



Legislation Text

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Clerk 05/18/2012

AN ORDINANCE authorizing the King County executive to enter into an agreed order with the Washington state Department of Ecology for the remedial investigation and feasibility study for the King County's Maury Island Site, the former Glacier/Northwest Aggregates Sand and Gravel Mine.

STATEMENT OF FACTS:

1. On December 30, 2010, King County acquired from Glacier/Northwest Aggregates ("NWA") four tax parcels comprising approximately two hundred fifty acres of land on Maury Island for the purchase price of \$36,000,000.
2. King County acquired the property "as is." The property is now known as the "Maury Island Site" and the King County parks and recreation division of the department of natural resources and parks ("the division") is the custodian of the property.
3. The Maury Island Site is located within the Tacoma Smelter Plume, a large area contaminated by lead, arsenic and other pollutants from a former copper smelter located in Tacoma. Soils on Maury Island are among those most significantly impacted by the smelter plume.
4. The Washington state Department of Ecology ("Ecology"), NWA and King County have conducted multiple investigations of the Maury Island Site over the past decade. These investigations have found arsenic, lead and cadmium in surface soils within the Maury Island Site at elevated levels many times greater than natural background concentrations.
5. At the time King County acquired the Maury Island Site, NWA and Ecology were negotiating

the terms of a potential agreed order for remedial work related to the Maury Island Site, all in accordance with the Washington state Model Toxics Control Act, chapter 70.105D RCW ("MTCA").

6. Section 9.4 of the Purchase and Sale Agreement ("PSA") between NWA and King County specifies that following closing, King County shall assume all responsibility for any remedial obligations related to hazardous substances at or migrating from the Maury Island Site, including but not limited to all remedial obligations arising under the MTCA and the implementation of any future orders or directives imposing remedial obligations issued under the MTCA by Ecology.

7. On April 18, 2011, and in accordance with the MTCA, Ecology notified King County that Ecology had determined King County to be a "Potentially Liable Person" ("PLP") with regard to the Maury Island Site. As a PLP and owner of the Site, King County is potentially liable for the cost of actions necessary to remediate contamination on the Maury Island Site.

8. On April 19, 2011, and in accordance with the MTCA, Ecology issued an agreed order, which is a legal document setting forth a proposed agreement between Ecology and a PLP to govern cleanup of a contaminated property. The agreed order requires King County to complete a remedial investigation and feasibility study, and prepare a draft cleanup action plan for the Maury Island Site.

9. The division negotiated with Ecology in April through December 2011 regarding the terms of the agreed order. Ecology agreed to King County's proposed revisions. Ecology agreed to changes in the proposed schedule to allow adequate lead time for approval of the agreed order by the King County council and completion of the environmental studies. Technical changes were also made to the agreed order to reference previously completed studies and relevant data that can be used to support the remedial investigation and feasibility study. A copy of the

revised agreed order is Attachment A to this ordinance.

10. Under the agreed order, King County is obligated to clean up the site. As long as King County complies with the provisions of the agreed order, Ecology will take no further enforcement action to force King County to do the work set forth in the agreed order.

11. Ecology awarded King County a grant that included \$300,000 for remedial activities at the Maury Island Site.

12. Section 9 of the PSA specifies that NWA will reimburse King County for up to \$500,000 in remediation costs for the Maury Island Site, but only after King County spends \$250,000 of its own money for such costs; and Section 9 further specifies that any third-party grants or donations, such as the \$300,000 Ecology grant, shall be deemed to be expended first. As a result, Section 9 of the PSA requires King County to spend down the Ecology grant and any other third-party funds, and then spend \$250,000 of its own money before seeking reimbursement from NWA.

13. The agreed order is subject to concurrent public notice in accordance with RCW 70.105D.030(2)(a); Ecology shall be responsible for providing such public notice and reserves the right to revise any provisions of the agreed order should public comment disclose facts or considerations which indicate to Ecology that the agreed order is inadequate or improper in any respect.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. The King County executive is hereby authorized to execute an agreed order with the Washington state Department of Ecology for the remedial investigation and preparation of a feasibility study and draft cleanup action plan for King County's Maury Island Site, substantially the same as Attachment A to this ordinance.