



November 8, 2021

U.S. Environmental Protection Agency
EPA Docket Center, Superfund Docket
Mail Code 28221T
1200 Pennsylvania Avenue NW
Washington, DC 20460

Submitted via email to region10@epa.gov

RE: Comments in Support of Adding Bradford Island, Surrounding Waters to the National Priorities List (Docket ID No. EPA-HQ-OLEM-2021-0462)

Dear U.S. Environmental Protection Agency,

Columbia Riverkeeper, the Audubon Society of Portland, Comunidades, Friends of the Columbia Gorge, the Northwest Environmental Defense Center, the Portland Harbor Community Coalition, and the Sierra Club (collectively Commenters) submit the following comments on the U.S. Environmental Protection Agency's (EPA) proposed plan to add Bradford Island and surrounding waters to the National Priorities List (NPL) under Section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9605(a)(8)(B), and the relevant provisions of the National Contingency Plan (NCP), 40 CFR Part 300. **Commenters strongly support EPA's proposed rule to list Bradford Island and surrounding waters of the Columbia River as a Superfund site.** NPL listing is essential to protect human health and the environment, honor the federal government's treaty obligations to sovereign Tribal Nations, and encourage and consider public participation in cleanup decisions.

The public and many of our organizations' members continue to catch and consume fish from the Columbia River, drink water from the river, irrigate farms with water from the river, and recreate on Bradford Island and its surrounding waters. The federal government has an obligation to ensure that its past disposal activities do not compromise current and future generations' use and enjoyment of the Columbia River. EPA's decision to add Bradford Island to the NPL is therefore an essential step in restoring clean and safe water in the Columbia River so that surrounding communities may fish and recreate without fear of toxic contamination. This decision will also help to curb the impact pollution has on local biota, including species listed as endangered, within and surrounding the Columbia River.

I. History of Contamination and Failed Cleanup Demonstrate the Need for NPL Listing

For over 40 years, the U.S. government dumped toxic pollution in and along the Columbia River's shores at Bradford Island, located within the Bonneville dam complex. Upland and in-water disposal activities have resulted in contamination of onsite soil and groundwater, as well as the sediments, fish and clams in the Columbia River. In 2000 and 2001, discarded electrical equipment and debris were discovered in the Columbia River immediately north of Bradford Island. The U.S. Army Corps of Engineers (Corps) removed old equipment in the early 2000s and the contaminated sediments in 2007. The Corps has not conducted additional cleanup since 2007.

Decades of pollution—and languishing cleanup—threatens people's health, fish and other aquatic life, and wildlife. Hazardous substances found within the Bradford Islands Upland Operable Unit (OU) include butyltins, herbicides, metals, polychlorinated biphenyls (PCBs), pesticides, polycyclic aromatic hydrocarbons (PAHs), semi-volatile organic compounds (SVOCs), and volatile organic compounds (VOCs). Contaminants found in the River OU include PCBs and a variety of other hazardous substances. Given the severe and long-running pollution problems caused by the Corps, our organizations support the NPL listing that will effectuate the Bradford Island cleanup.

In addition to the contamination's impacts on public health and the environment, the history of cleanup investigations, lack of funding, delays in developing plans for active cleanup, disagreements on the legal standards for cleanup, and lack of public engagement demonstrate the dire need for NPL listing.

The Corps history of disregarding the Confederated Tribes and Bands of the Yakama Nation's (Yakama Nation) input, *see* Letter from Yakama Nation to EPA (Nov. 3, 2021), and recent actions toward the State of Oregon demonstrate the need for NPL listing. From the late

1990s to 2019, the Corps and the Oregon Department of Environmental Quality (DEQ) had a voluntary cleanup agreement to evaluate and clean up various sources of contaminants on the island and in surrounding waters. In recent years, the Corps withdrew from the voluntary cleanup agreement, stopped funding DEQ, and sued DEQ to recover costs. Furthermore, under the Trump administration, the Corps gutted the Bradford Island cleanup budget. Moreover, for years, the Corps has not: (1) held public engagement opportunities related to cleanup, and (2) has and continues to fail to keep its Bradford Island cleanup website subpage updated. As noted above, the Corps has not engaged in new cleanup since 2007 when the federal agency removed PCB-laden sediments and equipment from the river. The Corps' actions—and inactions—support NPL listing.

As a result of ongoing Corps communication issues, technical concerns, and lack of adherence to the requirements of CERCLA or the National Contingency Plan (NCP), the Yakama Nation, the DEQ, and the Washington Department of Ecology jointly requested that the Bradford Island Site be added to the NPL.

II. Comments on the Proposed Rule and Why Addition to the NPL is Needed

A. Impacts to Fish, Wildlife, and Public Health

This proposed listing is essential because the Bradford Island site is uniquely dangerous to both human health and the environment. Concentrations of PCBs and mercury in resident fish and shellfish within one river mile of Bradford Island have been among the highest reported in the nation and are several orders of magnitude greater than PCB concentrations at other major PCB-driven Superfund sites.

PCBs have been shown to cause cancer in animals as well as a number of serious non-cancer health effects in animals, including effects on the immune system, reproductive system, nervous system, endocrine system and other health effects.¹ The types of PCBs that tend to bioaccumulate in fish and other animals and bind to sediments happen to be the most carcinogenic components of PCB mixtures.² As a result, people who ingest PCB-contaminated fish or other animal products and contact PCB-contaminated sediment may be exposed to PCB mixtures that are even more toxic than the PCB mixtures contacted by workers and released into the environment.³

¹ EPA. *Polychlorinated Biphenyls (PCBs): Learn About Polychlorinated Biphenyls*. Environmental Protection Agency. Retrieved from <https://www.epa.gov/pcbs/learn-about-polychlorinated-biphenyls-pcbs#healtheffects>. Oct 26, 2021.

² *Id.*

³ *Id.*

These toxins have direct exposure pathways to Tribal Members and members of the public; other wildlife and biota are also directly exposed to these toxins through consumption of fish and shellfish, as well as through other pathways. Reported concentrations of PCBs and mercury are so high that the Oregon Health Authority and Washington Department of Health have issued a recommended total ban on consumption of resident fish taken between Bonneville Dam and Ruckel Creek. This area covers a reach of one river mile that falls directly within Yakama Nation's usual and accustomed fishing areas.

Listing Bradford Island on the NPL is necessary because studies conducted by EPA, the Columbia River Inter-Tribal Fish Commission, Oregon, Washington, and other agencies and entities demonstrate that pollution in the Columbia River has a disproportionate impact on Tribal Members. We urge EPA to fully account for the in-depth comments from and engagement with Yakama Nation and other Tribal Nations through government-to-government consultation.

Tribal Members' exposure to contamination, including to bioaccumulative toxins such as PCBs, pesticides, and heavy metals through consumption of resident fish and shellfish from the Bradford Island site is orders of magnitude greater than the exposure risk posed to the general public. It is therefore imperative that a thorough and fully protective cleanup be performed at Bradford Island in accordance with the statutory requirements of CERCLA and the NCP, and in full consultation with Yakama Nation, whose enrolled members are exposed to significant risk associated with ceremonial and subsistence fishing in the area.

Since 2005 the Yakama Nation has engaged with the Corps and the EPA in the cleanup process. However, after a quarter century of effort, it has become clear that the Corps has failed and is continuing to fail to protect human health and the environment, and in particular Yakama enrolled Tribal Members and Treaty-reserved resources in the Columbia River.

B. Insufficient Cleanup to Date

As mentioned, the Corps has not engaged in any new cleanup measures since 2007 and cleanup efforts to date have been unsuccessful. In fact, Corps' overall management of the cleanup process has in at least one case contributed to conditions at Bradford Island becoming measurably worse. The Corps has thus far failed to incorporate state regulations as applicable or relevant and appropriate requirements (ARARs) for the site,⁴ failed to complete site characterization as part of the Remedial Investigation Report (RI) prior to proceeding to the Final

⁴ See 42 U.S.C. § 9621(d)(2)(A); 42 U.S.C. § 9620(a)(4); 40 CFR § 300.400(g)(4).

Feasibility Study (FS),⁵ failed to assess both actual and potential exposure pathways, especially for sensitive populations,⁶ inappropriately separated of risks between the Upland and River OUs, and has overall inconsistently applied CERCLA.

The cleanup efforts by the Corps were woefully deficient and do not meet the requirements of CERCLA or the applicable standards of care for a project regulated at both the state and federal level. Such deficiencies include but are not limited to: failure to maintain a contemporaneous and widely available administrative record of all information and communications regarding Bradford Island; failure to conduct formal RI/FS scoping and preparation of a RI Work Plan; failure to prepare and publicize a comprehensive cleanup plan and schedule including formal project milestones; performing work out of order and in a disjointed manner that breaks basic information dependencies which should inform each subsequent phase of work; and providing inconsistent and inadequate funding for the Bradford Island cleanup, which has led to arbitrary schedules and project objectives. The Corps actions to date demonstrate the long-overdue need to NPL listing.

C. CERCLA-funded Cleanup with Tribal Consultation is Essential

Due to the unsuccessful and legally deficient cleanup efforts to date, it is necessary to institute CERCLA-funded remediation immediately. Listing Bradford Island on the NPL would bring EPA into a more formal and much-needed role of overseeing the Corps' cleanup work. In addition, NPL listing would require a legally enforceable agreement between EPA and the Corps that would define work schedules and establish a formal dispute-resolution process where EPA is the final decision-maker. Following cleanup and restoration of Bradford Island, the Yakama Nation and other Tribal Members should be able to resume use of the island and surrounding shorelines and to fish the platform locations that they and their ancestors have fished since time immemorial.

III. Conclusion

In sum, Commenters support the proposed rule to list Bradford Island and the surrounding waters because it will facilitate funding and accountability urgently needed for the cleanup of the site and will mitigate the deleterious impacts the toxic pollution has wrought on the environment and human health.

⁵ See 40 CFR § 300.430(d)(2) (lead agency “shall characterize the nature of and threat posed by the hazardous substances and hazardous materials and gather data necessary to assess the extent” of them, listing seven factors to be included).

⁶ See 40 CFR § 300.430(d)(2)(v-vii).

Thank you for considering our organizations' input on the Proposed Rule.

Sincerely,

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