

**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

In the Matter of Remedial Action by:

The Port of Everett

AGREED ORDER for

**Remedial Investigation/Feasibility Study
and Draft Cleanup Action Plan – North
Marina West End Site**

No. DE **5572**

TO: Port of Everett
Attention: Jerry W. Heller, Chief Administrative Officer
2911 Bond Street
Everett, WA 98206

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EXHIBIT A:	SITE LOCATION AND PROPERTY LOCATION INFORMATION
EXHIBIT B:	SCOPE OF WORK & SCHEDULE
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EXHIBIT D:	PUBLIC PARTICIPATION PLAN

ATTACHMENTS

ATTACHMENT A:	PREVIOUS INVESTIGATION RESULTS (AREAS D, E, F, AND H)
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I. INTRODUCTION

The mutual objective of the State of Washington, Department of Ecology (Ecology) and Port of Everett (the Port) 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 Port to conduct a Remedial Investigation and Feasibility Study (RI/FS) per WAC 173-340-350 and develop a draft Cleanup Action Plan per WAC 173-340-350 through 173-340-380 addressing both potential upland and in-water (i.e., adjacent marine sediment) contamination for the Site. Ecology believes the actions required by this Order are in the public interest.

II. JURISDICTION

This Agreed Order is issued pursuant to the authority of the Model Toxics Control Act (MTCA), RCW 70.105D.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 the Order. The Port agrees to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter the Port's responsibility under this Order. The Port 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 Chapter 70.105D RCW and Chapter 173-340 WAC shall control the meanings of the terms used in this Order.

A. Site: The Site (or Facility) is referred to as the North Marina West End Site (the Site) and is generally located between 11th and 14th Streets off West Marine View Drive, Everett,

Snohomish County, Washington (located within the western portion of the North Marina Redevelopment). The Site is owned by the Port and includes approximately 27 acres of upland and adjacent in-water areas (about 10 acres of in-water and 17 acres of upland). The final limits of the Site will be determined in the RI/FS. The Site is defined by the extent of contamination caused by the release of hazardous substances at the Site and is not limited by property boundaries. The Site includes areas where hazardous substances have been deposited, stored, disposed of, placed, or otherwise come to be located. Based upon factors currently known to Ecology, the Site is more particularly described in **Exhibit A** to this Order, which includes general site maps (**Exhibit A**, Figures 1 to 6), a site location description, and information from the Snohomish County Assessor's Office. Based on the results of previous investigations (see **Attachment A** to this Order), the Site includes both upland and in-water areas (i.e., adjacent marine sediment) as defined below. The Site constitutes a Facility under RCW 70.105D.020(5).

B. Parties: Refers to the State of Washington, Department of Ecology, and the Port of Everett.

C. Potentially Liable Person (PLP): Refers to the Port of Everett.

D. Agreed Order or Order: Refers to this Order and each of the exhibits and attachments to the Order. All exhibits and attachments are integral parts of this Order. In addition, **Exhibits A** through **D** are integral and enforceable parts of this Order. The terms "Agreed Order" or "Order" shall include all exhibits and attachments to the Order.

E. Upland Area: Refers to areas of the Site that fall outside the In-Water Area, as generally depicted in **Exhibit A**.

F. In-Water Area: Refers to the intertidal (areas exposed to air at low tide) and subtidal (areas always covered by water) parts of the Site associated with adjacent marine waters, as generally depicted in **Exhibit A**, Figures 3 and 4.

G. North Marina Area: Refers to the Port-owned property being redeveloped into a mixed residential/commercial use development. The Site is located within the western end of the North Marina Area, as generally depicted in Exhibit A, Figure 4.

V. FINDINGS OF FACT

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

A. The Site is generally located between 11th and 14th Streets off West Marine View Drive, Everett, Snohomish County, Washington (located within the western portion of the North Marina Redevelopment). The Site location is depicted in the diagrams attached to this Agreed Order as **Exhibit A**. The facility is depicted in **Exhibit A** (Figures 2 through 4). **Exhibit A** also contains a legal description of the property (located after Figure 6 of **Exhibit A**). The Site is listed on the Department of Ecology's Hazardous Sites List as "North Marina West End" with the Facility Site ID No. 3306834.

B. The Port is the owner, as defined in RCW 70D.105.020(17), and operator of the Site, and has owned the Site continuously since the 1930's.

C. The North Marina West End Site has been used for commercial and industrial purposes (shingle mills, marine support services, etc.) since at least the early 1900s. The Site was originally tidelands occupied by the 14th Street Pier, which was constructed in the early 1900's and on which a number of wood products manufacturing operations were located. The current upland configuration of the Site was created by a series of fill projects beginning in the late 1940's utilizing dredge spoils from the Snohomish River. The commercial and industrial operations documented in previous environmental investigations began occupying the Site after completion of the fill projects. Since 2001, several environmental investigations have been conducted by Landau Associates (Landau) on behalf of the Port to determine the extent and magnitude of soil and groundwater contamination in the uplands portion of the Site. In addition, a sediment quality investigation was conducted by Landau in 2004 to evaluate surface and

subsurface sediment quality conditions along the western end of the Site upland properties in the vicinity of the former American Construction Co., Inc. leasehold and the city outfall that discharges in this area. In addition, surface and subsurface sediment quality conditions were characterized at a location along the southern Site boundary in the vicinity of a stormwater outfall. Following is a listing of primary site characterization investigations that have been conducted at the Site:

1. Phase I Environmental Site Assessment (ESA) conducted in 2001.
2. Phase II ESA conducted in late 2003 and early 2004.
3. Sediment Quality Investigation conducted in summer 2004.
4. Data Gaps Investigation (DGI) conducted in late 2004 and early 2005 to fill data gaps in the site environmental characterization that remained following the completion of the previous site investigations.
5. Supplemental DGI conducted in late 2005 to further delineate areas of shallow soil contamination and investigate heavy metals concentrations in groundwater.

D. As reported in the 2001 Phase I ESA, the Port leased approximately 30 parcels of land in the North Marina Area. The tenants utilized the parcels for a variety of business ventures primarily related to marine repair and other marine support services. The list of tenants that leased portions of the North Marina West End Site include:

- American Boiler Works.
- American Construction Co., Inc.
- Everett Engineering, Inc.
- Milltown Sailing Association.
- Puget Sound Truck Lines.

In addition to the parcels leased to tenants, the Port owned and operated the following facilities (located within the North Marina West End Site) at the time of the 2001 Phase I ESA:

- Former Coast Guard Station.
- Port of Everett Marine View Reception and Conference Center.
- Port of Everett Overflow Parking Lot.
- Port of Everett Marina Maintenance Facility.

E. Because of its large size (approximately 65 acres designated as upland), the North Marina Area was divided into 13 areas (A through M) for investigation and data management purposes. The investigation areas were originally defined for the Phase II ESA, but were expanded for the DGI to encompass Site areas not characterized during the Phase II ESA. These investigation areas are depicted in Figure 3 of **Exhibit A**. Investigation areas associated with the North Marina West End Site include D, E, F, and H. Information related to Investigation Areas D, E, F, and H is presented in **Attachment A**.

F. Environmental sampling investigations at the Site have documented the presence of hazardous substances in various media including soil, groundwater, and marine sediments. Compounds identified in these investigations as exceeding published MTCA cleanup levels and/or Sediment Management Standards (SMS) for Puget Sound Marine sediments (WAC chapter 173-204) include (see **Attachment A** for more details):

- **Soil** – Metals, polycyclic aromatic hydrocarbons (PAHs), and petroleum hydrocarbons.
- **Groundwater** – Metals, petroleum hydrocarbons, and vinyl chloride (a chlorinated solvent).
- **Sediment** – One PAH (acenaphthene) exceeded its respective Sediment Quality Standard (SQS).

G. The Port has conducted interim actions (i.e., significant investigation and partial cleanup) at the Site to address soil and groundwater contamination. Ecology is working with the Port to complete the investigation and cleanup.

VI. ECOLOGY DETERMINATIONS

A. The Port is an "owner or operator" as defined in RCW 70.105D.020(17) of a "facility" as defined in RCW 70.105D.020(5).

B. Based upon all factors known to Ecology, a "release" or "threatened release" of "hazardous substance(s)" as defined in RCW 70.105D.020(25) and RCW 70.105D.020(10), respectively, has occurred at the Site.

C. Based upon credible evidence, Ecology issued a PLP status letter to the Port dated January 4, 2008, pursuant to RCW 70.105D.040, RCW 70.105D.020(21), 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 the Port is a PLP under RCW 70.105D.040 and notified the Port of this determination by letter dated February 5, 2008.

D. Pursuant to RCW 70.105D.030(1) and RCW 70.105D.050(1), Ecology may require the Port 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.

E. Ecology hereby incorporates into this Order the previous remedial actions (beginning with the 2003 Phase II ESA) described in Section V, Subsection C. 2. - 5. Reimbursement for specific project tasks under a grant agreement with Ecology is contingent upon a determination by Ecology's Toxic Cleanup Program that the work performed complies with the substantive requirements of Chapter 173-340 WAC and is consistent with the remedial action required under this Order.

VII. WORK TO BE PERFORMED

Based on the Findings of Fact and Ecology Determinations, it is hereby ordered that the Port take the following remedial actions at the Site, as more fully described in the Scope of Work & Schedule attached to this Order as **Exhibit B**, and that these actions be conducted in accordance with Chapters 173-340 and 173-204 WAC unless otherwise specifically provided for herein:

A. The Port shall conduct the remedial actions fully described in **Exhibit B** to this Order. Generally, the Port shall perform the following:

- Prepare an Interim Remedial Action Report that details cleanup activities performed to date associated with the North Marina West End Site.

- Develop a work plan for an RI/FS to fill any remaining data gaps identified based on a review of the previous site investigations. The results of past interim remedial actions should be described in the RI/FS Work Plan along with identifying data gaps that need filled. The results of past interim remedial actions may be described in less detail than that presented in the separate Interim Remedial Action Report.
- Perform an RI/FS study.
- Prepare an RI/FS report.
- Develop a draft cleanup action plan (CAP) for the Site.

B. The Port shall perform the remedial actions required by this Order according to the work schedule set forth in **Exhibit B**.

C. If at any time after the first exchange of comments on drafts, Ecology determines that insufficient progress is being made in the preparation of any of the deliverables required under the Scope of Work & Schedule (**Exhibit B**), Ecology may complete and issue the final deliverable.

VIII. TERMS AND CONDITIONS OF ORDER

A. Public Notices

RCW 70.105D.030(2)(a) requires that, at a minimum, this Order be subject to concurrent public notice. Ecology shall be responsible for providing such public notice and reserves the right to modify or withdraw any provisions of this Order should public comment disclose facts or considerations that indicate to Ecology that the Order is inadequate or improper in any respect.

B. Remedial Action Costs

The Port 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 Chapter 70.105D RCW, 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). The Port shall pay the required amount within ninety (90) 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.

Pursuant to RCW 70.105D.055, Ecology has authority to recover unreimbursed remedial action costs by filing a lien against real property subject to the remedial actions.

C. Implementation of Remedial Action

If Ecology determines that the Port has failed without good cause to implement the remedial action, in whole or in part, Ecology may, after notice to the Port, perform any or all portions of the remedial action that remain incomplete. If Ecology performs all or portions of the remedial action because of the Port's failure to comply with their obligations under this Order, the Port shall reimburse Ecology for the costs of doing such work in accordance with Section VIII.B (Remedial Action Costs), provided that the Port is not obligated under this Section to reimburse Ecology for costs incurred for work inconsistent with or beyond the scope of this Order.

Except where necessary to abate an emergency situation, the Port shall not perform any remedial actions at the Site outside those remedial actions required by this Order, unless Ecology concurs in writing with such additional remedial actions.

D. Designated Project Coordinators

The project coordinator for Ecology is:

Andy Kallus
Toxics Cleanup Program
PO Box 47600, Olympia, WA 98504
Phone: 360-407-7259
E-Mail: akal461@ecy.wa.gov

The project coordinator for the Port of Everett is:

Lawrence Beard
Landau Associates
130 2nd South, Edmonds, WA 98020
Phone: 425-778-0907
E-mail: LBeard@landauinc.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 Port, 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.

Ecology and the Port may change their respective project coordinators. Written notification shall be given to other party at least ten (10) days prior to the change.

E. Performance

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

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

Any documents submitted that contain geologic, hydrologic, or engineering work shall be under the seal of an appropriately licensed professional as required by Chapter 18.220 RCW or RCW 18.43.130.

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

F. Access

Ecology or any Ecology-authorized representative shall have the full authority to enter and freely move about all property at the Site that the Port either owns or controls, and have 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 Port'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 Port. The Port shall make all reasonable efforts to secure access rights for those properties within the Site not owned or controlled by the Port where remedial activities or investigations will be performed pursuant to this Order. Ecology or any Ecology authorized representative shall give reasonable notice before entering any Site property owned or controlled by the Port unless an emergency prevents such notice. All persons who access the Site pursuant to this paragraph shall comply with the approved Health and Safety Plan(s), if any. Ecology employees and their representative shall not be required to sign any liability release or waiver as a condition of Site property access.

G. Sampling, Data Submittal, and Availability

With respect to the implementation of this Order, the Port 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. Attached as **Exhibit C** is Ecology Policy 840, Data submittal Requirements.

If requested by Ecology, the Port shall allow Ecology and/or its authorized representative to take split or duplicate samples of any samples collected by the Port pursuant to implementation of this Order. The Port shall notify Ecology seven (7) days in advance of any sample collection or work activity at the Site. However, Ecology may waive this notification requirement and accept samples when they were collected during construction projects or other circumstances where sampling was prudent or necessary but unplanned. Ecology shall upon request, allow the Port and/or their 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.F (Access) of this Order, Ecology shall notify the Port 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 Chapter 173-50 WAC for the specific analyses to be conducted, unless otherwise approved in writing by Ecology.

H. Public Participation

A Public Participation Plan (see WAC 173-340-600) that is required for this Site, has been developed and is included as **Exhibit D**. Ecology shall maintain the responsibility for public participation at the Site. However, the Port shall cooperate with Ecology, and shall:

1. If agreed to by Ecology, develop appropriate mailing lists, 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, draft cleanup action plan, 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 major meetings with the interested public and local governments. Likewise, Ecology shall notify the Port prior to the issuance of all press releases and fact sheets, and before major meetings with the interested public and local governments. For all press releases, fact sheets, meetings, and other outreach efforts by the Port that do not receive prior Ecology approval, the Port 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/or continue information repositories to be located at the following locations:

- a. Everett Public Library
2702 Hoyt Ave
Everett, WA 98201
- b. 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 press releases; all quality assured monitoring data; remedial action plans and reports, supplemental remedial planning documents, and all other similar documents relating to performance of the remedial action required by this Order shall be promptly placed in these repositories.

I. Retention of Records

During the pendency of this Order, and for ten (10) years from the date of completion of work performed pursuant to this Order, the Port 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. Upon request of Ecology, the Port shall make all records available to Ecology and allow access for review within a reasonable time.

J. Resolution of Disputes

1. In the event a dispute arises as to an approval, disapproval, proposed change, or other decision or action by Ecology's project coordinator or an itemized billing statement under Section VIII.B (Remedial Action Costs), the Parties shall utilize the dispute resolution procedure set forth below.

a. Upon receipt of Ecology's project coordinator's written decision or the itemized billing statement, the Port has fourteen (14) days within which to notify Ecology's project coordinator of its objection to the decision or itemized statement.

b. The Parties' project coordinators shall then confer in an effort to resolve the dispute. If the project coordinators cannot resolve the dispute within fourteen (14) days, Ecology's project coordinator shall issue a written decision.

c. The Port may then request regional management review of the decision. This request shall be submitted in writing to the Headquarters Land and Aquatic Lands Cleanup Section Manager within seven (7) days of receipt of Ecology's project coordinator's written decision.

d. The Section Manager shall conduct a review of the dispute and shall endeavor to issue a written decision regarding the dispute within thirty (30) days of the Port's request for review. The Section Manager's decision shall be Ecology's final decision on the disputed matter.

2. The Parties agree to utilize the dispute resolution process only 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.

K. Extension of Schedule

1. 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; and
- d. Any related deadline or schedule that would be affected if the extension were granted.

2. The burden shall be on the Port 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 includes, but may not be limited to:

- a. Circumstances beyond the reasonable control and despite the due diligence of the Port 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 Port;
- b. Acts of God, including fire, flood, blizzard, extreme temperatures, earthquake, storm, or other unavoidable casualty; or
- c. Endangerment as described in Section VIII.M (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 Port.

3. Ecology shall act upon any written request for extension in a timely fashion. Ecology shall give the Port written notification of any extensions granted pursuant to the 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.L (Amendment of Order) when a schedule extension is granted.

4. An extension shall be granted only 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:

- 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; or
- c. Endangerment as described in Section VIII.M (Endangerment).

5. Ecology may extend the period for reviewing and commenting on a document (as specified in Exhibit B) by providing oral or written notification to the Port, prior to expiration of the comment period. Ecology will provide an estimate of the time required for completion of its review.

L. 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 fourteen (14) days of verbal agreement.

Except as provided in Section VIII.N (Reservation of Rights), substantial changes to the work to be performed shall require formal amendment of this Order. This Order may be

formally amended only by the written consent of both Ecology and the Port. The Port shall submit a written request for amendment to Ecology for approval. Ecology shall indicate its approval or disapproval in writing and in a timely manner after the written request for amendment is received. If the amendment to the Order represents a substantial change, Ecology will provide additional public notice and opportunity to comment. Reasons for the disapproval of a proposed amendment to this Order shall be stated in writing. If Ecology does not agree to a proposed amendment, the disagreement may be addressed through the dispute resolution procedures described in Section VIII.J (Resolution of Disputes) of this Order.

M. Endangerment

In the event Ecology determines that any activity being performed at the Site 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 Port to cease such activities for such period of time as it deems necessary to abate the danger. The Port shall immediately comply with such direction.

In the event the Port determines that any activity being performed at the Site is creating or has the potential to create a danger to human health or the environment, the Port may cease such activities. The Port 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 Port shall provide Ecology with documentation of the basis for the determination or cessation of such activities. If Ecology disagrees with the Port's cessation of activities, it may direct the Port to resume such activities.

If Ecology concurs with or orders a work stoppage pursuant to this section, the Port'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.K (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.

N. Reservation of Rights

This Order is not a settlement under Chapter 70.105D RCW. Ecology's signature on this Order in no way constitutes a covenant not to sue or a compromise of any Ecology's rights or authority. Ecology will not, however, bring an action against the Port 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 Port regarding remedial actions required by this Order, provided the Port complies with this Order.

Ecology nevertheless reserves its rights under Chapter 70.105D RCW, including the right to require additional or different remedial actions at the Site should it deem such actions necessary to protect human health and 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.

O. 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 Port 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 Port's transfer of any interest in all or any portion of the Site, and during the effective period of this Order, the Port 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 Port shall notify Ecology of said transfer. Upon transfer of any interest, the Port shall restrict uses and activities to those consistent with this Order and notify all transferees of the restrictions on the use of the property.

P. Compliance with Applicable Laws

1. All actions carried out by the Port pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements, including requirements to obtain necessary permits, except as provided in RCW 70.105D.090. At this time, no federal, state, or local requirements have been identified as being applicable to the actions required by this Order.

2. Pursuant to RCW 70.105D.090(1), the Port is exempt from the procedural requirements of Chapters 70.94, 70.95, 70.105, 77.55, 90.48, and 90.58 RCW and of any laws requiring or authorizing local government permits or approvals. However, the Port shall comply with the substantive requirements of such permits or approvals. At this time, no state or local permits or approvals have been identified as being applicable but procedurally exempt under this Section.

The Port has a continuing obligation to determine whether additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order. In the event either Ecology or the Port determines that additional permits or approvals addressed in RCW 70.105D.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 Port shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, the Port 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 Port and on how the Port must meet those requirements. Ecology shall inform the Port in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. The Port shall not begin or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination.

Ecology shall ensure that notice and opportunity for comment is provided to the public and appropriate agencies prior to establishing the substantive requirements under this section.

3. Pursuant to RCW 70.105D.090(2), in the event Ecology determines that the exemption from complying with the procedural requirements of the laws referenced in RCW 70.105D.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 Port shall comply with both the procedural and substantive requirements of the laws referenced in RCW 70.105D.090(1), including any requirements to obtain permits.

Q. Land use Restrictions

In the event that a restrictive covenant or other land use restriction will be required under WAC 173-340-440(4), the Port shall record a Restrictive Covenant with the office of the Snohomish County Auditor within ten (10) days of the completion of the remedial action. The Restrictive Covenant shall restrict future uses of the Site. The Port shall provide Ecology with a copy of the recorded Restrictive Covenant within thirty (30) days of the recording date.

R. Indemnification

The Port 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 for death or injuries to persons or for loss or damage to property to the extent arising from or on account of acts or omissions of the Port, its officers, employees, agents, or contractors in entering into and implementing this Order. However, the Port 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 Port's receipt of written notification from Ecology that the Port has completed the remedial activity required by this

Order, as amended by any modifications, and that the Port has complied with all other provisions of this Agreed Order.

X. ENFORCEMENT

Pursuant to RCW 70.105D.050, this Order may be enforced as follows:

1. The Attorney General may bring an action to enforce this Order in a state or federal court.
2. The Attorney General may seek, by filing an action, if necessary, to recover amounts spent by Ecology for remedial actions and orders related to the Site.
3. In the event the Port refuses without sufficient cause, to comply with any term of this Order, the Port will be liable for:
 - a. Up to three (3) times the amount of any costs incurred by the State of Washington as a result of its refusal to comply; and
 - b. Civil penalties of up to twenty-five thousand dollars (\$25,000) per day for each day it refuses to comply.
4. This Order is not appealable to the Washington Pollution Control Hearings Board.

This Order may be reviewed only as provided under RCW 70.105D.060.

Effective date of this Order: _____

THE PORT OF EVERETT

Jerold W. Heller
Chief Administrative Officer
The Port of Everett
2911 Bond Street
Everett, Washington 98206
(425) 259-3164

STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

Tim L. Nord, Manager
Land and Aquatic Lands Cleanup Section
Toxics Cleanup Program
Headquarters Office
300 Desmond Drive Southeast
Lacey, Washington 98503
(360) 407-7226

EXHIBIT A

SITE LOCATION AND PROPERTY LOCATION INFORMATION

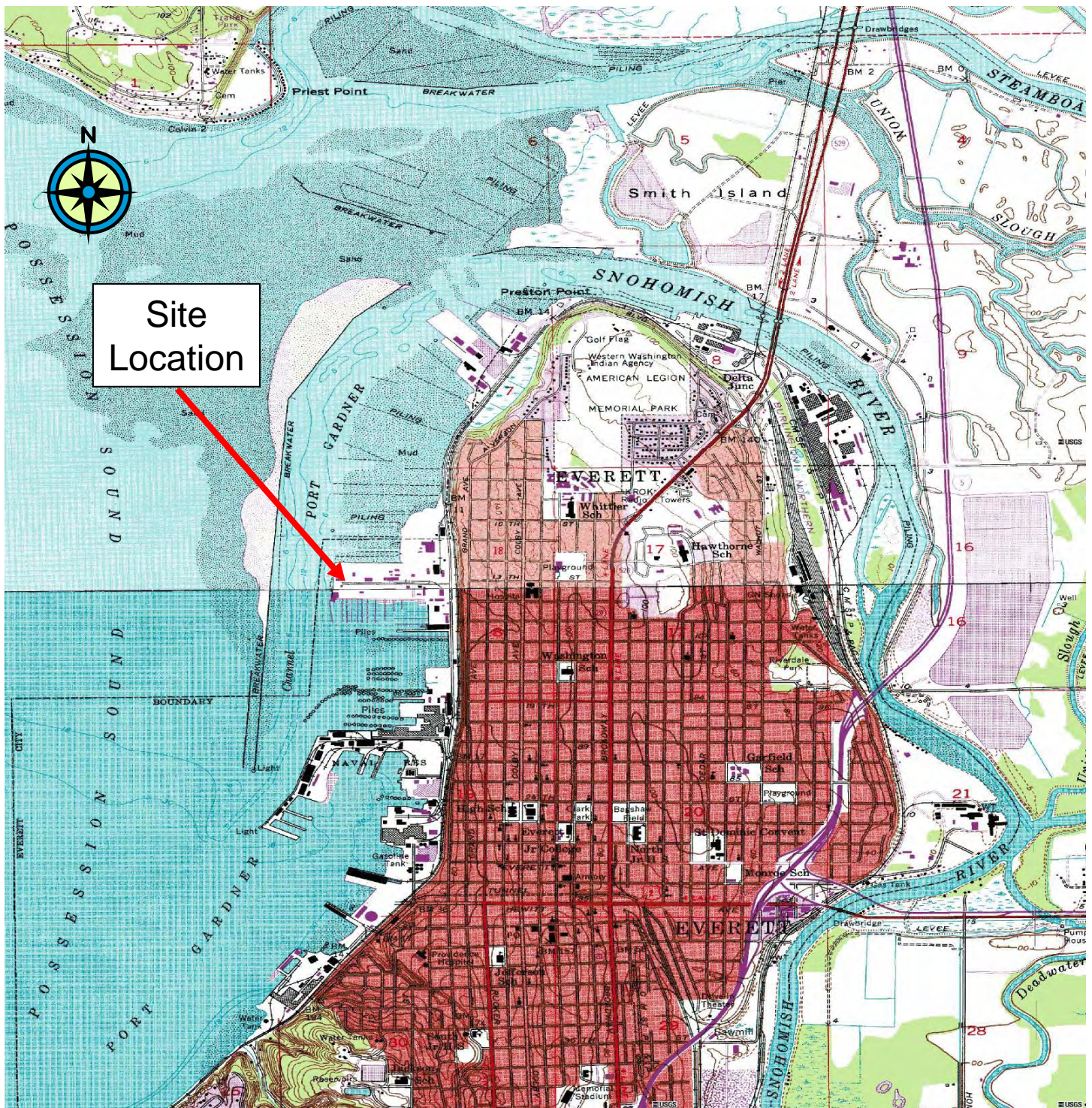


Exhibit A – Figure 1

Vicinity Map

North Marina West End Site

Source: USGS 7.5 Minute Quadrangle Maps (Everett and Marysville Quadrangle Maps; Photo Revised – 1968 and 1973)



EXHIBIT A

SITE LOCATION AND PROPERTY LOCATION INFORMATION

LEGEND

 CLEANUP ACTION AREA

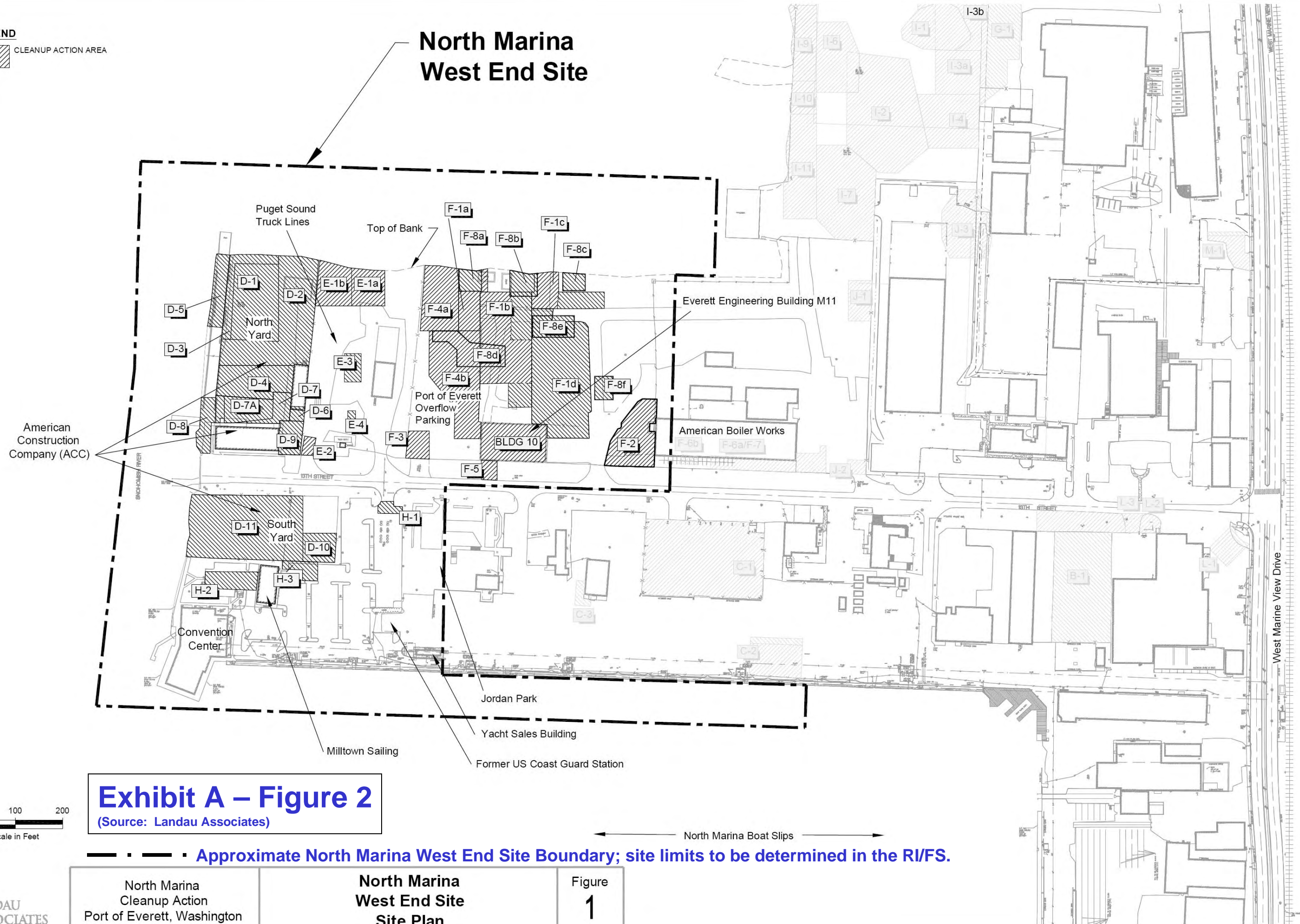
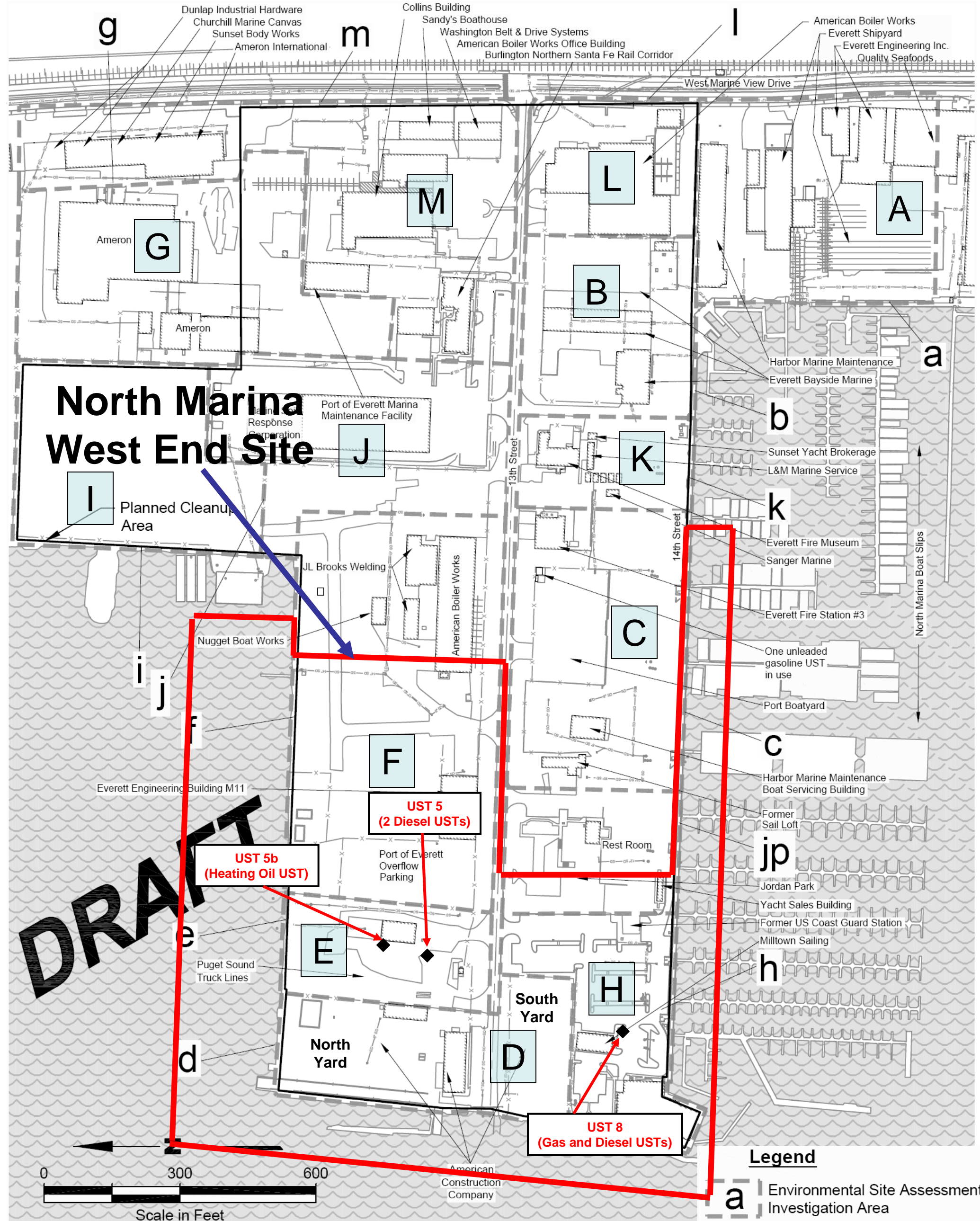


Exhibit A – Figure 2
(Source: Landau Associates)

North Marina
Cleanup Action
Port of Everett, Washington

North Marina West End Site Site Plan

Figure
1



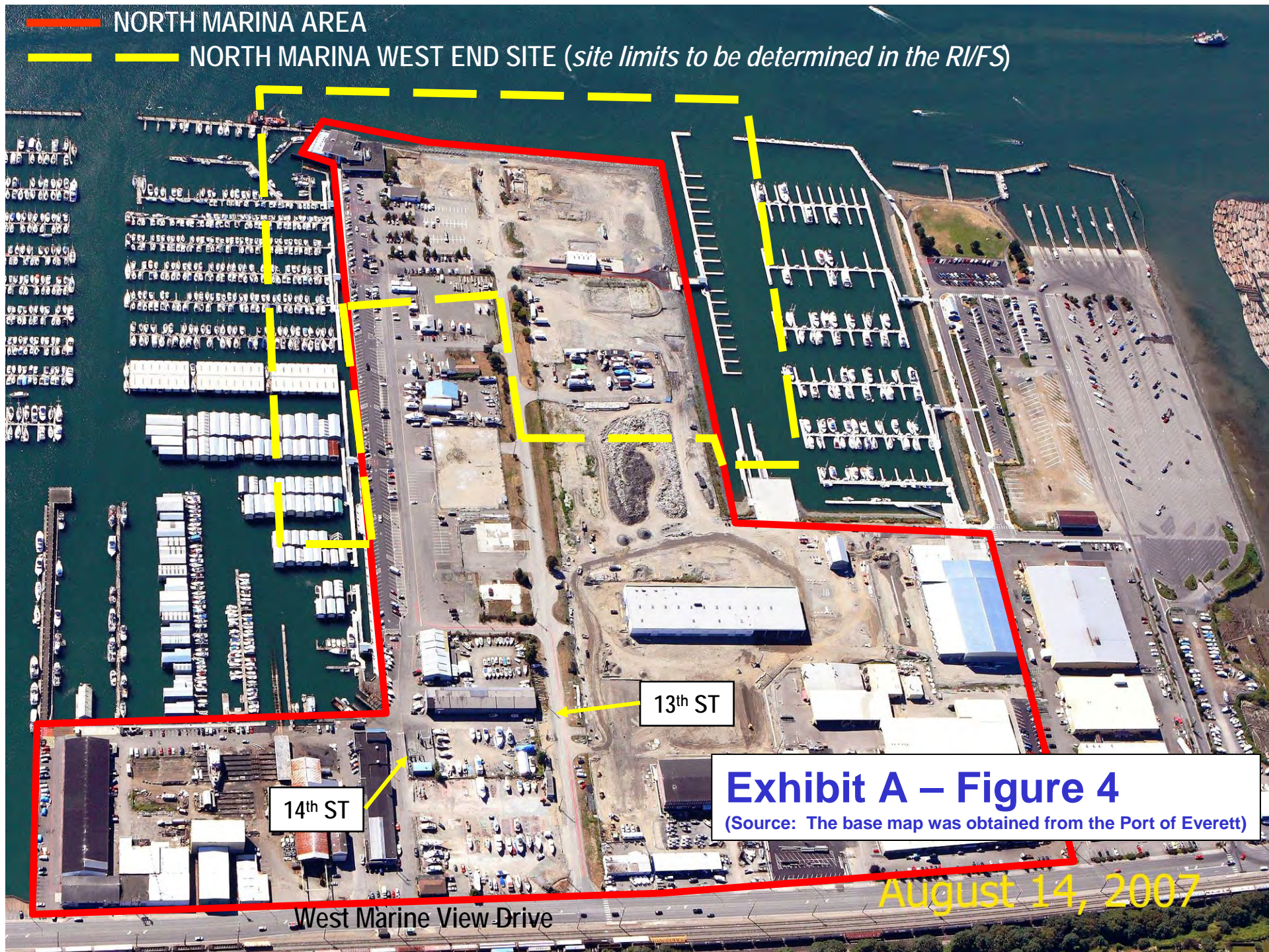
 LANDAU ASSOCIATES	North Marina Data Gaps Investigation Everett, Washington	Site Plan	Figure 2
---	--	-----------	-------------

— Approximate North Marina West Side Site Boundary; site limits to be determined in the RI/FS

Exhibit A – Figure 3
(Source for Base Map: Landau Associates)

EXHIBIT A

SITE LOCATION AND PROPERTY LOCATION INFORMATION



— NORTH MARINA AREA

— NORTH MARINA WEST END SITE (*site limits to be determined in the RI/FS*)

13th ST

14th ST

West Marine View Drive

Exhibit A – Figure 4

(Source: The base map was obtained from the Port of Everett)

August 14, 2007

North Marina West End Site

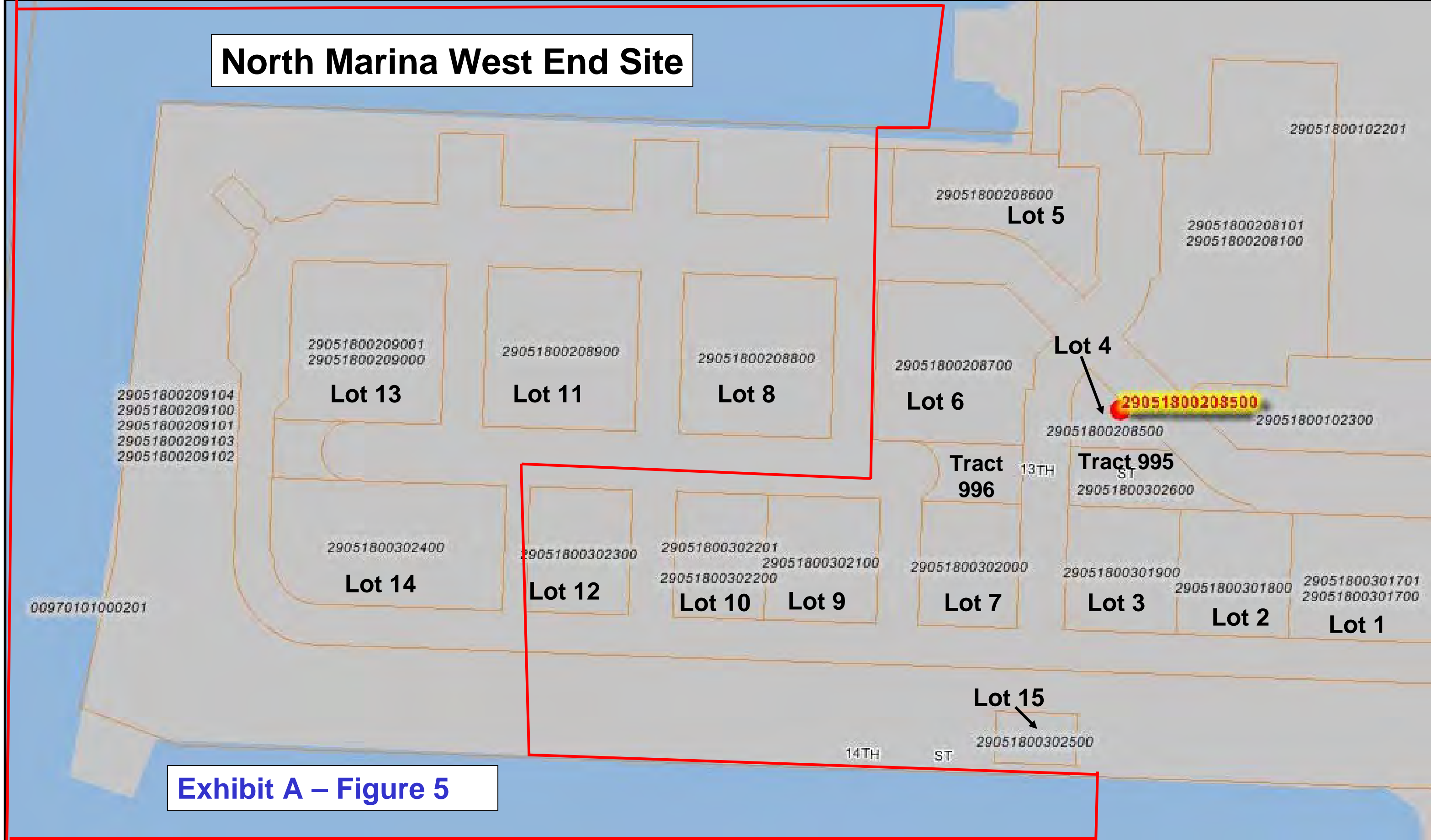


Exhibit A – Figure 5

- Approximate North Marina West End Site Boundary; site limits to be determined in the RI/FS.
1. Lot numbers identified are based on the Port of Everett's North Marina Division 2 Binding Site Plan (AFN 200708105298).
 2. Base Map: December 2008 Snohomish County Online Property Information.

Exhibit A – Figure 6

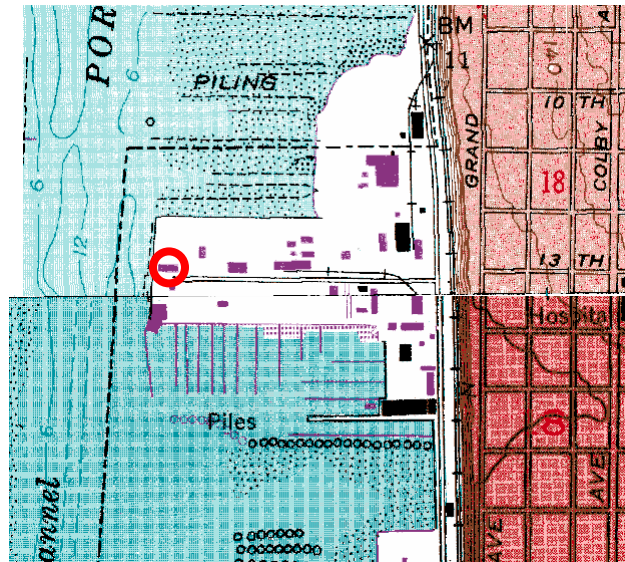
NORTH MARINA WEST END SITE

SITE/PROPERTY LOCATION INFORMATION

The North Marina Redevelopment is generally located between 11th and 14th Streets off West Marine View Drive, Everett, Snohomish County, Washington. The North Marina West End Site is located within the western portion of the North Marina Redevelopment. Site coordinates, a legal description, and county assessor's parcel numbers are provided below.

Coordinates: Latitude: 48°00'01" North; Longitude: 122°13'22" West.

Latitude/Longitude Reference Point: Location of the former American Construction Co., Inc. Building (see red circle on the figure below).



Legal Description: Section 18, Township 29 North, Range 5 East.

County Assessor's Parcel Numbers (Port of Everett Property): Tax account numbers corresponding to the North Marina West End Site include 29051800208800 (Lot 8), 29051800208900 (Lot 11), 29051800209000/29051800209001 (Lot 13), and 29051800302400 (Lot 14) (see Figure 5 of this Exhibit). The above tax account numbers were identified based on the binding site plan (BSP) for the Port of Everett's North Marina Redevelopment Division 2 area. Division 2 of the Port's North Marina Redevelopment was recorded under auditor's file number (AFN) 200708105298.



Snohomish County

December 6, 2007

Assessor's Office

Cindy Portmann
County Assessor

Linda Hjelle
Chief Deputy

M/S #510
3000 Rockefeller Ave.
Everett, WA 98201-4046

(425) 388-3433
FAX (425) 388-3961

DEPT OF ECOLOGY - WA
ATTN: ANDREW KALLUS
PO BOX 47600
OLYMPIA, WA 98504-7600

RE: "REDEVELOPMENT" OF PORT OF EVERETT, NORTH MARINA, DIVISIONS 1 & 2
(aka BINDING SITE PLANS FOR PORT OF EVERETT, NORTH MARINA, DIV. 1 & 2)

SENDING:

- ☒ As you requested
- ☒ For your information
- ☐ As we discussed
- ☐ For appropriate actions
- ☐ For your file(s)
- ☐ For signature and return
- ☐ For review and comment

Please contact me if you have any other questions or concerns on this matter.

Sincerely,

Sandra L. Smith
Land Segregation Dept
(425) 388-3289 - or -
Toll Free 1-800-562-4367 (Ext 3289)
FAX: 425-388-3961
Sandy.smith@co.snohomish.wa.us

Enclosure(s)

November 30, 2007

EVERETT PORT OF

PO BOX 538
EVERETT, WA 98206

Division 2

(31 Additional NEW Accounts)

RE: "Inactivated" Tax Account No(s) 29051800102400, 29051800208300 through 29051800208313,
29051800301500 & 29051800301600

Document: "DIVISION 2" OF PORT OF EVERETT NORTH MARINA

Recorded under Auditor's File No. 200708105298

Dear Taxpayer(s):

We have segregated the above-mentioned account(s) for tax purposes to correspond with the binding site plan. You will now receive statements (ownership applicable) for the following Tax Account number(s):

Lot 1: 29051800301700 and "Building Only" Account No. 29051800301701

Lot 2: 29051800301800

Lot 5: 29051800208600

✓ Lot 8: 29051800208800

Lot 3: 29051800301900

Lot 6: 29051800208700

Lot 9: 29051800302100

Lot 4: 29051800208500

Lot 7: 29051800302000

Lot 10: 29051800302200 and "Building Only" Account No. 29051800302201

✓ Lot 11: 29051800208900

Lot 12: 29051800302300

✓ Lot 13: 29051800209000 and "Building Only" Account No. 29051800209001

✓ Lot 14: 29051800302400

Lot 15: 29051800302500

Lot 16: 29051800401100

Lot 17: 29051800401200 and "Building Only" Account Nos. 29051800401201/1202

Lot 18: 29051800401300 and "Building Only" Account No. 29051800401301

Lot 19: 29051800209100 and "Building Only" Account Nos. 29051800209101/9102/9103/9104

Tracts 995 through 997: 29051800302600

Private Roads: 29051800102500

If you have any questions, please contact me by telephone or email.

Sincerely,



↑
Correction

Sandra L. Smith
Land Segregation Dept
(425) 388-3289 - or -
Toll Free 1-800-562-4367 (Ext 3289)
Sandy.smith@co.snohomish.wa.us

Enclosure(s)
Ref. No. S071093



SNOHOMISH COUNTY

Property Account Summary

Account No.: 29051800208800 **Alternate Property Number:**
Account Type: Real Property
TCA: 00010
Situs Address: UNKNOWN
UNKNOWN WA
No Country
Legal: Section 18 Township 29 Range 05 Quarter NW - LOT 8 BSP FOR DIV 2 OF PORT OF EV N MARINA REC UND
AFN 200708105298 BEING PTN SE1/4 NW1/4 SD SEC 18

Parties:

Role	Name & Address
Owner	EVERETT PORT OF PO BOX 538 EVERETT WA 98206
Taxpayer	EVERETT PORT OF PO BOX 538 EVERETT WA 98206

Property Values:

Value Name	2008	2007	2006
Taxable Value Regular	\$0		
Market Total	\$767,200		
Assessed Value	\$767,200		
Market Land	\$767,200		
Market Improvement	\$0		

Property Characteristics:

Tax Year	Characteristic	Value
2008	Use Code	910 Undeveloped (Vacant) Land
	Unit of Measure	Acre(s)
	Size (gross)	1.04
	Lot size (net)	1.04

Exemptions:

Tax Year	Description	Count	Amount	Assessment Basis
2008	Government Property	1	\$767,200	Assessed Value

(End of Report)



SNOHOMISH COUNTY

Property Account Summary

Account No.: 29051800208900 **Alternate Property Number:**
Account Type: Real Property
TCA: 00010
Situs Address: UNKNOWN
UNKNOWN WA
No Country
Legal: Section 18 Township 29 Range 05 Quarter NW - LOT 11 BSP FOR DIV 2 OF PORT OF EV N MARINA REC UND
AFN 200708105298 BEING PTN SE1/4 NW1/4 SD SEC 18

Parties:

Role	Name & Address
Owner	EVERETT PORT OF PO BOX 538 EVERETT WA 98206
Taxpayer	EVERETT PORT OF PO BOX 538 EVERETT WA 98206

Property Values:

Value Name	2008	2007	2006
Taxable Value Regular	\$0		
Market Total	\$767,200		
Assessed Value	\$767,200		
Market Land	\$767,200		
Market Improvement	\$0		

Property Characteristics:

Tax Year	Characteristic	Value
2008	Use Code	910 Undeveloped (Vacant) Land
	Unit of Measure	Acre(s)
	Size (gross)	1.04
	Lot size (net)	1.04

Exemptions:

Tax Year	Description	Count	Amount	Assessment Basis
2008	Government Property	1	\$767,200	Assessed Value

(End of Report)



SNOHOMISH COUNTY

Property Account Summary

Account No.: 29051800209000 **Alternate Property Number:**
Account Type: Real Property
TCA: 00010
Situs Address: 615 13TH ST
EVERETT WA 98201-1669
Legal: Section 18 Township 29 Range 05 Quarter NW - LOT 13 BSP FOR DIV 2 OF PORT OF EV N MARINA REC UND
AFN 200708105298 BEING PTN S1/2 NW1/4 SD SEC 18 ~ REFER TO 29051800209001 FOR LEASED BLDG ONLY
ACCT

Parties:

Role	Name & Address
Owner	EVERETT PORT OF PO BOX 538 EVERETT WA 98206
Taxpayer	EVERETT PORT OF PO BOX 538 EVERETT WA 98206

Property Values:

Value Name	2008	2007	2006
Taxable Value Regular	\$0		
Market Total	\$782,000		
Assessed Value	\$782,000		
Market Land	\$782,000		
Market Improvement	\$0		

Property Characteristics:

Tax Year	Characteristic	Value
2008	Use Code	641 Automobile Repair & Services
	Unit of Measure	Acre(s)
	Size (gross)	1.06
	Lot size (net)	1.06

Exemptions:

Tax Year	Description	Count	Amount	Assessment Basis
2008	Government Property	1	\$782,000	Assessed Value

(End of Report)



SNOHOMISH COUNTY

Property Account Summary

Account No.: 29051800209001 **Alternate Property Number:**
Account Type: Real Property
TCA: 00010
Situs Address: 615 13TH ST
EVERETT WA 98201-1669
Legal: Section 18 Township 29 Range 05 Quarter NW ~~BLDG ONLY ACCT~~ TRUCK TERMINAL LEASED BY
"PUGET SOUND TRUCK LINES" FR PORT OF EVERETT ~ LOC ON PAR NO 29051800209000

Parties:

Role	Name & Address
Owner	EVERETT PORT OF PO BOX 538 EVERETT WA 98206
Taxpayer	EVERETT PORT OF PO BOX 538 EVERETT WA 98206

Property Values:

Value Name	2008	2007	2006
Taxable Value Regular	\$0		
Market Total	\$189,100		
Assessed Value	\$189,100		
Market Land	\$0		
Market Improvement	\$189,100		

Property Characteristics:

Tax Year	Characteristic	Value
2008	Use Code	641 Automobile Repair & Services

Exemptions:

Tax Year	Description	Count	Amount	Assessment Basis
2008	Government Property	1	\$189,100	Assessed Value

(End of Report)



SNOHOMISH COUNTY

Property Account Summary

Account No.: 29051800302400 **Alternate Property Number:**
Account Type: Real Property
TCA: 00010
Situs Address: UNKNOWN
UNKNOWN WA
No Country
Legal: Section 18 Township 29 Range 05 Quarter SW - LOT 14 BSP FOR DIV 2 OF PORT OF EV N MARINA REC UND
AFN 200708105298 BEING PTN N1/2 SW1/4 SD SEC 18

Parties:

Role	Name & Address
Owner	EVERETT PORT OF PO BOX 538 EVERETT WA 98206
Taxpayer	EVERETT PORT OF PO BOX 538 EVERETT WA 98206

Property Values:

Value Name	2008	2007	2006
Taxable Value Regular	\$0		
Market Total	\$900,000		
Assessed Value	\$900,000		
Market Land	\$900,000		
Market Improvement	\$0		

Property Characteristics:

Tax Year	Characteristic	Value
2008	Use Code	910 Undeveloped (Vacant) Land
	Unit of Measure	Acre(s)
	Size (gross)	1.22
	Lot size (net)	1.22

Exemptions:

Tax Year	Description	Count	Amount	Assessment Basis
2008	Government Property	1	\$900,000	Assessed Value

(End of Report)

EXHIBIT B

SCOPE OF WORK & SCHEDULE

EXHIBIT B

SCOPE OF WORK & SCHEDULE

Pursuant to the Agreed Order to which this Scope of Work & Schedule is attached, the Port of Everett (Port) shall take the following remedial actions at the North Marina West End Site and these actions shall be conducted in accordance with Chapters 173-340 and 173-204 WAC unless otherwise specifically provided for herein:

A. Remedial Actions To Be Performed

The Port shall conduct the remedial actions generally described below.

- Interim Remedial Action Report – Prepare an Interim Remedial Action Report that details cleanup activities performed to date associated with the North Marina West End Site. The Port shall submit the Interim Remedial Action Report to Department of Ecology (Ecology) for review and approval.
- Remedial Investigation/Feasibility Study (RI/FS) Work Plan – Prepare a work plan for RI/FS Study in accordance with the specifications described in Section A.2 of this Exhibit. The Port shall submit the RI/FS Work Plan to Ecology for review and approval.
- RI/FS Study – The Port shall conduct field data collection (as part of the RI) as described in the approved RI/FS Work Plan. The Port shall conduct a FS based on the results of the field RI. Elements of the RI/FS study have been further described in Sections A.2.f. and A.2.g. of this Exhibit.
- RI/FS Report – Prepare a RI/FS report. The Port shall submit the draft RI/FS Report (combined as a single document) to Ecology for review and approval.
- Draft Cleanup Action Plan (CAP) – Upon Ecology approval of the draft final RI/FS report, the Port shall prepare a draft CAP. The Port shall submit the draft CAP to Ecology for review and approval.

Additional details regarding the remedial actions to be performed by the Port are provided below.

1. Preparation of An Interim Remedial Action Report

A separate Interim Remedial Action Report (including draft, draft final, and final versions) is required under the Agreed Order to summarize past remedial activities that have taken place at the Site. The report shall also include the results for areas that have

been determined to be clean based on previous investigations, including adjacent areas located outside the Site boundaries depicted in Exhibit A, Figure 2 (e.g., areas around Lot 5, Lot 12 shown in Exhibit A, Figure 5, and the waterfront pedestrian esplanade located in the southern portion of the Site).

a. Interim Action Report Requirements

The Interim Remedial Action Report shall include the following:

- A summary of environmental investigations performed to date, including media sampled and types of analyses performed. In accordance with WAC 173-340-720(9)(b), the rationale for filtering groundwater samples for metals analysis should be included in the report.
- A conceptual site model (CSM) detailing the identified contaminant migration pathways and all potential receptors. Follow the methods described in Section A.2.d. in completing the CSM. In accordance with WAC 173-340-720(2), rationale needs to be included to substantiate that groundwater at the Site could not be used, or has an extremely low probability to be used, for potable purposes (i.e., as viable drinking water aquifer).
- Identification of preliminary cleanup levels including the rationale for their selection in defining affected media (i.e., media that exceed selected cleanup levels) at the Site.
- Evaluation of the existing data. Follow the methods described below (after the bulleted list) in evaluating the existing data used for site characterization and for determining the extent and magnitude of affected media at the Site.
- A summary of cleanup actions performed. In addition, include compliance or confirmatory sampling results showing that an affected area has been remediated to appropriate cleanup levels.

b. Evaluation of Existing Data

The existing analytical data, including data points impacted by prior interim remedial actions (if any), should be plotted (as accurately as possible) on a base map (using geo-referencing techniques) that depicts identified sources and areas where suspected releases occurred. Review the sample locations with respect to identified sources and areas where suspected releases (e.g., outfalls, storm water drains, spills, dumping, leaks, etc.) have occurred. All of the existing analytical data collected at the Site should be evaluated in terms of data usability (analytical

methods used to evaluate the effectiveness of a cleanup action shall comply with the requirements in WAC 173-340-830) and be screened against the most protective applicable preliminary cleanup levels identified under an unrestricted land use scenario. Both non-detect and detected data should be included in the screening. Identify sampling points containing exceedances on a map, and also discuss the adequateness of the reporting limits (i.e., Method Detection and Practical Quantitation Limits) in terms of achieving the preliminary cleanup levels for the Site. Constituents exceeding the preliminary cleanup levels should be identified as indicator hazardous substances for the Site.

2. Preparation Of An RI/FS Work Plan

The Port shall develop an RI/FS Work Plan (including draft, draft final, and final versions) that includes a scope of work to delineate and quantify (i.e., identify the levels of contamination) the potential contaminants in all media (i.e., soil, groundwater, surface water, and adjacent marine sediments) and any toxic effects or other deleterious substances in marine sediment. The work plan shall also address the proper handling of all wastes generated from the site during the RI/FS (e.g., soil cuttings, groundwater development and purge water, excess sediment sample material, free-product, etc.). Note that all draft documents for Ecology review may be submitted in redline strike-out format (preferably in Microsoft® WORD format) to facilitate the review. The RI/FS Work Plan shall be conducted meeting the requirements of WAC 173-350 and should include the elements listed below.

a. Development of a Site-Specific Health and Safety Plan (HSP) and Sampling and Analysis Plan (SAP)

A site-specific HSP describing worker safety during the project will be developed in accordance with WAC 173-340-810 and included in the RI/FS Work Plan. A site-specific SAP, which includes quality assurance/quality control requirements, will be included in the RI/FS Work Plan. The SAP should be based on the type, quality, and quantity of data necessary to support selection of a cleanup action. The SAP should provide the details on numbers and locations of samples for each

media and the analytical requirements. The SAP shall conform to the requirements specified in WAC 173-340-820.

Additional sediment sampling is also required under the Sediment Management Standards (SMS; WAC chapter 173-204) to fully investigate the extent and magnitude of potential marine sediment contamination released at the Site. A separate sediment SAP (i.e., separate from the upland SAP) must be submitted to Ecology for review and approval before any sampling is conducted. In addition, any sampling of the marine sediments must be done in accordance with the SMS and the Sediment Sampling and Analysis Plan Appendix, Ecology Publication No. 03-03-043¹.

b. Investigation of Site Background and Setting

This section will include detailed descriptions of the following:

- (i) The property and site operational/industrial history (including current and previous ownership).
- (ii) All previous investigations and past remedial actions if any. Note that any prior remedial actions are considered to be interim and not a final cleanup action.
- (iii) Historical sources and releases of contamination (include a review of historical photos and Sanborn Maps).
- (iv) Current site conditions (including descriptions of surface features, geology, soil and the vadose zone, surface water hydrology, hydrogeology, and meteorology).
- (v) Current and future land and water use (including descriptions of human populations).
- (vi) The terrestrial/aquatic ecological setting including a description of ecological receptors and potentially threatened/endangered species.

¹ See URL: <http://www.ecy.wa.gov/biblio/0309043.html>.

c. Previous Investigations/Cleanup Actions (i.e., Past Interim Remedial Actions)

The results of past interim remedial actions should be described in the RI/FS Work Plan along with identifying data gaps that need filled. In addition, data gaps that need to be filled to fully define the extent and magnitude of contamination associated with all media of concern at the Site need to be identified. Note that the results of past interim remedial actions may be described in less detail than that presented in the separate Interim Remedial Action Report (see Section A.1. above).

d. Development of Preliminary CSM

The CSM should describe release mechanisms from the potential primary sources of hazardous substances to secondary and tertiary sources, the exposure media and routes, and the potential human and ecological receptors. The CSM should reflect both current conditions and potential future development in assessing exposure pathways.

e. Establishment of Preliminary Cleanup Levels

Based on the CSM, identify appropriate preliminary cleanup levels (e.g., levels established under the Model Toxics Control Act [see WAC 173-340-700 through 173-340-760], Chapter 173-204 WAC, Sediment Management Standards for Puget Sound Marine sediments, and applicable state and federal laws) under a residential (unrestricted) land use scenario. Note that the cleanup levels must consider all applicable pathways including direct contact (including inhalation), media transfer pathways (e.g., leaching to groundwater, groundwater migration to surface water, and sediment, etc.), and exposure to terrestrial and/or aquatic ecological and human receptors.

f. RI Study Approach

This section of the RI/FS Work Plan shall provide an overview of the methods that will be used in conducting the RI for the North Marina West End Site. Based on the background information gathered, past interim remedial actions at the Site, and the evaluation of existing data, discuss by media (e.g., soil, sediment, surface water, etc.) the data required to complete an RI for the North Marina West End Site. The RI approach shall be consistent with WAC 173-340-350. Identify data gaps and the overall approach for conducting the RI. The SAP(s) will provide the details on numbers and locations of samples for each media and the analytical requirements.

The RI field investigation will be designed to identify the full extent and magnitude of contaminants and toxic effects in upland and in-water areas. The Port shall provide Ecology with the results of the investigation (in the form of a technical memo) so that a determination can be made with regard to whether additional investigation is required to define the full extent and magnitude of contamination. The information provided to Ecology should describe the analytical results of the field activities including the identification of indicator hazardous substances, the affected media, preliminary cleanup levels, the extent of contamination (plotted on maps), and any data gaps that need to be filled to define the extent and magnitude of contamination and toxic effects. Additional field investigation (if necessary based on initial results) will be conducted to further define the extent and magnitude of contamination and toxic effects based on findings during the initial investigation.

g. FS Approach

This section of the RI/FS Work Plan shall provide an overview of the methods that will be used in conducting the FS for the North Marina West End Site. The FS approach shall be consistent with WAC 173-340-350 and should consist of the following sections:

- (i) **Establishment of Cleanup Levels, Points of Compliance, and Remediation Levels.** Unless otherwise specified under this Order, cleanup levels and points of compliance should be established for each hazardous substance in each medium and for each exposure pathway. The Port may also consider establishing potential remediation levels as defined per WAC 173-340-355.
- (ii) **Applicable or Relevant and Appropriate Requirements.** The FS should include additional information or analyses to comply with the State Environmental Policy Act (SEPA) or other applicable laws to make a threshold determination per WAC 197-11-335(1) or to integrate the RI/FS with an environmental impact statement per WAC 197-11-262.
- (iii) **Delineation of Media Requiring Remedial Action.** Based on the results of the RI, determine areas and/or volumes of affected media to which remedial action objectives might be applied.
- (iv) **Development of Remedial Action Objectives.** Remedial Action Objectives should provide general descriptions of what the Site cleanup is designed to accomplish, which is media-specific. Remedial action objectives are established on the basis of extent and magnitude of the contamination, the resources that are currently and potentially threatened, and the potential for human and ecological (both terrestrial and aquatic) exposures at the Site. Clearly define a basis and rationale for Remedial Action Objectives for each media at the Site.
- (v) **Screening and Evaluation of Cleanup Action Alternatives.** A reasonable number and type of cleanup action alternatives should be evaluated, taking into account the characteristics and complexity of the Site, including current site conditions and physical constraints. Evaluation of cleanup action alternatives and the selection of preferred cleanup alternative must meet the requirements of WAC 173-340-360.
- (vi) **Habitat Restoration.** Evaluate opportunities to perform remedial actions in a fashion that coincidentally enhances habitat. Elements of the remedial action will be evaluated for restoration opportunities in consultation with Ecology as plans for cleanup are developed.²

² The Site is being overseen by Ecology and work is being done in an expedited manner under the Governor's Puget Sound Initiative. The Initiative focuses on cleaning up contamination as well as restoring Puget Sound. Ecology recognizes that many cleanups can be designed and implemented in a manner that improves habitat values and provides for shoreline restoration in conjunction with remedial actions. However, because of current and future land use, it is unlikely that meaningful habitat restoration opportunities exist at the Site. Therefore, evaluation of restoration opportunities will not constitute a significant part of the FS process.

h. Public Involvement

This section of the RI/FS Work Plan shall present the general process for public involvement (in accordance with WAC 173-340-600) along with a reference to the Public Participation Plan presented in this Order as Exhibit D.

i. Project Management

This section of the RI/FS work plan will discuss project staffing and coordination associated with the RI/FS activities for the North Marina West End Site. The organizational structure and responsibilities are designed to provide project control and quality assurance for the duration of the project.

j. Schedule & Reporting

This section should contain the schedule and reporting requirements for the RI/FS project as defined in this Order.

3. Prepare Draft RI/FS Report

A first draft, second draft, draft final, and final RI/FS report that meets the requirements of WAC 173-340-350 shall be prepared. The RI/FS report shall contain the results of the RI and will provide information regarding the full extent and magnitude of soil, groundwater, surface water, and/or adjacent marine sediment contamination including toxic effects. The FS portion of the report will present and evaluate cleanup action alternatives to address the identified contamination at the Site. Based on the evaluation of alternatives (WAC 173 340-350(8)), the FS will identify a preferred cleanup action alternative for the Site in compliance with WAC 173-340-360.

4. Develop A Draft Cleanup Action Plan (CAP)

Upon Ecology approval of the draft final RI/FS report, the Port shall prepare a draft and draft final CAP in accordance with WAC 173-340-380 and 173-204-580 that provides proposed cleanup action alternatives to address potential contamination at all impacted

media in both upland and in-water areas (i.e., adjacent marine sediment) based on the results of RI/FS. The draft CAP shall include a general description of the proposed cleanup actions along with following sections:

- A general description of the proposed cleanup action alternatives and rationale for selection including results of any remedial technology pilot studies if necessary.
- A summary of other cleanup action alternatives evaluated in the RI/FS.
- A summary of applicable local, state, and federal laws pertinent to the proposed cleanup actions.
- Cleanup standards and rationale regarding their selection for each hazardous substance and for each medium of concern at the Site based on the results of the RI/FS.
- Descriptions of any institutional/engineering controls if proposed.
- A schedule for implementation of field construction work.

B. Schedule

The Port shall perform the actions required by this Order according to the schedule below.

1. Interim Remedial Action Report

- Draft Document – The draft Interim Remedial Action Report shall be due 50 calendar days after finalization of this Order. The draft document will then undergo a 30-day review period by Ecology.
- Draft Final Document – The draft final Interim Remedial Action Report shall address any comments/suggestions submitted by Ecology. The draft final Interim Remedial Action Report shall be due 30 days after Ecology provides its comments. The draft final version will undergo a 20-day review period by Ecology.
- Final Document – The final Interim Remedial Action Report shall address comments/suggestions submitted by Ecology. The final Interim Remedial Action Report shall be due 20 days after Ecology provides its comments.

2. RI/FS Work Plan Submittal

- Draft Document – The draft RI/FS Work Plan shall be due 80 calendar days after finalization of this Order. The draft Work Plan will then undergo a 30-day review period by Ecology.

- Draft Final Document – The draft final RI/FS Work Plan shall address any comments/suggestions submitted by Ecology. The draft final RI/FS Work Plan shall be due 30 days after Ecology provides its comments. The draft final version will undergo a 20-day review period by Ecology.
- Final Document – The final RI/FS Work Plan shall address comments/suggestions submitted by Ecology. The final RI/FS Work Plan shall be due 20 days after Ecology provides its comments.

3. Field RI/FS

- Field RI/FS – RI field activities shall be commenced within 30 days of submittal of the final RI/FS work plan to Ecology. The field RI results should be provided to Ecology 30 calendar days after the validation of all RI/FS analytical data.
- Additional field RI activities (if needed) – These additional field RI activities would be to adequately delineate the extent and magnitude of contamination at the Site. The scope, schedule and submittal requirements for additional field RI activities shall be developed by the Port, and shall be submitted to Ecology for review and concurrence.

4. RI/FS Report Submittal

- 1st Draft RI/FS Report – The first draft RI/FS report shall be due to Ecology 120 calendar days after receipt of all analytical data collected during the RI/FS. This draft will then undergo a 30-day review period by Ecology.
- 2nd Draft RI/FS Report – The second draft RI/FS report shall be due to Ecology 60 calendar days after receipt of Ecology comments on the 1st draft RI/FS report. This draft will then undergo a 30-day review period by Ecology.
- Draft Final RI/FS Report – The draft final RI/FS report shall be due 15 days after receipt of Ecology comments on the 2nd draft RI/FS report. This draft final RI/FS report will then go to a 30-day public comment period.
- Final RI/FS Report – The final RI/FS report shall be submitted to Ecology 30 days after Ecology's completion of the responsiveness summary to public comment on the draft final RI/FS report.
- Environmental Data Submittals – All sampling data (including all historic data described in Attachment A of this Agreed Order) shall be submitted to Ecology in both printed and electronic formats in accordance with Ecology's Toxics Cleanup Program Policy 840 (Data Submittal Requirements) and/or any subsequent procedures specified by Ecology for data submittal. Policy 840 is presented in Exhibit C of this Agreed order. Data shall be supplied to Ecology in electronic format (i.e., EIM and SEDQUAL) 30 days following the completion of the Draft Final RI/FS Report.

5. Cleanup Action Plan (CAP) Submittal

- Draft CAP – The draft CAP shall be submitted to Ecology 30 days after the draft final RI/FS Report is finalized and ready for public comment. This draft CAP will then undergo a 30-day review period by Ecology.
- Draft Final CAP – The draft final CAP shall address comments/suggestions submitted by Ecology on the draft CAP. This draft final CAP shall be due 15 days after submittal of Ecology comments of the draft CAP.

EXHIBIT C

ECOLOGY POLICY 840 – DATA SUBMITTAL REQUIREMENTS



Toxics Cleanup Program Policy

Policy 840

Resource Contact: Policy and Technical Support Staff *Effective:* August 1, 2005

References: WAC 173-340-840(5)

Revised: September 9, 2005

<http://www.ecy.wa.gov/eim/>

<http://www.ecy.wa.gov/programs/tcp/smu/sedqualfirst.htm>

<http://www.ecy.wa.gov/biblio/0309043.html>

Replaces: Procedure 840

Policy 840: Data Submittal Requirements

Purpose: Contaminated site investigations and cleanups generate a large volume of environmental monitoring data that need to be properly managed to facilitate regulatory decisions and access to this data by site owners, consultants, and the general public. The purpose of this policy is to describe the requirements for submitting environmental monitoring data generated/collected during the investigation and cleanup of contaminated sites under the Model Toxics Control Act (MTCA) and the Sediment Management Standards.

Application: This policy applies to Ecology staff, potentially liable parties, prospective purchasers, state and local agencies, and Ecology contractors that investigate or manage the cleanup of contaminated sites.

1. Unless Otherwise Specified by Ecology, all Environmental Monitoring Data Generated during Contaminated Site Investigations and Cleanups shall be Required to be Submitted to Ecology in both a Written and Electronic Format.

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

Data generated/collected during site investigations and cleanups conducted under an order, agreed order or consent decree, permit, grant, loan, contract, interagency agreement, memorandum of understanding or during an independent remedial action, are considered environmental monitoring data under this policy.

Data generated/collected for non site-specific studies, site hazard assessments that result in no further action and initial site investigations are not considered environmental monitoring data under this policy.

2. Orders, Agreed Orders, Consent Decrees, or Permits Issued After the Effective Date of this Policy Shall Include a Condition that Site-Specific Data be Submitted in Compliance with this Policy.

Reports on such work that do not include documentation that the data have been submitted in compliance with this policy shall be deemed incomplete and a notice of such provided to the

submitter. These reports generally should not be reviewed until that information is provided. The assistant attorney general assigned to the site should be consulted in these situations.

3. Reports on Independent Remedial Actions Submitted for Review After October 1, 2005, Under Ecology's Voluntary Cleanup Program Shall Not be Reviewed Until the Data Have Been Submitted in Compliance with this Policy.

Such reports shall be deemed incomplete, and a notice to this effect provided to the submitter.

4. Grants, Contracts, Interagency Agreements or Memoranda of Understanding Issued After the Effective Date of this Policy Shall Include a Condition that Site-Specific Data be Submitted in Compliance with this Policy.

Reports on such work shall not be accepted as complete until the data have been submitted in compliance with this policy. If a payment or transfer of funds is involved in the transaction, the relevant payment or transfer shall be withheld until this requirement has been met.

Example language to include in these documents is attached in Appendix A.

5. Data Generated During Upland Investigations and Cleanups Shall be Submitted Electronically Using Ecology's Environmental Information Management System (EIM).

EIM is Ecology's main database for environmental monitoring data. Proper submission of data through this system meets the requirement of submitting such data in an electronic format. Electronic data shall be submitted to Ecology simultaneously with the accompanying printed report.

Additional information on EIM, including instructions for data submittal, can be found on Ecology's EIM web site at <http://www.ecy.wa.gov/eim/>. TCP's EIM Coordinator also is available for technical assistance to site managers and consultants using EIM.

6. Data Submitted Electronically Using EIM Shall be Checked by the Toxics Cleanup Program's EIM Coordinator Prior to Loading the Data into EIM.

Normally, notice that data have been submitted through EIM will come to TCP's EIM Coordinator. Upon receipt of such a notice the EIM Coordinator should notify the site manager. Similarly, if the Ecology site manager receives a notice of an EIM submittal, they should notify TCP's EIM Coordinator. Upon receipt of the data, TCP's EIM Coordinator reviews the submittal for quality control and officially loads the data into the system.

7. Data Generated During Sediment Investigations and Cleanups shall be Submitted Electronically Using Ecology's Sediment Quality Information System (SEDQUAL).

SEDQUAL is Ecology's data management system for sediment-related data. Proper submission of data through this system meets the requirement of submitting such data in an electronic format. Electronic data shall be submitted to Ecology simultaneously with the accompanying printed report.

8. Sediment Sampling Data Shall be Submitted to Ecology Using the SEDQUAL Data Entry Templates.

At a minimum, the following SEDQUAL data entry templates must be completed:

1. **Reference & Bibliography:** Describes lab reports and publications that relate to the data being entered;
2. **Survey:** Sample number;
3. **Station:** Specifies geographic location of the sediment sample. Sample latitude/longitude coordinates must be entered using the North American Datum of 1983 in U.S. Survey feet (NAD 83, U.S. feet);
4. **Sample:** Describes sample characteristics such as depth; and
5. **Sediment Chemistry:** Reports chemical concentration data in dry weight units.

The following additional templates must also be completed where these measurements/observations have been made:

1. **Bioassay:** Bioassay test results;
2. **Bioassay Control:** Bioassay control test results;
3. **Benthic Infauna:** Species abundance & diversity;
4. **Tissue:** Describes the organism collected;
5. **Bioaccumulation:** Reports tissue chemical concentrations; and
6. **Histopathology:** Reports tissue pathology such as tumors or lesions.

9. Electronic Data Formats Shall be Verified to be Compatible with SEDQUAL Prior to Submittal.

Because SEDQUAL uses ASCII protocol and comma delimited text files, data format verification shall be conducted prior to submittal to Ecology. Data shall be verified by downloading the SEDQUAL database, importing the data into the database, correcting errors, and then exporting the corrected templates.

For additional information on sediment sampling and analysis plan requirements, see Ecology publication 03-09-043 "Sediment Sampling and Analysis Plan Appendix", April, 2003. A copy of this document can be obtained from Ecology's publication office or downloaded from the following web site: <http://www.ecy.wa.gov/biblio/0309043.html>

Additional information on SEDQUAL can be found at:

<http://www.ecy.wa.gov/programs/tcp/smu/sedqualfirst.htm>. ICP's SEDQUAL Coordinator is also available for technical assistance to site managers and consultants using SEDQUAL.

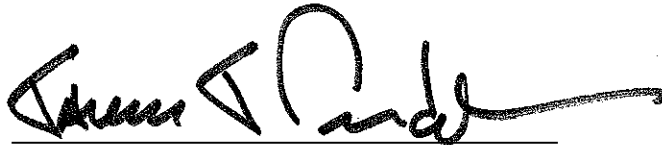
10. Sediment Sampling Data Shall Also be Submitted to Ecology in a Printed Report.

Printed reports shall present the data in both dry weight and total organic carbon normalized units in data tables that compare the results to applicable state regulatory criteria.

11. Data Submitted Electronically Using SEDQUAL Shall be Checked by the Toxics Cleanup Program's SEDQUAL Coordinator Prior to Loading the Data into SEDQUAL.

Normally, SEDQUAL data submittals will come to TCP's SEDQUAL Coordinator. Upon receipt of a submittal, the Coordinator should notify the site manager. Similarly, if the Ecology site manager receives a SEDQUAL submittal, they should notify TCP's SEDQUAL Coordinator. Upon receipt of the data, TCP's SEDQUAL Coordinator reviews the submittal for quality control and officially loads the data into the system.

Approved



James J. Pendowski, Program Manager
Toxics Cleanup Program

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

APPENDIX A: MODEL GRANT AND PERMIT CONDITION

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

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

EXHIBIT D

PUBLIC PARTICIPATION PLAN

Site Cleanup:

NORTH MARINA WEST END SITE

11th Street - 14th Street west of
West Marine View Drive
Everett, Washington

DRAFT PUBLIC PARTICIPATION PLAN

Prepared by:

Washington State Department of Ecology



May 2008

This plan is for you!

This public participation plan is prepared for the Port of Everett's North Marina West End Site cleanup as part of the requirement of the Model Toxics Control Act (MTCA). The plan provides information about MTCA cleanup actions and requirements for public involvement, and identifies how Ecology and the Port will support public involvement throughout the cleanup. The plan is intended to encourage coordinated and effective public involvement tailored to the community's needs around the North Marina West End Site.

For additional copies of this document, please contact:

Washington State Department of Ecology
Andy Kallus, Site Manager
Toxics Cleanup Program
PO Box 47600
Olympia, WA 98504-7600
(360) 407-7259
Email: akal461@ecy.wa.gov

If you need this publication in an alternate format, please call the Toxics Cleanup Program at (360) 407-7170. Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call (877) 833-6341 (TTY).

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1.0: Introduction and Overview of the Public Participation Plan

This Public Participation Plan explains how you can become involved in improving the health of your community. It describes public participation opportunities that will be conducted during cleanup of a site on the Everett waterfront – the North Marina West End Site (Site). These opportunities are part of a cooperative agreement between the Washington State Department of Ecology (Ecology) and the Port of Everett (Port). The current agreement, called an Agreed Order, is a legal document in which the Port and Ecology agree to decide on cleanup actions for the North Marina West End Site. The Port has completed significant investigation and cleanup of this Site as part of a larger North Marina Redevelopment project known as Port Gardner Wharf. Ecology is working with the Port to complete this investigation and cleanup. The Site is generally located between 11th and 14th Streets off West Marine View Drive, on Port Gardner Bay, Everett, Washington.

Cleanup actions and the public participation process that helps guide them are established in Washington's Model Toxics Control Act (MTCA).¹ Under MTCA, Ecology is responsible for providing timely information and meaningful chances for the public to learn about and comment on important cleanup decisions before they are made. The goals of the public participation process are:

- To promote understanding of the cleanup process so that the public has the necessary information to participate.
- To encourage involvement through a variety of public participation opportunities.

This Public Participation Plan provides a framework for open dialogue about the cleanup among community members, Ecology, cleanup site owners, and other interested parties. It outlines basic MTCA requirements for community involvement activities that will help ensure that this exchange of information takes place during the investigation and cleanup, which include:

- Notifying the public about available reports and studies about the Site.
- Notifying the public about review and comment opportunities during specific phases of the cleanup investigation.

¹ The Model Toxics Control Act (MTCA) is the hazardous waste cleanup law for the State of Washington. The full text of the law can be found in Revised Code of Washington (RCW), Chapter 70.105D. The legal requirements and criteria for public notice and participation during MTCA cleanup investigations can be found in Washington Administrative Code (WAC), Section 173-340-600.

- Providing appropriate public participation opportunities such as fact sheets to learn about cleanup documents, and if community interest exists, holding meetings to solicit input and identify community concerns.
- Considering public comments received during public comment periods.

In addition to these basic requirements, the plan may include additional site-specific activities to meet the needs of your community. Based upon the type of the proposed cleanup action, the level of public concern, and the risks posed by the Site, Ecology may decide that additional public involvement opportunities are appropriate. The Port also keeps the community informed through newsletters and its website, which provides progress on waterfront cleanup.

These opportunities form the basis for the public participation process. The intent of this plan is to:

- Provide complete and current information to all interested parties.
- Let you know when there are opportunities to provide input.
- Listen to concerns.
- Address those concerns.

Part of the Puget Sound Initiative

North Marina West End is one of several sites in the Everett area and is part of a larger cleanup effort called the Puget Sound Initiative (PSI). Governor Chris Gregoire and the Washington State Legislature authorized the PSI as a regional approach to protect and restore Puget Sound. The PSI includes cleaning up 50-60 contaminated sites within one-half mile of the Sound. These sites are grouped in several bays around the Sound for “baywide” cleanup efforts. As other sites in the Everett baywide area move forward into investigation and cleanup, information about them will be provided to the community as well as to interested people and groups.

Roles and Responsibilities

Ecology will lead public involvement activities, with support from the Port. Ecology maintains overall responsibility and approval authority for the activities outlined in this plan. The Port is responsible for cleanup at this site. Ecology will ultimately oversee all cleanup activities, and ensure that contamination on this site is cleaned up to concentrations that are established in state regulations and that protect human health and the environment.

Organization of this Public Participation Plan

The sections that follow in this plan provide:

- Section 2: Background information about the North Marina West End Site.
- Section 3: An overview of the local community that this plan is intended to engage.
- Section 4: Public involvement opportunities in this cleanup.

This Public Participation Plan addresses current conditions at the Site, but it is intended to be a dynamic working document that will be reviewed at each phase of the cleanup, and updated as needed. Ecology and the Port urge the public to become involved in the cleanup process.

2.0: Site Background

Site Description and Location

The North Marina West End Site is located generally between 11th and 14th Streets west of West Marine View Drive, in Everett, Snohomish County, Washington (see Figures 1 and 2). It is southwest of the Legion Memorial Golf Course and the American Legion Memorial Park. The upland portion of the Site is about 17 acres in size, and the in-water portion is about 10 acres. It is bounded on three sides by Port Gardner Bay, and on the east by additional Marina property, Burlington Northern Railroad, and West Marine View Drive.

The City of Everett Comprehensive Plan land use map² indicates that the Site is zoned waterfront commercial. Zoning to the north is parks/open space and maritime services (industrial), zoning to the east is residential, and to the west includes open water and parks (Jetty Island). As noted earlier, a master redevelopment plan for the area is in implementation, and will be subject to completion after the cleanup is complete.

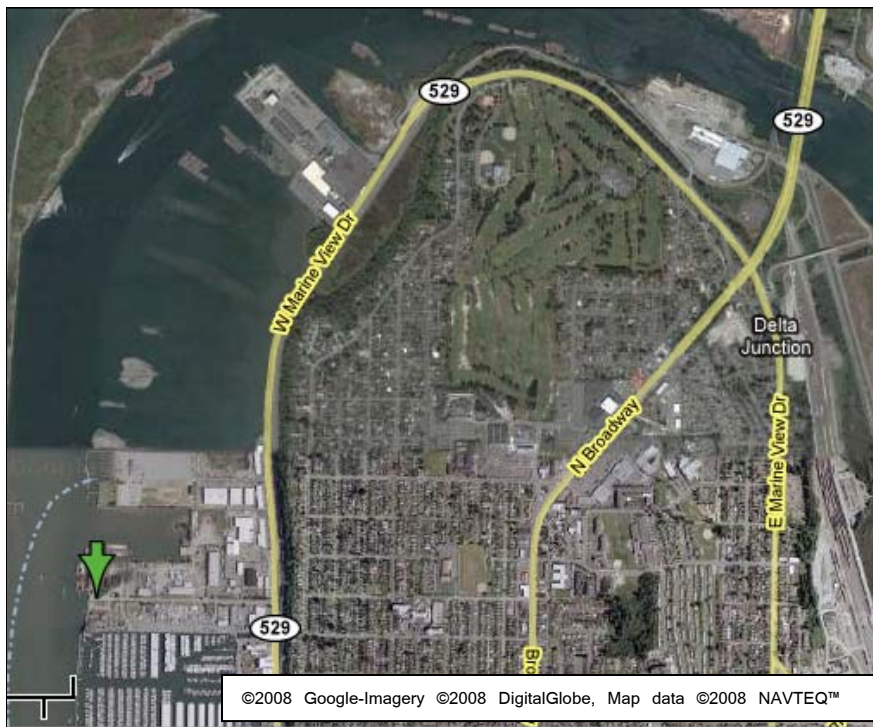


Figure 1: The North Marina West End Site, shown in the above map with an arrow, is generally located between 11th and 14th Streets, west of West Marine View Drive, Everett, WA, in Snohomish County, on Port Gardner Bay.

² Planning and Community Development, City of Everett, WA
http://www.everettwa.org/Get_PDF.aspx?pdfID=339 (Accessed January 25, 2008)



Figure 2: A larger view of the North Marina West End Site, shown in the above photo with a dotted line.

General Site History and Contaminants

Since the early 1900s, the North Marina West End Site has been used for commercial, marine, and general industrial purposes. Uses included trucking and construction activities, such as welding, pile driving, sandblasting, creosote log storage, and painting. In addition, there were a number of petroleum product storage tanks for diesel fuel, gasoline, waste and heating oil.

The results of several environmental studies showed contamination from these uses in soil, water, and sediment. This contamination includes:

- Polycyclic aromatic hydrocarbons (PAHs) in soil.
- One PAH (acenaphthene) in sediment.
- Petroleum hydrocarbons in soil and groundwater.
- Vinyl chloride in groundwater.
- Metals, including arsenic, copper, lead, mercury, and zinc, in soil.
- Metals including arsenic and copper in groundwater.

The Port has conducted interim actions to clean up much of the contaminated soil and groundwater identified during these previous environmental studies. Further investigation will be done to fully characterize the contamination at the North Marina West End Site, which will guide final cleanup to appropriate cleanup standards for the

Port's intended new uses. More information about the Port's redevelopment plans can be found at the following website: <http://www.portofeverett.com/home/index.asp?page=71>.

The Cleanup Process

Washington State's cleanup process and key opportunities for you to provide input are outlined in Figure 3. The general cleanup process includes the following steps:

- Remedial investigation (RI) - investigates the Site for types, locations, and amounts of contaminants.
- Feasibility study (FS) - identifies cleanup options for those contaminants.
- Cleanup action plan (CAP) – selects the preferred cleanup option and explains how cleanup will be conducted.

Each of these steps will be documented in reports and plans that will be available for public review. Public comment periods of at least 30 calendar days are usually conducted for the following documents:

- Draft RI report.
- Draft FS report.
- Draft CAP.

These cleanup steps and documents are described in greater detail in the following subsections.

Interim Actions

Interim actions may be conducted during the cleanup if required by Ecology. An interim action partially addresses the cleanup of a site, and may be required if:

- It is technically necessary to reduce a significant threat to human health or the environment.
- It corrects a problem that may become substantially worse or cost substantially more to fix if delayed.
- It is needed to complete another cleanup activity, such as design of a cleanup plan.

Interim actions beyond those already implemented are not currently anticipated on the North Marina West End Site under this Agreed Order.

Remedial Investigation/Feasibility Study Report

The Port has agreed to conduct an RI/FS on the Site. The RI determines which contaminants are on the Site, where they are located, and whether there is a significant threat to human health or the environment. The draft RI report provides baseline data about environmental conditions that will be used to develop cleanup options. The FS and report then identify and evaluate cleanup options, in preparation for the next step in the process.

The RI and FS processes typically include several phases:

- Scoping
- Site characterization
- Development and screening of cleanup alternatives
- Treatability investigations (if necessary to support decisions)
- Detailed analysis

The RI and FS reports are expected to be combined into a draft North Marina West End Site RI/FS report. The draft report is anticipated to be completed in winter 2008 and will be made available for public review and comment.

Cleanup Action Plan

The Port and Ecology have agreed to develop a CAP for the Site. After public comment on the draft RI/FS report, a preferred cleanup alternative will be selected. The draft CAP explains the cleanup standards that will be applied at the Site, selects the preferred cleanup alternative(s), and outlines the work to be performed during the actual site remediation. The CAP may also evaluate the completeness and effectiveness of any interim actions that were performed on the Site. The draft CAP will be available for public review and comment. Once public comments are reviewed and any changes are made, Ecology provides final approval and site cleanup can begin. Cleanup is anticipated to be completed in Spring 2011.

3.0: Community Profile

Community Profile

Everett is Snohomish County's largest city and the sixth largest city in the State of Washington. The current population of Everett is approximately 98,000³ situated within 47.7 square miles. Located on Port Gardner Bay, Everett hosts the West Coast's largest public marina, the third largest container port in the state, the U.S. Navy Homeport Naval Station Everett, and The Boeing Company's assembly plant. The city's 2006 labor workforce was more than 80,000, predominantly employed in technology, aerospace, and service-based industries.⁴

Key Community Concerns

An important part of the Public Participation Plan is to identify key community concerns for each cleanup site. The North Marina West End Site is located near a residential area and is slated for mixed residential and commercial development. The proximity of the community to the Site may raise questions about how daily life and the future of the community may be affected during and after cleanup of the Site.

Many factors may contribute to community questions, such as the amount of contamination, how the contamination will be cleaned up, or future use of the Site. Community concerns often change over time, as new information is learned and questions are answered. Identifying site-specific community concerns at each stage of the cleanup process is helpful to ensure that they are adequately addressed. On-going key community concerns will be identified for the North Marina West End Site through public comments and other opportunities as outlined in Section 4.

³ US Census Bureau, City & Towns Estimates Data for July 1, 2006.
<http://www.census.gov/popest/estimates.php> (Accessed September 12, 2007)

⁴ City of Everett. <http://www.everettwa.org/default.aspx?ID=314> (Accessed September 12, 2007)

4.0: Public Participation Opportunities

Ecology and the Port invite you to share your comments and participate in the cleanup in your community. As we work to meet our goals, we will evaluate whether this public participation process is successful. This section describes the public participation opportunities for this site.

Measuring Success

We want this public participation process to succeed. Success can be measured, at least in part, in the following ways:

- Number of written comments submitted that reflect understanding of the cleanup process and the Site.
- Direct “in-person” feedback about the Site cleanup or public participation processes, if public meetings are held.
- Periodic updates to this plan to reflect community concerns and responses.

If we are successful, this process will increase:

- Community awareness about plans for cleanup and opportunities for public involvement.
- Public participation throughout the cleanup.
- Community understanding regarding how their input will be considered in the decision-making process.

Activities and Information Sources

Ecology Contacts

Ecology is the lead contact for questions about the cleanup in your community. The Ecology staff person identified in this section is familiar with the cleanup process and activities at the Site. For more information about public involvement or the technical aspects of the cleanup, please contact:

Andy Kallus
Ecology Site Manager
WA State Dept. of Ecology
Toxics Cleanup Program
P.O. Box 47600
Olympia, WA 98504-7600

Phone: (360) 407-7259
E-mail: akal461@ecy.wa.gov

Ecology's Webpage

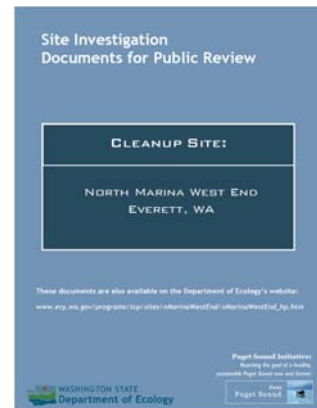
Ecology has created a webpage to provide convenient access to information. Documents such as the Agreed Order, draft reports, and cleanup plans, are posted as they are issued during the investigation and cleanup process. Visitors to the webpage can find out about public comment periods and meetings; download, print, and read information; and submit comments via e-mail. The webpage also provides links to detailed information about the MTCA cleanup process. The North Marina West End Site webpage is available at the following address:

http://www.ecy.wa.gov/programs/tcp/sites/nMarinaWestEnd/nMarinaWestEnd_hp.htm

Information Centers/Document Repositories

The most comprehensive source of information about the North Marina West End Site is the information center, or document repository. Two repositories provide access to the complete list of site-related documents. All North Marina West End investigation and cleanup activity reports will be kept in print at those two locations and will be available for your review. They can be requested on compact disk (CD) as well. Document repositories are updated before public comment periods to include the relevant documents for review. Documents remain at the repositories throughout the investigation and cleanup. For this site, the document repositories and their hours are:

- **Everett Public Library**
2702 Hoyt Ave.
Phone: (425) 257-8010
Hours: Mon.-Wed. 10 a.m.-9 p.m., Thurs.-Sat.
10 a.m.-6 p.m., Sun. 1-5 p.m.
- **WA Department of Ecology Headquarters**
300 Desmond Drive SE
Lacey, WA 98503
By appointment. Please contact Carol Dorn at
(360) 407-7224 or cesg461@ecy.wa.gov.



Look for document covers such as illustrated here.

Public Comment Periods

Public comment periods provide opportunities for you to review and comment on major documents, such as the Agreed Order, draft Public Participation Plan, and the draft RI/FS report. The typical public comment period is 30 calendar days.

Notice of Public Comment Periods

Notices for each public comment period will be provided by local newspaper and by mail. These notices indicate the timeframe and subject of the comment period, and explain how you can submit your comments. For the North Marina West End Site, newspaper notices will be posted in The Daily Herald.

Notices are also sent by regular mail to the local community and interested parties. The community typically includes all residential and business addresses within one-quarter mile of the Site, as well as potentially interested parties such as public health entities, environmental groups, and business associations.

Fact Sheets

One common format for public comment notification is the fact sheet. Like the newspaper notice, fact sheets explain the timeframe and purpose of the comment period, but also provide background and a summary of the document under review. A fact sheet has been prepared for the North Marina West End Site explaining the Agreed Order and this Public Participation Plan (See Appendix A). Future fact sheets will be prepared at key milestones in the cleanup process.

MTCA Site Register

Ecology produces an electronic newsletter called the MTCA Site Register. This semi-monthly publication provides updates of the cleanup activities occurring throughout the state, including public meeting dates, public comment periods, and cleanup-related reports. Individuals who would like to receive the MTCA Site Register can sign up three ways:

- Call (360) 407-6069
- Send an email request to ltho461@ecy.wa.gov or
- Register on-line at http://www.ecy.wa.gov/programs/tcp/pub_inv/pub_inv2.html

Mailing Lists

Ecology maintains both an e-mail and regular mail distribution list throughout the cleanup process. The list is created from carrier route delineations for addresses within one-quarter mile of the Site, potentially interested parties, public meeting sign-in sheets, and requests made in person, or by regular mail or e-mail. You may request to be on the mailing list by contacting Ecology's public involvement staff person listed earlier in this section.

Optional Public Meetings

A public meeting will be held during a comment period if requested by ten or more people, or if Ecology decides it would be useful. Public meetings provide additional opportunity to learn about the investigation or cleanup, and to enhance informed comment. If you are interested in a public meeting about the North Marina West End Site, please contact the Ecology staff listed earlier in this section.

Submitting Comments

You may submit comments by regular mail or e-mail during public comment periods to the Ecology site manager listed earlier in this section.

Response to Comments

Ecology will review all comments submitted during public comment periods, and will modify documents as necessary. You will receive notice by regular mail or e-mail that Ecology has received your comments, along with an explanation about how the comments were addressed.

Other

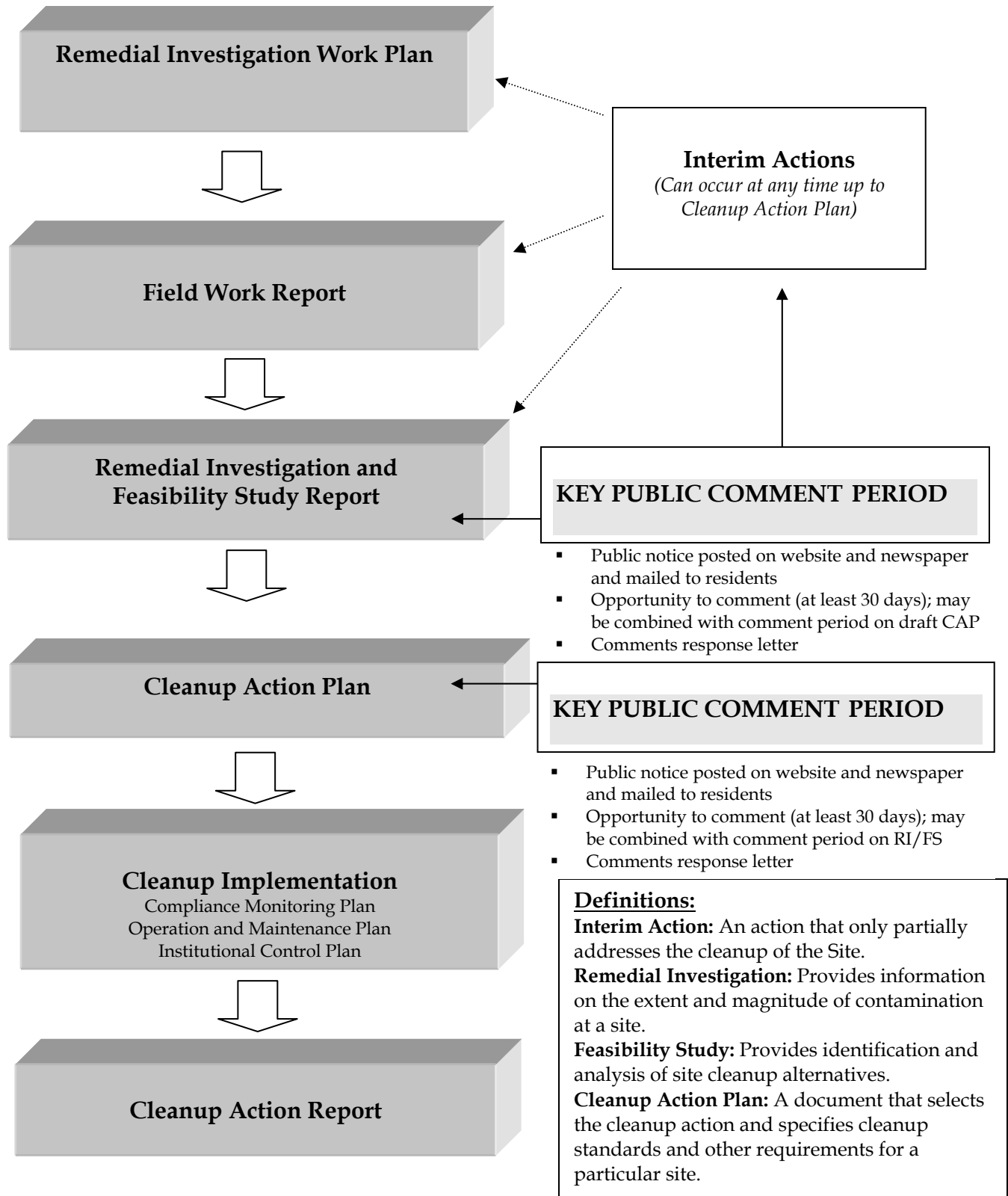
Ecology and the Port are committed to the public participation process and will consider additional means for delivering information and receiving comments, including combining public comment periods for other actions (such as those associated with the State Environmental Policy Act).

Public Participation Grants

You may be eligible to apply for a Public Participation Grant from Ecology to provide additional public participation activities. Those additional activities will not reduce the

scope of the activities defined by this plan. Activities conducted under this plan would coordinate with the additional activities defined under the grant.

Figure 3: Washington State Cleanup Process



Glossary

Cleanup: The implementation of a cleanup action or interim action.

Cleanup Action: Any remedial action except interim actions, taken at a site to eliminate, render less toxic, stabilize, contain, immobilize, isolate, treat, destroy, or remove a hazardous substance that complies with MTCA cleanup requirements, including but not limited to: complying with cleanup standards, utilizing permanent solutions to the maximum extent practicable, and including adequate monitoring to ensure the effectiveness of the cleanup action.

Cleanup Action Plan: A document that selects the cleanup action and specifies cleanup standards and other requirements for a particular site. The cleanup action plan, which follows the remedial investigation/feasibility study report, is subject to a public comment period. After completion of a comment period on the cleanup action plan, Ecology finalizes the cleanup action plan.

Cleanup Level: The concentration (or amount) of a hazardous substance in soil, water, air, or sediment that protects human health and the environment under specified exposure conditions. Cleanup levels are part of a uniform standard established in state regulations, such as MTCA.

Cleanup Process: The process for identifying, investigating, and cleaning up hazardous waste sites.

Contaminant: Any hazardous substance that does not occur naturally or occurs at greater than natural background levels.

Feasibility Study: Provides identification and analysis of site cleanup alternatives and is usually completed within a year. Evaluates sufficient site information to enable the selection of a cleanup action. The entire Remedial Investigation/Feasibility Study (RI/FS) process takes about two years and is followed by the cleanup action plan.

Hazardous Site List: A list of ranked sites that require further remedial action. These sites are published in the Site Register.

Interim Action: Any remedial action that partially addresses the cleanup of a site. It is an 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 at a facility; an action that corrects a problem that may become substantially worse or cost substantially more to address if the action is delayed; an action needed to provide for completion of a site hazard assessment, state remedial investigation/feasibility study, or design of a cleanup action.

Model Toxics Control Act: Refers to Chapter 70.105D RCW. Voters approved it in November 1988. The implementing regulation is found in Chapter 173-340 WAC.

Public Notice: At a minimum, adequate notice mailed to all persons who have made a timely request of Ecology and to persons residing in the potentially affected vicinity of the proposed action; mailed to appropriate news media; published in the local (city or county) newspaper of largest circulation; and the opportunity for interested persons to comment.

Public Participation Plan: A plan prepared under the authority of WAC 173-340-600 to encourage coordinated and effective public involvement tailored to the public's needs at a particular site.

Release: Any intentional or unintentional entry of any hazardous substance into the environment, including, but not limited to, the abandonment or disposal of containers of hazardous substances.

Remedial Action: Any action or expenditure consistent with MTCA to identify, eliminate, or minimize any threat posed by hazardous substances to human health or the environment, including any investigative and monitoring activities of any release or threatened release of a hazardous substance, and any health assessments or health effects studies conducted in order to determine the risk or potential risk to human health.

Remedial Investigation: Any remedial action that provides information on the extent and magnitude of contamination at a site. This usually takes 12 to 18 months and is followed by the feasibility study. The purpose of the Remedial Investigation/Feasibility Study is to collect and develop sufficient site information to enable the selection of a cleanup action.

North Marina West End Site Everett, Snohomish County, WA

Site Investigation Documents Ready for Public Review

A PUGET SOUND INITIATIVE site – Reaching the goal of a healthy, sustainable Puget Sound now and forever



The Department of Ecology welcomes your comments on a proposed agreement and draft Public Participation Plan for a waterfront cleanup Site.

Ecology is asking for your comments on a proposed agreement to study a Site on Puget Sound for cleanup. This Site, the Port of Everett's North Marina West End, is one of several located on the waterfront that will be studied for cleanup under the state's Puget Sound Initiative.

The North Marina West End Site is located between 11th and 14th Streets, off West Marine View Drive on Port Gardner Bay, in Everett, Snohomish County, WA. This is southwest of the Legion Memorial Golf Course, in western Everett.

Site background

Since the early 1900s, the North Marina West End Site has been used for commercial, and marine and general industrial purposes. Uses included trucking and marine construction activities such as welding, pile driving, sandblasting, creosote log storage, and painting. In addition, there were a number of storage tanks for diesel fuel, gasoline, waste- and heating oil.

The results of several environmental studies showed contamination from these uses in soil, groundwater, and sediment. This contamination includes polycyclic aromatic hydrocarbons (PAHs), petroleum hydrocarbons, vinyl chloride, and metals such as arsenic and copper. The Port has completed significant investigation and partial cleanup of this Site. Ecology is working with the Port to complete this investigation and cleanup.

The North Marina West End Site is part of the Port's larger North Marina Redevelopment project, known as Port Gardner Wharf. More information about the redevelopment can be found at the following web site:
<http://www.portofeverett.com/home/index.asp?page=71>.

Overview of the Agreed Order

The proposed agreement, called an Agreed Order, is a legal document between Ecology and the Site owner, the Port of Everett. The Agreed Order describes the additional studies that the Port agrees to perform on the Site.

The Agreed Order covers the following studies and documents:

- Remedial Investigation and Feasibility Study (RI/FS) work plan. It explains the work needed to look for and analyze contamination in soil, water, and sediment.

Ecology requests your comments from May 5 to June 3, 2008

Send comments to:

Andy Kallus, Site Manager
WA Department of Ecology
Toxics Cleanup Program
P.O. Box 47600
Olympia, WA 98504-7600
(360) 407-7259
E-mail: akal461@ecy.wa.gov

To review documents:

Everett Public Library
2702 Hoyt Avenue
Everett, WA 98201
Hours: Mon.-Wed. 10am-9pm,
Thurs.-Sat. 10am-6pm, Sun. 1-5pm

WA Department of Ecology
Headquarters
300 Desmond Drive SE
Lacey, WA 98503
By appointment only:
Contact Carol Dorn,
cesg461@ecy.wa.gov or
(360) 407-7224

Ecology web site:

http://www.ecy.wa.gov/programs/tcp/sites/nMarinaWestEnd/nMarinaWestEnd_hp.htm

Facility Site #3306834

North Marina West End Site, Snohomish County, WA

- RI/FS report. It presents the results of the study and proposes alternatives for cleanup actions.
- Cleanup Action Plan (CAP). It uses RI/FS information to identify a preferred cleanup action and a schedule to remediate the contamination.

The purpose of the Agreed Order is to protect human health and the environment. It ensures that cleanup happens in a timely manner and according to Washington State's cleanup law, the Model Toxics Control Act.

Overview of the draft Public Participation Plan

Ecology and the Port are committed to providing the public with timely information and meaningful opportunities to participate in the cleanup process. As part of this commitment, Ecology and the Port agree to provide a Public Participation Plan. This plan outlines how citizens and interested parties can learn about and provide input on the cleanup.

Your comments and ideas are needed to improve the cleanup. The Public Participation Plan explains how Ecology will do the following:

- Notify the public when and where documents are available for review and comment;
- Notify the public about how they can become involved;
- Provide public participation opportunities; and
- Consider public comments in cleanup decisions.

Protecting and restoring Puget Sound at the North Marina West End Site

Governor Chris Gregoire and the Washington State Legislature approved the Puget Sound Initiative. One of the objectives of the Initiative is to protect and restore Puget Sound, cleaning up 50-60 sites within one-half mile of the Sound. One of these is the North Marina West End Site. These cleanup actions will help to reduce pollution and restore habitat and shorelines in Puget Sound.

Other sites and activities near this Site:

- JELD-WEN Site: A wooden door plant, located at 300 West Marine View Drive (Facility Site #2757)
- Bay Wood Products Site: A former mill and log storage and processing yard, located at 200 West Marine View Drive (Facility Site #4438651)
- Everett Shipyard Site: A ship repair facility, located at 1016 14th Street (Facility Site #2794)

How to submit your comments

Ecology welcomes your comments on the proposed Agreed Order and draft Public Participation Plan May 5 through June 3, 2008. For your review, these documents can be found on the

Ecology web site and at the locations listed on the first page of this fact sheet.

For more information about public involvement or the technical aspects of the cleanup, please contact the Ecology Site Manager, Andy Kallus. Contact information can be found on the first page of this fact sheet.

Please send your comments by June 3, 2008, to Ecology's Site Manager, Andy Kallus. Comments may be sent by mail or e-mail. Please include "North Marina West End" in the subject line.

What's next?

Once the public comment period ends, Ecology will review and consider all comments that have been received. The Agreed Order and draft Public Participation Plan may be modified based upon your comments.

As future documents on the Site are developed, you will be notified of additional public comment periods.

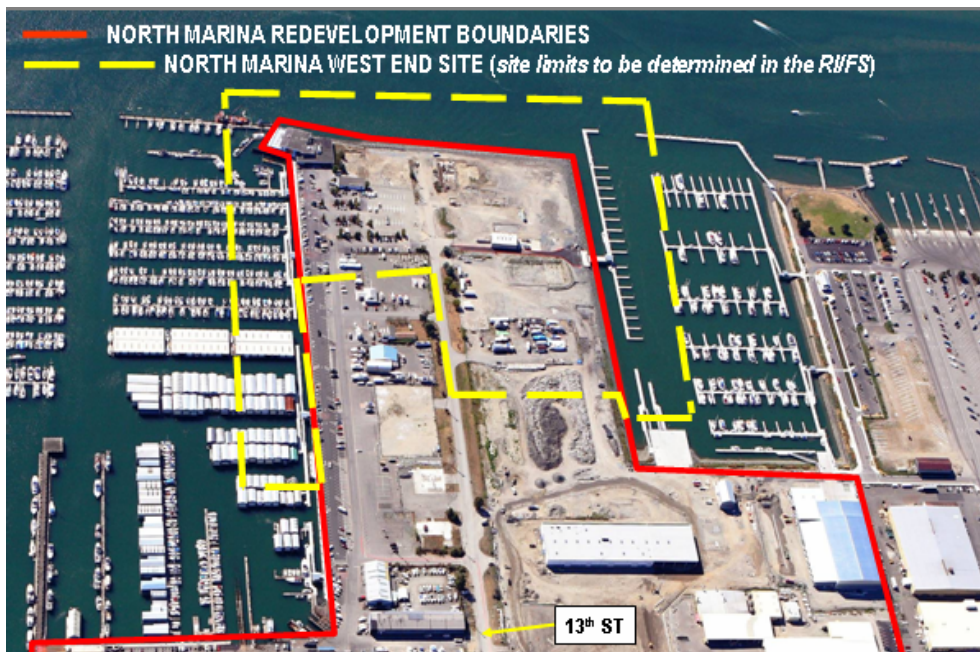
For information about other Ecology public comment periods, meetings, hearings, workshops, and open houses, please visit Ecology's public events calendar at:

<http://apps.ecy.wa.gov/pubcalendar/calendar.asp>. Read *Frequently Asked Questions about Effective Public Commenting* at this link to learn more about the public comment process.

North Marina West End Site, Snohomish County, WA



The North Marina West End Site, shown in the above map with an arrow, is located generally between 11th and 14th Streets, off of West Marine View Drive, on Port Gardner Bay, Everett, WA.



The North Marina West End Site, shown in the above photo with a dotted line, is part of a larger redevelopment effort of the North Marina.

**North Marina West End Site,
Everett, Snohomish County, WA**

*Ecology Seeks Public Comment
on Draft Documents*

Public Comment Period
May 5 to June 3, 2008



Department of Ecology
Toxics Cleanup Program
PO Box 47600
Olympia, WA 98504-7600

ATTACHMENT A

PREVIOUS INVESTIGATION RESULTS (AREAS D, E, F,
AND H)

ATTACHMENT A

PREVIOUS INVESTIGATION RESULTS (AREAS D, E, F, AND H)

The information contained in this Attachment relates to assessments/investigations concerning Investigation Areas D, E, F, and H and contamination found in media at the North Marina West End Site. The information in this Attachment was taken from the following reports:

- *Phase I Environmental Site Assessment (ESA). North Marina Redevelopment Project.* Prepared by Landau Associates for the Port of Everett (November 28, 2001).
- *Phase II Environmental Site Assessment (ESA). North Marina Area. Port of Everett. Everett, Washington.* Prepared by Landau Associates for the Port of Everett (April 13, 2004).
- *Data Report. Sediment Quality Investigation. Port of Everett. North Marina Area. Everett, Washington.* Prepared by Landau Associates for the Port of Everett (November 3, 2004).
- *Ecology Review Draft Data Gaps Investigation. North Marina Redevelopment Site. Everett, Washington.* Prepared by Landau Associates for the Port of Everett (May 13, 2005).
- *Ecology Review Draft Report Supplemental Data Gaps Investigation. North Marina Redevelopment Site. Everett, Washington.* Prepared by Landau Associates for the Port of Everett (February 28, 2006).
- *Cleanup Action Plan North Marina Redevelopment Site. Everett, Washington.* Prepared by Landau Associates for the Port of Everett (September 25, 2006).
- *West End Cleanup Action Plan. North Marina Redevelopment Site. Everett, Washington.* Prepared by Landau Associates for the Port of Everett (July 6, 2007).

INFORMATION ON INVESTIGATION AREAS D, E, F, AND H

Investigation Area D – Investigation Area D consists of the American Construction Co., Inc. (ACC) leasehold (located at 411 13th Street). ACC specialized in pile driving, dredging, and marine construction activities. ACC operated at this location for approximately 50 years. Historical and current maritime construction activities on the ACC leasehold included, among other things, sandblasting, painting, and storage of creosote-treated timbers. Three on-site above-ground storage tanks (ASTs) were used for diesel (5,000-gal.), gasoline (5,000-gal.), and waste oil storage (500-gal.). These ASTs have not been reported as leaking. A number of potential sources of spills and/or releases of hazardous substances were noted during the Phase I ESA including the following which are associated with ACC's operations:

- *North Storage Yard:* Numerous creosote-coated poles, scrap timbers, and stains on the ground near ASTs were noted.
- *South Storage Yard:* Some stains on the ground surface were noted.
- *East Property Fence:* Roughly 50 drums containing motor oil, used antifreeze, and hydraulic oil were noted along the east property fence.

Investigation Area E – Investigation Area E is the location of Puget Sound Truck Lines (PSTL) and Ethyl Corporation (both located at 615 13th Street). Available information indicates that two diesel underground storage tanks (USTs; both tanks were located at UST-5) and a heating oil UST (UST-5b) were located on the property (see Figure 3 of Exhibit A to the Agreed Order). PSTL also operated a diesel AST on the property following removal of the diesel USTs, but removed it prior to vacating the property. Available information from the Snohomish County Tax Assessor's office indicates that PSTL currently leases a truck terminal at 615 13th Street, Everett, Washington (Lot 13; account number 29051800209001).

The Department of Ecology's files indicate that Applied Geotechnology, Inc. (AGI) removed the two diesel fuel USTs from the site in September of 1990. The removed USTs reportedly consisted of one 10,000 gallon tank and one 4,000 gallon tank. . A report prepared by AGI, and received by the Department of Ecology (Ecology) in June 1991, indicated that the USTs were in good condition. Approximately 140 cubic yards of soil with petroleum hydrocarbon concentrations above Ecology standards were excavated during tank removal activities in September 1990. The excavated soil was treated on-site using land farm methods. After the stockpile material was sufficiently treated and verified to be acceptable, the treated soil was graded back into the site. There is no information in the Ecology file indicating the final disposition of the USTs. Also, there was no subsequent correspondence from Ecology that indicated no further action was necessary for the site.

According to an Ecology Environmental Report Tracking System (ERTS) memo dated October 8, 1992, a caller contacted Ecology and reported receiving an anonymous tip that a fuel spill had occurred on October 8, 1992 at PSTL. According to the caller, one of the shutoff valves on the diesel AST broke and approximately 30 gallons of fuel spilled on the ground. The caller stated that this type of spill was a frequent occurrence. The incident was investigated by Ecology personnel, but records do not indicate that additional action was taken.

Investigation Area F – Investigation Area F includes five properties along the north side of 13th Street. The five properties included the following: 1) Everett Engineering Building M11; 2) Port overflow parking; 3) Nugget Boat Works; 4) former JL Brooks Welding; and 5) former American Boiler Works Plant 2. These properties had been used for general industrial and marine industrial purposes. The Nugget Boat Works and JL Brooks Welding properties are located outside the North Marina West End Site and are not included as part of the Agreed Order for the North Marina West End Site (see Exhibit A, Figure 3 of this Order).

An unidentified subsurface vault or tank structure beneath Everett Engineering Building M11 (located at 731 13th Street) was identified during the Phase I ESA Site reconnaissance. The use or contents of this subsurface structure could not be ascertained. Sandblast grit residue and surface soil staining by petroleum product were also noted in some portions of Investigation Area F.

The American Boiler Works Plant 2 building footprint slightly crosses the eastern North Marina West End Site boundary (see Exhibit A, Figure 2 of this Order). American Boiler Works was used for custom steel fabrication. Stained soils were observed in the vicinity of American Boiler Works during the Phase 1 ESA. Painting and sandblasting activities occurred in Plant 2. Other potential sources of hazardous waste associated with Plant 2 (identified in the Phase I ESA) include the following:

- Paint and paint thinner were stored in 5-gallon and 55-gallon containers at Plant 2.
- Sandblast grit and paint thinners were reused onsite.
- An AST containing methyl ethyl ketone (MEK) was located outside to the west of Plant No. 2.
- Solids from used paints and thinners were placed in drums for disposal.

Investigation Area H – Investigation Area H includes a former U.S. Coast Guard station, the existing Milltown Sailing building, and current and former fuel USTs associated with the marina fuel dock. The removal of five former gasoline and diesel USTs and fuel lines occurred in 1992. About 80 yd³ of stained soil was removed from around the tank fill pipes, and was remediated by aeration. The removal of the former USTs and fuel lines and the USTs, which replaced the

closed tanks, are considered potential contaminant sources associated with historical activities in Investigation Area H.

CONTAMINANTS IN ENVIRONMENTAL MEDIA

Soil Contamination

On behalf of the Port of Everett, Landau Associates (Landau) compared soil samples it had collected during its Phase II Assessment and subsequent data gaps investigation(s) to Model Toxics Control Act (MTCA) cleanup levels (including those established under applicable state and federal laws). The cleanup standard used in this comparative analysis was based on unrestricted land use. A summary of soil cleanup level exceedances (identified as contamination) applicable to the North Marina West End Site is presented below:

- Soil contamination is present throughout much of the North Marina West End Site including Investigation Areas D, E, F, and H. Arsenic and carcinogenic polycyclic aromatic hydrocarbons (cPAHs) are broadly distributed, with more localized areas of petroleum hydrocarbon contamination.
- Arsenic and copper are the most ubiquitous metal contaminants in soil. However, lead, mercury, and zinc contamination is also present at the North Marina West End Site.
- Petroleum hydrocarbon contamination in Investigation Area D is present in the vicinity of the diesel AST located north of the maintenance shop, and in the vicinity of the used oil tank located on the south side of the storage shed. Soil contamination in the vicinity of the diesel and oil tanks consists primarily of diesel-range and motor oil-range petroleum hydrocarbons.
- Petroleum hydrocarbon contamination is present in one area of Investigation Area E. This area is located downgradient of the former USTs associated with the PSTL operation. Soil contamination in this area consists of diesel-range petroleum hydrocarbons. Also, arsenic contamination is located in the northwest and southwest corners of Investigation Area E.
- Arsenic, copper, mercury, lead, zinc, and cPAH soil contamination has been identified in Area F.

Groundwater Contamination

Landau compared groundwater samples it had collected during its Phase II Assessment and subsequent data gaps investigation(s) to MTCA cleanup levels (including those established under applicable state and federal laws). The cleanup standard used in this comparative analysis was

based on protection of marine surface water. Groundwater contamination in the North Marina West End Site is present in the following investigation areas:

- *Investigation Area D* – The majority of the groundwater contamination was identified in the North Storage Yard where ACC operated. Constituents that exceeded cleanup levels in groundwater included arsenic, copper, and petroleum hydrocarbons in the diesel range and oil ranges.
- *Investigation Area E* – Groundwater contamination identified in Investigation Area E is located where PSTL once operated and downgradient from former USTs 5 and 5b (Enclosure 1, Figure 3). Constituents that exceeded cleanup levels in groundwater included arsenic and petroleum hydrocarbons in the diesel range.
- *Investigation Area F* – Groundwater samples collected from Investigation Area F revealed arsenic and vinyl chloride contamination.

Sediment Contamination

Landau collected sediment samples in July 2004 as part of an investigation of marine sediment quality at the North Marina Redevelopment Area. Sediment sampling results associated with this investigation were presented in the following report: *Data Report. Sediment Quality Investigation*. Port of Everett. North Marina Area. Everett, Washington. November 3, 2004.

Ecology compared sediment data collected as part of the aforementioned investigation and in the vicinity of the North Marina West End Site against the Sediment Management Standards (SMS) (Chapter 173-204 WAC), Sediment Quality Standards (SQS), and Cleanup Screening Levels (CSL). Analytical results from sediment sampling station NMA-6 showed a positive detection of one PAH (acenaphthene) above the SQS level. Sediment sampling station NMA-6 is located on the western side of the North Marina Redevelopment and downgradient of Investigation Area D. Sediment sampling results did not reveal any positive detections of any chemical above the CSL. However, Ecology noted that reporting limits associated with several semivolatile organic compounds (SVOCs) exceeded SQS and/or CSL sediment standards at sediment sampling stations NMA-4, NMA-5, and NMA-6.

The Sediment Quality Investigation conducted by the Port of Everett was limited in scope and was not intended to define the extent and magnitude of contamination at the Site. No sediment samples were collected from the 12th Street Channel, only two sediment stations (NMA-5 and NMA-6) were sampled on the west side of the marina, and only one sediment station (NMA-4)

was sampled on the south side of the marina (excluding sediment samples collected in the vicinity of Everett Shipyard). On the south side of the marina, no sediment samples were collected between sediment station NMA-4 and the sediment stations associated with Everett Shipyard (about a ¼ mile distance).