



King County
Department of
Natural Resources and Parks

Public Health
Seattle & King County 

June 13, 2013

United States Environmental Protection Agency
c/o Allison Hiltner
Suite 900, ELC-111
1200 Sixth Avenue
Seattle, WA 98101

Dear Ms. Hiltner:

Thank you for providing King County the opportunity to submit its comments on the United States Environmental Protection Agency (EPA) Proposed Plan (Plan) on the Lower Duwamish Waterway Superfund Site.

King County is the second-largest government in the state of Washington and the nation's 13th most populous county. Our responsibilities entail overseeing a wide range of regional services to protect the health, safety, and quality of life for our 1.9 million residents. In addition, in 1958 King County assumed the responsibility for water pollution abatement in the metropolitan area including the Lower Duwamish (RCW 35.58) - the only such entity in the state. As such we have been working to improve water quality and reduce pollution in the Lower Duwamish for over 50 years, including the last 12 years as active participant in the Lower Duwamish Waterway Group (LDWG).

We share EPA's interest in cleaning up the Lower Duwamish Waterway. We seek a cleanup plan that will:

- Achieve desired outcomes for public health, habitat, and economic development quickly and cost effectively;
- Reflect the best available science and learn from similar cleanups across the country;
- Prevent recontamination of the river by controlling pollution at its source;
- Begin immediately and avoid the delays seen in other Superfund cleanups; and
- Advance and improve the health of the community.

As active stewards for the river, King County and the LDWG partners have initiated and completed a number of Early Action projects that will reduce by half the concentrations of polychlorinated biphenyls (PCBs) in Duwamish sediments. Now the region needs a plan for the remaining cleanup work. We have completed 12 years of study and analysis of the site and need to choose the right remedy based on the science before us.

Implementing a cleanup plan to address the historically contaminated sediment in the Lower Duwamish Waterway is one of our top environmental priorities. The decisions about the cleanup made by EPA and the Washington State Department of Ecology (Ecology) will have wide reaching effects on the people who live and work in King County.

We appreciate all the work that your agency has done in support of the Proposed Plan for cleanup of the lower Duwamish waterway. As you move to develop a Record of Decision for this site, we respectfully request your consideration of King County's comments on creating the most effective and equitable approach for cleanup to protect and enhance the lives of our residents while protecting the vital community and economic interests of the people who live and work in the area.

The identified *cleanup actions* outlined in EPA's Proposed Plan preferred alternative are reasonable. We also believe there are specific areas where modifications to the proposed actions can make the Proposed Plan remedy significantly better such as focusing dredging in areas where it will have the greatest impact in reducing risks and coupling it with other treatment technologies. Concentrations of contaminants in seafood will remain elevated throughout dredging. People consuming seafood from the Duwamish will not see significant reductions in their risk until some period after dredging ceases. The changes we recommend will result in more targeted dredging, protect human health, and address environmental justice concerns more effectively by minimizing the dangers to the community and the environment. These changes will also improve the river's benthic and wildlife communities. We support the best mix of remediation technologies (strategic use of dredging, carbon treatment, and natural recovery), while promoting an unwavering commitment to monitoring and taking additional actions when necessary.

In addition to our recommendations for improving the actual cleanup plan, we also have recommendations for modifying the goals to establish a more certain and achievable "finish line" for the cleanup. EPA has identified more than 100 potentially responsible parties (PRPs) and the process of allocating costs has proven to be contentious and time consuming in other cleanups. Having more certainty about the ultimate scope, intended outcomes, and cost of the cleanup will help to move the allocation process. We also want to be transparent to our residents, ratepayers and customers about the outcome they can expect from hundreds of millions of dollars of investment.

We request three critical changes to the proposed goals for the plan to help provide greater certainty and encourage PRPs to make commitments so we can get moving as quickly as possible on the next phase of the cleanup. Detailed explanations are provided in the attached comments.

- Set achievable sediment cleanup levels in the Record of Decision (ROD). We anticipate that continued improvements in source control will result in cleaner sediment coming from the upper river. However, as we understand them, the proposed sediment preliminary remediation goals (PRGs) based on natural background concentrations still cannot be obtained in an urban river. A technical impracticability waiver should be included in the ROD upfront and the sediment PRGs need to be set at attainable levels.
- Promote monitoring programs to assess levels of pollution in surface water and fish tissue before, during, and after cleanup, rather than including formal surface water and fish/shellfish tissue cleanup levels. The sediment cleanup and source control efforts will reduce contaminant concentrations in water and tissue; however, water quality and fish/shellfish tissue will continue to be affected by factors unrelated to the sediment cleanup.
- Clearly define compliance endpoints within the ROD. As currently written, it will be difficult for implementing parties to determine if and when they have successfully completed the cleanup. This open-ended approach has the potential to delay implementation, prolonging current risks to human health and uncertainty for the local business community.

These improvements are needed to provide the achievable objectives, which coupled with timely and defined actions, will meet EPA's cleanup objectives.

A critical equity and social justice concern is the cleanup's potential impact on the people who live and work in the area. The Lower Duwamish area is rich in cultural diversity, yet residents are challenged by poor air quality, low health outcomes, and disproportionately lower access to basic services such as transit and retail stores and amenities such as parks. King County promotes equity and social justice in its policies and decision making, which is consistent with the goals of EPA Region 10's 2013-2014 Environmental Justice Strategic Roadmap and related EPA policies.

Lower Duwamish residents already face environmental justice challenges. The cleanup should not exacerbate environmental justice challenges; it can and must advance equity and social justice in these communities.

The changes to the proposed plan recommended in our comments will result in better outcomes for the community. A shorter construction window (five years) and can achieve all of the risk reduction targets in the shortest time period (15 years). This shorter construction window is more health-protective and sustainable as it will:

- Reduce the period of highest seafood exposures and cumulative risk;
- Reduce construction related impacts and releases to the environment;
- Minimize community health impacts; and
- Minimize disruption to commerce.

This recommended approach offers the greatest reduction in these negative effects while increasing the certainty that the cleanup will meet its objectives.

Recent studies by EPA, Duwamish River Cleanup Coalition, and King County have confirmed that many residents in the Lower Duwamish live with disproportionate stressors and worse health outcomes when compared to other neighborhoods of Seattle. Many of the identified disparities are not directly affected by this cleanup and therefore will require a companion process. We are committing our agencies to pursue broader initiatives for equity and social justice in these communities. Public Health and the Department of Natural Resources and Parks will continue to collaborate with Lower Duwamish residents and businesses to improve public health outcomes, better manage stormwater, improve access to parks and trails, and restore habitat.

A successful cleanup will bring numerous health, environmental, social, and economic benefits to the affected communities and the region. We would be very concerned about a recommendation that sets unachievable goals and any alternative that relies primarily on extensive dredging where science tells us it does not deliver additional benefits. If you would like more details behind the information in this letter and attachments or have questions about our conclusions, contact Jeff Stern, Sediment Management Program Manager at the Wastewater Treatment Division in the Department of Natural Resources and Parks, at 206-263-6447 or by email at jeff.stern@kingcounty.gov.

King County has a tremendous stake in your decision. We need a cleanup plan that focuses on health outcomes for our most vulnerable residents, improves habitat and water quality, promotes economic prosperity, and demonstrates the cost effectiveness of our regional investments in water quality and sets a clear path forward. The changes we are recommending are all critical to achieving these outcomes.

We urge you to make these needed changes to the cleanup plan in the ROD so that we and other leaders in the region can support the final actions and sign on to get to work as quickly as possible.

Sincerely,



David Fleming, MD
Director and Health Officer
Public Health – Seattle & King County



Christie J. True
Director
Department of Natural Resources and Parks

Enclosures (3)

1. King County Detailed Comments on EPA Proposed Plan for the Lower Duwamish Waterway
2. King County Comments to Department of Ecology on Appendix A. Source Control Strategy
3. King County Comments to U.S. Environmental Protection Agency on Appendix B. Environmental Justice Analysis

cc: Dennis McLerran, Region 10 Administrator, United States Environmental Protection Agency (EPA)
Mathy Stanislaus, Assistant Administrator, Office of Solid Waste and Emergency Response (OSWER), EPA
Jim Woolford, Director, Office of Superfund Remediation and Technology Innovation, OSWER, EPA
Maia Bellon, Director, Washington State Department of Ecology
Carrie S. Cihak, Chief Advisor, Policy and Strategic Initiatives, King County Executive Office
Harold Taniguchi, Director, Department of Transportation
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Pam Elardo, P.E., Division Director, Wastewater Treatment Division (WTD), Department of Natural Resources and Parks (DNRP)
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