State of Washington
Department of Ecology

In the Matter of Remedial Action by:
3812 Everett Partners, LLC
First Amendment to Agreed Order
No. 21518

To: Jeffrey Pustizzi
3812 Everett Partners, LLC
Two Town Place, Suite 200
Bryn Mawr, PA 19010

Javier Bitar
PKST Everett 28th Place LLC
c/o Peakstone Realty Trust
150 N Riverside Plaza, Suite 1950
Chicago, IL 60606

1. Introduction

On June 22, 2023, 3812 Everett Partners, LLC (Everett Partners) entered into Agreed Order No. 21518 (Order) with the State of Washington, Department of Ecology (Ecology) to respond to the release or threatened release of Hazardous substances at the Site. The Order requires Everett Partners to conduct a Remedial Investigation (RI) and Feasibility Study (FS) and to prepare a draft Cleanup Action Plan (DCAP) for the Site.

The purpose of this First Amendment to Agreed Order No. 21518 (First Amendment) is to add PKST Everett 28th Place LLC ("PKST") as a PLP and Party to the Order.

Ecology believes the modifications to the Order included in this First Amendment are in the public interest.

The First Amendment does not attempt to recite all the provisions of the Order. Provisions of the Order, including defined terms, not specifically amended or modified in this First Amendment remain in full force and effect.

2. Jurisdiction

The First Amendment is issued pursuant to the MTCA, RCW 70A.305.050(1).

3. Amendments

The Order is hereby amended to add PKST as a PLP and Party to the Order.

Section 1 (Introduction) of the Agreed Order is hereby deleted in its entirety and replaced with the following:

The mutual objective of the State of Washington, Department of Ecology (Ecology), 3812 Everett Partners, LLC (Everett Partners), and PKST Everett 28th Place LLC (PKST) (collectively the potentially liable persons (PLPs)) under this Agreed Order (Order) is to provide for remedial action at a facility where there has been a release or threatened release of hazardous substances. This Order requires the PLPs to conduct a Remedial Investigation (RI) and Feasibility Study (FS) per WAC 173-340-350 and to prepare a draft Cleanup Action Plan (DCAP) per WAC 173-340-350 through 173-340-380. Ecology believes the actions required by this Order are in the public interest.

Section 3 (Parties Bound) is hereby amended as follows:

All references to Everett Partners are replaced with references to "the PLPs."

Section 4 (Definitions), 4.2. (Parties) is deleted in its entirety and replaced with the following::

Refers to the Washington State Department of Ecology, Everett Partners, and PKST.

Section 4 (Definitions), 4.3. Potentially Liable Persons (PLP(s)) is hereby deleted in its entirety and replaced with the following:

Refers to Everett Partners, and PKST.

Section 5 (Findings of Fact) is amended to add the following:

O. In October 2024, Everett Partners sold the Property comprised of Tax Parcel Nos. 29050400300600 and 29050900201500 to PKST Everett 28th Place LLC. The Property is within the Site.

Section 6 (Ecology Determinations) is amended to replace: "Ecology makes the following determinations, without any express or implied admissions of such determinations (and underlying facts) by Everett Partners" with "Ecology makes the following determinations, without any express or implied admissions of such determinations (and underlying facts) by the PLPs."

Section 6.1 (Ecology Determinations) is deleted in its entirety and replaced with the following:

6.1 As the owner of the Site on the effective date of the Order, and as a former owner of the Site on the effective date of the First Amendment to Agreed Order, Everett Partners is an

"owner or operator" as defined in RCW 70A.305.020(22) of a "facility" as defined in RCW 70A.305.020(8).

Section 6 (Ecology Determinations) is further amended to add the following:

6.5 As a current owner of property within the Site, PKST is an "owner or operator" as defined in RCW 70A.305.020(22) of a "facility" as defined in RCW 70A.305.020(8).

6.6 Based upon credible evidence, Ecology issued a Preliminary Determination of Liability letter to PKST on February 12, 2025, pursuant to RCW 70A.305.020(26), 70A.305.040(1)(a), and WAC 173-340-500. Ecology provided notice and opportunity for comment. PKST provided written notice accepting its status as a PLP for the Site on March 3, 2025. Ecology concluded that credible evidence supported a finding of potential liability. Ecology issued a determination that PKST is a PLP under RCW 70A.305.040(1)(a) and notified PKST of this determination by letter dated March 19, 2025.

Sections 7 through 10.4 are hereby amended to replace all references to "Everett Partners" with "the PLPs" and revise all related verbs accordingly.

Effective date of this First Amendment to Agreed Order:

July 17, 2025

3812 Everett Partners, LLC

Jeffrey Pustizzi
Authorized Representative
Two Town Place, Suite 200
Bryn Mawr, PA 19010
(267) 886-9825

PKST Everett 28th Place LLC

Javier Bitar
Chief Financial Officer and Treasurer
150 N Riverside Plaza, Suite 1950
Chicago, IL 60606
(310) 606-9275

State of Washington
Department of Ecology

Erik G. Snyder
Section Manager
Toxics Cleanup Program
Headquarters Office
(425) 466-6398

STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

In the Matter of Remedial Action by:	AGREED ORDER
3812 Everett Partners, LLC	No. DE 21518 _____

To: Jeffrey Pustizzi, Authorized Representative
3812 Everett Partners, LLC
414 S. 16th Street, Suite 100
Philadelphia, PA 19146

1. Introduction 2
2. Jurisdiction 2
3. Parties Bound 2
4. Definitions 2
5. Findings of Fact 3
6. Ecology Determinations 5
7. Work to be Performed 6
8 Terms and Conditions 8
   - 8.1 Payment of Remedial Action Costs 8
   - 8.2 Designated Project Coordinators 9
   - 8.3 Performance 10
   - 8.4 Access 10
   - 8.5 Sampling, Data Submittal, and Availability 11
   - 8.6 Public Participation 12
   - 8.7 Access to Information 13
   - 8.8 Retention of Records 13
   - 8.9 Resolution of Disputes 14
   - 8.10 Extension of Schedule 15
   - 8.11 Amendment of Order 16
   - 8.12 Endangerment 17
   - 8.13 Reservation of Rights 17
   - 8.14 Transfer of Interest in Property 18
   - 8.15 Compliance with Applicable Laws 18

8.16 Indemnification 20
9. Satisfaction of Order 20
10. Enforcement 20

Exhibit A Location Diagram
Exhibit B Scope of Work
Exhibit C Schedule of Deliverables
Exhibit D Ecology Policy Number 840, Data Submittal Requirements

1. Introduction

The mutual objective of the State of Washington, Department of Ecology (Ecology) and 3812 Everett Partners, LLC (Everett Partners) under this Agreed Order (Order) is to provide for remedial action at a facility where there has been a release or threatened release of hazardous substances. This Order requires Everett Partners to perform a Remedial Investigation and Feasibility Study (RI/FS) and prepare a draft Cleanup Action Plan (CAP) at the Buse Timber & Sales Site (as defined below). Ecology believes the actions required by this Order are in the public interest.

2. Jurisdiction

This Order is issued pursuant to the Model Toxics Control Act (MTCA), RCW 70A.305.050(1).

3. Parties Bound

This Agreed Order shall apply to and be binding upon the Parties to this Order, their successors and assigns. The undersigned representative of each Party hereby certifies that he or she is fully authorized to enter into this Order and to execute and legally bind such Party to comply with this Order. Everett Partners agrees to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter Everett Partners' responsibility under this Order. Everett Partners shall provide a copy of this Order to all agents, contractors, and subcontractors retained to perform work required by this Order, and shall ensure that all work undertaken by such agents, contractors, and subcontractors complies with this Order.

4. Definitions

Unless otherwise specified herein, the definitions set forth in RCW 70A.305, WAC 173-204 , and WAC 173-340 shall control the meanings of the terms in this Order.

4.1 Site

The Site is referred to as Buse Timber & Sales. The Site constitutes a facility under RCW 70A.305.020(8). The Site is defined by where a hazardous substance, other than a consumer product in consumer use, has been deposited, stored, disposed of, or placed, or otherwise come to be located. Based upon factors currently known to Ecology, the Site is generally located in the vicinity of 3812 28th Place NE, Everett, WA 98206 as shown in the Location Diagram (Exhibit A).

4.2 Parties

Refers to the Washington State Department of Ecology and Everett Partners.

4.3 Potentially Liable Persons (PLP(s))

Refers to Everett Partners.

4.4 Agreed Order or Order

Refers to this Order and each of the exhibits to this Order. All exhibits are integral and enforceable parts of this Order.

5. Findings of Fact

Ecology makes the following findings of fact, without any express or implied admissions of such facts by Everett Partners:

A. Buse Timber & Sales property (Property) is comprised of two Snohomish County parcels (29050400300600 and 29050900201500), as shown in the Location Diagram (Exhibit A) and comprises roughly 60-acres. Available documents indicate that from 1900 to 1941, the area was operated as a golf course and then as a dairy farm.

B. In 1943, Delmer and Norm Buse purchased the Property, and in 1946, a sawmill was constructed. Initially, the mill produced roughly 2,000 board feet of lumber per day. An additional mill was built in 1949, which increased production by 10,000 board feet per shift. The first dry kilns were installed in 1957.

C. By 1965, the larger third mill, which is still used today, was developed and associated buildings were added through 2000. Besides the mill, operations include(d): unpaved hog fuel mixing area, log float and ramp, lube building/mechanics shop, vehicle maintenance area, a former log pond, fire pond, former PCP dip tanks and current dip tanks, former UST and current AST areas, and an equipment washdown area.

D. Historically, some wood products produced at the mill were treated using PCP, which occurred at the former dip tank until at least 1986. PCP dip tanks reportedly did not

have a cover or secondary containment. Current dip tanks at the facility are for a water-based anti-stain/brightener.

E. In 1989, after detections of chlorinated hydrocarbons in soil and sediments at the Site, Ecology recommended that the Property be placed on the EPA CERCLA list of potential hazardous waste sites. Subsequent testing by Ecology in 1992 for chlorinated hydrocarbons in sediments and in the nearby Union Slough did not find impacts. Ecology subsequently issued a determination of No Further Action (NFA) in 1992.

F. In 1994, EPA completed an additional investigation of the Property and concluded that no further investigation was required.

G. In 2004, the Buse family sold the mill to its 129 employees through an employee stock ownership plan.

H. In 2018, Terracon Consultants, Inc. completed a Phase I Environmental Site Assessment (Phase I ESA) and Limited Site Investigation (LSI) at the Buse Timber & Sales Property.

The Phase I ESA concluded that:

a. Operations at the site that included a vehicle maintenance area, wash-down area, diesel underground storage tank (UST) area, and fire pond may have resulted in releases of chemicals of concern to soil and/or groundwater.
b. Previously documented detections of dioxins and furans in drainage sediment indicated potential for site-wide impacts in soil, groundwater, and sediment.

The LSI included collection of soil and groundwater samples from the Property to characterize the potential source areas identified in the Phase I ESA. The LSI concluded:

a. Concentrations of arsenic and/or chromium were detected above MTCA Method A soil cleanup levels in two samples near the maintenance building. Concentrations of arsenic in a groundwater sample from this area also were detected above the MTCA Method A groundwater cleanup level.
b. Concentrations of dioxins and furans were detected at concentrations below MTCA Method B soil cleanup levels, based on the 2,3,7,8 toxicity equivalence in two samples near the former log pond and former washdown area. The detected concentration did exceed established background concentrations for dioxins and furans in Puget Sound.
c. Terracon concluded that with the exception of arsenic in soil and groundwater, conditions representative of a large-scale release were not present.

I. Buse Timber and Sales, Inc. sent a Notification of Apparent Release letter to Ecology on April 21, 2020, which notes finding arsenic in soil above MTCA Method A cleanup levels.

J. In 2021, APEX Companies, LLC prepared a Phase II Environmental Site Assessment describing further investigations at the Property, which concluded as follows:

   a. Soil near the hog fuel mixing area and sediment in the East Drainage contain wood waste and residuals.
   b. Confirmatory sampling near previous USTs is needed for compliance with UST regulations.
   c. Concentrations of dioxins in soil near the hog fuel mixing area exceed background concentrations and require further characterization and evaluation within an ecological risk assessment.
   d. Concentrations of dioxins in drainage sediment samples exceed background concentrations and require further characterization and evaluation within an ecological risk assessment.

K. Everett Partners purchased the Property on November 16, 2021 and is the current owner. Buse Timber & Sales has entered into a lease agreement with Everett Partners and continues to be the operator.

L. On January 14, 2022, Ecology Toxics Cleanup Program (TCP) Headquarters forwarded Apex's Phase II Environmental Site Assessment to TCP Northwest Regional Office. Apex did not find arsenic in groundwater above cleanup levels during its investigation; however, it noted finding dioxins and furans in soil near the hog fuel mixing area exceeding established background concentrations. TPH-Dx (diesel and oil range hydrocarbons combined) was widely detected at the Site, though the detected TPH-Dx concentrations contain non-polar organic compounds from biogenic sources. Additional evaluation is needed to characterize the source of the biogenic material (natural organic matter or wood waste, sawdust, etc.). Further characterization is needed to define the boundary of the Site.

M. Some amount of wood debris is present in sediment at the property.

N. On April 27, 2022, Ecology rescinded the 1992 NFA and listed Buse Timber & Sales on the Confirmed and Suspected Contaminated Sites List.

6. Ecology Determinations

Ecology makes the following determinations, without any express or implied admissions of such determinations (and underlying facts) by Everett Partners.

6.1

As the current owner of the Site, Everett Partners is an "owner or operator" as defined in RCW 70A.305.020(22) of a "facility" as defined in RCW 70A.305.020(8).

6.2

Based upon all factors known to Ecology, a "release" or "threatened release" of "hazardous substance(s)" as defined in RCW 70A.305.020(32), (13), respectively, has occurred at the Site.

6.3

Based upon credible evidence, Ecology issued a PLP status letter to Everett Partners dated November 15, 2022, pursuant to RCW 70A.305.040, .020(26), and WAC 173-340-500. By letter dated November 19, 2022, Everett Partners voluntarily waived its rights to notice and comment and accepted Ecology's determination that Everett Partners is a PLP under RCW 70A.305.040.

6.4

Pursuant to RCW 70A.305.030(1), .050(1), Ecology may require PLPs to investigate or conduct other remedial actions with respect to any release or threatened release of hazardous substances, whenever it believes such action to be in the public interest. Based on the foregoing facts, Ecology believes the remedial actions required by this Order are in the public interest.

7. Work to be Performed

Based on the Findings of Fact and Ecology Determinations, it is hereby ordered that Everett Partners take the following remedial actions at the Site. These remedial actions must be conducted in accordance with WAC 173-340 and 173-204:

7.1

Everett Partners shall perform an RI/FS for the Site, as well as develop a public review draft CAP, in accordance with the Scope of Work and Schedule, which are attached to this order as Exhibits B and C. This work shall include, but is not limited to the following tasks:

i. Compile and summarize existing data regarding previous Site investigations;
ii. Develop a conceptual site model;
iii. Identify potential data gaps;
iv. Develop a sampling and analysis plan (SAP) to address data gaps on the Site. The SAP should include a description of planned investigations to determine the lateral and vertical extent of contamination at the Site.

v. Everett Partners shall perform the investigations and present the results to Ecology in the Agency Review Draft RI/FS report. In addition, the Agency Review Draft RI/FS report shall include identification of soil, sediment, groundwater, and air cleanup levels, where appropriate, and those areas requiring remediation. The FS shall include the evaluation of cleanup action alternatives.

vi. Everett Partners shall prepare an Agency Review Draft RI/FS Report, Public Review Draft RI/FS, and Final RI/FS Report, and the preliminary Draft Cleanup Action Plan describing final cleanup actions for the Site, in accordance with WAC 173-340 and 173-204.

7.2

The following naming conventions shall be used for documents: Agency Review Draft (designation for the first time Ecology receives a document); Public Review Draft (designates a document ready for public comment); Final (designation for a document after public comment and Ecology approval); and the preliminary Draft Cleanup Action Plan (designation for Everett Partner's version of the DCAP).

7.3

If Everett Partners learns of a significant change in conditions at the Site, including but not limited to a statistically significant increase in contaminant and/or chemical concentrations in any media, Everett Partners, within seven (7) days of learning of the change in condition, shall notify Ecology in writing of said change and provide Ecology with any reports or records (including laboratory analyses, sampling results) relating to the change in conditions.

7.4

All plans or other deliverables submitted by Everett Partners for Ecology's review and approval under the Scope of Work and Schedule shall, upon Ecology's approval, become integral and enforceable parts of this Order. Everett Partners shall take any action required by such deliverable.

7.5

Under WAC 173-340-430, an interim action is a remedial action that is technically necessary to reduce a threat to human health or the environment by eliminating or substantially reducing one or more pathways for exposure to a hazardous substance, that corrects a problem that may become substantially worse or cost substantially more to address if the remedial action is delayed, or that is needed to provide for completion of a site hazard assessment, remedial investigation/feasibility study, or design of a cleanup action plan. Any Party may propose an interim action under this Order. If the Parties are in agreement concerning the interim action, Everett Partners shall prepare and submit to Ecology an Interim Action Work Plan, including a scope of work and

schedule, by the date determined by Ecology. Ecology will provide public notice and opportunity to comment on the Interim Action Work Plan in accordance with WAC 173-340-600(16). Everett Partners shall not conduct the interim action until Ecology approves the Interim Action Work Plan. Upon approval by Ecology, the Interim Action Work Plan becomes an integral and enforceable part of this Order, and Everett Partners is required to conduct the interim action in accordance with the approved Interim Action Work Plan. If the Parties are not in agreement, Ecology reserves its authority to require interim action(s) under a separate order or other enforcement action under RCW 70A.305, or to undertake the interim action itself.

7.6

If Ecology determines that Everett Partners has failed to make sufficient progress or failed to implement the remedial action, in whole or in part, Ecology may, after notice to Everett Partners, perform any or all portions of the remedial action or at Ecology's discretion allow Everett Partners the opportunity to correct. In an emergency, Ecology is not required to provide notice to Everett Partners, or an opportunity for dispute resolution. Everett Partners shall reimburse Ecology for the costs of doing such work in accordance with Section VIII.A (Payment of Remedial Action Costs). Ecology reserves the right to enforce requirements of this Order under Section 10 (Enforcement).

7.7

Except where necessary to abate an emergency situation or where required by law, Everett Partners shall not perform any remedial actions at the Site outside those remedial actions required by this Order to address the contamination that is the subject of this Order, unless Ecology concurs, in writing, with such additional remedial actions pursuant to Section 8.11 (Amendment of Order). In the event of an emergency, or where actions are taken as required by law, Everett Partners must notify Ecology in writing of the event and remedial action(s) planned or taken as soon as practical but no later than within twenty-four (24) hours of the discovery of the event.

8. Terms and Conditions

8.1 Payment of Remedial Action Costs

Everett Partners shall pay to Ecology costs incurred by Ecology pursuant to this Order and consistent with WAC 173-340-550(2). These costs shall include work performed by Ecology or its contractors for, or on, the Site under RCW 70A.305, including remedial actions and Order preparation, negotiation, oversight, and administration. These costs shall include work performed both prior to and subsequent to the issuance of this Order. Ecology's costs shall include costs of direct activities and support costs of direct activities as defined in WAC 173 340 550(2). Ecology has accumulated $5,177.65 in remedial action

costs related to this Site as of January 31, 2023. For costs incurred before this date, Ecology will send Everett Partners an invoice soon after the Order is signed. For costs incurred after this date, Ecology will send Everett Partners an invoice quarterly. For all Ecology costs incurred, Everett Partners shall pay the required amount within thirty (30) days of receiving from Ecology an itemized statement of costs that includes a summary of costs incurred, an identification of involved staff, and the amount of time spent by involved staff members on the project. A general statement of work performed will be provided upon request. Itemized statements shall be prepared quarterly. Pursuant to WAC 173-340-550(4), failure to pay Ecology's costs within ninety (90) days of receipt of the itemized statement of costs will result in interest charges at the rate of twelve percent (12%) per annum, compounded monthly.

In addition to other available relief, pursuant to RCW 19.16.500, Ecology may utilize a collection agency and/or, pursuant to RCW 70A.305.060, file a lien against real property subject to the remedial actions to recover unreimbursed remedial action costs.

8.2 Designated Project Coordinators

The project coordinator for Ecology is:

Kevin Heffern
Toxics Cleanup Program
PO Box 47600
Olympia, WA 98504-7600
(360) 628 - 1222
khef461@ecy.wa.gov

The project coordinator for Everett Partners is:

John Foxwell
Apex Companies, LLC
801 NW 42nd St, Suite 204
Seattle, WA 98107
(503) 924-4704
John.Foxwell@ApexCos.com

Each project coordinator shall be responsible for overseeing the implementation of this Order. Ecology's project coordinator will be Ecology's designated representative for the Site. To the maximum extent possible, communications between Ecology and Everett Partners, and all documents, including reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order

shall be directed through the project coordinators. The project coordinators may designate, in writing, working level staff contacts for all or portions of the implementation of the work to be performed required by this Order.

Any Party may change its respective project coordinator. Written notification shall be given to the other Party at least ten (10) calendar days prior to the change.

8.3 Performance

All geologic and hydrogeologic work performed pursuant to this Order shall be under the supervision and direction of a geologist or hydrogeologist licensed by the State of Washington or under the direct supervision of an engineer registered by the State of Washington, except as otherwise provided for by RCW 18.43 and 18.220.

All engineering work performed pursuant to this Order shall be under the direct supervision of a professional engineer registered by the State of Washington, except as otherwise provided for by RCW 18.43.130.

All construction work performed pursuant to this Order shall be under the direct supervision of a professional engineer or a qualified technician under the direct supervision of a professional engineer. The professional engineer must be registered by the State of Washington, except as otherwise provided for by RCW 18.43.130.

Any documents submitted containing geologic, hydrogeologic, or engineering work shall be under the seal of an appropriately licensed professional as required by RCW 18.43 and 18.220.

Everett Partners shall notify Ecology in writing of the identity of any engineer(s) and geologist(s), contractor(s), subcontractor(s), and other key personnel to be used in carrying out the terms of this Order, in advance of their involvement at the Site.

8.4 Access

Ecology or any Ecology authorized representative shall have access to enter and freely move about all property at the Site that Everett Partners either owns, controls, or has access rights to at all reasonable times for the purposes of, inter alia: inspecting records, operation logs, and contracts related to the work being performed pursuant to this Order; reviewing Everett Partners' progress in carrying out the terms of this Order; conducting such tests or collecting such samples as Ecology may deem necessary; using a camera, sound recording, or other documentary type equipment to record work done pursuant to this Order; and verifying the data submitted to Ecology by Everett Partners. Ecology or any Ecology authorized representative shall give reasonable notice before entering any Site property owned or controlled by Everett Partners unless an emergency

prevents such notice. All persons who access the Site pursuant to this section shall comply with any applicable health and safety plan(s). Ecology employees and their representatives shall not be required to sign any liability release or waiver as a condition of Site property access.

Everett Partners shall make best efforts to secure access rights for those properties within the Site not owned or controlled by Everett Partners where remedial activities or investigations will be performed pursuant to this Order. As used in this Section, "best efforts" means the efforts that a reasonable person in the position of Everett Partners would use so as to achieve the goal in a timely manner, including the cost of employing professional assistance and the payment of reasonable sums of money to secure access and/or use restriction agreements, as required by this Section. If, within thirty 30 days after the effective date of this Order, Everett Partners is unable to accomplish what is required through "best efforts," they shall notify Ecology, and include a description of the steps taken to comply with the requirements. If Ecology deems it appropriate, it may assist Everett Partners, or take independent action, in obtaining such access and/or use restrictions. Ecology reserves the right to seek payment from Everett Partners for all costs, including cost of attorneys' time, incurred by Ecology in obtaining such access or agreements to restrict land, water, or other resource use.

8.5 Sampling, Data Submittal, and Availability

With respect to the implementation of this Order, Everett Partners 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 VII (Work to be Performed), Ecology's Toxics Cleanup Program Policy 840 (Data Submittal Requirements), and/or any subsequent procedures specified by Ecology for data submittal.

If requested by Ecology, Everett Partners shall allow Ecology and/or its authorized representative to take split or duplicate samples of any samples collected by Everett Partners pursuant to implementation of this Order. Everett Partners shall notify Ecology seven (7) days in advance of any sample collection or work activity at the Site. Ecology shall, upon request, allow Everett Partners and/or its authorized representative to take split or duplicate samples of any samples collected by Ecology pursuant to the implementation of this Order, provided that doing so does not interfere with Ecology's sampling. Without limitation on Ecology's rights under Section 8.4 (Access), Ecology shall notify Everett Partners prior to any sample collection activity unless an emergency prevents such notice.

In accordance with WAC 173-340-830(2)(a), all hazardous substance analyses shall be conducted by a laboratory accredited under WAC 173-50 for the specific analyses to be conducted, unless otherwise approved by Ecology.

8.6 Public Participation

Ecology shall maintain the responsibility for public participation at the Site. However, Everett Partners shall cooperate with Ecology, and shall:

8.6.1

If agreed to by Ecology, develop appropriate mailing lists and prepare drafts of public notices and fact sheets at important stages of the remedial action, such as the submission of work plans, remedial investigation/feasibility study reports, cleanup action plans, and engineering design reports. As appropriate, Ecology will edit, finalize, and distribute such fact sheets and prepare and distribute public notices of Ecology's presentations and meetings.

8.6.2

Notify Ecology's project coordinator prior to the preparation of all press releases and fact sheets, and before meetings related to remedial action work to be performed at the Site with the interested public and/or local governments. Likewise, Ecology shall notify Everett Partners prior to the issuance of all press releases and fact sheets related to the Site, and before meetings related to the Site with the interested public and local governments. For all press releases, fact sheets, meetings, and other outreach efforts by Everett Partners that do not receive prior Ecology approval, Everett Partners shall clearly indicate to its audience that the press release, fact sheet, meeting, or other outreach effort was not sponsored or endorsed by Ecology.

8.6.3

When requested by Ecology, participate in public presentations on the progress of the remedial action at the Site. Participation may be through attendance at public meetings to assist in answering questions or as a presenter.

8.6.4

When requested by Ecology, arrange and maintain a repository to be located at:

Department of Ecology Toxics Cleanup Program
Headquarters Office
300 Desmond Drive
Lacey, WA

At a minimum, copies of all public notices, fact sheets, and documents relating to public comment periods shall be promptly placed in these repositories. A copy of all documents related to this Site shall be maintained in the repository at Ecology's Headquarters Office in Lacey, Washington.

8.7 Access to Information

Everett Partners shall provide to Ecology, upon request, copies of all records, reports, documents, and other information (including records, reports, documents, and other information in electronic form) (hereinafter referred to as "Records") within Everett Partners' possession or control or that of their contractors or agents relating to activities at the Site or to the implementation of this Order, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information regarding the work. Everett Partners shall also make available to Ecology, for purposes of investigation, information gathering, or testimony, its employees, agents, or representatives with knowledge of relevant facts concerning the performance of the work.

Nothing in this Order is intended to waive any right Everett Partners may have under applicable law to limit disclosure of Records protected by the attorney work-product privilege and/or the attorney-client privilege. If Everett Partners withholds any requested Records based on an assertion of privilege, Everett Partners shall provide Ecology with a privilege log specifying the Records withheld and the applicable privilege. No Site-related data collected pursuant to this Order shall be considered privileged, including: (1) any data regarding the Site, including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, radiological, biological, or engineering data, or the portion of any other record that evidences conditions at or around the Site; or (2) the portion of any Record that Respondents are required to create or generate pursuant to this Order.

Notwithstanding any provision of this Order, Ecology retains all of its information gathering and inspection authorities and rights, including enforcement actions related thereto, under any other applicable statutes or regulations.

8.8 Retention of Records

During the pendency of this Order, and for ten (10) years from the date of completion of the work performed pursuant to this Order, Everett Partners shall preserve all records, reports, documents, and underlying data in its possession relevant to the implementation of this Order and shall insert a similar record retention requirement into all contracts with project contractors and subcontractors.

8.9 Resolution of Disputes

8.9.1

In the event that Everett Partners elects to invoke dispute resolution Everett Partners must utilize the procedure set forth below.

8.9.1.1 Upon the triggering event (receipt of Ecology's project coordinator's written decision or an itemized billing statement), Everett Partners has fourteen (14) calendar days within which to notify Ecology's project coordinator in writing of its dispute (Informal Dispute Notice).

8.9.1.2 The Parties' project coordinators shall then confer in an effort to resolve the dispute informally. The Parties shall informally confer for up to fourteen (14) calendar days from receipt of the Informal Dispute Notice. If the project coordinators cannot resolve the dispute within those fourteen (14) calendar days, then within seven (7) calendar days Ecology's project coordinator shall issue a written decision (Informal Dispute Decision) stating: the nature of the dispute; Everett Partners position with regards to the dispute; Ecology's position with regards to the dispute; and the extent of resolution reached by informal discussion.

8.9.1.3 Everett Partners may then request regional management review of the dispute. Everett Partners must submit this request (Formal Dispute Notice) in writing to the Headquarters Toxics Cleanup Section Manager within seven (7) calendar days of receipt of Ecology's Informal Dispute Decision. The Formal Dispute Notice shall include a written statement of dispute setting forth: the nature of the dispute; Everett Partners position with respect to the dispute; and the information relied upon to support its position.

8.9.1.4 The Section Manager shall conduct a review of the dispute and shall endeavor to issue a written decision regarding the dispute (Decision on Dispute) within thirty (30) calendar days of receipt of the Formal Dispute Notice. The Decision on Dispute shall be Ecology's final decision on the disputed matter.

8.9.2

The Parties agree to only utilize the dispute resolution process in good faith and agree to expedite, to the extent possible, the dispute resolution process whenever it is used.

8.9.3

Implementation of these dispute resolution procedures shall not provide a basis for delay of any activities required in this Order, unless Ecology agrees in writing to a schedule extension.

8.9.4

In case of a dispute, failure to either proceed with the work required by this Order or timely invoke dispute resolution may result in Ecology's determination that insufficient progress is being made in preparation of a deliverable, and may result in Ecology undertaking the work under Section 7.1 (Work to be Performed) or initiating enforcement under Section 10 (Enforcement).

8.10 Extension of Schedule

8.10.1

Everett Partners request for an extension of schedule shall be granted only when a request for an extension is submitted in a timely fashion, generally at least thirty (30) days prior to expiration of the deadline for which the extension is requested, and good cause exists for granting the extension. All extensions shall be requested in writing. The request shall specify:

8.10.1.1 The deadline that is sought to be extended.

8.10.1.2 The length of the extension sought.

8.10.1.3 The reason(s) for the extension.

8.10.1.4 Any related deadline or schedule that would be affected if the extension were granted.

8.10.2

The burden shall be on Everett Partners to demonstrate to the satisfaction of Ecology that the request for such extension has been submitted in a timely fashion and that good cause exists for granting the extension. Good cause may include, but may not be limited to:

8.10.2.1 Circumstances beyond the reasonable control and despite the due diligence of Everett Partners including delays caused by unrelated third parties or Ecology, such as (but not limited to) delays by Ecology in reviewing, approving, or modifying documents submitted by Everett Partners.

8.10.2.2 A shelter in place or work stoppage mandated by state or local government order due to public health and safety emergencies.

8.10.2.3 Acts of God, including fire, flood, blizzard, extreme temperatures, storm, or other unavoidable casualty.

8.10.2.4 Endangerment as described in Section 8.12 (Endangerment).

However, neither increased costs of performance of the terms of this Order nor changed economic circumstances shall be considered circumstances beyond the reasonable control of Everett Partners.

8.10.3

Ecology shall act upon any written request by Everett Partners for extension in a timely fashion. Ecology shall give Everett Partners written notification of any extensions granted pursuant to this Order. A requested extension shall not be effective until approved by Ecology. Unless the extension is a substantial change, it shall not be necessary to amend this Order pursuant to Section 8.11 (Amendment of Order) when a schedule extension is granted.

8.10.4

At Everett Partners request, an extension shall only be granted for such period of time as Ecology determines is reasonable under the circumstances. Ecology may grant schedule extensions exceeding ninety (90) days only as a result of one of the following:

8.10.4.1 Delays in the issuance of a necessary permit which was applied for in a timely manner.

8.10.4.2 Other circumstances deemed exceptional or extraordinary by Ecology.

8.10.4.3 Endangerment as described in Section 8.12 (Endangerment).

8.11 Amendment of Order

The project coordinators may verbally agree to minor changes to the work to be performed without formally amending this Order. Minor changes will be documented in writing by Ecology within seven (7) days of verbal agreement.

Except as provided in Section 8.13 (Reservation of Rights), substantial changes to the work to be performed shall require formal amendment of this Order. This Order may only be formally amended by the written consent of both Ecology and Everett Partners.

Ecology will provide its written consent to a formal amendment only after public notice and opportunity to comment on the formal amendment.

When requesting a change to the Order, Everett Partners shall submit a written request to Ecology for approval. Ecology shall indicate its approval or disapproval in writing and in a timely manner after the written request is received. If Ecology determines that the change is substantial, then the Order must be formally amended. Reasons for the disapproval of a proposed change to this Order shall be stated in writing. If Ecology does not agree to a proposed change, the disagreement may be addressed through the dispute resolution procedures described in Section 8.9 (Resolution of Disputes).

8.12 Endangerment

In the event Ecology determines that any activity being performed at the Site under this Order is creating or has the potential to create a danger to human health or the environment on or surrounding the Site, Ecology may direct Everett Partners to cease such activities for such period of time as it deems necessary to abate the danger. Everett Partners shall immediately comply with such direction.

In the event Everett Partners determines that any activity being performed at the Site under this Order is creating or has the potential to create a danger to human health or the environment, Everett Partners may cease such activities. Everett Partners shall notify Ecology's project coordinator as soon as possible, but no later than twenty-four (24) hours after making such determination or ceasing such activities. Upon Ecology's direction, Everett Partners shall provide Ecology with documentation of the basis for the determination or cessation of such activities. If Ecology disagrees with Everett Partners' cessation of activities, it may direct Everett Partners to resume such activities.

If Ecology concurs with or orders a work stoppage pursuant to this section, Everett Partners' obligations with respect to the ceased activities shall be suspended until Ecology determines the danger is abated, and the time for performance of such activities, as well as the time for any other work dependent upon such activities, shall be extended in accordance with Section 8.10 (Extension of Schedule) for such period of time as Ecology determines is reasonable under the circumstances.

Nothing in this Order shall limit the authority of Ecology, its employees, agents, or contractors to take or require appropriate action in the event of an emergency.

8.13 Reservation of Rights

This Order is not a settlement under RCW 70A.305. Ecology's signature on this Order in no way constitutes a covenant not to sue or a compromise of any of Ecology's rights or authority. Ecology will not, however, bring an action against Everett Partners to recover

remedial action costs paid to and received by Ecology under this Order. In addition, Ecology will not take additional enforcement actions against Everett Partners regarding remedial actions required by this Order, provided Everett Partners complies with this Order.

Ecology nevertheless reserves its rights under RCW70A.305, including the right to require additional or different remedial actions at the Site should it deem such actions necessary to protect human health or the environment, and to issue orders requiring such remedial actions. Ecology also reserves all rights regarding the injury to, destruction of, or loss of natural resources resulting from the release or threatened release of hazardous substances at the Site.

By entering into this Order, Everett Partners does not admit to any liability for the Site. Although Everett Partners is committing to conducting the work required by this Order under the terms of this Order, Everett Partners expressly reserves all rights available under law, including but not limited to the right to seek cost recovery or contribution against third parties, and the right to assert any defenses to liability in the event of enforcement.

8.14 Transfer of Interest in Property

No voluntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Site shall be consummated by Everett Partners without provision for continued implementation of all requirements of this Order and implementation of any remedial actions found to be necessary as a result of this Order.

Prior to Everett Partners' transfer of any interest in all or any portion of the Site, and during the effective period of this Order, Everett Partners shall provide a copy of this Order to any prospective purchaser, lessee, transferee, assignee, or other successor in said interest; and, at least thirty (30) days prior to any transfer, Everett Partners shall notify Ecology of said transfer. Upon transfer of any interest, Everett Partners shall notify all transferees of the restrictions on the activities and uses of the property under this Order and incorporate any such use restrictions into the transfer documents.

8.15 Compliance with Applicable Laws

Ecology makes the final determination on whether applicable permit or substantive requirements are "legally applicable" or "relevant and appropriate" under WAC 173-340-710(2).

8.15.1 Applicable Laws

All actions carried out by Everett Partners pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements, including

requirements to obtain necessary permits or approvals, except as provided in RCW 70A.305.090. Everett Partners has a continuing obligation to identify additional applicable federal, state, and local requirements which apply to actions carried out pursuant to this Order, and to comply with those requirements. As additional federal, state, and local requirements are identified by Ecology or Everett Partners, Ecology will document in writing if they are applicable to actions carried out pursuant to this Order, and Everett Partners must implement those requirements.

8.15.2 Relevant and Appropriate Requirements.

All actions carried out by Everett Partners pursuant to this Order shall be done in accordance with relevant and appropriate requirements identified by Ecology. At this time, no relevant and appropriate requirements have been identified as being applicable to the actions required by this Order. If additional relevant and appropriate requirements are identified by Ecology or Everett Partners, Ecology will document in writing if they are applicable to actions carried out pursuant to this Order and Everett Partners must implement those requirements.

8.15.3

Pursuant to RCW 70A.305.090(1), Everett Partners may be exempt from the procedural requirements of RCW 70A.15, 70A.205, 70A.300, 77.55, 90.48, and 90.58 and of any laws requiring or authorizing local government permits or approvals. However, Everett Partners shall comply with the substantive requirements of such permits or approvals. For permits and approvals covered under RCW 70A.305.090(1) that have been issued by local government, the Parties agree that Ecology has the non-exclusive ability under this Order to enforce those local government permits and/or approvals. At this time, no state or local permits or approvals have been identified as being applicable but procedurally exempt under this section.

8.15.4

Everett Partners has a continuing obligation to determine whether additional permits or approvals addressed in RCW 70A.305.090(1) would otherwise be required for the remedial action under this Order. In the event either Ecology or Everett Partners determines that additional permits or approvals addressed in RCW 70A.305.090(1) would otherwise be required for the remedial action under this Order, it shall promptly notify the other Party of its determination. Ecology shall determine whether Ecology or Everett Partners shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, Everett Partners 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 Everett Partners and on how Everett Partners must meet those requirements. Ecology shall inform Everett Partners in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. Everett Partners shall not begin or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination.

Pursuant to RCW 70A.305.090(2), in the event Ecology determines that the exemption from complying with the procedural requirements of the laws referenced in RCW 70A.305.090(1) would result in the loss of approval from a federal agency that is necessary for the state to administer any federal law, the exemption shall not apply and Everett Partners shall comply with both the procedural and substantive requirements of the laws referenced in RCW 70A.305.090(1), including any requirements to obtain permits or approvals.

8.16 Indemnification

Everett Partners agrees to indemnify and save and hold the State of Washington, its employees, and agents harmless from any and all claims or causes of action (1) for death or injuries to persons, or (2) for loss or damage to property, to the extent arising from or on account of acts or omissions of Everett Partners, its officers, employees, agents, or contractors in entering into and implementing this Order. However, Everett Partners shall not indemnify the State of Washington nor save nor hold its employees and agents harmless from any claims or causes of action to the extent arising out of the negligent acts or omissions of the State of Washington, or the employees or agents of the State, in entering into or implementing this Order.

9. Satisfaction of Order

The provisions of this Order shall be deemed satisfied upon Everett Partners' receipt of written notification from Ecology that Everett Partners has completed the remedial activity required by this Order, as amended by any modifications, and that Everett Partners has complied with all other provisions of this Agreed Order.

10. Enforcement

Pursuant to RCW 70A.305.050, this Order may be enforced as follows:

10.1

The Attorney General may bring an action to enforce this Order in a state or federal court.

10.2

The Attorney General may seek, by filing an action, if necessary, to recover amounts spent by Ecology for investigative and remedial actions and orders related to the Site.

10.3

A liable party who refuses, without sufficient cause, to comply with any term of this Order will be liable for:

10.3.1

Up to three (3) times the amount of any costs incurred by the State of Washington as a result of its refusal to comply.

10.3.2

Civil penalties of up to twenty-five thousand dollars ($25,000) per day for each day it refuses to comply.

10.4

This Order is not appealable to the Washington Pollution Control Hearings Board. This Order may be reviewed only as provided under RCW 70A.305.070.

Effective date of this Order: 06/22/2023

3812 Everett Partners, LLC



_____

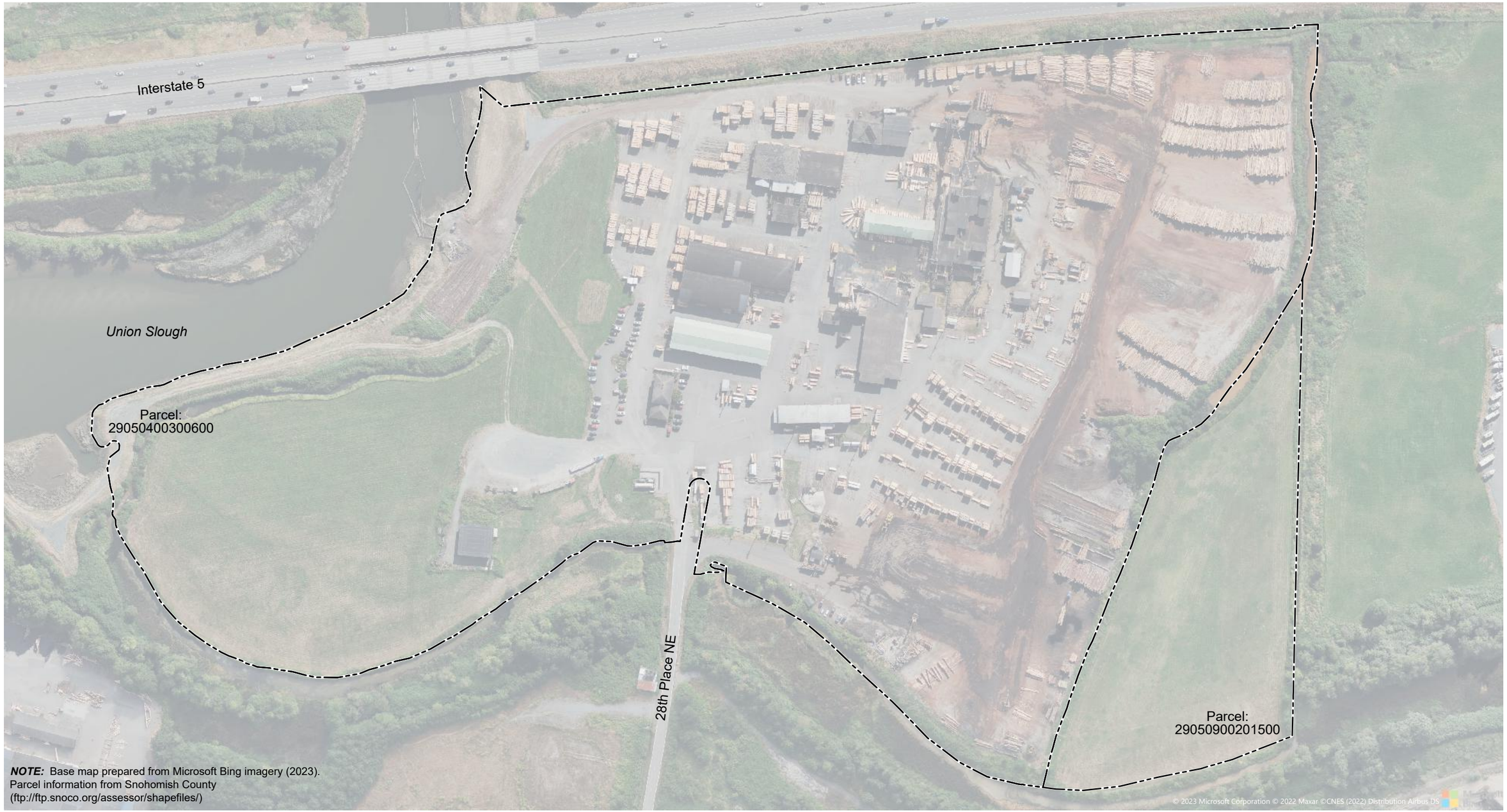
Jeffrey Pustizzi
Authorized Representative
414 S. 16th Street, Suite 100
Philadelphia, PA 19146
(267) 519-9827

State of Washington
Department of Ecology



_____

Erik Snyder
Section Manager
Toxics Cleanup Program
Headquarters Office
(425) 466-6398



NOTE: Base map prepared from Microsoft Bing imagery (2023).
Parcel information from Snohomish County
(ftp://ftp.snoco.org/assessor/shapefiles/)

N

0 200 400

Scale in Feet

Exhibit A

Agreed Order
Buse Timber & Sales Site
Everett, Washington

Apex Companies, LLC 801 NW 42nd Street, #204 Seattle, Washington 98107	Project Number: 32-21001485	Drawn: JP	Approved: JF	Figure **A**
	February 2023			

I:\Client\Alterra Property Group LLC\Buse Mill - Everett, WA\Exhibit A\32-21001485 (Exhibit A).dwg Modified 2/27/2023 by JPoore

Exhibit B — Scope of Work

Scope of work

Purpose

The work under this Agreed Order (AO) involves conducting a Remedial Investigation (RI) and Feasibility Study (FS), conducting interim actions if required or agreed to by Ecology, and preparing a preliminary Draft Cleanup Action Plan (DCAP) to select a cleanup alternative. The purpose of the RI, FS, and preliminary DCAP for the Site is to provide sufficient data, analysis, and evaluations to enable Ecology to select a cleanup alternative for the Site.

3812 Everett Partners, LLC (Everett Partners) shall coordinate with Ecology throughout the development of the RI/FS and preliminary DCAP and shall keep Ecology informed of changes to any Work Plan or other project plans, and of any issues or problems as they develop.

The Scope of Work (SOW) is divided into eight major tasks as follows:

Task 1. RI Work Plan
Task 2. Remedial Investigation
Task 3. Interim Action(s) (if required)
Task 4. Feasibility Study
Task 5. SEPA Compliance
Task 6. Public Participation
Task 7. DCAP

Task 1. RI work plan

Everett Partners shall prepare a Remedial Investigation Work Plan (Work Plan). The Work Plan shall include an overall description and schedule of all RI activities. The Work Plan shall clearly describe the project management strategy for implementing and reporting on RI activities. The responsibility and authority of all organizations and key personnel involved in conducting the RI will be outlined.

A Key Project Meeting will be held prior to submittal of the RI Work Plan. The purpose of the Remedial Investigation Planning Meeting is to review requirements for the Work Plan and plan Remedial Investigation field work, discuss the preliminary Conceptual Site Model, and identify project data needs and possible interim actions.

The Work Plan shall describe general facility information; site history and conditions; including previous operations; past field investigations, including any data collection and analysis of soils,

air, groundwater, surface water, and sediments; a conceptual site model showing contaminants, migration pathways in all environmental media, and potential receptors; geology and groundwater system characteristics; past, current, and future land use; identification of natural resources and ecological receptors; hazardous substances and their sources, etc., in compliance with WAC 173-340-350 and WAC 173-204-550.

As part of the project background, existing environmental data on site soil, groundwater, surface water, and sediments will be compiled and evaluated for data gaps. The data gaps will be used as the basis for conducting additional site investigations, if necessary. The Work Plan will also identify specific data collection procedures in a Sampling and Analysis Plan (SAP) and Quality Assurance Project Plan (QAPP) as part of the Work Plan in compliance with WAC 173-340-820 and WAC 173-204-600 for defining the nature and extent of contamination. The SAP will also include an Inadvertent Discovery Plan (IDP) that provides procedures for the unanticipated discovery of cultural resources and human skeletal remains. Ecology has a template available online (Revised 2021)[1]. Everett Partners will also submit a copy of the Health and Safety Plan (HASP) for the project.

The SAP identifies the proposed number and location of all environmental samples and methods, including soil borings, groundwater monitoring wells, soil, groundwater, stormwater, seep, catch basin and sediment samples, approximate depths, and includes a quality assurance project plan. The SAP will describe the sampling objectives, the rationale for the sampling approach (based upon the identified data gaps), and plans for data use, and shall provide a detailed description of sampling tasks. The SAP shall describe specifications for sample identifiers; sampling equipment; the type, number, and location of samples to be collected; the analyses to be performed; descriptions of sampling equipment and methods to be used; sample documentation; sample containers, collection and handling; data and records management; and schedule.

The Quality Assurance Project Plan (QAPP) will be prepared in accordance with the Guidance for Preparation of Quality Assurance Project Plans, EPA Region 10, Quality Data Management Program, QA/R-5 and requirements of the EPA Contract Laboratory Program. The QAPP will also follow Ecology's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies (Revised 2016[2]) and Sediment Cleanup User's Manual (Revised 2021[3]). Laboratories must meet the accreditation standards established in WAC 173-50. Data quality objectives will reflect the criteria or threshold values used for the source control evaluation.

The SAP, including the QAPP, will be submitted to Ecology for review and approval. As with all environmental work at the site, work may not begin without written approval from Ecology.

[1] https://apps.ecology.wa.gov/publications/summarypages/ecy070560.html
[2] https://apps.ecology.wa.gov/publications/summarypages/0403030.html
[3] https://apps.ecology.wa.gov/publications/SummaryPages/1209057.html

The plan shall provide seven (7) days notice to Ecology prior to beginning sampling. Ecology may obtain split samples.

The Everett Partners or their contractors shall submit all new sampling data generated under this SAP and any other recently collected data to Ecology for entry into the Environmental Information Management System (EIM) in accordance with WAC 173-340-840(5) and Ecology's Toxics Cleanup Program Policy 840: Data Submittal Requirements (Exhibit C). Only validated data will be entered into the EIM database within 30 days of submittal.

RI Work Plan tasks and subtasks will include the following:

- Sampling and analysis of soil, groundwater, and seeps;
- Sampling and analysis of surface and subsurface sediments;
- Sampling and analysis of stormwater and catch basin solids to determine whether the stormwater system is a source of contamination to sediments;
- Sampling and analysis of applicable media for hazardous substances associated with wood waste present in the aquatic environment, including ammonia, sulfide, benzoic acid, and bezemethanol;
- Evaluate the potential to contaminate or recontaminate sediments, including analysis of the following pathways:
    - Direct discharges
    - Stormwater discharges
    - Overland flow
    - Groundwater discharges and seeps
    - Soil erosion
    - Site operations
    - Spills, dumping, leaks, housekeeping, and management practices;

Everett Partners will provide Ecology with an Agency Review Draft Work Plan. Once Ecology reviews and approves the Work Plan, it will be considered the Final Work Plan. The Work Plan shall not be implemented until approved by Ecology. Once approved by Ecology, Everett Partners will implement the Final Work Plan according to the schedule contained in this Exhibit.

Everett Partners shall prepare two (2) copies of the Agency Review Draft RI Work Plan and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for review and comment. After incorporating Ecology's comments on the Agency Review Draft Work Plan and after Ecology approval, Everett Partners shall prepare three (3) copies of the Final Work Plan and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology.

Task 2. Remedial Investigation

Everett Partners shall conduct an RI that meets the requirements of WAC 173-340-350(7) and WAC 173-204-550 according to the Work Plan as approved by Ecology. The RI will determine the nature and extent of contamination exceeding preliminary Model Toxics Control Act (MTCA) cleanup levels, preliminary Sediment Management Standards (SMS) cleanup standards, and other regulatory requirements. The RI must provide sufficient data and information to define the nature and extent of contamination.

Field sampling and analysis will be completed in general accordance with the SAP and QAPP. Deviation(s) from the approved SAP and QAPP must be communicated to Ecology immediately and documented as required by Ecology.

Everett Partners shall provide interim data reports and updates to Ecology as new site data and information become available. Laboratory analysis data shall also be provided in electronic format when it has been validated. Raw laboratory data will be provided to Ecology upon request.

Prior to submittal of the Agency Review Draft RI Report, a Key Project Meeting will be held. During the Remedial Investigation Pre-Report Check-In, Ecology and Everett Partners will review available data and an updated conceptual site model and discuss the content and organization of the Draft RI Report.

Everett Partners shall compile the results of the Site investigation into an Agency Review Draft RI Report. Everett Partners shall prepare two (2) copies of the Agency Review Draft RI Report and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for review and comment.

After incorporating Ecology's comments on the Agency Review Draft RI Report, Everett Partners shall prepare three (3) copies of a Public Review Draft RI Report and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for distribution and public comment. Electronic survey data for monitoring locations, electronic lab data, and GIS maps of contaminant distribution shall also be provided for both the Agency Review Draft RI Report and Public Review Draft RI Reports either in the report or as attachments. The RI Report will not be considered Final until after a public review and comment period.

If the data collected during this investigation is insufficient to define the nature and extent of contamination, and/or to select a cleanup action plan an additional phase of investigation shall be conducted to define the extent of contamination.

Task 3. Interim Actions (if required)

Remedial actions implemented prior to completion of the RI/FS will be considered interim actions, including those that:

- are technically necessary to reduce a threat to human health or the environment by eliminating or substantially reducing one or more pathways for exposure to a hazardous substance;
- correct a problem that may become substantially worse or cost substantially more to address if the remedial action is delayed; or
- are needed to provide for completion of the remedial investigation/feasibility study or design of the cleanup action.

Interim Actions will be implemented in accordance with WAC 173-340-430 and the AO, and will be designed in a manner that will not foreclose reasonable alternatives for any final cleanup action that may be required.

As detailed in the AO, if required by Ecology, or if proposed by Everett Partners and approved by Ecology, Everett Partners will implement an interim action. Based upon information in the Agency Review Draft RI Report, interim action(s) may be needed to expedite control of releases to sediments or other environmental media pursuant to WAC 173-340-430.

The scope of the interim actions may include, but not be limited to, typical source control or containment elements such as:

- Soil or sediment removal
- Groundwater remediation
- Repair, slip lining, replacement, or closure of stormwater conveyances or other structures such as conduit, vaults, catch basins, etc.
- Removal of underground storage tanks and pipes
- Removal of old drain fields or former surface impoundments
- Proper abandonment of old wells
- Removal of contaminated building or other structural material
- Construction of a treatment facility
- Shoreline stabilization such as bulkhead repair, erosion or seepage control, and grading or clearing.

If an interim action is to be performed, Everett Partners will prepare and submit for Ecology approval an Agency Review Draft Interim Action Work Plan (IAWP) with detail commensurate with the work to be performed. The Agency Review Draft IAWP shall include, as appropriate:

- Description of the interim action including its purpose, general requirements, and relationship to the (final) cleanup action (to the extent known);

- Summary of relevant RI/FS information, including at a minimum existing site conditions and alternative interim actions considered;
- Information regarding design and construction requirements, including a proposed schedule and personnel roles and responsibilities;
- Compliance Monitoring Plan;
- SAP/QAPP; and
- Permits required.

Everett Partners will also submit a copy of the Health and Safety Plan for the project. Everett Partners will be responsible for complying with the State Environmental Policy Act (SEPA) Rules including preparing and submitting an environmental checklist for the interim action, and will assist Ecology with presentations at any additional meetings or hearings that might be necessary for SEPA compliance or as part of the Public Participation Plan.

Everett Partners shall prepare two (2) copies of the Agency Review Draft Interim Action Work Plan and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for review. Everett Partners shall incorporate Ecology's comments and then prepare two (2) copies of the Public Review Draft Interim Action Work Plan and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology. After a public notice and comment period for the Public Review Draft IAWP (and SEPA determination), Ecology will approve the IAWP (if appropriate) and the document will be considered Final. Everett Partners shall prepare three (3) copies of the Final Interim Action Work Plan submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats. Once approved by Ecology, Everett Partners will implement the interim action according with the approved schedule.

Upon successful completion of the work, an Agency Review Draft Interim Action Report will be prepared as a separate deliverable. Everett Partners shall prepare two (2) copies of the Agency Review Draft Interim Action Report and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for review and approval. After incorporating Ecology's comments on the Agency Review Draft Interim Action Report and after Ecology approval, Everett Partners shall prepare three (3) copies of the Final Interim Action Report and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology.

Task 4. Feasibility study

Everett Partners shall use the information obtained in the RI to prepare an Agency Review Draft Feasibility Study (FS) that meets the applicable requirements of WAC 173-340-350(8) according to the Schedule in this exhibit. The Agency Review Draft FS will evaluate remedial alternatives for site cleanup, consistent with MTCA and SMS requirements to ensure protection of human

health and the environment by eliminating, reducing, or otherwise controlling risk posed through each exposure pathway and migration route.

Prior to beginning the FS, a Key Project Meeting will be held to review ARARs, potential remedial alternatives and establish points of compliance.

The Agency Review Draft FS must include a detailed analysis of each remedial alternative according to the applicable requirements of WAC 173-340-350 and 173-204-550. The remedial alternatives will be evaluated for compliance with the applicable requirements of WAC 173-340-360 and 173-204-570.

The remedial alternative that is judged to best satisfy the evaluation criteria will be identified. Justification for the selection will be provided, and the recommended remedial alternative further developed, in the FS Report.

Everett Partners shall prepare two (2) copies of the Agency Review Draft FS and submit them, including one electronic copy in Word (.doc) and Adobe (.pdf) formats, to Ecology for review. After addressing Ecology's comments on the Agency Review Draft FS, Everett Partners shall prepare three (3) copies of the Public Review Draft FS and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for distribution and public comment. The FS will not be considered Final until after a public review and comment period.

Task 5. SEPA compliance

Everett Partners shall be responsible for complying with the State Environmental Policy Act (SEPA) Rules including preparing and submitting an environmental checklist. If the result of the threshold determination is a determination of significance (DS), Everett Partners shall be responsible for the preparation of Draft and final environmental impact statements. Everett Partners shall assist Ecology with coordinating SEPA public involvement requirements with MTCA public involvement requirements whenever possible, such that public comment periods and meetings or hearings can be held concurrently.

Task 6. Public participation

Everett Partners shall support Ecology in presenting the Public Review Draft RI Report and the Public Review Draft FS Reports and SEPA evaluations at one public meeting or hearing. Everett Partners will assist Ecology with presentations at any additional meetings or hearings that might be necessary for SEPA compliance or as part of the Public Participation Plan.

After the public comment periods are completed, Everett Partners shall prepare a Agency Review Draft Responsiveness Summary that addresses public comments. Everett Partners shall prepare two (2) copies of the Agency Review Draft Responsiveness Summary and submit them

to Ecology for review and approval, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for distribution and public comment.

After addressing Ecology's comments and after Ecology approval, Everett Partners shall prepare five (5) copies of the Final Responsiveness Summary and submit them to Ecology for distribution, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats.

Task 7. Preliminary draft Cleanup Action Plan

Upon Ecology approval of the Public Review Draft Remedial Investigation Report and Public Review Draft Feasibility Study, a Key Project Meeting will be held regarding the Cleanup Action Plan. The Cleanup Action Plan Meeting will be used to review plans for developing the Agency Review preliminary Draft Cleanup Action Plan (DCAP).

Everett Partners shall prepare an Agency Review preliminary DCAP in accordance with WAC 173-340-380 that provides a proposed remedial action to address the contamination present on the Site. The preliminary DCAP shall include a general description of the proposed remedial actions, cleanup standards developed from the RI/FS and rationale regarding their selection, a schedule for implementation, description of any institutional controls proposed, and a summary of applicable local, state, and federal laws pertinent to the proposed cleanup actions.

Everett Partners will submit an Agency Review preliminary DCAP for Ecology's review and approval. The Agency Review preliminary DCAP will include, but not be limited to, the information listed under WAC 173-340-380. Everett Partners shall prepare two (2) copies of the Agency Review preliminary DCAP and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for review and approval.

After receiving Ecology's comments on the Agency Review preliminary DCAP, if any, the Everett Partners shall revise the preliminary DCAP to address Ecology's comments and submit five (5) copies of the Public Review DCAP including one electronic copy each in Word (.doc) and Adobe (.pdf) formats.

Exhibit C – Schedule of Deliverables

Schedule of deliverables

The schedule for deliverables described in the Agreed Order and the Scope of Work is presented below. If the date for submission of any item or notification required by this Schedule of Deliverables occurs on a weekend, state or federal holiday, the date for submission of that item or notification is extended to the next business day following the weekend or holiday. Where a deliverable due date is triggered by Ecology notification, comments or approval, the starting date for the period shown is the date Everett Partners received such notification, comments or approval by certified mail, return receipt requested, unless otherwise noted below. Where triggered by Ecology receipt of a deliverable, the starting date for the period shown is the date Ecology receives the deliverable by certified mail, return receipt requested, or the date of Ecology signature on a hand-delivery form.

RI/FS Deliverables	Completion Times
Agency Review Draft RI Work Plan	90 calendar days following effective date of the Agreed Order
Completion of RI Field Work	12 months following completion of the Final SAP, QAPP and HSP
Agency Review Draft RI Report	90 days following receipt of laboratory data
Public Review Draft RI Report	45 calendar days following receipt of Ecology comments on Agency Review Draft RI Report
Agency Review Draft FS	90 days following completion of Public Review Draft RI Report
Public Review Draft FS	45 calendar days following receipt of Ecology's comments on the Agency Review draft FS
Final Remedial Investigation Report	30 days after receipt of Ecology comments, subsequent to public comment
Final Feasibility Study Report	30 days after receipt of Ecology comments, subsequent to public comment
Agency Review preliminary Draft Cleanup Action Plan (DCAP)	90 calendar days following completion of the Public Review Draft FS.

Exhibit D — Ecology Policy Number 840

Data Submittal Requirements

DEPARTMENT OF ECOLOGY
State of Washington

Toxics Cleanup Program

Policy 840: Data Submittal Requirements

Established: August 1, 2005

Revised: April 12, 2016

Contact: Policy & Technical Support Unit, Headquarters

Purpose: This Policy provides guidance on the submission of environmental monitoring data generated or collected during the investigation or cleanup of contaminated sites under the Model Toxics Control Act.

References:
WAC 173-340-840 (5)
Chapter 173-204 WAC
Environmental Information Management System Database
Sediment Cleanup Users Manual II

Attachments: A - Model Grant and Permit Condition

Disclaimer: This Policy is intended solely for the guidance of Ecology staff. It is not intended, and cannot be relied on, to create rights, substantive or procedural, enforceable by any party in litigation with the state of Washington. Ecology may act at variance with this Policy depending on site-specific circumstances, or modify or withdraw this Policy at any time.

Approved by:

James J. Pendowski, Program Manager
Toxics Cleanup Program

Accommodation Requests: To request ADA accommodation, including materials in a format for the visually impaired, call Ecology's Toxics Cleanup Program at 360-407-7170. Persons with impaired hearing may call Washington Relay Service at 711. Persons with speech disability may call TTY at 877-833-6341.

Purpose and Applicability

The investigation and cleanup of contaminated sites generate a large volume of environmental monitoring data that need to be properly managed to facilitate regulatory decisions. The data also need to be accessible by Ecology staff, site owners, consultants, and the general public.

This Policy describes the requirements for submitting environmental monitoring data generated or collected during the investigation and cleanup of contaminated sites under Chapter 70.105D RCW, Model Toxics Control Act (MTCA).

This Policy applies to Ecology staff and any person who investigates or cleans up contaminated sites and submits related environmental sampling data to Ecology, including potentially liable persons, Voluntary Cleanup Program (VCP) customers, prospective purchasers, government agencies, and Ecology contractors.

1. Unless otherwise specified by Ecology, all environmental monitoring data generated during contaminated site investigations and cleanups are required to be submitted to Ecology in both written format and electronically through EIM.

Environmental monitoring data include biological, chemical, physical, and radiological data generated during site investigations and cleanups under the Model Toxics Control Act Cleanup Regulation (Chapter 173-340 WAC) and the Sediment Management Standards (Chapter 173-204 WAC).

The Environmental Information Management System (EIM) is a searchable database that contains data collected by Ecology (or by environmental contractors on behalf of Ecology), and by Ecology grant recipients, local governments, the regulated community, and volunteers.

Under this Policy, data are considered to be "environmental monitoring data" if generated or collected during:

a. Site investigations and cleanups conducted under an order, agreed order or consent decree, permit, grant, loan, contract, interagency agreement, memorandum of understanding; or
b. An independent remedial action.

Under this Policy, data are not considered to be environmental monitoring data if generated or collected for the following studies. This means that entering data into EIM, while encouraged, is optional for:

a. Non site-specific studies;
b. Site hazard assessments that result in no further action; and
c. All initial site investigations.

2. Orders, agreed orders, consent decrees, or permits must include a condition that site-specific environmental sampling data be submitted in compliance with this Policy.

For those reports prepared and submitted for review under an order, agreed order, consent decree, or permit, the environmental sampling data must be entered into EIM at the time of report submittal. If reports for such work do not include documentation that data was submitted in compliance with this Policy, the reports shall be deemed incomplete and a notice will be provided to the submitter.

Generally, Ecology should not review such reports until that documentation is provided. The assistant attorney general assigned to the site should be consulted for an appropriate response when Ecology's review is delayed due to failure of data entry into EIM.

3. Site-specific environmental sampling data must be entered into EIM before Ecology will review independent remedial action reports under the Voluntary Cleanup Program.

For independent remedial action reports prepared and submitted under Ecology's Voluntary Cleanup Program (VCP), environmental sampling data must be entered into EIM at the time any report is submitted requesting an opinion on the sufficiency of the action under the VCP.

However, Ecology may establish an alternate deadline for entering data into EIM if this Policy creates undue hardship on the VCP customer and Ecology does not need the data in EIM to begin the review.[1] But in no case will Ecology issue a No Further Action (NFA) opinion letter under the VCP—either for the whole site or a property located within the site—until the data has been entered into EIM.

If sampling data has not been entered into EIM, Ecology may still review the report for the limited purpose of determining whether it contains sufficient information to provide an opinion. If the report is incomplete, Ecology may also respond to the VCP customer's request for an opinion by issuing an administrative letter rejecting the report and requesting additional information.

[1] For example, when a site has multiple groundwater sampling events over time, it may be more efficient to enter the data into EIM at one time after monitoring is completed, rather than for each monitoring event. Another example would be where a VCP consultant is using EIM for the first time and needs additional time to learn how to use the system.

4. Grants, contracts, interagency agreements or memoranda of understanding issued after the effective date of this Policy must include a condition that site-specific data be submitted in compliance with this Policy.

Reports on such work will not be accepted as complete until the data have been submitted in compliance with this Policy. If a payment or transfer of funds is involved in the transaction, the relevant payment or transfer shall be withheld until this requirement has been met. Attachment A contains example language to include in these documents.

5. Data generated during upland investigations and cleanups must be submitted electronically using Ecology's EIM.

The Environmental Information Management System is Ecology's main database for environmental monitoring data. Proper submission of data through this system meets the requirement of submitting such data in an electronic format.

Additional information about EIM, including instructions for data submittal, can be found on Ecology's EIM website at http://www.ecy.wa.gov/eim/. The Toxic Cleanup Program's (TCP) EIM Coordinator can also provide technical assistance to site managers and consultants who use EIM.

6. Data generated during sediment investigations and cleanups must be submitted electronically using Ecology's EIM.

Effective March 1, 2008, EIM is Ecology's data management system for sediment-related data. Proper submission of data through EIM meets the requirement of submitting such data in an electronic format. Electronic data must be submitted to Ecology simultaneously with the accompanying report.

For additional information on sediment sampling and analysis plan requirements, see Ecology's *Sediment Cleanup Users Manual (SCUM II)* Publication No. 12-09-057, available at: https://fortress.wa.gov/ecy/publications/summarypages/1209057.html

The Sediment Data Coordinator in TCP's Aquatic Land Cleanup Unit (ALCU) can also provide technical assistance with EIM.

7. Data submitted electronically using EIM must be checked by the Toxics Cleanup Program's EIM Coordinator before the data will be officially loaded into EIM.

Normally, TCP's EIM Coordinator will receive a notice that data have been submitted through EIM. Upon receipt of the notice, the EIM Coordinator should notify the Cleanup Project Manager. The EIM Coordinator then reviews the submittal for quality control and officially loads the data into the system.

Attachment A

Model Grant and Permit Condition

This page left intentionally blank.

Model Grant and Permit Condition

The following condition is to be inserted in grants, loans, contracts, interagency agreements, and memoranda of understandings where site-specific environmental monitoring data is expected to be generated:

> All sampling data shall be submitted to Ecology in both printed and electronic formats in accordance with WAC 173-340-840(5) and Ecology Toxics Cleanup Program Policy 840: Data Submittal Requirements. Electronic submittal of data is not required for site hazard assessments that result in no further action and initial site investigations. (FOR GRANTS, AND LOANS ADD: Failure to properly submit sampling data will result in Ecology withholding payment and could jeopardize future funding.)

This page left intentionally blank.