To:
EPA Administrator Gina McCarthy
U.S. Regional Administrator, Region 10 Dennis McLerran
CC:
OR Senator Jeff Merkley
OR Senator Ron Wyden
OR Representative Earl Blumenhauer
OR Representative Suzanne Bonamici
OR Representative Peter DeFazio
OR Representative Kurt Schrader
OR Representative Greg Walden
OR Governor Kate Brown
OR Attorney General Ellen Rosenblum
OR House Speaker Tina Kotek
OR Representative Tawna Sanchez (incoming)
OR Representative Alissa Keny Guyer
OR Health Authority Director Lynne Saxton
City of Portland Mayor Charlie Hales
City of Portland Commissioner Nick Fish
City of Portland Commissioner Amanda Fritz
City of Portland Commissioner Steve Novick
City of Portland Commissioner Dan Saltzman
City of Portland Auditor Mary Hull Caballero
City of Portland Bureau of Environmental Services Director Michael Jordan

Subject: Portland Youth and Elders Council (PYEC) Public Comment on the Portland Harbor Superfund Site Proposed Cleanup Plan

Dear Ms. McCarthy and Mr. McLarren:

The Portland Youth and Elders Council (PYEC), is a grassroots advocacy group that builds strong civic connections within the local Native American Community. We are part of a regional effort to reduce poverty in urban Indian Communities and to develop greater community ties and advocate for improving the quality of life for Native American Indians in urban areas.

Through the practice of traditional values, the Youth and Elders Council addresses poverty and other community issues by focusing on community solutions to housing, unemployment, education, health and racism while building on community strengths.

We feel that the EPA has not met its basic mission to protect human health and the environment, maximize compliance and reduce threats to public health and environment. We feel that the cleanup plans in total were based on bad science, and bad or secret formulas that have been deemed even by EPA to be deficient and subject to fines. We feel the studies are poisonous fruit and should be thrown out. We feel it is lacking in the areas of overall protection of human health and the environment. Not in Compliance with Federal, State, local, international, and Tribal law. Did not properly address long term effectiveness and permanence, reduction of toxicity, mobility, or volume, short term effectiveness, implement ability, cost, community acceptance or Tribal acceptance.

PYEC feels that the proposed plans of the EPA Portland Harbor cleanup will have an adverse impact on communities, businesses and wildlife along the Willamette and Columbia River system and beyond and that it will have a disproportional adverse effect on the poor and communities of color, particularly those of the Urban Native American Population. A U.S. General Accounting Office study showed obvious bias regarding landfills in minority communities. The National Law Journal found that the EPA took 20% longer to cite abandoned sites in minority communities and that polluters in those communities paid 50% less than polluters in white communities. These studies along with the EPA's failure to consult with Native urban Indians and the community at large shows a troubling pattern.

The EPA's outreach to urban Native communities regarding the Portland Harbor clean-up was grossly inadequate and basically unfunded. The original 30 days or the subsequent additional 60 days is completely insufficient time for the Native American community to respond with a responsible and reasonable alternative to the EPA's proposed plan.

PYEC feels that our civil rights and our human rights are being violated. We will submit some of our concerns in this letter however we reserve the right to additional comment, input and changes.

The Native peoples in the region consume fish from the Portland Harbor and nearby waterways at approximately nine times the national rate and the general population of the Portland Metro area. We believe this is a disproportionate adverse impact on our population. We also hold that treaty rights extend to all tribal members including those in the urban environment, both tribally enrolled and non-enrolled. We take issue with the EPA considering the lamprey as a transient species. Lamprey spend seven years as young in the sediments of the Willamette River and that puts the lamprey in a different category. Our paramount concern is with the long-term epigenetic effects of toxicity in our population. One meal of fish to our women results in undisputable long-term harm. It is also true that the EPA

shows no studies of the long-term effects in either humans or other plants and animals in the system. Nor has it considered cumulative and intergenerational impacts or outside influences exacerbating health disparities.

Things we would like the EPA to address include, but are not limited, to the following:

- Extend the comment period at least 120 days.
- Work with and fund independent community organizations for quality community outreach to educate, inform, protect and advocate for affected communities particularly those of color and economically disadvantaged and not a Potentially Responsible Party or PRP (City of Portland Bureau of Environmental Service is unacceptable). See Community Involvement Ladder diagram attached.
- Our Canoe Journey people who are practicing spiritual Native events are unable to use the River due to pollution. See attached letter.
- Making sure polluters pay.
- Making sure the insurers of the polluters represent the clean-up.
- Have performance bonds.
- Insure that the superfund site is addressed in total and not as separate units, both upland and in water aspects included.
- Prioritize the overall success of the site-wide clean-up over making available specific sites for interest groups.
- Production and translation of pertinent documents from EPA and the PRPs.
- Consider permanent adverse health effects to nursing children.
- Protect lamprey, our cultural food and source of spiritual nutrition as well as a resource for our ceremonies and historical stories.
- Give six months' notice before beginning clean-up in areas where houseless people are living.
- Provide funds for permanent affordable housing for anyone displaced by clean-up whether housed or houseless.
- Insure that low- and middle-income residents have access to permanently affordable housing in nearby neighborhoods.
- Work with impacted communities to set aside land on or near the river for community use including community controlled habitat restoration, housing, gardens, environment education, and other community identified and controlled activities.
- Remove <u>all</u> highly and moderately contaminated sediments from the river regardless of cost so that fish are safe for everyone to eat.
- Remove all highly and moderately contaminated soils from the upland areas to ensure no recontamination of the water and to ensure that food stuffs gathered from the above high water mark are safe for all to eat.
- Train and hire local residents from impacted communities, women and minority-owned firms for the related long-term family-wage clean-up jobs.
- Sign community benefit agreements to ensure benefits accrue to local communities.
- Pursue a meaningful partnership with local tribal governments and urban Natives.
- **Pollution Controls:** Include ongoing pollution controls in the final cleanup plan, including from upriver sources. Do not allow re-contamination from upland sources. Use EPA enforcement

- authority to clean up major hot spots like Arkema, shut off upland pollution sources, and define an appropriate, diminished role for Oregon DEQ during the cleanup process.
- **Air Monitoring:** During the entire length of cleanup process, require the most effective fuel/emissions filters available and ongoing monitoring to minimize exposure for all cleanup-related activities, including but not limited to freight, dredging, barges, and other equipment. If air toxins are found to exceed acceptable levels, immediately take measures to intervene.
- Water Monitoring: During the entire length of the cleanup process, provide rigorous water monitoring, and make data available through a public database so that the public is aware of pollution levels at various locations, particularly those that are important for recreation and fishing access.
- Public Access: Increase access to public lands along the river. Prioritize impacted communities –
   including youth in the design, cleanup, restoration, and development of new sites.
- Transport & Disposal: Ensure the health and safety of people and the environment in the transport and disposal of toxic substances. Do NOT store contaminated sediment next to the river. Do NOT dispose of contaminated sediment in a way that will negatively impact the health of people living or working near the disposal site. Use known best practices to avoid off-gassing and volatilization of toxic substances, and ensure that all workers are trained in these practices.
- **Community Support:** Establish a fund to assist communities impacted by historic and ongoing contamination, as well as cleanup impacts, until fish advisories are lifted.
- **Polluters Pay:** Ensure that impacted communities (see above) are not burdened by the cost of cleanup. Require performance bonds from PRPs to cover these cleanup costs.
- Legally binding source cleanup from Oregon
- Habitat restoration in perpetuity fully paid by PRPs
- No separate operable units
- Monitoring during clean-up of water, air, noise, and odor.
- Full community involvement at all levels.
- Atmospheric release of PCBs is not included in any part of the EPA analysis or Proposed Plan. Recent research confirms that PCBs can be released into the air, that air can be a source of human exposure, and that exposure by inhalation can cause harmful health effects in people.
- Emerging technologies- treatment of dredged material is more viable than ever before and needs to be given greater attention in the Plan and FS. Newer treatments are available for riverbank contamination as well.
- Control of upland and upriver sources is necessary and not complete. The Plan indicates a more pervasive influx of contaminant from the sources on land, many or all of which are uncontrolled.
   This problem must be remedied with source elimination in the harbor and source control upriver.
- Contaminants left in river will largely remain for the foreseeable future. PCBs, dioxins/furans, DDx, and metals will not degrade. The Plan leaves a substantial amount of contaminants in the river and we seek an estimate of the mass of chemicals remaining.
- Confined Disposal Facilities have been opposed by the community since the concept was first raised. The community does not want to have a CDF in perpetuity.

- Monitored Natural Recovery has not been shown to effectively deal with contaminant that do not degrade, including metals, PCBs and dioxins/furans, among other chemicals. MNR can work on PAHs that can be broken down by bacteria.
- Time frame for estimated costs needs to be longer, at least 100 years, recognizing that the remedy includes monitoring in perpetuity. EPA also needs to estimate the economic benefits of a clean river, fishing boating, etc.
- Compliance with all standards, including drinking water and surface water standards (Clean Water Act).
- Restoration of any lost habitat needs to be a requirement of the final remedy. The Proposed Plan refers to restoration, and this restoration must comprehensively include actions following removal actions.
- Independent air & water monitoring during the cleanup must be instituted and include baseline data collected as soon as possible.
- More detailed/site-specific data will be obtained during the design phase and the ROD must be written to require removal that accounts for the data that will be collected.
- Fish contamination needs to be monitored to assess the changes with time and over space, beginning with a monitoring program now to establish a clear baseline.

We will include and submit for your consideration:

- economic impact study titled Economic Importance of the Portland Harbor Clean-up by Ernie Niemi of Natural Resource Economics.
- Portland Harbor Community Coalition letter to the EPA dated September 6, 2016. (We are part
  of the Portland Harbor Community Coalition and we support their grievances and requests and
  attach their letter of comment to the EPA dated September 6, 2016.)
- A fish consumption survey by Columbia River Intertribal Fish Commission.

Thank you for your consideration.

Sincerely,

Roben White

Representative for Portland Youth and Elders Council

## Testimony of Mary Renville:

I am an enrolled member of the Sisseton Wahpeton Oyate in South Dakota. I am here on behalf of the NAYA Family Canoe Journey, a community initiative of the Portland Youth and Elders Council and the Native American Youth and Family Center.

When we started the Canoe Journey community initiative three years ago, we toured the waterways in the urban area. As we sat by the water enjoying the splendor around us, we noticed the river glistening. We looked closer, it was an oil slick! Sickened, we realized this is what our generation did, in our greed for more - more, we destroyed the environment. To this day we live with this guilt and wonder how and what can we, as individuals, do to help.

The problem seemed insurmountable but the federal government and the EPA now have the ability and responsibility to force polluters to clean it up.

Our canoe family practiced at Cathedral Park below the St. John's Bridge on the Willamette River not fully understanding the dangers lurking in the Superfund area. We were all enjoying the park and the children could not resist the water! We soon realized we were exposing our children and families to deadly toxins, raw sewage and industrial waste. We now go far upstream on the Columbia or far downstream on the Willamette. We simply cannot allow our children to be exposed any more, no matter how beautiful and serene the water looks.

We've seen fisher people and families, mostly people of color with children out fishing, in the Superfund area and probably eating more than the recommended allotment of poisonous fish. The EPA must remove the deadly toxins and ensure that the fish are edible, train and hire people of color and other impacted residents for long term clean up jobs, listen observe and learn from Native elders, especially from the inter tribal urban community, about how to clean the environment and most of all ensure that polluters do not re-contaminate and that they, not the impacted people of color, pay for their pollution.

Final recommendation: We have been collaborating with other interested parties who also feel that a formal consultation between the Environmental Protection Agency, the City of Portland and affected communities of color be initiated to provide insight and oversight.