Cleanup Settlement Account Annual Report

Fiscal Year 2021

By

Pallavi Mukerjee

For the

Toxics Cleanup Program

Washington State Department of Ecology

Olympia, Washington

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Contact Information

Toxics Cleanup Program

P.O. Box 47600
Olympia, WA 98504-7600
Phone: 360-407-7170

Website:

https://ecology.wa.gov/About-us/Contact-Us

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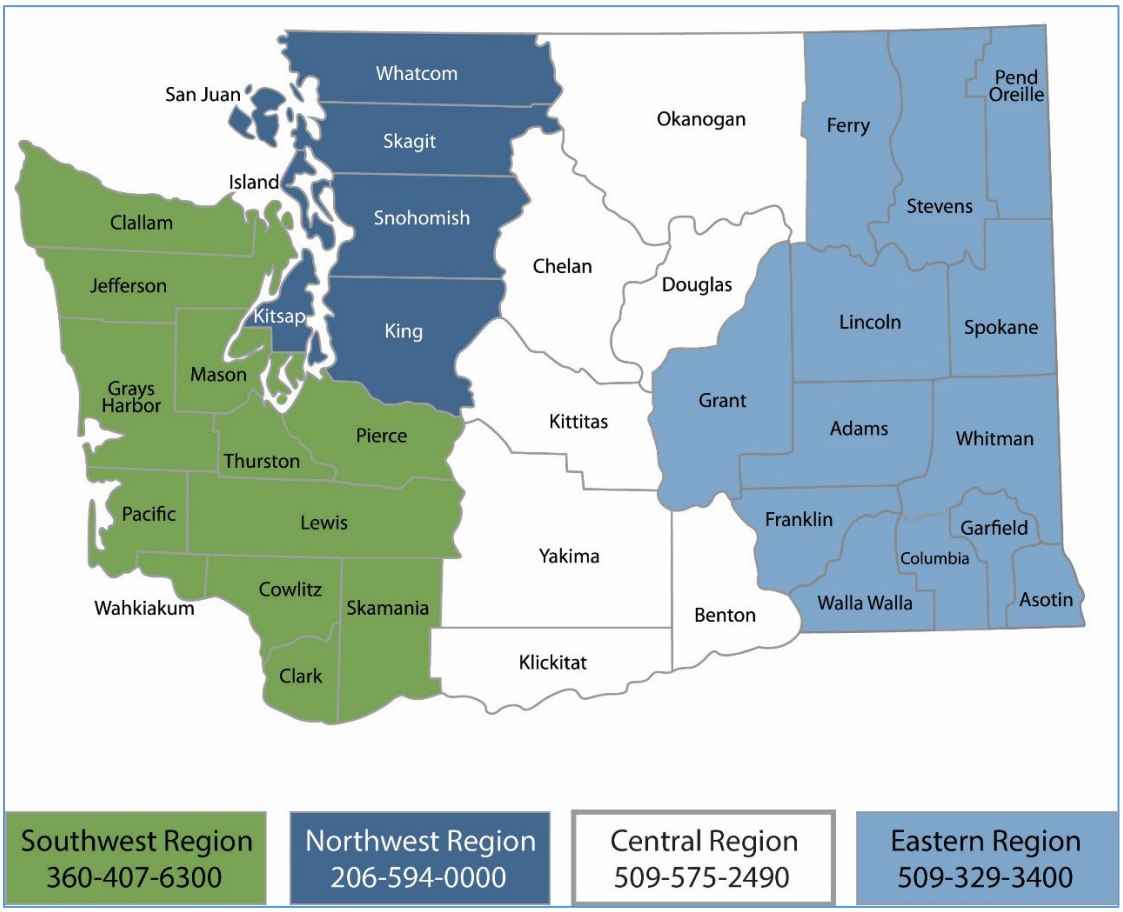
Department of Ecology's Regional Offices

Map of Counties Served



Region	Counties served	Mailing Address	Phone
Southwest	Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Mason, Lewis, Pacific, Pierce, Skamania, Thurston, Wahkiakum	PO Box 47775 Olympia, WA 98504	360-407-6300
Northwest	Island, King, Kitsap, San Juan, Skagit, Snohomish, Whatcom	PO Box 330316 Shoreline, WA 98133	206-594-0000
Central	Benton, Chelan, Douglas, Kittitas, Klickitat, Okanogan, Yakima	1250 W Alder St Union Gap, WA 98903	509-575-2490
Eastern	Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman	4601 N Monroe Spokane, WA 99205	509-329-3400
Headquarters	Across Washington	PO Box 46700 Olympia, WA 98504	360-407-6000

Cleanup Settlement Account
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State of Washington

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Executive Summary

Purpose of the report

This document is a report to the Washington State Legislature that shows how the Department of Ecology (Ecology) uses the Cleanup Settlement Account (CSA) to distribute funds to specific cleanup projects. This is the **ninth** annual report for this account. It describes the financial activity in the Cleanup Settlement Account from July 1, 2020, to June 30, 2021. This report is required by RCW 70A.305.130(7), which states:

"The department shall provide the office of financial management and the fiscal committees of the Legislature with a report by **October 31st** of each year regarding the activity within the cleanup settlement account during the previous fiscal year."

The statute creating the CSA is codified in RCW 70A.305.130 (see Appendix A).

Role of the Cleanup Settlement Account

Under the state's Cleanup Law, the Model Toxics Control Act (MTCA), Ecology either supervises cleanup work performed by potentially liable persons or directly conducts the cleanups. When possible Ecology recovers cleanup costs, including staff time. However, this isn't always possible when a company declares bankruptcy or does not have the financial means to pay the full cleanup cost.

To help resolve this situation, the Legislature created the Cleanup Settlement Account. This account creates a financial reserve by holding funds from legal settlements and court orders meant for environmental cleanup and restoration work. It is an interest bearing account that allows the state to use the interest on deposited funds for cleanup activities both in the present, and in the future. Because of this, Ecology and the Attorney General's Office can enter into settlements in which a potentially liable person contributes money for future cleanup work or restoration of a natural resource.

The Cleanup Settlement Account funds projects throughout the state, and makes sure that settlement funds are linked to specific contaminated sites.

Cleanup Settlement Account moves cleanup projects forward

The Cleanup Settlement Account moves vital cleanup projects forward by cleaning up pollution, supporting sustainable communities, and improving natural resources for current and future generations.

The following cleanup and restoration projects are currently funded through the Cleanup Settlement Account:

- B&L Woodwaste (Pierce County)
- Everett Smelter Site (Snohomish County)
- Golden King Mine (Chelan County)
- Harper Estuary (Kitsap County)
- McNeil Island (Pierce County)
- Monte Cristo Mine (Snohomish County)
- Ross Point (Kitsap County)
- Tacoma Smelter Plume (Pierce, King, and Thurston Counties)
- Van Stone Mine (Stevens County)

Settlements were reached for the following cleanup projects in the last year, resulting in deposits into the Cleanup Settlement Account.

- Time Oil (King County)
- Pacific Wood Treating (Clark County)

The following cleanup projects were funded in past years through the CSA:

- BNSF Skykomish Natural Resource Damages (King County)
- City Parcel Site (Spokane County)
- Cholette Mine (Stevens County)
- Lilyblad (Pierce County)
- Maury Island Open Space Acquisition (King County)

The projects and the work currently being supported by the CSA are discussed in more depth in this report. It also summarizes the two projects that will be supported in the future.

Additional funding will be needed to complete some cleanup projects

At the end of Fiscal Year 2021, the remaining balance in the Cleanup Settlement Account was $60,144,000.

While the Cleanup Settlement Account is an important repository of funds for many projects, it is often insufficient to fund complete cleanups. In the future, as settlement funds are spent, we

will need to rely on alternative sources of funding to move several cleanup projects forward. We anticipate some of the Asarco Settlements will be spent before cleanup is complete.

For the Tacoma Smelter Plume site, we expect to spend remaining settlement funds by the 2025-27 biennium. For the Everett Smelter site, the Legislature appropriated moneys from the Model Toxics Control Capital Account in both the 2019-21 and 2021-23 biennium to help fund ongoing work as we spend down the remaining settlement funds.

Figure 1, (the map on the next page) shows the location of the Cleanup Settlment Account projects. It shows the sites not covered in the report, funded in thepast two years by the above account, and Asarco site but Cleanup Settlement Account funds not from Asarco bankruptcy.

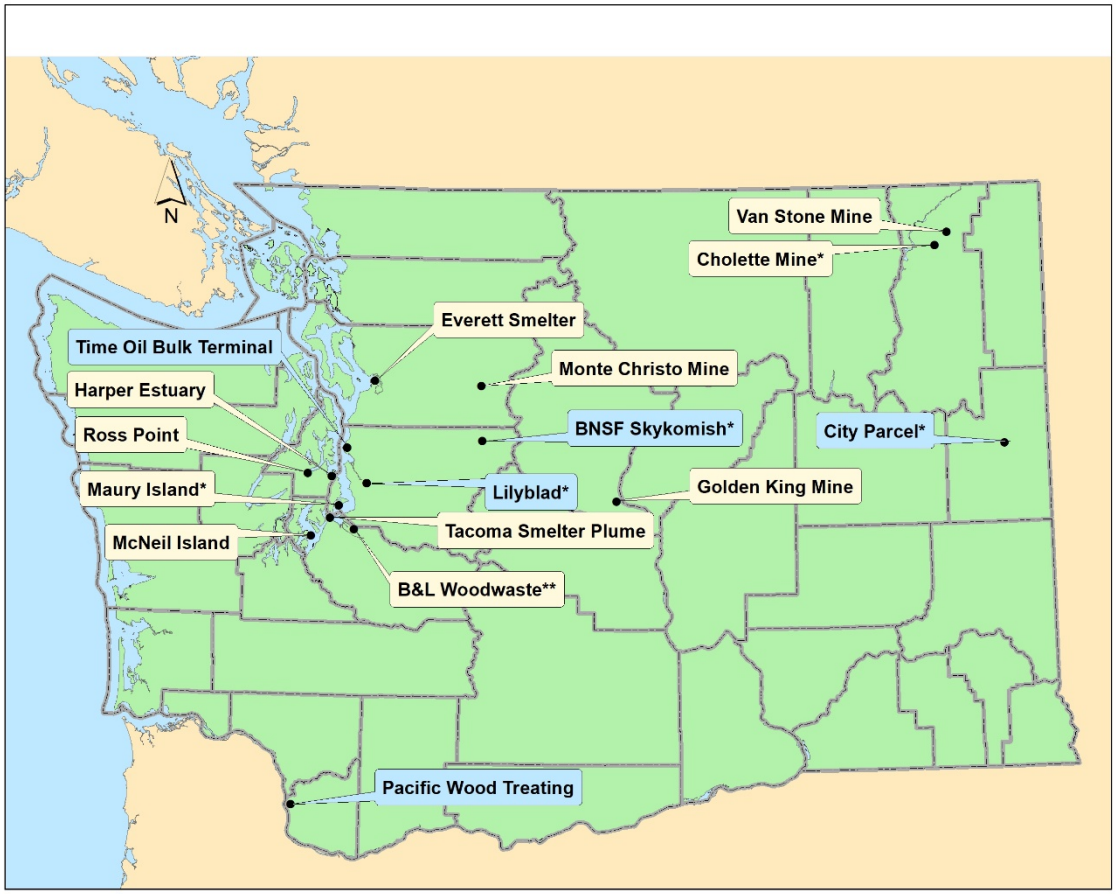

Figure 1: Map showing locations of Cleanup Settlement Account Projects

* Sites not covered in the report; funded in past years by Cleanup Settlement Account.

** Asarco site but Cleanup Settlement Account funds not from Asarco bankruptcy.

Asarco Related Sites: Tacoma Resource Damages (Harper Estuary, Maury Island Open Space Acquisition, McNeil Island, and Ross Point) B&L Woodwaste, Tacoma Smelter Plume, Golden King Mine, Monte Cristo Mine, Everett Smelter Site, Cholette Mine, Van Stone Mine.

Other Sites: BNSF Skykomish, City Parcel, Lilyblad, Pacific Wood Treating, Time Oil Bulk Terminal.

Cleanup Settlement Account

Background

During the 2008 legislative session, the Legislature passed Senate Bill 6722 that created the Cleanup Settlement Account. Ecology requested this legislation to create an interest-bearing account in the state treasury to manage money from settlements or court orders in cases of bankruptcy, limited ability to pay, or natural resource damages. This account ensures that settlement funds are linked to specific site cleanup activities or damages to natural resources. The statutory provision was codified in RCW 70A.305.130 (see Appendix A).

Ecology requested this new account because we expected to receive several large settlements. Although large settlements and court orders are unusual, they pose problems for the state. By accepting the settlement funding, the state agrees to manage the funds and use them as intended in the settlement agreement or court order. However, funds recovered from a bankrupt party, or a party with a limited ability to pay, typically do not cover the complete cost of cleanup. The Cleanup Settlement Account allows the state to retain earned interest on the funds in this account. This provides the state with additional money over time to complete the work.

Settlement summary

Table 1 provides a summary of settlements, by site, that the State originally deposited into the Cleanup Settlement Account before earning any interest or making any expenditures. Table 2 shows activity in the Account after the settlements were deposited. Table 3 summarizes loan repayments made to the Account in FY 2021 (see pages 10-11).

Table 1: Original settlement summary

Settlement	Amount
Burlington Northern Sante Fe - Skykomish Site^*	$ 5,050,000
City Parcel Site*	$ 270,000
Louisiana Pacific - B & L Woodwaste Site	$ 1,000,000
Lilyblad Petroleum Site*	$ 800,000
Pacific Wood Treating Site	$ 2,264,037
Time Oil Bulk Terminal Site	$ 1,500,000
Asarco - Natural Resource Damages**	$ 8,236,782
Asarco - Tacoma Smelter Plume	$ 94,554,730
Asarco - Everett Smelter Site	$ 33,888,476
Asarco - Monte Cristo Mine	$ 6,471,758
Asarco - Van Stone Mine	$ 3,530,050
Asarco - Cholette Mine*	$ 353,005
Asarco - Golden King Mine	$ $470,673
Asarco Subtotal	**$ 147,505,474**
Total Settlement Funding	**$ 158,389,511**

^ Ecology used this settlement to fund a portion of the cleanup. If Ecology determines there are future site costs, we will make a future budget request.

* Sites not covered in the report; funded in past years by Cleanup Settlement Account.

** This includes $4.1 million for Maury Island Open Space and $4.1 million for Harper Estuary, McNeil Island, and Ross Point in Sinclair Inlet.

Table 2: Cleanup Settlement Account Fund Balance

Cleanup Settlement Site	Fund Balance
Louisiana Pacific - B&L Woodwaste site*	$ 1,152,000
Pacific Wood Treating Site	$ 2,276,000
Time Oil Bulk Terminal Site+	$ 301,000
Asarco - Natural Resource Damages	$ 662,000
Asarco - Tacoma Smelter Plume*	$ 45,379,000
Asarco - Everett Smelter Site	$ 3,820,000
Asarco - Monte Cristo Mine*	$ 3,756,000
Asarco - Van Stone Mine*	$ 2,287,000
Asarco - Golden King Mine*	$ 511,000
Remaining Fund Balance June 30, 2021	**$ 60,144,000**

* The Cleanup Settlement Account retains interest. Settlements that increased from the last report had loans repaid or no or few expenditures and earned interest.

+ The conditions of the settlement included $300,000 upon the closure of the bankruptcy trustee sale of the property. The remaining $1,200,000 will be paid within four years of that date.

Table 3: Cleanup Settlement Account actual loan receipts for Fiscal Year 2021

Loans Receivable	Actual Receipts
Total Point Ruston Sediment Capping and Shoreline Restoration Loan	**$ 1,270,000**
Aquatic Lands Enhancement Account	$ 635,000
Model Toxics Control Operating Account	$ 635,000
Model Toxics Control Stormwater Account	**$ 7,770,000**
Total Actual Loan Receipts for Fiscal Year 2021	**$ $9,040,000**

Repayments

Point Ruston sediment capping and shoreline restoration

In the 2012 supplemental budget, the Legislature appropriated $7.2 million from the Cleanup Settlement Account to the Washington Department of Natural Resources (DNR) for the Point Ruston Sediment Capping and Shoreline Restoration project. The funding was provided to cap sediment and stabilize shorelines on aquatic lands next to the Asarco cleanup site in Commencement Bay.

This funding was restricted, to be used only after DNR entered into agreements with the U.S. Environmental Protection Agency or the landowner, Point Ruston LLC, to fully relieve the state from further liability or obligations relating to the cleanup of these aquatic lands. The appropriation from the Cleanup Settlement Account was a loan payable over an eight-year period.

Half of the funding came from the Aquatic Lands Enhancement Account and half from the State Toxics Control Account. The interest rate is five-tenths of one percent higher than what the funds would have normally earned on deposits in the state treasury. In 2019, the Legislature restructured the Model Toxics Control Act accounts (Engrossed Substitute Senate Bill 5993). The State Toxics Control Account was abolished and future repayment of this loan was directed to the new Model Toxics Control Operating Account.

The final loan repayments of $1,270,000 were completed in Fiscal Year 2021.

Maintaining positive balances in MTCA accounts

In the 2015-2017 capital budget, the Legislature authorized two loans totaling $23 million from the Cleanup Settlement Account to balance the MTCA accounts. The loans must be repaid with interest. The Washington State Treasurer transferred one of these loans for $13 million from the Cleanup Settlement Account to the Local Toxics Control Account (LTCA) in January 2016. The Washington State Treasurer transferred the second loan of $10 million from the Cleanup Settlement to the Local Toxics Control Account on June 30, 2017.

As stated above, in 2019, the Legislature restructured the MTCA accounts (Engrossed Substitute Senate Bill 5993). The Local Toxics Control Account was abolished and future repayment of this loan was directed to the new Model Toxics Control Stormwater Account.

The final loan repayments of $7,770,000 was completed in Fiscal Year 2021.

Asarco Settlement

Asarco's legacy in Washington

Contamination from smelters and mines

The American Smelting and Refining Company (Asarco) was founded in 1899, with refineries and smelters located across the United States and Mexico. Asarco operated two smelters and four mines in Washington, leaving a legacy of contamination. Cleanup activities around these smelters and mines in Washington are funded through the Cleanup Settlement Account and other fund sources as needed.

The Everett Smelter operated from 1894 to 1912, and later, a neighborhood was built over the site. In 1990, we discovered high levels of arsenic and other heavy metals in soil and groundwater.

The Tacoma Smelter operated far longer, from 1890 to 1986, and the Town of Ruston grew up around it. Air emissions from the smelter contaminated over 1,000 square miles of soil in the Puget Sound region, covering King, Pierce and Thurston counties (see Figure 2).

The four former mines are in remote areas of Chelan, Stevens, and Snohomish counties. Remaining mine tailings pose a threat to local ecosystems, polluting waterways and soil.

The B&L Woodwaste Landfill, on the border of Fife and Milton, is contaminated with arsenic. Slag from the Asarco plant leached arsenic into groundwater, threatening a nearby wetland.

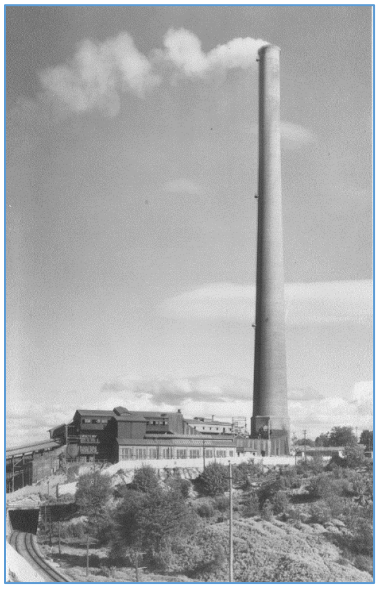

Figure 2: Tacoma Smelter smokestack

The 2009 Asarco bankruptcy settlement

Washington- part of the nation's largest settlement

In 2005, Asarco declared bankruptcy, largely due to environmental liabilities from its nearly 100 cleanup sites across the country. The State of Washington joined the federal government and other states in a lawsuit against Asarco that spanned four years.

In November 2009, Asarco paid out a $1.79 billion settlement. The settlement covered past and future cleanup costs, as well as interest earned over the four years. Washington's share, deposited into the Cleanup Settlement Account in December of 2009, was $188.5 million—nearly 90 cents for every dollar claimed.

Years of planning and vision for successful cleanups

The key to Washington's success is creating and implementing management plans for both smelter sites, and a clear vision for how to manage the risk from "area-wide" arsenic and lead contamination.

From 2001-2003, the Area Wide Soil Contamination Task Force developed recommendations that we used as the basis for our management strategies. These include cleaning up soil in the most highly contaminated areas, focusing on protecting children, and providing broad-based education and outreach, all of which are funded by the settlement.

Asarco settlement breakdown

Smelter cleanups— the largest cleanup costs

Of the $188.5 million received by the state, $22 million has gone to a trust to pay for the B&L Woodwaste Landfill cleanup. The rest went to two smelter sites and four mine sites (see Figure 3). An additional $19 million in settlement funds reimbursed the State Toxics Control Account (abolished and restructured into new accounts in ESSB 5993) for past cleanup costs for the Everett Smelter and Tacoma Smelter Plumes. It also provided $8.2 million for natural resource damages from the Tacoma Smelter. The majority of the Asarco settlement will cover soil cleanup and outreach work for the two smelter sites.

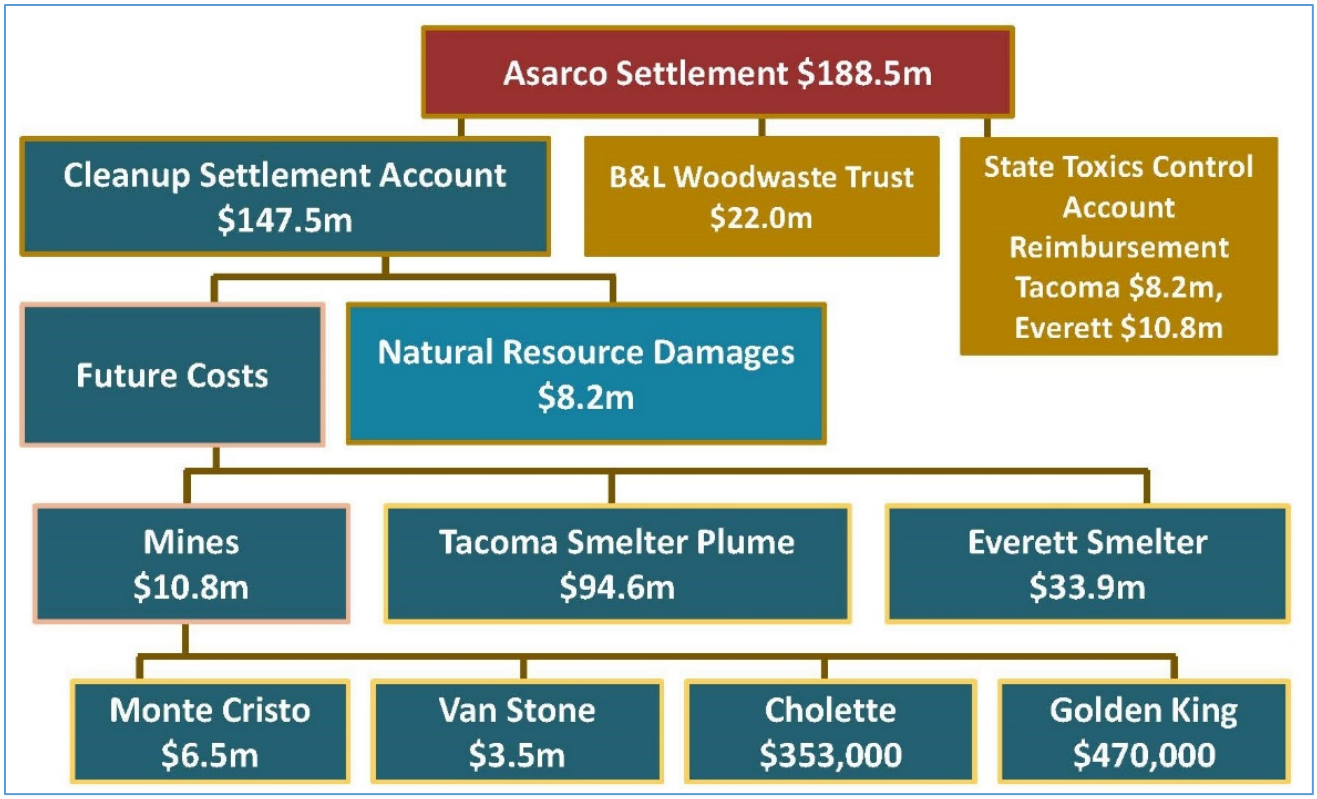

Figure 3: Asarco settlement breakdown

Everett Smelter

At a glance

- **Total settlement:** $33.9 million
- **County:** Snohomish
- **Total size:** 1.1 square miles
- **Cleanup focus:** Soils and groundwater

The smelter operated from 1894 to 1912 in northeast Everett. Smelter operations created widespread arsenic and lead contamination of soil and groundwater. Particles from smokestacks settled on surface soils over a 1.1 square mile area (see Figure 4).

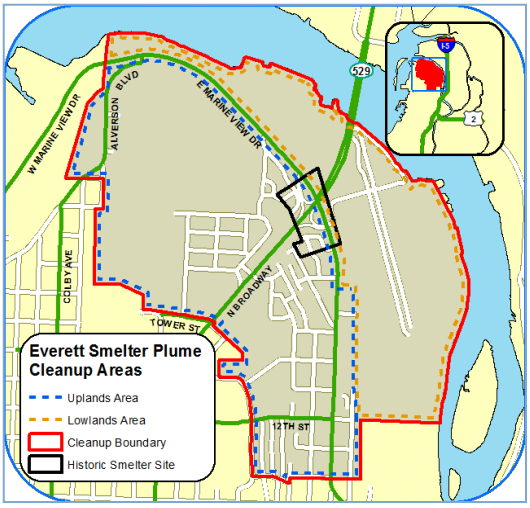

Figure 4: Everett Smelter Site

Settlement spending plan

In 2000, we developed a cleanup plan for the Everett Smelter using public input. After receiving the Asarco settlement, Ecology created a spending plan for settlement money (see Figure 5), based on the original cleanup plan and further input from the community. The plan addresses two areas impacted by the Everett Smelter operations: the mostly residential uplands area on the west side of the site, and the mostly industrial lowlands area east of East Marine View Drive, bordering the Snohomish River. Our plan includes:

Residential soil sampling and cleanup program: This voluntary program provides free sampling and cleanup of accessible soils down to 2-3 feet.

Education and outreach: This program serves both the general community and homeowners participating in the cleanup program.

Lowlands investigation and cleanup: We are investigating groundwater and sediment contamination in the lowlands area. We will contain contamination to prevent it from entering the Snohomish River and do long-term monitoring.

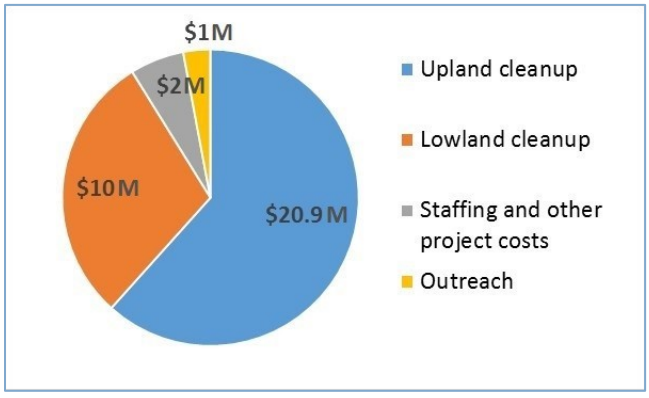

Figure 5: Everett breakdown of smelter money

Cleanup focuses on those most at risk

The Everett Smelter cleanup protects residents who are most at risk. People who live in the cleanup area are most likely to come into contact with contaminated soil while working or playing in their yards. Children are especially vulnerable. We began sampling and cleanup in areas closest to the former smelter site and will move outwards to properties further away as the work continues. We will remove soil with higher levels of contamination first to protect those who are most at risk.

Figure 6: Ecology staff meet with landowners before developing cleanup plans

Accomplishments -Fiscal Year 2021

Yard sampling and cleanups continue

We cleaned up more than half of the properties in the cleanup area. Through May 2021, we offered residential soil sampling to over 80 new owners . We also offered sampling to owners who were not responsive in the past. Approximately 25 of the total owners who were contacted responded. We will complete sampling for them during the summer of 2021.

The impacts of the pandemic limited cleanup activities on the Everett Smelter site during Fiscal Year 2021. We were unable to hire due to the state-mandated hiring freeze. We were also substantially delayed in contracting for architecture and engineering (A&E) services and hiring construction crews due to a spending freeze on contracts and equipment. Community outreach and site visits were also curtailed during the Governor's stay-at-home executive order.

We received an exemption from the hiring and contract freeze in January 2021, and moved forward to finalize an Architecture and Engineering (A&E), services contract to provide construction-level site plans for 21 property owners with existing cleanup plans as well as the 40 property owners for which cleanup plans are in progress. The contract was finalized in June 2021. These projects will move forward in the 2021-23 biennium.

Additional funding is needed to continue with cleanup and sampling

We initially estimated the Everett Smelter site clean up to cost around $64 million. We have dedicated $33.9 million of the 2009 settlement funds to the Everett Smelter cleanup.

During the 2019 legislative session, the City of Everett worked with its legislative representatives to fund an accelerated plan to clean up Everett neighborhoods. In the 2019-21 biennium, we received an appropriation of $5,492,000 from the Model Toxics Control Capital Account to fund ongoing work at the Everett Smelter site. In the 2021-23 biennium, Ecology received $10.8 million from the Model Toxics Control Capital Account to continue cleanup activities for the Everett Smelter site. That funding and any remaining settlement funds will be used to:

- Clean up residential properties in the Northwest and Delta Neighborhoods.

- Sample the remaining residential properties in the Delta and Northwest Neighborhoods.
- Support outreach and cleanup work for residential properties.
- Conduct post-cleanup monitoring to ensure effectiveness of the cleanup at the Marine Drive intersection.
- Complete storm drain lining and complete a cleanup design study to reduce risk of contamination to the Snohomish River from contamination within the lowland cleanup area.
- Begin cleanup engineering design for areas in the lowlands.

To complete this work, we estimate it will require an additional appropriation of $14 million through the 2029-31 biennium. Funding estimates include our cleanup project staff dedicated to the Everett Smelter site work and estimated cleanup costs.

Tacoma Smelter Plume

At a glance

- **Total settlement:** $94.6 million
- **Counties:** Pierce, King, Thurston
- **Total size:** Over 1,000 square miles
- **Cleanup focus:** Surface soils

The Tacoma smelter operated from 1890 to 1986, on the border of north Tacoma and the town of Ruston. Its smokestack emissions dispersed arsenic, lead, and other heavy metals across a 1,000 square mile area now called the Tacoma Smelter Plume.

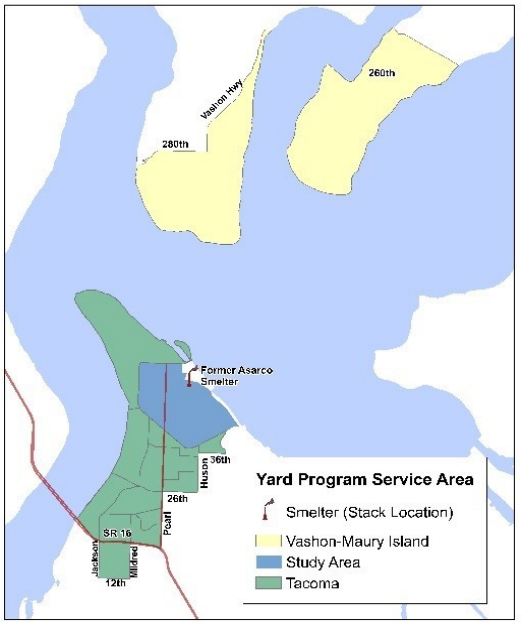

Figure 7: Tacoma Smelter Plume yard program service area.

Settlement spending plan

Using lessons from early cleanup work, Ecology developed a plan for the Asarco settlement. The plan has four main strategies:

Yard cleanups: Soil replacement for existing residential yards in areas of highest contamination (see Figure 7).

Soil Safety Program: Soil sampling and cleanup at school, childcare, park, and camp play areas.

Outreach and education: Provide Dirt Alert outreach programs through health departments in King and Pierce counties.

Technical assistance: Work with local governments and developers to encourage voluntary cleanup during development or redevelopment.

Additional funding for the future

The state made a bankruptcy claim for future environmental remediation costs for $112.7 million and received $94.6 million. We have managed this money resourcefully over the last 11 years.

The Cleanup Settlement Account funds available for Tacoma Smelter Plume work, including interest earned on the settlement, was $102,498,000. As of Fiscal Year 2021, we have spent $57,119,000. The actual fund balance is $45,379,000, which is not enough to cover the entire cost of estimated future cleanup activities.

The remaining funds for the Tacoma Smelter Plume are expected to be depleted by Fiscal Year 2026 or 2027 (see Figure 8). By then, we estimate that 200 of the nearly 1,200 yards qualifying for soil replacement will still need cleanup.

With an additional $15 million in other funds, we will be able to complete the remaining yard cleanups and continue outreach in the impacted communities. As we expect future

appropriations from another fund to be in smaller amounts, we plan to reduce staffing and the number of yards completed each fiscal year. The work will be spread out over the next four biennia (Fiscal Years 2028 through 2033). Ongoing education and outreach will be necessary for the foreseeable future.

We are working to address the highest levels of contamination that affect human health in yards, parks, schools, and childcares, to protect the most vulnerable population for the foreseeable future. However, the contamination will always remain in the Tacoma Smelter Plume. It is spread over a vast area of 1,000 square miles and it can't be entirely cleaned up with the state's limited resources.

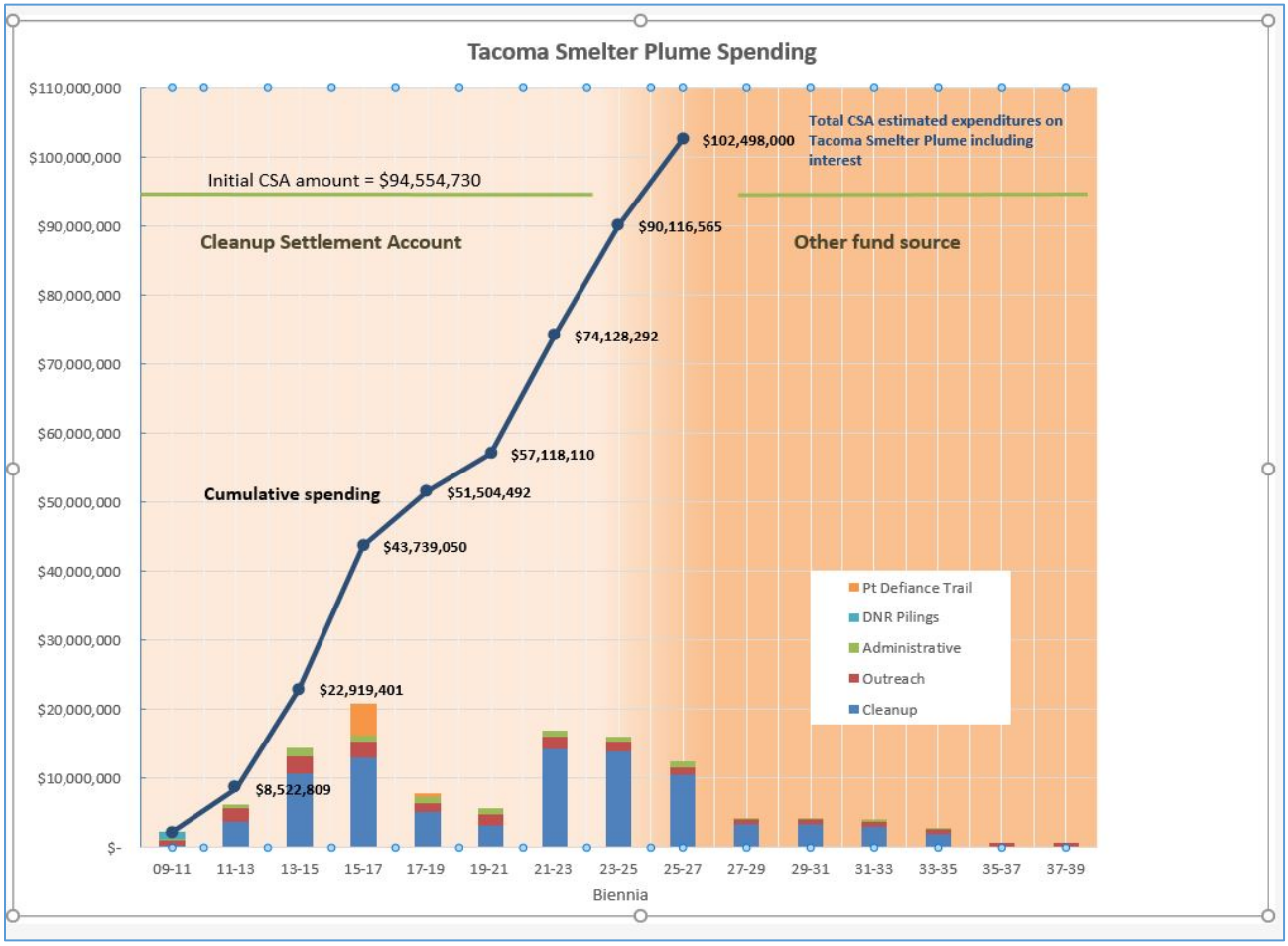

Figure 8: Tacoma Smelter Plume spending graph

Accomplishments through Fiscal Year 2021

Restarting planning and cleanup of residential yards and childcare play areas

We restarted planning, design, and cleanup projects that were delayed in FY 2021 due to COVID-19. We were able to continue one public works contract to replace soil in residential yards. But we were unable to fill vacancies or contract to plan future yard cleanups due to the state-mandated hiring and contracting freeze.

- In FY 2021, we completed soil replacement work that started in June 2020 on a group of 28 residential properties.
- In May 2021, we put two groups of properties out to bid. One group includes 21 residential properties and a childcare. The other group is mostly funded by the U.S. Environmental Protection Agency and includes four residential properties.

Planning work restarted in May 2021 for future residential yard and childcare play area cleanups. We hope to complete plans for 2022 work for about 50 residential properties, including three childcare play areas.

As of 2021, there are 1,196 residential yards that qualify for soil replacement. The Yard Program guidelines recommend soil replacement for yards with arsenic levels above 100 parts per million (ppm) or lead levels above 500 ppm and providing education to properties with lower levels of contamination. To date, we have replaced soil in 325 yards.

The Soil Safety Program continues to sample new childcare play areas and replace soil or complete other actions in play areas with average arsenic or lead levels above the state cleanup level. The state cleanup level is 20 ppm for arsenic and 250 ppm for lead. The lower action levels for the Soil Safety Program enable Ecology to be more protective in areas where large numbers of children play.

Figure 9: Free Soil Testing Advertisement

Figure 10: Soil replacement in progress

Dirt Alert! Behavior change for social good

Since 2000, we partnered with the Tacoma-Pierce County Health Department (TPCHD), and Public Health – Seattle & King County (PHSKC), to provide outreach and education to residents living in the Tacoma Smelter Plume. The health departments encourage everyone to change their behaviors by taking healthy actions to reduce exposure to lead and arsenic-contaminated soil. Healthy actions are simple practices that include gardening with gloves, washing and peeling fruits and vegetables, removing shoes at the door, and covering bare patches of soil in the yard.

In FY 2021, the COVID pandemic impacted our outreach and education work. The health departments needed to find different ways to connect with community members such as virtual meetings. Our partners at the health departments were deployed to help their communities with pandemic related issues. While Dirt Alert education was reduced, here are some important highlights.

Highlights of PHSKC outreach

- PHSKC continued to successfully partner with Tilth Alliance, a nonprofit organic gardening and urban ecology organization. Tilth Alliance works with gardeners in the community to build a sustainable, healthy, and equitable food future. When working with community gardeners, Tilth Alliance includes Dirt Alert information on safe gardening, such as gardening in raised beds. Tilth Alliance developed demonstration garden sites in South King County.
- PHSKC is partnering with new organizations to deliver messages to communities that have not been reached in the past.

Highlights of TPCHD outreach

Get Covered Project

TPCHD piloted the Get Covered Project, encouraging property owners to cover bare patches of soil. Covering bare patches protects children and pets from arsenic and lead contaminated soil. TPCHD partnered with Tacoma Boys, a local business with a location near the Yard Program area, to offer a coupon for two free bags of play chips to cover bare patches. TPCHD offered Get Covered toolkits to nearly 2,500 residents in the Yard Program Service Area. The toolkits included brochures, a nail brush, dust cloth, and the coupons for play chips. Over 100 Get Covered toolkits were requested and sent out. Nearly 50 residents redeemed their coupons at Tacoma Boys. Most of the residents covered or planned to cover bare patches in their yards where children play.

Figure 11: Post card for Get Covered Project

Community Garden Sign Project

Gardeners are curious about whether it is safe to grow vegetables within the Tacoma Smelter Plume. The Community Garden Sign project offers signs to community gardens within the Tacoma Smelter Plume. These signs direct the public to the Tacoma-Pierce County website where they can access information on safe gardening—such as using raised garden beds with soil brought in from a soil vendor. The website also provides safety tips known as "Healthy Actions" to protect children and pets from coming into contact with arsenic and lead in their yards at home.

Figure 12: Community garden sign

Technical Assistance

Through our Voluntary Cleanup Program (VCP), we provide free technical advice to property owners and developers who clean up arsenic and lead contamination on their properties. We collaborate with local permitting offices in King, Pierce, and Thurston counties to encourage developers to remediate contaminated soil during property development.

In FY 2021, 43 developers and property owners sampled their properties for arsenic and lead. 29 properties had arsenic and lead levels below the cleanup level and did not enroll into the VCP. 14 properties had arsenic and lead above the cleanup level and joined the VCP. Ecology reviewed cleanup plans and reports. Six developers have already cleaned 44 acres of contaminated soil within the plume in the last fiscal year. Ecology determined no further action is required on these six properties. Eight remaining properties that joined the VCP in 2020 and 2021 are in the process of cleanup.

Figure 13: An Industrial Development in Lacey During Cleanup and Development in 2020

Figure 14: A completed Industrial Development at Lacey Construction on cleaned land

Harper Estuary, McNeil Island, and Ross Point

At a glance

Funding source: Tacoma Smelter Plume Natural Resource Damage settlement is $4.1M of the $8.2M total amount.

Projects: The settlement has been used to help fund the following three restoration projects by the Washington Department of Fish and Wildlife (WDFW), including one joint project with Kitsap County:

- **Harper Estuary**: The Harper Brick and Tile Company operated at Harper Estuary until the 1930s, when it was demolished. WDFW is leading restoration efforts with assistance from Kitsap County (see Figure 15).
- **McNeil Island Shoreline and Estuary**: WDFW restored shoreline at the Barge Landing site and is restoring the Milewa Creek Estuary on the Island.
- **Ross Point in Sinclair Inlet**: WDFW is restoring shoreline at Ross Point in Sinclair Inlet. The restoration includes the removal of existing bulkheads and re-establishing native vegetation.

Counties: Kitsap and Pierce

Restoration project highlights

- **Harper Estuary:** During 2016-2017, we worked with WDFW and Kitsap County to complete the first phase of restoration. Since completion of the first phase, Ecology continues to work to advance restoration, monitoring, and stewardship activities at Harper Estuary. In June 2019, we issued a one-time grant to Kitsap County (about $500,000) to:
    - Complete public outreach to guide completion of the Harper Park Improvement Plan
    - Complete park improvements that would improve public access
    - Conduct post-construction monitoring of the restoration

  In February 2020, the County completed community outreach.

  The resulting plan prioritizes some improvements to Harper Park. Although COVID-19 restrictions caused some delays, many of the improvements were completed in 2020 and 2021. These included installation of a new pedestrian footbridge, upgrading a picnic shelter, and continued removal of invasive species and debris from former industrial operations. The County is also monitoring the estuary in partnership with Western Washington University and Washington Sea Grant. The researchers and County staff shared the monitoring results with the community during a public presentation in June 2021.

Figure 15: New footbridge across ravine improves public access and safety in Harper Park.

(Photo credit, Cristina Kereki, Kitsap County).

- **McNeil Island shoreline and estuary:** We currently have an Interagency Agreement with WDFW for about $400,000 to complete restoration design and construction at McNeil Island. In June 2020, WDFW completed a post-construction report for the shoreline restoration project at the Barge Landing site. Remaining funds are being directed towards construction, design, and permitting of the Milewa Creek Estuary Restoration project on the Island. WDFW completed design and permitting for Restoration project in June 2021 and anticipates construction will begin in late July 2021.
- **Ross Point in Sinclair Inlet:** WDFW successfully completed the removal of the bulkhead in August 2019. In January and February 2020, WDFW replanted areas impacted by construction with native vegetation. WDFW and the Washington Conservation Corps (WCC) are performing ongoing invasive species control to ensure that native vegetation establishes and restoration remains successful. In spring 2021, WDFW installed interpretive signage on site to educate the public about the restoration project goals and design.

Gathering public input

Kitsap County completed community outreach efforts to obtain public input to guide improvements for Harper Estuary. They held community meetings in late 2019 through spring of 2020 to support this effort. Ecology and WDFW provided comments on a draft improvement plan in October 2019. The Harper Park Improvement Plan was finalized in February 2020. Kitsap County continues to update the public on upcoming and completed work on its website. For projects on McNeil Island and at Ross Point, we incorporated feedback from community members and from the Suquamish, Squaxin Island, Nisqually, and Puyallup tribes to develop restoration plans and designs.

Next steps

- For the Harper Estuary project, Ecology will close the grant with Kitsap County as the County has successfully completed grant objectives including construction of prioritized projects and activities identified in the park improvement plan (e.g. invasive species removal and trail footbridge construction).
- With completion of the Ross Point Bulkhead removal, Ecology will transfer remaining project funds to an existing grant with WDFW to complete restoration design planning and construction for the Milewa Creek Estuary on McNeil Island. WDFW is also evaluating the feasibility of other restoration projects on the Island with funds from this grant.

B&L Woodwaste (Louisiana Pacific)

At a glance

- **Total settlement:** $1.0 million
- **County:** Pierce
- **Total size:** 11 acres + wetlands
- **Cleanup focus:** Groundwater

In the 1970s and 1980s, the B&L Woodwaste landfill received woodwaste, soil, and slag from log sort yards in Commencement Bay. The slag–a byproduct of Asarco's Tacoma smelter–leached arsenic into soils and groundwater. This contamination poses a threat to nearby Hylebos Creek (see Figure 16).

Figure 16:Landfill at the B&L Woodwaste site.

Cleanup liability and funding

Asarco, Murray Pacific, and Louisiana Pacific Corp. were among the parties found liable for cleanup. When Asarco went into bankruptcy in 2005, the other two companies pursued settlements jointly with the state. Most of Murray Pacific's $22 million settlement is held in a trust that is funding the majority of current cleanup work. The Cleanup Settlement Account holds an additional $1 million for future work.

Cleanup accomplishments and remaining work

The B&L Woodwaste cleanup has three phases.

- **Phase 1, completed in 1992:** Asarco consolidated the original 18-acre site to an 11-acre landfill. It then installed a cap to minimize rainfall flushing metals and contaminated groundwater out of the landfill.
- **Phase 2, 2008 to early 2013:** We installed a slurry wall around the edge of the landfill. This underground barrier minimizes the flow of contaminated groundwater. Then we built a facility to extract and treat groundwater from inside the slurry wall and from the nearby wetlands. Finally, we excavated contaminated sediments from the drainage ditches on three sides of the site.
- **Phase 3, 2015 to the present:** In 2017, as a part of an adaptive management plan to contain and reduce the arsenic plume, we treated the groundwater with chemicals outside the landfill on nearby Washington State Department of Transportation (WSDOT) property. In September 2017, the groundwater treatment system was shut down and currently groundwater is being monitored quarterly.

We stopped groundwater treatment for several reasons:

- First, the system had already removed a large amount of contaminated groundwater outside of the landfill footprint.
- Second, we determined that the system was no longer necessary to control groundwater from flowing from inside the landfill outward through a geologic window beneath a sheet pile wall that surrounds the landfill. We have been monitoring groundwater for four years and the contaminant plume continues to reduce. The plume continues to decrease in the northern part of the site and is stable to decreasing in the eastern, western and southern parts of the site.
- Third, the annual operating cost of the system was very high and the trust funds were running out. The operating budget for monitoring is considerably lower than when the system was in operation, and Ecology is able to keep the site in compliance while still maintaining a healthy balance in the Trust account. With the current costs and return on Trust account investments equal, it is likely the funds from the trust can operate this site well into the future.

Groundwater monitoring for arsenic contamination continued in 2020. Based on the groundwater monitoring data, Ecology will take necessary actions to control and contain the arsenic plume. In August 2020, additional soil sampling was conducted to investigate a possible ongoing source of elevated arsenic in groundwater in the WSDOT property. In 2021, the Trust will receive the portion of the WSDOT property where the current contaminant plume resides. At that time, the plume will be located within Trust-controlled property.

Golden King Mine

At a glance

- **Total settlement:** $0.5 million
- **County:** Chelan
- **Total size:** 13 acres
- **Cleanup focus:** Removing or capping mine tailing to improve water quality in the adjacent creek

The Golden King/Lovitt Mine is located near Wenatchee, on the west side of the Squillchuck Creek Drainage. There are an estimated 450,000 cubic yards of tailings deposited in a tailings impoundment in the bottom of Squillchuck Creek.

Figure 17:Golden King/Lovitt Mine.

Settlement cleanup activities

We have been denied access from the current property owner. No investigation or cleanup can happen without property access. We have the location of the tailings pile, but no sampling information for the tailings or the well. Without an imminent health or environmental threat it will be hard to establish a compelling rason to use legal means to get access to the property. We don't anticipate progress on this site in the near term, unless property ownership changes.

Monte Cristo Mine

At a glance

- **Total settlement:** $6.5 million
- **County:** Snohomish
- **Total size:** 54 mines and one mill
- **Cleanup focus:** Soil, surface water, and sediment

In the summer of 1889, settlers discovered the area and quickly established a mining town. In 1893, the railroad was completed to transport ore to the Everett smelter.

Mineral production flourished for a few years until massive floods destroyed rail access in 1897.

Mining became intermittent, operated by a number of smaller companies until 1920. The site is located on a mix of private and federal property. The Monte Cristo Mining Area is a popular historic mining town site and hiking area.

Figure 18:Monte Cristo Mine- signage documenting cleanup activities

Settlement cleanup activities

- **2011-2017:** Completed a Remedial Investigation and Feasibility Study. Soil, sediments, groundwater, and surface water are contaminated with metals from past mining practices.
- **2012-2013:** Conducted an environmental review which included public outreach, a study of bat habitat, and a topographic survey. Monte Cristo is located on United States Forest Service (USFS) land, and is designated as a road-less area. Additional studies were necessary to allow for the construction of access roads.
- **2013-2015:** Access roads were built so trucks with equipment could be brought to the site. The onsite repository, where most contaminated mining waste will be placed, was completed. This onsite repository was the main component of the remedy.
- **2015-2016:** We removed contaminated waste and waste rock and placed it into the repository. We diverted and treated minor spill discharge, and conducted water quality monitoring and revegetation.
- **2016-2022:** We are performing ongoing operations and maintenance of the repository, and water quality monitoring. We plan to install public health signs for visitors.

Accomplishments through Fiscal Year 2021

As mentioned above, in 2021, we are doing maintenance of the repository and performing water quality monitoring. We will continue this next year and will also install public health signs for visitors.

The USFS will close the road to the Mining Area within the next few years, reducing access to the site. Remaining funds will be used for signs warning users of the risks to human health from the remaining contaminated soil, surface waters, and mine entrance.

Van Stone Mine

At a glance

- **Total settlement:** $3.5 million
- **County:** Stevens
- **Total size:** ~150 acres
- **Cleanup focus:** Soil, sediment, surface water

The Van Stone Mine was the State's largest open-pit mine. The mine is located about 28 miles northeast of Colville. The mine operated from 1951 to 1994 under several owners, including Asarco. Approximately 270,000 tons of ore were extracted from 1.3 million tons of rock. The Upper Tailings Pile has broken twice, with the most recent event occurring in 2012.

Figure 19: Van Stone Mine

Settlement cleanup activities

- **2014-2017:** Conducted a Remedial Investigation and Feasibility Study for soils, sediments, wastes, groundwater, and surface water.
- **2017-2022:** Develop a Cleanup Action Plan.
- **Future plans:** Complete an Engineering Design for cleanup of areas identified during the investigation.

Accomplishments through Fiscal Year 2021

In 2019, we conducted long-term groundwater monitoring for arsenic contamination. We are developing the draft Cleanup Action Plan for the Van Stone Mine site and plan to complete it by spring 2022.

Additional funding is needed to continue work

Settlement funds in the Cleanup Settlement Account earmarked for the Van Stone Mine site will not cover the cost of cleanup. Over the next two years, the settlement funds will be used to create an engineering design for cleanup, and to remove a small, unpermitted dam at the site. Additional funds outside of the Cleanup Settlement Account will be needed to continue planned cleanup activities. The preferred remedy identified in the Feasibility Study Report estimates the cleanup will cost approximately $14 million.

Time Oil Bulk Terminal

At a glance

- **Total settlement:** $1.5 million
- **County:** King
- **Total size:** 10.4 acres
- **Cleanup focus:** Soils, groundwater, and sediments

The Time Oil Bulk Terminal began bulk fuel operations in the early 1940s, primarily to support World War II efforts. The former Time Oil Bulk Terminal supported large quantities of fuel being stored and distributed during and after the war. In later years, portions of it were leased to other parties for industrial purposes. The historical operations and uses resulted in releases of petroleum hydrocarbons, chlorinated solvents, wood preservative, and metals into soil, groundwater, and the sediments in Salmon Bay.

Settlement spending plan

In October 2020, Ecology signed a Prospective Purchaser Consent Decree (PPCD) to clean up four parcels that make up a large portion of the Time Oil Bulk Terminal site. We received an initial payment of $300,000, with an additional $1.2 million due within four years of the date of closing of the property sale. These settlement funds will be held in the Cleanup Settlement Account for future remedial actions in Salmon Bay or at other areas associated with the Time Oil Bulk Terminal site.

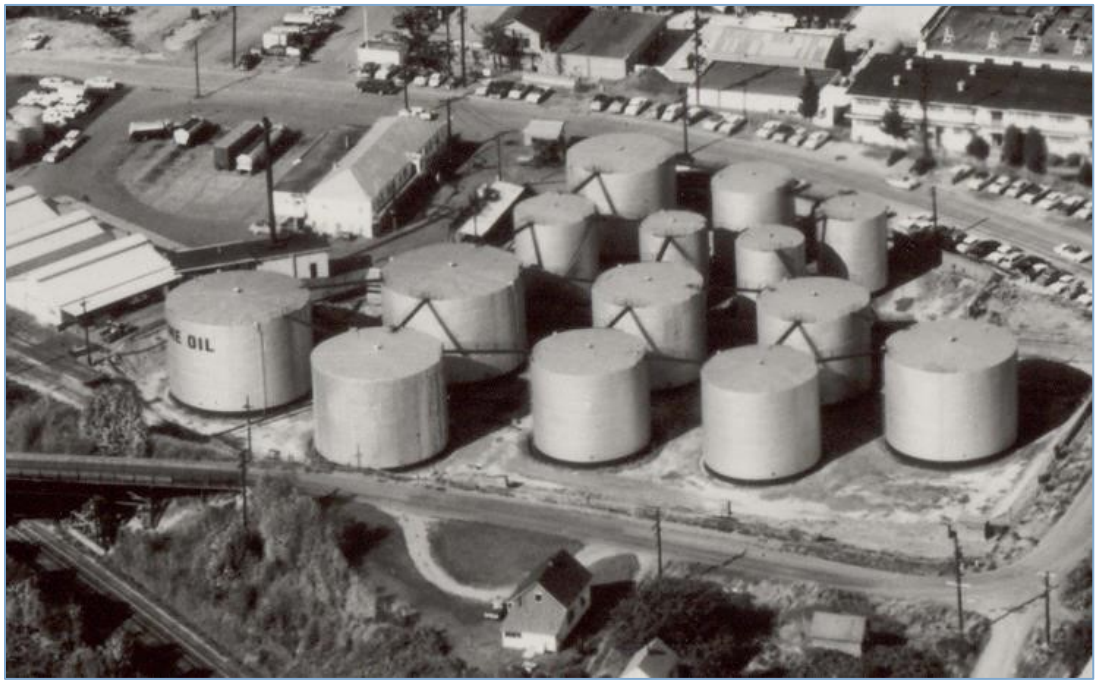

Figure 20: Historic photo of Time Oil Bulk Terminal

Pacific Wood Treating

At a glance

- **Total settlement:** Approximately $2.3 million
- **County:** Clark
- **Total size:** Residential yard and clean of right way.

Cleanup focus: Soil removal and restoration.

The Pacific Wood Treating Site is located in Ridgefield, Washington. The site encompasses the Lake River Industrial area, Carty Lake to the north, the Port of Ridgefield (Port) Railroad Avenue properties and off-Port of Ridgeway property residential area to the east, the Railroad Overpass property to the south, and the adjoining portion of Lake River to the west.

Figure 21: Lake River shore before rehabilitation

Pacific Wood Treating (PWT) operated at the Site from 1964 to 1993 as a lessee of property owned by the Port, the City of Ridgefield and Union Pacific Railroad. They treated wood products using oil-based treatment solutions containing various hazardous substances such as creosote, pentachlorophenol, and CCA (a copper, chromium, and arsenic mixture). PWT ceased wood treating operations in 1993, when the company declared bankruptcy.

Activities prior to settlement

Cleanup activities have been ongoing since 1996. Overall, Ecology has granted or loaned approximately $83 million to the Port of Ridgefield for site cleanup, *one of the most expensive state-funded cleanups in Washington.* The last grant/loan package from Ecology to the Port was $15 million. It covered reimbursement requests form July 2014 to Novemebr 2020. The grant was used for cleanup activities.

Cleanup of much of the off-Port of Ridgeway property area has been completed. Some of the cleanup actions include the following:

- Cleanup of dioxin-impacted soils in residential yards and street right-of-ways at off-Port of Ridgeway property locations. Cleanup involves soil removal and replacement. 29 properties have been cleaned up. Fifteen residences still require soil cleanup. Excavated soil is disposed at a landfill.
- Excavation of dioxin-impacted sediment in portions of Lake River and Carty Lake and placement of an enhanced natural recovery layer (sand cap cover) over the excavated areas. Excavated sediment was disposed at a landfill. This has been completed.

- Cleanup of wood treating compounds (including dioxins) in the industrial area, railroad properties, and overpass soil. We excavated soil locations with high contaminant levels and disposed them at a landfill. This has been completed. A soil cap was installed over these excavated areas and institutional controls will be put into use. Instutuitional contraols are required by the Agreed order but have not been put into place as yet.
- Removal of wood-treating product pooled on the groundwater and impacted groundwater from the Lake River Industrial area subsurface using steam injection, groundwater and product pumping and soil vapor extraction. We separated the product from recovered water and disposed it by incineration.
- Continued ongoing monitoring of groundwater in the former Lake River Industrial area.

Figure 22: Lake River shore after rehabilitation

Activities to be funded by the settlement

The settlement will allow Ecology to complete the final off-Port of Ridgefield property cleanup. Yard soil removal is required on 15 residential properties and 36 rights-of-way. Ecology plans to hire contractors to remove dioxin-impacted soil from these areas in Ridgefield. Settlement funds will be used to pay for soil excavation and transport and landfill disposal costs. It will also be used to purchase and transport replacement soil, contractor costs for yard, rights-of-way restoration layout, materials, and labor.

Conclusion

Cleanup Settlement Account helps cleanup projects move forward

In Fiscal Year 2021, we continued work on many of the cleanup projects funded by the Cleanup Settlement Account. One significant example is the Harper Estuary. Although COVID-19 restrictions caused some delays, many of the improvements were completed in 2020 and 2021. These included installation of a new pedestrian footbridge, upgrading a picnic shelter, and continued removal of invasive species and debris from former industrial operations.

We also restarted cleanup projects within the Tacoma Smelter Plume and Everett Smelter sites that were delayed in Fiscal Year 2021 due to the COVID -19. At the Tacoma Smelter Plume site, we replaced contaminated soil at 28 residential properties and we provided technical assistance to six developers who cleaned up 44 acres of contaminated soil through the Voluntary Cleanup Program. At the Everett Smelter site, we finalized a contract to provide construction-level site plans to clean up a total of 61 additional properties. These projects will move forward in the 2021-23 biennium.

Work also continues to move forward on habitat restoration activities. For Harper Estuary, Ecology will close the grant with Kitsap County as the County has successfully completed grant objectives. Ecology will transfer remaining project funds to an existing grant with WDFW to complete restoration design planning and construction for the Milewa Creek Estuary on McNeil Island. WDFW is also evaluating the feasibility of other restoration projects on the Island with funds from this grant.

The balances in the Cleanup Settlement Account for sites like B&L Woodwaste and Monte Cristo Mine, will provide resources for future cleanup, ongoing operations and maintenance , and water quality monitoring.

Additional funding needed to complete some cleanup projects

At the end of Fiscal Year 2021, the remaining balance in the Cleanup Settlement Account was $60,144,000. While significant, these settlement funds will not be enough to complete all phases of the cleanup projects.

In the future, sites like the Everett Smelter, Tacoma Smelter Plume, will need to rely on other fund sources to pay for cleanup. In the past, we requested and the Legislature funded cleanup projects from the Model Toxics Control Act accounts for cleanup activities.

Every year, we identify more contaminated sites than can be cleaned up. As of June 30, 2021, more than 13,711 sites have been reported and more than 7,448 sites have been cleaned up. The number of contaminated sites continues to grow as we work on existing sites. To continue

moving many of these cleanups forward, additional funding will be needed from the Model Toxics Control Act accounts or other funding sources identified by the Legislature.

The Cleanup Settlement Account is essential to our work cleaning up pollution, supporting sustainable communities, and improving natural resources for present and future generations. With good management plans in place, and additional funding in the future, the cleanup work made possible through the Cleanup Settlement Account will continue for many more years.

Appendices

Appendix A. Statutory Authority – RCW 70A.305D.130

The statutory provision creating the Cleanup Settlement Account is currently codified in RCW 70A.305.130. The provision was amended by Engrossed Substitute Senate Bill 5993 in 2019. The provision, as amended, states:

(1) The cleanup settlement account is created in the state treasury. The account is not intended to replace the model toxics control capital account established under RCW 70A.305.190. All receipts from the sources identified in subsection (2) of this section must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only as identified in subsection (4) of this section.

(2) The following receipts must be deposited into the cleanup settlement account:

(a) Receipts from settlements or court orders that direct payment to the account and resolve a person's liability or potential liability under this chapter for either or both of the following:

(i) Conducting future remedial action at a specific facility, if it is not feasible to require the person to conduct the remedial action based on the person's financial insolvency, limited ability to pay, or insignificant contribution under RCW 70A.305.040(4)(a);

(ii) Assessing or addressing the injury to natural resources caused by the release of a hazardous substance from a specific facility; and

(b) Receipts from investment of the moneys in the account.

(3) If a settlement or court order does not direct payment of receipts described in subsection (2)(a) of this section into the cleanup settlement account, then the receipts from any payment to the state must be deposited into the model toxics control capital account.

(4) Expenditures from the cleanup settlement account may only be used to conduct remedial actions at the specific facility or to assess or address the injury to natural resources caused by the release of hazardous substances from that facility for which the moneys were deposited in the account. Conducting remedial actions or assessing or addressing injury to natural resources includes direct expenditures and indirect expenditures such as department oversight costs. During the 2009-2011 fiscal biennium, the legislature may transfer excess fund balances in the account into the state efficiency and restructuring account. Transfers of excess fund balances made under this section may be made only to the extent amounts transferred with required repayments do not impair the ten-year spending plan administered by the department of ecology for environmental remedial actions dedicated for any designated clean-up site associated with the Everett smelter and Tacoma smelter, including plumes, or

former Asarco mine sites. The cleanup settlement account must be repaid with interest under provisions of the state efficiency and restructuring account.

(5) The department must track moneys received, interest earned, and moneys expended separately for each facility.

(6) After the department determines that all remedial actions at a specific facility, and all actions assessing or addressing injury to natural resources caused by the release of hazardous substances from that facility, are completed, including payment of all related costs, any moneys remaining for the specific facility must be transferred to the model toxics control capital account established under RCW 70A.305.190

(7) The department must provide the office of financial management and the fiscal committees of the legislature with a report by October 31st of each year regarding the activity within the cleanup settlement account during the previous fiscal year.

Appendix B. Contaminated Site Information

You can find more information about the cleanup and restoration projects currently and formerly funded through the Cleanup Settlement Account by visiting the web pages for those projects, which are listed below.

- B&L Woodwaste cleanup: https://apps.ecology.wa.gov/gsp/Sitepage.aspx?csid=2297.
- BNSF Skykomish natural resource damages: https://apps.ecology.wa.gov/gsp/Sitepage.aspx?csid=34.
- City Parcel cleanup: https://apps.ecology.wa.gov/gsp/Sitepage.aspx?csid=1023.
- Cholette Mine cleanup: https://fortress.wa.gov/ecy/publications/documents/1409082.pdf. (see page 19).
- Everett Smelter cleanup: https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Cleanup-sites/Toxic-cleanup-sites/Everett-Smelter.
- Golden King Mine cleanup: https://apps.ecology.wa.gov/gsp/Sitepage.aspx?csid=2746.
- Harper Estuary restoration: http://westsoundwatersheds.org/default.aspx?ID=22.
- Lilyblad Petroleum cleanup: https://apps.ecology.wa.gov/gsp/Sitepage.aspx?csid=4329.
- McNeil Island restoration: https://www.dnr.wa.gov/mcneil-island-shoreline-restoration.
- Maury Island Open Space cleanup: https://apps.ecology.wa.gov/gsp/Sitepage.aspx?csid=1532.
- Monte Cristo Mine cleanup: https://apps.ecology.wa.gov/gsp/Sitepage.aspx?csid=4550.
- Pacific Wood Treating: https://apps.ecology.wa.gov/gsp/Sitepage.aspx?csid=3020
- Ross Point restoration: There is no webpage available.
- Tacoma Smelter Plume cleanup: http://ecology.wa.gov/Tacoma-smelter.
- Time Oil: : https://apps.ecology.wa.gov/gsp/Sitepage.aspx?csid=14604
- Van Stone Mine cleanup: https://apps.ecology.wa.gov/gsp/Sitepage.aspx?csid=461.
- Time Oil: : https://apps.ecology.wa.gov/gsp/Sitepage.aspx?csid=14604
- Pacific Wood Treating: https://apps.ecology.wa.gov/gsp/Sitepage.aspx?csid=3020

Appendix C. Information about sites funded in past years

Information about sites funded in past years through the CSA can be found through the links in Appendix B and in CSA reports of the past years referenced below.

https://ecology.wa.gov/About-us/Who-we-are/Our-Programs/Toxics-Cleanup/TCP-Legislative-reports

CSA Report 2020:

https://fortress.wa.gov/ecy/publications/summarypages/2009081.html

CSA Report 2019:

https://fortress.wa.gov/ecy/publications/SummaryPages/1909081.html

CSA Report 2018:

https://fortress.wa.gov/ecy/publications/SummaryPages/1809102.html

CSA Report 2017:

https://fortress.wa.gov/ecy/publications/documents/1709181.pdf

For more information about the Toxics Cleanup Program, visit our website: https://ecology.wa.gov/About-us/Get-to-know-us/Our-Programs/Toxics-Cleanup.