

BJ Cummings

5410 First Avenue NE, Seattle, WA 98105

(206) 458-0284

bjcseattle@gmail.com

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Re: Comments on EPA Region 10 ESD for Lower Duwamish Waterway Superfund Site

Dear Ms. Morrison and Ms. Hale:

I am writing to convey my concerns about EPA Region 10's proposed change to the Lower Duwamish Waterway (LDW) Superfund Site's 2014 Record of Decision (ROD).

EPA has proposed to change the cleanup goals for Benzo(a)pyrene and six other carcinogenic polycyclic aromatic hydrocarbons (cPAHs) for the LDW site. The proposed change would reduce the cleanup requirements for cPAHs by seven-fold, in response to a 2017 update of EPA's toxicological assessment of BaP that concluded that BaP is seven-times less carcinogenic than previously believed. Application of the adjusted toxicological assessment to the LDW was requested by the Lower Duwamish Waterway Group (LDWG), which seeks to reduce their cleanup obligations for the site through changes to cleanup requirements for cPAHs. LDWG is a consortium of potentially responsible parties for the site that includes three public agencies – the City of Seattle, King County, and the Port of Seattle. EPA's proposed change, called an "Explanation of Significant Differences," was released for public comment on February 4, 2021.

As EPA is already aware, the Community Advisory Group (CAG) for the LDW site and for other sites where this change has been implemented (e.g. Portland Harbor) have raised significant questions about the scientific merit of the BaP reassessment. In consultation with cPAH researchers and Oregon State University's Superfund Research Program and environmental health scientists at the University of Washington's Superfund Research Program, the Duwamish River Cleanup Coalition/Technical Advisory Group (DRCC/TAG – the CAG for the LDW site) has provided comments regarding:

- (a) scientific studies that demonstrate the poor correlation between BaP toxicity and the toxicity of the six other cPAHs that EPA proposes to change with this ESD, as well as the inability to use BaP to estimate the toxicity and synergistic effects of cPAH mixtures, and
- (b) the high level of uncertainty associated with the weakened standard, the development of which excluded consideration of multiple studies that found higher cancer risks associated with ingestion of BaP, while simultaneously omitting a weight of evidence analysis that would highlight the range of cancer slopes represented in the research.

Rather than repeat these technical critiques, I am attaching and incorporating by reference DRCC/TAG's Fact Sheet on the ESD and the Oregon State University Superfund Research Program's Fact Sheet on the 2018 Portland Harbor ESD. None of these issues have yet been resolved to the researcher's or impacted communities' satisfaction. Given the high level of

uncertainty about the protectiveness of this critical decision, EPA should err on the side of caution and suspend consideration of the ESD until these questions can be resolved.

In addition to the issues with the scientific merit of the BaP reassessment and EPA's reliance on it to make changes that are significant and potentially harmful to the LDW fishing communities health, the Washington State Department of Ecology has raised questions about whether the higher levels of cPAHs that EPA proposes to allow to remain in the LDW sediments may impact water quality and, by extension, become available for uptake by clams in the Duwamish. While EPA plans to monitor for cPAHs in both sediments and clams, elevated cPAHs in water and clams would not be detected until *after* this change is adopted. Instead, EPA should determine whether the proposed increased in allowable cPAHs in sediments threatens the health of the LDW ecosystem before adopting this change. EPA should model and/or test for the impact of a seven-fold higher concentration of cPAHs in sediments on dissolved cPAH concentrations in the water column *before* adopting a change to the cPAH cleanup requirements for the LDW.

Aside from the technical uncertainties and associated risks of the proposed ESD, EPA must also consider both the impacts to and the input of the directly impacted communities. Given the timing of this proposed change, the impacted fishing and resident communities of the Duwamish have been given inadequate opportunity to understand and meaningfully respond to the proposed change. Many members of the Duwamish communities remain in isolation due to the Covid-19 pandemic. Regular community meeting places and events have been suspended. Residents who do not have internet access have had absolutely no opportunity to learn about, let alone respond to, the proposed ESD. These issues have been raised by residents who attended the Duwamish Roundtable on March 31, and in the comments submitted by the Duwamish River Accountability Group (DRAG), attached and incorporated herein by reference.

This decision at *this* time undermines EPA's environmental justice goals by ensuring that impacted low-income and black/indigenous/people of color (BIPOC) communities who already suffer the greatest exposures and health disparities *cannot* be meaningfully informed nor participate in this decision. Consideration of an ESD to weaken cPAH cleanup standards for the LDW *must* wait until meaningful community involvement can occur. Anything else perpetuates an ongoing pattern of environmental injustice that has already disenfranchised this community's right to a clean and healthy environment, as well as their right to fully participate in the agency's environmental decisions that directly affect them.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read 'BJ Cummings', with a stylized flourish at the end.

BJ Cummings
Duwamish History Project
Author, *The River That Made Seattle*