



Lower Duwamish Waterway Superfund Site Seattle, Washington



Questions and Answers for Business and Property Owners May 2002

1. Why is the Lower Duwamish Waterway on the National Priorities List?

Under the Superfund law, the nation's most contaminated hazardous waste sites that are targeted for investigation and cleanup are listed on EPA's National Priorities List, commonly called the Superfund list.

Contaminant levels at the Lower Duwamish Waterway meet the criteria for listing the site on the National Priorities List. EPA has studied and confirmed that there are contaminated sediments in an approximately six-mile stretch of the waterway. The contaminants, which may threaten the health of people, fish, and wildlife, include polychlorinated biphenyls (PCBs), poly-aromatic hydrocarbons (PAHs), phthalates, and mercury and other metals.

In addition, the Washington State Department of Ecology (Ecology) has placed the Lower Duwamish Waterway on the state's list of hazardous sites. EPA and Ecology are working together to investigate and clean up the site. We plan to work with the affected community to find cleanup solutions that are safe, effective, and minimally disruptive.

2. Is my property part of the Lower Duwamish Waterway Superfund site?

Superfund regulations consider the site to be the area where the contamination is located and areas close to the contamination that need to be used for the cleanup. EPA and Ecology are in the early stages of investigating the extent and sources of sediment contamination. Once we have more information about the extent and sources of sediment contamination, EPA will be better able to determine whether a particular property is a part of the Lower Duwamish Waterway Superfund site and what, if any, cleanup is needed.

3. How will the Superfund designation affect the ability of businesses at or near the site to obtain permits?

The Superfund designation does not prohibit nor restrict the issuance of federal, state or local permits at the site. However, some special measures may be required to address contamination concerns. The U.S. Army Corps of Engineers (Corps) has stated that it will continue to issue permits within this Superfund site for repair and maintenance activities not related to the cleanup. The Corps will consult with the EPA on permit applications affecting Lower Duwamish Waterway sediments. EPA may require special conditions to ensure that permitted work will not interfere with the future Superfund cleanup, or make the existing contamination worse, for example, by exposing buried contamination. In addition, the Endangered Species Act requires the Corps to consult the U.S. Fish and Wildlife Service and the National Marine Fisheries Service on all permits for the waterway.

EPA also encourages state and local permitting agencies to confer with EPA about any permitted actions that might adversely affect or interfere with the assessment and cleanup of contaminated sediments. Final cleanup plans for this site may include additional permit conditions, such as management practices that are more protective of the environment.

4. Will the Corps continue to maintain the navigation channel?

The Corps will continue to maintain the navigation channel. Sediments will be dredged and disposed consistent with guidance established by the Dredged Material Management Program. Most of the material regularly dredged by the Corps is uncontaminated. Dredging, disposal and restoration activities will be closely coordinated with EPA.

5. How will EPA and Ecology determine who is responsible for cleanup?

Former or current owners of contaminated Lower Duwamish Waterway sediments or sources of that contamination may be held responsible for controlling those sources and for participating in the waterway cleanup. Generators or transporters of hazardous substances that have contributed to the waterway contamination may also be liable. EPA and Ecology will identify parties responsible for cleanup costs through title searches, interviews, and information request letters. Minor contributors may be able to resolve their liability and receive protection from lawsuits through a cash payment or performance of specific tasks. EPA and Ecology are more likely to be able to offer such arrangements after we understand the scope of necessary cleanup.

6. How will source control for this site affect my property and my business activities?

Source control involves managing pollution and preventing sediment contamination. Discharges from sources such as combined sewer overflows, storm drains, spills, and road surfaces can pollute the Lower Duwamish Waterway. Examples of source control measures include improved environmental practices for materials handling and site operations to prevent the pollution of storm water.

Ecology may increase review of permits that protect water quality (such as industrial and construction storm water permits, sand and gravel permits, and shipyard permits) for businesses throughout the Lower Duwamish area. Ecology may require some businesses to update their storm water management plans and permits and improve their environmental management practices. In addition, Ecology staff may contact businesses for site visits to determine what improvements in environmental management practices might be needed.

Properties within the Lower Duwamish area that have contaminated soil and groundwater may also receive additional attention from Ecology and EPA. For some of these properties, it may be necessary to clean up sources that may contaminate sediments.

7. Can I get technical assistance in dealing with contamination on my property?

Ecology, the City of Seattle and King County all provide technical assistance with pollution prevention, and storm water and hazardous waste management. Ecology also offers assistance with contaminated site cleanup through its Voluntary Cleanup Program. The King County/Seattle Brownfields Program offers technical and financial assistance to help businesses assess, clean up and redevelop contaminated property. This assistance includes an Environmental Extension Service, operated by the Environmental Coalition of South Seattle, which is available to help assess environmental problems and recommend solutions.

8. Can I be protected from liability if I want to purchase property in the area?

A prospective buyer should conduct a site assessment of the property that includes information about past as well as present uses of the site, including what hazardous materials were used, generated or disposed. Depending on the circumstances, a buyer may be able to negotiate a prospective purchaser agreement with EPA or Ecology. A prospective purchaser agreement protects a buyer of contaminated property from liability associated with pre-existing site contamination. In return for liability protection, the buyer benefits the environment and community by actions such as performing cleanup activities, reimbursing EPA for a portion of agency cleanup costs, creating jobs, rehabilitating the property and participating in community revitalization.

The recently enacted Brownfields legislation exempts prospective purchasers and their tenants from federal Superfund owner or operator liability so long as the person is not responsible for any release of hazardous substances from the property, takes reasonable steps to stop any continuing release or exposure to past releases, and does not impede the performance of an EPA response action or natural resource restoration. Because of this exemption, EPA believes the need for prospective purchaser agreements should be reduced, and EPA will only consider new agreements when there is a strong public interest.

9. Is hazardous waste worker safety training required to work on or near the Lower Duwamish Waterway site?

The Superfund listing will not impose additional worker safety training requirements for upland facilities along the Duwamish at this time. The ongoing investigation of sediment contamination will determine whether specific areas within the Lower Duwamish Waterway pose a human health risk. At the time these areas are identified, EPA and Ecology will consult the Department of Labor and Industries and the Department of Health to determine if any special precautions or training will be required. While studies of the effects of exposure to the sediments on human health are ongoing, it would be prudent for workers and others who may come into contact with the sediments to wear gloves and protective boots and wash the sediments off their gloves and boots before leaving the area.

10. Who are the contacts for more information about activities at the Lower Duwamish Waterway site?

For technical cleanup and source control assistance:

Rick Huey, Ecology Project Manager, 425-649-7265, rhue461@ecy.wa.gov

Rick Thomas, Ecology Source Control Specialist, 425-649-7208, rith@ecy.wa.gov

Charlie Cunniff, Environmental Coalition of South Seattle Director, 206-767-0432, charlie@ecoss.org

For sediment contamination investigation information:

Allison Hiltner, EPA Project Manager, 206-553-2140, hiltner.allison@epa.gov

Ravi Sanga, EPA Project Manager, 206-553-4092, sanga.ravi@epa.gov

For general information:

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