

Agreed Order for Barbee Mill Site Investigation and Interim Action Ready for Public Review

Site Location

The Barbee Mill Site (Site) is generally located at 4101 Lake Washington Blvd N., in Renton, Washington. The approximately 22 acre Site is on the eastern shore of Lake Washington at the mouth of May Creek. As currently known to Ecology, the Site is bordered to the west by Lake Washington, to the east and south by Lake Washington Blvd N. and an active Burlington Northern rail line, and to the north by the Quendall Terminals Superfund site (for information, contact Suzanne Skadowski, U.S. Environmental Protection Agency, 206-553-6689).

Public Comment Invited

The Washington State Department of Ecology (Ecology) requests your input on four documents. The documents are for the proposed interim cleanup actions and monitoring for the Barbee Mill Site. You are invited to:

- **Review** the Draft Agreed Order, Restrictive Covenants, Draft Public Participation Plan, and State Environmental Policy Act (SEPA) Checklist and Determination.
- **Send** your comments to Ecology from October 30, 2009 through November 30, 2009.

See the box at the right for details about where to review documents and submit comments.

Site Background

The Barbee Mill Co., Inc. developed the property in the 1920s, first with a small lumber mill and then a combined lumber mill/shipyard operation. The shipyard closed shortly after World War II, and the lumber mill was expanded. Most of the mill equipment was removed in 2005 and 2006; the remainder was removed in 2007. Conner

Comments Accepted

October 30 – November 30, 2009

Submit Comments and Technical Questions to:

Ching-Pi Wang - Site Manager
WA Department of Ecology
Toxics Cleanup Program
3190 160th Ave SE
Bellevue, WA 98008
Phone: (425) 649-7134
E-mail: cwan461@ecy.wa.gov

DOCUMENT REVIEW LOCATIONS

Renton Public Library

100 Mill Ave S
Renton, WA 98057
Phone: (425) 430-6610
Hours: Mon.-Thurs. 10 a.m.-9 p.m.,
Fri.-Sat. 10 a.m.-6 p.m., Sun. Closed

WA Department of Ecology

3190 160th Ave SE
Bellevue, WA 98008
By appointment only:
(425) 649-7190

Ecology's Toxics Cleanup Website

http://www.ecy.wa.gov/programs/tcp/sites/barbee_mill/barbee_mill_hp.html

Help with other languages and formats?

If you need this publication in an alternative format, call the Toxics Cleanup Program at (425) 649-7117. Persons with hearing loss, call 711 for Washington Relay Service. Persons with speech disability call 877-833-6341.

Facility ID#: 767162221

Homes at Barbee Mill, LLC bought the property in 2006, and is currently building a housing development on the site. Future owners of the Barbee Mill property will include individual lot homeowners. The City of Renton also has an interest in the street right of ways.

Photograph of the Barbee Mill Site, 1976.



Contaminants of Concern

Remedial action began in the mid-1990s with a series of soil, ground water, and sediment studies. Data obtained during investigations showed that soils beneath the Barbee Mill property were contaminated with organic and inorganic substances. Off-shore sediment in Lake Washington contained excessive wood debris. Shallow ground water beneath the property and the southwest corner of the property to the north (Quendall Terminals) was also contaminated, primarily with arsenic.

At Barbee Mill pollutants found in soil include:

- Diesel-range petroleum hydrocarbons.
- Arsenic and zinc.
- Pentachlorophenol (PCP).

Pollutants found in ground water include:

- Diesel-range petroleum hydrocarbons.
- Arsenic and zinc.

Pollutants in the sediments have included:

- Carcinogenic polycyclic aromatic hydrocarbons (cPAHs).
- Total organic carbon (TOC).
- Wood waste.
- Arsenic (suspected).

Previous Cleanup Work

In 1999 and 2003, Barbee Mill Co., Inc. (Barbee) removed off-shore sediments from Lake Washington and stockpiled it on the upland portion of the site for study. Ecology reviewed the cleanup data and reports and issued a No Further Action determination on February 23, 2003 for the sediment that contained concentrations of wood waste and carcinogenic polycyclic aromatic hydrocarbons (cPAHs). Ecology issued a second letter on April 3, 2003 indicating the stockpiled sediment was suitable for unrestricted use.

In 2006, Barbee cleaned up contaminated soil at several upland areas of the site. The largest cleanup was for elevated arsenic and zinc concentrations in soil at the northern part of the site. About 30,000 cubic yards of contaminated soil and about 860,000 gallons of contaminated ground water were removed from the site. Samples taken after the soil removal showed that arsenic concentrations in soil were below the cleanup level for direct contact, but above the cleanup level for ground water protection. Zinc concentrations were below the cleanup level for both.

In 2006 Barbee removed 230 cubic yards of diesel contaminated soil and 160 cubic yards of pentachlorophenol contaminated soil. Samples taken after the removal showed pollutants in

soil were under cleanup levels. In two areas, ground water had diesel-range hydrocarbons above cleanup levels. Although the soil cleanup likely resulted in ground water cleanup, this will be confirmed.

After the arsenic-zinc soil remediation was done, ground water in the northwest corner of Barbee Mill and the southwest corner of Quendall Terminals still had arsenic concentrations above cleanup levels. In 2007 Barbee installed a subsurface wall along the Lake Washington shoreline and the Barbee Mill/Quendall Terminals property line. The subsurface wall is permeable and is designed to remove arsenic as ground water flows through it. The wall has been termed a Passive Attenuation Zone (PAZ) because it contains finely divided iron particles which act to bind the arsenic. They installed a series of ground water extraction wells within the area of highest arsenic levels. The extraction wells are a means of expediting cleanup.

Environmental covenants have recently been recorded on each lot within the area of the interim action. The covenants will:

- Protect the remedial elements in place.
- Give access for future monitoring and maintenance.
- Prevent the ground water from being used.

Future Work

The work currently planned for the Barbee Mill site includes interim cleanup actions and on-going operations, maintenance, and monitoring.

The interim actions include:

- Installing two well points in the Lake Washington sediments off-shore of the Quendall Terminals property.
- Installing treatment equipment and controls for the ground water extraction system.
- Running the ground water extraction system to speed up the arsenic removal.

A Performance Monitoring Plan updated from a previous plan will be submitted to Ecology. The plan will address zinc, arsenic, and diesel-range hydrocarbon contamination. Each year, a Performance Monitoring Report will be submitted to Ecology which gives details about the monitoring, passive attenuation zone, and arsenic trends.

A “data-gaps” analysis will also be developed to evaluate the need to further investigate the presence of arsenic in the sediment offshore of the northern half of Barbee Mill and the southwestern corner of Quendall Terminals.

Under MTCA, persons who do work under an Order or Decree with Ecology are exempt from needing certain permits. But they still need to comply with the substantive requirements that would normally be listed in the permits. The permit exemptions and substantive requirements for the work under this Agreed Order, as currently known to Ecology, are described in Exhibits D and E of the Order. The planned schedule for these actions is in Exhibit C of the Agreed Order.

Future plans for work at the site not within the current scope of the Agreed Order also include the development of a comprehensive remedial investigation and feasibility study report that will enable Ecology to select a cleanup action for the Site.

MTCA LIABILITY

Under the law, liability for cleanup extends to current owners of contaminated property, among other categories of liable persons. See RCW 70.105D.040. Based on this law, residential homeowners can fall within the category of Potentially Liable Persons, or PLPs, for the site. However, Ecology has an enforcement policy (see Policy 540A on page 5) which describes that Ecology generally uses its enforcement discretion under MTCA not to pursue residential property owners, subject to certain conditions explained in the policy.

In providing this general information, Ecology makes no guarantees about the risks or benefits of purchasing property associated with the site.

Agreed Order

The Agreed Order is a legal document between Ecology and Barbee Mill Co., Inc., a Potentially Liable Party (PLP) for the site. Conner Homes at Barbee Mill, LLC is also a PLP for the site as a current owner, but is not a signatory to this Agreed Order.

The Agreed Order describes what actions Barbee Mill Co., agrees to perform on the site. The Agreed Order ensures that cleanup happens according to Washington State's cleanup law, the Model Toxics Control Act (MTCA).

State Environmental Policy Act (SEPA) Checklist and Determination of Non-Significance (DNS)

The SEPA environmental checklist and Determination of Non-Significance (DNS) are also available for public review at this time.

This checklist evaluates potential environmental impacts if this cleanup action is conducted. The proposed work at this site will be:

- Barbee Mill Company, Inc., installed a ground water treatment system at their own risk prior to the Agreed Order between April – June 2009. Ecology plans to approve the plan for this work as part of the Agreed Order.
- Beginning Summer/Fall 2009, the ground water treatment system operation.
- Annual Reports on Progress of the effectiveness of the Ground water Treatment System.

Ecology has reviewed this checklist and has determined that no significant adverse environmental impacts will be caused by this project.

Public Participation Plan

Ecology developed a draft Public Participation Plan according to MTCA. This plan is designed to promote meaningful community involvement during the cleanup of the Barbee Mill site. The plan outlines the methods Ecology will use to inform the public about site activities. It also shows how the community can get involved in this process.

What Happens Next?

After the comment period, Ecology will review all comments. The documents may be changed based on the comments. As the cleanup continues, you will be notified of future comment periods. A public meeting is not planned for this site. However, one will be held if 10 or more people request a public meeting.



Toxics Cleanup Program Policy

Policy 540A

Resource Contact: Policy and Technical Support Staff *Effective:* April 8, 1992
References: Ch. 173-340 WAC *Revised:* June 25, 2004

Policy 540A Enforcement

This policy applies whenever the department intends to issue Model Toxics Control Act orders requiring a Potentially Liable Person (PLP) to provide remedial action or pay for cleanup costs or natural resource damage assessments. This policy is intended to supplement requirements specified in statute and rule. Regional Directors should be kept informed about enforcement actions against local governments.

1. Emergency Orders May Be Issue At Any Time During The Cleanup Process

In general, emergency orders should be used only in situations when the normal process of issuing an enforcement order would be longer than the deadline necessary for initiating remedial action.

2. The Toxics Cleanup Program Generally Attempts To Negotiate Or Have Discussions With PLPs Prior to Issuing Orders.

Prior to issuing orders, TCP staff is encouraged to attempt negotiations for a consent decree or discussions for an agreed order with PLPs, whenever possible. However, there are cases where potential delays in the cleanup process make negotiations impracticable or not in the public interest; for example, emergency conditions, the time required for negotiations or discussions would be longer than the deadline necessary for initiating remedial action, PLP unresponsiveness, or a PLP request for an enforcement order.

Attempts to negotiate a consent decree or discuss an agreed order should be documented in the site file.

3. The Site Manager May Withdraw From Negotiations Or Discussions.

The site manager may withdraw from negotiations for a consent decree or discussions for an agreed order if it is determined that:

- A. Reasonable progress is not being made toward the consent decree or order acceptable to the department, see WAC173-340-520(1)(1), WAC 173-340-520(2)(e), and WAC 173-340-530(6); or

- B. The consent decree or order is no longer appropriate based on new information or changed circumstances.

Decisions to withdraw should be made in consultation with the assigned Assistant Attorney General.

The site manager may begin enforcement action after notifying the PLP in writing, of its intent to withdraw from the negotiations or discussions. See WAC 173-340-520(1)(1), WAC 173-340-520(2)(e), and WAC 173-340-530(6).

4. Generally, TCP Issues Orders Requiring PLPs To Conduct Remedial Actions Before Using Funds From The Toxics Account.

When attempts at negotiations or discussions are unsuccessful, TCP site managers generally will issue an order before proceeding with cleanup work utilizing state toxics control account monies. Toxics account funds may be used prior to issuing orders if emergency conditions exist at the site.

5. Site Managers Shall Use The Boilerplates As A Basis For Drafting Orders.

The Boilerplates for Agreed Orders and Enforcement Orders can be found on the Toxics Cleanup Program's intranet site. Use of the documents shall be in accordance with the provisions of WAC 173-340-130 and Part V of Chapter 173-340 WAC. Significant deviations from these boilerplates should be discussed with the assigned Assistant Attorney General.

6. Generally, TCP Will Not Take Enforcement Actions Against Residential Landowners.

Although residential landowners are PLPs, in the exercise of its enforcement discretion, TCP generally will not pursue enforcement actions toward residential landowners to require such an owner to take response actions or pay response costs unless:

- A. The residential homeowner's activities lead to a release or threatened release of hazardous substances which results in the need for remedial actions at the site;
- B. The property owner fails to comply with any MTCA obligations (e.g., reporting the release of a hazardous substance);
- C. The property owner fails to provide access to the site or information, or fails to cooperate with TCP's investigation or cleanup at the site;
- D. The property owner develops or improves the property in a manner inconsistent with residential use, or the development of the property leads to a release or threatened release of hazardous substances; or
- E. The property owner fails to comply with any institutional controls established at the site.

7. Effect Of Policy

This policy does not affect any other obligations required of owners of contaminated property under the MTCA or other federal, state and local laws. It provides guidance for the exercise of Ecology's enforcement discretion. It is intended only for Ecology's internal use and may not be relied upon by any person to create a right or a benefit, substantive or procedural, enforceable at law or in equity. The policy is not a covenant not to sue any person and does not affect or negate the liability or defenses any person may have under the MTCA or other law. Ecology may withdraw or change this policy at any time. Ecology may act at variance with this policy.

Approved:

A handwritten signature in black ink, appearing to read "James J. Pendowski", written over a horizontal line.

James J. Pendowski, Program Manager
Toxics Cleanup Program



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ECOLOGY
State of Washington

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Bellevue, WA 98008**

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**Barbee Mill Site
Renton, King County, WA**

Ecology Seeks Public Comment on the Draft Agreed Order, Environmental Covenants, Draft Public Participation Plan, and SEPA Determination and SEPA Checklist

**Public Comment Period
October 30 - November 30, 2009**

Facility Site ID #: 76716221

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