



**Draft Comment letter and background information**  
**Jorgensen Forge EE/CA**  
**September 2021**

The *Duwamish River Cleanup Coalition/Technical Advisory Group (DRCC/TAG)* has reviewed the Draft Supplemental Engineering Evaluation/Cleanup Analysis (EE/CA) for the Earl M Jorgensen Forge Early Action Area (EMJ EAA). EMJ has submitted the EE/CA for EPA's review. DRCC/TAG is EPA's Community Advisory Group for the Lower Duwamish Waterway Superfund Site, which includes the EMJ EAA. DRCC/TAG holds an Environmental Protection Agency (EPA) Technical Assistance Grant and has contracted with their Technical Advisor, Linn Gould, of Erda Environmental Services, Inc to review the draft document. DRCC/TAG has also solicited input from community living/ working in the the Duwamish River communities of South Park and Georgetown, as well as the Duwamish Tribe and local and regional environmental, social, and health justice organizations that are stakeholders in the river cleanup.

It is important to review the history of this site and past cleanup efforts at this site. This is the second EE/CA for this Early Action Area. Earl M Jorgensen Forge (EMJ) *violated* the requirements of EPA's first cleanup order for the EMJ EAA, leading to (a) a fine for non-compliance, and (b) a new cleanup to recover toxic waste left behind during the first cleanup – this Draft Supplement EE/CA will form the basis for that new cleanup order. However, the process for developing the current Draft Supplemental EE/CA **neglected to follow EPA's enhanced community engagement agreement with DRCC/TAG and the Duwamish communities and stakeholders.**

As a result, the current public Draft Supplemental EE/CA was released without any consultation with the impacted community and falls far short of community expectations. In that light, we offer the following general comments:

- 1) The only time that the community was meaningfully consulted on the EMJ cleanup was in 2011.**  
See the excerpt below from EPA's EMJ Action Memorandum of July 29, 2011.

**None of this meaningful engagement described above in 2011 was done for our currently proposed Supplemental EMJ EE/CA. EPA has acknowledged this "oversight," yet continues to pursue the proposed remedy without meaningful community consultation in the midst of a pandemic.**

The outcome of the 2011 consultation with the Duwamish community *prior* to public release of the original EE/CA was as follows, excerpted from the EPA Action Memorandum of July 29, 2011.

*Proposed action description: Through an evaluation of effectiveness, implementability and costs, the proposed action (Alternative 4 in the EE/CA) was selected as the proposed removal action. The*

*selection of this alternative was not revised in response to public comment. The proposed action consists of excavation of the bank and sediments within the EAA exceeding removal action levels (RvALs); backfill of material that meets RBCs to protect finfish and shellfish consumers; stormwater management; and long-term sediment and groundwater monitoring to determine that the removal objectives are achieved within the approximately 1.6 acre Jorgensen Forge EAA (Figure 2). The actions include:*

- Removal of contaminated sediment and soil with disposal at an off-site commercial disposal facility, followed by backfilling with clean material, as detailed below*
- Dredge approximately 21,000 cubic yards (cy) of contaminated sediment, bank soil, and other debris from EAA. This variable depth dredging (2-10+ feet) will **remove all sediments with contaminant concentrations higher than the [Removal Action Levels] for all [Chemicals of Concern]**. Clean backfill material (16,200 cy) that meet RBCs (consistent with Boeing Plant 2 [Target media cleanup level]) will be placed in the clean dredged prism and be re-contoured to original contours, as appropriate.*
- **Prior to backfilling, collect confirmation samples on newly exposed surfaces to document the nature of the material beneath the backfilled area. In the sediments dredging will continue until the RvALs are reached.***
- Dispose of dredged material in an off-site landfill that meets all state and federal requirements for disposal of such materials.*
- Install or construct supporting facilities, staging areas, drainage and erosion controls, and effective decontamination facilities prior to initiation of the NTCRA (Non-Time-Critical Removal Action).*

The community supported the proposed alternative, which was not changed in response to the overwhelmingly positive public comment on the plan (see below). However, the bolded components of the remedy ordered by EPA were not fulfilled by EMJ. In the absence of the inability to meaningfully engage the community on the Supplemental EE/CA due to EPA's failure to follow its enhanced community engagement agreement and release of the Draft Supplemental EE/CA during the Covid-19 pandemic, EPA should again consider the comments it received on the original EE/CA in 2011, below, excerpted from the EPA Action Memorandum July 29, 2011:

COMMENT 1: Paraphrase: "We support the selection of Alternative 4 for the Jorgensen Forge sediment removal action." (Duwamish River Cleanup Coalition, the Muckleshoot Indian Tribe, People for Puget Sound, Jesse Moore, Georgetown, Jordan Monez, South Park, BJ Cummings, Seattle, M.C. Halvorsen). EPA RESPONSE: Comment noted.

- 2) **Concerns raised about US Army Corps of Engineers (USACE) maintenance dredging of the waterway continues to be an issue now as it was in 2011.** This letter from the USACE dated August 3, 2010 clearly states our concerns.
- 3) **EPA must be protective of the proposed Remedial Action in the upper third of the Duwamish River.** The proposal to leave behind contamination that was originally required to be removed poses an unacceptable risk of recontamination.

While Alternative 4 of the Draft Supplemental EMJ EE/CA is the most protective of the alternatives presented, **DRCC/TAG is recommending that EPA add and select a 5<sup>th</sup> cleanup alternative that includes removal of all of the PCB contamination EMJ was required to remove in its first cleanup.**

This is the only outcome that is fair to the affected Duwamish community and stakeholders that were meaningfully involved in development of the original EE/CA, as well as to the Tribes and Trustees that were consulted by EPA throughout that process.

In addition to the comments above, we are attaching a petition with more than [1,200 signatories](#) from people who live, work, fish and recreate in the Duwamish River Valley. This is included in our formal comments on the EMJ EE/CA and also constitutes public comment on the EE/CA by all of the petition's signatories:

*"Jorgensen Forge and EPA propose to allow the company to abandon PCBs in the river bottom that it left behind in violation of EPA orders, saving the company millions of dollars. Jorgensen Forge was cleaned up as an Early Action Area because it had some of the river's highest levels of contamination and posed an immediate threat to the environment and people's health. The company violated EPA's cleanup orders, leaving behind high levels of PCBs and burying them under backfill. The company was fined and a new cleanup order was prepared. Now EPA proposes to allow the company to leave behind much of their mess.*

DRCC plans to submit a more detailed set of comments to the EPA on September 27<sup>th</sup>.

WE DEMAND:

(1) Full community involvement, consultation and agreement to all changes to the river cleanup.

(2) Upholding the commitment to a full, equitable, and health protective river cleanup that includes the Lower Duwamish Superfund Site and the Duwamish River's East Waterway.

**(3) Adherence to the requirements of Jorgensen's 2013 cleanup order to require immediate removal of all toxic chemicals covered by the original cleanup plan.**

(4) Follow Environmental Justice principles and pursue a comprehensive approach to advancing equity and a systematic, anti-racist approach to embedding fairness in decision-making processes for the river.

(5) Stop making harmful decisions or opening comment periods during a pandemic for an environmental justice community already facing many challenges and inequities.