



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, Washington 98101

June 28, 2006

Bruce Roll, Assistant Director
Whatcom County Public Works Department
Civic Center Annex
322 N. Commercial Street, Suite 210
Bellingham, WA 98225

RE: Swift Creek site

Dear Mr. Roll:

The U.S. Environmental Protection Agency (EPA) would like to respond to your June 12, 2006, memorandum to Pete Kremen, Whatcom County Executive regarding our role in the Swift Creek site and other correspondence since that time. In particular, this letter identifies some key concerns we have for the site, and Attachment A addresses a few specific items in your memorandum. As we discussed in a telephone conference June 14 with you and Mr. Jeff Monson, your memorandum caused us some significant concerns about the way you characterize EPA's role and commitments for this project. We offer this letter and attachment to clarify the nature of EPA's role and commitments to the site, reaffirming that we would like to continue to work with the County and the other agencies involved to find both near-term and long-term solutions to the issues at Swift Creek.

Regarding the Swift Creek site, we have two critical concerns at this time. Our first concern is management of the material stockpiled on site to reduce human exposure to the potential asbestos contamination. Toward that end, we support the County's continued efforts for restricting public access to the stockpiled material and ensuring that such restrictions remain in place. Such access restrictions should be maintained consistent with prudent practices and in compliance with conditions of the U.S. Army Corps of Engineers permit #: 200500250.

Our second critical concern is with the potential for flooding and the consequent spreading of stockpiled material. From the June 12, 2006, memorandum and subsequent correspondence, we understand that the County is planning to dredge 30,000 cubic yards of material this summer. You have told us that this is only about one-third of what Whatcom County has dredged out of Swift Creek in recent years and that 80-90,000 cubic yards must be dredged each year to reduce flooding risks significantly. If this is correct, we urge the County to continue to examine all possible options for dredging the 80-90,000 cubic yards of material this year, even if the costs are higher than originally planned for. Flooding in this area and spreading of the stockpiled material could increase health risks and escalate the costs for removing the material for appropriate disposal.

We are aware that the dredging season is limited to the dry summer months, and that this dredging needs to happen before we have all the information we will gather for the sediments in and along Swift Creek. So, to prevent flooding this fall and winter, we would like to work with you to determine what options are available this summer for storage or disposal of at least some of the stockpiled sediments lining Swift Creek.. We hope to find a way to remove enough material to reasonably assure that Swift Creek will not flood this fall and winter.

In seeking options for this summer, we thank you for your June 22, 2006, letter to Denise Baker-Kircher of my staff, that provided initial information about two options you have identified for off-site disposal of some of the sediments now bordering Swift Creek. As we indicated during our June 14 call, we may be able to help defray the immediate costs of storage or disposal of material this summer. To begin these discussions, we will need to know more about the timing of the dredging project, all disposal options, and the costs associated with those options. We remain ready to work with the County to explore all possible options for disposal or stockpiling of material this summer, to reasonably assure that the river will not flood its banks this fall and winter.

Please be aware that since March 2006, EPA has made substantial efforts to meet the needs expressed by Whatcom County during our initial meeting on March 8, and we have expended significant resources in doing so. Specifically, we agreed to collect samples to characterize the sediment previously dredged from Swift Creek. We have engaged our scientists in mineralogy and asbestos toxicology, enlisted support from experts in regulatory requirements and community involvement, and devoted one of our Site Assessment Managers to this site at about 70% time for the last few months. EPA deployed our emergency response crew, contractors, and in-house asbestos sampling team to the site in April and early May to ensure that our sampling and sampling results would meet the June 2006 date set by Whatcom County.

Drawing on this significant investment of staff time and funding, we believe we have been responsive to your requests for assistance. We have coordinated our planning efforts, shared all our sampling plans, held conference calls to discuss our sampling strategies, and endeavored to modify all our plans to incorporate your comments. In addition, when Whatcom County told us that they needed risk information as well as sampling data on the sediment stockpiles along Swift Creek, EPA offered to conduct activity-based sampling in August 2006.

Of course, EPA cannot accomplish all this site work on its own. We have continued to seek funding and technical support from outside EPA. We are committed to continue this work with you and the other partner agencies involved in this project

We recognize the impacts of the extraordinary amount of material coming from the slide, and the long term challenges it presents to the community. It is our hope that all the agencies involved in the management of Swift Creek could meet this fall, armed with the data we are now collecting and lead by Whatcom County, to begin informed discussions about what can be done to address the long term questions of what to do about the material coming from the slide above Swift Creek.

We have offered to assist Whatcom County in setting up a meeting to bring all of the agencies that are involved in this site together. As we learn more about the site from the samples we take this summer, we hope Whatcom County will be ready to move forward with these discussions. EPA is ready to participate and to bring our considerable technical abilities to the table.

EPA has continued to share all information we have about this site with all of the agencies involved and we have discussed our plans for sharing information with property owners and the community in general. We have already expressed our intent to meet with Swift Creek property owners at a time that works for Whatcom County, and after the County has had time to review the data we have obtained from sampling along Swift Creek. We would be happy to participate in a meeting with County Executive and County Council to discuss this information, as indicated in your June 22, 2006, letter to Denise Baker-Kircher.

We hope this letter and the attachment clarify our intentions for going forward with work on Swift Creek and for continuing coordination with all appropriate agencies. If you have any questions about this letter, please feel free to contact me at (206) 553-6523, or Denise Baker-Kircher of my staff at (206) 553-4303.

Sincerely,

Lori Cohen, Associate Director

Attachments:

- EPA Response to June 12, 2006 Memorandum from Bruce Roll to the Honorable Pete Kremen, County Executive
- April 4, 2006 letter to Regina Delahunt, Director, Whatcom County Health Department
- May 12, 2006, letter to Jeff Monsen, and Bruce Roll, Whatcom County Public Works

cc: Pete Kremen, Whatcom County Executive
At-Large Representative: Seth M. Fleetwood
District 1, Position A: Ward Nelson
District 1, Position B: Dan McShane
District 2, Position A: Laurie Caskey-Schreiber
District 2, Position B: Sam Crawford
District 3, Position A: Carl Weimer
District 3, Position B: Barbara Brenner
Jeff Monson, Director of Whatcom County Public Works
Paula Cooper, River and Flood Manager, Whatcom County Public Works
Regina Delahunt, Director Whatcom County Health Department
John Wolpers, Environmental Health Manager, Whatcom County Health
Department
Jeff Hegedus, Environmental Health Supervisor, Whatcom County Health
Department
Dave Blake, Northwest Clean Air Agency
Karen Larson, Agency for Toxic Substances & Disease Registry
Gary Palcisco, WA Department of Health
Wayne Clifford, WA Department of Health
Robert Duff, WA Department of Health
Pete Kmet, WA Department of Ecology
Barry Wenger, WA Department of Ecology – Bellingham Field Office
Randal Perry, U.S. Army Corps of Engineers
Doug Weber, U.S. Army Corps of Engineers
Gerald Juergens, Chair Sumas/Nooksack/Everson Sub-Zone

Bcc: Denise Baker, ECL
Cliff Villa, ORC

Attachment – EPA Response to June 12, 2006 Memorandum from Bruce Roll to the Honorable Pete Kremen, County Executive:

We provide the following as clarification to statements made in the June 12, 2006 memorandum and believe this is necessary since these documents are of public record.

1. EPA was asked by Whatcom County Health Department to assist with this site. During a meeting in EPA's offices in Seattle, Washington, on March 8, 2006, Whatcom County Health Department asked EPA to help characterize the materials that have been dredged out of Swift Creek and stockpiled on either side of the creek. We prepared notes from this meeting, and sent copies of those notes to all participants at that meeting. In addition, in our April 4 letter to Regina Delahunt, EPA again states that Whatcom County requested EPA's support in providing information about the levels of asbestos in the sediments dredged from Swift Creek. We went on to say that we understand that Whatcom County Public Works needs this information before the start of the next Swift Creek dredging season, starting July 1, 2006. A copy of our April 4, 2006, letter is attached for your files.

2. The EPA report expected by the end of June 2006 will only contain the findings of the sampling we conducted the first week of May 2006 along Swift Creek between Goodwin Road and Oat-Coles Road.

We clearly stated our intentions in our April 4 letter: "EPA ...will collect samples to better characterize the sediments dredged from Swift Creek. Our goal is to be sampling the first week of May 2006 so that we can have the data back by the end of June 2006." In our May 12, 2006, letter to you and Jeff Monsen, we further clarified our intentions: "Given the expectation of further dredging activities in the month of July, EPA, in consultation with many others including Public Works, has developed a sampling and analysis plan designed to help characterize the nature and extent of asbestos and metals contamination within existing dredge piles along Swift Creek. Consistent with this plan, field sampling activities were conducted last week and laboratory results are expected to be available before the end of June. A copy of our May 12 letter is attached for your files.

3. The memorandum of June 12, 2006, lists issues that Public Works is "hopeful" EPA would address in our report, contrary to EPA's limited role for the site at this time.

The June 12 memo further stated that, "it is unlikely that the EPA will be able to address all of these issues by the end of June 2006. Hopefully, however, the report should provide a clear timeline and strategy for addressing unanswered questions." In our June 14, 2006, conference call, you stated that this memorandum was never intended to imply that EPA promised to answer these questions or, in lieu of answers, promised to provide a timeline and strategy for addressing unanswered questions. However, based on the language of the memorandum, an uninformed reader may reasonably conclude that we had made those promises. Therefore, we want to be clear that EPA has made no commitments to provide answers to the issues listed here by June 2006, nor have we promised to provide a timeline or strategy for addressing unanswered questions.