilla Bay, as well as in the Inner and Outer Lagoons. The PLPs must provide plans for containment or removal of any forever toxic substances. Additionally the PLPs must provide plans for seeking the source of contaminants found nearby the site and remedies for their containment of removal.

Please inform me of any remedial actions that are proposed once the Cleanup Plan and Heronry Management Plan has been approved.

I also request that you extend the time for this comment period as the CoVid 19 crisis has overwhelmed the public and by extending the comment period you will likely receive more public input.

Sue Ehlers, Commenter A-3

I am writing to comment on the Draft March Point Draft Cleanup Action Plan, Draft State Environmental Protection Act and the (SEPA) Mitigated Determination of Non-Significance. I have read the Draft document and after reviewing it have come to the realization there has been very little consideration as yet as to the needs of March Pt. Heronry during project planning and decision making. It appears that many decisions have already been made as to how implementation of this project will proceed, ie. timing, construction methods, landscape alterations, etc. with little or no prior discussion of the effect the proposed clean-up project process will have on the adjacent colony of Great Blue Herons.

The Draft document states that there will be a Habitat Management Plan developed and implemented. However, looking at the schedule, this step is slated very much towards the end of the whole project planning/approval process.

As others have pointed out in their comments, there are many aspects of the current local environment, adjacent to the March Pt. Landfill clean-up site, that need to be sustained and remain available for the success of the March Pt. Heronry.

Unfortunately the clean-up plan is to conduct the project during the months of July – October - a time frame starting while the young herons are still in the nest and continuing through the second half of the breeding season. Studies have clearly documented that the Great Blue Herons do abandon nesting sites in response to unusual or novel events. These studies are referenced in the Washington Department of of Fish and Wildlife's March 2012 Management Recommendations for Washington's Priority Habitats and Species: Great Blue Herons, which states on page 1, "A single event can lead an entire colony to terminate a nest attempt". A sudden unfamiliar disturbance, such the magnitude of this huge clean-up project, literally across the street from nesting birds, could most likely result in the adult herons abandoning the March Pt. Heronry, leaving potentially hundreds of nestlings to die. I apologize for this uncomfortable description, however it needs to be said. Abandonment of the colony is a only soft phrase to describe what abandonment would actually mean. Abandonment of this colony in July - August means the adults will be frightened off, permanently leaving behind hundreds of young herons who not are yet ready to leave the nest. They will be frantically screaming from the nest for food, for days, after which they will weaken and slowly die. If mitigation regarding the timing and process of the cleanup project isn't required, this ugly and tragic situation will be a reality, and too hard to ignore.

A season of abandonment of the heronry could only be a precursor to an even more widespread tragedy, the herons may not return at all the next year, very likely forever. The March Pt. Heronry is not just any heronry. According to Ann Eisssinger, an internationally recognized heron biologist who began monitoring the heronries in Skagit County almost 30 years ago, including the March Point Heronry, states that the March Point Heronry is two to three times larger than any other heronry in the Salish Sea and along the west coast of the United States. In 2019, 650 active nests were counted at the March Point Heronry.

Ms. Eissinger identifies the Heronry as the breeding center for Great Blue Herons in the Salish Sea. The sheer number of herons breeding, nesting and rearing their young at March Point provides the genetic diversity necessary to sustain a healthy population of Great Blue Herons in the Salish Sea. Ms. Eissinger stresses that the importance of the March Pt. Heronry cannot be overstated, as well it cannot not be replaced. It's loss would be catastrophic to the Salish Sea's Great Blue Herons.

SEPA's Mitigated Determination of Non-significance dated 2/27/2020 mandates that a Heronry Management Plan must be developed in accordance with the regulations of the City of Anacortes before the PLPs can begin any remediation activities. To be effective the Habitat Management Plan for the March Point Heronry must identify which cleanup activities might disturb the herons and how, based on the best available science, the PLPs will conduct the cleanup so that no disruption to the herons' breeding and nesting season will occur. The Draft Clean-up Action Plan (DCAP) notes that the Heronry Habitat Management plan will be developed from November 1, 2020 – September 30, 2021. I do not understand why development of this required as well as crucially important Management Plan has been placed

so far down the list and late into the Landfill Cleanup project planning. It needs to happen now so an effective remediation plan will the determine what type of remediation activities can be in place so as not to disturb the herons.

Both the existing City of Anacortes Critical Areas Regulations and the draft code amendment recommended by the City of Anacortes Planning Commission to the City of Anacortes for adoption into the CAR, state that the Great Blue Herons are to be protected during their breeding and nesting season at March Point from disturbing activities. This means that any disturbing remediation activities by the PLPs should not take place from February through August. The existing ordinance and the draft amendment ordinance does provide for possible mitigation if construction activities must occur during the breeding and nesting season.

Many members of the Anacortes Community as well as within Skagit County have a keen interest, and love of the March Pt. Herons. There have been many years of community involvement in monitoring, protecting and maintenance of the March Pt. Heronry. For the past 20 years, the Skagit Land Trust has monitored and maintained the heronry. Under the consult of Ann Eissinger, the heronry nests have been recorded and for the past several years a Skagit Land Trust citizen science nesting study has documented timing as well as nesting behavior within the colony during the breeding season. Also under the guidance and consult of Ms. Eissenger, during the breeding season a 6 year citizen science study (ongoing) has produced extensive documentation of intensive heron foraging locations, tide availability, and foraging habits of the herons within selected areas of Padilla Bay – including areas adjacent to the March Pt. Landfill Clean-up site. Many more community members have followed and participated in the local government's continuing development of heronry protections within the Critical Area Ordinance. I am pleased to have had the opportunity to be involved with all of these activities.

There is a wealth of knowledge and pages of hard data specific to the March Pt. herons readily available for reference during the development of the Habitat Management Plan. Because of her extensive expertise and local involvement with the March Pt. heron population, I highly recommend and request that biologist Ann Eissenger be integrally included in the development of the Habitat Management Plan for the March Point Heronry.

While my understanding is that meetings for discussion of the Habitat Management plan will be scheduled, I would also like to request there be a Public Hearing so the public will have an opportunity to review planned actions, and have an opportunity to formally hear/discuss the plans in person.

For the past 10 years I have been seasonally employed as a Protected Marine Species (PSO) Observer/Coordinator during in-the-water construction projects, many of which have been very large projects taking several seasons for completion. I have been employed by both private environmental consulting companies as well as most recently with WSDOT/WSF Environmental Division, with whom I just completed my third season at the new Mukilteo Ferry Terminal Project. I must say that with all the projects I have been involved with, there has been extensive

environmental planning for mitigation of construction timing and procedures - very well in advance of onset of construction. It is the norm for such planning to be integral in the overall planning of these projects. I have also seen it to be the norm for this cooperation to be quite successful, huge projects are completed while at the same time the wildlife remains undisturbed. I believe with timely planning and proper mitigation in place, the March Pt. Landfill Clean-up project can follow precedent, the Landfill will no longer be an environmental threat and the March Pt. Heronry can continue for decades to come.

I hope this overview provides some useful information and emphasizes the need to better understand the toxins in the Padilla Bay ecosystem. If you have questions, need more specifics about the herons, heron colonies, or would like to discuss any of the information provided please contact me directly.

Skagit Audubon Society (Jeff Osmundson), Commenter A-4

I am writing on behalf of Skagit Audubon Society to comment on the following documents for the cleanup of the March Point Landfill: Draft Cleanup Action Plan, Draft Consent Decree, and Draft State Environmental Policy Act (SEPA) Mitigated Determination of Non-Significance. We sincerely appreciate the extensive data collection, thought, and expertise that have been devoted to preparing for this cleanup. We are, however, struck by the lack of attention so far, at this late stage in the project planning, to avoiding impacts to the very significant March Point heronry. Our comments below detail this concern and our suggestions for how it could be addressed.

Skagit Audubon is one of 25 National Audubon chapters in Washington State. Our chapter's 279 member families mostly reside in Skagit County. A few live in adjacent areas. Skagit Audubon's members share a mission to conserve and restore natural ecosystems, focusing on birds, other wildlife and their habitats for the benefit of humanity and the earth's biological diversity.

The March Point Landfill cleanup is very important to us for two principal reasons. The site is on the shore of Padilla Bay National Estuarine Research Reserve. Of the nation's 29 such reserves this is the only one in Washington State. The Reserve protects the largest eel grass meadow on the West Coast south of Alaska and as such is essential habitat for a wide array of marine invertebrate species and fish, which in turn support marine mammals and many species of birds. Among those birds is the Great Blue Heron, whose large communal nesting site at March Point is directly across the road from the landfill cleanup site. The fact that the heron is so numerous in Skagit County is not a coincidence, nor is it indicative of the health of its population here or elsewhere.

Great Blue Herons are locally abundant because Padilla Bay and other biologically rich bays nearby provide the quantity of fish and other food such a large population requires. Stopping seepage of toxins from the March Point Landfill into Padilla Bay is important, and we support the measures you propose to accomplish that. The challenge as we see it is to do this important

work without jeopardizing the most important communal nesting site, or heronry, around the Salish Sea.

Ann Eissinger, a biologist specializing in this species and long involved in directing the monitoring of this and other heronries, has determined that the March Point heronry is the largest on the West Coast, possibly by a factor of two or three. As such, it is the essential center of the heron population of the Salish Sea vicinity and is irreplaceable. It is quite possible that this heronry has grown so large because of the loss of suitable habitat elsewhere. Its continued existence is absolutely critical.

As noted in Azerrad, J. M., 2012, Management recommendations for Washington's priority species: Great Blue Heron (Washington Department of Fish and Wildlife, Olympia, Washington):

"Great Blue Herons are highly vulnerable to human disturbance, predation, and competition for nesting habitat. Their habit of nesting in large groups makes herons especially susceptible to these types of impacts. A single event involving human disturbance can lead an entire colony to terminate a nesting attempt. (emphasis added) Because herons breed in colonies of up to 500 nests, early termination of even one breeding attempt can lead to a considerable loss of offspring. This is especially a problem in Puget Sound and the Georgia Basin, where half the breeding population is concentrated into four large colonies."

It should be noted that in the years since this publication was issued the March Point heronry has grown to upwards of 700 nests.

Recognizing the importance of the March Point heronry, in a letter dated July 28, 2016, Skagit Audubon submitted comments on the "Draft Remedial Investigation/Feasibility Study for the March Point Landfill". We have for many years supported Skagit Land Trust in its protection of this important site. Given that Skagit Audubon and Skagit Land Trust at least as early as 2016 communicated the importance of considering potential impacts to the heronry during cleanup of the landfill, it is striking how little reference to this matter occurs in the three documents on which we are commenting.

Please accept the following specific comments and suggestions.

1. Given the importance of the March Point heronry, the Habitat Management Plan for protecting it should have been an integral part of the Draft Cleanup Action Plan (DCAP) from the start rather than something for later addition.

The 167-page DCAP mentions herons or the heronry just three times with no reference at all in the sections concerning project construction or monitoring. None of the many otherwise excellent maps in the DCAP identify the location of the heronry, suggesting that the plan designers were not bearing the heronry in mind. The "Site Description" on page 3 of the DCAP does not mention the heronry, despite its location directly across March Point Road from the landfill. At last, on page 50 in the DCAP's preliminary implementation schedule we find a mention of the heronry in this action item: "Complete Habitat Management Plan for the March

Point Heronry: November 1, 2020 to September 30, 2021." We recognize that this is to comply with the requirements in the SEPA Mitigated Determination of Non-Significance (February 27, 2020) that a Habitat Management Plan related to the heronry will be developed in accordance with regulations of the City of Anacortes. Preparation of the plan seems almost an afterthought in the cleanup planning. Addressing heronry protection at this late stage will make avoidance of potentially disastrous disturbance to the heronry particularly challenging with construction already scheduled to run from "February 1, 2022 to October 31, 2022." (p.51 "Construction contractor procurement and construction"). This time span completely overlaps the heron breeding and nesting season. It is clear that integrating protection of the herons and heronry into the project planning has been left to the design phase of the cleanup (DCAP, p.29).

It would likely have saved trouble and expense and better ensured protection of the heronry if at least a preliminary Habitat Management Plan had been prepared and its recommendations incorporated into the project planning. Now it will likely be necessary to go back and change portions of the plan to ensure non-disturbance of this very important nesting site so close to the cleanup area. We would note that in our 2016 comment letter we pointed out the importance of timing the construction to avoid key portions of the heron's breeding and nesting season. Skagit Land Trust probably did the same. We acknowledge that the City of Anacortes is currently considering an upgrade to its provisions for protecting heronries, but this would not have precluded developing a preliminary plan based on the existing regulations on which the new ones will build.

2. Avoiding unacceptable disturbance to the herons involves more than considerations of noise. Herons' use of the outer Padilla Bay lagoon, the area along its connection to the inner lagoon, and the adjacent railroad embankment must also be addressed because of their proximity to the cleanup site and the position of the cleanup site between the lagoons and the heronry. To adequately avoid causing disturbance and possible abandonment of the heronry, construction may well have to be phased over more than one year.

Even if it were possible to accomplish the cleanup project without noise that would keep herons from their nests or disturb them off their nests and potentially result in abandonment of the heronry, there is also the fact that the adjacent outer Padilla Bay lagoon and the marsh connecting it to the inner lagoon are essential heron habitat within a short distance of the cleanup site. Observations accumulated over the years show that adult herons stage in or along the shorelines of these areas as well as along the railroad embankment before flying into the heronry. They also forage in these bodies of water. When the young herons fledge, they go to the protected waters of the lagoon and learn to obtain food. We note that the March Point Landfill was created in part by dumping waste into the inner lagoon and that a major part of the cleanup work will take place where the fill meets the remaining portion of the inner lagoon. Throughout the breeding and nesting season, the herons fly over the landfill en route to and from the heronry. It would seem clear, given the length of time apparently required for the project construction, that the work will need to extend over two years if risk to the herons and their use of the March Point heronry site is to be minimized. Cleanup activities involving noise

and heavy equipment during the breeding or nesting season would disrupt foraging activity and risk abandonment of the heronry.

Given the great risk to the heronry if heavy construction activity takes place during the breeding and nesting season, please consider accelerating the construction schedule to complete installation of the landfill cap during September-October and returning the following year to do seeding, shoreline habitat restoration, and fencing.

3. Given the importance of the lagoons to the herons, these should both be monitored for contaminants during and post construction.

We note that in the monitoring plans described on page 21 of the DCAP ("3.4.2 Surface water (seeps) points of compliance"), leaking of contaminated groundwater from the cleanup site into the inner lagoon is to be monitored by quarterly visual observation in the first year and semi-annual visual checks for some years thereafter. This does not seem a suitably robust monitoring standard for a cleanup site involving so many extremely toxic substances which are being left in place and stabilized with a cap. Further, given the importance of the lagoons to not only herons but many other bird and marine species, there should be regular water quality monitoring in both inner and outer lagoons until it can be repeatedly verified over 5 or more years that the cleanup has been successful. It would not seem that doing quarterly and then semi-annual monitoring only at the landfill site, and not in the lagoons as well, is adequate to catch evidence of contamination events which could be episodic based on rainfall and tides. We note that the DCAP implies a minimum of 10 years of post-construction monitoring (p.48 "5.3 Release reduction time frame"). That time frame should apply to monitoring in the inner and outer lagoon as well.

4. What is the plan for dealing with the dioxin and furan detected during testing but believed possibly unrelated to the contaminants from the landfill?

We note the statement in the Draft Consent Decree at page 7, "It was determined that contaminants in marine sediments adjacent to the Site do not pose an adverse risk to human health and the environment except for dioxin." The text further states that the dioxin likely originates from somewhere other than the March Point Landfill and that the source is "under a separate investigation." At page 10 of the same document, we read, "Elevated concentrations of dioxins and furans were found adjacent to the Landfill. However, Ecology determined that these elevated concentrations may not be associated with the landfill but were from some off-site, possibly upstream sources. Based on these sediment findings, no sediment related corrective measures have been included the Cleanup Action Plan."

It would seem that the same reasoning that makes cleaning up the March Point Landfill a priority would also apply to other toxins in the vicinity, such as these dioxins and furans. Would it not make sense in terms of expense and minimizing disturbance to the environment during cleanup activities to prioritize finding the source and planning to clean up these toxins at the same time as cleaning up the March Point Landfill? We also note the careful use of the word

"may" in the statement that the dioxins and furans may not originate from the landfill. It would seem important to determine whether they do or do not before proceeding with the cleanup. If the source is determined to be elsewhere, there may be different PLP's (Potentially Liable Persons) and therefore a need to apportion the cleanup expense accordingly, but surely that is not an insurmountable complication. If doing a complete job with the cleanup at and near the March Point Landfill is just not possible at this time, please at least include specific language in the final Cleanup Plan as to how and when the cleanup of the dioxins and furans will take place.

5. If clean-up activity happens during any part of the heron breeding season, trained and paid monitors should be on duty throughout the activity to shut down the work if undue disturbance to the herons occurs.

We note that in the description of construction performance monitoring (pp. xiii – xiv Executive Summary, Draft Cleanup Action Plan, and elsewhere), there is no mention of monitoring disturbance of herons or the heronry. This should be added. Stopping the work when significant disturbance occurs would be fully in accord with the provision of the Draft Consent Decree on page 23, number 1 under "Endangerment":

"In the event Ecology determines that any activity being performed at the Site under this Decree is creating or has the potential to create a danger to human health or the environment, Ecology may direct Defendants to cease such activities for such period of time as it deems necessary to abate the danger. Defendants shall immediately comply with such direction."

The "environment" in the immediate vicinity of the largest heronry in the western U.S. clearly includes herons, their communal nesting area, and their foraging and staging areas (i.e. the Padilla Bay lagoons and vicinity). Other mitigation in a Habitat Management Plan should include not directing lights at the heronry after dark, avoiding sudden sharp, loud noises, avoiding noise during particular times of day and of the season as recommended by a qualified heron biologist, and other measures. If certain loud noise-producing activities are unavoidable, consideration should be given to phasing these in over a period of time so that the herons may gain some tolerance to the noise and not flush off their nests.

The mitigation measures put in place when the T Bailey facility was constructed nearby were carefully designed and were considered adequate at the time. Today the circumstances are somewhat different in that the March Point heronry is now believed to be the largest remaining on the West Coast and the linchpin of the heron population around the Salish Sea. Appropriate sites for heronries with the required types of trees and nearby foraging and staging areas have become ever more rare. The March Point heronry is not replaceable. If it were abandoned, as happened at the Samish Island heronry several years ago, it would be catastrophic for the population of Great Blue Herons throughout this region. The mitigation measures applied at T Bailey should be considered a starting point for designing ones for the landfill cleanup and not taken as sufficient.

6. Reporting requirements should include information about disturbance to herons near the site and in the heronry.

On page 14 of the Draft Consent Degree at #7 is a list of information to be included in monthly reports during the cleanup. Please add to this a requirement to describe disturbance events to herons in the inner lagoon or the heronry, what actions were taken in response, the subsequent behavior of the herons, and the length of the related work stoppage if any.

7. An appropriately trained and experienced professional biologist should either be the monitor or train the monitors called for under a Habitat Management Plan and should play a leading role in developing and certifying that plan.

The Draft Consent Decree at various points (e.g., p.16) requires that all cleanup plans and work be under the direction of professional, appropriately licensed engineers. Please add a similar requirement for involvement of an appropriate biologist in the training and oversight of heronry monitors as well as in the preparation and approval of the Habitat Management Plan.

8. We feel it is very important that the Habitat Management Plan be developed with the full involvement of a qualified heron biologist knowledgeable about heronries around the Salish Sea and familiar with this particular heronry. Skagit Land Trust should also be fully involved as owner of the largest part of the heronry and long-time lead organization for acquiring data on heron ecology in the area.

Ann Eissinger (author of Eissinger, A.M., 2007, Great Blue Herons in Puget Sound, Puget Sound Nearshore Partnership Report No. 2007-06, published by Seattle District, U.S. Army Corps of Engineers, Seattle, Washington, and other pertinent publications) is the most qualified biologist we know for this task. Skagit Land Trust staff should also be invited to appoint a representative to the group developing the Habitat Management Plan.

Conclusion

The March Point heronry is the most important communal nesting site for this species around the Salish Sea and arguably the most important on the West Coast of the U.S. Therefore, extraordinary care must be taken to avoid disturbance leading to abandonment. How ironic it would be if cleanup of a toxic waste site aimed at restoring the environment were to result in loss of this very important wildlife phenomenon. Clearly this would severely damage the reputation of the Department of Ecology, the City of Anacortes, and the parties liable for the cleanup. All concerned in this important project will want to minimize the risk of that happening.

Thank you for your consideration of our comments. We appreciate the opportunity to provide them, and we appreciate all the Department of Ecology is doing to address the environmental threats to the Salish Sea in our neighborhood and elsewhere.

Although we are intent on meeting today's deadline for submitting comments, we request that the Department of Ecology extend the comment period another 30 days. We know there are people who would like to comment but have been unable to do so because of illness or greatly increased work responsibilities during the current pandemic. We also request that there be opportunities to comment on more detailed plans for the cleanup and for managing impacts on the heronry when drafts of those plans are available.

Mary and Jeff Sinker, Commenter A-5

We support the cleanup of the former March Point landfill because it is necessary to preserve the health of Padilla Bay and the surrounding marshes and lagoons. However, the cleanup site is located next to the irreplaceable March Point Heronry which has grown to over 700 nests in size. We are concerned about potential detrimental effects to the heronry from the cleanup construction activities.

We urge DOE to require cleanup measures and mitigations that protect the herons' nesting and foraging areas. This heronry – the largest and most important in the Salish Sea and on the US West Coast – is critical to maintaining stable and healthy heron populations in Puget Sound. The Washington State Department of Fish & Wildlife, and non-agency wildlife biologists, have documented that herons have abandoned heronries or had lower breeding success in response to unusual events. The cleanup project is a construction project – certainly an unusual event at the heronry – and will generate noise above the ambient noise levels at the heronry. Lights can also be disturbing as well as human activity such as heavy equipment operation and truck movements.

We urge DOE to require monitoring for the March Point Heronry Management Plan that is in compliance with the City of Anacortes' critical areas regulations, which designate the heronry as a habitat of local importance. As such, a scientifically-based management plan is required.

We urge DOE to require the consideration of tidal levels when scheduling construction cleanup work and associated activities. Herons are wading birds and can feed only during certain tidal levels. Herons can be easily disturbed when feeding and if they are unable to obtain enough food for themselves and their offspring, their nesting success will be compromised.

Thank you for considering our concerns and for the opportunity to comment on the March Point Landfill cleanup plan.

Friends of the San Juans (Lovel Pratt), Commenter A-6

Friends of the San Juans represents over 2,000 members and works with diverse stakeholders, including citizens, committees, tribal and governmental agencies, and other non-profit organizations in the transboundary region of the Salish Sea to protect and restore the San Juan Islands and the Salish Sea for people and nature—since 1979.

Friends of the San Juans supports Ecology's plan to cleanup of the former March Point landfill which is necessary to preserve the health of the marine ecosystem. Preventing toxic substances from contaminating Padilla Bay and the Salish Sea is critical. However, the landfill is located next to the March Point Heronry, the largest and most important heronry in the Salish Sea and on the west coast of the US. The March Point Heronry is critical to maintaining stable and healthy heron populations in the Salish Sea.

It is incumbent on Ecology to require cleanup measures and mitigations that protect the herons' nesting and foraging areas and that do not disrupt the breeding and nesting season at the March Point Heronry. Ecology's plan to cleanup the March Point Landfill should address and mitigate any cleanup-related impacts to the March Point Heronry. Friends of the San Juans supports the comments submitted by the Skagit Land Trust and Skagit Audubon Society.

John Bolte, Commenter A-7

I am writing to comment on the cleanup of the March Point Landfill: Draft Cleanup Action Plan, dated February 2020, or DCAP. This project was recently brought to my attention by a colleague, plus I have family in this area, so I would like to take this opportunity to provide comment on the project and particularly on the remedial alternatives as described in the DCAP document.

First, my background. I am the Head of the Biological & Ecological Engineering Department at Oregon State University, lead an ABET-accredited engineering program, and have an engineering doctorate from Auburn University in wastewater engineering. I've worked professionally in various aspects of water quality management for over 30 years. My program at OSU has world-leading scientists and engineers involved in developing innovative methods for water and wastewater cleanup, including the areas of bioremediation and phytoremediation. My comments today reflect my perspectives as a private citizen with considerable professional expertise in the area of water quality engineering, and with family in the Anacortes area.

As you may know, bio-based (microbial) and phyto-based (plant/tree) system are quickly becoming preferred hazardous waste management systems, particularly for landfill sites with organic-based toxins (e.g. polychlorinated biphenyls (PCBs)) and heavy metals. These treatment alternatives are rapidly becoming standard for remediation in situations such as the March Point Landfill site, and provide substantial benefits, including among others:

1) lower construction and operating costs,

2) widely used to effectively treat/remove a variety of organic toxins(e.g. PCBs), heavy metals, and other toxic wastes,

3) reduces disruption of contaminated sediments through in-site contaminant reduction,

4) provides multiple ecosystem services, of particular value in this case as a result of close proximity to a large heron colony and intertidal area

5) reduces environmental footprint during construction and operation, and

6) contributes to the State of Washington's sustainability and carbon reduction goals.

The technologies behind these bio-and phyto-based systems are well developed and are in widespread use throughout the US and elsewhere.

In light of the above, when reviewing the March Point Landfill Draft Cleanup Action Plan, I was disappointed that an engineered bio-or phytoremediation system was not considered. In particular, a well-engineered phytoremediation system would almost certainly provide better performance at managing toxic materials, at significantly lower cost, than the "traditional" engineered alternatives considered, while providing multiple ecosystem service benefits and an a reduced environmental footprint. Multiple engineering firms are marketing effective systems for phytoremediation; examples include Ecolotree https://ecolotree.com, with experience in systems for the Pacific Northwest and Intrisyx Environmental https://www.intrinsyxenvironmental.com/.

I strongly urge you to provide an additional phytoremediation-based design alternative before making a final decision on the preferred engineering alternative. I realize that considering an additional alternative at this stage in the process may require additional time, but given that the process of site evaluation and planning has been underway for over a decade I would hope that a suggested viable alternative option with multiple benefits would be worth serious consideration. As representatives of the public, you have an obligation to consider design alternatives that very likely more effective at mitigating the toxins in question, more efficiently use scarce taxpayer resources and provide multiple environmental benefits. This is particularly important given the important ecosystem services provided by the site that would be imperiled by a more traditional, more expensive "hard" engineering solutions.

Thank you for this opportunity to provide comment.

Janice and Keith Wiggers, Commenter A-8

We support scheduling the much needed cleanup of the March Point Landfill near Anacortes, WA to avoid any possible disturbance to the Great Blue Herons during the nesting season.

For reasons that we humans do not understand, almost all of the Great Blue Herons nest in large colonies (heronries). It is kind of "putting all of their eggs in one basket". There were two very large heronries in Skagit County until two years ago. The one on Samish Island was suddenly abandoned in the middle of nesting season, leaving many young nestlings to die in their nests. The reason for abandoning their nests is unknown. There were several significant events that may have caused it, but no definitive cause could be determined. Some events at the time included: excessive noise from land clearing, burning (illegally) piles of debris, a

pervasive and strong chemical odor over Samish Island for a day or two and possible human intrusion near the heronry. Unfortunately, no herons have returned to the site.

Whatever the reason, that left only a single large heronry in the county. And it is the largest heronry in the Pacific Northwest, and maybe in the entire country. And, itis directly across the road from the cleanup site.

So it is obvious that it is imperative that we humans try our best to avoid disturbance during the nesting season.

Please consult and heed the advice of experts (individuals, organizations and agencies) on herons in the Pacific Northwest before determining the timing of the cleanup activities.

Skagit Land Trust (Molly Doran), Commenter A-9

Thank you for the opportunity to comment on the Draft Cleanup Action Plan (DCAP) for March Point. We appreciate that the goal of this project is to make the shorelines and waters of Puget Sound, and particularly Padilla Bay, cleaner. Current and future generations of people and wildlife will benefit from less pollution in Puget Sound.

Skagit Land Trust (SLT) is a nonprofit and an accredited land trust. The Trust was founded in 1992 to help protect the natural lands, open space and wildlife habitat of Skagit County for the benefit of our community and as a legacy for future generations. Skagit Land Trust has grown to become the preeminent land conservation organization in the Skagit with strong local support. The nine staff, 18 board members and 400 active volunteers are joined by approximately 2,000 individual and business supporters to protect the most important and beloved lands throughout the county. The amount of land we protect has grown to almost 10,000 acres including over 44 miles of shoreline.

Skagit Land Trust owns land immediately adjacent to the March Point cleanup site. This land is occupied by the March Point Heronry. We appreciate that the WA Department of Ecology reached out to us early in the process to better understand this heronry, its annual cycle, and how the March Point Land Fill Cleanup can be carried out without disturbing the herons during their breeding and nesting season.

The March Point Heronry

With over 650 active nests, this is by far the largest heron-nesting site in the Salish Sea and along the west coast of the United States. The herons use this forested nesting habitat, called a heronry, from mid-February until mid-August and then disburse for the remainder of the year. A typical heron brood has two-to-four chicks, which means that up to 3900 adults and chicks may utilize this small area in a nesting season. Simply put, there is no other place like it. The March Point Heronry's size provides the genetic diversity required to sustain heron populations throughout Puget Sound.

Great Blue Herons are colonial breeders, building nests in mature coastal forests near marine intertidal habitat for foraging, particularly eelgrass and estuaries. Historically, many small colonies of Great Blue Herons were found throughout the forested marine shoreline of Puget Sound. With the loss of so much of their nesting habitat, many of these small colonies combined in the last best places to form mega-colonies. Mega-colonies have greater breeding success than smaller colonies. However, disturbance of these mega-heronries also means that terminated nesting attempts by the colony can be catastrophic. Many of the mega-colonies along the west coast of the United States have abandoned. Disturbance occurs when large or novel events occur or when human disturbance leads to increased predation, lower breeding success, nest failure and less efficient foraging. In addition to impacts at the nesting site, herons whose foraging is interrupted cannot supply their chicks with the calories needed for optimum growth.

The success of the March Point Heronry as nesting habitat is because it is situated adjacent to the federally and state-protected waters of the Padilla Bay National Estuarine Research Reserve that supply an excellent marine food source; the presence of a small but intact and relatively hard to access mature coastal forest of a type that has disappeared throughout Puget Sound over the past 100 years; and the presence of a bald eagle nest, which protects the herons from harassment by non-resident eagles. This is not a place that can be recreated if lost or diminished. It is critical that the Department of Ecology require robust measures to protect the March Point Heronry.

March Point Cleanup Project Planning Considerations for Heronry

Unfortunately, there is an absence of information in the documents provided for review on how the Cleanup Project will impact the heronry, and steps to mitigate this. Nor is there a probable sequencing of Cleanup Project steps. This limits our ability to provide targeted input at this time. Although we have had several meetings with the Department of Ecology over the past few years to discuss this project, we do not see in these documents the information we have shared on the best available science concerning heronry management alongside construction projects.

Because there is not yet a Heronry Management Plan developed for the March Point Cleanup, nor a detailed Cleanup Project Plan, our comments are directed for considerations when making these plans. We request that there be opportunity for further input from the public as these plans are being developed and upon their completion. The existing City of Anacortes Critical Area Regulations and the draft updated code being considered for adoption, state that the Great Blue Heron nesting site at March Point is to be protected from disturbing activities during the herons' breeding and nesting season. Based on the advice of heron biologists such as Ann Eissinger who has studied this heronry for decades, Washington Fish and Wildlife protocols, and our own experience managing this heronry, we know that an important aspect

of project planning is to ensure that activities that have potential to disturb the heronry are avoided, eliminated or reduced.

Specifically, the noise level at the edge of the heronry during any point of construction should be no greater than what the herons currently experience during the nesting season. Although the draft Cleanup Action Plan states that disturbance to the heron rookery will be limited through techniques like "noise reduction", managing noises alone is likely not adequate for all project activities, especially those closest to the heronry itself. Activities where noise cannot be mitigated adequately should happen outside of the breeding and nesting season. Similarly, actions that are in the direct line of sight with nesting herons should be carefully orchestrated so as not to disturb the herons. Activities that are deemed appropriate to happen during the breeding and nesting season should have monitoring plans established with directions to cease work if the herons are disturbed. Additionally, the March Point herons forage in and along Padilla Bay adjacent to the land fill site throughout the breeding and nesting season. Plans must consider the impact of cleanup activities on these foraging areas.

Following are some of the measures we suggest be part of the Heronry Management Plan:

- A qualified wildlife biologist with experience in heronries in Puget Sound should be hired to develop the Heronry Management Plan with the PLP's.
- A noise investigation report should be required as part of the Habitat Management Plan and should be done prior to cleanup plans and timelines being finalized. This report should document the current ambient noise levels at the eastern and northeastern edge of the heronry during the nesting season in February (when leaves are off the trees) and June (when leaves are on the trees). The study should estimate noise levels for all project activities and locations on the project site. Once this study is completed, project activities that generate noise will generally fall into three categories:
    - Construction activities with potential to impact the heronry. Activities expected to go above the 2020/21 documented ambient noise levels at the edge of the heronry, should have proven mitigation measures to bring noise levels below that or be scheduled outside of the key nesting season. This may mean these project activities need to proceed in stages or in the non-nesting season.
    - Activities that are deemed by a qualified wildlife biologist to not impact the heronry may be allowed to proceed at certain times during the nesting season but should be subject to monitoring protocols and "stop work" signals. Monitoring protocols should be developed and undertaken by a qualified professional.
    - For activities that may impact the heronry in the years following completion of the Cleanup itself, mitigation plans should be created to handle any adverse noise impacts.
- No blasting should happen during any part of the breeding and nesting season.

- Construction vehicles should arrive from the north side of the project area, not from the southern side since this part of South March Point Road is directly beneath the heronry.
- Any road upgrade activity should take place in the non-nesting season because of the noise involved.
- Construction entry and exit, parking and staging, should happen on the northern side of the March Point Land Fill property, as far from the heronry as possible.
- Any activities with the Cleanup plan should be limited to daylight hours. Temporary and permanent lighting should be covered and down-shielded.
- Construction best management practices should be utilized to minimize erosion and sedimentation. Dust control measures should be employed.
- Heron nests should receive the greatest visual screening possible from all project disturbances. This is particularly important in the early months when project activities will be in the nesting herons' line-of-sight due to lack of seasonal vegetation. Significant visual actions should be mitigated through project timing and sequencing.
- Trees along South March Point Road which are outside of the Cleanup core area are used for roosting and as a source of twigs for nest building. Most importantly, these trees help buffer the heronry visually. Because herons seem most sensitive to actions in their line of sight, screening trees in this area should be maintained if possible.
- Because herons use the shoreline and intertidal muds flats beside the Cleanup area for foraging, the Heronry Management Plan must address disturbance of foraging herons.
- Herons also use the shoreline surrounding the Outer Lagoon for staging, a gathering of herons in large numbers for a week or two before re-entering the colony for breeding and nest building. The Heronry Management Plan should address disturbance of staging herons.
- On-going testing for contaminants of the Inner Lagoon should continue throughout the Cleanup and at regular intervals into the far distant future. Plans should be made for locating the source of contamination and removal of any identified contaminants.
- Because there is a water connection between the Inner and Outer Lagoons, the Outer Lagoon should also be tested for contaminants throughout the Cleanup and into the far distant future at regular intervals.
- All emissions and possible transport of airborne particulates should comply with controls to meet Northwest Clean Air Standards.
-
- Skagit Land Trust understands that the PLPs will develop the Habitat Management Plan under the guidance of the City of Anacortes and in consultation with the City of Anacortes,

the Washington Department of Fish and Wildlife, the Swinomish Tribe, and local experts who will guide Ecology's review and approval of the plan.

Skagit Land Trust requests that:

- We be allowed to review the details of the Cleanup Project plan and timeline before it is finalized so that we are informed of specific actions that may affect breeding and nesting herons;
- We be allowed to review the Habitat Management Plan for the March Point Heronry prior to Ecology's approval and permits being issued;
- We be informed of any remedial actions that are proposed once the Cleanup Plan and Heronry Management Plan has been approved.

We also request that the comment period for the Draft Consent Decree, and Draft State Environmental Protection Act (SEPA) Mitigated Determination of Non-Significance for the March Point Landfill be extended for several weeks due to COVID-19 related issues. This will enable broad input.

Thank you for allowing us to provide input and for your attention to The March Point Heronry.

Ann Skinner and Randy King, Commenter A-10

Thank you for the opportunity to comment about the Draft Cleanup Action Plan for March Point. We live within a mile of this site, so are not only writing on behalf of the heronry that is located on the boundary of the cleanup area, but as citizens that care about the area and have a personal stake and interest in it.

The March Point Heronry is a unique and irreplaceable site where over 600 nests can be occupied with up to 3,900 adult herons and their chicks. The fact that so many choose to nest in this area is a testament to its suitability for them to find shelter, food and security that they require for nesting. Herons are a skittish bird that can easily be spooked off their nests by noises and activities that they perceive to be a threat to them. Simply put, they do not like disturbances. We implore the Department of Ecology to consider requiring robust protections and monitoring of this priceless heronry prior to, and during cleanup efforts of the March Point landfill. Cleaning up the site is a long overdue endeavor and is an important and necessary activity; however, it should not be at the peril of the herons and this most unique territory.

Snow Mountain Land Company (Stein Svendsen), Commenter A-11

On behalf of Snow Mountain Land Company LLC, we respectfully submit the following comments on the March Point Landfill Consent Decrees and Corrective Action Plan. Snow Mountain owns two parcels of land in the subject cleanup site. Snow Mountain has a record of cooperating with Ecology in the investigation of possible contamination at this site. While we

do not object to Ecology initiating a cleanup of the site, we would like to offer the following comments on the draft cleanup action plan:

1. There is no current access agreement between Snow Mountain and Ecology or the PLP Group to conduct the proposed cleanup action on the area of the site owned by Snow Mountain.
2. The proposed maintenance road obstructs any potential future use of the Snow Mountain property.
3. The cleanup plan calls for the removal of Snow Mountain's shop building without rebuilding it or moving it to a portion of the site that will not be capped.
4. Ecology in the past has assured Snow Mountain that it is not their intent to ask the City of Anacortes to downgrade the existing industrial zoning of the site yet the proposed cleanup plan effectively makes the property unsuitable for industrial activity once the cleanup is completed.

Snow Mountain will continue to do our best to cooperate with Ecology's cleanup effort. Snow Mountain is available to discuss resolution of the access and other issues raised above.

Pilchuck Audubon Society (Cynthia Easterson), Commenter A-12

I am writing on behalf of Pilchuck Audubon Society of Snohomish County and Camano Island. We thank the Department of Ecology for its commitment to remove hazardous wastes dumped for decades by the public and private companies into the March Point Landfill. Your work and that of other public and private entities support the waste removal and mitigating the adverse effects to Padilla Bay National Estuarine Research Reserve.

Our members are very familiar with this area. For many decades, Pilchuck Audubon members and friends have enjoyed hundreds of birding field trips to and through this area, in particular because of the renowned Great Blue Heronry long established.

I have read the comment letters provided to you already by the Skagit Audubon Society and the Skagit Land Trust. They have provided excellent comments as to current conditions and recommendations to you. There is nothing they have provided with which we disagree.

We wholly agree with them and DOE the cleanup must be done! It is a major first step with others to follow, including, we urge, close monitoring post-cleanup. Monitoring is so often the weakness in an otherwise strong program of work.

Pilchuck Audubon concurs it is vitally important the cleanup activities, which are industrial in scope, do not disrupt the herons during their breeding and nesting seasons from February through August! It seems most of the present herony occupants have adapted to current area noises, lights and other human activities in the area. What their tolerance may be to additional activities as a heronry or as individuals remains to be seen. Absent clear data on this matter, we

urge caution following steps and constraints recommended by the WA Department of Fish and Wildlife, Skagit Audubon and the Skagit Land Trust who have considerable data and even some anecdotal information which could prove useful.

So, that brings me to a final request echoing those by the aforementioned sources.

“Prior to the Cleanup Plan being finalized, the Parties must demonstrate that the entire Cleanup Plan, from site preparation onward, will be undertaken in a way that will not adversely affect the March Point Heronry.”

Thank you for the work done to date, and your extension of the opportunity for additional public comment. Please notify Pilchuck Audubon Society of your final decisions and final plans.

Ellen Anderson, Commenter I-20

While I completely support the clean up of the March Point landfill, it is terribly important that this project be implemented in such a way as to avoid impacts to the great blue heron rookery at March Point. This rookery is a nationally significant resource. The clean up can be phased to have the clean up occur one year during months that avoid nesting and the rearing of young. Then the remainder of the project, final restoration and planting, could occur in a second year, also avoiding the nesting and young bird season. Both Skagit Land Trust and Skagit Audobon can provide information on the critical time periods needed to protect the herons. Thank you

Howard Armstrong, Commenter I-8

Thank you for the chance to comment on the clean up. I recognize how important this cleanup is to the health of Padilla Bay, but I want to remind you that the site is adjacent to the March Point heronry. The 650 nesting pairs of herons that nest on this spot represent the largest population of herons in our state and the majority of the state wide population. It is crucial that the clean up take place outside the nesting season for the herons. We recently lost the second largest heronry in Washington on Samish Island and disturbance caused by nearby construction is thought to have possibly contributed to the herons abandoning the area they had used for more than 30 years. By all means do the cleanup, but I implore you to not do so while the herons are nesting. Thank you in advance for protecting these beneficial and vulnerable birds.

David Baer, Commenter I-30

In regard to the March Point Landfill clean-up. I support the cleanup of the former March Point landfill. The cleanup is necessary to preserve the health of the surrounding environment. Preventing toxic substances from contaminating Padilla Bay is needed and important. However, due to the cleanup location beside the irreplaceable March Point Heronry, I urge the Department of Ecology to require cleanup measures and mitigations that protect the herons' nesting and foraging areas. March Point heronry is the largest and most important heronry in the Salish Sea and on the west coast of the U.S. The March Point Heronry is critical to maintaining stable and healthy heron populations in Puget Sound. The cleanup must not disrupt

the breeding and nesting season at the March Point Heronry. Scientifically-based plans should not allow activities that have been documented to disturb nesting herons to take place during the breeding and nesting season. Activities that are mitigated to prevent disturbance or those deemed to not disturb the herons should be monitored to ensure this is the case. The breeding and nesting season at March Point begins in February and ends in mid- August. There should be consistent focus on the health and well-being of the heronry and the animals that use this habitat. This delicate environment is in many cases the only viable habitat that herons and other critical Pacific Northwest species can inhabit. The job needs to be done but it needs to be done right. Thank you to all those involved and considering my comments.

Jim Betz, Commenter I-10

A way to do the cleanup and NOT disturb the Great Blue Herons MUST be found. If that means that the work can only be done in limited months of the year – so be it.

The March Pt. Heronry is a very important habitat site and it must not be compromised by any one or anything.

Gary Bletsch, Commenter I-21

I have been visiting Whitmarsh Landfill to look at birds for 30 years. One thing always concerns me nowadays with cleanup, mitigation, and "habitat restoration" projects. People always seem to equate habitat "restoration" with the planting of trees and woody shrubs. Right now, the Whitmarsh site may not be the cleanest place in Skagit County, but shorebirds, waterfowl, and other birds of open country use this area. I hope that the project does not turn Whitmarsh into yet another shrubby thicket, which is what so many of these well-intentioned projects do. Here are some local examples. Up at Marblemount Boat Launch (granted, a long way from Padilla Bay), there is a meadow that the Indians used to burn regularly, to maintain berry fields. Do-goodniks have planted trees and shrubs in this area. They are quickly transforming one of the best areas in Skagit County for rare migrant songbirds into just another second-growth woodland. Over at Nichols Bar, near Lyman, which for some reason has been renamed Ann Wolford County Park, most of the woodland trails have been erased. Trees were planted on the trails, and now one cannot walk into the forest. Trees were even planted within the forest, hundreds of feet from the riverbank, for some reason--probably to make people feel good

about saving salmon. Just west of Sims Honda, there was an open wetland. This site attracted a wonderful assortment of migrant sandpipers and plovers. A "restoration" project turned it into a shrubby thicket, suitable for already abundant White-crowned Sparrows and such, but not for shorebirds. This sort of thing is not worthy of the name "restoration." It might make people feel good to plant trees and shrubs, but open, grassy areas and wetlands are habitats, too. I love Martin Luther's old saying about trees--"And if I knew that the world would end tomorrow, I would still plant a tree today." That's sweet, but things are more complicated than that!

Mary Brady, Commenter I-14

I support the cleanup of the former March Point landfill. The cleanup is necessary to preserve the health of the surrounding environment. Preventing toxic substances from contaminating Padilla Bay is needed and important. The cleanup must not disrupt the breeding and nesting season at the March Point Heronry. I support the submitted recommendations of Skagit Land Trust and Skagit Audubon Society. Prior to the Cleanup Plan being finalized, the Parties must demonstrate that the entire Cleanup, from site preparation onwards, will be undertaken in a way that will not impact the March Point Heronry

Jane Brandt, Commenter I-11

The Skagit Land Trust and Skagit Audubon Society have submitted recommendations regarding the protection of the March Point Heronry which is a critical nesting area for Puget Sound herons. I support the cleanup but the cleanup must not disrupt the breeding and nesting season of the heronry. This information is well documented by the Skagit Land Trust's study.

I support the Skagit Land Trust's and the Skagit Audubon Society's submitted recommendations regarding the cleanup and the protection of the heronry.

Martha Bray, Commenter I-35

I am writing to express my concern about WA Dept of Ecology's plans to clean up the Whitmarsh Dump site in Skagit County near Anacortes Washington. While I support this necessary and important cleanup work, it is imperative that the cleanup not disrupt the March Point Heronry during breeding and nesting season. This regionally significant colonial nesting site is critical to great blue heron population success for the entire west coast. The sensitivity of herons to new and novel disturbance is well documented, as is the subsequent abandonment of nesting sites. Likewise, the planning and mitigation efforts required to avoid such catastrophe is understood and achievable. It would be terribly ironic if the well intentioned work of environmental clean-up caused the collapse of this heron colony -- almost literally tossing the baby out with the bathwater. With careful planning and foresight disturbance of the heronry is completely avoidable. I strongly support the submitted recommendations of Skagit Land Trust and Skagit Audubon Society. At a minimum the Dept of Ecology must follow the City

of Anacortes' Critical Areas Ordinance requirements. Thank you for your time and consideration.

Brenda Cunningham, Commenter I-38

The cleanup of the March Point Landfill must not disrupt the breeding and nesting season at the March Point Heronry. I support the submitted recommendations of Skagit Land Trust and Skagit Audubon Society. Their recommendations are well-informed and very reasonable. The March Point heronry is the most important nesting site for Great Blue Herons on the west coast. The potential to disrupt this nesting site much be taken into account in the planning and implementation of the cleanup of the March Point landfill. This cleanup has taken many years to plan and prolonging the work in a way that minimizes impacts to the surrounding environment would be most prudent. It truly would be a shame if the work to clean up this site results in the loss of a major site for herons to breed. Losing this site could be catastrophic to this species in Puget Sound. I strongly urge you to have a wildlife biologist present to monitor the heron nesting colony throughout the clean up work and have a plan in place to halt the work if a disturbance occurs. The Department of Ecology should be committed to protecting the entire environment, even if it means that the work will take slightly longer and cost more to complete. Thank you for the opportunity to comment and I look forward to seeing a balanced and sensitive approach to cleaning up this site.

Stacy Dahl, Commenter I-36

I have become aware of the importance of the March Point heronry both through my work and through a great deal of research I have done on heron throughout the country. It is vitally important that the heronry be protected from disturbance caused by the clean-up of the March Point landfill cleanup. Scheduling of the work to clean up the landfill should be based on the breeding and nesting habits of the great blue heron as laid out in Skagit Land Trust's recommendations and based on the observations collected by scientists and volunteers since the establishment of the colony. Given that heron from the other large colony in Skagit County (Samish Island) abruptly abandoned that site, it is entirely likely that the March Point heron would also abandon if subjected to any unusual disturbance caused by this clean-up project. Steps must be taken to insure that the clean-up of the landfill for the purposes of improving the environment does not negatively affect one vital part of the healthy ecosystem, great blue heron.

John Day, Commenter I-41

I support the cleanup of the former March Point landfill, which is necessary to preserve the health of the surrounding environment. The cleanup must not disrupt the breeding and nesting season at the March Point Heronry, however. I support the submitted recommendations of the Skagit Land Trust and Skagit Audubon Society.

Martha Frankel, Commenter I-24

Thank you for the opportunity to comment on the plan to clean up the March Point Landfill. I'm so happy this is going to happen, so that the accumulated toxic waste will no longer work it's way into our land and waters.

I live on Samish Island, where we not long ago saw our heron rookery abandoned. I would hate to see that happen to the March Point Heronry, where so many hundreds of birds mate, nest, and rear their young each year. Please consider and merge into your plan the professional recommendations made by organizations and experts such as Skagit Audubon Society and Skagit Land Trust. Please don't disturb the herons during critical times in their life cycle.

Carolyn Gastellum, Commenter I-32

Thank you for extending the deadline for public comments regarding cleanup of the March Point Landfill. Thank you for continuing to clean toxics sites to restore healthy ecosystems of the Puget Sound. Your work over the years results in immediate and long-term benefits to terrestrial and marine environments and the health of both human and non-human life. I have lived just outside of Anacortes for 18 years not far, as the heron flies, from the March Point heronry. I am a volunteer for the Skagit Land Trust, having served as a land steward and I am a current member of the Board of Directors. Assuring the continuation of a healthy, thriving heron colony at March Point and in other nearby locations in our county is a high priority for Skagit Land Trust, and is supported by over 2000 members. Staff and volunteers have invested significant time over the past two years in particular to provide accurate science-based knowledge to local decision makers like our County Commissioners and the City of Anacortes so that reliable guidelines for heron protections are included in Critical Areas Ordinances. Final decisions will be made within the coming months by our elected officials. For this reason, but primarily assure the well being of the March Point heron colony, it is essential that the March Point Landfill Cleanup Action Plan include specific science-based protections for the March Point heronry. At this point I feel the Plan is inadequate. Regarding the Draft Cleanup Action Plan for the March Point Landfill, I am stating my opposition to cleanup activities that would be unusual disturbances occurring at any time during the staging, foraging, nesting, breeding season for Great Blue Herons who occupy the March Point heronry. This season occurs from February through mid- August each year. The March Point heronry is the last remaining mega-colony in our area and is the largest on the West coast according to heron biologist Ann Eissinger. We humans have a significant responsibility to assure this mega-colony thrives and is not abandoned. This is especially important during the planning of a very worthy effort like cleaning up the March Point Landfill because the landfill is located right across the road from the heronry. In particular: Construction dates of February 1, 2022 to October 31, 2022 (p51 Construction contractor procurement and construction): This is the worst possible timing since it is during the prime breeding and nesting season in the heron lifecycle. It is when the herons

are most vulnerable to unusual disturbances and most likely to abandon the heronry. Unacceptable disturbances include unusually loud noises, bright lights and nighttime activities, actions in the line of sight of the nests, and the very kind of construction activity with heavy equipment that would occur near staging and feeding areas like the inner lagoon and the outer Padilla Bay lagoon. Before the Cleanup Plan is finalized language must be inserted that strictly enforces the requirement that cleanup activities potentially disturbing to the herons will occur at a time other than the February - August timeframe even if the cleanup takes more than one year to complete. Only activities that are monitored and mitigated to prevent disturbances would be allowed during the most sensitive time of year. A March Point Heronry Management Plan should be developed by qualified heron biologists who have expertise on the Puget Sound heronries. This Plan must include local knowledge from data gathered by Skagit Land Trust, heron biologist Ann Eissinger, and citizen scientists who participate in heron monitoring following established protocols. Such a Plan is needed prior to starting the cleanup project for the March Point landfill. The Plan will also become a guiding document for Skagit County and Cities as Critical Areas Ordinances are routinely updated. Thank you.

Kathy Grossman, Commenter I-40

As a member of Skagit Audubon Society I agree with the points made in the comment letter submitted by the Skagit Audubon Board of Directors. I urge you to consider the protection needs of the March Point heronry, the largest on the West Coast, as you conduct the clean-up of the March Point Landfill. Disturbance during the clean-up may lead to abandonment of the site by the birds, which would be devastating to the heron population all around the Salish Sea. With planning the heronry can be preserved and the clean-up accomplished.

Carla Helm, Commenter I-44

As a concerned local citizen, I am requesting that every effort is made to use great care to protect the heronry at March Point during the landfill cleanup project. This is a very unique area, unlike any other on the west coast and it is critical to use every precaution not to disturb the sensitive habitat for heron breeding, nesting and foraging. Thank you for your consideration.

Mark Hitchcock, Commenter I-13

As a owner of land along the shores of Padilla Bay, I am in favor of cleaning up the March Point Landfill. However, the cleanup process must not disrupt the breeding and nesting season at the March Point Heronry. I support the submitted recommendations of Skagit Land Trust and Skagit Audubon Society.

Shirley Hoh, Commenter I-23

I support the cleanup of the former March Point landfill. The cleanup is necessary to prevent toxic substances from contaminating Padilla Bay and preserving the health of the bay and surrounding environment.

However, due to the cleanup location beside the irreplaceable March Point heronry, I urge the Dept. of Ecology to require cleanup measures and mitigations that protect the herons' nesting, foraging, roosting, and staging areas.

The March Point heronry is the largest and most important heronry in the Salish Sea and on the west coast of the US. The March Point Heronry is critical to maintaining stable and healthy heron populations in Puget Sound.

WA Dept. of Fish and Wildlife biologists tracking Puget Sound heronries have documented that breeding and nesting herons have abandoned heronries or had lower breeding success in response to unusual events.

The March Point landfill cleanup is a construction project. It will generate activity to which the March Point herons are not accustomed. All project activities such as noise levels, line-of-sight movement, and air and water quality must not disturb the herons. Activities that are mitigated to prevent disturbance of herons must be monitored to ensure this is the case. The breeding and nesting season at the heronry begins in February and ends in mid-August. Foraging and staging areas that are used by the herons are located alongside the March Point landfill.

A qualified wildlife biologist with experience in the heronries of Puget Sound should be hired to develop the March Point Heronry Management Plan with the involved parties. The plan must incorporate local knowledge and data of the March Point heronry.

Mary Holder, Commenter I-16

Please accept my public comment on the cleanup of the March Point landfill ("Whitmarsh Dump"). First, thank you for extending the public comment period on this matter through April 17 due to COVID-19 restrictions. It is my understanding that this landfill is very contaminated with toxic substances from its use as an unregulated public dump, a county landfill and a sawmill. I support the clean up of this site to improve the health of the surrounding sensitive environment that includes Padilla Bay. I am concerned, however, about the Great Blue Heron colony adjacent to this cleanup site. As you know the Great Blue Heron is an iconic Skagit County species important to Skagit's citizens and significant to scientists because it is the largest of all heronries both in the Salish Sea and along the U.S. West Coast. Recently Heron nesting areas in Skagit County have shown signs of stress and disturbance. Therefore, it is imperative that no part of the cleanup activities at this site be allowed to disturb or disrupt the Herons in any way during their breeding and nesting season. Thank you for ensuring that any and all measures will be taken to protect the Great Blue Herons during the much needed cleanup of this contaminated site.

Kirk Johnson, Commenter I-29

I support the cleanup of the former March Point landfill. The cleanup is necessary to preserve the health of the surrounding environment. Preventing toxic substances from contaminating Padilla Bay is needed and important. However, due to the Cleanup location beside the irreplaceable March Point Heronry, I urge the Department of Ecology to require cleanup measures and mitigations that protect the herons' nesting and foraging areas. These measures are more fully described in letters to your department from the Skagit Land Trust and the Skagit Audubon Society. March Point heronry is the largest and most important heronry in the Salish Sea and on the west coast of the U.S. The March Point Heronry is critical to maintaining stable and healthy heron populations in Puget Sound. The cleanup must not disrupt the breeding and nesting season at the March Point Heronry. WA Dept of Fish and Wildlife and non-agency wildlife biologists tracking Puget Sound heronries have documented that breeding and nesting herons have abandoned heronries, or had lower breeding success, in response to unusual events. The Dept. of Ecology and other involved parties must make sure this does not happen at the March Point Heronry. The March Point landfill cleanup is a construction project. It will generate activity to which the March Point herons are not accustomed. All project activities must be taken into account when planning so that these actions do not disturb the herons. Noise, line—of-sight disturbance, and air and water quality should all be considered. Prior to the Cleanup Plan being finalized, the Parties must demonstrate that the entire Cleanup, from site preparation onwards, will be undertaken in a way that will not impact the March Point Heronry. Thank you for your consideration of this important issue.

Matthias Kerschbaum, Commenter I-12

My name is Matt Kerschbaum and I am a retired U.S. Fish and Wildlife Service Refuge Manager. I am also a part of the Skagit Heron Foraging Study Team working under the protocol and guidance of Ann Eissinger, a noted Biologist with acknowledged expertise on the Great Blue Heron species. The Skagit Heron foraging Team has been collecting data on Great Blue Heron foraging in Skagit County for the past six years. The cleanup of hazardous waste and toxins present at the former March Point Landfill is important and essential to the health of an environmental treasure - Padilla Bay. I whole heartedly support this action. There is however an important factor that must be taken into account during the cleanup process. The March Point Heronry is located adjacent to the cleanup site. This heronry is the among the largest of all heronries in the Pacific Northwest. There is also important heron foraging habitat in proximity to the worksite. The cleanup must not be allowed to disrupt the breeding and nesting season at the March Point Heronry or foraging during the breeding season. I support the submitted recommendations of Skagit Land Trust and Skagit Audubon Society. I urge the Department of Ecology to require cleanup measures and mitigations that protect heron nesting and foraging areas. The March Point landfill cleanup is a construction project. It will generate human activity to which the March Point herons are not accustomed. Project activities must be taken into account when planning so that these actions do not disturb the herons. Noise, line—of-sight

disturbance, and air and water quality should all be considered. Scientifically based plans should not allow activities that have been documented as disturbing to nesting herons to take place during the breeding and nesting season. Activities that are mitigated to prevent disturbance or those deemed to not disturb the herons should be monitored to ensure this is the case. The breeding and nesting season at the March Point Heronry begin in February and end in mid- August. Foraging and staging areas that herons use that are located alongside the Cleanup site should also be considered in the Cleanup Plan. A qualified wildlife biologist with experience in the heronries of Puget Sound should be hired to develop the March Point Heronry Management Plan with the involved parties. The plan must incorporate local knowledge and data of the March Point Heronry such as from Skagit Land Trust, heron biologist Ann Eissinger and associated monitoring groups. Because herons are wading birds, they can only forage only at certain tide elevations. Periods when tide elevations allow heron foraging should be considered and avoided when scheduling construction activities so foraging herons are not disturbed. The cleanup of this site is a positive action for the environment and a good thing, but in doing the cleanup, we must not allow bad things to happen to herons at this critical point in their life cycle - breeding, nesting and rearing young. Thank you for your efforts to protect the heron breeding and foraging sites while conducting the March Point Landfill cleanup.

A.J. Kuntze, Commenter I-25

Cleanup of the March Point Landfill must recognize the unique March Point Heronry, the largest and most important heronry in the Salish Sea and on the west coast. Consequently, the Department of Ecology must require cleanup measures and mitigations that protect the herons' foraging, breeding and nesting areas. Thank you for considering my concerns.

Harold Lee, Commenter I-17

We are all in favor of the planned cleanup of the March Point Land Fill site, however we are also very concerned about the March's Point heron nesting site. This heron nesting site is one of the largest on the west coast, and must be protected. The birds start staging along the shoreline north of March's Point prior to their going into the heronry in February with the young birds fledgling in August sometime. Any unusual disturbances and noise during that time, may cause them to either not nest at all or abandon their nests and young chicks.

So please make sure in the planning for the site cleanup that no work occurs that could adversely impact the nesting site during nesting season.

Ron Lindsay, Commenter I-1

As I am sure you must know, a very important heronry is up the hill from the land fill just across March's Point Road. It is essential that this heronry be protected and it may be best if all major work were done while the herons are not nesting. Please contact the Skagit Land Trust to learn more if you have not done so already.

Lin McJunkin, Commenter I-31

I am a local resident and an active hiker and birder. The Washington State Department of Ecology is coordinating the much needed cleanup of the March Point Landfill. The landfill area is contaminated with measurable levels of many toxic substances from years of use as an unregulated public dump, a county landfill, and a sawmill. The cleanup must be done. It is vital for the health of Padilla Bay and the surrounding environment. We want to recognize this is great step forward. However, the March Point heronry is adjacent to the cleanup site. It is of utmost importance to the heronry, the largest in the Salish Sea and along the west coast of the U.S., that the cleanup activities not disrupt the herons during their breeding and nesting season.

Therefore, I support the submitted recommendations of Skagit Land Trust and Skagit Audubon Society and I urge you to follow them.

Libby Mills, Commenter I-27

I support the comments submitted by Skagit Audubon regarding this essential clean up. The clean up must not occur at the expense of our huge great blue heron nesting colony. It is the greatest on the west coast. Please be sensitive to critical timing considerations to protect our heron colony, as described by both the Skagit Land Trust and Skagit Audubon, as you proceed in planning the clean up.

Natalie Niblack, Commenter I-4

For the last two years, I have participated in heron counts at Bay View park and at Alice Bay. At Bay view last year, we routinely count hundreds of heron- the most we have ever counted at one time was 700. At this view point, we are looking at foraging areas just below the March Point heronry. The previous year, I participated in a count at Alice Bay, just southeast of Samish Island. I was told that for years there was a heronry in the woods just as the road comes to Samish Bay. While I was counting, the most heron we saw were less than 10 because the heronry had been abandoned. No one really knows why it was abandoned, but the likely cause was nearby construction. Though very limited in my experience, the stark contrast of an abundant thriving heronry to the empty abandoned one is reinforced whenever I participate in a heron count. We must protect what we have, and treat these amazing birds with respect and consideration. I absolutely support the cleanup of the dump site, but it must be done with all the recommendations of Skagit Land Trust and the Skagit Audubon Society.

Therese Ogle, Commenter I-6

Hello. I live on Padilla Bay, the south shore of Samish Island. My view across the water is March Point. I watch herons fly across the Bay heading south to their nests next to the refinery. As you know, the several-hundred nest heronry on Samish Island was abandoned by the birds recently, after 60-plus years of nesting on this island. For that reason, the health of the herony at March Point is vital for these magnificent birds. The cleanup of the former landfill is, of course,

absolutely essential as well, for the health of Padilla Bay. However, timing is critical -- the noise and disruption of a clean-up during nesting season could result in another mass abandonment of the heronry. Please ensure that the clean-up process does not coincide with the heron's critical nesting period.

Amber Phillips, Commenter I-33

Please consider the following:

4. In situ stabilization
5. Install bottom liner instead of waiting to see if leach leachate migrates
6. Perform an Eco Risk Assessment especially as there is a heronry adjacent to the site. Birds cannot read, are they to be safely hosted on site or kept out in some manner?

Nancy Robblee, Commenter I-7

I support the cleanup of the former March Point landfill. Because the clean up location is next to the March Point Heronry, I urge the Department of Ecology to require cleanup measures that protect the herons' nesting and foraging areas. This Heronry is the largest and most important heronry on the West coast. Herons are easily disturbed and disrupted by noise, line of sight disturbances, and air/water quality. The March Point Heronry is critical to maintaining stable and healthy heron populations in Puget Sound. The clean up must not disrupt breeding and nesting season at the March Point Heronry which begins in February and ends in mid-August.

Laurie Sherman, Commenter I-39

Hello I am writing re the much needed cleanup of the March Point Landfill, also known as the Whitmarsh Dump. This site has been polluting Padilla Bay for many years with measurable levels of toxic substances from use as an unregulated public dump, a county landfill, and a sawmill. This cleanup must be done and is critical for the health of Padilla Bay and the surrounding environment. I want to recognize this is great step forward!! However, the March Point heronry is adjacent to the cleanup site. It is of utmost importance to the heronry, (the largest in the Salish Sea and along the west coast of the U.S.) that the cleanup activities not disrupt the herons during their breeding and nesting season. I agree and refer you to the Skagit Audobon detailed recommendations re the timing of the cleanup.

In gratitude of your consideration.

Paul Sherman, Commenter I-37

As a resident of Fidalgo Island and one who appreciates the majestic herons I am requesting that the DOE is sensitive to the disturbance they create when cleaning up the Whitmarsh Dump Site. The heron rookery is one of our favorite places to ride by on our bikes. We know that they

are sensitive to disturbances in their rookery area and may depart and never come back. As I'm sure you know, this is the largest heron rookery on the West Coast.

Carol Sullivan, Commenter I-28

Cleanup of Whitmarsh Dump is necessary, and a definite step in the right direction towards improving the environment of Padilla Bay and surrounding areas. But while doing cleanup, please diligently protect the Salish Sea area's largest heronry from being harmed - we do not want the heronry to become collateral damage!

Linda Talman, Commenter I-3

We are very concerned about the treatment of the landfill site at March Point and how the landfill will be mitigated. The heronry next to that site is of regional importance. The heronry on Samish Island has disappeared in recent years and though the cause of the disappearance is unknown (at least to me) construction and other disturbances nearby may be the cause. We ask that you add two heron experts to your team to provide oversite to the project so as to conduct the mitigation in a manner that is carried out in a manner that reduces noise at sensitive times or is when the herons and their nestlings are on the nest. Those experts should be chosen by Washington State Audobon.

Kathleen Thornburgh, Commenter I-5

I support the cleanup of the former March Point landfill. The cleanup is necessary to preserve the health of the surrounding environment. Preventing toxic substances from contaminating Padilla Bay is needed and important. However, due to the Cleanup location beside the irreplaceable March Point Heronry, I urge the Department of Ecology to require cleanup measures and mitigations that protect the herons' nesting and foraging areas. March Point heronry is the largest and most important heronry in the Salish Sea and on the west coast of the U.S. The March Point Heronry is critical to maintaining stable and healthy heron populations in Puget Sound. The cleanup must not disrupt the breeding and nesting season at the March Point Heronry.

WA Dept of Fish and Wildlife and non-agency wildlife biologists tracking Puget Sound heronries have documented that breeding and nesting herons have abandoned heronries, or had lower breeding success, in response to unusual events. The Dept. of Ecology and other involved parties must make sure this does not happen at the March Point Heronry. The March Point landfill cleanup is a construction project. It will generate activity to which the March Point herons are not accustomed. All project activities must be taken into account when planning so that these actions do not disturb the herons. Noise, line—of-sight disturbance, and air and water quality should all be considered. Prior to the Cleanup Plan being finalized, the Parties must demonstrate that the entire Cleanup, from site preparation onwards, will be undertaken in a way that will not impact the March Point Heronry. The March Point Heronry Management

Plan must follow the City of Anacortes' critical areas regulations (CAR). The CAR notes the March Point Heronry as habitat of local importance and requires a scientifically-based management plan to protect it. Scientifically-based plans should not allow activities that have been documented to disturb nesting herons to take place during the breeding and nesting season. Activities that are mitigated to prevent disturbance or those deemed to not disturb the herons should be monitored to ensure this is the case. The breeding and nesting season at March Point begins in February and ends in mid- August. Foraging and staging areas that herons use that are located alongside the Cleanup site should be considered in the Cleanup Plan. A qualified wildlife biologist with experience in the heronries of Puget Sound should be hired to develop the March Point Heronry Management Plan with the involved parties. The plan must incorporate local knowledge and data of the March Point Heronry such as from Skagit Land Trust, heron biologist Ann Eissinger and associated monitoring groups.

Kent Turner, Commenter I-19

I support the project to clean up the landfill at March Point. However, it is critical that the project and implementation planning protect the great blue heron rookery at March Point. This heronry is one of the largest on the west coast. It is very important ecologically. The clean up of the landfill should be and can be phased, so that the clean up occur other than nesting and fledgling season one year, with restoration and final phase of the project occurring during a second year, also avoiding the nesting season. The Skagit Land Trust and the Skagit Audobon both have information on the timing for protection of nesting. Thanks for opportunity to comment.

Barbara Tuttle, Commenter I-22

I am concerned about the cleanup of the March Point Landfill and its affects on the March Point Heronry. I understand that it is vital to clean the area, to protect Padilla Bay. But the heron nesting area, the largest on the West Coast, could suffer from the cleanup if it is not coordinated to not interfere with the birds' breeding and nesting season. If the herons are disturbed it might affect not only one season but the continuing viability of the heronry. Thank you

Philip Wright, Commenter I-15

Thank you for the opportunity to comment.

The cleanup must not disrupt the breeding and nesting season at the March Point Heronry. I support the submitted recommendations of Skagit Land Trust and Skagit Audubon Society.

Tom Glade, Commenter O-4

Evergreen Islands supports the comments submitted by the Skagit Land Trust and Skagit Audubon Society, and the Friends of the San Juans regarding the need to take significant measures to protect the March Point heronry during the cleanup of the former March Point

landfill. The cleanup is necessary to preserve the health of the surrounding environment and to prevent toxic substances from contaminating Padilla Bay and will be a significant improvement of the local environment in its entirety.