



DEPARTMENT OF
ECOLOGY
State of Washington

Healthy Housing Remediation: 2018 Results and Recommendations

Toxics Cleanup Program

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Washington State Department of Ecology
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Acronyms & Abbreviations

Acronym or Abbreviation	Description
CSID	Cleanup Site ID
ISIS	Integrated Site Information System database
MTCA	Model Toxics Control Act
NFA	no further action
PLP	potentially liable person
RCW	Revised Code of Washington
TCP	Toxics Cleanup Program
WAC	Washington Administrative Code

Executive Summary

Purpose

This report delivers to the Legislature the initial results of the Department of Ecology and Department of Commerce's development of a program to assist with the investigation and cleanup of contamination for the development of affordable housing. In Engrossed Substitute Senate Bill (ESSB) 6095, the Legislature directed Ecology to develop a program to assist with these cleanups and report as follows:

By October 1, 2018, the department must submit a report to the office of financial management and the legislature. At a minimum, the report must identify:

- (i) Program application and selection process;
- (ii) The total number of applications and amount of funding requested for this program; and
- (ii)[sic]A list of projects, description of projects, and location and number of affordable housing units developed or to be developed (Section 3009(2)(d)).

In addition to those required data, this report also includes examples of how we are already using the funds the Legislature made available in the capital budget, insights into the relationship between contamination and the cost of real estate development, and feedback from local governments and affordable housing developers.

Background

As urban and suburban communities throughout Washington have continued to grow rapidly in the past decade, land available for residential and commercial development within urban growth areas is dwindling. Less densely populated areas face their own housing issues, through their own growth and as people who are priced out of urban centers move outward. While there is more open land in these less densely populated areas, contamination from past agricultural and industrial operations can be widespread. The lack of broad development pressure in rural areas also means that investigations to understand cleanup needs have been less frequent, reducing the amount of data on a given rural area.

The potential high cost of cleaning up a property means many contaminated properties and properties with suspected contamination have not seen redevelopment despite their otherwise prime locations. Ecology assists affordable housing developers with their cleanup needs when those developers successfully compete for existing grants. Prior to this pilot, however, Ecology did not have any grant programs that made affordable housing an explicit focus. The Healthy Housing Remediation pilot program aims to provide a framework that can make more of these housing development opportunities a reality. The Legislature provided over \$7 million additional funds for housing-related cleanup work in the 2018 Supplemental Budget.

Results

Ecology received seven complete applications through a solicitation process. These applications covered seven contaminated sites, with a self-reported potential to provide 782 affordable housing units for a current estimated investigation and cleanup cost of \$5,210,000. These estimates do not include future cleanup costs or non-cleanup development costs. Some or all of the grant recipients will likely request funding support for future cleanup activities. Ecology has already awarded \$400,000 in Integrated Planning Grants and updated agreements to give Mount Baker Housing Association access to the \$6.2 million that was appropriated for its cleanup.

Key Findings

Cleaning up contamination on sites with potential for use in affordable housing can provide another means to relieve the pressures on public housing while preserving existing communities. Even the investigatory stages of cleanup can prove expensive and difficult to finance. The cost of cleanup affects the cost of development and may contribute to higher purchase prices or rents for new tenants, home buyers, and customers. This added cost, combined with other factors driving up property value, can lead to displacement and disruption of existing communities. The pilot proposed in this report aims to help communities that have lived with contamination enjoy the benefits of its removal and share in the benefits of the wave of redevelopment already impacting their lives.

Summary of Recommendations

1. Establish the Healthy Housing Remediation program as a pilot during the 2019–21 biennium using proviso language included in Ecology’s budget request. This will provide examples of how these cleanups can proceed and data for Ecology and Commerce to inform the development of a permanent program.

Solicitation and Application Evaluation

2. Use criteria similar to those from the 2018 Capital Supplemental budget proviso to evaluate applications during the pilot program period.

Grants and Program

3. Use existing Remedial Action Grants as framework, establish a separate, parallel affordable housing grant using the proviso language in Ecology’s 2019–21 Budget request.
4. Allow local governments access to Integrated Planning Grants without requiring ownership or a demonstrated interest in purchasing a property.
5. Require the establishment of a term-limited covenant limiting the use of the cleaned up property to affordable housing as a condition of receiving a grant under this program.

6. Require cleanups carried out under this program to use the Ecology-supervised or “formal” cleanup process.

Planned Actions

1. Extend application period for affordable housing solicitations and use a two-stage application process similar to Commerce’s Housing Trust Fund.
2. Evaluate Ecology’s existing authority to provide pass-through grants to local governments for affordable housing development.
3. Evaluate Ecology’s authority to impose a lien on a property as a condition of providing an affordable housing cleanup grant.

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1.0 Background:

Affordable Housing and Cleanup

1.1 Relationship between Community, Housing, and Health

As part of the Department of Ecology (Ecology), the Toxics Cleanup Program (TCP) shares in the agency's broad duty to safeguard human health and the environmental integrity on behalf of Washington State's residents. Cleanup and public health have a relatively straightforward and mutually beneficial relationship. Cleaning up sites under the Model Toxics Control Act (MTCA) either reduces contaminant levels below concentrations that can cause harm or contains those contaminants so people and the environment are not exposed to them. Cleanup can also play an important role in improving the economic health of many communities because property owners can put cleaned up properties back into productive use for industry, commerce, housing, or natural services.

Connecting cleanup of contaminated sites to the redevelopment of those sites into affordable housing projects invests in a greater social good beyond the economic and environmental benefits of cleanup. Removing blight and providing places to locate affordable housing preserves a community's character and reduces the likelihood its residents will experience displacement. This pilot program aims to help communities that have lived with contamination enjoy the benefits of its removal and share in the benefits of redevelopment.

Affordable housing development provides an opportunity for Ecology to play a larger part in protecting and improving public health. While cleanup directly improves health, housing that supports existing communities provides people continued access to family, long-term friendships, and business relationships. These hard to quantify aspects of social support are associated with improved health, better educational outcomes, and personal financial stability.

1.2 Contamination and Land Availability

As urban and suburban communities throughout Washington have continued to grow rapidly in the past decade, opportunities for residential and commercial development within urban growth areas has dwindled. Less densely populated areas face their own housing issues, through their own growth and as people who are priced out of urban centers move outward. While there is more open land in these less densely populated areas, contamination from past agricultural and industrial operations can be widespread. The lack of broad development pressure in rural areas also means that investigations to understand cleanup needs have been less frequent, reducing the amount of data on a given rural area. The potential high cost of cleaning up a property means many contaminated properties and properties with suspected contamination have not been redeveloped despite their location.

Redevelopment of contaminated properties is further complicated by the wariness of investors. Traditional development financiers (such as banks) may avoid providing loans when faced with

the additional legal and economic risk of cleanup. Lenders may prove reluctant to even fund a site investigation that could confirm contamination, raise concerns about liability, devalue the land as collateral, or assign liability to them. As a result, contaminated or properties suspected of contamination lie idle, effectively reducing the amount of buildable land within the urban growth boundaries of many cities and towns. Increased competition for properties without cleanup needs drives up the cost of land for development.

1.3 Cleanup costs get folded into development costs

As recent development in locations such as Tacoma, Seattle, Spokane, and Olympia have shown, the shortage of available land has spurred developers to look at contaminated or suspected properties they might previously have avoided. However, the uncertain liability posed by cleanup costs mean that developers face higher costs in delivering projects on contaminated parcels. These costs, on top of the usual costs of development, may contribute to higher purchase prices and rents for future owners and leaseholders. Resolving suspicion of contamination and cleaning up sites moves the break-even points of potential development into the higher end of the price range, which may lock out many affordable housing developers and prevent market-rate developers from including more affordable units.

1.4 Impact on housing affordability

Cleanup costs may contribute to higher purchase prices and rents for future owners and leaseholders. The economic impact of these costs can affect housing and local communities in two major ways:

- 1) Prices for goods, services, and housing rise to meet these higher development costs.
- 2) Higher costs may displace existing communities and residents. Many of the places that have suspicion of, or confirmed, contamination have provided low-income communities, and working families, affordable places to live as Washington's economy has grown.

State grants can provide money to offset the cost of investigation and cleanup. Combining these grants with requirements to build affordable housing can help provide homes and apartments in more affordable price ranges

1.5 Washington's Cleanup Law

Washington adopted the Model Toxics Control Act (MTCA) in 1989 to help protect our health and environment from hazardous substances and contamination in our state's land and waters. Funds to conduct the cleanup of this contamination come from a voter-authorized tax on hazardous substances such as petroleum products, certain chemicals, and pesticides. Ecology is one of several Washington state agencies that use state resources to prevent pollution, manage it, clean it up, and restore and protect our environment. Ecology's Toxics Cleanup Program is primarily responsible for implementing and enforcing cleanups. Pursuant to this work, TCP

develops the rules and guidelines governing cleanup, and oversees or manages the cleanup of most contaminated sites in our state.

The impact of MTCA on our state has proven powerful. Since Washington adopted the law 28 years ago, Ecology has identified more than 12,820 sites in Washington that have confirmed or suspected contamination. As of March 2018, 7,044 contaminated sites have been cleaned up or determined to require no further action. There are another 186 sites with cleanups completed that are being monitored to ensure their cleanup remedies are working.

Much work still remains. More than 5,700 sites in Washington currently require further investigation and cleanup, and hundreds of new sites are reported to Ecology each year: on average, 270 sites are reported to Ecology annually, with a record 400 new sites in 2015 alone.

1.6 Washington's Housing Trust Fund

Washington's Housing Trust Fund, administered by the Department of Commerce (Commerce), is one of the state's main tools for supporting affordable housing development. The Housing Trust Fund's mission is to create and preserve affordable housing for low-income and special-need people. Since 1986, the Housing Trust Fund has invested almost \$1 billion in funding and helped build or preserve nearly 48,000 units of affordable housing statewide. Housing Trust Fund dollars support a wide range of projects serving a diverse array of low-income populations. Projects can serve people with incomes up to 80% of Area Median Income, but the majority of projects funded to date serve households with special needs or incomes below 30% of Area Median Income, including homeless families, seniors, farmworkers, and people with developmental disabilities. Special needs projects coordinate with state and local service providers, to ensure clients receive appropriate housing and services.¹

¹ For more information on Department of Commerce's affordable housing work, please see its [2016 report](#).

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2.0 Healthy Housing Remediation in ESSB 6095— 2018 Supplemental Capital Budget

During the 2018 Legislative Session, the legislature advanced its support of cleanup for affordable housing development in three ways:

- 1) Provided \$6.2 million in funding to support Mount Baker Housing Association's (Mount Baker Housing) cleanup of land for the development of the Maddux, a project expected to create over 140 units of affordable housing in downtown Seattle,
- 2) Provided Ecology with Integrated Planning Grant funds for local governments to investigate and plan cleanup for potential affordable housing development, and
- 3) Instructed Ecology and Commerce to develop a program to carry out more of these cleanups.

2.1 Mount Baker Housing and the Maddux

Mount Baker Housing's development of the Maddux, a new residential complex with 144 affordable housing units in the heart of the Mount Baker area of downtown Seattle, is an exciting example of the potential for turning contaminated properties into affordable community- and transit-oriented housing opportunities. The Mount Baker Properties cleanup site is situated on property formerly occupied by a series of dry cleaners that had released cleaning solvents into the soil and groundwater. The property, while contaminated, occupies an otherwise desirable location, known as a "Prominent Corner" in real-estate development, which has easy access to mass-transit options and walkable green spaces. Cleanup of this property not only improves the neighborhood for residents who have lived with the presence of contamination, but will also provide new affordable housing units and economic opportunities for small businesses.

Ecology and Mount Baker Housing have worked together throughout the process. Ecology staff worked with Mount Baker Housing to help them understand the cleanup process and funding opportunities available to support this work. Remedial Action Grant rules limit recipients of cleanup grants to government entities. Mount Baker Housing, a nonprofit developer, worked with local Seattle government officials to establish a Redevelopment Opportunity Zone (ROZ). The ROZ allows non-profits to access state cleanup funds as long as they meet eligibility requirements which include the provision of a public good—in this case, affordable housing (see [*Redevelopment Opportunity Zones & Brownfield Redevelopment Trust Fund Accounts in Washington State: 2013–2017*](#) for more information on ROZs). Ecology provided \$400,000 in early financial support through a prospective purchaser consent decree that helped Mount Baker Housing investigate contamination on the site and plan cleanup. The initial investment and Mount Baker Housing's efforts secured \$56 million in private, federal, and state housing funds, which the Legislature supplemented with \$6.2 million to pay for cleanup costs. These cleanup funds assisted Mount Baker Housing in providing all 144 units in the new building at affordable prices. Final cleanup investigations were in process at the time this report was written, with final cleanup expected to start in summer of 2019.

2.2 Affordable-housing-related Integrated Planning Grants

The 2018 Supplemental Capital Budget provided Ecology with an additional \$1 million for Integrated Planning Grants. Integrated Planning Grants (IPGs) are flexible grants that local governments can use to support pre-construction cleanup activities, including planning, investigation, community involvement, education, and outreach. We identified two recipients from a grant solicitation conducted in February 2018, putting \$400,000 into immediate use. We will award the remaining funds from a grant solicitation that ran in June 2018, which Chapter 3 describes in more detail.

2.2.1 Seattle Chinatown International District

Ecology has awarded \$200,000 in Integrated Planning Grant funds to the Seattle Chinatown International District Preservation and Development Authority (SCIDPDA) to examine the cleanup needs and development potential for two contaminated sites in the Seattle Chinatown International District. The Seattle Goodwill Industries parcel is approximately eight acres at the southeast corner of the district with a variety of contaminating uses over its history. The 7th Ave Auto site is a 0.31 acre site at the edge of the historic part of Chinatown.

The IPG will assist in community redevelopment of both sites by doing environmental investigation at the sites. The redevelopment goals for both sites include (1) providing affordable housing and commercial spaces and (2) increasing density and use of the underutilized properties in this urban neighborhood. SCIDPDA has also requested an additional \$100,000 in IPG funds to expand the scope of their investigation to include more sites.

2.2.2 Wenatchee

Ecology awarded \$200,000 in Integrated Planning Grant funds to the City of Wenatchee. This recipient's goal for this project includes evaluating a former tree fruit research facility for potential acquisition and redevelopment into a community asset that will support affordable housing. Former use of a portion of the site included pesticide disposal testing for nearly 20 years. This area went through an assessment and remediation process, resulting in a No Further Action opinion from Ecology in 2007. However, the original excavation area covered less than one percent of the property's area meaning the site needs additional investigation work. Redevelopment supports the goals of the City of Wenatchee for promoting development within existing urban and residential areas and the larger goals of Washington State under the Growth Management Act.

The key components of this Integrated Planning Grant will include the analysis of existing environmental assessment documents and identification of any data gaps that may exist. In collaboration with Ecology staff, the housing authority will use the grant to develop and implement an environmental investigation approach that characterizes the nature and extent of contamination and allows initial estimates of the magnitude of cleanup.

2.3 Developing the Healthy Housing Remediation Program

Ecology and Commerce have worked together for the past year to continue developing a new way to support affordable housing development by leveraging cleanup money. In addition to developing a grant solicitation process to identify affordable-housing-related cleanups, we jointly engaged stakeholder groups and gathered feedback to help shape the program. Chapter 3 describes the resulting grant solicitation process. Chapter 4 presents our recommendations for an ongoing competitive grant process and program.

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3.0 Project Solicitation and Data Gathering

The 2018 Legislature asked Ecology and Commerce to work together to develop a competitive process to select potential affordable-housing-related cleanup projects for funding, and to detail the process and provide initial results in this report to the Legislature. Engrossed Substitute Senate Bill (ESSB) 6095 provided Ecology and Commerce with the following instructions:

The department, in collaboration with the department of commerce, shall develop a competitive process to select projects for funding, to include scoring conducted by a group of qualified experts from the department of ecology and the department of commerce. The criteria used to determine the scoring and priority for funding must include, but are not limited to, the following:

- (i) Contaminated sites must be within the urban growth area boundaries;
- (ii) Contaminated sites must be zoned for residential or mixed-use;
- (iii) Locational suitability of contaminated sites for the development of affordable housing;
- (iv) Degree of contamination and complexity of contaminated sites;
- (v) Timing of delivery of affordable housing units; and
- (vi) The extent to which the project leverages other funds (Section 3009(2)(a)).

Ecology and Commerce determined that using a combination of both agency's existing grant applications would be the most effective way to quickly gather this information and to award the 2018 Integrated Planning Grant appropriated money. Using existing application materials from grant solicitations provided the framework for a process that is competitive and comparable with other cleanup grant processes. This Chapter describes the resulting grant solicitation process and its initial results.

3.1 Application process

Ecology modified its existing remedial action grant and loan application process to solicit cleanup projects that would facilitate affordable housing development. In February 2018, Ecology completed its biennial solicitation of local governments to identify their need for state cleanup funds under our remedial action grant and loan program. The results of that solicitation are included in the 2018 Model Toxics Control Accounts Ten-Year Financing Report. The application prompted applicants to provide details on the degree and extent of contamination, the potential hazard a site poses to a local community, and access to other sources of cleanup funds. The application already asked for the information needed to evaluate affordable housing projects under ESSB 6095, including prioritization questions such as urban growth boundary and existing zoning. We had recently developed, programmed, tested, and scored the application. So, we decided the application provided the best tool to quickly gather data using a method that we previously designed to meet our grant and loan rules.

Commerce likewise modified an existing grant application from the Housing Trust Fund’s Stage 2 application. This application normally allows Commerce to vet the suitability and readiness of potential affordable housing projects applying to the Housing Trust Fund program. In this case, it provided a framework for evaluating the housing factors in ESSB 6095. Commerce evaluates applications according to financing and locational factors to determine a project’s affordability and access to services and necessities (e.g., mass transit, grocery stores, schools, employment).

3.2 Outreach and Solicitation

In June 2018, we opened a solicitation for local government and private entities to report affordable housing development cleanup needs in the Ecology Application of Grants and Loans (EAGL) system. The solicitation announcement was sent to a joint mailing list comprised of local governments from Ecology’s remedial action grant and loan solicitation and of local governments, housing authorities, housing developers, and contractors from Commerce’s Housing Trust Fund solicitation.

Ecology and Commerce also jointly presented on this opportunity at meetings of the Affordable Housing Advisory Board and its Policy Advisory Team, the Association of Washington Housing Authorities, and with regional representatives of the U.S. Department of Housing and Urban Development.

3.3 Results

Ecology received seven complete applications through this solicitation process. We initially expected to receive more applications, but many potential applicants reported that while they were interested, they were unable to plan and complete an application in the brief solicitation period. These applications covered seven contaminated sites, with a self-reported potential to provide 782 housing units for a current estimated investigation and cleanup cost of \$5,210,000. These estimates do not include future cleanup costs or non-cleanup development costs. Some or all of the grant recipients will likely request funding support for future cleanup activities.

Table 1 Integrated Planning Grant applications from June 2018 grant solicitation.

<i>Applicant</i>	<i>Description</i>	<i>Expected Cleanup Cost</i>	<i>Expected No. of Affordable Units</i>
Bellingham (Port)	Affordable and workforce housing, mixed-use commercial, community support	\$250,000	Up to 50
Bremerton (City)	Affordable housing, multi-story, improvements to frontage including Americans with Disabilities Act compliance	\$160,000	Up to 50

<i>Applicant</i>	<i>Description</i>	<i>Expected Cleanup Cost</i>	<i>Expected No. of Affordable Units</i>
Kennewick (City)	Affordable housing, multi-family	\$200,000	110
Seattle Chinatown International District Preservation and Development Authority	Affordable housing, multi-family, mixed-use commercial, training center redevelopment	\$100,000	92
Yakima (City)	Shelter and transitional housing	\$250,000	30

Table 2 Cleanup grant applications from June 2018 grant solicitation.

<i>Applicant</i>	<i>Description</i>	<i>Expected Cleanup Cost</i>	<i>Expected No. of Affordable Units</i>
El Centro de la Raza	Affordable housing, on-site child development center, community spaces	\$750,000	Over 125
Mount Baker Housing	Affordable housing, mixed-used commercial	\$3,500,000	325

4.0 Recommendations and Feedback

This chapter contains recommendations and feedback based on the initial solicitation process and its results.

4.1 Recommendations

This section contains Ecology's recommendations for the Healthy Housing Remediation pilot program. We grouped these recommendations into those specifically concerning the solicitation and application process and those concerning the Healthy Housing Remediation Program more generally. Brief explanations of supporting reasoning follow each recommendation statement.

While we received applications for slightly more funding than appropriated in the 2018 Supplemental Budget, we received a lower-than-expected number of applications seeking grant support for future cleanup activities. In order to discover the barriers that kept people from applying, we contacted stakeholders who previously had expressed interest and consultants who had reached out to potential local government and housing authority clients. The feedback we received is discussed in the sections that follow.

Recommendation: *Establish the Healthy Housing Remediation program as a pilot during the 2019–21 biennium using proviso language included in Ecology's capital budget request. This will provide examples of how these cleanups can proceed and data for Ecology and Commerce to use to inform the development of a permanent program.*

One common theme from respondents included the relative newness of combining cleanup with affordable housing. While many local governments, housing authorities, and developers expressed general interest in this funding opportunity, few projects had advanced to the point in their planning where they could assemble a complete application within the time available. Asking affordable housing developers to consider acquiring contaminated property will require time and more demonstrations of cleanup-to-affordable-housing successes.

4.1.1 Solicitation and Application Evaluation

Recommendation: *Use criteria similar to those from ESSB 6095 to evaluate applications during the pilot program. If a permanent program is established, more detailed criteria will be developed. These simplified criteria include, but are not limited to:*

- (a) *The ability of the project to expedite the cleanup and reuse of the contaminated real property for affordable housing development;*
- (b) *The extent to which the project leverages other public or private funding for the cleanup and reuse of the contaminated real property for affordable housing development;*
- (c) *The suitability of the real property for affordable housing based on the threat to human health posed by the contamination;*
- (d) *Whether the work to be funded under the grant is ready to proceed and be completed; and*

- (e) *The distribution of grants throughout the state and among public and private entities.*

These criteria provide sufficient guidance to determine eligibility and to support initial prioritization, while allowing enough flexibility to encourage a broad range of potential affordable home developers to apply. Maintaining the same criteria for the pilot will also allow potential applicants who did not make this solicitation's cut-off to make use of any materials they might have prepared and continue planning efforts they may have started. Delaying the implementation of more detailed criteria will also allow Ecology and Commerce to collect more data to support informed criteria development. Criteria informed by information provided in applications and experiences gained working with grantees are more likely to meet long-term operational needs.

4.1.2 Grants and Program

Conversations with stakeholders and responses to the solicitation demonstrate that there is interest in state funding of cleanups to facilitate affordable housing development. While existing Remedial Action Grants provide a useful start, feedback suggests that Ecology needs to modify these frameworks to make them more accessible and useful to affordable housing developers.

Recommendation: *Use existing Remedial Action Grants as a framework, but establish a separate, parallel affordable housing grant track using the proviso language provided in Ecology's 2019–2021 Capital Budget Request.*

A grant program that mirrors existing cleanup grant structure allows Ecology to move quickly in distributing funds while providing a framework that helps ensure these grants comply with other laws. Ecology's staff already has the tools and experience necessary to implement a modified program. We can do this more quickly than creating a new grant type. We would evaluate these grants using a familiar process, but sources other than the Model Toxics Control Account (for example, the State Building Construction Account) should fund affordable housing grants.

The following recommendations suggest modifications to the existing grant framework for this program.

Recommendation: *Allow local governments access to Integrated Planning Grants without requiring ownership or a demonstrated interest in purchasing a property.*

Currently, eligibility requirements for Integrated Planning Grants in the remedial action grant rule specify that local governments must either own a property or demonstrate an interest in purchasing a property. This provision ensures that state funds do not pay for private cleanup activities and demonstrate long-term investment by local government partners. Unfortunately, housing authorities and other branches of local government that provide affordable housing cannot typically deal with the expense and potential risk that acquiring ownership involves. The IPG supports the early stages of a cleanup, where uncertainty remain high, further complicating potential purchase as an eligibility requirement. Ecology could accomplish this goal by updating applicable rules, but the proviso authorizing this expenditure could provide specific guidelines and authority more quickly.

Recommendation: *Require the establishment of a term-limited covenant limiting the use of the cleaned up property to affordable housing as a condition of receiving a grant under this program.*

Stakeholder groups and staff and management from Ecology and Commerce identified a need to protect the affordable housing end use for property cleaned up under this program. Establishing a covenant to protect the end use also provides other benefits. First, covenants provide a familiar tool in land use and development that provide easy notice of restrictions in the places that people already search while performing due diligence.

Second, the existence of a covenant in the deed provides a largely self-enforcing, market-based mechanism for the affordable housing use we intend this program to deliver. Potential lenders or buyers will discover the covenant while performing due diligence, which will notify them that they would face additional costs removing the covenant if they sought to use the property for more profitable endeavors. This means market action would prevent grant recipients from receiving a windfall at the public's expense since buyers would not have an incentive to make offers at those levels.

Finally, the use-restriction covenant will offset the spike in property value that would occur at the end of the cleanup as the property sheds liability. While growth in property value provides important returns to property owners and government in the form of taxes, sudden changes in property value when sites are cleaned up can disrupt local communities. Further, local governments may face difficulties in accomplishing the goal of providing affordable housing as the price of an unrestricted, cleaned-up parcel may put purchase or lease beyond the range affordable housing developers can bear. Having a term-limited affordable-housing-use covenant allows time for the community to adjust to change in local property values while still allowing long term growth as covenants expire.

Recommendation: *Require cleanups carried out under this program to use an Ecology-supervised or "formal" cleanup process.*

Ecology's formal cleanup process includes oversight and opportunities for public input throughout the process and any subsequent periodic reviews. Both formal process and the Voluntary Cleanup Program provide Ecology's technical expertise to cleanup professionals to ensure that cleanups meet the standards necessary to protect human health and the environment. However, the formal process involves a higher level of Ecology oversight while providing the public with opportunities to provide input and guide the outcome.

Requiring the use of formal process has the potential to slow down the pace of cleanups carried out under this program, but there are benefits in the context of housing development and ways to offset the impact of the potentially slower process. Affordable housing cleanups have a particularly important need for public involvement given the potential vulnerability of residents and need to ensure that people feel safe and healthy in the homes this program makes possible. Furthermore, the public involvement process ensures that local governments and other local officials have a way to demonstrate support and approval for a particular piece of land's use for affordable housing development.

We could offset the potential impacts of the slower formal process on affordable housing development by decoupling the cleanup process from the affordable housing development process. Grant recipients could clean up parcels of lands under this program, then bid the cleaned-up land out to affordable housing developers who are at the stage in their process where they are looking for land. We discuss this concept in more detail in the Land Banking portion of the next section.

4.2 Planned Actions

Action: *Allow more time for future affordable housing solicitations and use a two-stage application process similar to the one Commerce’s Housing Trust Fund uses.*

We carried out the solicitation to gather information for potential projects in a short timeframe in order to speedily award the Integrated Planning Grant funds. We reached out to stakeholder groups during April and May 2018 and provided email notices in the month leading up to the June 2018 solicitation. However, a 45- to 60-day turn around for project planning and applications did not provide enough time for most affordable housing developers.

In addition, affordable housing developers who work with our partners in Commerce’s Housing Trust Fund work with a two-stage application. Potential applicants first provide project information at a high level, so that the Housing Trust Fund assesses the demand across the state in support of its biennial capital budget request. Applicants then submit a Stage 2 application that asks for more details on housing suitability, project readiness, population to be served, and funding structure. The two stage process has the benefit of being more familiar to the groups Ecology is engaging with and providing more lead time for affordable housing developers to prepare.

Ecology has not used this type of application before because our cleanup solicitation happens on a regular schedule that our usual local government applicants are familiar with. Ecology plans to modify its application process for affordable housing solicitations to more closely resemble the two-step process that affordable housing developers are used to.

Action: *Continue to research options to use Ecology’s existing authority to provide pass-through grants to local governments to support affordable housing development.*

Pass-through grants, such as the federal Community Development Block Grants, are a popular and familiar tool in the affordable housing development context. In pass-through grant systems, recipients do not apply for specific projects. Instead, they receive funds based on the need to use the funds for any activities approved in the grants enabling laws. We do not have experience providing pass-through grants for cleanup to local governments, and so we plan to research options for future grant programs.

Action: *Research potential applications of Ecology’s authority to impose a lien on a property as a condition of providing an affordable housing cleanup grant.*

Liens could provide a useful alternative to covenants in restricting properties cleaned up using funds provided under this program. Liens share some of the benefits of covenants in that they provide a familiar tool in both cleanup and property development. Having the option to impose a lien instead of a covenant may have additional benefits that we need to examine. For example, having the option to use a lien may prevent duplicative requirements to impose a covenant if a grant recipient later receives money from the Housing Trust Fund or other source that has its own covenant requirements. Ecology plans to research current limitations and potential need to expand our lien authority.

4.3 Feedback

This section contains information that we received during the outreach and June 2018 solicitation process that could increase the impact of a Healthy Housing Remediation program, but falls outside the scope of Ecology's authority and mission. The information contained here provides feedback to potential applicants, stakeholders, and the Legislature to highlight potential related housing development policies that could make cleanup for affordable housing development easier.

4.3.1 Land Acquisition

Communities of all sizes face other difficulties securing financing to acquire contaminated lands. Traditional lending agencies are often hesitant to make loans for purchase of contaminated lands for fear of liability and uncertainty involved in cleanup. Similarly, local elected officials may find it difficult to use limited funds or bond authority to purchase land with potential cleanup liability. For small communities, the direct cost of land purchase can frustrate efforts to provide affordable housing. There is some relief for these costs available through housing grants provided by Department of Commerce and by federal agencies, but those programs would typically not allow the purchase of contaminated land without an investigation and in some cases fully funded and approved cleanup plans.

4.3.2 Land Banking

Land banking in the environmental context is usually associated with the creation of parks and land trusts that provide important natural services as well as tourism and enjoyment to local residents. However, land banking has had some success as a way for local communities to increase their options in dealing with affordable housing. Land banking for affordable housing involves local governments purchasing properties or otherwise acquiring properties in locations that could provide desirable affordable housing, but not immediately developing the land into housing. This practice allows local government access to developable property, usually in different locations throughout the community. The local government can bid out and develop properties into affordable housing when demand increases.

Governments can respond relatively quickly to shifts in need with these parcels. The added flexibility the land bank provides lets local government prioritize affordable housing in areas with good access to necessities and amenities. Access to these services, in turn, reduces government assistance costs and offsets the initial and maintenance costs of the land bank.

Inclusion of low income residents community-wide also serves an important social service by promoting diverse communities.

Contaminated properties could provide prime opportunities for local governments to acquire lands for inclusion in a land banking for affordable housing system. A land banking system that involves contaminated properties allows local governments to remove the barriers to development from contamination before the land enters the market for redevelopment. Affordable housing construction contains its own set of complex requirements and incentives, which can make it difficult for cleanup professionals to understand affordable housing development needs and for affordable housing developers to understand liability and cleanup. Recognizing the natural break between the two activities could increase the number of developers who will bid on a particular housing development project. The pool of applicants could include all affordable housing developers rather than just the few with previous experience cleaning up contaminated sites.

5.0 Conclusion

Cleaning up contaminated sites in favorable locations can be a tool to increase the development of affordable housing. Helping affordable housing developers resolve contamination removes barriers posed by threats to human health and fear of uncertain liability. In addition to the health and social benefits that affordable housing provides, this pilot program has the potential to clean up more sites than Ecology could reach with its existing programs. No single program will solve the housing crisis gripping Washington State, but efforts like this one are necessary to encourage creative solutions.

Glossary

Term	Definition
affordable housing	Residential housing that is rented by a person or household whose monthly housing costs, including utilities other than telephone, do not exceed thirty percent of the household's monthly income. For the purposes of housing intended for owner occupancy, "affordable housing" means residential housing that is within the means of low or moderate-income households. (RCW 84.14.010). For planning purposes a household's expected monthly income is determined by reference to the Area Median Income.
Area Median Income	The household income of the median, or middle, household in a region.
biennium	A period of two years. The State of Washington operates on a two year (biennial) budget cycle that starts July 1 st of each odd-numbered year, and ends June 30 th of the next odd-numbered year. The 2019–21 Biennium starts July 1, 2019, and ends June 30, 2021.
brownfields	Previously developed properties that are currently abandoned or underused. Real or perceived environmental contamination can hinder a community's reuse objectives for the site. Examples of brownfields undergoing transformations include Seattle's Mount Baker Housing Project (CSID 13054) , Wenatchee's Worthen Street Landfill (CSID 4085) , and Aberdeen's Seaport Landing (CSID 4987) .
Brownfield Redevelopment Trust Fund (BRTF) Account	An account that allows public moneys (state and local), as well as private and/or non-profit moneys, to be combined and set aside for cleaning up brownfields located within a redevelopment opportunity zone. The local governments designating the zone are the beneficiaries of the moneys. Moneys may be spent only after appropriation by the Legislature and approval by Ecology. Local governments must meet the eligibility and other requirements for remedial actions grants codified in Chapter 173-322A WAC . The account retains interest (RCW 70.105D.140).
cleanup actions	Also known as cleanups or remedial actions. The collective planning, investigative, and technical work needed to clean up contaminated sites.
cleanup site	Also known as a contaminated site or hazardous waste site. A site or property where Ecology has confirmed one or more releases (or threatened release) of a hazardous substance. Ecology has identified 12,900-plus cleanup sites in Washington state. Cleanups are often considered construction projects that remove or immobilize harmful contamination from our environment and put properties back into use. Cleanup sites can be as small as a gas station spill, or as large and complex as the Tacoma Smelter Plume (CSID 3657) that impacts thousands of acres.
Cleanup Site ID (CSID)	An identifying number assigned to a cleanup site by the Toxics Cleanup Program for the Integrated Site Information System (ISIS).

Term	Definition
contaminated site	Also known as a cleanup site or hazardous waste site.
EAGL	Ecology's Grants and Loans online application and database.
EJSCREEN	An environmental justice screening and mapping tool that provides the U.S. Environmental Protection Agency with a nationally consistent dataset and approach for combining environmental and demographic indicators.
Environmental Covenant	A legal document that puts institutional controls into place, and is often used when contamination remains on a site. It outlines restraints on how a property can be used or developed to ensure human health is protected at the site.
Facility Site ID (FSID)	An identifying number assigned to a cleanup site or facility for Ecology's Facility Site database.
"Formal" cleanup	Ecology conducts or supervises formal cleanups when property owners are under court order or decree, or when cleanups are funded by legislative initiatives.
fiscal year	A period of one year named for the year it ends. Fiscal Year 2019 starts July 1, 2018, and ends June 30, 2019.
hazardous waste site	Also known a cleanup site or contaminated site. Defined in MTCA as any site that Ecology has confirmed a release or a threatened release of a hazardous substance requiring remedial action (WAC 173-340-200).
Hazardous Substance Tax (HST)	The source of revenue for State Toxics Control (STCA), Local Toxics Control (LTCA), and the Environmental Legacy Stewardship (ELSA) Accounts. This is a tax on hazardous substances at their first possession in the state of Washington. Currently, the majority of the revenue is generated from petroleum products and the remaining from pesticides, industrial chemicals, acids, and other hazardous substances. By statute, 56% of the Hazardous Substance Tax is deposited in the STCA. The other 44% is deposited in the LTCA. After deposits to both accounts equal in total \$140 million each fiscal year, those additional revenues are placed in ELSA.
Integrated Site Information System (ISIS)	Toxics Cleanup Program's internal database that tracks Washington's 12,900-plus contaminated sites.
Model Toxics Control Act (MTCA statute)	Washington's environmental cleanup law, Chapter 170.105D RCW
Model Toxics Control Act Regulations (Cleanup Rule)	Washington's regulations for cleaning up upland and sediment sites under the Model Toxics Control Act (Chapter 173-340 WAC)

Term	Definition
Model Toxics Control Accounts	Three accounts used for cleanup activities and programs, comprised of the State Toxics Control Account (STCA), Local Toxics Control Account (LTCA), and Environmental Legacy Stewardship Account (ELSA).
MTCA Biennial Report of Expenditures	Ecology's financial report produced every odd-numbered year that describes how funds from the MTCA Accounts were spent on cleanup activities over the previous two fiscal years.
MTCA Ten-Year Financing Report	Ecology's financial report produced every even-numbered year that describes cleanup financing needs over the next ten fiscal years.
No Further Action opinion	A determination by Ecology that a site has been determined to require no further cleanup action.
RAG Program	Ecology's Remedial Action Grant program that provides grants and loans to local governments for site investigation and cleanup.
RAG Rule	Washington's regulations that govern the issuance of remedial action grants and loans to local governments (Chapter 173-322A WAC).
Redevelopment Opportunity Zone (ROZ)	A geographic area designated by a city, county, or port district that meets criteria outlined in RCW 70.105D.150 . The city, county, or port district must also adopt a resolution that includes the determinations and commitments outlined in the RCW.
remedial actions	Also known as cleanups or cleanup actions. The collective planning, investigative, and technical work needed to clean up contaminated sites.
Remedial Action Grants (RAG)	Grants for cleaning up hazardous sites throughout Washington. In 2017–19, Ecology offered five types of remedial action grants through the RAG Program: Oversight, Independent, Integrated Planning, Area-wide Groundwater, and Safe Drinking Water.
State Building Construction Account (SBCA)	An account used to carry out the provisions of the capital appropriations act with general obligation bond proceeds.
Unit (of affordable housing)	A quantity of housing to be delivered that serves one family unit.

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