

# Duwamish River Cleanup Coalition

Community Coalition for Environmental Justice • The Duwamish Tribe • Georgetown Community Council  
Green-Duwamish Watershed Alliance • Environmental Coalition of South Seattle • People for Puget Sound  
Puget Soundkeeper Alliance • Washington Toxics Coalition • Waste Action Project

August 21, 2003

Mr. Peter Contreras  
U.S. Environmental Protection Agency  
Region 10  
1200 Sixth Ave, ECL-111  
Seattle, WA 98101

Re: DRAFT "EXPLANATION OF SIGNIFICANT DIFFERENCES" FOR THE COMMENCEMENT BAY  
NEARSHORE/TIDEFLATS SUPERFUND SITE

Dear Mr. Contreras:

The Duwamish River Cleanup Coalition represents nine environmental, community, tribal and small business organizations in Seattle serving as the Community Advisory Group to EPA on the Duwamish River Superfund Site. We are opposed to the proposal to combine contaminated sediments from the Duwamish River Superfund Site with wastes from the Commencement Bay Superfund Site in the nearshore disposal facility being constructed at Blair Slip 1. While we understand the engineering logic and technical "feasibility" of the proposal, Seattle stakeholders have had no opportunity to review and make a determination about the appropriateness of this decision.

The overwhelming balance of comments DRCC has received indicate that the Seattle community does not support this proposal, and would unlikely endorse disposal of Duwamish River contaminated sediments in the Port of Tacoma and Occidental's near shore facility. This decision is independent of the Tacoma community's decision on the same question in their bay some years ago. As you know, we are joined in our opposition to the proposal by the majority of Tacoma residents, the Tacoma Mayor and City Council, other regional organizations such as Trout Unlimited and Earth Ministries, and several members of the Seattle City Council, despite the City's role as a proponent of the proposal. Aside from other project proponents, we have heard from no organizations and very few Seattle or Tacoma residents who support the proposal.

It is our position that Seattle stakeholders must be involved in decisions regarding the fate of wastes from the Duwamish River Superfund Site. The need for public involvement in decision making is even more central given the present makeup of the responsible parties for the LDW: three out of four are local governments/public agencies. To make such major policy decisions about the disposal of Duwamish River wastes absent consultation with the communities where the waste is generated is contrary to the

duty of the agencies and governments involved, from EPA to King County and Seattle. In the absence of formal consultation with Seattle/King County residents and stakeholders, we must oppose the proposal.

We have several specific concerns with regard to the Duwamish to Commencement Bay sediment disposal proposal:

1. The Tacoma community has demonstrated that it vigorously opposes the proposal. While they did "sign off" on the near shore disposal site for the purpose of containing Commencement Bay wastes, this was only after an extensive public process that resulted in community buy-in for the purposes of containing their own wastes in their own community, rather than transferring their problem to another community and site. The Blair Slip 1 site was originally supposed to be filled with clean material. The Tacoma community wants to see any excess capacity, if there in fact is some, filled with clean material as originally planned, minimizing the risks and exposure from the site. They did not approve a disposal facility for use by the entire region and do not want to take additional PCB-contaminated wastes from the Duwamish or other locations. The EPA decision authorizing the conversion of the site from clean fill to Commencement Bay dredged material reflects this compromise. The new proposal to send Seattle waste to the site requires reopening this earlier decision, over the community's long-standing objections. This would give the appearance of bad faith on the part of EPA, the Port of Tacoma and Occidental, which would result in further public erosion of confidence in prior decisions and "promises" made by EPA and/or responsible parties.
2. To date, only estimates exist about how much contaminated material will be generated from dredging Commencement Bay, yet the volume produced from contaminated dredging operations are notoriously unpredictable. It is still possible that locally generated contaminated sediments will fill the capacity at Blair Slip 1. In fact, additional sediments at Occidental Chemical have already been discovered, two years prior to completion of projected dredging projects. Estimates of the volume of this site have been generated by Occidental, but have not yet been reviewed by the agencies or otherwise independently verified. The potential exists for yet more sediments to be discovered and added from this site and others before the Commencement Bay cleanup process is complete. It is premature to fill the projected "excess" capacity with imported sediments from any other location.
3. It is simply poor environmental policy to favor in-water disposal of contaminated sediments in Puget Sound. Despite the Tacoma community's earlier decision to construct a near-shore disposal site in Commencement Bay, Seattle residents may well reject the disposal of any Duwamish River sediments in in-water disposal facilities. Near-shore disposal carries greater environmental risks than other disposal or treatment options, including cap disturbance, seismic disturbance, potential infiltration by boring organisms, and virtually no potential for future treatment of disposed wastes. While respecting the decision the Tacoma community made to accept limited near-shore disposal of their own wastes, the decision reflects the time and the state of technology when the decision was made. Treatment alternatives now exist. Treatment and upland (hopefully temporary) disposal are more responsible alternatives. A two-year statewide MUDS analysis concluded that in-water disposal was not the preferred means of handling contaminated sediments in our region. In this instance, a detailed evaluation of alternatives was not conducted, treatment received virtually no consideration,

and an upland site with capacity to receive the wastes already exists. In fact, the upland disposal location was the leading option prior to solicitation of King County by the Port of Tacoma and Occidental Chemical to dispose of our wastes in Commencement Bay. This arrangement has a clear economic benefit for the Port and Occidental, but it has not been demonstrated as being in the public interest.

4. The argument that King County and the Elliott Bay/Duwamish Restoration Panel can save \$1 million, that can then be used for "other environmental cleanup or restoration projects," as stated in the *public notice* sent by EPA to Tacoma and Seattle residents is inaccurate. The funds for the cleanup are mandated for use for remediation (cleanup) only, and cannot be used for restoration or any other purpose. There are no cleanup projects on the Duwamish River that can be conducted for \$1 million. While it is possible that a future contribution of \$1 million could perhaps be made to an as yet undefined cleanup project, there are no specific projects King County is considering for these funds. The funds cannot return to the general fund or any other project fund: the 1991 Natural Resource Damages settlement directs that the funds be used for cleanup at CSO (combined sewer overflow) sites in the Duwamish River and Elliott Bay. In the absence of any other identified potential project that the funds could be applied to, there is no clear reason to divert these sediments to an in-water disposal site for economic reasons. The funds for upland disposal are available, the project was budgeted with these costs included, and no other candidate exists for use of these funds. In fact, leaving these funds in the settlement account, or transferring them to another account as has been indicated, may very well result in less money being available in the long run, as administrative costs can be expected to quickly whittle away at the remaining money.

I hope that EPA will seriously reconsider allowing this proposal to advance over the objections of the Seattle and Tacoma communities. EPA and King County should not be making the decision about what Tacoma has to accept being dumped into its bay. We also hope that EPA will take a leading role in challenging local industries and agencies responsible for toxic waste cleanup to develop treatment alternatives already in use around the country, and in insuring that we do not recontaminate areas we are cleaning up today.

Thank you again for the opportunity to comment on the proposed disposal of Duwamish River sediments into Commencement Bay's Blair Slip 1. We look forward to your decision.

Sincerely,

BJ Cummings  
Duwamish River Cleanup Coalition  
EPA Community Advisory Group for the Duwamish River Superfund Site  
Seattle, WA