



June 13, 2013

Allison Hiltner
Superfund Program,
U.S. EPA, Region 10
hiltner.allison@epa.gov

*Protecting and
Preserving
Puget Sound*

5305 Shilshole Avenue NW
Suite 150
Seattle, Washington
98107

P 206.297.7002
F 206.297.0409

www.pugetsoundkeeper.org

Dear Ms. Hiltner,

Thank you for the opportunity to provide comments on the EPA's Proposed Plan (Cleanup Plan) for the Lower Duwamish Waterway Superfund Site. We have appreciated the thorough process by EPA and Department of Ecology for developing the Cleanup Plan, with emphasis on both the technical aspects and on community engagement.

Puget Soundkeeper Alliance (Soundkeeper) is a non-profit organization with its mission to protect and preserve the waters of Puget Sound by monitoring, cleaning up and preventing pollutants from entering the Sound. Soundkeeper submits these comments on behalf of its more than 3,000 members supporters and volunteers. Soundkeeper is also a member of the Duwamish River Cleanup Coalition (DRCC) and fully supports DRCC's technical comments and incorporates those comments by reference.

Soundkeeper is involved in regular patrols of the Duwamish River to monitor pollution discharges, clean up debris and report pollution incidents to agencies. In addition Soundkeeper has worked diligently to improve regulations and policies that increase protections for the Duwamish River and other waterways of the state and to enforce the Clean Water Act as necessary to bring about compliance with existing regulations. Soundkeeper has successfully enforced the Clean Water Act dozens of times in the Duwamish Valley against facilities out of compliance with their NPDES permits, and today numerous industrial stormwater treatment systems are evident, in place and functioning as we patrol the river. In addition, Soundkeeper's enforcement work has generated substantial funding for water quality and habitat restoration projects on the Duwamish River.

The lower Duwamish River is more than an industrial waterway. During the last 12 years Soundkeeper has seen many aspects of the river come back to life. There is more public access, more recreational users, more habitat and fewer trash and debris in the river than in recent memory.



The Duwamish River is also incredibly important ecologically and culturally. Resident fish and invertebrates in the Duwamish are inextricably linked to the entire Puget Sound food web, and indeed the global food web, as they are consumed by migratory animals such as sea lions and osprey. This should not be down-played in the cleanup plan. As top predators, Orca whales and harbor seals have high levels of PCBs and can likely trace a significant portion of their loading to the sediments of the Duwamish River. A recreational fisherman can likely do the same. Fish consumption advisories offered by the Washington State Department of Health, like those for all Puget Sound Chinook Salmon (current a maximum two meals/month for resident Chinook due to PCBs), can likely trace a significant portion of their source to the Duwamish River, regardless of where the fish is actually caught.

Soundkeeper's regular on-water patrols give a valuable perspective on the health of the River, its importance on Puget Sound and for the communities there. Soundkeeper staff and volunteers routinely see wildlife on the river including blue heron, green heron, bald eagle, osprey, kingfisher, merganser, western grebe, pigeon guillemot, harbor seal, river otter, California sea lion and others. Chum salmon, pink salmon, coho salmon, and threatened King salmon are all sighted in-season, as are cutthroat trout. Threatened steelhead trout and bull trout also use this waterway. The waterway is also an important fishing area. In the late summer and fall, Soundkeeper regularly encounters recreational hook-and-line fishers as well tribal gillnet fishing, at times in great numbers.

Of great concern, given the degraded status of the river, is the health of subsistence fishers of resident fish and shellfish in the river. Soundkeeper encounters subsistence fishing for resident fish and crab within the Superfund zone. What are the exposures and the health risks of these people and their families? Has this been looked at in the cleanup plan? Why does the plan not include actions that will make the river safely fishable for all within a reasonable time?

With this background in mind, Soundkeeper supports a revised and improved Cleanup Plan that would improve certainty, permanence, and both short- and long-term protection of the environment and human health. We look forward to discussing improvements to the Plan through the DRCC as EPA considers the comments received in developing its final Cleanup Plan. If you have any questions or require any additional information or clarification please let us know.

As mentioned above, **Soundkeeper roundly supports the comments provided by DRCC.** In general these comments are guided to accomplish the following (as stated by DRCC):

- maximize certainty that the selected cleanup action will be effective in meeting the cleanup goals;
- ensure the permanence of the remedy, to prevent recontamination and/or the need for "do-overs";
- minimize future risk and the potential for ongoing liability for tax- and rate-payers and businesses;
- protect the environment and people's health to the greatest degree possible; and,
- ensure equity by designing a cleanup that protects all river users.

In particular Soundkeeper supports, and summarizes here, the main objectives of the DRCC comments:

Reduce Uncertainty by eliminating the use of Monitored Natural Recovery (MNR) and using Enhanced Natural Recovery (ENR) in all areas currently proposed for MNR. EPA proposes to use MNR over 256 acres or 62% of the Duwamish Superfund site. Given the slow rate of breakdown of chemicals like PCBs and dioxins, and the likelihood of sediment disturbance from earthquakes, floods, ships and river currents, this does not supply an adequate level of protection. This will place additional uncertainty on the success of the cleanup and continue to put communities at risk. In the alternative we propose that the ENR method proposed for other areas of the river be used in all sections slated for MNR.

Ensure Permanence of the Cleanup effort through removal of toxic sediments from areas currently proposed for ENR and Capping. Nobody wants to go through this process again. EPA agrees that removal of toxic sediments is the most effective and the only permanent remedy. Soundkeeper agrees with DRCC and many Community members that a thorough cleanup must include removal of toxic sediments whenever possible to assure an effective and permanent result. To accomplish this, environmental dredging technology should be used to ensure that the dredged area is accurately targeted and that there is minimal disturbance and re-suspension of toxics.

Protect Health and the Environment. The most glaring failure of the proposed cleanup plan is that fails to accomplish its primary goal of protecting human health and reducing cancer risk in seafood consumers as required by State law. This goal can be accomplished by increasing active remediation through greater use of removal and ENR as referenced above and through improved source control of upriver pollution sources.

Institutional controls are not cleanup activities and should only be used as short-term temporary measures while the cleanup objectives are being met. Current warnings exist for the lower Duwamish River and they are not effect at reducing fish consumption and primary contact exposure. Why does EPA believe that they can be part of a longer term solution? Beyond the superfund cleanup, has EPA considered cumulative health impacts to the community as required by environmental justice regulations?

Mitigate impacts until Cleanup goals are met and ensure equity. While the cleanup is proceeding, EPA's cleanup plan should more effectively mitigate the adverse impacts on the affected communities by establishing a Pollution Prevention and Mitigation Fund, hiring locally for cleanup jobs and ensuring equity of the remedial actions in the cleanup process toward environmental justice communities.

Monitor Before, During and After Cleanup. To ensure an effective cleanup that meets overall goals and to adapt methodologies to increase effectiveness and performance, EPA should insist that the cleanup plan includes a process to assess cleanup performance, optimize strategies and actions employed and measure progress in attaining the cleanup goals in sediments, water and fish.

Thank you for the opportunity to comment, we look forward to discussing any questions you may have on this topic.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Wilke". The signature is fluid and cursive, with the first name "Chris" and last name "Wilke" clearly distinguishable.

Chris Wilke
Puget Soundkeeper and Executive Director