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Via Email

RE: Public Comment on Draft Cleanup Action Plan and Consent Decree for the Former Reynolds Aluminum Plant, Longview, WA.

Dear Ms. Toteff, Mr. Schriever, and Mr. Barrett,

Columbia Riverkeeper, Washington Physicians for Social Responsibility, Climate Solutions, Sierra Club, Washington Environmental Council, and Oregon Physicians for Social Responsibility (collectively "Commenters") submit the following comments on the Washington Department of Ecology's (Ecology) Draft Cleanup Action Plan and Consent Decree for the former Reynolds Metals Reduction Plant in Cowlitz County, Washington (the Site). The Site is heavily contaminated by decades of aluminum smelting operations and, most recently, years of mismanagement by Chinook Ventures, Inc. (Chinook Ventures). The Site also offers over 400 acres of industrial-zoned, waterfront property in Cowlitz County. Cleanup success is critical: The only way to attract modern and sustainable business plans is to ensure the site is clean and ready for use.

This comment period is the culmination of a multi-year effort by Cowlitz County residents to prioritize cleanup at the Site. Commenters appreciate Ecology's efforts to improve

community engagement in cleanup decisions. Turnout at public hearings and the volume of public comments received demonstrate strong public interest in protecting valuable groundwater, surface water, and soil resources.

In 2014, Columbia Riverkeeper, Sierra Club, and Landowners and Citizens for a Safe Community filed detailed comments on the Draft Remedial Investigation/Feasibility Study (hereafter “coalition comments”). The coalition comments, along with the overwhelming majority of public comments, urged Ecology to adopt Alternative 6, which required the most comprehensive cleanup of soil and groundwater contamination. This included aggressive removal and offsite disposal of contaminated soils, sediment removal, some reliance on natural attenuation, and institutional controls. The Final RI/FS selected a less costly, less aggressive cleanup option: Alternative 4. The draft Cleanup Action Plan details plans for implementing the selected alternative.

Rather than repeat comments provided on the Draft RI/FS, Commenters highlight three issues of particular concern moving forward: (1) the adequacy of financial assurances to guarantee fully-funded cleanup, (2) the delay in removing nearly an acre of contaminated sediment in the Columbia River, and (3) the need for an additional reactive barrier above SU7.

Financial Assurances

Ecology must hold corporate polluters responsible for damaging soil and water resources. The Cleanup Action Plan fails to describe how Ecology will ensure Northwest Alloys and Millennium pay for the projected \$27.7 million cleanup. Commenters urge Ecology to exercise its full authority to ensure Northwest Alloys and Millennium:

1. Set aside funds for complete funding of the proposed Cleanup Action Plan.
2. Provide reserve funds in the event contractors discover previously unknown site contamination or cleanup remedies do not perform as anticipated.
3. Fully fund long-term monitoring of the selected remedy’s performance.

The public’s interest in cleanup funding is understandable: Both Northwest Alloys and Millennium face questionable futures.

A brief history of site ownership demonstrates the public’s well-founded concerns about cleanup funding. For nearly sixty years, the Reynolds Metals Company operated an aluminum smelter through its subsidiary, Longview Aluminum, LLC. Alcoa purchased Reynolds Metals in

2000.¹ In January 2001, Alcoa sold most of the fixed assets and improvements to Longview Aluminum, LLC. Alcoa retained ownership of the real estate.

Since 2003, property ownership and management has been in flux. In March 2003, Longview Aluminum declared bankruptcy. Shortly thereafter in December 2004, Chinook Ventures purchased Longview Aluminum's assets during bankruptcy proceedings. In September 2005, Alcoa transferred its interest in the property to Northwest Alloys, a wholly-owned subsidiary of Alcoa.

Chinook Ventures operated the site from 2004 to January 2011. During its tenure, Chinook Ventures violated numerous federal and state laws and faced government and citizen enforcement actions, including Clean Water Act citizen suits by Columbia Riverkeeper and Landowners and Citizens for a Safe Community. Chinook Ventures operated a dry storage and bulk import/export terminal, which included unpermitted outdoor storage of petroleum coke. Chinook Ventures also engaged in demolition actions, including demolishing portions of the smelter buildings, removing spent potliner, and shipping spent potliner off-site. Among other actions, Chinook Ventures discovered, but failed to report promptly, an undocumented deposit of "black mud" (toxic sludge from the aluminum operation's cryolite plant) located within a forested wetland.

In 2010, Ambre Energy—an Australia-based coal mining and export start-up—developed plans for the site through its then wholly owned subsidiary Ambre Energy North America which in turn owned Millennium Bulk Terminals-Longview, LLC (Millennium), a limited liability company. In January 2011, Millennium purchased Chinook's lease to the real estate and its ownership of the buildings on site with plans to build and operate what would be the nation's largest coal export terminal. The same month, Arch Coal, Inc. acquired a thirty-eight percent stake in Millennium.²

Millennium's plans were quickly stymied by its untruthful representations to state officials and the public about the size of its highly controversial coal export terminal. Millennium launched a public relations campaign to paint itself as the "white knight" of cleanup. In truth, Millennium has no experience cleaning up hazardous waste sites, let alone one of the most contaminated sites on the Lower Columbia River.

¹ See Agreed Order NO. DE 4263.

² <http://news.archcoal.com/phoenix.zhtml?c=107109&p=irol-newsArticle&ID=1515428>.

The two original coal export proponents, Ambre Energy and Arch Coal, are both either gone or insolvent. Ambre Energy sold all of its North American coal business to its largest creditor, a private equity firm registered in the Cayman Islands called Resource Capital Funds, for the cost of its other largest debts.³ Ambre Energy North America has since been renamed Lighthouse Resources, Inc. Arch Coal declared bankruptcy on January 10, 2016.⁴ The coal industry has tanked and analysts roundly reject the viability of significant capital expenditures to support coal exports.⁵

Millennium has not obtained any permits to operate a coal terminal. In the interim, Millennium uses the site as a transloading facility for other commodities. As Ecology is well aware, Ambre's coal export proposal faces unprecedented opposition from Columbia River communities, political leaders, Tribes, non-governmental organizations, and citizens across the Pacific Northwest.

Northwest Alloys' interest in the future of the Site is also uncertain. Northwest Alloys' parent company, Alcoa, experienced significant setbacks in 2015. In October 2015, Alcoa bonds plummeted after the company announced plans to split itself in two.⁶ The next month, Alcoa announced plans to shutter its Wenatchee, Washington, smelter, and lay off 400 workers at its Ferndale, Washington, facility.⁷ Prior to Alcoa's November 2015 announcement, Alcoa used the Reynolds site dock to transport alumina from ships to trains bound for Wenatchee. For years, Alcoa emphasized the connection between its investment in the future of the Reynolds site and the Wenatchee smelter. That connection no longer exists.

The public has a strong interest in understanding the financial instruments and legal agreements that Ecology will use to protect taxpayers from future cleanup costs. While the draft Consent Decree addresses financial assurances briefly, the Cleanup Action Plan lacks any description of how Ecology plans to apply the Consent Decree language in practice or, if those details are unknown, Ecology's options for ensuring the Northwest Alloys or Millennium pay for

³ <http://www.sightline.org/2014/11/26/ambre-energy-bungles-news-of-its-own-demise/>.

⁴ *Id.*

⁵ <http://www.bloomberg.com/news/articles/2015-07-13/the-latest-sign-that-coal-is-getting-killed>;
<http://www.bloomberg.com/news/articles/2015-11-08/global-coal-consumption-headed-for-biggest-decline-in-history>; <http://www.sltrib.com/home/3420366-155/global-markets-dont-want-us-coal>;

⁶ <http://www.bloomberg.com/news/articles/2015-09-28/alcoa-debt-plunges-as-bond-investors-question-future-after-split>

⁷ <http://www.bellinghamherald.com/news/local/article42310680.html>

cleanup. Commenters request that Ecology provide additional information to facilitate public input on how the state will ensure Millennium and Northwest Alloys' pay for cleanup.

Delay in Removing Columbia River Contamination

Millennium and Northwest Alloys' failure to complete cleanup of contaminated river sediment during the 2014 and 2015 in-water work windows is highly problematic. In 2014, Ecology identified the need for expedited cleanup of 0.7 acres of polluted river sediment near the wastewater outfall. Specifically, the 2014 amendment to Agreed Order No. 8940 called for removing 5,000 cubic yards of contaminated sediment during the 2014 in-water work window and, if permits were not obtained in time, during the 2015 work window. To date, Millennium and Northwest Alloys have not received permits necessary to complete the cleanup.

Millennium and Northwest Alloys' failure to obtain permits raises significant questions. First, did Millennium and Northwest Alloys' respond timely to requests for information from state and federal agencies? It is unclear if the companies are responsible for the delay in obtaining permits. Second, how can Ecology ensure that known sources of river pollution are addressed in a timely manner? In 2014 Ecology recognized the need for a rapid response cleanup and amended Agreed Order No. 8940. It is unclear how the agency worked with its sister agencies to facilitate permits for cleanup.

Moving forward, Commenters urge Ecology to work with stakeholders, Tribes, and federal and state agencies to identify specific reasons for the cleanup delay. Based on this information, Ecology should evaluate steps to ensure that the delays plaguing river cleanup at the Site are not replicated at other sites along the Columbia River or in other waterbodies.

Improving the Reactive Barrier above SU7

Commenters request that Ecology add a reactive barrier in the northeast corner above SU7 to prevent contaminants that would flow north from the Columbia River through soil contaminants in SU6. A cap, by itself, does not prevent the horizontal flow of groundwater through waste; it only controls the vertical entry of water into the waste. SU6 contains high concentrations of PAHs. In turn, Ecology should consider requiring an additional reactive barrier above SU7 to reduce the movement of contaminants of concern.

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Conclusion

The former Reynolds aluminum property is an important industrial site in Cowlitz County. Cleanup is critical to attract modern and sustainable businesses. Commenters look forward to continued opportunities for public understanding and input about this important and complex Columbia River cleanup. Please direct any questions to the undersigned at lauren@columbiariverkeeper.org.

Sincerely,

A handwritten signature in cursive script that reads "Lauren Goldberg".

Lauren Goldberg
Staff Attorney, Columbia Riverkeeper
*On behalf of Columbia Riverkeeper,
Washington Physicians for Social Responsibility,
Climate Solutions, Sierra Club,
Washington Environmental Council, and
Oregon Physicians for Social Responsibility*