



STATE OF WASHINGTON  
**DEPARTMENT OF ECOLOGY**

Northwest Region Office  
PO Box 330316, Shoreline, WA 98133-9716 • 206-594-0000

December 11, 2024

Molly McGuire, Senior Planner  
Community Planning & Development Department  
City of Mercer Island  
9611 SE 36<sup>th</sup> St  
Mercer Island, WA 98040

**Re: Bauman Critical Areas Reasonable Use Exception  
File# SEP24-017, Ecology SEPA# 202404985**

Dear Molly McGuire:

Thank you for the opportunity to provide comments on the State Environmental Policy Act (SEPA) notice of application utilizing the optional determination of nonsignificance (ODNS/NOA) process for the Bauman Critical Areas Reasonable Use Exception project. Based on review of the checklist associated with this project, the Department of Ecology (Ecology) has the following comments:

**TOXICS CLEANUP PROGRAM**

Kim Vik, (206) 556-5258, [kim.vik@ecy.wa.gov](mailto:kim.vik@ecy.wa.gov)

The proposal includes the demolition of an existing residence. The King County property database indicates the existing residence was built in 1953, during a time when furnaces fueled by heating oil underground storage tanks (USTs) were common. Although King County records show that the heating source for the existing house is gas, based on the age of the house, there is a potential that a former, inactive heating oil UST may be present on the property. If a UST is encountered during demolition activities, it must be decommissioned in accordance with local fire department regulations.

In addition, if soil or groundwater contamination is encountered during UST decommissioning or construction activities, the contamination must be reported to Ecology (<https://ecology.wa.gov/Footer/Report-an-environmental-issue>), characterized, and cleaned up in accordance with Ecology regulations (WAC 173-340). Ecology strongly recommends working with an environmental professional to assist with UST

decommissioning and with regulatory compliance requirements should soil or groundwater contamination be encountered.

### **TOXICS CLEANUP PROGRAM**

Diana Ison, (360) 999-9593, [diana.ison@ecy.wa.gov](mailto:diana.ison@ecy.wa.gov)

The proposed project is located in an area that may have been contaminated with heavy metals due to the air emissions originating from the old Asarco smelter in north Tacoma (visit Ecology's Tacoma Smelter Plume map search tool:

<https://apps.wa.gov/ecy/dirtalert/>).

Soil contamination from the former Asarco smelter poses a risk to human health and the environment. Children are at especially high risk from direct exposure to contaminated soil. Construction workers, landscapers, gardeners, and others who work in the soils are also at risk.

Ecology recommends that the lead agency include the following as conditions of approval, prior to the issuance of any site development permits or the initiation of grading, filling, or clearing:

- Sample the soil and analyze for arsenic and lead following the [2019 Tacoma Smelter Plume Guidance](#). The soil sampling results shall be sent to Ecology for review.
- If lead or arsenic are found at concentrations above the Model Toxics Control Act (MTCA) cleanup levels (Chapter 173-340 WAC); the owners, potential buyers, construction workers, and others shall be notified of their occurrence. The MTCA cleanup level for arsenic is 20 parts per million (ppm) and lead is 250 ppm.
- If lead, arsenic and/or other contaminants are found at concentrations above MTCA cleanup levels, the applicant shall:
  - 1) Develop soil remediation plan and enter into the Voluntary Cleanup Program with Ecology. For more information on the Voluntary Cleanup Program, visit Ecology website at: <https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Cleanup-process/Cleanup-options/Voluntary-cleanup-program>.
  - 2) Obtain an opinion letter from Ecology stating that the proposed soil remediation plan will likely result in no further action under MTCA. The applicant shall provide to the local permitting agency the opinion letter from Ecology.

- 3) Prior to finalizing site development permits, provide to the local land use permitting agency “No Further Action” determination from Ecology indicating that the remediation plans were successfully implemented under MTCA.
- If soils are found to be contaminated with arsenic, lead, or other contaminants, extra precautions shall be taken to avoid escaping dust, soil erosion, and water pollution during grading and site construction. Contaminated soils generated during site construction shall be managed and disposed of in accordance with state and local regulations, including the Solid Waste Handling Standards regulation (Chapter 173-350 WAC). For information about soil disposal contact the local health department in the jurisdiction where soils will be placed.

The link below provides a fact sheet that explains more how the arsenic and lead clean-up levels were set and why Ecology sees that they are protective for human health:  
<https://fortress.wa.gov/ecy/publications/SummaryPages/1109095.html>.

Thank you for considering these comments from Ecology. If you have questions or would like to respond to these comments, please contact one of the commenters listed above.

Sincerely,



Kelli Price  
SEPA Coordinator

Sent by email: Molly McGuire, [molly.mcguire@mercerisland.gov](mailto:molly.mcguire@mercerisland.gov)

ecc: Kim Vik, Ecology  
Diana Ison, Ecology