

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

IN THE MATTER OF REMEDIAL ACTION BY:

The Boeing Company  
Boeing Commercial Airplanes – Everett Plant  
3003 West Casino Road  
Everett, WA 98203

FOURTH AMENDMENT TO  
AGREED ORDER

No. DE 96HS-N274

To: The Boeing Company  
c/o Steven Shestag  
EHS Remediation Director  
18-24 Building, MC 86-34  
20403 68<sup>th</sup> Avenue South  
Kent, WA 98032-2316

**I. INTRODUCTION**

Agreed Order No. DE 96HS-N274 (Order) entered into by the Department of Ecology (Ecology) and The Boeing Company (The Boeing Company) on February 12, 1997, as amended on October 22, 1998 (First Amendment), July 26, 2004 (Second Amendment), and July 27, 2006 (Third Amendment) requires that The Boeing Company perform a Remedial Investigation, Feasibility Study (RI/FS) and certain interim actions at the Boeing Commercial Airplanes, Everett Plant (Facility).

By this Fourth Amendment to Agreed Order No. DE 96HS-N274 (Fourth Amendment), Ecology authorizes, but does not obligate, The Boeing Company to perform the following two additional interim actions: (1) remove contaminated soils at the BOMARC property located within the boundary of the Facility; and (2) remove contaminated soils at the Former Gun Club area (SWMU 100) prior to construction activities to expand the Boeing Everett flightline. An election by The Boeing Company not to proceed with one or both of these actions as interim

actions does not foreclose the possibility that such actions can be required by Ecology as part of the final cleanup remedy.

## **II. JURISDICTION**

This amendment to the Order is issued pursuant to the authority of RCW 70.105D.050 (1) and WAC 173-303-64630.

## **III. FINDINGS OF FACT**

Ecology makes the following Findings of Fact in addition to those Findings set forth in the Order and the subsequent Amendments to the Order, without admission or agreement of the accuracy or completeness of such facts by The Boeing Company:

Boeing plans to expand the Everett flightline over an area of its property that contains contaminated soils prior to completion of the FS for the Facility's RI/FS. Boeing also plans to sell the BOMARC Building 45-70 and terminate the BOMARC property lease with Snohomish County and wants to remediate a portion of that parcel to expedite these transactions.

The new flightline construction is scheduled to start in April of 2008. Completing soil remediation prior to completion of the facility wide FS presents an opportunity to remediate this area more expeditiously and at less cost than would be the case if the remedy was completed after the flightline expansion is completed.

## **IV. ECOLOGY DETERMINATIONS**

In addition to the determinations contained in the Order, Ecology makes the following determinations:

1. Ecology has determined that the actions authorized by this amendment, while not addressing an imminent threat to human health or the environment, will expedite the overall remediation of the Facility.
2. Ecology believes this additional work to be performed is in the public interest.
3. Ecology has determined that the additional interim actions will not foreclose alternatives for cleanup to be considered in the FS.

4. RCW 70.105D.030(2)(a) requires that, at a minimum, this Fourth Amendment be subject to concurrent public notice. Ecology shall be responsible for providing such public notice and reserves the right to modify or withdraw any provisions of this Fourth Amendment should public comment disclose facts or considerations which indicate to Ecology that the Fourth Amendment is inadequate or improper in any respect.

## V. AMENDMENT

This Fourth Amendment does not attempt to recite all of the provisions of the Order, First Amendment, Second Amendment or Third Amendment. Provisions of the Order, First Amendment, Second Amendment, and Third Amendment not specifically addressed in this amendment remain in full force and effect.

By entering into this Fourth Amendment, The Boeing Company makes no admissions of fact or law.

The Order is hereby amended to authorize the proposed interim actions and incorporate the following information and requirements:

1. Location of interim actions. The location of the interim action work is illustrated in Exhibit A1 and A2.

2. Scope of Work. The scope of work authorized under this Fourth Amendment is set forth in Exhibit B for each interim action area: BOMARC Property; Former Gun Club. Upon Ecology's review and approval of the interim action work plans and SEPA checklist, and completion of the required public notification period, The Boeing Company shall then be authorized to perform the interim action in accordance with any applicable Ecology-approved documents generated pursuant to the Schedule below and subject to the terms and conditions of this Fourth Amendment; provided, however, that Boeing shall not be obligated to perform either piece of work as interim actions under this order.

3. Schedule. In the event Boeing elects to proceed on one or both interim actions, the schedule for the deliverables set forth in Exhibit B for each/both interim action is set forth in Exhibit C.

4. All actions carried out by The Boeing Company pursuant to this Fourth Amendment shall be done in accordance with all applicable federal, state, and local requirements, including requirements to obtain necessary permits, except as provided in RCW 70.105D.090. Pursuant to RCW 70.105D.090(1), The Boeing Company is exempt from the procedural requirements of Chapters 70.94, 70.95, 70.105, 77.55, 90.48, and 90.58 RCW and of any laws requiring or authorizing local government permits or approvals. However, The Boeing Company shall comply with the substantive requirements of such permits or approvals. The permits or specific federal, state or local requirements that are applicable and the exempt permits or approvals and the applicable substantive requirements of those permits or approvals, as they are known at the time of entry of this Fourth Amendment, shall be identified in the deliverables submitted to Ecology, which shall become a part of this Order.

The Boeing Company has a continuing obligation to determine whether additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Fourth Amendment. In the event either Ecology or The Boeing Company determines that additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Fourth Amendment, it shall promptly notify the other party of its determination. Ecology shall determine whether Ecology or The Boeing Company shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, The Boeing Company shall promptly consult with the appropriate state and/or local agencies and provide Ecology with written documentation from those agencies of the substantive requirements those agencies believe are applicable to the remedial action. Ecology shall make the final determination on the additional substantive requirements that must be met by The Boeing Company and on how The Boeing Company must meet those requirements. Ecology shall inform The Boeing Company in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Fourth Amendment. The Boeing Company shall not begin or continue the

remedial action potentially subject to the additional requirements until Ecology makes its final determination.

Pursuant to RCW 70.105D.090(2), in the event Ecology determines that the exemption from complying with the procedural requirements of the laws referenced in RCW 70.105D.090(1) would result in the loss of approval from a federal agency which is necessary for the state to administer any federal law, the exemption shall not apply and The Boeing Company shall comply with both the procedural and substantive requirements of the laws referenced in RCW 70.105D.090(1), including any requirements to obtain permits.

5. With respect to the implementation of this Fourth Amendment, The Boeing Company shall make the results of all sampling, laboratory reports, and/or test results generated by it or on its behalf available to Ecology. Pursuant to WAC 173-340-840(5), all sampling data shall be submitted to Ecology in both printed and electronic formats in accordance with Section V (Amendment), Ecology's Toxics Cleanup Program Policy 840 (Data Submittal Requirements), and/or any subsequent procedures specified by Ecology for data submittal.

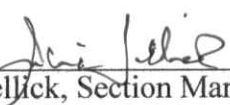
EFFECTIVE DATE of this Fourth Amendment: January 24, 2008.

THE BOEING COMPANY, by, through,  
and for its BOEING COMMERCIAL  
AIRPLANE GROUP - EVERETT PLANT

  
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Steven Shestag  
EHS Remediation Director

Date: Dec 8 2007

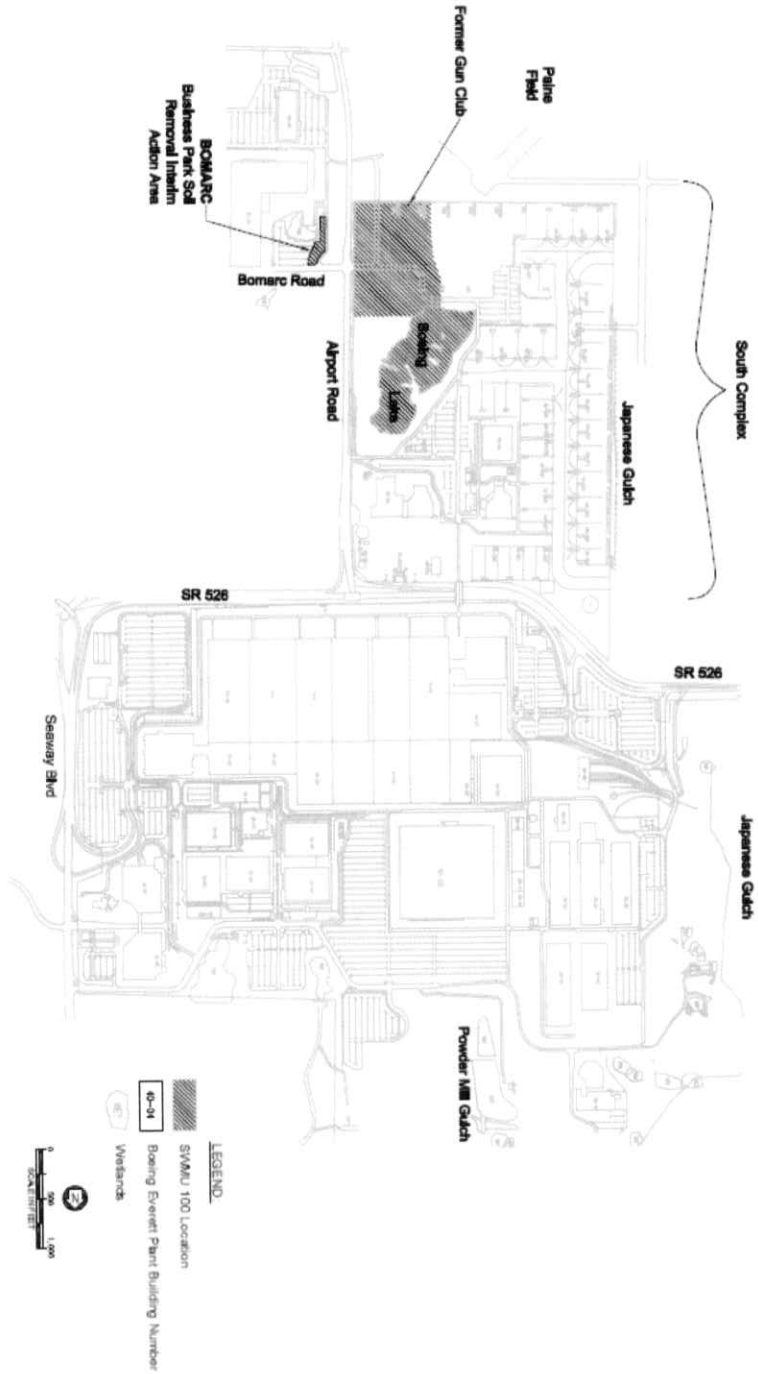
STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

  
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Julie Sellick, Section Manager  
Hazardous Waste and Toxics Reduction  
Northwest Regional Office

Date: Jan, 24, 2008

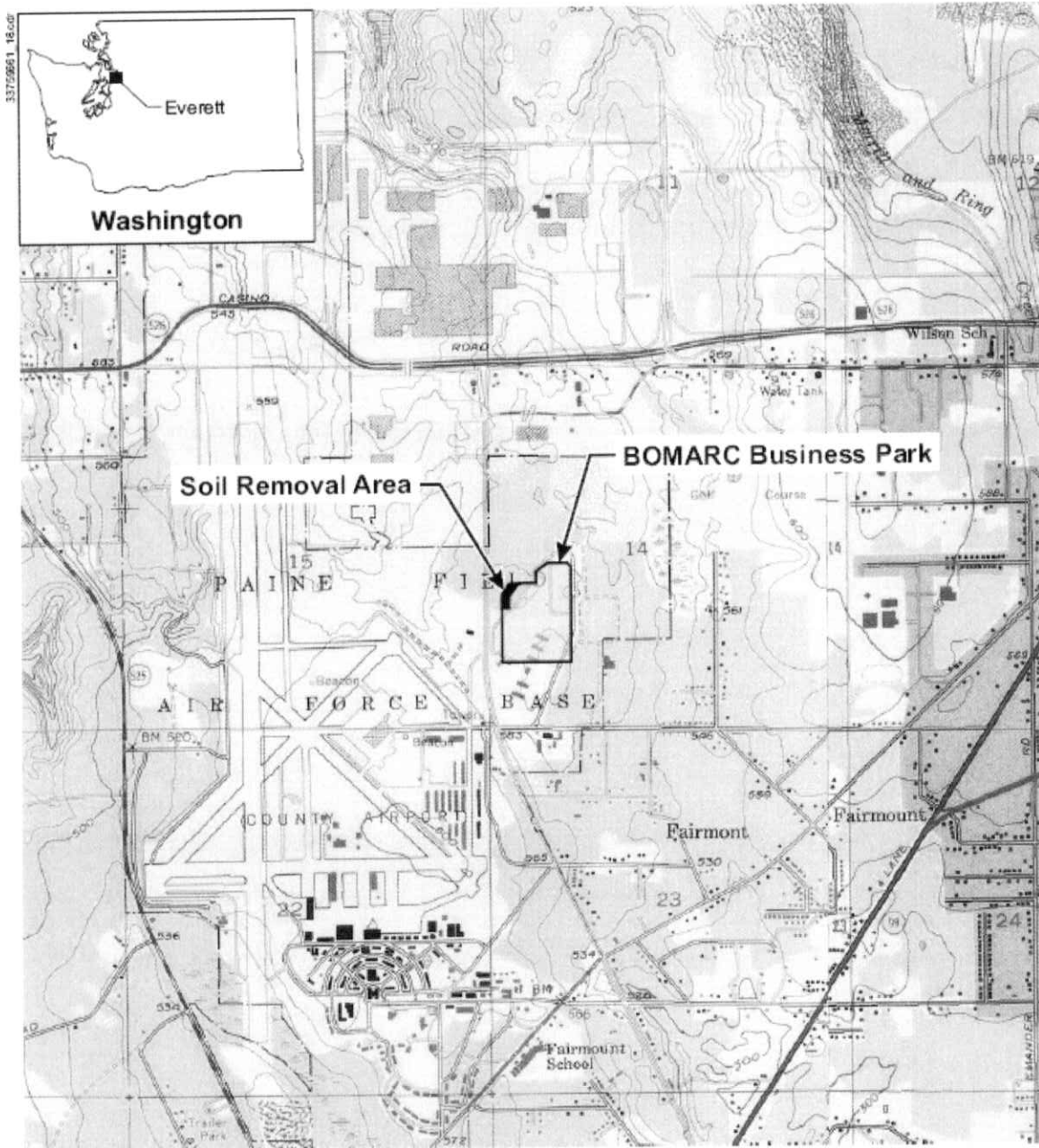
# EXHIBIT A1

Figure of location of the Flightline Interim Actions

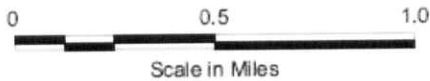


**EXHIBIT A2**

Figure of location of the BOMARC Interim Actions:



SOURCE: USGS 7.5-minute topographic quadrangle, Mukilteo, Washington



Job No. 33759661

**URS**

Figure 1  
**Site Location Map**

BOMARC Business Park  
Soil Removal Interim Action

## **EXHIBIT B**

### Scope of Work

If Boeing elects to proceed with one or both interim actions, contaminated soils shall be identified and removed from Area A of the Former Gun Club (SWMU 100), as outlined in Exhibit A1, prior to the expansion of the Boeing Everett flightline. As documented in the Draft Remedial Investigation Report (URS, 2006), the hazardous substances previously detected in this area above applicable MTCA soil cleanup levels are arsenic, lead, and carcinogenic polynuclear aromatic hydrocarbons (CPAHs). Contaminated soils shall also be identified and removed from beneath the parking lot northwest of the BOMARC 45-70 building, as outlined in Exhibit A2. The Hazardous Substances historically detected in this area at levels above applicable MTCA soil cleanup levels are CPAHs (URS, 2006). The goal of the contaminated soil removal actions is to meet MTCA Method A unrestricted and Method B soil cleanup levels for the hazardous substances outlined above, including protection of groundwater. The interim action work plans for the Boeing Everett Former Gun Club and BOMARC property shall include, but not be limited to:

- 1) a description of each of the interim actions and how each will meet the criteria identified in WAC 173-340-430(1) through (4) as appropriate;
- 2) a description of the information and data generated and plans utilized in conducting the interim actions, consistent with appropriate provisions contained in WAC 173-340-430(7) and (8);
- 3) a QA Project Plan written in accordance with *Guidelines and Specifications for Preparing Quality Assurance Project Plans for Environmental Studies, Publication No. 04-03-030, July 2004*;
- 4) a time schedule of activities and deliverables to Ecology; and



- 5) a description of the anticipated effectiveness of the interim actions when completed, and conditions for terminating interim actions.

## EXHIBIT C

### Schedule

In the event Boeing elects to proceed with one or both interim actions, then the following schedule shall apply to each interim action:

1. Boeing shall make such election in writing no later than August 30, 2008. Concurrent with The Boeing Company's written notice of its election to proceed with the particular action(s) authorized herein, Boeing shall submit to Ecology for review, draft interim action work plan(s) for contaminated soil removal and post-excavation confirmation soil sampling and analysis for:

- a. BOMARC Property, SWMU 100
- b. Former Gun Club, SWMU 100

2. The Former Gun Club draft interim action work plan will include a plan for post-excavation groundwater monitoring.

Ecology will use best efforts to provide comments on these draft interim action work plans within thirty (30) calendar days of receiving each draft work plan.

3. Boeing shall revise the work plan within fifteen (15) calendar days of receipt of all of Ecology's comments. If Ecology disagrees with the contents of the work plan as submitted by Boeing, the parties will use reasonable best efforts to expeditiously resolve the dispute in accordance with Section VII.4 of the Order. Boeing shall provide confirmation soil analytical data to Ecology within twenty-one (21) calendar days of the sampling for Ecology to review and approve to determine that additional excavation is not required. The Boeing Company shall not proceed with either interim action until Ecology has approved the work plan for that interim action.

4. **Within ninety (90) calendar days** of completion of each interim action, The Boeing Company shall submit to Ecology a draft completion report for the location specific interim action. This report shall include at a minimum all of the following: final drawings, tabulated data, laboratory data summary sheets, quality assurance and quality control (QA/QC) narrative, a

*SS Sheehy*  
*12-18-07*  
*J. Sellick*  
*1/24/08*

narrative describing the interim action performed and results of sampling during and post-construction, plans for post-interim action monitoring, and operation and maintenance plans and procedures. Ecology will review this draft report and provide written comments or approval of the report.

5. Ecology comments on the draft reports will be incorporated into a final report by The Boeing Company in accordance with the procedures in the original agreed order.

6. Ecology's written approval letter(s) for both reports will document and represent Boeing's compliance with the provisions of this Fourth Amendment to the Agreed Order.

*S. Sellick*  
*12-18-07*  
*J. Sellick*  
*1/24/08*