



DEPARTMENT OF
ECOLOGY
State of Washington

Response to Public Comments

Draft Agreed Order, Draft Cleanup Action Plan, Draft Public Participation Plan, SEPA Determination

**R.G. Haley
Bellingham, WA**

*Facility Site ID: 2870
Cleanup Site ID: 3928*

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Toxics Cleanup Program
Northwest Region
Washington State Department of Ecology
Bellevue, Washington

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Introduction

On February 20, 2018 an Agreed Order (AO), Cleanup Action Plan (CAP), Public Participation Plan (PPP), and a State Environmental Policy Act – Determination of Non-Significance (SEPA-DNS) for the R.G. Haley cleanup site on the Bellingham waterfront was issued for a 30-day public comment period. Ecology hosted a public meeting on February 28, 2018 to provide more information and collect comments. The comment period for the site closed on March 21, 2018.

Public involvement activities related to this public comment period included:

- **Fact Sheet:** Distribution of a fact sheet describing the site and requesting review of the AO, CAP, PPP, SEPA-DNS through mailing and emailing to approximately 3,900 people, including neighboring businesses and other interested parties.
- **Legal Notice:** Publication of one paid legal ad in *The Bellingham Herald*, dated February 16, 2018.
- **Site Register:** Publication of a notice in the Washington State Site Register, dated February 15 and March 1 & 15, 2018. You can visit the Ecology Toxics Cleanup Site Register website here:
<https://fortress.wa.gov/ecy/publications/UIPages/PublicationList.aspx?IndexTypeName=Program&NameValue=Toxics+Cleanup&DocumentTypeName=Newsletter>
- **Website:** Announcement of the public comment period, public meeting, and posting of the documents on the Department of Ecology website:
<https://fortress.wa.gov/ecy/gsp/Sitepage.aspx?csid=3928>
- **Email List:** Email distribution of a fact sheet, comment period dates, and public meeting notice to approximately 250 people, including interested public individuals, local/county/state/federal agencies, and interested community groups.
- **Document Repositories:** Provided copies of the documents for public review through three information repositories: Ecology's Bellingham Field Office and Northwest Regional Office in Bellevue and the Bellingham Public Library Central Branch.
- **Public Meeting:** Ecology hosted an informational public meeting at the Bellingham Ecology Office on February 28, 2018 from 6-8 p.m.

Comment Summary

A total of 4 separate comments were submitted during the comment period.

Table 1: List of Commenters

	First Name	Last Name	Submitted By
1	Judith	Akins	Individual
2	Liz	Marshall	Individual
3	Eleanor	Hines	Organization: RE Sources for Sustainable Communities
4	Wendy	Harris	Individual

Next Steps

Ecology has reviewed and considered all comments received on the Agreed Order, Cleanup Action Plan, Public Participation Plan, and State Environmental Policy Act – Determination of Non-significance. Comments are presented below with Ecology’s response. No changes were made to the draft documents, and they have been finalized.

Cleanup Timeline:

Design of the cleanup work is expected to take about 2 year, although related permitting activities may extend this timeframe. Implementation of the cleanup will occur under a future separate legal agreement.

Comments and Responses

Below are Ecology's responses to comments. The original comments received are found in Appendix A beginning on page 17.

Note that the R.G. Haley site is also referred to as "the Site."

Comment from: Judith Akins

First, I am concerned with water runoff from the hill and slope above the site running under the blanket that is being place on contamination and that will eventually make its way underground to contaminate the ground and water.

Response

Most of the groundwater at the Site comes from infiltrating rain water rather than runoff from the bluff adjacent to the RG Haley site (Site). In addition, runoff and shallow groundwater moving down the bluff is partially captured and drained by the ditch extending along the railroad tracks. If post-construction groundwater monitoring shows the need to further reduce groundwater recharge, the drainage ditch may be modified to capture more runoff and shallow groundwater.

As we know now that all contamination must have a lined shield under so that contamination is held above the soils etc. , however this was not case here.

Response

Contaminated upland soil at the Site will be covered by a low-permeability multi-layer cap. This cap will isolate contaminated soil and reduce or eliminate surface water infiltration. No underlying "shield" is necessary since most of the current groundwater recharge is coming from the top (infiltrating rain water), and bedrock already forms a natural barrier beneath the contaminated soil.

Secondly, I am concerned about the planning for a 2 + foot sea level rise. By recent scientific estimates, we should be planning for over 3 feet. You stated that this could be accommodated if needed later but why wait? This will be extra cost down the line! Just do an adequate job now for current projections.

Response

While a projection regarding sea level rise (SLR) has not yet been made for the Site, we expect to use a 2.4 foot rise, similar to the adjoining Cornwall Avenue Landfill site. The 2.4 foot value is based on 2016 scientific reports indicating 1 – 2 feet as the best estimate for SLR by 2100, with a potential range of .5 to 4.1 feet. See Cornwall Avenue Landfill Engineering Design Report, <https://fortress.wa.gov/ecy/gsp/Sitepage.aspx?csid=220>). Although an SLR value of 2.4 feet was used to design the shoreline protection system at the Cornwall site, the protection system can be easily modified in the future to accommodate up to an additional 5 feet of SLR. Given the substantial uncertainty in the SLR projections for a

time 80+ years into the future, we believe this adaptive approach is appropriate for both the Haley and Cornwall sites.

Lastly, the trough between the railway and site you said would be monitored for runoff and drains could be added later. Again, this is a very likely scenario and the cost will be more than putting the drains in now.

Response

Drainage improvements are not likely to be needed along the railroad tracks, because most of the groundwater passing through contaminated soils at the Site comes from infiltrating rain water. Cutting off this surface source of recharge is expected to result in groundwater meeting cleanup levels as it reaches Bellingham Bay.

If a few years of post-construction monitoring show groundwater not meeting cleanup levels, then drainage improvements would be instituted. The cost for delaying these improvements is not expected to be substantially greater than completing the improvements earlier, because the delay would only be for a few years, and most, if not all, of the construction work would be on BNSF property.

Lastly, the only planned use of this area is for a park. I would like to be absolutely sure that we are not endangering the health of our community by using this park. I know we are recreating on hazardous waste all over the area but still this is a concern. The off gassing tubes should again go the next step in making sure people are not breathing in any of these contaminants.

Response

The proposed upland cleanup includes a multi-layer cap specifically designed to protect human health and the environment. The cap is a minimum of 2 feet thick and includes 5 separate layers preventing park users from contacting contaminated soil. From top to bottom these layers include: Topsoil or pavement, a geotextile separation fabric, a drainage layer, a low permeability geomembrane, a gas collection layer, and a final geotechnical separation fabric. Gas accumulating in the gas collection layer will be treated or directly vented in a manner protective of human health.

The proposed shoreline cleanup is also specifically designed to protect human health and the environment. The cleanup in this area consists of contaminated sediment removal and/or capping with clean material.

I appreciate all the efforts Ecology and Port/City have taken. I do think more could be done to add more costs now than to add additional costs later.

Response

Thank you. We appreciate your input, and acknowledge your preference for incurring additional costs now.

Comment from: Liz Marshall

I am surprised there is little public participation in this discussion as far as I can see. I guess the technical experts and public at large have complete faith with so many contaminants left in the land area and underwater, it is impressive if agencies can clean it up. I applaud you if you can do it. I wish others with technical expertise had submitted comments, but will pipe up with my input.

Response

Ecology acknowledges the comment. We appreciate your time, and welcome your participation.

After toxics are removed to the best of your ability it would be my preference to abundantly restore some native habitat since all humans as well as the fish, birds, invertebrates and mammals need natural habitat.

Response

Ecology's primary authority and responsibility under the Model Toxics Control Act (MTCA) is to implement cleanups that protect human health and the environment. While that authority does not extend to habitat restoration, Ecology does consider the habitat benefits of cleanup actions as much as possible.

In addition, habitat enhancement/restoration may be required as a result of the construction permitting process, when state, federal, and tribal agencies responsible for fish and wildlife management conduct detailed reviews of the project. And, the site area is designated for future use as a public park. Conceptual park plans include enhanced/restored habitat. See

<https://www.cob.org/gov/projects/Completed/Parks/Cornwall%20Beach%20Park%20Master%20Plan.pdf>. The cleanup work and park development work may occur at the same time.

In the various waterfront sites, there is much bowing to "public access" in the way of seaside strolls by meandering citizens. There is much catering to agricultural, forest products, and other commerce which has led to the dredging of the Whatcom Creek estuary. All the while it seems that public access to fresh air, clean water, and riparian and shoreline protection are sorely undervalued. There is catering to politicians, institutions, shipping companies, commercial fishermen, and longshoremen who all use up natural resources, but not enough appreciation for such life forms as forage fish, sunstars, orcas, fir trees and eelgrass who give life to the ecosystem.

Response

Under the MTCA, Ecology does not have authority over land use. Our responsibility is to eliminate exposure to potentially harmful levels of contamination, given existing/future land use. The Site is mostly owned by the City of Bellingham and, as stated above, is designated for a future park. Conceptual park plans include enhanced/restored habitat.

Also note that a bay-wide multi-agency effort has been underway since the mid 90's to clean up contaminated sediment, control sources of sediment contamination, and restore habitat, with consideration for land and water uses. Visit <https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Cleanup-sites/Toxic-cleanup-sites/Puget-Sound/Bellingham-Bay>

Many philosophical and physical headaches exist in developed parks. One example is that there is huge disrespect in displacing geese, gulls, pigeons and plovers in favor of putting down additional pavement place after place. Another is that lawns, herbicides, rodenticides, etc. and the noise of machinery such as leaf blowers are all counterproductive to the health of public parks which are meant to provide opportunities for fresh air, aesthetics, restorative activity, and the like for people at large. These days, parks are frequented by drug users and other criminals as well as common litterers. They are visited by annoying rabble rousers, transients, people who feed bread to birds, dads who teach kids to throw rocks in the Bay without regard to whom they might kill, and kids who lift marine animals out of the water and smash them or take them away. Debris left by park goers as well as debris that blows and flows down from the rest of the City create murderous hazards to creatures and are the antithesis of a cleanup effort.

Response

As noted above, under the MTCA, Ecology does not have authority over land use. We recommend you contact the City of Bellingham with regard to your concerns about developing the Site as a park.

Government is supposed to create spaces for the health and pleasure of the people in general. A lot of those people are in favor of protecting all species, experiencing more shade and less pavement, preserving cleanliness of estuaries and coastal waters, reducing noise and air pollution, preventing plastic and other litter in the environment, reducing carbon footprints, and welcoming salmon and orcas back to Bellingham Bay. Those people should not be discounted. With so much ecological harm having been done over so many years to the waterfront and Salish Sea, I encourage the partnering entities to consider designing an abundance of ecological features and installations that surpass what was there before R. G. Haley International and the other corporate polluters. In my opinion, Lake Whatcom ought to be fenced like Seattle's water supply and other water districts are. In the same way, I believe these waterfront "ecological" activities ought to be really, genuinely, and primarily ecological.

Response

Please refer to previous responses.

Even if I were among those families that insisted we must be able to take kids and grandkids to any and all coastlines, I question how going to sites that had so much contamination can be that wise.

Response

The cleanup of the Site is designed to prevent exposure to potentially harmful levels of contamination, given planned use as a public park. In addition, a number of other actions will be taken to ensure the cleanup action remains protective over time:

- Post-construction monitoring. To verify that site cleanup levels established to protect human health and the environment have been met.
- Property use restrictions. Prohibitions and restrictions will be placed on the property to ensure the long term integrity of the cleanup action.
- Periodic review. Ecology will review the cleanup action every five years to ensure continued protection of human health and the environment.

Comment from: RE Sources, Eleanor Hines

Thank you for taking the time to consider our comment on the RG Haley Site Cleanup Action Plan managed by the Washington Department of Ecology.

RE Sources for Sustainable Communities is a local organization in northwest Washington, founded in 1982. RE Sources works to build sustainable communities and protect the health of northwest Washington's people and ecosystems through the application of science, education, advocacy, and action. Our North Sound Baykeeper program is dedicated to protecting and enhancing the marine and nearshore habitats of northern Puget Sound and the Georgia Strait. Our chief focus is on preventing pollution from entering the North Sound and Strait, while helping our local citizenry better understand the complex connections between prosperity, society, environmental health, and individual well being. Our North Sound Baykeeper is the 43rd member of the Waterkeeper Alliance, with over 300 organizations in 34 countries around the world that promote fishable, swimmable, drinkable water. RE Sources has over 20,000 members in Whatcom, Skagit, and San Juan counties, and we submit these comments on their behalf. We appreciate the time and effort taken to put the Cleanup Action Plan, Agreed Order, Public Participation Plan, and the State Environmental Policy Act Determination of Nonsignificance and Checklist out to public comment. Overall these documents address our concerns for human and ecological health; however, we have a few concerns that we would like considered, outlined below.

Response

Thank you for participating in Ecology's public comment period. We appreciate your time, and welcome your participation.

***Agreed Order:** We had just a few grammatical comments relating to document, including: In section VI. C., there is a comma missing after 2009 in the list of dates. In section VIII.F. A. 4. c., the Bellingham Field Office Address provided is the old address (new one is 913 Squalicum Way, Unit 101, Bellingham, WA 98225).*

Response

We will make these corrections.

Public Participation Plan

We appreciate the thought put into how to better interact with the public throughout the cleanup process. Below are a few suggestions:

Having the power point presentations given at public meetings available online would be very helpful. Some presentations do not always translate well to PDFs, such as when there are

multiple layers, but spreading out such slides into many slides could alleviate this problem. Being able to look back at slides can be really helpful for us and the public when we formulate comments.

Response

Presentations from public meeting are added to Ecology's site web page once the meeting has been held. For those who have difficulties with a particular slide, we can also provide alternative versions if they contact us.

It is always helpful to indicate where in the process the cleanup is on the factsheets, so thank you when you do. Additionally, keeping the project timeline on the website updated as much as possible is also helpful.

Response

We endeavor to include project next steps/timelines in all fact sheets. We also strive to keep project web page timelines up to date, but there are times when projects can go for a while with no updates. For example RI/FS phases can go on for years so the timelines don't get updated quite as often.

There are other languages than English spoken in households in Bellingham, so perhaps providing info in other languages could be helpful, or at least assistance with translation.

Response

Ecology researches languages spoken near cleanup sites, using the Environmental Protection Agency's Environmental Justice Screening and Mapping Tool (<https://www.epa.gov/ejscreen>). If over 5 percent of the population speaks a particular language, we include information in our fact sheets in that language. The fact sheet information typically includes a brief description of the work that is available for public review and who to contact to request translation services.

In the case of Ecology's cleanup work in Bellingham Bay, Spanish is the dominant secondary language, constituting 4 percent of the general population. Despite being under 5 percent, we still include information in Spanish in our fact sheets. If you know of people who require translation services in other languages, please let us know and we may be able to make appropriate arrangements.

We would like to ask you to consider a WebEx option and/or recording of public meetings available online for those who cannot attend the public meetings.

Response

Ecology is currently exploring how it could implement several different formats for conducting public meetings, including WebEx.

Cleanup Action Plan

In general, we are pleased to see that the site boundaries have been expanded due to additional contaminant information.

Response

Ecology acknowledges the comment.

We also reiterate the importance to make sure plans for RG Haley are consistent with Whatcom Waterway and Cornwall Ave Landfill cleanup plans so that the redevelopment and future land uses can transition smoothly while not compromising cleanup efforts.

Response

Ecology agrees. The project teams for all three sites continue to work closely to ensure seamless integration of the of the cleanup work, in consideration of future land use.

We also appreciate incorporations to accommodate future sea level rise and what that might mean for the longevity of this cleanup and future site uses.

Response

Ecology acknowledges the comment.

Additionally, where possible, we would like habitat enhancement to be considered, particularly along the shoreline and in the marine nearshore, where possible.

Response

Ecology's primary authority and responsibility under MTCA is to implement cleanups that protect human health and the environment. That authority does not extend to land use planning, including habitat enhancement. However, some habitat enhancement may ultimately become part of the cleanup as a result of the construction permitting process, when agencies and groups responsible for fish and wildlife management conduct their detailed reviews of the proposed cleanup. In addition, Ecology strongly supports improving habitat, and will work closely with the city's land use planning efforts to ensure that the cleanup design is compatible, to the degree possible, with land use decisions regarding improved habitat functions.

Upland Soil Solidification and Upland Low-Permeability Capping

The upland low-permeability cap will need to be vented to prevent build up of soil gases. In the future plans, we suggest that future land use and events like extreme high tides be considered. With rising sea levels and higher king tides, if the off-gas vents are not high enough, they could become clogged with debris brought by the tides.

Response

Ecology shares these concerns. They will be addressed in the Engineering Design Report and construction plans/specifications, and ultimately in a Monitoring, Maintenance, and Operations Plan.

We are concerned about the prevention of upland storm/groundwater contamination re-contaminating the site. Consideration into stormwater and groundwater drainage is important

Response

Ecology agrees that managing stormwater and groundwater recharge is important. The Site cleanup plan therefore includes a low-permeability multi-layer cap and storm

drainage control system to reduce or eliminate surface water infiltration. Construction and long-term care details for the cap and drainage system will be addressed in the Engineering Design Report and construction plans/specifications, and ultimately in a Monitoring, Maintenance, and Operations Plan.

We would like to be sure that the upland soil solidification be able to withstand future events, such as earthquakes, and land uses, such as a parking lot with heavy vehicles and an adjacent railway so as to prevent such events as fractures in the solidified soil that could facilitate leaching of LNAPL through groundwater.

Response

Ecology shares these concerns. They will be addressed in the Engineering Design Report and construction plans and specifications for the solidification work, and ultimately in a Monitoring, Maintenance, and Operations Plan. The construction contractor will also be required to develop specific handling and QA/QC plans for this phase of the work.

Intertidal Sediment Removal:

The LNAPL-impacted sediment in the intertidal zone that will be moved to be consolidated under the upland cap should be tested before being mixed in under the upland cap to make sure new contaminant issues are not introduced and that proper soil solidification and capping methods are used.

Response

The physical and chemical characteristics of the sediment in the intertidal zone have already been tested extensively as part of the RI and subsequent investigations. Ecology agrees it will be important to use proper soil solidification and capping methods. These issues will be addressed in the Engineering Design Report and follow-on construction plans and specifications. The construction contractor will also likely be required to develop specific handling and QA/QC plans for this phase of work.

The plan states that large debris or other materials unsuitable for placement under the upland cap will be disposed of off-site. Will these materials be tested for contaminants and how will they be disposed of?

Response

Disposal facilities have waste acceptance testing requirements that must be satisfied. The contractor will be required to properly dispose of the material and provide documentation to Ecology.

Sediment Capping and Natural Recovery

Where natural recovery methods are used, we stress the importance of continued monitoring and contingency plans to test after an event such if a ship were to strike ground, for example when the Horizon Line ship came unsecured in a strong storm and ran into the sediment of Whatcom Waterway. Also plans to ensure that dredging activities won't accidentally breach these caps.

Response

Ecology shares these concerns. They will initially be addressed in the Engineering Design Report, and then finally in both a Monitoring, Maintenance, and Operations Plan and an environmental covenant (for non-state-owned aquatic land within the site). For state-owned aquatic land within the site, Ecology and the Department of Natural Resources are working to identify a legal mechanism that is functionally equivalent to an environmental covenant.

Offshore recreational mooring is also a concern in the marine unit here as it is for Cornwall Avenue. We are concerned that offshore anchoring could compromise Capping. Proper measure to ensure this does not become an issue should be put in place, possibly including education and outreach to recreational boaters and/or signage on where to not anchor and where it is ok to anchor.

Response

Ecology also agrees with this concern and intends to address it as per the response above.

Institutional Controls

We are pleased to see institutional controls accounted for in this cleanup action plan. As full removal of contaminated materials is not the plan, institutional controls are a key to permanence at this site.

Response

Ecology acknowledges the comment

Thank you for your time and consideration. We appreciate this opportunity for public comment and efforts to protect both human and environmental health.

Response

Again, thank you for participating in Ecology's public comment period.

Comment from: Wendy Harris

I need more information regarding this proposal before I can provide an informed comment. Therefore, I have some questions.

Is the dioxin contaminated sediment that was dumped at the Cornwall site as part of an alleged interim action also going to be spread onto the RG Hawley site?

Response

The dredged sediment placed under a plastic cover at the Cornwall site as part of a 2011 interim action, is planned to be used as subgrade capping material completely within the bounds of the Cornwall site. However, the RG Haley site overlaps the north end of the Cornwall site, and both sites plan to use a multi-layer surface cap to isolate contaminated soil and reduce surface water infiltration. Because of this situation, some of the dredged sediment is likely to be used as subgrade capping material within the overlap area. That will become clear only after the engineering for both sites is completed. An engineering

design report (EDR) has been completed for the Cornwall site, and a draft EDR is just getting underway for the Haley site. The final plan for integrating the two cover systems will be included in the future construction plans and specifications.

I imagine that this will be handled similarly to the Cornwall clean-up. Given that the plume is mostly coming from underneath RG Hawley, will that make any difference in how the clean will be handled?

Response

We understand this question relates to an interim action undertaken in 2013 to stop oil from entering into Bellingham Bay at the Haley site, and whether the method selected in 2013 will be used again as part of the final cleanup. The 2013 action consisted of placing a layer of absorbent material over sediment within the intertidal zone where oil was seeping into the bay. Ecology concluded that the oil was coming from petroleum-impacted sediment in the intertidal zone and possibly an upland area of free product/oily soils. As such, the absorbent blanket method was considered a temporary measure and was eliminated from consideration for the final cleanup.

The final cleanup will include two complementary measures, one addressing the upland source of the contamination (area of free product and oily soil), and the other addressing the adjoining most-contaminated intertidal sediments.

- The upland source area will be treated (solidified) in place to prevent the free product from migrating, and to substantially eliminate groundwater from passing through the contaminated soils. An in-situ remediation process is planned involving a stabilizing agent to create a solidified subsurface block.
- The area with highly-contaminated sediment will be excavated and the excavation backfilled with clean sand and other appropriately sized native materials. An absorbent material such as activated carbon will likely be mixed in with the backfill as a final polish for groundwater discharging into Bellingham Bay.

Is the RG Hawley site to be used for a parking lot, part of which will be underground? If so, what will be done to ensure that mercury, metals, dioxin and other hazardous waste will not seep through the concrete?

Response

Surface parking lots, not underground parking, are part of the current plan for the Site. See the conceptual plan for Cornwall Beach Park here: <https://www.cob.gov/projects/Completed/Parks/Cornwall%20Beach%20Park%20Master%20Plan.pdf>. Regardless, no hazardous contaminants should “seep through” the pavement because it will be isolated from contaminated soils by a multi-layer cap designed for that purpose. Specifically, pavement will be underlain by: A base course layer, a geotextile separation fabric, a drainage layer, a low permeability geomembrane, a gas collection layer, and a final geotechnical separation fabric.

I am also unclear on the status of the overwater walkway. I heard it was dead due to a failure to reach agreement with the tribes, but I have also heard that the city talks as if it is still part of the plan. Can you clarify the status on this and if it still exists, how it will be handled in terms of potential penetration of your plastic sheet covering? In the past, I reviewed emails that indicated the port took no responsibility for what happens after the developer is involved.

Response

Ecology understands that the City has not yet obtained the necessary permits for the Overwater Walkway project.

With regard to the construction of an overwater walkway damaging the cap or other aspects of the cleanup, Ecology does not believe this to be an issue for the Haley site. Our understanding is that the overwater walkway is planned to tie into the south end of the Cornwall site, not into the Haley site. However, regardless of where the walkway might eventually come ashore, its landing will need to be constructed in a manner that does not reduce the effectiveness of the cleanups implemented at either the Cornwall site or the Haley site. Any plans for substantially modifying or changing the cleanups, such as penetrating the upland multilayer cap or disturbing the shoreline sediment cap, require Ecology review and approval.

Regarding the Port/developer comment, we are unsure of your meaning. The City owns most of the property landward of the inner harbor line at both the Haley and Cornwall sites, the state owns property (managed by the Department of Natural Resources (DNR)) water ward of the inner harbor line, and the Port owns a small triangle of property within the Haley site. The Port, City and DNR are PLPs at both sites under MTCA, but they likely have agreements between them outlining roles and responsibilities pertaining to cleanup and development.

Given the more recent news that Bellingham Bay is the fastest degrading Bay in the entire Puget Sound area, that our Orcas are dying of starvation and the devastating die-off and extremely slow recovery of our keystone sea star species, will impact will this have on clean up plans? Is there someone you will be working with at WDFW on the clean up plan if I have specific questions on wildlife issues? If so, may I have his/her name and contact info?

Response

Protecting humans and wildlife from potentially harmful levels of contamination is the purpose of the cleanup, and a fundamental first step toward restoring habitat. To further restore habitat, the shoreline sediment caps will gently slope into the water and include wildlife-friendly materials on the cap surface. The project will also incorporate any other regulatory requirements identified during design and permitting activities.

Note that all cleanup projects are coordinated through the multi-agency Bellingham Bay Demonstration Pilot Team (BBAT). WDFW is represented on the team by Brendan Brokes, at 360-466-4345, Ext: 253, or at Brendan.Brokes@dfw.wa.gov. In addition, the project must meet the substantive provisions of WDFW's Hydraulic Project Approval. During design and permitting activities, the City will likely work with Bob Warinner of WDFW to comply with HPA requirements. Mr. Warinner can be contacted at the same

number as Mr. Brokes, Ext: 252 or at Robert.Warinner@dfw.wa.gov. Also note that the BBAT includes other agencies with wildlife concerns: NOAA, USFWS, and the Lummi Nation. The Corps of Engineers, also on the BBAT, will consult with these entities as part of establishing permit coverage for project construction.

When determining the appropriate clean up plan, will you be considering the cumulative impacts from waterfront development in conjunction with the further development along almost the entirety of the Western Whatcom county coastlines. i.e., the Birch Bay Berm and the Blaine trail system that covers Semiahmoo, Drayton harbor and other important bird areas in this area and the totality of impacts this will have on birds, sea mammals and other species that access marine waters for habitat or other needs?

Response

Under the MTCA, Ecology does not have authority over land use. Our responsibility is to eliminate exposure to potentially harmful levels of contamination, given existing/future land use.

However, in 2008 the Port of Bellingham issued a Draft Environmental Impact Statement (DEIS) for the Waterfront District Redevelopment Project. The DEIS analyzed the probable significant environmental impacts of redevelopment alternatives for 216 acres of property on the Bellingham waterfront. Potential impacts to plant and animal communities from redevelopment were evaluated. The draft EIS can be found at: <http://portofbellingham.com/424/Draft-Environmental-Impact-Statement>

Will you be working directly with the tribes as co-managers of the nearshore this time, which is their appropriate position and right? It was discouraging to read their strong objections to what has been proposed regarding previous waterfront cleanup plans.

Response

This MTCA cleanup will be conducted as part of a legal agreement between Ecology and one or more potentially liable parties.

However, the Lummi Nation is a member of the Bellingham Bay Action Team, a multi-agency group that meets every other month to coordinate waterfront cleanup and habitat restoration work. The team is led by Ecology and the meetings include briefings on cleanup projects.

In addition, the City of Bellingham will need to obtain federal permit coverage for construction of the MTCA required cleanup work at the Site. They will likely work directly with the Lummi Nation during this permitting process.

Regarding historic tribal objections, it is challenging for Ecology as we must follow the MTCA. Therefore, we cannot compel PLPs to perform work that is outside of or inconsistent with this authority. We do believe that Ecology and the Lummi Nation have an overlapping interest in taking actions to protect fish, wildlife, and habitat.

Has DOE changed its posture regarding the timeline for the cost/benefit analysis beginning only since the arrival of European settlers, which fails to reflect the correct value of tribal treaty rights based on the abundance that existed before the settlers pillaged the land and sea? This greatly reduces the value of tribal reserved rights that need to be considered.

Response

The requirements of the MTCA have not changed. The cost considered in the cost benefit analysis is the cost of implementing the cleanup action.

Given the increase in rail road traffic, and what is known now about the dangers of exploding train cars full of liquid petroleum gas and many other types of explosive chemicals, will DOE be looking at a more protective approach to cleanup in the event of a derailing/seismic activity, landslide. I suggest you review the distance between the three diesel tanks at Encogen and the railroad tracks.

Response

Ecology agrees that planning for emergency situations, like the ones you describe, is an important aspect of the cleanup. Contingencies for emergencies will initially be addressed in the Engineering Design Report, and ultimately in a Monitoring, Maintenance, and Operations Plan.

It appear that there will be more people living at the waterfront as a result of recent changes made to Harcourt's development plans. Given this fact, will this impact the cleanup results as it suggests to me a more protective standard is needed, particularly with the trains going by.

Response

It appears you are questioning whether cleanup standards need to be improved within the Harcourt development area if more people will live there. The Haley site is not within the Harcourt's development area. However, cleanup standards within the Harcourt area anticipate mixed uses, including residential development.

With regard to train traffic, see response to previous comment.

In the past we were very lucky to have Resources and the North Sound Bay Keeper providing work sessions to help inform the public, but we do not have that anymore. Is there a chance that DOE can provide an earlier and more informal town hall meeting to provide information to the community, far in advance of the comment period ending? Most people care strongly about our shorelines, but do not understand enough about these technical MTCA clean ups to really participate. How can you help us participate in a way that is meaningful?

Response

Ecology is currently looking at many ideas on how to better inform and engage the public on these projects, including town hall-format meetings. Ecology also continues to work with Resources to identify opportunities for site tours in conjunction with public comment periods. We would be very interested to talk more with you about ideas you

may have as well. Please contact Ian Fawley of Ecology's Bellingham Field Office at 360-255-4382 or IFAW461@ECY.WA.GOV.

I do have another important question about in situ cleanup involving dioxin. The EPA does not consider this to be permanent and requires that for federal cleanup, the issue be revisited every certain number of years (maybe 4 or 5) to see if there is now better technology for dealing permanent removal of dioxin. However, DOE treats the cap and cover plan for Cornwall and other places along the waterfront that involve cap and cover of dioxin as a permanent clean up. My question is how you are allowed to do this when it is contrary to EPA cleanup policies?

Response

Cleanups conducted under both the state cleanup law, MTCA and the SMS, and the federal law, CERCLA, incorporate in-situ treatment and containment technologies for contaminants such as dioxins. The RG Haley site is being cleaned up under the state cleanup law and its policies governing cleanup. However, like federal law, MTCA requires Ecology conduct a periodic review every 5 years for sites where contaminated materials remain above cleanup levels (see WAC 173-340-420). The purpose of the periodic review is to ensure human health and the environment are being protected. If Ecology determines the cleanup is not being protective, it can be changed. Criteria used in this determination include the availability of new scientific information and the availability/practicability of more permanent remedies.

Thank you for your assistance. I look forward to your response.

Response

Thank you for providing your questions and comments. We truly appreciate your time, and welcome your participation.

Appendices

Appendix A. Public Comments in Original Format

Judith Akins

First, I am concerned with water runoff from the hill and slope above the site running under the blanket that is being placed on contamination and that will eventually make its way underground to contaminate the ground and water. As we know now that all contamination must have a lined shield under so that contamination is held above the soils etc. , however this was not the case here.

Secondly, I am concerned about the planning for a 2 + foot sea level rise. By recent scientific estimates, we should be planning for over 3 feet. You stated that this could be accommodated if needed later but why wait? This will be extra cost down the line! Just do an adequate job now for current projections.

Lastly, the trough between the railway and site you said would be monitored for runoff and drains could be added later. Again, this is a very likely scenario and the cost will be more than putting the drains in now.

Lastly, the only planned use of this area is for a park. I would like to be absolutely sure that we are not endangering the health of our community by using this park. I know we are recreating on hazardous waste all over the area but still this is a concern. The off gassing tubes should again go the next step in making sure people are not breathing in any of these contaminants.

I appreciate all the efforts Ecology and Port/City have taken. I do think more could be done to add more costs now than to add additional costs later.

Sincerely,

Judith Akins

Liz Marshall

I am surprised there is little public participation in this discussion as far as I can see. I guess the technical experts and public at large have complete faith. With so many contaminants left in the land area and underwater, it is impressive if agencies can clean it up. I applaud you if you can do it. I wish others with technical expertise had submitted comments, but will pipe up with my input. After toxics are removed to the best of your ability, it would be my preference to abundantly restore some native habitat since all humans as well as the fish, birds, invertebrates and mammals need natural habitat.

In the various waterfront sites, there is much bowing to “public access” in the way of seaside strolls by meandering citizens. There is much catering to agricultural, forest products, and other commerce which has led to the dredging of the Whatcom Creek estuary. All the while it seems that public access to fresh air, clean water, and riparian and shoreline protection are sorely undervalued. There is catering to politicians, institutions, shipping companies, commercial fishermen, and longshoremen who all use up natural resources, but not enough appreciation for such life forms as forage fish, sunstars, orcas, fir trees and eelgrass who give life to the ecosystem.

Many philosophical and physical headaches exist in developed parks. One example is that there is huge disrespect in displacing geese, gulls, pigeons and plovers in favor of putting down additional pavement place after place.

Another is that lawns, herbicides, rodenticides, etc. and the noise of machinery such as leaf blowers are all counterproductive to the health of public parks which are meant to provide opportunities for fresh air, aesthetics, restorative activity, and the like for people at large.

These days, parks are frequented by drug users and other criminals as well as common litterers. They are visited by annoying rabble rousers, transients, people who feed bread to birds, dads who teach kids to throw rocks in the Bay without regard to whom they might kill, and kids who lift marine animals out of the water and smash them or take them away. Debris left by park goers as well as debris that blows and flows down from the rest of the City create murderous hazards to creatures and are the antithesis of a cleanup effort.

Government is supposed to create spaces for the health and pleasure of the people in general. A lot of those people are in favor of protecting all species, experiencing more shade and less pavement, preserving cleanliness of estuaries and coastal waters, reducing noise and air pollution, preventing plastic and other litter in the environment, reducing carbon footprints, and welcoming salmon and orcas back to Bellingham Bay. Those people should not be discounted. With so much ecological harm having been done over so many years to the waterfront and Salish Sea, I encourage the partnering entities to consider designing an abundance of ecological features and installations that surpass what was there before R. G. Haley International and the other corporate polluters.

In my opinion, Lake Whatcom ought to be fenced like Seattle’s water supply and other water districts are. In the same way, I believe these waterfront “ecological” activities ought to be really, genuinely, and primarily ecological. Even if I were among those families that insisted we must be able to take kids and grandkids to any and all coastlines, I question how going to sites that had so much contamination can be that wise.

To: Mark Adams
Site Manager, RG Haley Intl Corp Site
Washington State Department of Ecology
Transmitted Via Email to: mark.adams@ecy.wa.gov

March 21, 2018

RE: RG Haley Intl Corp Site Cleanup Action Plan and Related Documents Comment

Dear Mark Adams,

Thank you for taking the time to consider our comment on the RG Haley Site Cleanup Action Plan managed by the Washington Department of Ecology.

RE Sources for Sustainable Communities is a local organization in northwest Washington, founded in 1982. RE Sources works to build sustainable communities and protect the health of northwest Washington's people and ecosystems through the application of science, education, advocacy, and action. Our North Sound Baykeeper program is dedicated to protecting and enhancing the marine and nearshore habitats of northern Puget Sound and the Georgia Strait. Our chief focus is on preventing pollution from entering the North Sound and Strait, while helping our local citizenry better understand the complex connections between prosperity, society, environmental health, and individual wellbeing. Our North Sound Baykeeper is the 43rd member of the Waterkeeper Alliance, with over 300 organizations in 34 countries around the world that promote fishable, swimmable, drinkable water. RE Sources has over 20,000 members in Whatcom, Skagit, and San Juan counties, and we submit these comments on their behalf.

We appreciate the time and effort taken to put the Cleanup Action Plan, Agreed Order, Public Participation Plan, and the State Environmental Policy Act Determination of Nonsignificance and Checklist out to public comment. Overall these documents address our concerns for human and ecological health; however, we have a few concerns that we would like considered, outlined below.

Agreed Order: We had just a few grammatical comments relating to document, including:

- In section VI. C., there is a comma missing after 2009 in the list of dates.
- In section VIII.F. A. 4. c., the Bellingham Field Office Address provided is the old address (new one is 913 Squalicum Way, Unit 101, Bellingham, WA 98225).

Public Participation Plan: We appreciate the thought put into how to better interact with the public throughout the cleanup process. Below are a few suggestions:



- Having the power point presentations given at public meetings available online would be very helpful. Some presentations do not always translate well to PDFs, such as when there are multiple layers, but spreading out such slides into many slides could alleviate this problem. Being able to look back at slides can be really helpful for us and the public when we formulate comments.
- It is always helpful to indicate where in the process the cleanup is on the factsheets, so thank you when you do. Additionally, keeping the project timeline on the website updated as much as possible is also helpful.
- There are other languages than English spoken in households in Bellingham, so perhaps providing info in other languages could be helpful, or at least assistance with translation.
- We would like to ask you to consider a WebEx option and/or recording of public meetings available online for those who cannot attend the public meetings.

Cleanup Action Plan: In general, we are pleased to see that the site boundaries have been expanded due to additional contaminant information. We also reiterate the importance to make sure plans for RG Haley are consistent with Whatcom Waterway and Cornwall Ave Landfill cleanup plans so that the redevelopment and future land uses can transition smoothly while not compromising cleanup efforts. We also appreciate incorporations to accommodate future sea level rise and what that might mean for the longevity of this cleanup and future site uses. Additionally, where possible, we would like habitat enhancement to be considered, particularly along the shoreline and in the marine nearshore, where possible. Below are some additional highlights of comments specific to certain cleanup actions.

Upland Soil Solidification and Upland Low-Permeability Capping:

- The upland low-permeability cap will need to be vented to prevent build up of soil gases. In the future plans, we suggest that future land use and events like extreme high tides be considered. With rising sea levels and higher king tides, if the off-gas vents are not high enough, they could become clogged with debris brought by the tides.
- We are concerned about the prevention of upland storm/groundwater contamination re-contaminating the site. Consideration into stormwater and groundwater drainage is important
- We would like to be sure that the upland soil solidification be able to withstand future events, such as earthquakes, and land uses, such as a parking lot with heavy vehicles and an adjacent railway so as to prevent such events as fractures in the solidified soil that could facilitate leaching of LNAPL through groundwater.

Intertidal Sediment Removal:

- The LNAPL-impacted sediment in the intertidal zone that will be moved to be consolidated under the upland cap should be tested before being mixed in under

the upland cap to make sure new contaminant issues are not introduced and that proper soil solidification and capping methods are used.

- The plan states that large debris or other materials unsuitable for placement under the upland cap will be disposed of off-site. Will these materials be tested for contaminants and how will they be disposed of?

Sediment Capping and Natural Recovery:

- Where natural recovery methods are used, we stress the importance of continued monitoring and contingency plans to test after an event such if a ship were to strike ground, for example when the Horizon Line ship came unsecured in a strong storm and ran into the sediment of Whatcom Waterway. Also plans to ensure that dredging activities won't accidentally breach these caps.
- Offshore recreational mooring is also a concern in the marine unit here as it is for Cornwall Avenue. We are concerned that offshore anchoring could compromise capping. Proper measure to ensure this does not become an issue should be put in place, possibly including education and outreach to recreational boaters and/or signage on where to not anchor and where it is ok to anchor.

Institutional Controls:

- We are pleased to see institutional controls accounted for in this cleanup action plan. As full removal of contaminated materials is not the plan, institutional controls are a key to permanence at this site.

Thank you for your time and consideration. We appreciate this opportunity for public comment and efforts to protect both human and environmental health.

Sincerely,

Eleanor Hines
Lead Scientist
RE Sources for Sustainable Communities

Wendy Harris

I need more information regarding this proposal before I can provide an informed comment. Therefore, I have some questions.

Is the dioxin contaminated sediment that was dumped at the Cornwall site as part of an alleged interim action also going to be spread onto the RG Hawley site?

I imagine that this will be handled similarly to the Cornwall clean-up. Given that the plume is mostly coming from underneath RG Hawley, will that make any difference in how the clean will be handled?

Is the RG Hawley site to be used for a parking lot, part of which will be underground? If so, what will be done to ensure that mercury, metals, dioxin and other hazardous waste will not seep through the concrete?

I am also unclear on the status of the overwater walkway. I heard it was dead due to a failure to reach agreement with the tribes, but I have also heard that the city talks as if it is still part of the plan. Can you clarify the status on this and if it still exists, how it will be handled in terms of potential penetration of your plastic sheet covering? In the past, I reviewed emails that indicated the port took no responsibility for what happens after the developer is involved.

Given the more recent news that Bellingham Bay is the fastest degrading Bay in the entire Puget Sound area, that our Orcas are dying of starvation and the devastating die-off and extremely slow recovery of our keystone sea star species, will impact will this have on clean up plans? Is there someone you will be working with at WDFW on the clean up plan if I have specific questions on wildlife issues? If so, may I have his/her name and contact info?

When determining the appropriate clean up plan, will you be considering the cumulative impacts from waterfront development in conjunction with the further development along almost the entirety of the Western Whatcom county coastlines. i.e., the Birch Bay Berm and the Blaine trail system that covers Semiahmoo, Drayton harbor and other important bird areas in this area and the totality of impacts this will have on birds, sea mammals and other species that access marine waters for habitat or other needs?

Will you be working directly with the tribes as co-managers of the nearshore this time, which is their appropriate position and right? It was discouraging to read their strong objections to what has been proposed regarding previous waterfront cleanup plans.

Has DOE changed its posture regarding the timeline for the cost/benefit analysis beginning only since the arrival of European settlers, which fails to reflect the correct value of tribal treaty rights based on the abundance that existed before the settlers pillaged the land and sea? This greatly reduces the value of tribal reserved rights that need to be considered.

Given the increase in rail road traffic, and what is known now about the dangers of exploding train cars full of liquid petroleum gas and many other types of explosive chemicals, will DOE be looking at a more protective approach to cleanup in the event of a derailling/seismic activity, landslide. I suggest you review the distance between the three diesel tanks at Encogen and the railroad tracks.

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Thank you for your assistance. I look forward to your response.