



Elevating the voices of those impacted by the Duwamish River pollution and other environmental injustices to advocate for a clean, healthy, and equitable environment for people and wildlife. Promoting place-keeping and prioritizing community capacity and resilience.

November 16, 2022

Department of Ecology

LDW@ecy.wa.gov

RE: Independent Metals Plant 2 Public Participation Plan and Broader Environmental Justice Considerations

To Whom it May Concern:

Thank you so much for the opportunity to comment on the Independent Metals Plant 2. Community voices are very important in all decisions that impact them directly. Despite the COVID-19 pandemic, DRCC has been engaging with the community in creative ways including safe in-person gatherings, socially distanced small events, and multilingual social media and video interactions to bring some of this information to the community and gather their input. We prioritize the voices of those who are directly impacted by these changes to ensure that our impacted low-income and black/indigenous/people of color immigrant, refugee, and fisher communities who already suffer the greatest exposures and health disparities can be meaningfully informed and engaged.

The Duwamish River Community Coalition (DRCC) has long been a community steward for environmental justice in the Duwamish Valley, which is one of the most polluted areas in the entire Pacific Northwest following 100 years of industrial dumping and release of toxic waste. DRCC has worked tirelessly alongside community groups and neighbors for 20 years to clean up the water, land and air while fighting to eliminate ongoing industrial pollution that makes our communities among the least healthy in the County.

Residents of the Duwamish Valley are disproportionately exposed to contamination relative to other communities in the City of Seattle. People who live in Georgetown and South Park have some of the most severe health inequities in the City of Seattle. Childhood asthma hospitalization rates are the highest in the City, heart disease death rates are 1.5 times higher than the rest of Seattle and King County, and life expectancy is 13 years shorter when compared to wealthier neighborhoods and 8 years shorter when compared to the Seattle and King County average.

Our community has shared their excitement at the prospect of turning this site from a contaminated, inaccessible area into a community asset with space for public use. Our community has also expressed a strong desire to be more involved in these processes, and continues to emphasize the importance of having more community meetings where the public has the opportunity to directly engage with the government. This in-person exchange of information and ideas is an important part of facilitating public participation.

The Model Toxics Control Act (MTCA) exists because of community vision and advocacy, having evolved from community initiative.¹ One of its core principles is that public participation is an integral aspect of the cleanup process.² The value of public participation is so significant that it was codified as a requirement for the Department of Ecology, who must “promote effective and meaningful public participation.”³ While we recognize that Ecology has taken some steps to create opportunities for meaningful public participation, we have determined some ways that Ecology can make their community engagement more effective and the public comment process more inclusive. We believe that an Enhanced Community Engagement Process needs to be developed for all EJ communities to address the HEAL Act. This letter addresses some issues that concern us about both the Independent Metals public meeting and document, but we believe that it has relevance to all Public Participation Plans and public meetings in environmental justice communities.

I. ECOLOGY SHOULD CONDUCT A DEEPER ANALYSIS OF ENVIRONMENTAL JUSTICE COMMUNITIES TO COMPLY WITH THE HEAL ACT.

Incorporating environmental justice into a Public Participation Plan is now mandated by the HEAL Act.⁴ Recognizing health disparities is a critical part of considering the unique burdens placed on environmental justice communities. The use of the Washington Environmental Health Disparity Map and the Environmental Justice Screening and Mapping Tool are necessary to determine the specific intentional engagement of different overburdened communities, but it is not enough to only identify the percentiles thresholds for Black, Indigenous, immigrants, people of color, low-income individuals, and linguistically isolated populations who live in proximity to the site.⁵ These should serve as preliminary assessment tools that are then used to inform public participation strategies that are tailored to the needs of the community.

We understand that Ecology has created a timeline for HEAL Act implementation that extends into 2025 to ensure that “processes and plans are required to align with guidance from

¹See *Model Toxics Control Act*, Department of Ecology, <https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Rules-directing-our-cleanup-work/Model-Toxics-Control-Act>.

²*Id.*

³RCW 70A.305.030(1)(i)(C).

⁴See SB 5141 sec. 13.

⁵See Independent Metals Plant 2 Public Participation Plan at 12-13.

the Environmental Justice Council.”⁶ But until these processes are in place, there are still ways that the Department can comply with the HEAL Act when performing their obligations to create more equitable public participation and meaningful engagement.

For example, the Agency must “engage with overburdened communities and vulnerable populations as it evaluates new and existing activities and programs. This plan must describe how the agency plans to facilitate equitable participation and support meaningful and direct involvement of vulnerable populations and overburdened communities.”⁷ The community engagement and participation language in the HEAL Act clearly sets forth requirements that require significantly more than only identifying overburdened communities.

II. ECOLOGY SHOULD GET INPUT FROM THE PUBLIC ON WHAT COMMENT PERIODS IN ENVIRONMENTAL JUSTICE COMMUNITIES SHOULD LOOK LIKE SPECIFIC TO EACH SITE.

Ecology must also consider methods for outreach that “overcome barriers to engagement.”⁸ In environmental justice communities, barriers to engagement are endless. As a result of the disproportionate environmental burdens they face, these communities are constantly asked to participate in governmental processes like public comment when they may not have the necessary resources to do so. Public comment periods in environmental justice communities need to be modified to address engagement barriers, which may differ between communities who are forced to live with the cumulative impacts of decades of pollution and ongoing contamination.

Staying engaged in these processes takes significant time and effort – one must review long and intensely technical documents, get clarifying questions answered by the Agency, take the time to write a comment, and then continue to monitor the site to ensure their comments are being incorporated and considered. It is a huge ask of anyone, let alone someone who lives in an area with multiple ongoing projects. Currently, the Duwamish Valley has comment periods open on multiple sites. Ecology should account for this and coordinate with project managers for other ongoing sites to check-in with impacted communities to determine if it would be helpful to extend the comment period.

Further, the community might find it more useful to combine meetings for multiple sites or feel that for certain sites, it is more appropriate to comment on different stages of the MTCA process that do not currently require public comment. In environmental justice communities, Ecology should ask the public what their needs are for each site and allow for a more

⁶*Healthy Environment for All*, Department of Ecology, <https://ecology.wa.gov/About-us/Who-we-are/Environmental-Justice/HEAL>.

⁷See SB 5141 sec. 13.

⁸*Id.*

personalized comment period experience that is based on the public's current capacity and community input.

III. ECOLOGY SHOULD IMPLEMENT OTHER OUTREACH METHODS TO CREATE A MORE ACCESSIBLE COMMENT PROCESS.

As noted in the Public Participation Plan, South Park and Georgetown are in the 82nd percentile for people of color populations and 89th percentile for Linguistically Isolated populations.⁹ Ecology has done a good job of translating print materials and having interpreters at public meetings. However, there are also a significant number of Somali and Amharic speakers in the Duwamish Valley that would benefit from the same accessibility that Ecology has provided for Spanish, Mandarin, Vietnamese, and Khmer speaking communities.¹⁰ Further, providing translations and interpretation is not enough to facilitate meaningful engagement.

Community members have expressed that a combination of in-person and virtual events would be ideal with food and childcare options available for in-person events. Many people have obligations in the evening including caring for children and getting dinner ready for their families, which prevents them from participating in public meetings. Providing a meal and an option for them to bring their children will make these events more accessible.

It would also be beneficial to record any online public meetings and post them online so that community members can view it later if they were not able to attend or re-watch it later if they need clarification on an issue. Creating accessible meetings is a critical part of facilitating meaningful engagement in environmental justice communities. When there are multiple ways in which a community can receive information and ask questions, there is more opportunity for consequential participation.

Community members have also stated that it can be difficult to keep up with all of the ongoing meetings and asked that short surveys be offered as an alternative to providing public comment. This would allow community members to share their thoughts with Ecology without the burden of having to review the documents and then put together a written comment. Surveys should ask environmental justice community short and concise questions about identified areas of concern and use a combination of short answer, multiple choice, or a numbered scale to express varying levels of interest and disconcertment on different topics.

⁹Independent Metals Plant 2 Public Participation Plan at 12-13.

¹⁰City of Seattle Top Tier Languages, City of Seattle, https://www.seattle.gov/Documents/Departments/OIRA/Seattle%20Top%20Tier%20Languages_Multisource%20Table_Updated%2011_14_2020.pdf.

IV. ECOLOGY SHOULD IMPROVE OUTREACH TO CULTURAL AND COMMUNITY ORGANIZATIONS BY INCREASING TRANSPARENCY AND SCOPE OF OUTREACH.

Additionally, Ecology should do community engagement to cultural and community groups in the Duwamish Valley to develop strategies for meaningful participation. The best way to determine how these processes can be made more accessible is to ask those being engaged directly. Many of these groups can provide valuable insight as to ways that Ecology can better perform outreach which can then inform future engagement work with other environmental justice communities. Ecology should also consult with community-based organizations who have existing ties with the community to determine other ways to make public comment more accessible. These organizations likely have methods of soliciting community feedback that could inform Ecology's practices.

We are aware that Ecology has an internal list of organizations that they send information to when new comment periods open. Ecology should make this list public so that community groups and community members can provide input on who else should be added rather than putting the burden on the public to opt into notifications. Sharing this information can also help community members know which organizations to seek out if they need additional resources. One example of a community group that should be on Ecology's notification list is the Duwamish Tribe. The Tribe is a valued part of the Duwamish Valley community and should be updated on sites like Independent Metals 2 as soon as documents are made available. The Tribe also has unique insight that could be extremely helpful to Ecology as these documents are reviewed, and ensuring they are able to participate in public comment is invaluable.

Ultimately, it is not enough to send postcards and emails to the community about an open comment periods. Meaningful engagement requires consultation, community-driven involvement, and shared leadership. This should include more public meetings with Ecology representatives available in person to address questions and concerns, conversations with the community about ways to make public comment more accessible, and feedback from the public on what their engagement needs are for each site.

Ecology should focus on ways to create more bidirectional communication with the public by working with the public to create systems and programs that work for our community. This is an essential part of the relationship building work that the Agency must do to build trust and partnership with the community. Building trust will help the public feel more comfortable engaging in these processes and will allow for more honest feedback which will in turn benefit the Agency. This will require more intentional outreach that is tailored to the unique needs of an environmental justice community like the Duwamish Valley.

V. ECOLOGY SHOULD PROVIDE MORE SUBSTANTIVE REVIEW OF RELEASED DOCUMENTS AND MAKE PUBLIC MEETINGS CLEARER FOR COMMUNITY.

Finally, public presentations by Ecology should include more background information. Many members of the public come to these meetings without any background information on what these documents are. While we appreciate the overview of the MTCA process that Ecology provides at the beginning of these presentations, we also think there should be more discussion on what each document being reviewed is and why it is important to get community feedback on it.

Ecology should also do more substantive review of the documents in these presentations. The majority of the public does not have the time to review them, and many of them are lengthy and technical. Virtual meetings should not be the only way to engage with community, especially in short comment periods. Combined with the aforementioned burden of having multiple public comment sites ongoing in the Duwamish Valley, Ecology should do a better job of taking more ownership of their role in creating an equitable process by presenting on the content of the documents they are seeking comment on. This would bring more people into the process who previously lacked the time and resources to do their own review and help remedy the power balance that exists between a state agency and an overburdened community.

In summary, we believe that the Independent Metals Public Participation Plan needs to be revised to reflect an Enhanced Community Engagement approach that includes (1) a deeper environmental justice analysis to comply with the HEAL Act, (2) a pathway to extend all comment periods, (3) other engagement methods to create more accessibility, (4) more cultural and community focused outreach that is transparent, and (5) substantive reviews of released documents. We request that the Department of Ecology revise their Public Participation Plan to include the aforementioned Enhanced Community Engagement approach.

We appreciate this opportunity to provide comments. Please do not hesitate to contact us if you have any questions.



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