



Metropolitan Water Pollution Abatement Advisory Committee

King Street Center, 201 South Jackson Street, MS KSC-NR-0512
Seattle, WA 98104 206-263-6070

MEMBERS:

*Alderwood Water and
Wastewater District*

City of Algona

City of Auburn

City of Bellevue

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Coal Creek Utility District

Cross Valley Water District

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Southwest Suburban Sewer District

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Woodinville Water District

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April 29, 2013

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

RE: Proposed Plan-Lower Duwamish Waterway Superfund Site

Dear Ms. Hiltner:

On February 28, 2013, the U.S. Environmental Protection Agency (EPA) released a proposed plan to clean up the Lower Duwamish Waterway, which was designated as a federal Superfund site in 2001 due to the presence of historical contamination in river bottom sediment.

The Metropolitan Water Pollution Abatement Advisory Committee, or MWPAAC, consists of representatives from the 34 local sewer utilities that contract with the King County Department of Natural Resources and Parks, Wastewater Treatment Division for regional wastewater treatment services. As agencies dedicated to the protection of public health and water quality, we agree that the cleanup of the Lower Duwamish Waterway should be a regional priority. At the same time, we need to ensure that the cleanup activities do not put unnecessary burdens on community health, quality of life, and our ability to deliver affordable services to our customers. For that reason, we are asking EPA and the Department of Ecology (Ecology) to give our comments on the proposed Superfund cleanup plan serious consideration.

Define Cleanup Goals

First, MWPAAC members believe it is imperative that EPA provides clear expectations for the cleanup goals and objectives. It is our view that the cleanup must reduce health risks as quickly as possible while minimizing construction impacts to neighborhoods, local residents and businesses. We support an effective cleanup of the Lower Duwamish that can be started now. The sooner cleanup is carried out and completed; the better it is for everyone -- the environment, the local community, businesses, and our regional economy.

EPA's proposed plan, in its current iteration, specifies unattainable cleanup goals and unclear completion benchmarks, which is extremely troubling for MWPAAC members. The preferred alternative proposes preliminary remediation goals (PRGs) for sediment at natural background levels that are not found in areas with human development. Natural background levels are technically impossible in an urban area and there is no expectation - even by the regulators - that it is attainable. There is no clarity how this will be addressed in the future, and what happens when the parties assigned financial liability for cleanup, which could include King County, do not meet the standard.

Eliminate Remediation Goals Based on Water Quality and Fish Tissues

Another cause for concern is the PRGs for surface water in the tissue of fish. Not only are these proposed PRGs unattainable in an urban environment, it is arguable that such a standard falls outside the scope of Superfund, which requires remediation only of contaminated sediment. Superfund is intended to address legacy contamination, whereas the Clean Water Act is the appropriate regulatory framework to address surface water (and by extension fish tissue) contamination that may remain after sediment is remediated.

The proposed plan requires cleanup of the Lower Duwamish to a level that is significantly cleaner than Lake Washington, a high-contact recreational water body. The water cleanup goals as proposed could lead to never-ending cleanup, compliance, and source control requirements for local businesses and municipalities - yet result in no meaningful environmental or human health improvement. These unachievable, open-ended cleanup goals will discourage potentially responsible parties from signing on to the cleanup, cause litigation and delay the cleanup and its benefits for years.

It could also unduly burden our current and future customers with unnecessary costs and liabilities well into the future.

In summary, MWPAAC recommends that the EPA remove the PRGs for fish tissue and water quality. Responsible parties for a sediment cleanup should not be bound to unachievable fish and water quality cleanup levels. Further, the sediment PRG should be based on an attainable concentration.

Evaluate Source Control Effectiveness before Requiring Additional Remedial Measures

MWPAAC is also concerned that further remedial cleanup efforts may occur in advance of source control efforts aimed at reducing contaminants entering the Lower Duwamish Waterway. Ecology's and other entities' source control programs address potential contamination derived from sources surrounding the Lower Duwamish as well as combined sewer overflows. These source control programs are designed to enhance the success of the Lower Duwamish Cleanup. It is imperative to implement the source control programs and evaluate their effectiveness before requiring additional remedial measures. At the same time, source control efforts must be realistic and cost effective. We are very concerned that the unattainable PRG's for sediment, surface

water, and fish tissue, will create source control expectations that are unattainable and unclear benchmarks for the entities that must fund the source control efforts.

The members of MWPAAC believe in and support the cleanup activities as defined in the proposed plan that will result in the Duwamish River becoming the cleanest urban waterway in the region. We ask that you carefully consider our comments and the 1.5 million customers we represent.

Sincerely,

A handwritten signature in blue ink that reads "Scott Thomasson". The signature is written in a cursive, flowing style.

Scott Thomasson
MWPAAC Chair

cc: Maia D. Bellon, Director, Washington State Department of Ecology
Dennis J. McLerran, Administrator, Region 10, U.S. Environmental Protection Agency
The Honorable Dow Constantine, Executive, King County
Regional Water Quality Committee (RWQC) Members
Beth Mountsier, Lead Legislative Analyst, RWQC
MWPAAC Members
Christie True, Director, King County Department of Natural Resources and Parks
(DNRP)
Pam Elardo, P.E., Division Director, Wastewater Treatment Division (DNRP)