



STATE OF WASHINGTON
— OFFICE OF GOVERNOR JAY INSLEE —

December 18, 2023

Casey Sixkiller
Regional Administrator
U.S. Environmental Protection Agency, Region 10
1200 6th Avenue, Suite 155
Seattle, WA 98101

Re: Support for NPL Listing – Upper Columbia River Lake Roosevelt

Dear Regional Administrator Sixkiller:

On behalf of the state of Washington, I strongly support the Environmental Protection Agency's (EPA) proposed listing of the Upper Columbia River (UCR) Site on the National Priorities List (NPL). The Upper Columbia River is a culturally significant and valuable natural resource to the Colville Confederated Tribes, the Spokane Tribe of Indians, and Washington state. However, decades of legacy contamination have posed unacceptable risks to human health and the environment. Listing the UCR Site on the NPL would unlock the federal authority and funding needed to comprehensively clean up the site.

Widespread contamination at the UCR Site and adjoining uplands continue to pose risks to human health, disproportionately impacting low-income and Tribal residents, and risks to the environment. The primary source of this contamination is from historical discharges to air and water from the Teck Resources Limited (Teck) smelter and fertilizer operations in Trail, British Columbia.

Despite longstanding evidence of the contamination and its associated risks, only very limited progress on site investigation and cleanup has occurred to date. The 2006 Settlement Agreement between the EPA and Teck is expressly not carried out under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), thereby limiting EPA's authority to require comprehensive and timely investigation and cleanup. Almost 20 years after the Settlement Agreement was entered into, the required RI/FS has still not been completed. Moreover, under the Settlement Agreement, Teck controls certain portions of the RI/FS process that Washington state believes will continue to adversely impact EPA's ability to fully exercise CERCLA authority.

Importantly, the Settlement Agreement performance period ends when Teck submits a final Sitewide Feasibility Study; it has no provisions requiring Teck to complete any actual cleanup work. In addition, a 2016 decision by the Ninth Circuit Court of Appeals limits Teck's CERCLA liability for upland area cleanup. These facts create significant uncertainty about future cleanup responsibilities and funding sources. Without Superfund monies, only limited funding options will be available to address the unacceptable risks and cleanup requirements identified in the forthcoming cleanup plan.

Listing the UCR Site on the NPL would:

- Provide a plan for comprehensive and timely cleanup of the UCR site and adjoining uplands;
- Provide EPA access to critical federal funding; and
- Authorize the EPA to exercise greater control over Teck's investigation and cleanup activities, in conformance with CERCLA, and provide a mechanism for cost recovery.

The legacy of contamination, ongoing adverse impacts to human health and the environment, delayed cleanup actions, and budgetary constraints imposed by the Settlement Agreement justify adding the Site to the NPL. It is time to turn needed attention to clean up the UCR Site and protect human health and the environment for all who depend on the UCR as a treasured natural and cultural resource.

Washington state looks forward to continued participation in cleanup activities at the UCR Site in partnership with the EPA, Colville Confederated Tribes, Spokane Tribe of Indians, and Teck. Thank you for the opportunity to comment on the proposed listing. If you have any questions or would like additional information, please contact my Senior Policy Advisor on Environment and Water, Carrie Sessions, at carrie.sessions@gov.wa.gov or 253-290-1126.

Very truly yours,



Jay Inslee
Governor

cc: Carrie Sessions, Office of Governor Inslee, Senior Policy Advisor on Environment and Water
Rob Duff, Office of Governor Inslee, Executive Director of Policy and Outreach
Laura Watson, Department of Ecology
Barry Rogowski, Ecology, TCP Program Manager
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