



WASHINGTON STATE
DEPARTMENT OF
E C O L O G Y

SUBSTANTIVE PERMIT REQUIREMENTS

**HARVARD ROAD SITE
SPOKANE, WASHINGTON**

**EASTERN REGIONAL OFFICE
TOXICS CLEANUP PROGRAM
APRIL 2008**

I. Introduction

The Harvard Road Site is undergoing remediation under the authority of the Model Toxics Control Act (MICA) and the federal Comprehensive Environmental Response Compensation & Liability Act (CERCLA – Superfund). The State of Washington, Department of Ecology is conducting a remedial action under a Record of Decision that was developed by the U.S. Environmental Protection Agency (EPA) during September 2002¹. The site undergoing remediation in 2008 is located along the shoreline of the Spokane River in Washington directly north of the City of Liberty Lake, about three miles west of the Idaho state line. Shoreline soils at the location are contaminated with heavy metals including lead, arsenic, zinc and cadmium.

The primary goal of the project at Harvard Road is isolation of the contaminants. A 1-foot thick sand and gravel cover will be constructed over approximately 0.5 acres of shoreline area along the north bank of the Spokane River. The riverward portion of the shoreline will be capped using a mix of natural riverine sands and gravels. The upper portion of the shoreline will be excavated to a depth of 1-foot, with material replacement to the original grade. The size distribution specification for the material used for capping and backfill has been developed in cooperation with staff from WDFW to be suitable for trout spawning.

Significant existing vegetation within the project area includes three large ponderosa pine trees near the ordinary high water line. Ecology shoreline habitat specialists have been consulted regarding engineering design and construction methods to ensure that construction of the remedial action does not harm these trees. In addition to the primary remedial work to isolate the contaminants, Ecology will install vehicle access control features (rocks, fencing) to protect the cleaned up spawning beds. A new gravel boat launch area will also be constructed at the site.

A SEPA Determination of Non-Significance (DNS) for the proposed cleanup actions is expected to be issued by Ecology as the lead agency during April 2008.

Under RCW 70.105D.090, remedial actions conducted by the Department of Ecology are exempt from the procedural requirements of chapters 70.94 [Air], 70.95 [Solid Waste], 70.105 [Hazardous Waste], 75.20 [Hydraulic Permit], 90.48 [Water Quality], and 90.58 [Shorelands] RCW, and the procedural requirements of any laws requiring or authorizing local government permits or approvals for the remedial action. Enclosed is a copy of Ecology's Policy on implementing these permit exemptions, which states that Ecology shall establish procedures for ensuring that such remedial actions comply with the substantive requirements adopted pursuant to such laws, and shall consult with the state agencies and local governments charged with implementing these laws. The procedures shall provide an opportunity for comment by the public and by the state agencies and

¹ Record of Decision – The Bunker Hill Mining and Metallurgical Complex, Operable Unit 3, United States Environmental Protection Agency, September 2002

local governments that would otherwise implement these laws. This law does not prohibit state and local agencies from charging a fee to the persons conducting the remedial action to defray the costs of services rendered relating to the substantive requirements for the remedial action.

II. Required Permits

The following is a list of the environmental permits that would have been required for the cleanup actions had they not been done under the MICA substantive requirements permit exemption:

Federal

Corps of Engineers Section 404 [under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act]

State

Washington Department of Fish & Wildlife Hydraulic Project Approval [under Chapter 75.20 RCW and Chapter 220.1110 WAC]

Local

Spokane County Shorelands Permit
Spokane County Floodplain Development Permit

Since the MICA exemption does not apply to Federal permits, the Corps of Engineers Section 404 permit will still be required. As the project proponent, Ecology has made application to the Corps for this permit.

The project is exempt from the procedural requirements of the state and local permits listed above. Documentation of Ecology's correspondence regarding the substantive requirements of these permits is attached.



STATE OF WASHINGTON
DEPARTMENT OF FISH AND WILDLIFE

2315 N Discovery Place • Spokane Valley, Washington 99216-1566 • (509) 892-1001 FAX (509) 921-2440

April 11, 2008

Department of Ecology
Attn: Mr. Zach Hedgepeth
4601 N Monroe Street
Spokane, WA 99205-1295

Dear Mr. Hedgepeth:

Subject: HPA Substantive Requirements, Spokane River Metals Cleanup

The following is a list of substantive requirements for the Spokane River Metals Cleanup at the Harvard Road location. Note that as per our conversations, and following the meeting on March 26, 2008, the final spec of materials, as well as the method to be used (i.e. capping, multi-layer capping) for the replacement gravels to be applied for capping shall be provided to WDFW for review and approval prior to final design. Selecting materials for use as spawning gravels can be time consuming and more costly than standard pit-run materials. Please do all that you can during the bidding process to communicate this important fact to prospective contractors. Consider also the possibility of Ecology supplying the materials to the contractors for the gravel replacement, if this is at all possible.

TIMING:

1. Work below the ordinary high water line shall only occur June 15, 2008 and September 30, 2008.

CAPPING:

2. The remediation project shall not result in a loss of spawning habitat at the site as determined by review of WDFW.
3. The final spec of materials, as well as the method (i.e. capping, multi-layer capping) to be used for the replacement gravels to be applied for capping shall be reviewed and approved by WDFW prior to final design as per discussion on March 26, 2008.

EQUIPMENT:

4. Equipment used for this project may operate below the ordinary high water line, provided the drive mechanisms (wheels, tracks, tires, etc.) shall not enter the wetted perimeter.
5. Equipment used for this project shall be free of external petroleum-based products while working around the stream. Accumulation of soils or debris shall be removed from the drive mechanisms (wheels, tires, tracks, etc.) and undercarriage of equipment prior to its working below the ordinary high water line. Equipment shall be checked daily for leaks and any necessary repairs shall be completed prior to commencing work activities along the stream.

VEGETATION AND RE-VEGETATION:

6. Alteration or disturbance of the bank and bank vegetation shall be limited to that necessary to construct the project. Within seven calendar days of project completion, all disturbed areas shall be protected from erosion using vegetation or other means. Within one year of project completion, the banks, including riprap areas, shall be revegetated with native or other approved woody species. Vegetative cuttings shall be planted at a maximum interval of three feet (on center) and maintained as necessary for three years to ensure 80 percent survival.
7. Existing shoreline vegetation shall not be removed or disturbed.

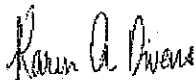
WATER QUALITY:

8. If at any time, as a result of project activities, fish are observed in distress, a fish kill occurs, or water quality problems develop (including equipment leaks or spills), immediate notification shall be made to the Washington Department of Ecology at 1-800-258-5990, and to the Area Habitat Biologist listed below.
9. Erosion control methods shall be used to prevent silt-laden water from entering the stream. These may include, but are not limited to, straw bales, filter fabric, temporary sediment ponds, check dams of pea gravel-filled burlap bags or other material, and/or immediate mulching of exposed areas.
10. All waste material such as construction debris, silt, excess dirt or overburden resulting from this project shall be deposited above the limits of flood water in an approved upland disposal site.
11. If high flow conditions that may cause siltation are encountered during this project, work shall stop until the flow subsides.

12. Extreme care shall be taken to ensure that no petroleum products, hydraulic fluid, sediments, sediment-laden water, chemicals, or any other toxic or deleterious materials are allowed to enter or leach into the river.

Thank you for the opportunity to provide this information. If you have any questions, please feel free to call me at (509) 892-1001 ext 323.

Sincerely,



Karin A. Divens
Area Habitat Biologist

KAD:kad

Cc: Mark Wachtel, RHPM
Officer Mosman, W74
Bruce Heiner, WDFW
Chris Donley, WDFW

Hedgpeth, Zachary (ECY)

From: Maher, Michael W. (ECY)
Sent: Monday, March 31, 2008 11:52 AM
To: Hedgpeth, Zachary (ECY)
Subject: RE: Harvard substantive requirements

Hey Z,

Took a look at your packet. Looks good to me and I don't have any substantive requirements that apply to add so go forth and do good work,

-mike.

From: Hedgpeth, Zachary (ECY)
Sent: Tuesday, March 25, 2008 3:13 PM
To: Maher, Michael W. (ECY)
Subject: Harvard substantive requirements

Hey Mike,

A couple of weeks ago, I dropped an info package on your desk regarding our planned cleanup action this summer along the Spokane River. Since I haven't heard back from you, I wanted to send this friendly reminder.

Please send me any substantive requirements that apply to the project by April 7th, close of business. Email will be fine.

Thanks!

Zach Hedgpeth

Hedgpeth, Zachary (ECY)

From: Hedgpeth, Zachary (ECY)
Sent: Wednesday, March 26, 2008 2:58 PM
To: 'Curalli, Kelly'
Subject: RE: Spokane River Metals Cleanup - Harvard Rd

Thanks Kelly, I sure appreciate the fast work. E-copy will be fine.

Zach

From: Curalli, Kelly [mailto:KCuralli@spokanecounty.org]
Sent: Wednesday, March 26, 2008 2:54 PM
To: Hedgpeth, Zachary (ECY)
Subject: Spokane River Metals Cleanup - Harvard Rd

Zachary,

Attached please find our comments on Ecology's Metal Cleanup project being planned for the Spokane River near Harvard Road. If you prefer a hard copy just let me know and I'll be happy to put one in the mail.

Have a great day!

Kelly
477-7440

March 26, 2007

Zachary Hedgpeth, P.E.
Toxics Cleanup Program
Washington Department of Ecology
4601 N. Monroe Street
Spokane WA 99205-1295

Dear Mr. Hedgpeth:

Thank you for allowing us the opportunity to comment on floodplain issues for your project concerning the Spokane River Metal sites.

The Harvard Road project is located within a regulated floodplain. However, the site lies in a back water area outside of the main river channel and has limited impact to flow therefore, we feel there would be minimal if any rise in the Base Flood Elevation.

Also, because you will be improving/adding fish spawning area by incorporating fish spawning friendly materials in your project, regulations in the FEMA Region 10 policy as noted in "The Summary of NFIP Policy for Local Officials" and under the heading of "Floodways and fish" would apply. This policy addresses fish enhancement projects and acknowledges that requiring the no-rise standard could be more expensive than the projects themselves. It also allows the community to defer to the judgment of a qualified professional to certify that projects (such as these) are designed to keep any rise in the 100-year flood levels as close to zero as practically possible, and that no structures (buildings) are impacted by a potential rise.

We feel that this project will be of great benefit to Spokane County and look forward to its completion.

If you have any questions, please don't hesitate to contact me at 477-3600.

Sincerely,

Kelly Curalli
Environmental Permit Coordinator

Hedgpeth, Zachary (ECY)

From: Hedgpeth, Zachary (ECY)
Sent: Wednesday, April 23, 2008 6:39 AM
To: Moser, Bill
Subject: RE: Harvard substantive requirements

Thanks Bill

-----Original Message-----

From: Moser, Bill [mailto:BMoser@spokanecounty.org]
Sent: Tue 4/22/2008 5:40 PM
To: Hedgpeth, Zachary (ECY)
Subject: RE: Harvard substantive requirements

Zach,

I agree with Mike Maher's review.

The project is consistent with the Spokane County Shoreline Program for improvement of habitat and recreational use of the shoreline. For specific provisions of the Spokane County Shoreline Program you can view our ordinance @ spokanecounty.org.

The Spokane County Critical Areas Ordinance requires consultation with Washington Dept of Fish and Wildlife to determine if a Habitat Management Plan should be required for the project.

Required notice would be sent to any adjacent property owners within 400' of the subject parcel, agencies of expertise, municipal corporations in vicinity, and identified neighborhood organizations.

With regards to Flood Plain Permits the Flood Plain regulations are administered by the Spokane County Engineers Office.

Sincerely,

Bill Moser
Senior Planner
Spokane County Building & Planning Dept
(509) 477-7154

From: Hedgpeth, Zachary (ECY) [mailto:ZAHE461@ECY.WA.GOV]
Sent: Tuesday, April 22, 2008 1:16 PM
To: Moser, Bill
Subject: FW: Harvard substantive requirements

Bill,

As mentioned in my phone message, see below for Mike Maher's review of the Harvard Road project.

Zach Hedgpeth, P.E.
Dept. of Ecology
Toxics Cleanup Program