

Comment submitted by: Edmonds Marsh Estuary Advocates (EMEA)

Endorsed by: Sno-Isle Sierra Club, Interfaith Climate Action, Edmonds Climate Advisory Board

We appreciate the progress that Ecology and Chevron have made in cleaning up the Unocal site. However, the Draft Feasibility Study Addendum and the Disproportionate Cost Analysis (DCA) need to be amended to more fully comply with the Model Toxics Control Act (MTCA) and with Ecology guidance. Before a final cleanup plan is selected, we urge Ecology to thoroughly consider the following points.

1. Climate change and sea level rise are required to be included in the feasibility study but are not mentioned in the current documents.

WAC 173-340-360(3)(a) lists the following requirements for cleanup action plans:

(iv) Prevent or minimize present and future releases and migration of hazardous substances in the environment;

(v) Provide resilience to climate change impacts that have a high likelihood of occurring and severely compromising its long-term effectiveness;

(vii) Not rely primarily on institutional controls and monitoring at a site, or portion thereof, if it is technically possible to implement a more permanent cleanup action

Climate change and sea level rise pose significant environmental risks that must be considered. Sea level rise will increase groundwater levels and flood waters will more frequently inundate the site. These factors may mobilize contamination and cause it to migrate toward Willow Creek and Puget Sound through groundwater.

Sea level rise, stormwater flooding, and waves washing over the railroad tracks will also increase risks of erosion. Then the likelihood that the long-term effectiveness of the engineered covers will be compromised, especially in the southwest corner of the site where flood flows pass under the BNSF railroad bridge before returning to Puget Sound.

The Unocal property's location in a seismic hazard zone, which has a high likelihood of earthquake damage, further increases the potential risk to engineered covers.

2. A more accurate cost-benefit calculation is needed.

Currently, permanently removing all contamination through excavation (Alternative 4) is rated only 12.3% more beneficial than capping and covering it (Alternative 6). Ecology guidance has confirmed that the cost analysis needs to consider *both quantitative and qualitative estimates and the use of best professional judgment*. The extensive benefits of a cleanup level that enables estuary restoration, wetland expansion, and salmon resource recovery should be included in the analysis of benefits. (Concise Explanatory Statement: Chapter 173-340 WAC (pages 119-120))

Cost should be a *ratio* to other factors, not the primary determining factor. The current DCA comparison overemphasizes cost and undervalues permanence, protectiveness, and long-term effectiveness. When considering future land and resource uses, Alternative 6 is not protective, permanent, or effective in the long term. The benefit scores for Alternative 6 should be adjusted to reflect this.

3. Public Concern has not been properly weighted.

Chevron lists noise, traffic, short- and long-term risks, and time frame as the most common community concerns. They assert that complete excavation, Alternative 4, will be most disruptive to the public. This is an inaccurate assessment of the public's concern about Unocal cleanup. Of the approximately one hundred people who attended Ecology's September 2024 public meeting, no one mentioned those concerns. Instead, the primary concern expressed was that cleanup be sufficient to make reconnecting the Edmonds Marsh to Puget Sound feasible.

4. Potential future use of the property as a restored estuary reconnecting the Edmonds Marsh to Puget Sound should be considered.

Future use: The MTCA WACs do not specify that planned or future uses are limited to the current landowner. **WAC 173-340-351(6)(a)** states: *Include any planned future uses of the site or any habitat restoration or resource recovery goals for the site.*

The potential use of the Unocal site for estuary reconnection, habitat restoration, and salmon resource recovery is well documented. A Memorandum of Understanding (MOU) between WSDOT and the City of Edmonds and a state legislative budget line item give the City of Edmonds the first right of purchase for the intended use of the property to rehabilitate near-shore habitat for salmon and related species. (MOU 2.8)

Additional documents confirming the city's intent:

- Edmonds City Council Resolution 1508
- The City of Edmonds 2022-2027 Parks Recreation and Open Space (PROS) Plan (page 116)
- The City of Edmonds Parks Department 2024-2029 Capital Facilities and Capital Investment Plan (page 30)

5. Tribal interests and rights need to be considered.

Ecology states that they have *notified* tribes of the opportunity to comment but according to the amended MTCA rules, that is insufficient. The updates require Ecology to *consider the rights and interests* of Indian tribes when evaluating cleanup action alternatives in the feasibility study and in the cost analysis, yet there is no mention of these in the current documents.

The Unocal property was used traditionally by the Tulalip Tribes as a "usual and accustomed" gathering and fishing place. Tribal concerns about depleted salmon populations and their interest in reconnecting the Edmonds Marsh to Puget Sound to aid in salmon recovery are well known. Their letters of support for the city's MOU with WSDOT and

for the city's current NOAA Coastal Resiliency grant confirm that tribal interests are long standing and should be included in Ecology's and Chevron's analyses.

The Boldt decision and the resulting 2013 federal fish passage injunction confirmed that Washington State has a *treaty-based duty* to preserve fish runs. This requires that blockages that impede salmon migration be repaired or removed. This court order will apply to the equitable title holder, WSDOT. Replacement of the impassable Willow Creek pipeline will require the excavation of an open channel through the Unocal parcel.

6. Chevron Corporation made the mess — they need to clean it up.

Unocal (Chevron) reaped significant financial gain from their use of the property as a bulk fuel terminal. The public, the City of Edmonds, and the Tulalip Tribes are not asking Chevron to restore the wetland or reconnect the marsh estuary to Puget Sound but simply to clean up the property to a level that will enable a future landowner to do so without incurring additional cleanup costs. Alternative 6 is unacceptable because it leaves contamination in place that would need to be removed before a channel to Puget Sound could be excavated.

7. Alternative cleanup plans between complete excavation (Alternative 4) and no excavation (Alternative 6) should be considered.

Chevron estimates the cost of removing all remaining contamination (Alternative 4) to be 10 times more expensive than the cost of capping and covering the contamination (Alternative 6). This sets up Ecology to accept Alternative 6 as the preferred option even though it is less permanent, less protective, and less effective in the long term.

Chevron's alternatives were to completely remove all contamination or cap and cover it — nothing in between. Complete removal was not selected due to the prohibitive cost. An alternative that is a *combination of the two* is reasonable and should be considered. It would also better address future land use, public and tribal concerns, and the environmental hazards of the site at a cost much closer to Alternative 6.

8. Soil samples must be updated before the revised feasibility study is completed.

Most of the soil samples referred to in the feasibility study are 15-20 years old. New soil testing is planned, and selection of a final cleanup plan should be delayed until these results can be considered. Natural attenuation over the intervening years may result in fewer contaminated areas. This would impact the cost of each alternative and would be particularly important in evaluating alternatives that combine excavation and engineered covers.

Respectfully submitted by:

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