

**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

In the Matter of Remedial Action by:

Port of Skagit County

FIRST AMENDMENT TO AGREED
ORDER

No. DE 16309

TO: Port of Skagit County
Sara Young, Executive Director
15400 Airport Drive
Burlington, WA 98233

EXHIBIT B: Amended Scope of Work and Schedule

EXHIBIT D: Amended - All Relevant and Appropriate Requirements

I. INTRODUCTION

The State of Washington, Department of Ecology (Ecology) and Port of Skagit County (the Port) entered into Agreed Order No. DE 16309 on July 16, 2019. The Order requires the Port to conduct a Remedial Investigation and Feasibility Study (RI/FS) per WAC 173-340-350 and WAC 173-204-560, and to develop a draft Cleanup Action Plan (DCAP) per WAC 173-340-350 through 173-340-380 and WAC 173-204-560 through 173-204-580, addressing contamination at the Site. The order also requires the Port to perform interim remedial actions at the facility where there has been a release or threatened release of hazardous substances.

Pursuant to Section VIII.J of the 2019 Order, the Parties hereby stipulate to amend the Order in this First Amendment to modify Task 3 (Interim Actions) to the Order's Exhibit B (Scope of Work and Schedule) and Exhibit D (All Relevant and Appropriate Requirements). The interim action for Area of Concern 1 (Former Laundry Building) described the placement of a retrofitted vapor barrier inside the building and implementation of an in-situ bioremediation program. Placement of the vapor barrier was contingent on access to the former laundry building during

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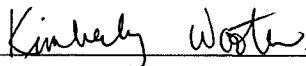
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building renovation. However, the planned renovation was canceled, which prevented access and thus precluded installation of a vapor barrier. It also was determined that a bioremediation program would not be able to address the likely source area for contaminants below the former laundry building because of drilling access limitations. Consequently, the in-situ bioremediation program and associated groundwater monitoring were not implemented. As a result, this Amendment revises the Order with a new scope of work for an interim action at Area of Concern 1 of the Site.

This Amendment does not attempt to recite all of the provisions of the 2019 Order. Provisions of the Order not specifically changed in this Amendment remain in full force and effect. The minor changes to the Order described below shall take effect upon Ecology's execution of this First Amendment.

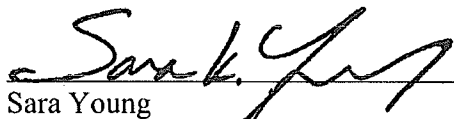
Effective date of this Amendment: October 4, 2023

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY



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EXHIBIT B – AMENDED SCOPE OF WORK AND SCHEDULE

AMENDED SCOPE OF WORK

PURPOSE

The work under this Agreed Order (AO) involves conducting a Remedial Investigation (RI) and Feasibility Study (FS), conducting interim actions, 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.

The Port of Skagit County (the Port) shall coordinate with Ecology throughout the development of the Interim Actions, 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 Amended Scope of Work (SOW) is divided into seven major tasks as

follows:

- Task 1. RI Work Plan
- Task 2. Remedial Investigation
- Task 3. Interim Actions
- Task 4. Feasibility Study
- Task 5. SEPA Compliance
- Task 6. Public Participation
- Task 7. DCAP

TASK 1. RI WORK PLAN

The Port 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.

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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, and groundwater; 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 173-204-560.

As part of the project background, existing environmental data on site soil, groundwater, and air 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 Port 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, air 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 (July 2004).¹ 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. The plan shall provide seven (7) days notice to Ecology prior to beginning sampling. Ecology may obtain split samples.

The Port 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. Only

¹ Found at <https://fortress.wa.gov/ecy/publications/documents/0403030.pdf>

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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 air

The Port 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, the Port will implement the Final Work Plan according to the schedule contained in this Exhibit.

The Port 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, the Port 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

The Port shall conduct an RI that meets the requirements of WAC 173-340-350(7) 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 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.

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 the Port will review available data and an updated conceptual site model and discuss the content and organization of the Draft RI Report.

The Port shall compile the results of the Site investigation into an Agency Review Draft RI Report. The Port 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, the Port 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

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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

Remedial actions completed prior to implementation of the full remedy, 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

will be considered 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 and described in more detail below, the Port will implement interim actions for AOCs 1 and 4. Specifically, interim action(s) are needed to expedite control of releases to indoor air, direct contact with contaminated soils and other environmental media pursuant to WAC 173-340-430. Sufficient characterization of AOCs 1 and 4 have been completed to support design and implementation of interim actions.

The scope of the interim actions will include the following:

Area of Concern (AOC) 1: Former Laundry Building. Concentrations of tetrachloroethene (PCE), trichloroethene (TCE), and cis-1,2-dichloroethene (cis-1,2-DCE), were detected in soil and/or groundwater northeast of the former laundry building above MTCA Method A cleanup levels (CULs). PCE was detected in soil vapor collected from beneath the former laundry building foundation, but was below applicable screening levels. Soil and groundwater impacts appear localized to this area as there were no detections of PCE or TCE identified at the upgradient or downgradient sample locations. However, the extent of soil and groundwater impacts may extend below the existing building.

The interim action work for AOC 1 will involve installation of a sub-slab depressurization system (SSDS) in the former laundry building. A system of pipes will be installed into the building's slab-on-grade foundation into the soil beneath the building. Fans will be connected to the pipes to pull air from beneath the foundation and create a negative pressure differential between the air within the building and beneath the foundation. The negative pressure differential mitigates the risk of vapor intrusion into the building and reduces the

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risk of inhalation exposure. The SSDS system will vent the air pulled from beneath the foundation into air above the building from pipes installed above the former laundry building roof. The interim action shall include an indoor air and system sampling program to evaluate the performance of the system.

AOC 4: Arsenic in Soil. Arsenic-impacted shallow soil was found near the former Ward Building and athletic field areas. These impacts pose risk of direct soil contact exposure to users of the Site. This risk can be mitigated by implementation of an interim action prior to completion of the final RI and feasibility study (FS). The interim action would include excavating impacting at the two locations and disposal at an off-site permitted landfill.

The impacted surface soils in the former Ward Building area and athletic field would be removed and disposed of off-site, eliminating the direct-contact exposure risk. The excavation will be approximately an average excavation depth of 1 foot, over an area roughly 28,500 square feet. This would remove approximately 1,800 tons of impacted material. Confirmation soil samples during excavation would be collected to ensure that arsenic impacts above MTCA Method A CULs are removed. The excavated areas will be backfilled with clean soil and restored to match existing conditions.

The Port will prepare and submit for Ecology approval a Draft Interim Action Work Plan (IAWP) with detail commensurate with the work to be performed. The 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 site information, including at a minimum existing site conditions;
- Information regarding design and construction requirements, including a proposed schedule and personnel roles and responsibilities;
- Compliance Monitoring Plan;
- SAP/QAPP
- Permits required.

The Port will also submit a copy of the Health and Safety Plan for the project. The Port 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.

The Port shall prepare two (2) copies of the Draft Interim Action Work Plan and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for review. The Port shall incorporate Ecology's comments and then prepare two (2) copies of the Final Interim Action Work Plan and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology.

Once approved by Ecology, the Port will implement the interim action according with the

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approved schedule.

Upon successful completion of the work, a Draft Interim Action Report will be prepared as a separate deliverable. The Port shall prepare two (2) copies of the 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 Draft Interim Action Report and after Ecology approval, the Port 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

The Port shall use the information obtained in the RI and Interim Actions to prepare an Agency Review Draft 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 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 will provide a detailed analysis of each remedial alternative according to the applicable requirements of WAC 173-340-350, MTCA Remedial Investigation and Feasibility Study. The remedial alternatives will be evaluated for compliance with the applicable requirements of WAC 173-340-360, Selection of Cleanup Actions, including a detailed evaluation of remedial alternatives relative to the following criteria:

- Compliance with Cleanup Standards and Applicable Laws
- Protection of Human Health
- Protection of the Environment
- Provision for a Reasonable Restoration Time Frame
- Use of Permanent Solutions to the Maximum Extent Practicable
- The Degree to which Recycling, Reuse, and Waste Minimization are Employed
- Short-term Effectiveness
- Long-Term Effectiveness
- Net Environmental Benefit
- Implementability
- Provision for Compliance Monitoring
- Cost-Effectiveness
- Prospective Community Acceptance

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.

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The Port 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, the Port 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

The Port 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), the Port shall be responsible for the preparation of Draft and final environmental impact statements. The Port 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

The Port 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. The Port 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, the Port shall prepare an Agency Review Draft Responsiveness Summary that addresses public comments. The Port 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, the Port 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).

The Port 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

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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.

The Port 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. The Port 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 Port 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.

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 the Port 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 days following effective date of the Agreed Order |
| Completion of RI Field Work | 90 days following completion of the Final SAP, QAPP and HSP |
| Agency Review Draft RI/FS Report | 90 days following receipt of laboratory data |
| Public Review Draft RI/FS Report | 60 days following receipt of Ecology comments on Agency Review Draft RI/FS Report |
| Agency Review preliminary Draft Cleanup Action Plan (DCAP) | 60 days following completion of the Public Review Draft RI/FS Report |
| Interim Action Work Plan | 90 days following effective date of the Agreed Order |
| Interim Action Completion Report | 90 days following completion of the interim action |

EXHIBIT D

Amended - All Relevant and Appropriate Requirements

The relevant and appropriate requirements that Ecology has determined apply to this Site include the following:

- Federal and state surface water quality standards
- WAC 173-460: Controls for New Sources of Toxic Air Pollutants