

**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

In the Matter of Remedial Action by:

GUEMES CHANNEL  
HOLDINGS, LLC

AGREED ORDER

No. DE 22368

TO: Attn: Kelly Allison, CFO  
Guemes Channel Holdings, LLC  
2629 NW 54th, Suite 201  
Seattle, WA 98107-4157

**TABLE OF CONTENTS**

I.	INTRODUCTION .....	2
II.	JURISDICTION .....	2
III.	PARTIES BOUND.....	2
IV.	DEFINITIONS .....	2
V.	FINDINGS OF FACT .....	3
VI.	ECOLOGY DETERMINATIONS.....	6
VII.	WORK TO BE PERFORMED .....	7
VIII.	TERMS AND CONDITIONS.....	9
	A. Payment of Remedial Action Costs .....	9
	B. Designated Project Coordinators .....	10
	C. Performance .....	11
	D. Access .....	11
	E. Sampling, Data Submittal, and Availability .....	12
	F. Public Participation.....	13
	G. Access to Information.....	14
	H. Retention of Records.....	15
	I. Resolution of Disputes.....	15
	J. Extension of Schedule.....	17
	K. Amendment of Order .....	18
	L. Endangerment .....	19
	M. Reservation of Rights.....	19
	N. Transfer of Interest in Property.....	20
	O. Compliance with Applicable Laws.....	21
	P. Indemnification.....	22
IX.	SATISFACTION OF ORDER.....	23
X.	ENFORCEMENT .....	23
	EXHIBIT A                      Location Diagram	
	EXHIBIT B                      Scope of Work and Schedule	

## **I. INTRODUCTION**

The mutual objective of the State of Washington, Department of Ecology (Ecology) and Guemes Channel Holdings, LLC (Guemes), the potentially liable person (PLP) 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 PLP to conduct a Remedial Investigation (RI) and Feasibility Study (FS) per WAC 173-340-350 and -351, and to develop a draft Cleanup Action Plan (DCAP) per WAC 173-340-355 through -380 addressing contamination at the Site located in the area of 3100 Oakes Avenue, Anacortes, Washington. Ecology believes the actions required by this Order are in the public interest.

## **II. JURISDICTION**

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

## **III. 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 PLP agrees to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter the PLP's responsibility under this Order. The PLP 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.

## **IV. DEFINITIONS**

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

A. Site: The Site is the Lovrics Sea Craft Inc Site (Site). 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 3100 Oakes Avenue, Anacortes, Washington and areas of impacted sediments as shown in the Location Diagram (Exhibit A).

- B. Parties: Refers to the State of Washington, Department of Ecology and Guemes.
- C. Potentially Liable Person (PLP): Refers to Guemes.
- D. 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.

## V. FINDINGS OF FACT

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

A. Based upon factors currently known to Ecology, the Site is generally located in the vicinity of 3100 Oakes Avenue, Anacortes, Washington (Guemes Property), and may extend to areas of impacted sediments as shown in the Location Diagram (Exhibit A).

B. The Ecology Facility Site ID for this Site is 21847524 and the Cleanup Site ID is 14900.

C. The Site is located on the north end of Fidalgo Island along the Guemes Channel. The Guemes Property is located within the City of Anacortes. The Guemes Property covers approximately 9 acres, including approximately 8 acres of uplands and an acre of submerged lands.

D. The Guemes Property is developed with an active shipyard repair facility which includes boat and barge repair facilities, commercial vessel moorage, a small recreational boat marina, exterior storage and parking areas, two warehouse structures, and a single family residence. The Guemes Property is located adjacent to submerged lands to the north, residential properties along the upland hillside, Oakes Avenue, and a vacant commercial property to the east. See Exhibit A.

E. Robinson Fisheries Company obtained the Guemes Property from the State of Washington in 1906. From approximately 1912 until the mid-1960s, the Guemes Property was used as a fish packing plant and processing facility.

F. Starting in 1965, Lovric's Sea-Craft began operating a ship repair facility at the Guemes Property. This ship repair facility was first permitted as a boatyard in 1997 under the Ecology's Boatyard General Permit no. WAG030090. After an inspection in November 2010, Ecology determined the ship repair facility should be categorized a shipyard facility due to the size of ships handled and number of activities occurring. The ship repair facility was issued Industrial NPDES Individual Permit no. WA050149 on December 13, 2013, which became effective January 1, 2014.

G. Facilities at the Guemes Property include two marine railways. The marine railways consist of tracks that extend from the near shore uplands into the water so that vessels can be floated onto a steel support structure mounted to train wheels and pulled onto the shore for repair and maintenance.

H. Maintenance and repair activities conducted at the shipyard facility have included woodworking, metal fabrication, painting and high pressure washing of hulls, zinc replacement, sandblasting, and electrical and mechanical work. Process water and sand blast grit from high pressure washing operations on the Guemes Property may have been released into the environment.

I. Two approximately 10,000-gallon underground storage tanks (USTs) were removed from north of the east warehouse building in 1997. The USTs are believed to have been used to store motor oil and/or bunker oil. Soil samples collected from the UST excavation were analyzed for diesel-range petroleum. All six samples met current MTCA Method A cleanup standards for diesel and oil-range petroleum.

J. The Guemes Channel waterway bounds the Guemes Property to the north. Multiple jetties extend into the tidelands north of the Guemes Property, which are leased from the Washington Department of Natural Resources (DNR).

K. Whatcom Environmental Services Inc. conducted sampling of sediments at the Site in September 2017. The results from Whatcom Environmental Services' sampling identified Sediment Management Standard (SMS) exceedances of MTCA Cleanup Screening Levels for

contaminants including copper, benzoic acid, and bis(2-ethylhexyl) phthalate in the sediments. The sampling results also identified tributyltin at levels exceeding Dredged Materials Management Program (DMMP) bioaccumulation standards at three locations. Sampling results identified the following chemicals which exceeded Sediment Cleanup Objectives in at least one location: anthracene, benzo(g,h,i)perylene, chrysene, fluoranthene, fluorene, indeno(1,2,3-c,d)pyrene, phenanthrene, LPAH – low molecular weight PAHs (WAC 173-204-562(2)(i)), HPAH – high molecular weight PAHs (WAC 173-204-562(2)(j)), and zinc.

L. In May and September 2019, when the Guemes Property was owned and operated by Lovric's Landing, LLC, Ecology's Hazardous Waste and Toxics Reduction Program conducted a dangerous waste compliance inspection at the Site. During those inspections, Ecology found multiple violations relating to spent material determination (both dry and liquid), lack of waste characterization and labeling, lack of product secondary containment, and general lack of documentation.

M. In August 2022, Stratum Group performed a Limited Phase II Environmental Site Assessment of the Property as part of due diligence in advance of potential acquisition of the Guemes Property by Guemes. The Limited Phase II included evaluation of four borings on the upland portion of the Site. The results of the Phase II included: (i) detections of diesel and oil in shallow fill soil and diesel and oil in groundwater likely associated with former bunker oil USTs in the northeast portion of the Property; (ii) detections of diesel and oil in shallow fill soil and diesel and oil in groundwater likely associated with a former petroleum surface spill(s) west of the east warehouse; (iii) isolated areas of metals (arsenic, mercury, and lead) contamination in shallow fill soils likely associated with long-term scrap metal and equipment weathering; (iv) detections of cPAH contamination in soils at varying depths with no specific source; and (v) detections of dissolved arsenic contamination in groundwater with no specific source.

N. In February 2023, Guemes acquired the Guemes Property from Lovric's Landing, LLC and Lovric's Sea-Craft, Inc.

## VI. ECOLOGY DETERMINATIONS

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

A. The PLP 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. 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.

C. Based upon credible evidence, Ecology issued a PLP status letter to Lovric’s Sea-Craft Inc. dated July 10, 2019, 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 Lovric’s Sea-Craft Inc. is a PLP for the Site under RCW 70A.305.040 and notified the PLP of this determination by letter dated October 7, 2019.

D. Based upon credible evidence, Ecology issued a PLP status letter to Guemes dated August 23, 2023, pursuant to RCW 70A.305.040, .020(26), and WAC 173-340-500. Guemes voluntarily waived their rights to notice and comment and accepted Ecology’s determination that it is a PLP under RCW 70A.305.040.

E. Pursuant to RCW 70A.305.030(1), .050(1), Ecology may require a PLP 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.

F. 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. Based on anticipated repair and redevelopment activities at the Site, an interim action under WAC 173-340-430 will likely be performed by Guemes.

## **VII. WORK TO BE PERFORMED**

Based on the Findings of Fact and Ecology Determinations, it is hereby ordered that the PLP take the following remedial actions at the Site. These remedial actions must be conducted in accordance with WAC 173-340 and 173-204 unless otherwise specifically provided for herein:

A. The PLP shall prepare and implement a Work Plan to conduct a Remedial Investigation (RI), Feasibility Study (FS), and a preliminary draft Cleanup Action Plan (DCAP) for the Site in accordance with the Scope of Work (Exhibits B) and Schedule of Deliverables (Exhibit C), and all other requirements of this Order. The following naming conventions shall be used for applicable documents: Agency Review Draft (designation for the first time Ecology receives a document); Public Review Draft (designates a document ready for public comment); Final (designation for a document after public comment and/or after Ecology approval); and the preliminary Draft Cleanup Action Plan (designation for the PLP's version of the DCAP). Ecology is responsible for preparation of the Cleanup Action Plan (CAP); however, with Ecology concurrence, the PLP may prepare a draft CAP (DCAP) for final approval by Ecology in accordance with WAC 173-304-350 through 173-340-390 and WAC 173-204. If the PLP elects to prepare the DCAP, Ecology may complete it pursuant to Section VII.G of this Order. A scope of work (SOW) for the RI, FS, and DCAP is more particularly described in Exhibit B, "Scope of Work" and is incorporated by reference as an enforceable part of this Order.

B. If the PLP learns of a significant change in conditions at the Site, including but not limited to a statistically significant increase in contaminant and/or chemical concentrations in any media, the PLP, 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.

C. The PLP 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 electronic mail to Ecology's project coordinator. The Progress Reports shall include the following:

1. A list of on-site activities that have taken place during the month.
2. Detailed description of any deviations from required tasks not otherwise documented in project plans or amendment requests.
3. Description of all deviations from the Scope of Work and Schedule (Exhibit B) during the current month and any planned deviations in the upcoming month.
4. For any deviations in schedule, a plan for recovering lost time and maintaining compliance with the schedule.
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.
6. A list of deliverables for the upcoming month.

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

E. If the Parties are in agreement concerning the additional interim action, the PLP 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 PLP 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 PLP is required to conduct the interim action in accordance with the approved Interim Action Work Plan. Ecology reserves its authority to require additional interim action(s) under a separate order or other enforcement action under RCW 70A.305, or to undertake the interim action(s) itself.

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

G. Except where necessary to abate an emergency situation or where required by law, the PLP 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 VIII.J. (Amendment of Order). In the event of an emergency, or where actions are taken as required by law, the PLP 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.

## **VIII. TERMS AND CONDITIONS**

### **A. Payment of Remedial Action Costs**

The PLP shall reimburse all 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). For all Ecology costs incurred, the PLP 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.

**B. Designated Project Coordinators**

The project coordinator for Ecology is:

David Horne  
Toxics Cleanup Program  
PO Box 47600  
Olympia, WA 98504  
360-742-1091  
[hoda461@ECY.WA.GOV](mailto:hoda461@ECY.WA.GOV)

The project coordinator for the PLP is:

Kelly Allison  
2629 NW 54th St., Suite 201  
Seattle, WA 98107  
425-736-9819  
[kellya@stabbertmaritime.com](mailto:kellya@stabbertmaritime.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 PLP, 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.

**C. 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 PLP 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.

**D. Access**

Ecology or any Ecology authorized representative shall have access to enter and freely move about all property at the Site that the PLP either owns, controls, or has access rights to at all reasonable times (during regular business hours or outside of regular business hours if coordinated between Ecology and the PLP) for the purposes of, *inter alia*: inspecting records, operation logs, and contracts related to the work being performed pursuant to this Order; reviewing the PLP's 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 PLP. Ecology or any Ecology authorized representative shall give reasonable notice before entering any Site property owned or controlled by the PLP unless an emergency prevents such notice. Ecology employees and their representatives shall not be required to sign any liability release or waiver as a condition of Site property access. Ecology employees and their representatives shall be accompanied by a representative of the PLP during any site access, and shall follow all applicable health and safety plans and requirements during such access.

The PLP shall make best efforts to secure access rights for those properties within the Site not owned or controlled by the PLP 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 PLP 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 60 days after the effective date of this Order, the PLP is unable to accomplish what is required through “best efforts,” then the PLP 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 PLP, or take independent action, in obtaining such access and/or use restrictions. Ecology reserves the right to seek payment from the PLP 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.

**E. Sampling, Data Submittal, and Availability**

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

If requested by Ecology, the PLP shall allow Ecology and/or its authorized representative to take split or duplicate samples of any samples collected by the PLP pursuant to implementation of this Order. The PLP shall notify Ecology seven (7) days in advance of any sample collection or work activity at the Site. Ecology shall, upon request, allow the PLP 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 VIII.D (Access), Ecology shall notify the PLP prior to any sample collection activity unless an emergency prevents such notice.

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

**F. Public Participation**

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

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

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.
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 PLP 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 PLP that do not receive prior Ecology approval, the PLP shall clearly indicate to its audience that the press release, fact sheet, meeting, or other outreach effort was not sponsored or endorsed by Ecology.

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.

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

- a. Anacortes Public Library  
1200 9th Street  
Anacortes, Washington 98221
- b. Washington State Department of Ecology  
Toxics Cleanup Program  
Headquarters Office  
300 Desmond Drive SE  
Olympia, Washington 98504-7600

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 Toxics Cleanup Program's Headquarter Cleanup Section in Lacey, Washington.

**G. Access to Information**

The PLP 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 PLP's 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 PLP 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 PLP 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 PLP withholds any requested Records based on an assertion of privilege, the PLP 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 the PLP is 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.

#### **H. 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 PLP 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.

#### **I. Resolution of Disputes**

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

a. Upon the triggering event (receipt of Ecology's project coordinator's written decision or an itemized billing statement), the PLP has fourteen (14) calendar days

within which to notify Ecology's project coordinator in writing of its dispute (Informal Dispute Notice).

b. 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 PLP's position with regards to the dispute; Ecology's position with regards to the dispute; and the extent of resolution reached by informal discussion.

c. The PLP may then request regional management review of the dispute. The PLP must submit this request (Formal Dispute Notice) in writing to the Toxics Cleanup Program's Headquarter 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 PLP's position with respect to the dispute; and the information relied upon to support its position.

d. 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.

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.

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.

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 VII.I (Work to be Performed) or initiating enforcement under Section X (Enforcement).

**J. Extension of Schedule**

1. A 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:

- a. The deadline that is sought to be extended.
- b. The length of the extension sought.
- c. The reason(s) for the extension.
- d. Any related deadline or schedule that would be affected if the extension were granted.

2. The burden shall be on the PLP 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:

- a. Circumstances beyond the reasonable control and despite the due diligence of the PLP 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 PLP.
- b. A shelter in place or work stoppage mandated by state or local government order due to public health and safety emergencies.
- c. Acts of God, including fire, flood, blizzard, extreme temperatures, storm, or other unavoidable casualty.
- d. Endangerment as described in Section VIII.K (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 PLP.

3. Ecology shall act upon any the PLP's written request for extension in a timely fashion. Ecology shall give the PLP 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 VIII.J (Amendment of Order) when a schedule extension is granted.

4. At the PLP's 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:

- a. Delays in the issuance of a necessary permit which was applied for in a timely manner.
- b. Other circumstances deemed exceptional or extraordinary by Ecology.
- c. Endangerment as described in Section VIII.K (Endangerment).

**K. 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 VIII.L (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 PLP. 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 PLP 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 VIII.H (Resolution of Disputes).

**L. 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 PLP to cease such activities for such period of time as it deems necessary to abate the danger. The PLP shall immediately comply with such direction.

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

If Ecology concurs with or orders a work stoppage pursuant to this section, the PLP's 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 VIII.I (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.

**M. 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 PLP 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 PLP regarding remedial actions required by this Order, provided the PLP 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 PLP does not admit to any liability for the Site. Although the PLP is committing to conducting the work required by this Order under the terms of this Order, the PLP 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.

**N. 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 PLP 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 PLP's transfer of any interest in all or any portion of the Site, and during the effective period of this Order, the PLP 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 PLP shall notify Ecology of said transfer. Upon transfer of any interest, the PLP 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.

The provisions of this section regarding notifications shall not apply to any moorage lease for recreational or commercial vessels which are for less than one (1) year.

**O. Compliance with Applicable Laws**

1. *Applicable Laws.* All actions carried out by the PLP 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 PLP has a continuing obligation to identify additional applicable federal, state, and local requirements which apply to actions carried out pursuant to this Order, and to comply with those requirements. As additional federal, state, and local requirements are identified by Ecology or the PLP, Ecology will document in writing if they are applicable to actions carried out pursuant to this Order, and the PLP must implement those requirements.

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

3. Pursuant to RCW 70A.305.090(1), the PLP 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 PLP 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.

4. The PLP has a continuing obligation to determine whether additional permits or approvals addressed in RCW 70A.305.090(1) would otherwise be required for the remedial action

under this Order. In the event either Ecology or the PLP 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 PLP shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, the PLP 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 PLP and on how the PLP must meet those requirements. Ecology shall inform the PLP in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. The PLP 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 PLP 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.

**P. Indemnification**

The PLP agrees to indemnify and save and hold the State of Washington, its employees, and agents harmless from any and all claims or causes of action (1) for death or injuries to persons, or (2) for loss or damage to property, to the extent arising from or on account of acts or omissions of the PLP, its officers, employees, agents, or contractors in entering into and implementing this Order. However, the PLP 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.

**IX. SATISFACTION OF ORDER**

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

**X. ENFORCEMENT**

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

- A. The Attorney General may bring an action to enforce this Order in a state or federal court.
- B. 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.
- C. A liable party who refuses, without sufficient cause, to comply with any term of this Order will be liable for:
  - 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.
  - 2. Civil penalties of up to twenty-five thousand dollars (\$25,000) per day for each day it refuses to comply.
- D. 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: 6/28/2024

GUEMES CHANNEL HOLDINGS, LLC



Kelly Allison  
CFO  
425-736-9819  
kellya@stabbertmaritime.com

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY



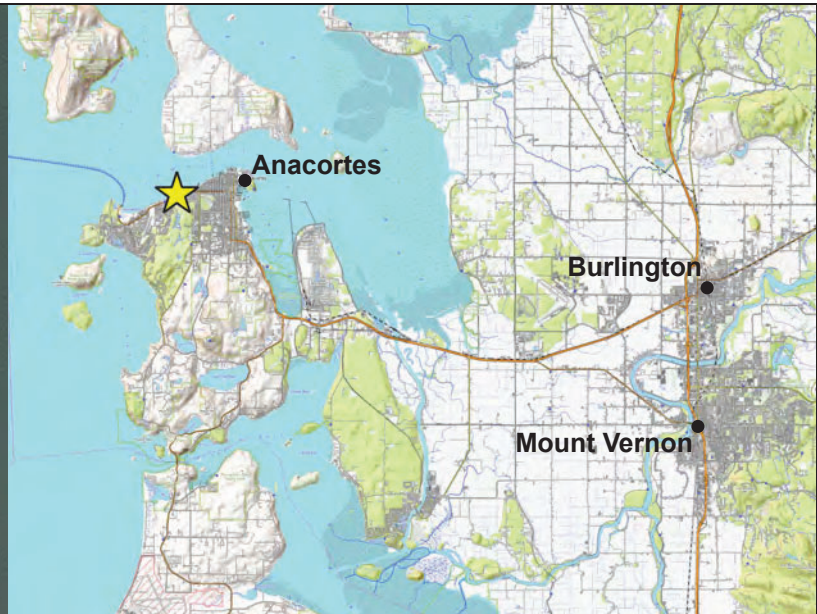
Erik Snyder  
Section Manager  
Toxics Cleanup Program  
Headquarters Cleanup  
425-466-6398

# EXHIBIT A





Guemes Channel



Anacortes

Burlington

Mount Vernon

Recreational harbor

Approximate extent of sediment contamination.

Former bunker fuel USTs area

West railways

East railways

Metals & petroleum in shallow fill

West warehouse

East warehouse

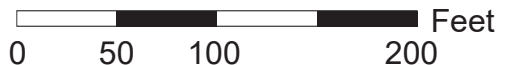
Approximate property boundary

Oakes Avenue

Location Diagram

Exhibit A

Lovric's Sea-Craft Site  
3100 Oakes Avenue  
Anacortes, Washington 98221



# EXHIBIT B

## **EXHIBIT B**

### **SCOPE OF WORK AND SCHEDULE OF DELIVERABLES**

#### **SCOPE OF WORK**

##### **PURPOSE**

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

Guemes Channel Holdings, LLC (Guemes) shall coordinate with Ecology throughout the development of an Interim Action (if pursued or required), RI/FS and preliminary DCAP, and shall keep Ecology informed of changes to any Work Plan or other project plans, and of any issues or problems as they develop.

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

- Task 1. Remedial Investigation Work Plan
- Task 2. Remedial Investigation
- Task 3. Interim Action(s) (if pursued or required)
- Task 4. Feasibility Study
- Task 5. State Environmental Policy Act (SEPA) Compliance
- Task 6. Draft Cleanup Action Plan (DCAP)
- Task 7. Progress Reports

##### **TASK 1. RI WORK PLAN**

Guemes shall prepare a Remedial Investigation Work Plan (RI Work Plan). The RI Work Plan shall include an overall description and schedule of all RI activities. The RI 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 (RI Planning Meeting) will be held prior to submittal of the RI Work Plan. The purpose of the RI Planning Meeting is to review requirements for the RI Work Plan and plan RI field work, discuss the preliminary Conceptual Site Model, and identify project data needs and possible interim actions.

The RI Work Plan shall describe general facility information; site history and conditions; including previous operations; past field investigations, including any data collection and analysis of soils, air, groundwater, surface water, and sediments; a conceptual site model showing contaminants, migration pathways in all environmental media, and potential receptors; geology and groundwater system characteristics; past, current, and future land use; identification of natural resources and ecological receptors; hazardous substances and their sources, etc., in compliance with WAC 173-340-350 and WAC 173-204-550.

As part of the project background, existing environmental data on site soil, groundwater, surface water, and sediments will be compiled and evaluated for data gaps. The data gaps will be used as the basis for conducting additional site investigations, if necessary. The RI Work Plan will also identify specific data collection procedures in a Sampling and Analysis Plan (SAP), Quality Assurance Project Plan (QAPP), and Inadvertent Discovery Plan as part of the Work Plan in compliance with WAC 173-340-820 for defining the nature and extent of contamination. Guemes will also submit a copy of the Health and Safety Plan (HASP) for the project.

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

The 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)<sup>1</sup> and Sediment Sampling and Analysis Plan Appendix (February 2008).<sup>2</sup> 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, and an Inadvertent Discovery Plan 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.

---

<sup>1</sup> Found at <http://www.ecy.wa.gov/biblio/0403030.html>

<sup>2</sup> Found at <http://www.ecy.wa.gov/biblio/qapp.html>

Guemes or their contractors shall submit all new sampling data generated under this SAP and any other recently collected data to Ecology via entry of the data 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 validated data will be entered into the EIM database and the Guemes must enter the data within 30 days of submittal.

RI Work Plan tasks and subtasks may include, but are not limited to, the following as necessary to address data gaps identified in the Work Plan:

- Sampling and analysis of soil, groundwater, and seeps;
- Sampling and analysis of stormwater and catch basin solids to determine whether the stormwater system is a source of contamination to sediments;
- Evaluate the potential to contaminate or recontaminate sediments, including analysis of the following pathways:
  - Direct discharges.
  - Stormwater discharges.
  - Overland flow.
  - Groundwater discharges and seeps.
  - Soil erosion.
  - Site operations.
  - Spills, dumping, leaks, housekeeping, and management practices.

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

Guemes shall prepare an Agency Review Draft RI Work Plan and submit them, to Ecology for review and comment. After Resolving Ecology's comments on the Agency Review Draft RI Work Plan and after Ecology approval, Guemes shall prepare the Final RI Work Plan and submit them to Ecology. The number and type of document (electronic, print copy, etc.) will be determined by the Ecology Project Coordinator.

## **TASK 2. REMEDIAL INVESTIGATION**

Guemes shall conduct an RI that meets the requirements of WAC 173-340-350(7) and WAC 173-204-550 according to the RI Work Plan as approved by Ecology. The RI will determine the nature and extent of contamination exceeding preliminary Model Toxics Control Act (MTCA) cleanup levels, preliminary Sediment Management Standards (SMS) cleanup standards (if applicable), 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, QAPP, and Inadvertent Discovery Plan. Deviation(s) from the approved Plans must be communicated to Ecology immediately and documented as required by Ecology.

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

If the data collected during the RI is insufficient to define the nature and extent of contamination and/or to select a remedial alternative, an additional phase of investigation shall be conducted to define the extent of contamination.

Guemes shall compile the results of the RI into an Agency Review Draft RI Report and submit it to Ecology.

After incorporating Ecology's comments on the Agency Review Draft RI Report, the Guemes shall prepare a Public Review Draft RI Report and submit them to Ecology for distribution and public comment. Electronic survey data for monitoring locations, electronic lab data, and GIS maps of contaminant distribution shall also be provided for both the Agency Review Draft RI Report and Public Review Draft RI Reports either in the report or as attachments. The RI Report will not be considered Final until after a public review and comment period. The number and type of document (electronic, print copy, etc.) will be determined by the Ecology Project Coordinator.

### **TASK 3. INTERIM ACTIONS (if pursued or required)**

Remedial actions implemented prior to completion of the RI/FS, including those but not limited to 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;
- are needed to provide for completion of the remedial investigation/feasibility study or design of the cleanup action;

will be considered interim actions. PLPs will implement interim actions (if any) in accordance with WAC 173-340-430 and the AO and will be designed in a manner that will not foreclose reasonable alternatives for any final cleanup action that may be required.

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

The scope of interim actions for the Site may include, but not be limited to:

- Soil removal
- Groundwater remediation
- Repair, slip lining, replacement, or closure of stormwater conveyances or other structures such as conduit, vaults, catch basins, etc.
- Removal of underground storage tanks and pipes (if present)
- Proper abandonment of old wells
- Removal of contaminated building or other structural materials
- Dredging of sediments
- Vapor control or mitigation

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

- Description of the interim action including its purpose, general requirements, and relationship to the (final) cleanup action (to the extent known),
- Summary of relevant RI/FS information, including at a minimum existing site conditions and alternative interim actions considered,
- Information regarding design and construction requirements, including a proposed schedule and personnel roles and responsibilities,
- Compliance Monitoring Plan,
- Health and Safety Plan (HASP),
- SAP/QAPP/Inadvertent Discovery Plan,
- Required permits and approvals.

Guemes will also submit a copy of the Health and Safety Plan for the project. The Guemes will be responsible for complying with the State Environmental Policy Act (SEPA) Rules (WAC 197-11) 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. SEPA review for an interim action shall be focused solely on review and analysis of the interim action and may with Ecology's approval adopt or incorporate any separate SEPA review associated with permits, land use approvals or entitlements for the Property or the Site.

Guemes shall prepare the Agency Review Draft IAWP and submit them to Ecology for review. Guemes shall incorporate Ecology's comments and then prepare the Public Review Draft IAWP and submit them to Ecology. After a public notice and comment period for the Public Review Draft IAWP (and SEPA determination), Ecology will approve the IAWP (if appropriate) and the document will be considered Final. Guemes shall prepare the Final IAWP submit them. Once approved by Ecology, Guemes will implement the interim action

according with the approved schedule. The number and type of document (electronic, print copy, etc.) will be determined by the Ecology Project Coordinator.

Upon successful completion of the work, an Agency Review Draft Interim Action Report will be prepared as a separate deliverable. Guemes shall prepare the Agency Review Draft Interim Action Report and submit them to Ecology for review and approval. After incorporating Ecology's comments on the Agency Review Draft Interim Action Report and after Ecology approval, Guemes shall prepare the Final Interim Action Report and submit them to Ecology. The number and type of document (electronic, print copy, etc.) will be determined by the Ecology Project Coordinator.

#### **TASK 4. FEASIBILITY STUDY**

Guemes shall use the information obtained in the RI, as well as any data obtained through any interim action, to prepare a Agency Review Draft Feasibility Study (FS) that meets the applicable requirements of WAC 173-340-350(8). Guemes will create and submit an FS which will define the nature and extent of contamination, provide a Conceptual Site Model, and evaluate remedial alternatives for site cleanup that are consistent with MTCA and SMS requirements to ensure protection of human health and the environment by eliminating, reducing, or otherwise controlling risk posed through each exposure pathway and migration route.

Prior to beginning the FS, a Key Project Meeting (FS Planning Meeting) will be held to review Applicable Relevant and Appropriate Requirements, potential remedial alternatives and establish points of compliance.

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

Opportunities to perform remedial actions in an integrated manner with restoration of natural resources may be presented as a fundamental part of the description and evaluation of cleanup alternatives, including consideration of the logistics, cost effectiveness, and environmental benefits associated with combining cleanup and restoration actions.

After addressing Ecology's comments on the Agency Review Draft RI and FS, Guemes shall prepare the Public Review Draft FS and submit them to Ecology for distribution and public comment. The FS will not be considered Final until after a public review and comment period. The number and type of document (electronic, print copy, etc.) will be determined by the Ecology Project Coordinator.

#### **TASK 5. SEPA COMPLIANCE**

Guemes shall be responsible for assisting Ecology with its compliance with the State Environmental Policy Act (SEPA) Rules (WAC 197-11-250 through 268), including the Guemes preparing and submitting a draft and final environmental checklist for either an Interim Action and/or for the selected remedial alternative that will be implemented through the Cleanup Action Plan. If the result of the threshold determination is a determination of significance (DS), Guemes may be responsible for the preparation of an agency review draft environmental impact statements. Guemes shall assist Ecology with coordinating SEPA public involvement requirements with MTCA public involvement requirements whenever practicable, such that public comment periods and meetings or hearings can be held concurrently.

#### **TASK 6. DRAFT CLEANUP ACTION PLAN**

Upon Ecology approval of the Public Review Draft RI and Public Review Draft FS, a Key Project Meeting (Cleanup Action Plan 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 DCAP.

Guemes shall prepare an Agency Review preliminary DCAP in accordance with WAC 173-340-380 that provides a proposed remedial action to address the contamination present on the Site. The preliminary DCAP shall include a general description of the proposed remedial actions, an inadvertent discovery plan, 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.

Guemes will submit an Agency Review preliminary DCAP for Ecology's review and approval.

After receiving Ecology's comments on the Agency Review preliminary DCAP, if any, Guemes shall revise the preliminary DCAP to address Ecology's comments and submit the Public Review DCAP to Ecology. The number and type of document (electronic, print copy, etc.) will be determined by the Ecology Project Coordinator.

#### **TASK 7.      PROGRESS REPORTS**

Guemes shall submit Progress Reports on a quarterly basis to Ecology, although this submittal frequency may be revised in accordance with Section VII.(C) of the AO. At a minimum, Progress Reports will contain the following information regarding the preceding reporting period:

- A description of the actions which have been taken to comply with the AO;
- Summaries of sampling and testing reports and other data reports received by the PLP(s);
- Summaries of deviations from approved Work Plans;
- Summaries of contacts with representatives of the local community, public interest groups, press, and federal, state, or tribal governments;
- Summaries of problems or anticipated problems in meeting the schedule or objectives set forth in the SOW and Work Plan;
- Summaries of solutions developed and implemented or planned to address any actual or anticipated problems or delays;
- Changes in key personnel; and
- A description of work planned for the next reporting period.

## SCHEDULE OF DELIVERABLES

The schedule for deliverables described in the Agreed Order and the Scope of Work is attached. 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 that Guemes 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>RI/FS Deliverables</b>	<b>Completion Times</b>
Agency Review Draft RI Work Plan	60 calendar days following effective date of the Agreed Order
Final RI Work Plan, including SAP, QAPP, and HSP	45 calendar days after receipt of Ecology's comments on the Agency Review Draft RI Work Plan
Completion of RI Field Work	12 months following completion of the Final RI Work Plan
Agency Review Draft RI Report	90 days following receipt of laboratory data
Public Review Draft RI Report	45 calendar days following receipt of Ecology comments on Agency Review Draft RI Report
Agency Review Draft FS	180 days following completion of Public Review Draft RI Report
Public Review Draft FS	45 calendar days following receipt of Ecology's comments the Public Review Draft FS
Agency Review preliminary DCAP	90 calendar days following completion of the Public Review Draft FS