



**Sent via email only**

December 9, 2024

**oflsupdate@dupontwa.gov**

City of Dupont  
Attn: Barb Kincaid, Public Services Director  
1700 Civic Dr.  
Dupont, WA 98327

**RE: Public Comment on Draft EIS, Old Fort Lake Subarea Plan**

Dear Ms. Kincaid,

This firm represents Albatross Estates LLC (“Albatross” or “Property Owner”), which owns approximately 260 acres comprising the majority of developable property within the Old Fort Lake Subarea. The Albatross development team, which includes experts in land use planning, environmental remediation, civil engineering, and traffic engineering, has been actively engaged in the City’s Old Fort Lake Subarea Plan (“OFLSAP”) update process. As part of that engagement, the team has reviewed the November 2024 Draft Planned Action EIS for the Subarea Plan Update and Land Use Code Amendments, including the Technical Appendices, and offers the following public comments for the City’s consideration.

**Traffic**

The Property Owner’s traffic engineer, Jeff Schramm reviewed the transportation analysis (Sections 1.6 and 3.5) and supporting technical memoranda prepared by Fehr/Peers and expressed no technical concerns with the analysis or conclusions presented.

The Property Owner, is, however, actively engaged in negotiations with the Steilacoom Historical School District for a school mitigation agreement which will include providing a ten-acre school site on the eastern boundary, adjacent to Pioneer Middle School. The DEIS proposed action alternative has identified a different 10-acre site on the western boundary of the property. There are a number of reasons why the alternate location closer to Pioneer Middle School is preferable to both the Property Owner and to the District. The alternate location is also preferable to the operators of the Home Course, who expressed concerns at the public hearing about noise and liability which could arise from the proposed school location.

A change in school location would not alter any overall plan boundaries, nor would it change the overall acreage of the MH or CIV zoning designations from what was analyzed in the DEIS proposed alternative. In light of the ongoing negotiations with the District, the Property Owner requests that any changes to trip distribution and corresponding traffic analysis which may be needed to support City Council consideration of the alternate location with adoption of the final plan be addressed and published with the FEIS.

### **Environmental Remediation/Hazardous Materials**

Please see consolidated comments on the DEIS attached at **Attachment A** from the Property Owner's environmental consultant (Jeff King of PERC) and counsel (Kimberly Seely of Coastline Law Group) addressing sections of the DEIS related to discussion of environmental remediation.

### **Land Use**

Please see comment attached at **Attachment B** from the Property Owner's consulting civil engineer (Laura Bartenhagen, P.E. of ESM) regarding the bases for developable acreage calculations in the proposed alternative.

As noted in Ms. Bartenhagen's comment, the developable areas shown in the DEIS for the proposed alternative appear to be significantly more than what was considered developable in the past considering road layouts and right-of-way widths, and without considering setbacks, utility easements, landscape buffers, and other logistical items. Although more detailed layout and analysis would be required to reach a specific conclusion, the Property Owner believes that the overall developable area for the proposed alternative and corresponding density analyzed in the DEIS could be overestimated by as much as 10-15%. Given that, it appears unlikely that that maximum densities considered in the DEIS analysis of the preferred alternative could be achieved.

Thank you for the opportunity to provide comments on the DEIS. If you require additional information, please do not hesitate to contact me directly.

Very Truly Yours,

**DICKSON FROHLICH PHILLIPS BURGESS PLLC**



HEATHER BURGESS  
ATTORNEY

HLB/SK

cc: [bkincaid@dupontwa.gov](mailto:bkincaid@dupontwa.gov)

# ATTACHMENT A



# Pacific Environmental & Redevelopment Corporation

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## MEMORANDUM

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SUBJECT: COMMENT ON DRAFT OLD FORT LAKE SUBAREA PLAN - OCTOBER 2024

DATE: NOVEMBER 25, 2024

The language that needs revised in in **RED**, comments and suggested edits are in **BLUE**.

### *General Comments:*

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The word **munitions** need to be globally replaced with **explosives**. WHY IS THIS IMPORTANT: DuPont never made **munitions** on the Site. It was strictly explosive and black power. This distinction is important since munition factories have a whole different set of environmental problems (chemicals of concern, different chemical mixtures, etc.) than explosive factories. We would not like the public being concerned about these “other” chemicals and hazards when they do not exist on Site.

This misstatement occurs throughout the document and in the DEIS.

Also, the reference to **commercial ammunitions** in ***SITE REMEDIATION HISTORY AND CONSIDERATIONS*** is incorrect.

Any reference to CM-08 that says “This area was not subject to removal of topsoil in the general remediation program because it had lower levels of contamination and ~~few~~ ADD: **NO** munitions manufacturing facilities”

Any reference to “Excavation for utilities such as water, stormwater and sewer may involve excavation at depths greater than the depths at which current samples have been taken. **Sampling of the locations of excavations at greater depths will be required prior to excavation to determine whether additional remediation is required.** Two things about this statement 1) only Ecology can require this and, 2) since there are not buried sources of contamination in the planned areas of utilities if the surface soil is clean so should the underlying soils. The lead and arsenic on this site does not leached so that is also not a factor. Of course, this means it is highly unlikely that contamination will be found. It is just a time and cost issue.

### *Specific Comments:*

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***SITE REMEDIATION HISTORY AND CONSIDERATIONS***

### *Consent Decree*

A consent decree between the property owner and the Washington State Department of Ecology (Ecology) was filed in 1991. Remedial action and feasibility studies were completed and a new consent decree was entered in 2003. The 2003 decree covered two areas: "Parcel 1" and "Parcel 2." Parcel 1 is a 636-acre area that covers the current Subarea, and Parcel 2 encompasses a slightly larger area adjacent to the north. Within Parcel 1, copper and lead were **detected** found within surface waters (ADD FROM DEIS: Dissolved copper was the only constituent with confirmed elevated detections. Based on the analytical data, Ecology provided verbal agreement that No Further Action was required for surface water at the site, indicating that constituents detected in surface water on-site do not require cleanup or any further action (Pioneer 2007)

### *Periodic Review Standards*

The contaminated area is subject to 5-year periodic reviews and soil and groundwater testing. The latest review was performed in 2016, which found that while soil contamination has not been completely abated, previous cleanup actions have been sufficient to protect human health and environment for the existing land uses and that the site could be removed from Ecology's Hazardous Sites List. ADD: The Site was removed from Ecology's Hazardous Sites List in 2016.

### *SITE HISTORY*

Early to Mid-20th Century: During World War I and World War II, (it is my understanding, from reviewing DuPont Company records, that it was the opening of Alaska (road building, mining, etc.) that created the demand not the wars. Again, whereas the product – black powder - was used in ammunition none was made here if was used for dynamite production not arms. This is probably not an important point but incorrect. the demand for explosives increased significantly and several industrial facilities, including explosives manufacturing plants, were established in the Old Fort Lake Subarea and surrounding DuPont.

## **Draft Environmental Impact Statement**

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### **1.5 HAZARDOUS MATERIALS**

#### **1.5.1 Affected Environment**

Weyerhaeuser, as successor to ownership of the portions of the site that had been used for explosives manufacturing, undertook cleanup and remediated between the mid-1970s and 2007. A variety of cleanup methods were used, including:

- Large-Scale Excavation involved excavation of a minimum of one foot of soil over large areas of the site where elevated levels of arsenic and lead were present.
- On-site deposition with a CAP cap/cover at the golf course was used for the majority of the contaminated soil excavated from the site.

### 1.5.2 Impacts No Action

Last paragraph: Further investigation of the area has been completed by owner pursuant to an Agreed Order with Ecology and remedial alternatives to allow unrestricted use are currently under consideration.

### 1.5.5 Unavoidable Adverse Impacts

Last Line – Add that sampling conducted previously during remedial activities together with additional sampling conducted during the Agreed Order investigation is extremely robust such that undiscovered hot spots are unlikely.

#### 1.8.1 CULTURAL RESOURCES

##### 1.8.2 Impacts

Based on the number of cultural resources previously recorded, and the character of the site, it is likely that a wide range of cultural resources are present on the site, but undiscovered. It is likely that a range of resources will be encountered during further development of the site under either the existing Subarea plan and zoning or proposed amendments to the plan and zoning. It is particularly likely that deeper excavation for utilities and foundations will be the practices most likely to encounter cultural resources. DISAGREE: The most likely locations will be in the areas where no disturbance or previous excavation has occurred.

##### 1.8.3 Mitigation

Comment: A variety of measures were implemented successfully during past remedial activities and recent investigations to protect cultural resources. The Nisqually Tribe was well informed and their involvement and input was sought whenever cultural resources were encountered and that practice will continue during the next stages of remediation.

#### 1.13 EARTH, SOILS, AND GEOLOGY

##### Topography and Soils

The small kettles that formerly were numerous on the site, have largely been covered by the golf course or were excavated and back-filled (no backfilling occurred except the kettle in hole 4 at the Golf Course occurred) as part of hazardous materials remediation ..... Most of the site was

excavated to a ~~minimum of about one foot of soil (areas of two feet)~~ depth of approximately one foot for hazardous materials remediation.

## 2.2.2 Proposed Subarea Plan Goals

1<sup>st</sup> Par: suggested revision .... the current restrictive covenants on the property that limit use to non-residential use will be removed or modified by Ecology as appropriate after remediation of the property to unrestricted cleanup levels is accomplished. Areas that retain impacted soils above unrestricted cleanup levels will require a restrictive covenant but these affected areas will be greatly reduced and well defined.

## 3.1.1 Affected Environment

8<sup>th</sup> Par. Suggested revision re covenants: Properties within the cleanup area are subject to restrictive covenants that run with the land. The covenants were made pursuant to MTCA RCW 70A.305.030(1)(f) and (g) and WAC 173-340-440 by the State of Washington Dept. of Ecology (Grantee) and Weyerhaeuser (Grantor).

9<sup>th</sup> Par. – typo in last sentence. Also suggest clarifying that pursuant to WAC 173-340-440(12), Ecology may modify or eliminate the covenants as warranted if further remediation to unrestricted cleanup levels is accomplished and the condition requiring the covenant no longer exists.

## 3.4.3 Site Industrial History

General Comment – Both Weyerhaeuser and Dupont were signatory to the consent decrees, not just Weyerhaeuser. We believe they jointly performed the work.

## 3.4.4 Remediation Areas

2022 Albatross Agreed Order – last sentence should be clarified - The Albatross Agreed Order requires Albatross to undertake additional investigation and determine appropriate remedial alternatives through preparation of a Remedial Investigation, Feasibility Study, and draft Cleanup Action Plan (RI/FS dCAP). Albatross intends to subsequently implement the selected remedial alternatives set forth in the CAP through a future consent decree with Ecology.

## 3.4.5 Impacts – Existing Subarea Plan and Zoning

2nd Par. The first sentence should be corrected as follows: The restrictive covenant applicable to most of the property (AFN 200601275001) limits the property etc... however, the AFN number in the DEIS is not one we recognize.

3<sup>rd</sup> Par. The current zoning allows . . . and would require Ecology to eliminate or modify the covenant upon additional cleanup to residential standards.

Comment: is not clear why both cleanup and remediation are used together throughout the DEIS as though they differ – these are synonymous terms.

### *3.4.6 Impacts - Proposed Subarea Plan and Zoning Amendments*

Comment: 1<sup>st</sup> Par. it doesn't make sense that the EIS states "additional cleanup or remediation" when these terms typically have the same meaning. If the drafters are differentiating between what constitutes cleanup vs remediation, they should explain accordingly otherwise they are confusing the terms.

#### Lead

Prior to the 2003 remediation, elevated lead concentrations were located throughout the site, similar to arsenic levels. After remedial activities were completed (sitewide scraping, IRAs, and MSU remediation), sporadic lead concentrations remained greater than 118 mg/kg and 250 mg/kg (the terrestrial ecological SL and MTCA Method A levels, respectively). A total of 14 samples representative of in-place soil contain lead at concentrations greater than 118 mg/kg, all of which are located 0 to 0.5 feet of the surface. The samples are located in the area designated as open space in the proposed Subarea Plan in the easterly portion of the site (remediation area CM-08). Lead concentrations in CM-08 are less than the MTCA Method A level of 250 mg/kg. Surface soils were not removed from this area as allowed under MTCA since the area was determined to be in statistical compliance and the ~~calculated "average"~~ NOTE: it is not an average. concentration is less than the industrial????? THIS SHOULD BE "the commercials land use remediation level approved by Ecology."

#### MMAN

MMAN (an explosive) was analyzed in 180 samples prior to remediation. Out of those 180 samples, MMAN was detected in only 19 samples. A total of 54 soil samples remain representative of in-place soil, including 5 with MMAN detections. All MMAN samples were collected between 1987 and 1992; ~~MMAN was not analyzed in soil after remediation was completed.~~ ADD: The majority of these are capped under the golf course. Only 2 samples representative of in-place soil contain MMAN at concentrations greater than the SL (1,904 mg/kg), collocated at different depths within CM-04 in the southeast portion of the Site. The samples were collected at depths of 0 to 3 feet (3,600 mg/kg) and 3 to 6 feet (30,000 mg/kg) from test pits advanced in a former works magazine landfill area. It should be noted that MMAN readily dissociates in water to monomethylamine (MMA) and nitrate and is not expected to be persistent in the environment. MMA is a natural ingredient in many foods including vegetables. Evidence from occupational studies have shown no long-lasting health effects when workers

were exposed to MMAN via inhalation and dermal contact. (Pioneer 2024) Future land use in this area is middle housing/townhomes.

#### Petroleum Compounds

Soil at the site has historically been analyzed for many different petroleum compounds including Bunker C fuel, diesel fuel, Fuel Oil #6, gasoline, Kensol, kerosene, motor oil, oil & gas, Stoddard solvent, and generic total petroleum hydrocarbons (TPH). There are currently five locations with exceedances of residential (unrestricted) levels for motor oil, and oil & grease. The remaining petroleum compounds were either not detected or did not exceed SLs in samples representative of in-place soil.

Total petroleum hydrocarbons (TPH) associated with Bunker C fuel was analyzed in 491 samples collected in 1992 and 1993 prior to remediation. Most occurrences were in the location of the former Bunker C Pipeline and above-ground storage tank located in the northwesterly portion of the site in Subareas designations A-1 and A-2 (remediation area 01). Remedial actions removed the TPH contamination from the Site to concentrations less than the 7,600 mg/kg level for residential (unrestricted) with the exception of one soil sample at a concentration of 36,000 mg/kg located in the Subarea designation F-5 (remediation area CM-04) at a depth of 3 to 5.5 feet (Pioneer 2024). **ADD: In investigations conducted in 2024 neither TPH-D and TPH-HO exceeded cleanup levels at any of the locations previously identified (Pioneer 2024).** Future proposed land use in this area is middle housing/townhomes.

#### 3.4.7 Mitigation

1<sup>st</sup> Par – First sentence should be corrected – The implementation of a cleanup action plan (CAP) approved by ...., which are designed to be protective etc. Delete “generally”

2<sup>nd</sup> Par – last sentence Refined sampling has been conducted by Owner under the current Agreed Order to fill all identified data gaps in areas with exceedances.

12<sup>th</sup> Par – The Agreed Order includes a Health and Safety Plan to protect workers. A future consent decree will include such a plan as well.

# ATTACHMENT B



December 6, 2024

Job No. 2363-001-023

Mrs. Barb Kincaid  
Public Services Director  
City of DuPont  
1700 Civic Drive  
DuPont, WA 98327

**RE: Draft Environmental Impact Statement (DEIS) for the Proposed Old Fort Lake Subarea Plan and Zoning Regulations Amendments**

Dear Mrs. Kincaid:

On behalf of Albatross Estates, LLC, ESM Consulting Engineers, LLC is providing the following comment to the Draft Environmental Impact Statement (DEIS) for the Proposed Old Fort Lake Subarea Plan and Zoning Regulations Amendments.

ESM has performed land use planning, engineering, and survey services for this property (2003 - 2013) including the First Park Northwest Landing master plan, development agreement, preliminary plat and construction plans for a first phase of the development.

In reviewing the November 2024 DEIS Figure 2-3 Proposed Land Use Designation Map, the total area allocated for development is 245 acres (including public infrastructure) as well as approximately 13 acres of Parks, Recreation, & Open Space (PROS) area for a total of 258 acres.

The First Park Northwest Landing Development Agreement (Recording No. 201002020136) originally allocated 229.07 acres of developable area, 20.48 acres of public roads, 11.19 acres of tracts, for a total of 260.74 acres.

While we understand that the developable areas calculations for the property were done different than currently proposed, there is not sufficient detail provided in the DEIS to confirm that the maximum densities for each land use designation developable area can be achieved.

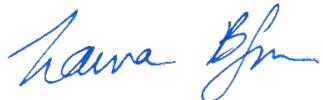
ESM recommends that additional preliminary design and calculations are completed for the Final EIS to show how the proposed development areas can achieve the maximum densities for each land use designation while taking into consideration public infrastructure.

Mrs. Barb Kincaid  
December 6, 2024  
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Should you have any further questions or would like clarification on any information, feel free to contact me at any time at (253) 838-6113.

Sincerely,

ESM CONSULTING ENGINEERS, LLC

A handwritten signature in blue ink, appearing to read "Laura B." followed by a surname.

LAURA BARTENHAGEN, P.E., LEED AP  
Principal

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STATE OF WASHINGTON  
**DEPARTMENT OF ECOLOGY**  
Southwest Region Office  
PO Box 47775, Olympia, WA 98504-7775 • 360-407-6300

December 9, 2024

Janet Howald, SEPA Contact  
City of DuPont  
1700 Civic Drive  
DuPont, WA 98327

Dear Janet Howald:

Thank you for the opportunity to comment on the environmental impact statement for the Old Fort Lake Subarea Plan Project (PLNG2023-006(SEPA)) as proposed by Barbara Kincaid. The Department of Ecology (Ecology) reviewed the environmental checklist and has the following comment(s):

**TOXICS CLEANUP/TACOMA SMELTER PLUME: Diana Ison (360) 999-9593**

The Washington State Department of Ecology (Ecology) recognizes this is a non-project action. Future work in this area prompts the following comment: Any remedial investigation and feasibility study to identify cleanup levels for contaminants of potential concern and remedy alternatives within the proposed improvements or construction of the Puget Sound Bluff Interpretive Trail, Sequalitchew Creek Interpretive Trail, or the Old Fort Lake Loop Trail (and within City of Dupont owned Open-Space Focus Area) must be conducted under an Agreed Order with Ecology. Additional soil evaluations should also be completed to identify potential Tacoma Smelter Plume contamination, including in these areas designated as Open Space. Soil should be sampled adhering to Ecology's [Tacoma Smelter Plume Model Remedies Guidance](#). If arsenic, lead, or other contaminants are found at concentrations above the Model Toxics Control Act (MTCA) cleanup levels, the area should be remediated prior to receiving an unrestricted land use designation. Please contact Diana Ison with the Southwest Regional Office (SWRO), Toxics Cleanup Program at 360-999-9593 or via email at [diana.ison@ecy.wa.gov](mailto:diana.ison@ecy.wa.gov) for assistance and information about Tacoma Smelter Plume soil contamination.

Ecology's comments are based upon information provided by the lead agency. As such, they may not constitute an exhaustive list of the various authorizations that must be obtained or legal requirements that must be fulfilled in order to carry out the proposed action.

If you have any questions or would like to respond to these comments, please contact the appropriate reviewing staff listed above.

Department of Ecology  
Southwest Regional Office

Janet Howald  
December 9, 2024  
Page 2

(JKT:202404969)

cc: Diana Ison, TCP



Barbara Kincaid  
Department of Community Development  
City of DuPont  
1700 Civic Drive  
DuPont WA 98327

#### Comments on Draft EIS for Old Fort Lake Subarea Plan

Thank you for the opportunity to comment on the Draft Environmental Impact Statement for the Old Fort Lake Subarea Plan Update and Land Use Code Amendments. The Steilacoom Historical School District appreciates the time that has gone into developing the Draft EIS and appreciates to communication and consultation that has taken place to ensure the Draft EIS addressed public school impacts. We focused our review of the Draft EIS on sections 1.10.2 and 3.9.8 – both directly related to Schools.

The District supports the assumptions and conclusions reached in the Draft EIS and reaffirms that if will require additional classroom capacity at Elementary, Middle, and High School levels based on the changes envisioned in the Old Fort Lake Subarea. As indicated in the report, the number of additional classrooms needed are based on assumptions of future growth and student generation factors. It is clear – regardless of which student generation factor scenario is used – the District will require a new Elementary school and some added classrooms at our Middle and High schools.

As the report indicates, SHSD has several options available to address the impacts of this growth – but will certainly include the use of mitigation agreements and the impact fees authorized through City of DuPont Ordinance. We also will need to have voters support a ballot measure for future bonds in order for SHSD to build a new elementary school in the future.

Finally, the District would like to reaffirm that it updates the SHSD Capital Facilities Plan annually and will update our student generation factors and projected enrollments regularly based on new data. These updates will be communicated annually to the City and will have an impact on future impact fees for the Old Fort Lake Subarea – to address the impacts identified in the Draft EIS.

Sincerely,

Shawn Lewis  
Assistant Superintendent  
Steilacoom Historical School District

-----Original Message-----

From: [lums94@earthlink.net](mailto:lums94@earthlink.net) <lums94@earthlink.net>  
Sent: Monday, December 9, 2024 6:54 AM  
To: Barbara Kincaid <[bkincaid@dupontwa.gov](mailto:bkincaid@dupontwa.gov)>  
Subject: Subarea comments

Hi Barbara,

In response to the subarea planning, we prefer option one. We don't think we have the infrastructure for more than that. We prefer the smallest number of people to be added the city's population.

Thank you and regards,

Linda Smith and Harold Schmidt  
2084 McDonald Ave

Sent from my iPad