

Proposed sign-on response to Governor Inslee, Ecology Director Bellon, Transportation Secretary Millar:

Governor Inslee
Ecology Director Bellon
Transportation Secretary Millar

Re: Request to temporarily halt barge based “rubblization” on Lake Washington for Highway 520 bridge demolition until records are disclosed and a process for dialogue occurs

Dear Governor Inslee, Ecology Director Bellon. and Transportation Secretary Millar.

Thank you for acknowledging in Ecology Director Bellon’s letter of June 7, 2016 to Representative Pollet that **“breaking down concrete is an activity better suited to be done on land...”** (Emphasis added). This reflects one of the fundamental concerns of tens of thousands of residents, local governments, local officials and community groups.

We are very concerned that your letter seeks to justify this as a pre-approved activity, despite acknowledging that there are better alternatives with lower risks.

Therefore, we urge Governor Inslee, Transportation Secretary Millar and Ecology Director Bellon jointly halt this activity until all relevant records are available for public review and a clear timeline for discussion as to why reasonable available alternatives are not being utilized; and, to enable the public to have confidence that all appropriate reviews of detailed plans were conducted and incorporated all reasonable efforts to avoid or mitigate potential impacts.

1. There is no explanation of why Ecology has been unable to immediately disclose / post on-line the reviews and comments on work plans leading to the approval for work to proceed on May 27 and March 28.
 - a. Asking Rep. Pollet to meet with the Ecology 520 bridge team to identify responsive records belies the fact that the administrative record of reviews should be immediately available clearly showing what new reviews enabled Ecology to approve this work or work plans on May 27. The records request submitted by numerous parties is very clear: provide the public with the reviews completed prior to approving work to proceed on May 27.
 - b. A meeting between local governments, citizen group experts and interested public officials, including Rep. Pollet, will be productive if the public has access to these records in advance, with a brief but adequate time to review how Ecology conducted its review and approval.
 - c. We look forward to scheduling such a meeting as soon as we have a schedule for receiving the requested records. Until that time, we urge that the Departments and Governor place the “unusual” activity of rubblization of the materials on barges in the middle of Lake Washington on hold.
2. Ecology acknowledges that there was **no public process associated with the modification of the work plans to increase rubblization on barges in Lake Washington** from the prior anticipated work on-land (Attachment Page 2). The fact that Ecology believes that this did not “require” public process does not make it a good

government decision to not open this up for public review and comment. Clearly, this is an example of how going beyond the minimum legal requirement would have led to better governmental decisions and avoided significant controversy.

3. Until the public can review these records for a reasonable period, we continue to urge that work be halted. When the records are posted on line or provided, a short review period with dialogue between state agencies, local governments and citizen groups would be advisable.
 - a. We appreciate the assurance that there are no significant levels of hazardous substances in the material to be broken up (although concrete dust itself is a significant pollutant and hazard for dust emissions or if it lands on, or is released into, the Lake).
However, this is an example of why the public should have access to all relevant records in order to enable citizen group and local government experts to have the same confidence which you express in this determination.
4. There has been no environmental review for barging material from demolition north to Kenmore through the navigation and berthing channels, which are far more heavily contaminated with dioxins and other contaminants than was known at the time of the original project EIS. That original EIS, in any event, never considered barging material north to Kenmore. Kenmore businesses and residents had a reasonable expectation that there would be no further barging from the 520 project.
 - a. Barging impacts include significant disturbance of the contaminated sediments, significant turbidity, and major sedimentation reducing draft depths for businesses.
 - b. There has been NO supplemental environmental analysis or other analysis of the impact of barging on disturbing the sediments, impacts on fish, health, etc....
 - c. The most recent contaminant sampling shows levels significantly above those previously known.
 - d. The lack of analysis and consideration of alternatives for this piece of the new work plan leaves the State open to significant risk that the courts would enjoin the work to review how the State considered impacts and alternatives for barging through Kenmore.
5. The letter acknowledges that the additional breakup of the bridge materials on barges is “unusual”:
“Normally, ‘coarse’ breakdown occurs on the barge, then the material is taken on land for further breakdown into pieces that fit on trucks. Doing the further breakdown on a barge is unusual, but possible, and involves the same water quality standards already required in the permit.”

This fundamentally fails to recognize the concerns of local governments, public officials and residents.

While acknowledging this work is “unusual” and that there are readily available alternatives, Ecology and WSDOT do not recognize that they have a duty to review impacts and seek to choose methods which prevent potential

significant impacts to Lake Washington or human health – regardless of whether the basic standards will be met.

However, there is no transparency allowing the public to see how Ecology reviewed the workplan to ensure that impacts were mitigated or prevented, or for the public to understand why the available alternative which avoids all further risk from the “unusual” breakup of coarse material on barges in the middle of Lake Washington.

Assuming that the basic water quality standards will be met does not assure the public that the activity will not have a significant risk of impacting health from dust, or impact Lake Washington due to dust or liquid runoffs (with dust, debris or hazardous contaminants).

6. The letter cites the proposal to move “rubblization” to Kenmore as an example of the ten additional NEPA reviews which have occurred since the original EIS. However, that proposal – now withdrawn – would have been an example of a significant change in plan for which there was no supplemental NEPA or SEPA review. The attachment to the letter acknowledges what we already knew: there was NO public process for the claimed reevaluation of the work which involves significantly more rubblization on barges than was previously disclosed.
 - a. Where is the WSDOT and Ecology review of impacts from barging north to Kenmore and comparison with available alternatives?
 - b. Ecology cannot defer its review of impacts from barging (discussed in the turbidity section of the attachment to Rep. Pollet) to an agreement between the contractor KGM and the City of Kenmore. Prior barging for construction had significant impacts which mitigation plans did not prevent. Ecology and WSDOT have an obligation under SEPA and other statutes to review the barging plan in regard to those impacts and reasonable alternatives – particularly in light of the acknowledgement that there is a readily available alternative to barging the materials north through the contaminated, shallow Kenmore channel at the north end of Lake Washington.
7. The attachment with specific responses to Rep. Pollet’s letter states that there will be NO runoff (emphasis added). However, there have been numerous admissions that dust suppression will be necessary. Unless 100% effective, it would seem that there would be dust releases to the water, even if all dust suppression liquids were captured on the barges. This is an example of records which were requested to enable independent review and confidence in this claim.
8. How could Ecology’s approval on March 28, 2016 of the Water Quality Monitoring and Protection Plan have covered all the activities for the new rubblization on barge plan, when the plan as of March was to do the majority of the rubblization on land in Kenmore? (Attachment to letter at page 4 says Ecology issued that approval on March 28). Ecology acknowledges that the new rubblization plan involves much more rubblization work on barges than the prior plan.
 - a. How can the public be assured that there will be no accidents or unplanned releases?

- b. The potential for unplanned releases is one reason why SEPA requires review of alternatives, which might avoid those impacts.
- c. How can Ecology respond effectively to unplanned releases when WSDOT is only required to notify Ecology within 24 hours of a release – long after it has dissipated in Lake Washington and conditions have changed?

We look forward to having an informed dialogue on an accelerated timeline that is enabled by a pause in the activity.

Sincerely,

Sign-Ons