



**King County**  
**Metropolitan King County Council**

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June 13, 2013

Allison Hiltner  
U.S. Environmental Protection Agency  
1200 Sixth Avenue, Suite 900, MS ECOL-111  
Seattle, WA 98101

RE: Proposed Plan - Lower Duwamish Waterway Superfund Site

Dear Ms. Hiltner:

We are writing as members of the King County Regional Water Quality Committee to comment on the Environmental Protection Agency's (EPA's) proposed plan for the Lower Duwamish Waterway Superfund Site.

The Regional Water Quality Committee (RWQC) is a committee of the King County Council comprised of elected officials representing King County as a regional and local government, City of Seattle and suburban cities of King County (as appointed by the Sound Cities Association) and sewer districts.

Although the primary function of the RWQC is to provide policy, advice, direction and guidance for the regional wastewater treatment system serving King County and portions of Snohomish and Pierce County – the committee has the broader responsibility of providing a forum for policy issues with regard to water quality issues throughout King County. With regard to the broader water quality issues, members are sometimes briefed on issues of stormwater control and surface water management, pollution affecting Puget Sound, and the activities of the Puget Sound Partnership and similar topics of interest to the members.

The RWQC has been briefed annually on developments regarding sediments management and cleanup in all areas affected by King County's combined sewer overflows (CSOs) – but in particular with regard to the Lower Duwamish Waterway. Many of the briefings have focused on the remedial investigation, planning, and also early actions related to cleanup since formation of the Lower Duwamish Waterway Group (LDWG), as King County and its Wastewater Treatment Division have been an integral part of the LDWG.

As members of a committee that is particularly concerned with the protection of public health, water quality and the broader environment, we are in full agreement that the cleanup of the Lower Duwamish Waterway should be a regional priority for federal, state and local agencies and other public and private property owners in the area. The pollution of this waterway has direct impacts on the communities immediately adjacent to the Duwamish, and also contributes to the pollution of our beloved Elliott Bay and Puget Sound where the waterway ultimately drains.

Like you, we want a successful cleanup of this Superfund site, but we have heard concerns that the current plan, as proposed, will not result in a lasting successful cleanup that meets the goals of protecting the river environment, its fish and wildlife, and human health. These concerns have been raised repeatedly by the Duwamish River Cleanup Coalition/Technical Advisory Group (DRCC/TAG), which represents community, environmental, tribal, and small business organizations in the Duwamish Valley and greater Seattle area, and serves as the Community Advisory Group for the Superfund site. The DRCC/TAG advocates for setting strong plan goals, investing in a plan that provides certainty for accomplishing those goals, and taking measures to ensure that the Duwamish is not recontaminated after the cleanup.

### **Setting and Achieving Goals**

The DRCC/TAG has raised concerns about the 'certainty' or expectations for the cleanup – insofar as the cleanup will meet the goals that are stated in the plan: protect the river environment, its fish and wildlife, and human health. At the June 5<sup>th</sup> meeting of the RWQC, you told the committee that the goals for the cleanup are based on the State of Washington's Model Toxics Control Act.

As you know, pollution in the Duwamish has placed an unfair burden on the health and quality of life for those who work, live or recreate in the waterway. Residents of the surrounding community have lived for a long time with the negative impacts of pollution in the Duwamish, and have collaborated in good faith for over a decade to shape the government cleanup effort. The stated plan goals of protecting the river environment, fish and wildlife, and human health are appropriate, so it would seem inappropriate to choose a proposed plan that, from the outset, does not provide certainty in reaching its stated goals.

- **How will the EPA ensure that its plan sets a course to achieve stated goals?**

### **Certainty for Cleanup Success**

The DRCC/TAG has identified two elements in the proposed plan where treatment of contaminated sediment could be more decisive in order to prevent recontamination, and increase certainty of a successful cleanup. They suggest that all moderately and highly contaminated sediments should be removed instead of buried under a cap or treated with "enhanced natural recovery." Further, they suggest adding a thin layer of clean material to low-level contaminated areas to spur natural recovery. The DRCC/TAG believes that these suggestions will be more costly in the short term, but that the up-front investment provides greater certainty of success over the long term, both

for residents who rely on the waterway, and also for the agencies and ratepayers who will be financially responsible for the success of the cleanup into the future. There is concern that we may need to redo the cleanup at a date in the future, and that the total price of initial and future cleanups may exceed the somewhat higher cost to get it right the first time.

- **Has the EPA considered a “successful cleanup” as a long-term proposition, taking into account the merits of a larger upfront investment in exchange for certainty for the community and the responsible parties?**
- **If the cleanup is not fully successful under the initial plan, what will be the ongoing expectations for responsible parties who will be paying for the cleanup?**
- **Will they be expected to provide additional funds for cleanup after the proposed plan is implemented?**
- **Will they potentially be exposed to other legal liabilities (or at a minimum, community expectations) regarding additional cleanup activities – to try to achieve the goals?**

### **Source Control**

Investments made in cleaning up the Lower Duwamish should be maintained and preserved. It would be a waste of ratepayer and taxpayer funds to complete the cleanup of sediments – but then have upriver recontamination again pollute the waterway or diminish the benefits of the cleanup. This river flows through heavily urbanized and industrialized areas before reaching the Lower Duwamish, and pollution from upriver sources will continue to flow to the cleanup site. As we invest in a cleanup effort, the responsible agencies must protect the ratepayers' investment. We understand that the State Department of Ecology has undertaken efforts to identify, manage, reduce and eliminate sources of upriver pollution, but that these actions are not included in the EPA's proposed plan. We would strongly support more federal and state funding to bolster these efforts – rather than solely relying on regional and local sources of funding to achieve source control on this river and others within King County.

- **Has the EPA considered including, as part of the plan, efforts to control upriver pollution from specific and non-specific point sources?**

### **Protection of Industry, Jobs and the Local Residential Community**

We anticipate that many of the potentially responsible parties will be private businesses in close proximity to the Lower Duwamish. This area provides many good, family wage jobs – and the industries are important ones for King County. We believe there should be opportunities for locally affected community residents to work on the cleanup, expanding job opportunities in the area. It is by and large a disadvantaged community that lives in this area – and we support efforts to provide outreach for potential employment of local residents and businesses that could compete for cleanup-related work.

- **How does the EPA plan to provide employment opportunities for locally affected residents to work on the cleanup effort?**

We appreciate the EPA, State Department of Ecology and the local staff who have been working on this project for over a decade. We appreciate the careful and deliberate effort to identify the pollution issues, analyze options for remediation, and propose a plan for the cleanup. We are anxious for the cleanup to move forward as soon as possible. We offer these comments and questions on your proposed plan in the hope that it can be strengthened, providing long-term certainty for residents and responsible parties. Thank you for taking the lead to improve the quality of life and environment in the Duwamish River Watershed, and for considering these comments.

Sincerely,



Larry Phillips, Chair  
Regional Water Quality Committee  
King County Council



Sally Bagshaw  
Regional Water Quality Committee  
Seattle City Council

cc: Dennis J. McLerran, Administrator, EPA Region 10  
Maia D. Bellon, Director, Washington State Department of Ecology  
The Honorable Dow Constantine, Executive, King County  
Christie True, Director, King County Department of Natural Resources and Parks (DNRP)  
Pam Elardo, P.E., Division Director, Wastewater Treatment Division, DNRP