



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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January 28, 2013

Bob Zeigler, SEPA/NEPA Coordinator
WA State Department of Fish & Wildlife
Regulatory Services Section
600 Capitol Way North
Olympia, WA 98501-1091

Dear Mr. Zeigler:

Thank you for the opportunity to comment on the determination of nonsignificance for the Luhr Creek Fish Passage and Stream Enhancement project located at McNeil Island as proposed by Chris Gourley, WA State Department of Fish & Wildlife (WDFW). The Department of Ecology (Ecology) reviewed the environmental checklist and has the following comment(s):

TOXICS CLEANUP: Marv Coleman (360) 407-6259

This proposed project is located in an area that may have been contaminated with heavy metals due to the air emissions originating from the old Asarco smelter in north Tacoma (http://apps.ecy.wa.gov/website/facsite/viewer.htm?sp_area=Tacoma%20Smelter%20Plume).

Soil contamination from the former Asarco smelter poses a risk to human health and the environment. Children are at high risk because their small bodies are still developing. They also put dirty fingers and toys into their mouths. Construction workers, landscapers, gardeners, and others who work in the soils are also at risk.

As a condition of approval by the lead agency for this project, Ecology recommends the following:

- The soils be sampled and analyzed for arsenic and lead. The applicant shall contact Elizabeth Weldin with the Toxic Cleanup program at (360) 407-7094 or email at ewel461@ecy.wa.gov for guidance about soil sampling within Tacoma Smelter Plume. The soil sampling results shall be sent to the local land use permitting agency and Ecology for review.
- If lead or arsenic are found at concentrations above the Model Toxics Control Act (MTCA) cleanup levels (Chapter 173-340 WAC); the owners, potential buyers, construction workers, and others shall be notified of their occurrence. The applicant shall also contact the Environmental Report Tracking System Coordinator at the Ecology Southwest Regional Office at (360) 407-6300. The MTCA cleanup level for arsenic is 20 ppm and lead is 250 ppm.

- If lead, arsenic and/or other contaminants are found at concentrations above MTCA cleanup levels, the applicant shall:
 - 1) Enter into the Voluntary Cleanup Program with - Ecology prior to issuance of any site development permits for this proposal and/or the initiation of any grading, filling, or clearing activities:
<http://www.ecy.wa.gov/programs/tcp/vcp/vcpmain.htm>.
 - 2) Obtain an opinion letter from Ecology stating that the proposed soil remediation will likely result in no further action under - MTCA prior to the issuance of any site development permit and/or the initiation of any grading, filling, or clearing activities. The issued site development permit plans shall be consistent with the plans reviewed and deemed consistent with MTCA by Ecology. The applicant shall provide to the local land use permitting agency the opinion letter from Ecology.
 - 3) Prior to finalizing site development permits, provide to the local land use permitting agency “No Further Action” determination from Ecology indicating that the remediation plans were successfully implemented under MTCA.

If Ecology determines this project should not be part of the Voluntary Cleanup Program, Ecology will contact the lead agency and discuss possible options.

- If soils are found to be contaminated, extra precautions shall be taken to avoid escaping dust, soil erosion, and water pollution during grading and site construction. Site design shall include protective measures to isolate or remove contaminated soils from public spaces, yards, and children’s play areas. Contaminated soils generated during site construction shall be managed and disposed of in accordance with state and local regulations, including the Solid Waste Handling Standards regulation (Chapter 173-350 WAC). For information about soil disposal contact the local health department in the jurisdiction where soils will be placed.

The link below provides a fact sheet that explains more how the arsenic and lead clean-up levels were set and why Ecology sees that they are protective for human health:
http://www.ecy.wa.gov/programs/tcp/sites_brochure/tacoma_smelter/2011/brochuresAndPubs.html - Click on “Level and Action Level FAQ.”

For assistance and information about Tacoma Smelter Plume and soils contamination, contact Elizabeth Weldin at (360) 407-7094 or email at ewel461@ecy.wa.gov.

SHORELANDS & ENVIRONMENTAL ASSISTANCE:
Alex Callender (360) 407-6167

It appears that a 401/404 Water Quality Certification may be required. I would suggest that the applicant submits a Joint Aquatic Resource Permit Application (JARPA), site plans and other important information to the following:

US Army Corps of Engineers
Attn: Jacalen Printz
PO Box 3755
Seattle, WA 98124-3755

Department of Ecology
Federal Permit Coordinator
PO Box 47775
Olympia, WA 98504-7775

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Ecology's comments are based upon information provided by the lead agency. As such, they may not constitute an exhaustive list of the various authorizations that must be obtained or legal requirements that must be fulfilled in order to carry out the proposed action.

If you have any questions or would like to respond to these comments, please contact the appropriate reviewing staff listed above.

Department of Ecology
Southwest Regional Office

(SM:13-0162)

cc: Alex Callender, SEA
Marv Coleman, TCP
Elizabeth Weldin, TCP
Chris Gourley, WDFW (Applicant)