

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

In the Matter of Remedial Action by:

Port of Olympia

SECOND AMENDMENT
TO AGREED ORDER

No. DE 6083

TO: Port of Olympia
Attn: Sam Gibboney
Executive Director
915 Washington St NE
Olympia, WA 98501

I. INTRODUCTION

Agreed Order No. DE 6083 (Order), entered into by the State of Washington, Department of Ecology (Ecology) and the Port of Olympia (Port) on December 5, 2008, requires the Port to perform remedial actions in response to releases of hazardous substances at the Budd Inlet Sediments Site (Site). The Order required the Port to complete an Interim Action to remove contaminated sediment from portions of the berth area in the West Bay of Budd Inlet, and to conduct a pilot study assessment of the characteristics of the in-place sediment and analysis of the benefits of proposed dredging technologies for future cleanup of Budd Inlet. On February 15, 2012, the First Amendment to the Order was entered into by Ecology and the Port, and required the Port to investigate the nature and extent of contamination in a portion of the Site referred to as the Study Area, investigate potential sources of contamination to sediments near the Port's peninsula in Budd Inlet, prepare an Investigation Report, identify and analyze remedial action alternatives to address sediments containing contaminants above applicable cleanup levels in the Study Area, and prepare a draft Interim Action Plan to address sediment contamination in the Study Area within the Site.

Ecology and the Port hereby agree to a Second Amendment of the Order. Under this Second Amendment to the Order, the Port will prepare public review draft and final versions of the Interim Action Plan, prepare a pre-remedial design data gaps memorandum and investigation work plan, perform the pre-remedial design investigation described in the work plan, prepare a

pre-remedial design data report, and prepare engineering design and permitting documents for the interim action.

This Amendment does not attempt to recite all provisions of the Order. Provisions of the Order not specifically addressed in this Amendment remain in full force and effect. Format and section numbering of the Order have been maintained to the extent possible.

II. JURISDICTION

This Second Amendment to Agreed Order No. DE 6083 is issued pursuant to the authority of the Model Toxics Control Act (MTCA), RCW 70A.305.050(1).

III. AMENDMENT

Agreed Order No. DE 6083, Section VII, WORK TO BE PERFORMED, is amended to revise the following:

E.3. Subsection E.3. in Amendment 1 is deleted and replaced with the following: The Port shall prepare a public review draft and final Interim Action Plans for the Study Area as detailed in Task 5A of the Interim Action Plan and Design Scope of Work (Exhibit I) and in accordance with the Amended Schedule of Work and Deliverables (Exhibit J). The proposed interim action plan shall not foreclose reasonable alternatives for the ultimate cleanup action for the site as a whole and shall meet the minimum requirements found in WAC 173-204-570. Construction of the interim action is not a part of this amendment. Ecology and the Port intend to negotiate an amendment to Agreed Order DE 6083 or a subsequent agreed order for construction of the interim action.

Agreed Order No. DE 6083, Section VII, WORK TO BE PERFORMED, is amended to add the following:

E.5. The Port is required to prepare a pre-remedial design data gaps memorandum, pre-remedial design investigation work plan, pre-remedial design investigation and report, and interim action remedial design and permitting as detailed in Tasks 7 through 10 of the Interim Action Plan and Design Scope of Work (Exhibit I) in accordance with the Amended Schedule of Work and Deliverables (Exhibit J).

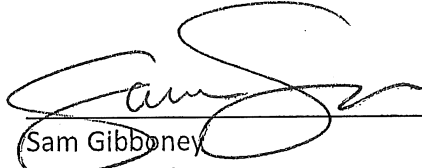
Agreed Order No. DE 6083, Section VIII, TERMS AND CONDITIONS OF ORDER, H. Public Participation, is amended to add the following:

RCW 70A.305.030(2)(a) requires that, at a minimum, this Order be subject to concurrent public notice. Ecology shall be responsible for providing this public notice and reserves the right to modify or withdraw any provisions of this Order should public comment disclose facts or considerations which indicate to Ecology that this Order is inadequate or improper in any respect.

Effective date of this Second Amendment to Agreed Order No. DE 6083:

JUNE 9, 2023


PORT OF OLYMPIA



Sam Gibboney
Executive Director
Port of Olympia
360-528-8000

Dated: 5.26.23

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY



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Dated: 6/5/2023

EXHIBIT I INTERIM ACTION PLAN AND DESIGN SCOPE OF WORK

The scope of work under the Second Amendment to Agreed Order No. DE 6083 includes a public review draft and final Interim Action Plans, pre-remedial design data gaps memorandum, pre-remedial design investigation work plan, data gaps investigation, pre-remedial design investigation report, and engineering design and permitting for the Study Area. The Port shall coordinate with Ecology throughout the tasks, and keep Ecology informed of changes to the work plan and of any issues or problems as they develop. Changes to the work plan will be addressed in accordance with Section VIII.L of the Order. Tasks completed for this scope of work will meet the requirements of the Model Toxics Control Act Regulation and Statute, WAC 173-340 and RCW 70A.305, and the Sediment Management Standards, WAC 173-204. For each version of each deliverable identified in this scope of work, the Port shall submit to Ecology one (1) hard copy, plus one electronic copy each in Word (.docx) and Adobe (.pdf) formats. Up to five (5) additional hard copies of deliverables may be required for public comment periods and document repositories.

TASK 5A: PUBLIC REVIEW DRAFT AND FINAL INTERIM ACTION PLANS

Following preparation and submittal of the draft Interim Action Plan described in the First Amendment to Agreed Order DE 6083, Exhibit G, Task 5, the Port shall prepare the public review draft Interim Action Plan by revising the plan to address Ecology's comments on the draft Interim Action Plan. Ecology will provide public notice and opportunity to comment on the public review draft Interim Action Plan in accordance with WAC 173-340-600(16). The Port shall assist Ecology, as requested, to comply with State Environmental Policy Act (SEPA) Rules, such as by preparing draft SEPA environmental checklists. The Port shall assist Ecology, as requested, with coordinating SEPA public involvement requirements, or with MTCA public involvement requirements whenever possible, such that public comment periods and meetings or hearings can be held concurrently. After a public notice and comment period for the public review draft Interim Action Plan, the Port will incorporate any final changes provided by Ecology, and Ecology will approve the Interim Action Plan (if appropriate) and the document will be considered Final. Amended Schedule of Work and Deliverables (Exhibit J) specifies the required deliverables and the schedule by which they must be submitted.

TASK 7: PRE-REMEDIAL DESIGN DATA GAPS MEMORANDUM

A Pre-Remedial Design Data Gaps Memorandum (PRD Memo) will be prepared to present data gaps primarily focused on remedial dredging within the navigational areas (channels, marinas, and adjacent areas). The PRD Memo will present compiled existing data and a summary of data needs for design of dredging and dredging-related portions of the remedial action and be consistent with the Identification and Evaluation of Interim Action Alternatives Memorandum, including source control and remedy protection. In addition, the PRD Memo will address dredged

material management considerations including data that will support evaluations of sediment reuse and disposal options. The PRD Memo will identify existing nearshore, shoreline, and overwater structures that could be impacted by an interim action and the data needed to evaluate remedial actions near these structures.

The Port will provide Ecology with a Draft Pre-Remedial Design Data Gaps Memorandum. After Ecology's comments have been incorporated into the Draft Pre-Remedial Design Data Gaps Memorandum, and Ecology reviews and approves the Pre-Remedial Design Investigation Data Gaps Memorandum, it will be considered the final Pre-Remedial Design Data Gaps Memorandum.

TASK 8: PRE-REMEDIAL DESIGN INVESTIGATION WORK PLAN

The Port will prepare a Pre-Remedial Design Data Gaps Work Plan (Work Plan) describing the field investigations to be performed, data use, data collection methodologies, schedule, and reporting requirements. The Work Plan shall be prepared in compliance with WAC 173-340-350 and WAC 173-204-550. The Work Plan will be focused on collection of data to fill data gaps identified in the PRD Memo.

The Work Plan will include the following supporting plans in compliance with WAC 173-340-820 and WAC 173-204-600, and the Sediment Cleanup User's Manual as applicable:

- Sampling and Analysis Plan (SAP)
- Quality Assurance Project Plan (QAPP)
- Health and Safety Plan (HASP)
- Inadvertent Discovery Plan (IDP)

The Port will provide Ecology with a Draft Pre-Remedial Design Investigation Work Plan. After Ecology's comments have been incorporated into the Draft Pre-Remedial Design Investigation Work Plan, the Port will submit the Pre-Remedial Design Investigation Work Plan. Once Ecology reviews and approves the Work Plan, it will be the final Work Plan. The Work Plan shall not be implemented until approved by Ecology.

TASK 9: PRE-REMEDIAL DESIGN INVESTIGATION

Once approved by Ecology, the Port will implement the final Work Plan according to the schedule in Exhibit J. Field sampling and analysis shall be completed in general accordance with the SAP and QAPP. Deviations from the approved SAP and QAPP must be communicated to Ecology immediately and documented as required by Ecology.

Following field investigation and data analysis, the Port shall prepare a Pre-Remedial Design Investigation Report and submit it to Ecology for review and comment. The investigation report

will present the data collected during the Pre-Remedial Design Field Investigation and identify if there are additional data gaps that need to be addressed by another phase of pre-remedial design sampling. If further data gaps are identified by Ecology, Tasks 7 through 9 will be repeated until there is sufficient data. If future data gaps are identified by Ecology, they will be addressed through a schedule change.

Environmental data will be entered into Ecology's Environmental Information Management System (EIM).

The Port will provide Ecology with a Draft Pre-Remedial Design Investigation Report. After Ecology's comments have been incorporated into the Draft Pre-Remedial Design Investigation Report, the Port will submit the Pre-Remedial Design Investigation Report. Once Ecology reviews and approves the Pre-Remedial Design Investigation Report, it will be the final Pre-Remedial Design Investigation Report.

Electronic survey data for monitoring locations, electronic lab data, and GIS maps of contaminant distribution shall be provided, either in the report or as attachments. The Pre-Remedial Design Report will not be considered final until Ecology approves the report.

TASK 10: INTERIM ACTION REMEDIAL DESIGN AND PERMITTING

The Port shall prepare and submit for Ecology review and approval all documents necessary to complete the design and permitting of the interim action described in the Final Interim Action Plan (IAP), per WAC 173-340-400, including compliance monitoring per WAC 173-340-410 and WAC 173-204-560. The Amended Schedule of Work and Deliverables (Exhibit J) specifies the required deliverables and the schedule by which they must be submitted. The work to be performed includes the following:

A. Per WAC 173-340-400(4), preparation of a draft Engineering Design Report for Ecology review, followed by preparation of a final document addressing Ecology's review comments. The Engineering Design Report shall incorporate pre-remedial design findings, results of engineering evaluations required to complete the design, and requirements imposed by permitting agencies, to the extent those requirements are available.

B. Per WAC 173-340-400(4)(b), preparation of 60 percent complete Construction Plans and Specifications for Ecology review, followed by preparation of the 100 percent complete documents, each incorporating Ecology's review comments. The Construction Plans and Specifications shall be based on the EDR.

Sixty percent (60%) Construction Plans and Specifications also shall include a Construction Quality Assurance Plan and a Construction (Performance) Monitoring and Contingency Response Plan. One hundred percent (100%) Construction Plans and Specifications also shall include a Water Quality Monitoring Plan, a Health and Safety Plan, and other plans necessary to complete the work.

C. Preparation of Post-Construction Monitoring Plans per WAC 173-340-410 and WAC 173-204-560 to evaluate whether sources are being controlled, confirm interim action construction requirements have been met, verify compliance with permit conditions or substantive requirements of applicable laws after construction, and confirm interim action standards have been met both immediately following construction and in the long term.

D. Preparation of permitting application documents from the appropriate permitting authorities, if both Ecology and the Port agree it is advisable to proceed with this aspect of the remedial action. The Port shall provide draft permitting documents to Ecology for review, followed by preparation of final permitting documents addressing Ecology's review comments.

EXHIBIT J
AMENDED SCHEDULE OF WORK AND DELIVERABLES

The following schedule of work and deliverables lists the schedule for Scope of Work tasks included in Exhibit I of the Second Amendment, and (as of the date of the Second Amendment) remaining tasks due from the First Amendment Exhibit G, Scope of Work. Where there is a conflict, this Schedule replaces the First Amendment Exhibit H, Schedule of Deliverables.

For each version of each deliverable identified in this scope of work, the Port shall submit to Ecology one (1) hard copy, plus one electronic copy each in Word (.docx) and Adobe (.pdf) formats. Up to five (5) additional hard copies of deliverables may be required for public comment periods and document repositories. Completion times listed below are calendar days. Any deadline that falls on a holiday or weekend shall be extended to the next business day. Ecology shall endeavor to provide comments within 60 days of receipt of a formal deliverable for review. If unanticipated conditions or changed circumstances are discovered that could result in a schedule delay, the Port will notify Ecology. Ecology will determine if a schedule extension is warranted in accordance with the provisions of the Agreed Order, Section VIII.K. (Extension of Schedule).

Task	Work or Deliverable	Schedule
4	Draft Identification and Evaluation of Interim Action Alternatives Memorandum	On or before May 19, 2023
	Final Identification and Evaluation of Interim Action Alternatives Memorandum	90 calendar days from receipt of Ecology's final comments on the Draft Identification and Evaluation of Interim Action Alternatives Memorandum
5	Draft Interim Action Plan	75 calendar days from receipt of Ecology's approval of the Final Identification and Evaluation of Interim Action Alternatives Memorandum
5A	Public Review Draft Interim Action Plan	60 calendar days following receipt of Ecology's final comments on the Draft Interim Action Plan
	Final Interim Action Plan	30 calendar days following receipt of Ecology's final comments on the Public Review Draft Interim Action Plan, which will be provided following public notice of the plan
6	Progress Reports	15 th of every month until the Agreed Order is satisfied.
7	Draft Pre-Remedial Design Data Gaps Memorandum	60 calendar days following the effective date of Amendment 2 to Agreed Order DE 6083

Task	Work or Deliverable	Schedule
	Final Pre-Remedial Design Data Gaps Memorandum	30 calendar days following receipt of Ecology's final comments on the Draft Pre-Remedial Design Data Gaps Memorandum
8	Draft Pre-Remedial Design Investigation Work Plan	30 calendar days following Ecology approval of the Final Pre-Remedial Design Data Gaps Memorandum
	Final Pre-Remedial Design Investigation Work Plan	30 calendar days following receipt of Ecology's final comments on the Draft Pre-Remedial Design Investigation Work Plan
9	Pre-Design Investigation Field Work	Begin within 90 days of completion of the Final Pre-Remedial Design Investigation Work Plan
	Draft Pre-Remedial Design Investigation Report and submittal of data to EIM	90 calendar days following receipt of all pre-validated laboratory data
	Final Pre-Remedial Design Investigation Report	60 calendar days following receipt of Ecology's comments on the Draft Pre-Remedial Design Investigation Report
10A	Agency Review Draft Engineering Design Report	Within 210 calendar days of completion of field investigations
	Public Review Draft Engineering Design Report	Within 90 calendar days of receipt of Ecology's comments on the Ecology Review Draft Engineering Design Report
	Final Engineering Design Report	Within 30 calendar days of receipt of issuance of Ecology comments on Public Review Draft Engineering Design Report
10B	60% Construction Plans and Specifications	Within 120 calendar days of receipt of Ecology comments on Public Review Draft Engineering Design Report and resolution of substantive permit issues.
	Response to Ecology Comments on 60% detailing how comments will be addressed in 100% design	Within 30 calendar days of receipt of Ecology comments on the 60% Construction Plans and Specifications
	100% Construction Plans and Specifications	Within 120 calendar days of receipt of Ecology comments on the 60% Construction Plans and Specifications
10C	Post-Construction Monitoring Plans	Concurrent with submittal of the Agency Review Draft Engineering Design Report
10D	Permitting application documents	Concurrent with submittal of the Agency Review Draft Engineering Design Report