



STATE OF WASHINGTON  
**DEPARTMENT OF ECOLOGY**

Central Region Office

1250 West Alder St., Union Gap, WA 98903-0009 • 509-575-2490

February 5, 2024

**Sent via email and hard copy**

Jim Cach  
Coleman Oil Company  
529 E. Kennewick Avenue  
Kennewick, WA 99336

**Re: Invitation to Enter Negotiation to Implement the Final Cleanup Action**

- **Site Name:** Coleman Oil Yakima Bulk Plant
- **Site Address:** 1 East I Street, Yakima
- **Facility/Site ID:** 4233
- **Cleanup Site ID:** 13200

Dear Jim Cach:

Coleman Oil Company and the other Potentially Liable Persons (PLPs) are hereby invited to negotiate an agreed order to implement the final cleanup action at the Coleman Oil Yakima Bulk Plant Site. Ecology anticipates that this negotiation with the willing parties will culminate in the implementation of the signed agreed order.

I have prepared a draft Agreed Order for you to review. This draft will serve as the basis for negotiation. Note that only certain elements in the agreed order template are open for negotiation and that other portions of the terms and conditions are non-negotiable.

Note that the draft Cleanup Action Plan (DCAP) is currently being developed. After its finalization, the CAP will be distributed to the PLPs.

Per WAC 173-340-530,<sup>1</sup> Ecology expects that the negotiation shall not exceed sixty (60) days unless the department decides that continued discussions are in the public interest.

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<sup>1</sup> <https://app.leg.wa.gov/wac/default.aspx?cite=173-340-530>



Jim Cach  
Coleman Oil Company  
February 5, 2024  
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Please reply by February 16, 2024, if you wish to participate in the negotiation process. You can reach me at (509) 731-9613 or John.Mefford@ecy.wa.gov if you have questions. I look forward to hearing from you.

Sincerely,



John Mefford  
Hydrogeologist  
Toxics Cleanup Program  
Central Region Office

Enclosures (3):      Draft Agreed Order  
                             Draft Scope of Work and Schedule  
                             Applicable or Relevant and Appropriate Requirements Table

By certified mail:      9589 0710 5270 0589 5637 71

cc:      Shane DeGross, BNSF Railway Company  
         Eric Hetrick, Chevron Environmental Management Company  
         Tom Mergy, PBS Engineering and Environmental, Inc.  
         John Schultz, Leavy Schultz Davis, P.S.

## Enclosures

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Draft Agreed Order, Scope of Work and Schedule, Applicable or Relevant and Appropriate Requirements Table



**Draft Agreed Order**

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State of Washington  
Department of Ecology

In the Matter of Remedial Action by:  
Coleman Oil Company  
Agreed Order  
No. DE [ ]

To: Coleman Oil Company  
c/o Jim Cach

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Exhibit A Remedial Action Location Diagram

- Exhibit B Cleanup Action Plan
- Exhibit C Scope of Work and Schedule
- Exhibit D Applicable or Relevant and Appropriate Requirements

## 1. Introduction

The mutual objective of the State of Washington, Department of Ecology (Ecology), and the Subject PLPs Coleman Oil Company, LLC (Coleman Oil), BNSF Railway Company (BNSF) Carol Jean Wondrack, and Chevron Environmental Management Company (CEMC), for itself and as attorney-in-fact for Chevron U.S.A. (CUSA) 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 Subject PLPs to implement remedial actions as specified in the Cleanup Action Plan (CAP) (Exhibit B) in accordance with WAC 173-340-350, and with the attached Scope of Work and Schedule (Exhibit C), which contains the deliverables required by this Order. These remedial actions include, but are not limited to:

- a. Groundwater extraction
- b. Ex situ groundwater treatment
- c. In situ groundwater treatment via injection of treated groundwater augmented with surfactants and biological amendments.

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. The Subject PLPs agree to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter the Subject PLPs' responsibility under this Order. The Subject PLPs 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 and WAC 173-340 shall control the meanings of the terms in this Order.

### 4.1 Site

The Site is referred to as Coleman Oil Yakima Bulk Plant. 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 1 East I Street, Yakima as shown in the Remedial Action Location Diagram (Exhibit A).

### 4.2 Parties

Refers to Ecology, Coleman Oil, BNSF, Carol Jean Wondrack, and CEMC for CUSA.

### 4.3 Potentially Liable Persons (PLP(s))

Refers to Coleman Oil; BNSF; Carol Jean Wondrack; and CEMC for CUSA.

### 4.4 Subject PLP(s)

Refers to Coleman Oil; BNSF; Carol Jean Wondrack; and CEMC for itself and as attorney-in-fact for CUSA.

### 4.5 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.

### 4.6 Nonaqueous phase liquid (NAPL)

Refers to a hazardous substance that is present in soil, bedrock, groundwater, or surface water as a liquid not dissolved in water. The term includes both light nonaqueous phase liquid (LNAPL) and dense nonaqueous phase liquid (DNAPL).

## 5. Findings of Fact

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

### 5.1

- A. Based upon factors currently known to Ecology, the Site is generally located at 1 East I Street, Yakima, Washington (46°36'52.7"N 120°30'47.6"W) as shown in the Remedial Action Location Diagram (Exhibit A). The Site is listed in Ecology's Hazardous Sites List as the "Coleman Oil Yakima Bulk Plant Site," Facility Site ID No. 4233, Cleanup Site ID No. 13200.

- B. Contamination at the Site is related to a bulk fuel distribution business. Title records show that parcel number 18131314070 was acquired by Standard Oil Company on March 30, 1908 and sold by Chevron U.S.A. Inc. on October 29, 1986. Standard Oil Company was a predecessor of Chevron U.S.A. Inc.
- C. Wondrack Distribution, Inc. was the operator of the bulk fuel distributing facility located at the Site from 1976 to August 1, 2015.
- D. Carol Jean Wondrack is listed as the owner of the parcel number 18131314070 on which the east portion of the business operated by Coleman Oil is located. The listing for the parcel information is provided on the assessor's page on the Yakima County website. Title records show that the property was owned by both Joseph E. Wondrack and Carol J. Wondrack between October 29, 1986 and August 2, 2011, and then solely by Carol J. Wondrack since August 2, 2011.
- E. Coleman Oil Company, LLC is the operator of the bulk fuel distribution facility located at 1 East I Street in Yakima (the Site). Coleman Oil acquired the assets of the business from Wondrack Distributing, Inc. in a transaction that closed on August 1, 2015. The first issuance date for liquid fuel meter at this Yakima location for Coleman Oil Company, LLC is listed as August 4, 2015 as shown on the Washington State Department of Revenue website. Title records indicated Coleman Oil Company began leasing the property at 1 East I Street on August 11, 2015.
- F. CEMC never owned or operated at the Site, but as attorney-in-fact for CUSA, and without admitting liability for itself or CUSA, for the purposes of this Order, agrees to undertake the work described in this Order, subject to the terms and conditions of this Order.
- G. The west portion of the bulk fuel distribution facility is situated on property designated as BNSF right-of-way. Yakima County lists parcel number 18131312030 as 28.34 acres; however, Coleman Oil has used only approximately 20,000 square feet of this parcel. The parcel area is shown on the Yakima County assessor's website.

## 5.2

- A. In early 2015, PBS Engineering and Environmental Inc. (PBS) conducted a soil investigation at the Site on behalf of Wondrack Distributing. The findings and conclusions of that investigation were presented in a report titled "Site Characterization Report, Yakima Bulk Plant, 1 East I St, Yakima, Washington" dated June 2015. PBS found evidence of a release or releases based on the presence of petroleum-contaminated soil consisting of diesel and motor oil compounds in concentrations above the MTCA Method A cleanup levels in multiple areas of the site: inside the tank farm, the out-of-use tank and drum storage area within the tank farm, and the loading rack. PBS also

found that soil near a waste oil tank inside the tank farm exceeded the cleanup levels for metals cadmium and lead, and for carcinogenic polycyclic aromatic hydrocarbons (PAHs). Although gasoline-range soil contamination was detected during the site characterization, it did not exceed MTCA cleanup levels.

- B. Another release was discovered on March 21, 2016, when an employee observed fuel product seeping to the ground surface through a crack in the asphalt pavement. At the time of the observation, diesel fuel was being pumped through a subsurface distribution line beneath the release location. This release was promptly reported to the Department of Ecology as ERTS #663825. The release impacted both soil and groundwater.
- C. Evidence of an additional release was discovered and reported to the Department of Ecology on January 17, 2017 as ERTS #670092. The contaminant is gasoline which was released from a subsurface distribution line. Indications of a gasoline release were indicated earlier while investigating the diesel release but were not confirmed until January of 2017.
- D. On March 29, 2018, the Parties entered Agreed Order DE 15639, which required the PLPs to conduct a remedial investigation/feasibility study (RI/FS) and to prepare a Draft Cleanup Action Plan (DCAP) for the Site.
- E. Release(s) of hazardous substances occurred at the Site. The final RI and FS reports dated October 11, 2023 and October 6, 2023, respectively and prepared by PBS on behalf of the PLPs documented the nature and extent of hazardous substances in various media including soil and groundwater.
- F. The following hazardous substances at the Site have been detected at concentrations above MTCA cleanup levels. In soil, the following contaminants are present: gasoline-range, diesel-range and heavy-oil range organics, cadmium, lead, and naphthalene. In groundwater, the following contaminants are present: gasoline-range and diesel-range organics, benzene, toluene, ethylbenzene, and total xylenes. These hazardous substances have been, and may continue to be, released at the Site into the environment including groundwater.
- G. As documented in the CAP (Exhibit B), Ecology has chosen a final cleanup action to be implemented at the Site.

## 6. Ecology Determinations

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

### 6.1

- A. Coleman Oil is an “owner or operator” as defined in RCW 70A.305.020(22) of a “facility” as defined in RCW 70A.305.020(8).
- B. BNSF is an “owner or operator” as defined in RCW 70A.305.020(22) of a “facility” as defined in RCW 70A.305.020(8).
- C. Carol Jean Wondrack is an “owner or operator” as defined in RCW 70A.305.020(22) of a “facility” as defined in RCW 70A.305.020(8).
- D. CUSA or a corporate predecessor(s) was 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 Coleman Oil dated March 30, 2017, pursuant to RCW 70A.305.040, .020(26), and WAC 173-340-500. After providing for notice and opportunity for comment, reviewing any comments submitted, and concluding that credible evidence supported a finding of potential liability, Ecology issued a determination that Coleman Oil is a PLP under RCW 70A.305.040 and notified Coleman Oil of this determination by letter dated May 26, 2017.

### 6.4

Based upon credible evidence, Ecology issued a PLP status letter to BNSF Railway dated March 30, 2017, pursuant to RCW 70.105D.040, .020(26), and WAC 173-340-500. After providing for notice and opportunity for comment, reviewing any comments submitted, and concluding that credible evidence supported a finding of potential liability, Ecology issued a determination that BNSF Railway is a PLP under RCW 70.105D.040 and notified BNSF Railway of this determination by letter dated May 26, 2017.

## 6.5

Based upon credible evidence, Ecology issued a PLP status letter to Carol Jean Wondrack dated March 30, 2017, pursuant to RCW 70.105D .040, .020(26), and WAC 173-340-500. After providing for notice and opportunity for comment and concluding that credible evidence supported a finding of potential liability, Ecology issued a determination that Carol Jean Wondrack is a PLP under RCW 70.105D .040 and notified Carol Jean Wondrack of this determination by letter dated May 26, 2017.

## 6.6

Based upon credible evidence, Ecology issued a PLP status letter to Chevron U.S.A. Inc. c/o Chevron Environmental Management Company dated October 20, 2017, pursuant to RCW 70.105D.040, .020(26), and WAC 173-340-500. After providing for notice and opportunity for comment, reviewing any comments submitted, and concluding that credible evidence supported a finding of potential liability, Ecology issued a determination that Chevron U.S.A. Inc. is a PLP under RCW 70.105D.040 and notified Chevron U.S.A. Inc. of this determination by letter dated December 12, 2017.

## 6.7

CEMC is a signatory to this Order both for itself and as attorney-in-fact for CUSA, managing certain environmental matters on CUSA's behalf. By signing this Order, CEMC voluntarily accepts status as a PLP for the Site. CEMC waives any rights to may have to notice and comment period under WAC 173-340-500. Ecology accepts CEMC as a signatory and Subject PLP under this Order at the request of CEMC and CUSA without waiving any statutory authority Ecology may have with respect to CUSA or any corporate successor of CUSA, including enforcement against CUSA and any such successors in the event of noncompliance with this Order.

## 6.8

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 the Subject PLPs take the following remedial actions at the Site. The area within the Site where remedial action is necessary under RCW 70A.305 is described in the Remedial Action Location Diagram (Exhibit A). These remedial actions must be conducted in accordance with WAC 173-340:

## 7.1

The Subject PLPs shall conduct a final cleanup action at the Site by implementing and completing the Cleanup Action Plan (CAP) attached as Exhibit B and incorporated in this Order. The cleanup action employs surfactant enhanced bioremediation using a designed injection/recovery treatment system. The surfactants will desorb contamination from soil surfaces, or from NAPL layers making the petroleum more available for in-situ or ex-situ remediation. The liberated contaminated water is then more biologically available for microbial and associated enzymatic degradation.

Once desorbed by the surfactants, the NAPL will be recovered through a set of extraction wells to remove liquids (water and NAPL). This liquid will be processed through an above ground separator to capture the separate phase petroleum, then surfactant and biologic solutions will be added, and the water is reintroduced through injection wells to create a closed loop system to effectively treat the area. Recovered separate phase petroleum will then be removed from the Site for proper disposal. The injection wells will be placed at intervals to saturate areas of contaminated soil as well as the vadose zone areas above the water table zone.

The Subject PLPs will prepare an Engineering Design Report (EDR), an Operation and Maintenance (O&M) Plan, and a Compliance Monitoring Plan (CMP) which comprise the elements necessary to implement the CAP. These decision documents will be prepared and submitted to Ecology as Agency Review preliminary drafts. These drafts will be revised after Ecology comment. Ecology will issue a written approval to designate each document as Final.

A pilot test will be conducted to determine the spacing and placement of injection and recovery wells to ensure an appropriate zone of influence for the wells. The study will include measurement of physical and chemical parameters of the NAPL and of the injected surfactant/enzyme reagent at specified wells in the proximity to selected injection and extraction wells.

The Subject PLPs will prepare and submit an Agency Review preliminary draft of the Cleanup Action Plan (CAP) completion report. After receipt of Ecology's comments, the Subject PLPs will produce a Public Review draft that incorporates those comments that are judged to be relevant by Ecology after discussion with the Subject PLPs. Based on the public comments, the Public Review draft will be then revised for those comments, if any, that Ecology deems to be substantive. Ecology will issue a written approval to designate this document as Final.

Groundwater monitoring will be conducted at compliance wells during the performance of the remedial system and in accordance with the Compliance Monitoring Plan (CMP).

The CMP will identify and list the monitoring wells to be sampled, the sampling frequency, and the analytes to be assessed. Groundwater monitoring will consist of performance and confirmation compliance monitoring as required under the CAP (Exhibit B).

## 7.2

To effectuate the work to be performed under this Order in the most efficient manner, certain PLPs have elected to take the lead in performing various aspects of the work required under this Order. Language in this Order, and the exhibits attached hereto, may reflect this agreement among the PLPs. However, the PLPs remain strictly, jointly, and severally liable for the performance of any and all obligations under this Order. In the event the party identified as a lead should fail to timely and properly complete performance of all or any portion of its work, all PLPs must perform that remaining work, if any.

7.3 The Subject PLPs will implement and complete the selected cleanup action in accordance with the Scope of Work and Schedule (Exhibit C).

## 7.4

If the Subject PLPs learn 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, the Subject PLPs, 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.

## 7.5

The Subject PLPs shall submit to Ecology written monthly Progress Reports that describe the actions taken during the previous month to implement the requirements of this Order. All Progress Reports shall be submitted by the tenth (10th) day of the month in which they are due after the effective date of this Order. Unless otherwise specified by Ecology, Progress Reports and any other documents submitted pursuant to this Order shall be sent by certified mail, return receipt requested, to Ecology's project coordinator. The Progress Reports shall include the following:

### 7.5.1

A list of on-site activities that have taken place during the month.

### 7.5.2

Detailed description of any deviations from required tasks not otherwise documented in project plans or amendment requests.

**7.5.3**

Description of all deviations from the Scope of Work and Schedule (Exhibit C) during the current month and any planned deviations in the upcoming quarter.

**7.5.4**

For any deviations in schedule, a plan for recovering lost time and maintaining compliance with the schedule.

**7.5.5**

All raw data (including laboratory analyses) received during the previous quarter (if not previously submitted to Ecology), together with a detailed description of the underlying samples collected.

**7.5.6**

A list of deliverables for the upcoming month.

**7.6**

Pursuant to WAC 173-340-440(11), the PLPs shall maintain sufficient and adequate financial assurance mechanisms to cover all costs associated with the operation and maintenance of the remedial action at the Site, including institutional controls, compliance monitoring, and corrective measures.

**7.6.1**

Within sixty (60) days of the effective date of this Order, the PLPs shall submit to Ecology for review and approval an estimate of the costs under this Order for operation and maintenance of the remedial actions at the Site, including institutional controls, compliance monitoring and corrective measures. Within sixty (60) days after Ecology approves the aforementioned cost estimate, The PLPs shall provide proof of financial assurances sufficient to cover all such costs in a form acceptable to Ecology.

**7.6.2**

The PLPs shall adjust the financial assurance coverage and provide Ecology's project coordinator with documentation of the updated financial assurance for:

**7.6.3**

Inflation, annually, within thirty (30) days of the anniversary date of the entry of this Order; or if applicable, the modified anniversary date established in accordance with this section, or if applicable, ninety (90) days after the close of the PLPs' fiscal year if the financial test or corporate guarantee is used.



#### 7.6.4

Changes in cost estimates, within thirty (30) days of issuance of Ecology's approval of a modification or revision to the cleanup action plan (CAP) that result in increases to the cost or expected duration of remedial actions. Any adjustments for inflation since the most recent preceding anniversary date shall be made concurrent with adjustments for changes in cost estimates. The issuance of Ecology's approval of a revised or modified CAP will revise the anniversary date established under this section to become the date of issuance of such revised or modified CAP.

#### 7.7

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

#### 7.8

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, the Subject PLPs 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). The Subject PLPs 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 the Subject PLPs are 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.

#### 7.9

If Ecology determines that the Subject PLPs have failed to make sufficient progress or failed to implement the remedial action, in whole or in part, Ecology may, after notice to the PLPs, perform any or all portions of the remedial action or at Ecology's discretion allow the PLPs opportunity to correct. In an emergency, Ecology is not required to

provide notice to the PLPs, or an opportunity for dispute resolution. The PLPs shall reimburse Ecology for the costs of doing such work in accordance with Section 8.A (Payment of Remedial Action Costs). Ecology reserves the right to enforce requirements of this Order under Section 10 (Enforcement).

## 7.10

Except where necessary to abate an emergency situation or where required by law, the Subject PLPs 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, the Subject PLPs 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

The PLPs 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 [\$ amount provided by TCP Cost Recovery Coordinator] in remedial action costs related to this Site as of [insert date provided by TCP Cost Recovery Coordinator. NOTE: The date specified by the TCP Cost Recovery Coordinator will be the end of the last quarter, and the amount specified will be the amount as of the end of the last quarter. For costs incurred before this date, Ecology will send the Subject PLP(s) an invoice soon after the Order is signed. For costs incurred after this date, Ecology will send the Subject PLP(s) an invoice quarterly.] For all Ecology costs incurred, the PLPs 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:

John Mefford, LHG  
Department of Ecology, Toxics Cleanup Program  
1250 W. Alder St., Union Gap, WA 98903  
(509) 731-9613  
John.Mefford@ecy.wa.gov

The project coordinator for the Subject PLPs is:

Jim Cach, Regional Manager  
Coleman Oil Company  
529 E. Kennewick Ave  
Kennewick, WA 99336  
Tel: (509) 396-2177  
jim@colemanoil.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 the Subject PLPs, 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.

The Subject PLPs 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 Subject PLPs 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 the Subject PLPs' 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 the Subject PLPs. Ecology or any Ecology authorized representative shall give reasonable notice before entering any Site property owned or controlled by the PLPs 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.

The Subject PLPs shall make best efforts to secure access rights for those properties within the Site not owned or controlled by the Subject PLPs 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 the Subject PLPs 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 30 days after the effective date of this Order, the Subject PLPs 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 the Subject PLPs, or take independent action, in obtaining such access and/or use restrictions. Ecology reserves the right to seek payment from the Subject PLPs 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, the Subject PLPs 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 7 (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, the Subject PLPs shall allow Ecology and/or its authorized representative to take split or duplicate samples of any samples collected by the Subject PLPs pursuant to implementation of this Order. The Subject PLPs shall notify Ecology seven (7) days in advance of any sample collection or work activity at the Site. Ecology shall, upon request, allow the Subject PLPs 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 the Subject PLPs prior to any sample collection activity unless an emergency prevents such notice.

In accordance with WAC 173-340-830(5)(a) and (b), 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, and laboratories must achieve the lowest practical quantitation limits consistent with the selected method and WAC 173-340-707.

## **8.6 Public Participation**

Ecology shall maintain the responsibility for public participation at the Site. However, the Subject PLPs 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 the Subject PLPs 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 the Subject PLPs that do not receive prior Ecology approval, the Subject PLPs 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:

- a. Yakima Central Library  
102 N 3<sup>rd</sup> Street  
Yakima, WA 98901**
- b. Department of Ecology  
Central Region Office  
1250 W. Alder Street  
Union Gap, WA 98903**

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 Central Regional Office in Union Gap, Washington.

### **8.7 Access to Information**

The Subject PLPs 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 the Subject PLPs’ 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. The Subject PLPs shall also make available to Ecology, for purposes of investigation, information gathering, or testimony, their 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 the Subject PLPs may have under applicable law to limit disclosure of Records protected by the attorney work-product privilege and/or the attorney-client privilege. If the Subject PLPs withholds any requested Records based on an assertion of privilege, the Subject PLPs 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, the Subject PLPs 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 the Subject PLPs elects to invoke dispute resolution the Subject PLPs 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), the Subject PLPs have 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; the Subject PLPs' 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 The Subject PLPs may then request regional management review of the dispute. The Subject PLPs must submit this request (Formal Dispute Notice) in writing to the [region] Region 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; the Subject PLPs' 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

The Subject PLP's 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 the Subject PLPs 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 the Subject PLPs 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 the Subject PLPs.

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 the Subject PLPs.

### **8.10.3**

Ecology shall act upon any of the Subject PLP's written request for extension in a timely fashion. Ecology shall give the Subject PLPs 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 the Subject PLPs' 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 the Subject PLPs. 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, the Subject PLPs 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 the Subject PLPs to cease such activities for such period of time as it deems necessary to abate the danger. The Subject PLPs shall immediately comply with such direction.

In the event the Subject PLPs 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, the Subject PLPs may cease such activities. The Subject PLPs 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, the Subject PLPs shall provide Ecology with documentation of the basis for the determination or cessation of such activities. If Ecology disagrees with the Subject PLPs' cessation of activities, it may direct the Subject PLPs to resume such activities.

If Ecology concurs with or orders a work stoppage pursuant to this section, the Subject PLPs' 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 the Subject PLPs to recover remedial action costs paid to and received by Ecology under this Order. In addition, Ecology will not take additional enforcement actions against the Subject PLPs regarding remedial actions required by this Order, provided the Subject PLPs 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, the Subject PLPs does not admit to any liability for the Site. Although the Subject PLPs is committing to conducting the work required by this Order under the terms of this Order, the Subject PLPs 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 the PLPs 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 the PLPs' transfer of any interest in all or any portion of the Site, and during the effective period of this Order, the PLPs 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, the PLPs shall notify Ecology of said transfer. Upon transfer of any interest, the PLPs 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**

##### **8.15.1 Applicable Laws**

All actions carried out by the Subject PLPs 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. At this time, no federal, state, or local requirements have been identified as being applicable to the actions required by this Order. The Subject PLPs have 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 the Subject PLPs, Ecology will document in writing if they are applicable to actions carried out pursuant to this Order, and the Subject PLPs must implement those requirements.

### **8.15.2 Relevant and Appropriate Requirements.**

All actions carried out by the Subject PLPS pursuant to this Order shall be done in accordance with relevant and appropriate requirements identified by Ecology. The relevant and appropriate requirements that Ecology has determined apply have been identified in Exhibit [D]. If additional relevant and appropriate requirements are identified by Ecology or the Subject PLPs, Ecology will document in writing if they are applicable to actions carried out pursuant to this Order and the Subject PLPs must implement those requirements.

### **8.15.3**

Pursuant to RCW 70A.305.090(1), the Subject PLPs 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, the Subject PLPs 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**

The Subject PLPs have 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 the Subject PLPs 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 the Subject PLPs shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, the Subject PLPs shall promptly consult with the appropriate state and/or local agencies and provide Ecology with written documentation from those agencies of the substantive requirements those agencies believe are applicable to the remedial action. Ecology shall make the final determination on the additional substantive requirements that must be met by the Subject PLPs and on how the Subject PLPs must meet those requirements. Ecology shall inform the Subject PLPs in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. The Subject PLPs 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 the Subject PLPs 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 Periodic Review

So long as remedial action continues at the Site, the Parties agree to review the progress of remedial action at the Site, and to review the data accumulated as a result of monitoring the Site as often as is necessary and appropriate under the circumstances. Unless otherwise agreed to by Ecology, at least every year after the initiation of cleanup action at the Site the Parties shall confer regarding the status of the Site and the need, if any, for further remedial action at the Site.

At least ninety (90) days prior to each periodic review, the Subject PLPs shall submit a report to Ecology that documents whether human health and the environment are being protected based on the factors set forth in WAC 173 340 420(4).

Ecology reserves the right to require further remedial action at the Site under appropriate circumstances. This provision shall remain in effect for the duration of this Order.

#### 8.17 Indemnification

The Subject PLPs agree 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 the Subject PLPs, its officers, employees, agents, or contractors in entering into and implementing this Order. However, the Subject PLPs 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 the PLPs' receipt of written notification from Ecology that the PLPs has completed the remedial activity required by this

Order, as amended by any modifications, and that the PLPs 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: \_\_\_\_\_

Coleman Oil Company

\_\_\_\_\_  
[Name of signatory]

[Title of signatory]

[Location]

[Telephone]

State of Washington  
Department of Ecology

Section Manager  
Toxics Cleanup Program  
Central Regional Office  
(509) 901-7107

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Valerie Bound

DRAFT



## **Scope of Work and Schedule**

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# **EXHIBIT B – SCOPE OF WORK AND SCHEDULE**

## **SCOPE OF WORK**

### **PURPOSE**

The work under this Agreed Order (AO) involves the implementation of the Cleanup Action Plan (CAP) and the submittal of a Cleanup Action report.

The Subject PLP shall coordinate with Ecology throughout the implementation of the CAP and shall keep Ecology informed of changes to any Work Plans or other project plans, and of any issues or problems as they develop.

The Scope of Work (SOW) consists of three major tasks as follows:

- Task 1. Prepare an Engineering Design Report (EDR), an Operation and Maintenance (O&M) Plan, and a Compliance Monitoring Plan (CMP) which comprise the elements necessary to implement the CAP.
- Task 2. Implement the CAP and associated work products including EDR, O&M Plan, and CMP.
- Task 3. Prepare and submit the Cleanup Action report upon the completion of all its required elements.

### **TASK 1. PREPARATION OF PLANS REQUIRED TO IMPLEMENT THE CAP**

The Subject PLP will prepare the elements of the CAP under this Agreed Order after receipt of Ecology's approval of the CAP. These elements include the EDR, the O&M Plan, and a CMP.

The selected cleanup alternative is Alternative 2 in the Feasibility Study. This alternative involves surfactant-enhanced bioremediation (SEB) which includes the following:

- Groundwater extraction
- Ex situ groundwater treatment
- In situ groundwater treatment via injection of treated groundwater augmented with surfactants and biological amendments.

## **EXHIBIT B – SCOPE OF WORK AND SCHEDULE**

### **TASK 2. IMPLEMENTATION OF CAP AND ASSOCIATED PLANS**

The Subject PLP will implement the cleanup action in accordance with the CAP after the receipt of Ecology's approval of the EDR, the O&M Plan, and the CMP.

Task 2 includes the performance of a pilot study to determine the spacing and placement of injection and recovery wells to ensure an appropriate zone of influence for the wells.

Groundwater monitoring will be conducted to evaluate the status of the groundwater cleanup.

### **TASK 3. PREPARATION OF CLEANUP ACTION REPORT**

The Subject PLP will submit an Agency Review draft Cleanup Action report to Ecology as established in the decision documents of the CAP. The draft Cleanup Action report will document the results and performance of the cleanup action.

If the remedial treatment actions have not lowered contaminant levels to compliance within the projected restoration time frame, then additional active remedial actions may be necessary.

## EXHIBIT B – SCOPE OF WORK AND SCHEDULE

### 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 Subject PLP 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.

<b>Deliverables</b>	<b>Timeframe</b>
Implement Final Cleanup Action Plan (CAP)	30 calendar days following effective date of the Agreed Order
Submit Progress Reports	Monthly, due by the 10 <sup>th</sup> day during performance monitoring
Submit Groundwater Monitoring Reports	On a yearly basis or as specified in the Compliance Monitoring Plan (or associated decision documents)
Evaluate remedy performance during operation of the remedial system	Periodically throughout remedy implementation
Submit Agency Review preliminary draft version of the CAP completion report for Ecology review	Within calendar 60 days after completion of all work required under the CAP
Submit revised Cleanup Action Plan completion report for public review	Within 45 calendar days of receipt of Ecology's comments on the Agency Review CAP report.
Submit revised public review Cleanup Action Plan completion report, if required.	Within 45 calendar days of receipt of Ecology's comments on the public review Cleanup Action Plan completion report.



## **Applicable or Relevant and Appropriate Requirements Table**

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**Table 2. Applicable or Relevant and Appropriate Requirements**

Coleman Oil, Yakima, Washington

Standard, Requirement, Criteria, or Limitation	Citation	Description	Applicable/Relevant and Appropriate
<b>Chemical-Specific</b>			
Federal National Primary Drinking Water Regulations	40 CFR 141 and 142	Establishes health-based standards, maximum contaminant levels (MCL) and maximum contaminant level goals (MCLG), for public water systems.	Relevant and Appropriate
Federal Regional Screening Levels for soil and water	Source: <a href="http://epa.gov/risk/regional-screening-levels-rsls">epa.gov/risk/regional-screening-levels-rsls</a>	Provides risk-based concentrations that are intended to assist risk assessor and others in initial screening-level evaluations of environmental regulations	Applicable
Washington State Model Toxics Control Act (MTCA) Cleanup Levels (CULs) for Groundwater	WAC 173-340	Requires groundwater cleanup levels be based on the estimates of the highest beneficial use and the reasonable maximum potential exposure under current and future site uses	Applicable
MTCA - Selection of Cleanup Actions	WAC 173-340-360(2)(f)	Limits on use of remediation levels	Relevant and Appropriate
Washington State Water Quality Standards for Groundwater	WAC 173-200	Establishes maximum contaminant concentrations for the protection of beneficial uses of groundwater	Potentially Relevant and Appropriate
Washington Dangerous Waste Regulations	WAC 173-303	This regulation implements chapter 70.105 RCW, the Hazardous Waste Management Act as amended, and implements, in part, chapters 70.95E, 70.105D, and 15.54 RCW, and Subtitle C of Public Law 94-580, the Resource Conservation and Recovery Act of 1976, which the legislature has empowered the department to implement.	Potentially Relevant and Appropriate
<b>Action-Specific</b>			
MTCA - Selection of Cleanup Actions	WAC 173-340-360(2)(a)&(b)	Establishes the minimum requirements and procedures for selecting cleanup actions; defines threshold requirements and other requirements	Applicable
MTCA - Selection of Cleanup Actions	WAC 173-340-360(2)(c)	Establishes the minimum requirements for groundwater cleanup actions	Applicable
MTCA - Selection of Cleanup Actions	WAC 173-340-360(2)(e)	Requirements for institutional controls	Applicable
Washington MTCA - Limits on dilution and dispersion	WAC 173-340-360(2)(g)	Addresses reliance on dilution and dispersion overactive remedial measures	Applicable

**Table 2. Applicable or Relevant and Appropriate Requirements**

Coleman Oil, Yakima, Washington

Standard, Requirement, Criteria, or Limitation	Citation	Description	Applicable/Relevant and Appropriate
Washington State Regulation and Licensing for Well Contractors and Operators	RCW 18.104 WAC 173-162	Establishes procedures for examination, licensing, and regulation of well contractors and operators	Relevant and Appropriate
Washington State Standards for Construction and Maintenance of Water Wells	RCW 18.104 WAC 173-160	Establishes minimum standards for construction of water and monitoring wells and for the decommissioning of wells.	Relevant and Appropriate
Washington Underground Injection Control Program	WAC 173-218	Requirements for underground injection control applicable to cleanup alternatives that include injection of materials into subsurface groundwater and soil.	Relevant and Appropriate
Washington Solid Waste Management Handling Standards and Regulations	RCW 70.95WAC 173-350	Solid waste requirements are potentially applicable to the offsite disposal of solid nonhazardous wastes that may be generated as part of well installation or excavation.	Relevant and Appropriate
<b>Location-Specific</b>			
Endangered Species Act	16 USC 1531-1543; 50 CFR 402; 50 CFR 17	Requirements to protect fish, wildlife and plants that are threatened or endangered with extinction. This act requires consultation with resource agencies for projects that may affect threatened or endangered species.	Potentially Relevant and Appropriate
Fish and Wildlife Conservation Act	16 USC 2901; 50 CFR 83	Requirements for federal agencies to use their authority to conserve and promote conservation of non-game fish and wildlife, and evaluated in conjunction with the Endangered Species Act consultation.	Potentially Relevant and Appropriate
Archaeological and Historic Preservation Act	16 USC 469	Establishes procedures for the preservation of historical and archeological data that might be destroyed through alteration of terrain because of a federally licensed activity or program.	Potentially Relevant and Appropriate
Archaeological Resources Protection Act	16 USC 470aa; 43 CFR 7	Specifies the steps that must be taken to protect archaeological resources and sites that are on public and Native American lands and to preserve data uncovered.	Potentially Relevant and Appropriate
City of Yakima Grading Permit	2018 IBC, Appendix J	Grading permits required for clearing/grading land-disturbing activities. <a href="https://www.yakimawa.gov/services/codes/files/Grading-Permit-Application_05-2023.pdf">https://www.yakimawa.gov/services/codes/files/Grading-Permit-Application_05-2023.pdf</a>	Relevant and Appropriate

**Table 2. Applicable or Relevant and Appropriate Requirements**

Coleman Oil, Yakima, Washington

Standard, Requirement, Criteria, or Limitation	Citation	Description	Applicable/Relevant and Appropriate
City of Yakima Stormwater and Erosion Control	YMC 7.83.130	Requirements for stormwater management and erosion control for clearing/grading of 1 acre or more.	Potentially Relevant and Appropriate
Yakima Regional Clean Air Agency (YRCAA)	Regulation 1 of the YRCAA	Local requirements implementing the Washington Clean Air Act to control air pollution through procedures, standards, permits, and programs.	Relevant and Appropriate
Stormwater Permit Program	RCW 90.48.260; 40 CFR 122.26; WAC 173-226	Requirements of the Federal Clean Water Act for coverage under the general stormwater permit for stormwater discharges associated with construction activities disturbing over 1 acre.	Relevant and Appropriate
State Waste Discharge Permit Program	WAC 173-216	Requirements for discharge of treated water directly to the ground.	Potentially Relevant and Appropriate
State Environmental Policy Act	RCW 43.21C; WAC 197-11; WAC 173-802	State law intended to ensure state and local government officials consider environmental values when making decisions or taking an official action such as approving the Cleanup Action Plan.	Relevant and Appropriate

Notes:

- CFR – code of federal regulations
- CULs – cleanup levels
- IBC – International Building Code
- MCL – maximum contaminant level
- MCLG – maximum contaminant level goals
- MTCA – Model Toxics Control Act
- RCW – Revised Code of Washington
- WAC – Washington Administrative Code
- USC – United States Code
- YMC – Yakima Municipal Code
- YRCAA - Yakima Regional Clean Air Agency