STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

In the Matter of Remedial Action by:	**FIRST AMENDMENT TO AGREED ORDER**
U.S. Oil & Refining Co. 3001 Marshall Avenue Tacoma, WA 98421	**No. DE 8914**

TO:

Andrew Troske
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3001 Marshall Ave.
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I. BACKGROUND

On May 10, 2012, the Department of Ecology (Ecology) and U.S. Oil & Refining Co. (USOR) entered into Agreed Order 8914 ("Order") to conduct a remedial investigation and focused feasibility study for the 1920 Port of Tacoma Rd. site (Site) per WAC 173-340-350 and 173-340-351. Ecology and USOR have concluded that an amendment to the Order is necessary to complete groundwater monitoring and other certain tasks that are a continuation of the Site work already completed under Agreed Order DE 8914, to complete a remedial investigation (RI) under WAC 173-340-350, and, when required, to complete a feasibility study (FS) and develop a draft Cleanup Action Plan (DCAP) per WAC 173-340-351 through 173-340-380. As such, these tasks, as described below, are added as specific deliverables under the Order, by amendment pursuant to VIII.L. Amendment of Order. These amendments do not represent a substantial change requiring additional public comment.

II. JURISDICTION

This Amendment to Agreed Order No. DE 8914 is issued pursuant to the authority of the Model Toxics Control Act (MTCA), RCW 70A.305.050(1).

III. AMENDMENTS

Agreed Order No. 8914 (Order), Section VII. WORK TO BE PERFORMED, is amended as follows:

1. Under the Table of Contents, Exhibit D (Public Participation Plan) is removed as an exhibit.

2. Under the Table of Contents, Exhibit E (Flow Chart) is added as an exhibit to the Agreed Order.

3. Under Section VII. WORK TO BE PERFORMED, Subpart B is replaced in its entirely with the following:

   B. Initial work to determine the character and extent of the release shall be performed in accordance with the Ecology approved Remedial Action Work Plan, attached as Exhibit C. USOR completed and Ecology approved an RI/FS on 4/1/2013 that reported the findings of the investigation and presented options for the remediation of the release as to cleanup of contaminated soils. A subsequent Interim Action and Monitoring Plan for contamination of soil was completed by USOR and approved by Ecology on 2/2/2015. USOR has completed implementation of the Interim Action and Monitoring Plan for contamination of soil pursuant to this Order. Each deliverable of the Remedial Action Work Plan and the Groundwater Monitoring Plan, once approved by Ecology, becomes an integral and enforceable part of this Order.

4. Under Section VII. WORK TO BE PERFORMED, the following new subparts are added:

F. Preparation and Implementation of Quarterly Groundwater Monitoring Plan

Within sixty (60) days of the effective date of this Order, USOR shall submit to Ecology for review and approval a Quarterly Groundwater Monitoring Plan that includes preliminary CULs to be used in guiding sample analysis and data comparison. The Quarterly Groundwater Monitoring Plan will be implemented sixty (60) days after Ecology approval of Quarterly Groundwater Monitoring Plan.

As shown in Exhibit E, if the Chemical of Concern (COCs) are below preliminary Cleanup Levels (CULs) for 8 (eight) consecutive quarterly groundwater monitoring events and the Remedial Investigation (RI) required under Section G show that no contamination remains above cleanup levels in all media, then Sections H and I of this amendment are not required. Quarterly groundwater monitoring events can be reduced to 4 (four) monitoring events if the conditions in Table 10.2 of the Guidance for Remediation of Petroleum Contaminated Sites (2016) are met. If, at any time, Ecology determines that

groundwater monitoring shows COCs are above CUL, Ecology will notify USOR of the requirement to complete Sections H and I this amendment.

G. Preparation of Remedial Investigation (RI)

USOR will complete a RI for the Site in accordance with WAC 173-340-350, the schedule, and all other requirements of the Order and this Amendment.

Schedule: The agency review draft RI report will be presented to Ecology no later than 90 days after the date Ecology notifies USOR of the requirement to complete the RI and if Sections H and I will be required. A public review draft RI report addressing Ecology comments will be presented to Ecology for review and approval 60 days after receipt of Ecology comments on the agency review draft RI. Following the public comment period, a final RI report will be completed including any revisions that Ecology deems necessary to address public comments.

H. Preparation of Feasibility Study (FS), if required

If the RI shows COCs above preliminary CULs, USOR will prepare a FS for the Site in accordance with WAC 173-340-351 through 173-340-357, the schedule, and all other requirements of this Amendment.

Schedule: The agency review draft FS report will be presented to Ecology 90 days after Ecology's approval of the public review draft RI. A public review draft FS report addressing Ecology comments will be presented to Ecology for review and approval 60 days after receipt of Ecology comments on the agency review draft FS. Following the public comment period, a final FS report will be completed including any revisions that Ecology deems necessary to address public comments. The RI and FS can be submitted as a combined RI/FS. A combined RI/FS must be submitted no later than 120 days after Ecology notifies USOR of the requirement to complete the RI, FS, and DCAP.

I. Preparation of Preliminary Draft Cleanup Action Plan (DCAP), if required

Based on the findings in the final RI and FS or RI/FS and approval by Ecology, USOR shall prepare and submit a preliminary DCAP in accordance with WAC 173-340-360 through 173-340-380 for Ecology's consideration in drafting a DCAP to be issued for public comment.

The preliminary DCAP shall include: (a) A general description of the cleanup action selected in accordance with WAC 173-340-350 through 173-340-390, including any model remedy; (b) A summary of the rationale for selecting the cleanup action, including any model remedy; (c) A summary of how impacts on likely vulnerable populations and overburdened communities were considered when selecting the cleanup action and developing the plan; (d) For ecology-conducted or ecology-supervised remedial actions, a brief summary of how ecology considered the following when selecting the cleanup action: (i) Public

concerns identified under WAC 173-340-600 (13) and (14); and (ii) Indian tribes' rights and interests identified under WAC 173-340-620; (e) A brief summary of the other cleanup action alternatives evaluated in the remedial investigation/feasibility study; (f) Cleanup standards and, where applicable, remediation levels, for each hazardous substance and for each environmental medium of concern at the site; (g) Any changes to the default assumptions or reasonable maximum exposure scenarios used to establish cleanup standards or to demonstrate the protectiveness of the cleanup action; (h) The schedule for implementing the cleanup action plan including, if known, the restoration time frame; (i) Any institutional controls required as part of the cleanup action; (j) Any applicable state and federal laws for the cleanup action known at this step in the cleanup process. This does not preclude subsequent identification of applicable state and federal laws; (k) A preliminary determination by ecology that the cleanup action will comply with WAC 173-340-360; and (l) If the cleanup action involves on-site containment, specification of the types, concentrations, and estimated mass of hazardous substances remaining on site and the measures that will be used to prevent migration of and exposure to the substances. Ecology may require or allow estimates of the volume of contaminated material in place of, or in addition to, estimates of the mass of hazardous substances.

Preparation of a final DCAP is not a part of this Order. Ecology intends to draft the final DCAP and to provide public notice and opportunity for comment. Ecology will issue a final Cleanup Action Plan (CAP) after review and consideration of the public comments received in accordance with WAC 173-340-380(4). The final CAP will be implemented pursuant to a subsequent agreed order, amendment, enforcement order, or consent decree.

Schedule: The preliminary DCAP shall be presented to Ecology within 120 days after the approval of the final FS or combined RI/FS. The PLPs and Ecology will endeavor to meet within 30 calendar days after the PLPs' submittal of the preliminary DCAP to review and discuss it. Ecology will endeavor to prepare the final DCAP within 120 days of the preliminary DCAP submittal by the PLPs.

J. Change in Site Conditions

If USOR learns of a significant change in conditions at the Site, including but not limited to a statistically significant increase in contaminant and/or chemical concentrations in any media, USOR, within seven (7) days of learning of the change in condition, shall notify Ecology in writing of said change and provide Ecology with any reports or records (including laboratory analyses, sampling results) relating to the change in conditions.

K. Progress Reports

USOR shall submit to Ecology written Progress Reports that describe the actions taken during the previous period to implement the requirements of this Amendment. Quarterly progress reports will be sent until the first year following the end of active construction.

All Progress Reports shall be submitted by the fifteenth (15th) day of the month in which they are due after the effective date of this Order. Unless otherwise specified by Ecology, Progress Reports and any other documents submitted pursuant to this Order shall be sent by email to Ecology's project coordinator. The Progress Reports shall include the following:

1. A list of onsite activities that have taken place during the quarter.

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

3. Description of all deviations from Section VII. WORK TO BE PERFORMED during the current period and any planned deviations in the upcoming period.

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

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

6. A list of deliverables for the upcoming quarter.

7. A summary of results and any relevant tables.

L. Additional Terms

Except where necessary to abate an emergency situation or where required by law, the USOR shall not perform any remedial actions at the Site outside those remedial actions required by this Order to address the contamination that is the subject of this Order, unless Ecology concurs, in writing, with such additional remedial actions pursuant to Section VIII.L. Amendment of Order. In the event of an emergency, or where actions are taken as required by law, USOR must notify Ecology in writing of the event and remedial action(s) planned or taken as soon as practical but no later than within twenty-four (24) hours of the discovery of the event.

Effective date of this Amendment: 11/19/2025

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Exhibit E
AO No. DE8914 Amendment 1 Flow Chart

