

**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

In the Matter of Remedial Action by:

Intalco Aluminum LLC and  
Petrogas Pacific LLC

AGREED ORDER

No. DE 24369

TO: Robyn Gross, Vice President  
Intalco Aluminum LLC  
4050 Mountain View Rd  
Ferndale, WA 98248

Peter Ledig, Senior Vice President  
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Washington, DC 20024

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## **I. INTRODUCTION**

The mutual objective of the State of Washington, Department of Ecology (Ecology) and Intalco Aluminum LLC and Petrogas Pacific LLC 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 Intalco Aluminum LLC and Petrogas Pacific LLC to develop a Remedial Investigation Work Plan, conduct a Remedial Investigation, conduct interim actions if required or agreed to by Ecology, develop a Remedial Investigation/Feasibility Study Report, and develop a Draft Cleanup Action Plan to select cleanup alternatives. 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 70A.305.050(1). This Order also satisfies the requirements of WAC 173-303-646 through -64630.

## **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. Intalco Aluminum LLC and Petrogas Pacific LLC agree to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter Intalco Aluminum LLC and Petrogas Pacific LLC's responsibility under this Order. Intalco Aluminum LLC and Petrogas Pacific LLC shall provide a copy of this Order to all agents, contractors, and subcontractors retained to perform work required by this Order, and shall ensure that all work undertaken by such agents, contractors, and subcontractors complies with this Order.

## **IV. DEFINITIONS**

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

- A. Agreed Order or Order: Refers to this Order and each of the exhibits to this Order. All exhibits are integral and enforceable parts of this Order. The terms “Agreed Order” or “Order” shall include all exhibits to this Order.
- B. Area of Concern (AOC): Refers to any area of the Facility where a release of dangerous constituents (including dangerous waste and hazardous substances) has occurred, is occurring, is suspected to have occurred, or threatens to occur.
- C. Cleanup Action Plan (CAP): Refers to the document issued by Ecology under WAC 173-340-380 that selects Facility-specific corrective measures and specifies cleanup standards (cleanup levels, points of compliance, and other requirements for the corrective measures).
- D. Cleanup Standards: Refers to the standards promulgated under RCW 70A.305.030(2)(e) and includes (1) hazardous substance concentrations (cleanup levels) that protect human health and the environment, (2) the locations at the Facility where those cleanup levels must be attained (points of compliance), and (3) additional regulatory requirements that apply to a cleanup because of the type of action and/or the location of the Facility.
- E. Corrective Action: Refers to any activities including investigations, studies, characterizations, and corrective measures, including actions taken pursuant to RCW 70A.305 and WAC 173-340, undertaken in whole or in part to fulfill the requirements of WAC 173-303-64620.
- F. Corrective Measure: Refers to any measure or action to control, prevent, or mitigate release(s) and/or potential release(s) of dangerous constituents (including dangerous waste and hazardous substances) reviewed and approved by Ecology for the Facility and set forth in a Facility-specific CAP prepared in compliance with the requirements of Chapter 173-340 WAC, including WAC 173-340-360. Corrective measures may include interim actions as defined by WAC 173-340. Interim actions will not necessarily be set forth in a Facility-specific CAP.

- G. Dangerous Constituent or Dangerous Waste Constituent: Refers to any constituent identified in WAC 173-303-9905 or 40 C.F.R. Part 264, appendix IX; any constituent that caused a waste to be listed or designated as dangerous under the provisions of Chapter 173-303 WAC; and any constituent defined as a hazardous substance under RCW 70A.305.020(13).
- H. Dangerous Waste: Refers to any solid waste designated in WAC 173-303-070 through - 100 as dangerous or extremely hazardous or mixed waste. Dangerous wastes are considered hazardous substances under RCW 70A.305.020(13).
- I. Dangerous Waste Management Facility: Used interchangeably in this document with the term "Facility."
- J. Dangerous Waste Management Unit (DWMU): Refers to a contiguous area of land on or in which dangerous waste is placed, or the largest area in which there is a significant likelihood of mixing dangerous waste constituents in the same area, as defined in WAC 173-303-040.
- K. Facility: Refers to the Intalco Aluminum LLC DWMU (i.e., triple-lined landfill; TLL) controlled by Intalco Aluminum LLC located at 4050 Mountain View Road Ferndale, Washington 98248; all property contiguous to the DWMU also controlled by Intalco Aluminum LLC and Petrogas Pacific LLC; and all property, regardless of control, affected by release(s) or threatened release(s) of hazardous substances, including dangerous wastes and dangerous constituents, at and from these areas. "Facility" also includes the definition found in RCW 70A.305.020(8).
- L. Feasibility Study (FS): Refers to the investigation and evaluation of potential corrective measures performed in accordance with the FS requirements of WAC 173-340-350, which includes the substantive requirements for a Resource Conservation and Recovery Act Corrective Measures Study, and which is undertaken in whole or in part to fulfill the corrective action requirements of WAC 173-303-64620.

- M. Parties: Refers to the State of Washington, Department of Ecology, Intalco Aluminum LLC, and Petrogas Pacific LLC (a subsidiary of AltaGas Ltd.).
- N. Permit or Permitting Requirement: Unless otherwise specified, refers to the requirements of Chapter 173-303 WAC for applying for, obtaining, maintaining, modifying, and terminating DWMU permits.
- O. Potentially Liable Person (PLP(s)): Refers to Intalco Aluminum LLC and Petrogas Pacific LLC.
- P. RCRA: Refers to the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901–6992k.
- Q. Release: Refers to any intentional or unintentional spilling, leaking, pouring, emitting, emptying, discharging, injecting, pumping, escaping, leaching, dumping, or disposing of dangerous waste or dangerous constituents into the environment. It also includes the abandonment or discarding of barrels, containers, and other receptacles containing dangerous waste or dangerous constituents, and includes the definition of “release” in RCW 70A.305.020(32).
- R. Remedial Investigation (RI): Refers to a facility-wide investigation and characterization performed in accordance with the requirements of Chapter 173-340 WAC, which includes the substantive requirements for a RCRA facility investigation, undertaken in whole or in part to fulfill the corrective action requirements of WAC 173-303-64620.
- S. Solid Waste Management Unit (SWMU): Refers to any discernible location at the Dangerous Waste Management Facility where solid wastes have been placed at any time, irrespective of whether the location was intended for the management of solid or dangerous waste. Such locations include any area at the Dangerous Waste Management Facility at which solid wastes, including spills, have been routinely and systematically released, and include regulated units as defined by Chapter 173-303 WAC.

## V. FINDINGS OF FACT

Ecology makes the following Findings of Fact, without any express or implied admissions of such facts by Intalco Aluminum LLC and Petrogas Pacific LLC:

A. Intalco Aluminum LLC is and has been an owner and operator of the Dangerous Waste Management Facility since on or about May 8, 1966. Intalco Aluminum LLC transferred ownership and control of a portion of the Facility comprising the pier and surrounding aquatic lands under lease from Washington Department of Natural Resources (WDNR) to Petrogas Pacific LLC on September 27, 2016. The associated WDNR Aquatic Lands Lease was also transferred to Petrogas Pacific LLC on September 27, 2016. Intalco Aluminum LLC further transferred ownership and control of the majority of lands surrounding the Facility to Petrogas Pacific LLC on March 25, 2025 (refer to Exhibit A).

B. Petrogas Pacific LLC is and has been the owner and operator of the pier and surrounding aquatic lands at the Dangerous Waste Management Facility since on or about September 27, 2016. On March 25, 2025, Petrogas Pacific LLC also became owner of all Facility lands except for the main smelter area, double-lined landfill (DLL), TLL, and Waste Site Impoundment Area (WSIA) (refer to Exhibit A).

C. Exhibit A depicts the current and anticipated future ownership of the Facility and location of SWMUs and DWMU. Upon anticipated real property transaction at the Facility, updated Exhibits will demonstrate the proper contemporary ownership.

D. Intalco Aluminum LLC owned and operated the Intalco Aluminum Corp Ferndale Facility as a Dangerous Waste Management Facility on or after November 19, 1980. Included at the Facility was the operation of the TLL. Operation on that date subjects facilities to RCRA permitting requirements, including interim status requirements pursuant to RCRA, 42 U.S.C. § 6925, implementing regulations thereunder, and authorized state regulations promulgated in WAC 173-303.

E. On July 16, 1980, the United States Environmental Protection Agency (EPA) published an interim final rule that made spent potliner (SPL) a listed hazardous waste with

code K088. In EPA's interim final amendment to its hazardous waste regulations on November 19, 1980, SPL was removed from the rule. On October 2, 1985, the EPA proposed another rule that would relist SPL as K088, but on October 9, 1986, the EPA published a withdrawal of proposed rule to remove SPL from the list of hazardous wastes. On September 13, 1988, the EPA published a final rule making SPL a listed hazardous waste with code K088. The EPA's September 13, 1988, final rule was effective on March 13, 1989. In April 1991, an amendment to Ecology's Dangerous Waste Regulations adding SPL as a listed dangerous waste with code K088 went into effect. Prior to EPA's 1988 listing, all SPL at the Facility was managed as non-K088 waste.

F. On August 27, 1980, Intalco Aluminum LLC notified Ecology of its dangerous waste management activities. Pursuant to the August 27, 1980, notification, Intalco Aluminum LLC was issued identification number WAD009488131 by Ecology.

G. Between 1980 and 1987, Intalco Aluminum LLC submitted to Ecology multiple Part A and Part B dangerous waste permit applications for various activities, including a waste pile storage area (later referred to as the WSIA [also known as the Closed Land Disposal Area (CLDA)]) which stored SPL, residual carbon, refractory, and other materials; a 1,000-gallon container storing state-only dangerous waste that was sold to a processor; and a 1,600-gallon tank for storing waste solvents. On February 27, 1987, Ecology granted Intalco Aluminum LLC generator status for the 1,600-gallon waste solvent tank. On April 22, 1987, Ecology issued Order DE 87-137 that granted Intalco Aluminum LLC's petition to exempt bake oven scrubber sludge, casthouse dust, and aggregate dust from being managed as dangerous waste. On June 5, 1987, Intalco Aluminum LLC submitted a Part A dangerous waste permit application stating that no permitted activities were occurring at the Facility.

H. On November 30, 1988, Intalco Aluminum LLC submitted to Ecology a revised notification with an effective date of September 13, 1988. In the notification, Intalco Aluminum LLC identified itself as managing listed K088 hazardous waste. The notification had "Generator"

and “Management Facility (TSD)” checked under the section called “Hazardous Waste Activities”. In the section called “New Regulatory Requirements”, Intalco Aluminum LLC reported “Land Filling of Spent Potlining”. In the section called “Waste Identification”, Intalco Aluminum LLC reported “Spent Potliners from Primary Aluminum Reduction Carbon Potlining (“Potliner”)”. The notification reports an “Estimated or Actual Annual Waste Quantity” of “5000” with a “Weight Code” of “T”. Although the weight codes are not specified on the notification, Ecology’s Publication Number ECY 030-31 (revised October 2018) called “Washington State Dangerous Waste Permit Application: Part A Form & Instructions” lists code “T” as the English unit of measure for “Tons”. Ecology presumes the weight code “T” from the notification is tons. More specifically, Intalco Aluminum LLC reported the following information in the notification, “Intalco is filing notification that we generate waste known as Carbon Potlining, ‘Potliner’, as specified in the September 13, 1988, Federal Register Vol. 53, No. 177. This Carbon Potlining is land filled in an RCRA designed triple lined land fill with appropriate leachate collection, monitoring wells, and leachate treatment.” The DWMU was constructed to meet full RCRA requirements; however, at the time, it was permitted only as a solid waste site by the State of Washington Department of Ecology.

I. Dated May 3, 1991, Intalco Aluminum LLC submitted a Part A permit application to Ecology requesting interim status as a Treatment, Storage, and Disposal facility (TSDF) for disposal of SPL and sludge from the on-site secondary wastewater treatment plant (SWTP) in the TLL. The Part A application stated that the TLL had a capacity of 50 acre-feet, the estimated annual quantity of spent potliner (K088) entering the TLL was 6,000 tons, and the estimated annual quantity of sludge from secondary water treatment (K088) entering the TLL was 500 tons. Figure 3 from the Part A application, titled “Past Treatment, Storage, or Disposal Facilities”, showed the CLDA (aka, WSIA) and the Former Waste Solvent Storage Tank.

J. On April 6, 1992, Intalco Aluminum LLC submitted a Part B permit application. The Part B permit application stated that the TLL had a capacity of approximately 67,000 cubic

yards and 70,350 tons. The Part B permit application stated that solid wastes generated at the Facility were land-disposed from May 1975 through April 1986 at the WSIA. The WSIA contained potline materials (ladle bricks, pot skim, wet ore, wet bath, and scrubber scale), spent potliner materials (bricks, sidewalls, and cathode blocks), cast house materials (salt cake, furnace bricks, induction furnace, and lauders and miscellaneous), paste plant materials (furnace bricks, induction furnace, and scrap paste), dust collectors materials, road sweepings, baghouse bags, scrap tires, and plant refuse materials (incinerator ash, noncombustible solid waste, and concrete slabs). The WSIA had a clay retention dike was graded to a low point at the southwest corner to accumulate runoff from the area. Intalco Aluminum LLC pumped the WSIA runoff to the Facility's water treatment system. The following Solid Waste Management Units (SWMUs) were listed in the Part B permit application: CLDA (WSIA), double-lined landfill (DLL), solid waste incinerator, aboveground storage tanks, underground storage tanks, primary wastewater treatment plant, secondary wastewater treatment plant, new construction dump, Beach I Landfill, Beach II Landfill, Closed Construction Debris Landfill, dangerous waste accumulation area, and sanitary sewage treatment lagoon. The Part B permit application stated that releases of cyanide, a hazardous constituent of spent potliner, are suspected from the CLDA (WSIA) because cyanide was detected in groundwater downgradient of the CLDA (WSIA). Cyanide was not detected upgradient of the CLDA (WSIA).

K. Intalco Aluminum LLC operated the TLL from 1986, when it was constructed, until 2011 when the landfill reached capacity. In 1990, Intalco Aluminum LLC constructed a lateral extension to the TLL, increasing the total capacity to 67,000 cubic yards, which was approximately 70,350 tons. From 1986 to 1998 and from 2007 to 2011, Intalco Aluminum LLC placed SPL into the TLL. From 1986 to 2011, Intalco Aluminum LLC placed SWTP sludge into the TLL.

L. Ecology did not issue a final TSDf permit for the TLL; therefore, the TLL operated in interim status starting on April 6, 1992 until final closure of the DWMU was completed by

Intalco Aluminum LLC in 2012 pursuant to Consent Decree No.07-2-00181-2 (discussed later) with Ecology.

M. Intalco Aluminum LLC submitted a Part B permit application modification on November 29, 2004, for the placement of remediation waste from the Beach I and Beach II Landfills into the DLL and TLL. On December 30, 2004, Ecology received an updated Part A Permit Application form for the November 29, 2004, modification. The Part A form lists the TLL as a landfill with a design capacity of 70 acre-feet. Dated July 2006, Ecology received a modification of the closure and post-closure plans, which Intalco Aluminum LLC called the "Supplemental Operations Plan and Closure/Post-Closure Plan Amendment" to provide guidelines for operations of the TLL during remediation of the Beach I and Beach II Landfills and through final closure.

N. After closure of the DLL, from 2007 to 2011, Intalco Aluminum LLC placed general solid waste from the aluminum smelting operations into the TLL. In May 2011, Intalco Aluminum LLC notified Ecology that the TLL would reach capacity by June 30, 2011. On January 18, 2011, Intalco Aluminum LLC submitted to Ecology a modification to the TLL closure and post-closure plans, which Intalco Aluminum LLC called the "Supplemental Operations Plan & Closure/Post-Closure Plan Amendment" to provide guidelines for operations of the TLL during and after final closure. On February 11, 2011, Intalco Aluminum LLC submitted to Ecology a modification to change the post-closure plan for the schedule of groundwater sample collection and reporting, and the monitoring wells to be included. Dated May 2011, Intalco Aluminum LLC submitted to Ecology the final modification to the closure and post-closure plans, which Intalco Aluminum LLC called the "Supplemental Operations Plan and Final Closure/Post-Closure Plan" to change the original TLL cover design and schedule of groundwater sample collection. Ecology approved these modifications in a July 11, 2011, letter to Intalco Aluminum LLC.

O. On July 7, 2011, Intalco Aluminum LLC began closure activities for the TLL. On November 28, 2011, Intalco Aluminum LLC completed closure activities for the TLL. On January

25, 2012, Intalco Aluminum LLC submitted to Ecology a closure certificate and closure report for the TLL. On March 29, 2012, Ecology approved Intalco Aluminum LLC's January 25, 2012, closure report and notified Intalco Aluminum LLC that once a restrictive covenant is recorded for the TLL, the post-closure period will begin. On April 13, 2012, Intalco Aluminum LLC notified Ecology that a restrictive covenant was recorded for the TLL on March 26, 2012, with the Whatcom County Assessor's Office. In a letter dated June 12, 2012, Ecology established the start of the post-closure period as January 1, 2012.

P. After closure of the TLL, all K088 generated on-site was transported and disposed of at an authorized, off-site RCRA TSDF.

Q. On April 30, 2014, Intalco Aluminum LLC submitted to Ecology a modification to the May 2011 Supplemental Operations Plan and Final Closure/Post-Closure Plan to include repair work on the TLL's leak detection system. On August 21, 2014, Intalco Aluminum LLC submitted to Ecology a modification to the May 2011 Supplemental Operations Plan and Final Closure/Post-Closure Plan to update the post-closure costs. As specified in the May 2011 post-closure plan, Intalco Aluminum LLC performed groundwater monitoring around the TLL in 2015 and 2020. Intalco Aluminum LLC also performs maintenance activities and inspections at the TLL.

R. On August 3, 2023, Ecology sent Intalco Aluminum LLC a letter requesting Intalco Aluminum LLC submit an updated Part A and Part B permit applications for the Facility. On November 27, 2024, Intalco Aluminum LLC submitted updated Part A and Part B permit applications for current dangerous waste management activities at the Facility. The Part A permit application included the Part A form. The Part B permit application included information on the following sections: general facility description; topographic map; facility location; releases from SWMUs; and the TLL post-closure plan, which includes security, inspections and maintenance, groundwater monitoring, and post-closure financial requirements.

S. Intalco Aluminum LLC constructed the TLL with a leachate collection system and a leak detection system. The leachate collection system collected liquid that came into direct

contact with dangerous wastes in the TLL. During operating status of the TLL, Intalco Aluminum LLC sent leachate to the SWTP for treatment under Intalco Aluminum LLC's NPDES permit No. WA0002950. After closure, leachate from the TLL reduced in volume and since 2015 there has been no leachate discharge from the TLL. The leak detection system was installed below the leachate collection system to check if the TLL's liner is compromised. Based on observations of liquid in the leak detection system after closure, Intalco Aluminum LLC investigated the leak detection system and determined that certain construction practices led to precipitation runoff entering the leak detection system. Intalco Aluminum LLC's contractors attempted to modify the leak detection system but were unable to completely seal it from the TLL's surface runoff. Intalco Aluminum LLC continuously monitors conductivity of the water from the leak detection system to determine if the water is surface runoff and not leachate. Intalco Aluminum LLC sends the water from the leak detection system to the SWTP for treatment under Intalco Aluminum LLC's NPDES permit No. WA0002950.

T. Ecology and Intalco Aluminum LLC entered into MTCA Agreed Order No. DE 01 TCPIS 2949 (hereafter referred to as the "2001 AO") dated July 9, 2001. The 2001 AO required completion of a remedial investigation of Intalco Aluminum LLC's Beach I Landfill, Beach II Landfill, and Construction Debris Landfill along the bluffs overlooking the Strait of Georgia. The 2001 AO also required Intalco Aluminum LLC to submit to Ecology an analysis of cleanup action alternatives for the Beach I Landfill, Beach II Landfill, and Construction Debris Landfill that are protective of human health and the environment in compliance with WAC 173-340-360.

U. The results of the 2001 AO investigations showed that for the Beach I Landfill and Beach II Landfill, soil contamination consisted of cyanide, fluoride, PCBs, and polycyclic aromatic hydrocarbons (PAHs). At the Beach I Landfill, surface water seep contamination consisted of total cyanide, amenable cyanide, fluoride, and total PCBs. At the Beach II Landfill, surface water seep contamination consisted of fluoride and amenable cyanide. At the Closed Construction Debris Landfill, soil contamination consisted of total cyanide, fluoride, total PCBs,

and total PAHs. At the Closed Construction Debris Landfill, surface water seep contamination consisted of fluoride.

V. Ecology and Intalco Aluminum LLC entered into Consent Decree No. 07-2-00181-2 (hereafter referred to as the "2007 CD") dated February 2, 2007, as follow-up from the work Intalco Aluminum LLC performed under the 2001 AO. The 2007 CD required Intalco Aluminum LLC to implement a Cleanup Action Plan, which included the following: (1) Excavate Beach I Landfill and Beach II Landfill, place the excavated material in either Intalco Aluminum LLC's DLL or the TLL, and grade and re-vegetate the remaining Beach I and Beach II slopes; (2) stabilize the Closed Construction Debris Landfill with the placement of a retaining structure, grading, and the installation of a closure cap over the landfill; (3) close the DLL once it reaches capacity as described in the Solid Waste Permit closure plan; and (4) close the TLL once it reaches capacity as described in the Part B permit application's closure plan. With issuance of the 2007 CD, Intalco Aluminum LLC's work to be performed under the 2001 AO was complete.

W. On October 7, 2009, Intalco Aluminum LLC submitted to Ecology the Final Project Completion Report describing the work performed as required by the 2007 CD. The Final Project Completion Report provides detailed information on the remediation activities Intalco Aluminum LLC performed for the Beach I Landfill, Beach II Landfill, and Closed Construction Debris Landfill. On April 27, 2011, Ecology approved Intalco Aluminum LLC's October 7, 2009, Final Project Completion Report.

X. As part of the 2007 CD, Intalco Aluminum LLC was required to place institutional controls (i.e., restrictive covenants) on the DLL, Closed Construction Debris Landfill, and TLL. On February 25, 2008, Whatcom County placed a Restrictive Covenant with document number 2080203055 on the Beach I Landfill and Beach II Landfill areas. On February 25, 2008, Whatcom County placed a Restrictive Covenant with document number 2080203056 on the DLL and Closed Construction Debris Landfill. On March 26, 2012, Whatcom County placed a Restrictive Covenant with document number 2120302672 on the TLL.

Y. The 2007 CD required post-remediation confirmational monitoring of the seeps at Beach I Landfill, Beach II Landfill, and the Closed Construction Debris Landfill. Concentrations of fluoride, cyanide and PCBs in seep water were all below cleanup levels and no additional monitoring was required. Ecology last completed a periodic review for the Beach I Landfill, Beach II Landfill, DLL, and the Closed Construction Debris Landfill on August 4, 2021. Ecology last completed a periodic review for the TLL on August 28, 2023.

Z. In 1988, during a replacement project of the Induction Furnace near the Potline Annex, Intalco Aluminum LLC discovered PCB contamination in dust from the ditch directly underneath the furnace and in soil near the furnace. Intalco Aluminum LLC excavated the area around the furnace and shipped off-site for disposal approximately 80 tons of contaminated materials. Intalco Aluminum LLC reported to Ecology on July 18, 1988, that a clay layer appeared to contain the PCB contamination so as to not allow further migration of contaminants through the clay barrier.

AA. In 2000, during a construction project west of the carbon plant, a backhoe operator smelled the presence of hydrocarbons in a ditch that was being excavated. On October 25, 2000, Intalco Aluminum LLC submitted to Ecology a notification describing Intalco Aluminum LLC's response to the discovery of the hydrocarbon contaminated soil. Intalco Aluminum LLC took soil samples from within and outside the ditch to determine the extent of contamination. The sampling consisted of 11 samples that were analyzed for Total Petroleum Hydrocarbons (TPH) and one sample was analyzed for PCB Aroclor 1242. Sample results show that the TPH soil concentrations ranged from 2,900 to 17,000 mg/kg and the PCB Aroclor 1242 soil concentration was 1.31 mg/kg. Intalco Aluminum LLC estimated that approximately 250 cubic yards of contaminated soil was present. Intalco Aluminum LLC reported to Ecology that Intalco Aluminum LLC intended to remove and dispose of the contaminated soil at an off-site location.

BB. Prior to October 10, 1985, Intalco Aluminum LLC had two stockpile areas called "Disposal Area #2" and "Disposal Area #3" located in the northwestern area of the Facility. In a letter dated December 12, 2001, from Intalco Aluminum LLC's consultant to Ecology, Intalco Aluminum LLC's consultant stated that Disposal Area #2 and Disposal Area #3 were former temporary stockpile areas for storage of SPL. The letter states that SPL was removed from Disposal Area #2 and Disposal Area #3 on October 10, 1985, and sent to the WSIA. The letter states that since there was no record of confirmational sampling after removal of the SPL, Intalco Aluminum LLC performed soil sampling on September 27, 2001. The letter states five locations were sampled at each stockpile area and samples were analyzed for fluoride, cyanide, metals (aluminum, arsenic, cadmium, chromium, copper, lead, mercury, silver, and zinc), PCBs, PAHs, and total organic carbon. The letter provides the soil sample analytical results.

CC. On January 18, 2022, consultants for South 49 Properties LLC, an affiliate of Petrogas Pacific LLC, conducted sampling activities at the Facility. In a report titled "Contingent Area Phase II Subsurface Investigation INTALCO, Ferndale, Washington" dated March 24, 2022 (hereafter referred to as the "2022 Phase II Report"), PCBs in well SMW-21A were positively identified but the exact concentration is estimated.

DD. The 2022 Phase II Report reported a groundwater concentration of fluoride in well SMW-20B at a level of 35 milligrams per liter (mg/L), exceeding the Groundwater Quality Criterion of 4.0 mg/L. The 2022 Phase II Report reported a groundwater concentration of chloride in well SMW-20A at a level of 1,500 mg/L, exceeding the Groundwater Quality Criterion of 250 mg/L.

EE. In Intalco Aluminum LLC's report titled "Post-Closure Groundwater Monitoring Second Report, Year 2020" dated March 29, 2021, (hereafter referred to as the "2021 Post-Closure Report"), groundwater concentrations of chloride were reported in well SMW-03 in each of the four quarters of monitoring ranging from 322 mg/L to 420 mg/L, which exceed the Groundwater Quality Criterion of 250 mg/L. Groundwater concentrations of fluoride in well

SMW-15 were also reported, ranging from 4.5 mg/L to 16.5 mg/L. Prior to the 2020 Post Closure monitoring period, fluoride and other contaminants of concern were below the applicable Groundwater Quality Criteria in monitoring well SMW-15. In 2021, the elevated concentrations prompted an assessment of the monitoring well integrity. Damage to monitoring well SMW-15 was identified likely allowing surficial runoff to infiltrate into the monitoring well. The monitoring well was subsequently decommissioned, and a new monitoring well was installed (SMW-15R). Post installation monitoring was performed in February 2022. Laboratory analysis did not report a fluoride concentration above the Groundwater Quality Criterion of 4 mg/L. The absence of fluoride before the reported well damage and confirmation sampling after well replacement indicates that concentrations reported in 2020 were likely due to localized surficial infiltration.

FF. As a requirement of Intalco Aluminum LLC's NPDES permit No. WA0002950, Intalco Aluminum LLC has been monitoring sediment quality in the area adjacent to the pier and outfalls since 1999. In 2015, Intalco Aluminum LLC collected sediment samples in September 2015, with re-collection of selected samples in October 2015. Intalco Aluminum LLC submitted the sediment data report to Ecology in February 2016 and Ecology approved the final version dated June 15, 2020 (hereafter referred to as the "2020 Sediment Data Report"). The 2020 Sediment Data Report shows that 25 sediment samples were collected in the vicinity of Outfalls 001 and 002. All 25 locations were sampled at a depth of 10 centimeters, while 12 sediment samples were also taken from a depth of 2 centimeters. These sediments were analyzed for the full Sediment Management Standards (SMS) chemical list along with fluoride, cyanide, and aluminum. There were 6 stations with Sediment Quality Standards (SQS) or sediment impact zone maximum (SIZmax) criteria exceedances. In total, 16 different chemicals exceeded the SQS or SIZmax criteria, including acenaphthene, anthracene, benz(a)anthracene, benzo(a)pyrene, benzo(g,h,i)perylene, chrysene, dibenzo(a,h)anthracene, fluoranthene,

fluorene, high-molecular-weight PAHs, Indeno(1,2,3-c,d)pyrene, low-molecular-weight PAHs, phenanthrene, pyrene, total benzofluoranthenes, and total PCBs.

GG. Intalco Aluminum LLC manages dangerous waste as a large quantity generator in a central accumulation area called the 90-day Drum Yard. On December 1, 2023, Intalco Aluminum LLC notified Ecology that Intalco Aluminum LLC ceased using the following two central accumulation areas at the Facility: SWTP 90-day Area and Reline 90-day Area.

HH. Hazardous substances may have been and might continue to be released from the Dangerous Waste Management Facility into the environment including surface water drainage areas; outfalls; groundwater beneath and beyond the Dangerous Waste Management Facility; air; human work areas; and floral and faunal habitats.

## **VI. ECOLOGY DETERMINATIONS**

Ecology makes the following determinations, without any express or implied admissions of such determinations (and underlying facts) by Intalco Aluminum LLC and Petrogas Pacific LLC.

A. Intalco Aluminum LLC and Petrogas Pacific LLC are persons within the meaning of RCW 70A.305.020(24).

B. Intalco Aluminum LLC is the owner and operator of a Dangerous Waste Management Facility that has operated, is operating, or should have been operating under interim status or a final facility permit, subject to RCRA, 42 U.S.C. §§ 6924 and 6925, and regulations promulgated thereunder, including authorized state regulations in WAC 173-303. Intalco Aluminum LLC and Petrogas Pacific LLC are also “owner or operator” as defined by RCW 70A.305.020(22) of a “facility” as defined by RCW 70A.305.020(8).

C. Intalco Aluminum LLC was formerly the owner and operator of the entire Facility until September 27, 2016, when it sold the pier and ceded control of the surrounding aquatic lands under lease from Washington DNR to Petrogas Pacific LLC and later on March 25, 2025 when Intalco Aluminum LLC sold certain lands surrounding the Smelter to Petrogas Pacific LLC.

Intalco Aluminum LLC currently remains the owner of the Smelter and the Landfill Complex (refer to Exhibit A).

D. Certain waste and constituents found at the Facility are dangerous wastes and/or dangerous constituents as defined by WAC 173-303 and in Section IV (Definitions) of this Order.

E. These dangerous wastes and dangerous constituents are considered hazardous substances within the meaning of RCW 70A.305.020(13).

F. Based on the Findings of Fact and the administrative record, Ecology has determined that release(s) and potential release(s) of hazardous substances at and/or from the Facility present a threat to human health and the environment.

G. Based on credible evidence, Ecology issued a PLP status letter to Intalco Aluminum LLC dated July 18, 2023, pursuant to RCW 70A.305.040, .020(26), and WAC 173-340-500. By letter dated July 26, 2023, Intalco Aluminum LLC voluntarily waived its rights to notice and comment and accepted Ecology's determination that Intalco Aluminum LLC is a PLP under RCW 70A.305.040.

H. Based on credible evidence, Ecology issued a PLP status letter to Petrogas Pacific LLC dated November 9, 2023, pursuant to RCW 70A.305.040, .020(26), and WAC 173-340-500. By email dated November 16, 2023, Petrogas Pacific LLC voluntarily waived its rights to notice and comment and accepted Ecology's determination that Petrogas Pacific LLC is a PLP under RCW 70A.305.040.

I. Pursuant to RCW 70A.305.030(I) and .050(1), Ecology may require PLPs to investigate or conduct other remedial actions with respect to any release or threatened release of hazardous substances, whenever it believes such action to be in the public interest. Based on the foregoing facts, Ecology believes the remedial actions required by this Order are in the public interest.

J. Under WAC 173-340-430, an interim action is a remedial action that is technically necessary to reduce a threat to human health or the environment by eliminating or substantially

reducing one or more pathways for exposure to a hazardous substance, that corrects a problem that may become substantially worse or cost substantially more to address if the remedial action is delayed, or that is needed to provide for completion of a site hazard assessment, remedial investigation/feasibility study, or design of a cleanup action plan. Ecology anticipates that interim actions will be necessary to facilitate demolition of structures at the Facility during the duration of the RI phase of this Order. The interim actions would be implemented in concert with the demolition actions taken by Intalco Aluminum LLC to facilitate the cleanup process. The proposed draft Demolition Interim Action Work Plan is a reference document to this Order. The final Demolition Interim Action Work Plan will be an enforceable document under this Order. Additionally, any party may propose additional interim actions under this Order. If the Parties are in agreement concerning the interim action, the Parties will follow the process in Section VII.F. If the Parties are not in agreement, Ecology reserves its authority to require interim action(s) under a separate order or other enforcement action under RCW 70A.305, or to undertake the interim action itself.

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

Based on the Findings of Fact and Ecology Determinations, it is hereby ordered that Intalco Aluminum LLC and Petrogas Pacific LLC take the following remedial action(s) at the Facility. These remedial actions must be conducted in accordance with WAC 173-340 and 173-204:

A. Intalco Aluminum LLC and Petrogas Pacific LLC will develop a Remedial Investigation Work Plan, conduct a Remedial Investigation, develop a Remedial Investigation and Feasibility Study Report, conduct interim actions if required or agreed to by Ecology, and develop a Draft Cleanup Action Plan in accordance with the schedule and terms of the Scope of Work, Exhibit B; Schedule of Deliverables, Exhibit C; and all other requirements of this Order. The following naming conventions shall be used for documents: Agency Review Draft (designation for the first time Ecology receives a document); Public Review Draft (designates a document ready

for public comment); and Final (designation for a document after public comment and Ecology approval).

B. If Intalco Aluminum LLC and Petrogas Pacific LLC learn of a significant change in conditions at the Facility, including but not limited to a statistically significant increase in contaminant and/or chemical concentrations in soil, groundwater, surface water, air, and/or sediments, Intalco Aluminum LLC and Petrogas Pacific LLC, within seven (7) calendar days of learning of the change in condition, shall notify Ecology in writing of said change and provide Ecology with any reports or records (including laboratory analyses, sampling results) relating to the change in conditions.

C. Intalco Aluminum LLC and Petrogas Pacific LLC shall submit to Ecology written quarterly Progress Reports that describe the actions taken during the previous quarter to implement the requirements of this Order. Intalco Aluminum LLC and Petrogas Pacific LLC shall submit all Progress Reports by the twentieth (20th) day of the month in which they are due after the effective date of this Order. Unless otherwise specified by Ecology, Intalco Aluminum LLC and Petrogas Pacific LLC shall send Progress Reports and any other documents submitted pursuant to this Order by certified mail, return receipt requested, or electronic mail (i.e., email), return receipt requested, to Ecology's project coordinator. The Progress Reports shall include the following:

1. A list of activities that have taken place at the Facility 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 the Scope of Work (Exhibit B) and Schedule of Deliverables (Exhibit C) during the current quarter and any planned deviations in the upcoming quarter.
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.

D. Financial Assurance

1. Financial assurance for corrective action is required by WAC 173-303-64620.

Ecology's Financial Assurance Officer shall determine when Intalco Aluminum LLC and Petrogas Pacific LLC's actions and submissions meet the requirements of WAC 173-303-64620.

2. Ecology's Financial Assurance Officer is:

Joanna Seymour  
Washington State Department of Ecology  
P.O. Box 47600  
Olympia, WA 98504-7600  
Phone: 360-407-7220  
Fax: 360-407-6715  
Email: joar461@ecy.wa.gov

E. All plans or other deliverables submitted by Intalco Aluminum LLC and Petrogas Pacific LLC for Ecology's review and approval under the Scope of Work (Exhibit B) and Schedule of Deliverables (Exhibit C) shall, upon Ecology's approval, become integral and enforceable parts of this Order.

F. If the Parties agree on an interim action under Section VI.I, Intalco Aluminum LLC and Petrogas Pacific LLC shall prepare and submit to Ecology an Interim Action Work Plan, including a scope of work and schedule, by the date determined by Ecology. Ecology will provide public notice and opportunity to comment on the Interim Action Work Plan in accordance with WAC 173-340-600(16). Intalco Aluminum LLC and Petrogas Pacific LLC shall not conduct the interim action until Ecology approves the Interim Action Work Plan. Upon approval by Ecology, the Interim Action Work Plan becomes an integral and enforceable part of this Order, and Intalco Aluminum LLC and Petrogas Pacific LLC are required to conduct the interim action in accordance with the approved Interim Action Work Plan. Additionally, the draft Demolition Interim Action

Work Plan is a reference document to this Order. The final Demolition Interim Action Work Plan shall be implemented when Ecology notifies the PLPs in writing that the draft Demolition Interim Action Work Plan is approved.

G. Intalco Aluminum LLC and Petrogas Pacific LLC shall notify Ecology's project coordinator in writing of any newly-identified SWMU(s), newly-discovered release(s) from known SWMU(s), and newly-discovered AOCs at the Facility no later than fourteen (14) calendar days after discovery, and shall investigate and report on these areas as directed by Ecology's project coordinator. If required, the investigation (assessment) and reporting shall be done in accordance with attached Exhibit B (Scope of Work).

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

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

## VIII. TERMS AND CONDITIONS

### A. Payment of Remedial Action Costs

Intalco Aluminum LLC and Petrogas Pacific LLC will 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 Facility under RCW 70A.305, including remedial actions and Order preparation, negotiation, oversight, and administration. These costs shall include work performed both prior to and subsequent to the issuance of this Order. Ecology's costs shall include costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2). For all Ecology costs incurred, Intalco Aluminum LLC and Petrogas Pacific LLC shall pay the required amount within thirty (30) calendar 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) calendar days of receipt of the itemized statement of costs will result in interest charges at the rate of twelve percent (12%) per annum, compounded monthly.

In addition to other available relief, pursuant to RCW 19.16.500, Ecology may utilize a collection agency and/or, pursuant to RCW 70A.305.060, file a lien against real property subject to the remedial actions to recover unreimbursed remedial action costs.

### B. Designated Project Coordinators

The project coordinator for Ecology is:

Greg Gould  
Industrial Section, Solid Waste Management Program  
PO Box 47600  
Olympia, WA 98504-7600  
(360) 819-6426  
greg.gould@ecy.wa.gov

The project coordinator for the PLPs is:

Kristin Gaines  
Intalco Aluminum LLC

PO Box 2098  
Longview, WA 98632  
(360) 798-2509  
kristin.gaines@alcoa.com

The Petrogas Pacific LLC corresponding contact shall also be copied on all communications and is:

Lucas Donnelly  
Petrogas Pacific LLC  
1000 Maine Ave. SW  
Washington DC 20024  
(403) 806-3333  
lucas.donnelly@altagas.ca

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 Facility. To the maximum extent possible, communications between Ecology and Intalco Aluminum LLC and Petrogas Pacific LLC, and all documents, including reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order shall be directed through the project coordinators. The project coordinators may designate, in writing, working level staff contacts for all or portions of the implementation of the work to be performed required by this Order.

Any Party may change its respective project coordinator. Written notification shall be given to the other party at least ten (10) calendar days prior to the change.

**C. Performance**

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

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

All construction work performed pursuant to this Order shall be under the direct supervision of a professional engineer or a qualified technician under the direct supervision of a professional engineer. The professional engineer must be registered by the state of Washington, except as otherwise provided for by RCW 18.43.130.

Any documents submitted containing geologic, hydrologic, or engineering work shall be under the seal of an appropriately licensed professional as required by RCW 18.43 and 18.220.

Intalco Aluminum LLC and Petrogas Pacific LLC will 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 Facility.

**D. Access**

Ecology or any Ecology authorized representative shall have access to enter and freely move about all property at the Facility that Intalco Aluminum LLC or Petrogas Pacific LLC, as applicable, either owns, controls, or has access rights to at all reasonable times for the purposes of, *inter alia*: inspecting records, operation logs, and contracts related to the work being performed pursuant to this Order; reviewing Intalco Aluminum LLC and Petrogas Pacific LLC'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 Intalco Aluminum LLC and Petrogas Pacific LLC. Intalco Aluminum LLC and Petrogas Pacific LLC will make all reasonable efforts to secure access rights for those properties within the Facility not owned or controlled by Intalco Aluminum LLC and/or Petrogas Pacific LLC 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 Facility property owned or controlled by Intalco Aluminum LLC or Petrogas Pacific LLC unless an emergency prevents such notice. All persons who access the Facility pursuant to this section shall comply with any applicable health and safety plan(s) and procedures. Ecology employees and

their representatives shall not be required to sign any liability release or waiver as a condition of Facility property access.

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

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

If requested by Ecology, Intalco Aluminum LLC and Petrogas Pacific LLC will allow Ecology and/or its authorized representative to take split or duplicate samples of any samples collected by Intalco Aluminum LLC and Petrogas Pacific LLC pursuant to implementation of this Order. Intalco Aluminum LLC and Petrogas Pacific LLC shall notify Ecology seven (7) calendar days in advance of any sample collection or work activity at the Facility. Ecology shall, upon request, allow Intalco Aluminum LLC and Petrogas Pacific LLC and/or its authorized representative to take split or duplicate samples of any samples collected by Ecology pursuant to the implementation of this Order, provided that doing so does not interfere with Ecology's sampling. Without limitation on Ecology's rights under Section VIII.D (Access), Ecology shall notify Intalco Aluminum LLC and Petrogas Pacific LLC prior to any sample collection activity unless an emergency prevents such notice.

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

**F. Public Participation**

Ecology shall maintain the responsibility for public participation at the Facility. However, Intalco Aluminum LLC and Petrogas Pacific LLC will cooperate with Ecology, and will:

1. If agreed to by Ecology, develop appropriate mailing list, prepare drafts of public notices and fact sheets at important stages of the remedial action, such as the submission of work plans, remedial investigation/feasibility study reports, cleanup action plans, and engineering design reports. As appropriate, Ecology will edit, finalize, and distribute such fact sheets and prepare and distribute public notices of Ecology's presentations and meetings.

2. Notify Ecology's project coordinator prior to the preparation of all press releases and fact sheets, and before meetings related to remedial action work to be performed at the Facility with the interested public and/or local governments. Likewise, Ecology shall notify Intalco Aluminum LLC and Petrogas Pacific LLC prior to the issuance of all press releases and fact sheets, and before meetings related to the Facility with the interested public and local governments. For all press releases, fact sheets, meetings, and other outreach efforts by Intalco Aluminum LLC and Petrogas Pacific LLC that do not receive prior Ecology approval, Intalco Aluminum LLC and Petrogas Pacific LLC will 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 Facility. 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) Ferndale Public Library  
2125 Main Street  
Ferndale, WA 98248
- (b) Bellingham Public Library  
Central Library  
210 Central Avenue  
Bellingham, WA 98225
- (c) Ecology's Headquarters Office  
Industrial Section, Solid Waste Management Program  
300 Desmond Drive SE  
Lacey, WA 98503

At a minimum, copies of all public notices, fact sheets, and documents relating to public comment periods shall be promptly placed in these repositories. A copy of all documents related to this Facility will be maintained in the repository at Ecology's Headquarters Office in Lacey, Washington.

**G. 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, Intalco Aluminum LLC and Petrogas Pacific LLC 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, Intalco Aluminum LLC and Petrogas Pacific LLC will make all records available to Ecology and allow access for review within a reasonable time.

Nothing in this Order is intended to waive any right Intalco Aluminum LLC and Petrogas Pacific LLC may have under applicable law to limit disclosure of documents protected by the attorney work-product privilege and/or the attorney-client privilege. If Intalco Aluminum LLC or Petrogas Pacific LLC withholds any requested records based on an assertion of privilege, Intalco Aluminum LLC or Petrogas Pacific LLC, as applicable, will provide Ecology with a privilege log specifying the records withheld and the applicable privilege. No Facility-related data collected pursuant to this Order shall be considered privileged.

**H. Resolution of Disputes**

1. In the event that Intalco Aluminum LLC and/or Petrogas Pacific LLC elect to invoke dispute resolution, Intalco Aluminum LLC and/or Petrogas Pacific LLC must utilize the procedure set forth below.

a. Upon the triggering event (receipt of Ecology's project coordinator's written decision or an itemized billing statement), Intalco Aluminum LLC and/or Petrogas

Pacific LLC have fourteen (14) calendar days within which to notify Ecology's project coordinator in writing of its dispute ("Informal Dispute Notice").

b. The Parties' project coordinators shall then confer in an effort to resolve the dispute informally. The Parties shall informally confer for up to fourteen (14) calendar days from receipt of the Informal Dispute Notice. If the project coordinators cannot resolve the dispute within those fourteen (14) calendar days, then within seven (7) calendar days Ecology's project coordinator shall issue a written decision (Informal Dispute Decision) stating: the nature of the dispute; Intalco Aluminum LLC and/or Petrogas Pacific LLC's position with regards to the dispute; Ecology's position with regard to the dispute; and the extent of resolution reached by informal discussion.

c. Intalco Aluminum LLC and/or Petrogas Pacific LLC may then request regional management review of the dispute. Intalco Aluminum LLC and/or Petrogas Pacific LLC must submit this request (Formal Dispute Notice) in writing to the Industrial Section Solid Waste Management Program Section Manager within seven (7) calendar days of receipt of Ecology's Informal Dispute Decision. The Formal Dispute Notice shall include a written statement of dispute setting forth: the nature of the dispute; the disputing Party's position with respect to the dispute; and the information relied upon to support its position.

d. The Section Manager will conduct a review of the dispute and shall issue a written decision regarding the dispute (Decision on Dispute) within thirty (30) calendar days of receipt of the Formal Dispute Notice. The Decision on Dispute will be Ecology's final decision on the disputed matter.

2. The Parties agree to only utilize the dispute resolution process in good faith and agree to expedite, to the extent possible, the dispute resolution process whenever it is used.

3. Implementation of these dispute resolution procedures shall not provide a basis for delay of any activities required in this Order, unless Ecology agrees in writing to a schedule extension.

4. In case of a dispute, failure to either proceed with the work required by this Order or timely invoke dispute resolution may result in Ecology's determination that insufficient progress is being made in preparation of a deliverable, and may result in Ecology undertaking the work under Section VII.E (Work to be Performed) or initiating enforcement under Section X (Enforcement).

**I. Extension of Schedule**

1. Intalco Aluminum LLC and/or Petrogas Pacific LLC's request for an extension of schedule shall be granted only when a request for an extension is submitted in a timely fashion, generally at least thirty (30) calendar 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 Intalco Aluminum LLC and/or Petrogas Pacific LLC to demonstrate to the satisfaction of Ecology that the request for such extension has been submitted in a timely fashion and that good cause exists for granting the extension. Good cause may include, but may not be limited to:

- a. Circumstances beyond the reasonable control and despite the due diligence of Intalco Aluminum LLC and/or Petrogas Pacific LLC 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 Intalco Aluminum LLC and Petrogas Pacific LLC;

- b. Acts of God, including fire, flood, blizzard, extreme temperatures, storm, or other unavoidable casualty; or
- c. Endangerment as described in Section VIII.K (Endangerment).

However, neither increased costs of performance of the terms of this Order nor changed economic circumstances shall be considered circumstances beyond the reasonable control of Intalco Aluminum LLC and/or Petrogas Pacific LLC.

3. Ecology shall act upon any Intalco Aluminum LLC and/or Petrogas Pacific LLC's written request for extension in a timely fashion. Ecology shall give Intalco Aluminum LLC and/or Petrogas Pacific LLC written notification of any extensions granted pursuant to this Order. A requested extension shall not be effective until approved by Ecology. Unless the extension is a substantial change, it shall not be necessary to amend this Order pursuant to Section VIII.J (Amendment of Order) when a schedule extension is granted.

4. At Intalco Aluminum LLC and/or Petrogas Pacific LLC's request, an extension shall only be granted for such period of time as Ecology determines is reasonable under the circumstances. Ecology may grant schedule extensions exceeding ninety (90) calendar 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.K (Endangerment).

**J. Amendment of Order**

The project coordinators may verbally agree to minor changes to the work to be performed without formally amending this Order. Minor changes will be documented in writing by Ecology within seven (7) calendar days of verbal agreement.

Except as provided in Section VIII.L (Reservation of Rights), substantial changes to the work to be performed shall require formal amendment of this Order. This Order may only be formally amended by the written consent of Ecology, Intalco Aluminum LLC and Petrogas Pacific LLC. Ecology will provide its written consent to a formal amendment only after public notice and opportunity to comment on the formal amendment.

When requesting a change to the Order, Intalco Aluminum LLC and Petrogas Pacific LLC shall submit a written request to Ecology for approval. Ecology shall indicate its approval or disapproval in writing and in a timely manner after the written request is received. If Ecology determines that the change is substantial, then the Order must be formally amended. Reasons for the disapproval of a proposed change to this Order shall be stated in writing. If Ecology does not agree to a proposed change, the disagreement may be addressed through the dispute resolution procedures described in Section VIII.H (Resolution of Disputes).

**K. Endangerment**

In the event Ecology determines that any activity being performed at the Facility under this Order is creating or has the potential to create a danger to human health or the environment on or surrounding the Facility, Ecology may direct Intalco Aluminum LLC and Petrogas Pacific LLC to cease such activities for such period of time as it deems necessary to abate the danger. Intalco Aluminum LLC and Petrogas Pacific LLC shall immediately comply with such direction.

In the event Intalco Aluminum LLC and Petrogas Pacific LLC determine that any activity being performed at the Facility under this Order is creating or has the potential to create a danger to human health or the environment, Intalco Aluminum LLC and Petrogas Pacific LLC may cease such activities. Intalco Aluminum LLC and Petrogas Pacific LLC 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, Intalco Aluminum LLC and Petrogas Pacific LLC will provide Ecology with documentation of the basis for the determination or cessation of such activities. If Ecology disagrees with Intalco Aluminum LLC and Petrogas Pacific

LLC's cessation of activities, it may direct Intalco Aluminum LLC and Petrogas Pacific LLC to resume such activities.

If Ecology concurs with or orders a work stoppage pursuant to this section, Intalco Aluminum LLC and Petrogas Pacific LLC's obligations with respect to the ceased activities shall be suspended until Ecology determines the danger is abated, and the time for performance of such activities, as well as the time for any other work dependent upon such activities, shall be extended in accordance with Section VIII.I (Extension of Schedule) for such period of time as Ecology determines is reasonable under the circumstances.

Nothing in this Order shall limit the authority of Ecology, its employees, agents, or contractors to take or require appropriate action in the event of an emergency.

**L. Reservation of Rights**

This Order is not a settlement under RCW 70A.305. Ecology's signature on this Order in no way constitutes a covenant not to sue or a compromise of any of Ecology's rights or authority. Ecology will not, however, bring an action against Intalco Aluminum LLC and Petrogas Pacific LLC to recover remedial action costs paid to and received by Ecology under this Order. In addition, Ecology will not take additional enforcement actions against Intalco Aluminum LLC and Petrogas Pacific LLC regarding remedial actions required by this Order, provided Intalco Aluminum LLC and Petrogas Pacific LLC comply with this Order.

Ecology nevertheless reserves its rights under RCW 70A.305, including the right to require additional or different remedial actions at the Facility 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 Facility.

By entering into this Order, Intalco Aluminum LLC and Petrogas Pacific LLC do not admit to any liability for the Facility. Although Intalco Aluminum LLC and Petrogas Pacific LLC are committing to conducting the work required by this Order under the terms of this Order, Intalco

Aluminum LLC and Petrogas Pacific LLC expressly reserve all rights available under law, including but not limited to the right to seek cost recovery or contribution against third parties, and the right to assert any defenses to liability in the event of enforcement.

**M. Transfer of Interest in Property**

No voluntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Facility shall be consummated by Intalco Aluminum LLC and Petrogas Pacific LLC 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 Intalco Aluminum LLC and Petrogas Pacific LLC's transfer of any interest in all or any portion of the Facility, and during the effective period of this Order, Intalco Aluminum LLC and Petrogas Pacific LLC will provide a copy of this Order to any prospective purchaser, lessee, transferee, assignee, or other successor in said interest; and, at least thirty (30) calendar days prior to any transfer, Intalco Aluminum LLC and Petrogas Pacific LLC will notify Ecology of said transfer. Upon transfer of any interest, Intalco Aluminum LLC and Petrogas Pacific LLC will notify all transferees of the restrictions on the activities and uses of the property under this Order and incorporate any such use restrictions into the transfer documents.

**N. Compliance with Applicable Laws**

1. *Applicable Laws.* All actions carried out by Intalco Aluminum LLC and Petrogas Pacific LLC pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements, including requirements to obtain necessary permits or approvals, except as provided in RCW 70A.305.090. The permits or specific federal, state, or local requirements that the agency has determined are applicable and that are known at the time of the execution of this Order have been identified in Exhibit D. Intalco Aluminum LLC and Petrogas Pacific LLC have a continuing obligation to identify additional applicable federal, state, and local requirements which apply to actions carried out pursuant to this Order, and to comply with those requirements. As additional federal, state, and local requirements are identified by Ecology or

Intalco Aluminum LLC and Petrogas Pacific LLC, Ecology will document in writing if they are applicable to actions carried out pursuant to this Order, and Intalco Aluminum LLC and Petrogas Pacific LLC must implement those requirements.

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

3. Pursuant to RCW 70A.305.090(1), Intalco Aluminum LLC and Petrogas Pacific LLC may be exempt from the procedural requirements of RCW 70A.15, 70A.205, 70A.300, 77.55, 90.48, and 90.58 and of any laws requiring or authorizing local government permits or approvals. However, Intalco Aluminum LLC and Petrogas Pacific LLC shall comply with the substantive requirements of such permits or approvals. For permits and approvals covered under RCW 70A.305.090(1) that have been issued by local government, the Parties agree that Ecology has the non-exclusive ability under this Order to enforce those local government permits and/or approvals. At this time, no state or local permits or approvals have been identified as being applicable but procedurally exempt under this section.

4. Intalco Aluminum LLC and Petrogas Pacific LLC have a continuing obligation to determine whether additional permits or approvals addressed in RCW 70A.305.090(1) would otherwise be required for the remedial action under this Order. In the event either Ecology or Intalco Aluminum LLC and Petrogas Pacific LLC determines that additional permits or approvals addressed in RCW 70A.305.090(1) would otherwise be required for the remedial action under this Order, that Party shall promptly notify the other Parties of its determination. Ecology shall

determine whether Ecology or Intalco Aluminum LLC and Petrogas Pacific LLC will be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, Intalco Aluminum LLC and Petrogas Pacific LLC will 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 Intalco Aluminum LLC and Petrogas Pacific LLC and on how Intalco Aluminum LLC and Petrogas Pacific LLC must meet those requirements. Ecology shall inform Intalco Aluminum LLC and Petrogas Pacific LLC in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. Intalco Aluminum LLC and Petrogas Pacific LLC shall not begin or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination.

Pursuant to RCW 70A.305.090(2), in the event Ecology determines that the exemption from complying with the procedural requirements of the laws referenced in RCW 70A.305.090(1) would result in the loss of approval from a federal agency that is necessary for the state to administer any federal law, the exemption shall not apply and Intalco Aluminum LLC and Petrogas Pacific LLC will comply with both the procedural and substantive requirements of the laws referenced in RCW 70A.305.090(1), including any requirements to obtain permits or approvals.

**O. Indemnification**

Intalco Aluminum LLC and Petrogas Pacific LLC agree to indemnify and save and hold the State of Washington, its employees, and agents harmless from any and all claims or causes of action (1) for death or injuries to persons, or (2) for loss or damage to property, to the extent arising from or on account of acts or omissions of Intalco Aluminum LLC and Petrogas Pacific LLC, its officers, employees, agents, or contractors in entering into and implementing this Order. However, Intalco Aluminum LLC and Petrogas Pacific LLC will 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 Intalco Aluminum LLC and Petrogas Pacific LLC's receipt of written notification from Ecology that Intalco Aluminum LLC and Petrogas Pacific LLC have completed the corrective actions required by this Order, as amended by any modifications, and that Intalco Aluminum LLC and Petrogas Pacific LLC have complied with all other provisions of this Order.

#### **X. ENFORCEMENT**

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

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

This Order may be reviewed only as provided under RCW 70A.305.070.

Effective date of this Order: \_\_\_\_\_

Intalco Aluminum LLC

Petrogas Pacific LLC, by its manager,  
Petrogas, Inc.

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Robyn Gross  
Vice President  
4050 Mountain View Rd  
Ferndale, WA 98248  
(412) 315-2780

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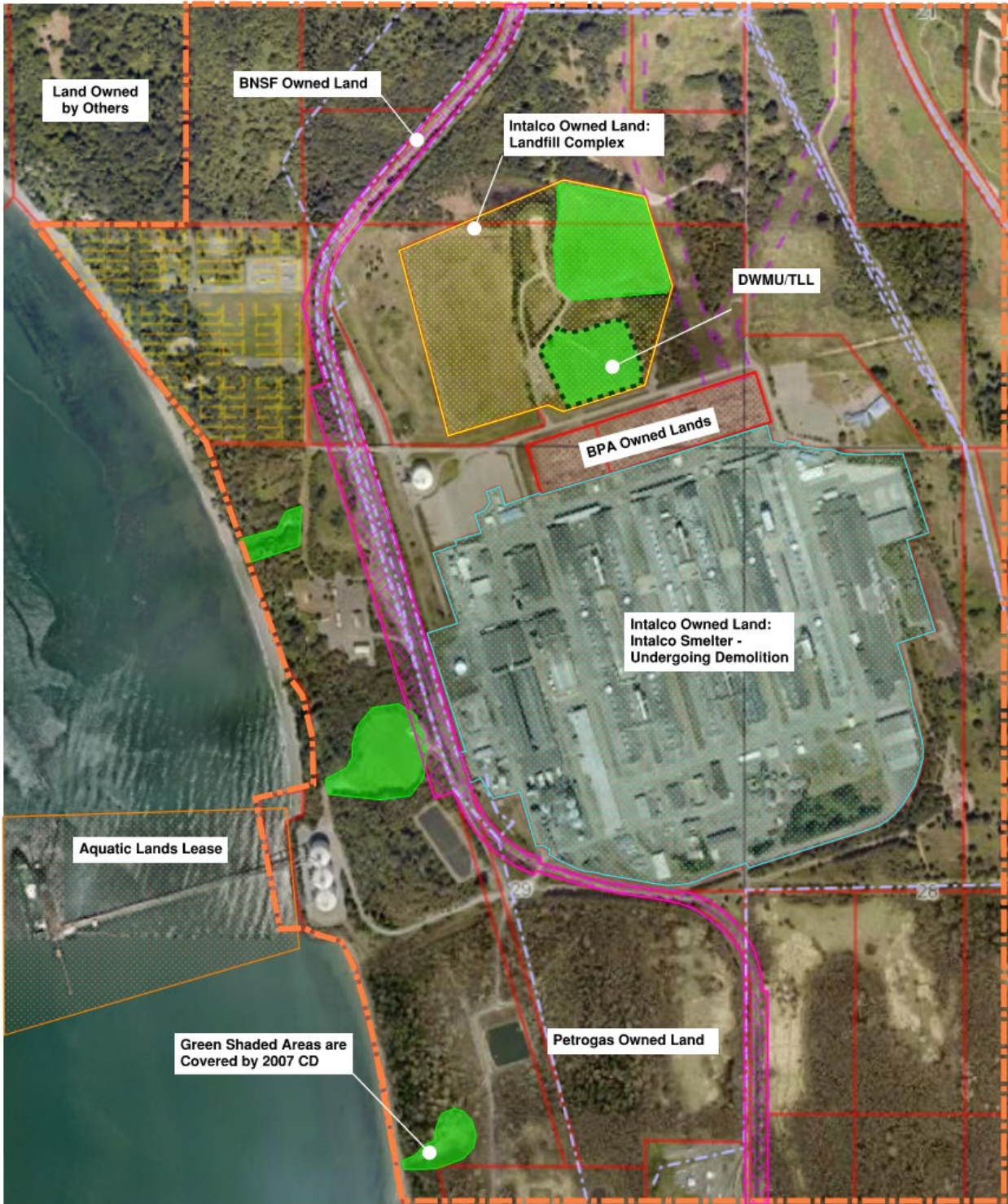
Peter Ledig  
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(403) 809-2610

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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James DeMay, P.E.  
Industrial Section Manager  
Solid Waste Management Program  
(360) 407-6868

**EXHIBIT A: FACILITY DIAGRAM**



**DRAFT EXHIBIT A - LOCATION DIAGRAM**  
Diagram reflects property ownership as of September 19, 2025.

## **EXHIBIT B: SCOPE OF WORK**

### **Purpose**

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

Intalco Aluminum LLC and Petrogas Pacific LLC shall coordinate with Ecology throughout the development of the RI Work Plan, conducting an RI, conducting of any interim actions, development of the RI/FS Report, and development of the DCAP and shall keep Ecology informed of changes to any Work Plan or other project plans, and of any issues or problems as they develop.

The following naming conventions shall be used for documents: Agency Review Draft (designation for the first time Ecology receives a document); Public Review Draft (designates a document ready for public comment); and Final (designation for a document after public comment and/or Ecology approval).

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

- Task 1. Remedial Investigation Work Plan
- Task 2. Remedial Investigation
- Task 3. Remedial Investigation and Feasibility Study Report
- Task 4. Interim Action(s)
- Task 5. SEPA Compliance
- Task 6. Public Participation
- Task 7. Draft Cleanup Action Plan

### **Task 1. Remedial Investigation Work Plan**

Intalco Aluminum LLC and Petrogas Pacific LLC shall prepare an RI Work Plan. The RI Work Plan shall include an overall description and schedule of all RI activities. The RI Work Plan shall clearly describe the project management strategy for implementing and reporting on RI activities. The responsibility and authority of all organizations and key personnel involved in conducting RI activities will be outlined.

An RI Planning Meeting will be held prior to submittal of the RI Work Plan. The purpose of the RI Planning Meeting is to review requirements for the RI Work Plan, plan field work, discuss the preliminary Conceptual Site Model (CSM), and identify project data needs and possible interim actions.

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

As part of the site history and conditions, existing environmental data on site soil, groundwater, surface water, and sediments will be compiled and evaluated for data gaps. The data gaps will be used as the basis for conducting additional site investigations, if necessary. The RI Work Plan will also identify specific data collection procedures in a Sampling and Analysis Plan (SAP) and Quality Assurance Project Plan (QAPP) as part of the RI Work Plan in compliance with WAC 173-340-820 and WAC 173-204-600 for defining the nature and extent of contamination. Intalco Aluminum LLC and Petrogas Pacific LLC will also submit a copy of the Health and Safety Plan (HASP) for RI activities.

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

The QAPP will be prepared in accordance with the Guidance for Preparation of Quality Assurance Project Plans<sup>1</sup>, EPA Region 10, Quality Data Management Program, QA/R-5 and requirements of the EPA Contract Laboratory Program<sup>2</sup>. The QAPP will also follow Ecology's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies<sup>3</sup> (publication number 04-03-030, revised December 2016) and Sediment Cleanup User's Manual SCUM<sup>4</sup> (publication number 12-09-057, revised December 2021). Laboratories must meet the accreditation standards established in WAC 173-50. Data quality objectives will reflect the criteria or threshold values used for the source control evaluation.

The SAP, including the QAPP, and HASP will be submitted to Ecology for review and approval as part of the RI Work Plan. As with all environmental work at the Facility, work may not begin without written approval from Ecology. The SAP shall include a provision that Intalco Aluminum LLC and Petrogas Pacific LLC will provide seven (7) calendar days' notice to Ecology prior to beginning sampling. Ecology may obtain split samples.

Intalco Aluminum LLC and Petrogas Pacific LLC or their contractors shall submit all new sampling data generated under this SAP and any other recently collected data to Ecology for entry into the Environmental Information Management System<sup>5</sup> (EIM) in accordance with WAC 173-340-840(5) and Ecology's Toxics Cleanup Program Policy 840: Data Submittal Requirements<sup>6</sup> (publication number 16-09-050, revised April 2016). Intalco Aluminum LLC and Petrogas Pacific LLC, or their contractors, must validate data according to EIM guidance documents. Intalco Aluminum LLC and Petrogas Pacific LLC, or their contractors, must submit validated data to the EIM database at the time of report submittal.

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<sup>1</sup> <https://www.epa.gov/quality/guidance-quality-assurance-project-plans-epa-qag-5>

<sup>2</sup> <https://www.epa.gov/clp>

<sup>3</sup> <https://apps.ecology.wa.gov/publications/summarypages/0403030.html>

<sup>4</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/1209057.html>

<sup>5</sup> <https://ecology.wa.gov/research-data/data-resources/environmental-information-management-database>

<sup>6</sup> <https://apps.ecology.wa.gov/publications/summarypages/1609050.html>

The RI Work Plan will include an inadvertent discovery plan that meets the requirements in WAC 173-340-815.

The RI Work Plan tasks and subtasks will include the following:

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

Intalco Aluminum LLC and Petrogas Pacific LLC will provide Ecology with an Agency Review Draft RI Work Plan. Once Ecology reviews and approves the Agency Review Draft RI Work Plan, it will be considered the Final RI Work Plan. The RI Work Plan will not be implemented until approved by Ecology. Once approved by Ecology, Intalco Aluminum LLC and Petrogas Pacific LLC will implement the Final RI Work Plan according to the schedule contained in Exhibit C.

Intalco Aluminum LLC and Petrogas Pacific LLC shall prepare one (1) copy of the Agency Review Draft RI Work Plan and submit it, including one electronic copy each in Word (.doc or .docx) and Adobe (.pdf) formats, to Ecology for review and comment.

After incorporating Ecology's comments on the Agency Review Draft RI Work Plan and after Ecology approval, Intalco Aluminum LLC and Petrogas Pacific LLC shall prepare one (1) copy of the Final RI Work Plan and submit it, including one electronic copy in Adobe (.pdf) format, to Ecology.

Ecology may require Intalco Aluminum LLC and Petrogas Pacific LLC to amend their Final RI Work Plan. If needed, Intalco Aluminum LLC and Petrogas Pacific LLC shall prepare one (1) copy of an Agency Review Draft RI Work Plan Addendum and submit it, including one electronic copy each in Word (.doc or .docx) and Adobe (.pdf) formats, to Ecology for review and comment. The Agency Review Draft RI Work Plan Addendum shall also include updates to the SAP, QAPP, and HASP as needed to reflect changes in RI activities.

If needed, after incorporating Ecology's comments on the Agency Review Draft RI Work Plan Addendum and after Ecology approval, Intalco Aluminum LLC and Petrogas Pacific LLC shall prepare one (1) copy of the Final RI Work Plan Addendum and submit it, including one electronic copy in Adobe (.pdf) format, to Ecology. Once approved by Ecology, Intalco Aluminum LLC and Petrogas Pacific LLC will implement the Final RI Work Plan Addendum according to the schedule contained in Exhibit C.

## **Task 2. Remedial Investigation**

Intalco Aluminum LLC and Petrogas Pacific LLC shall conduct an RI that meets the requirements of WAC 173-340-350(6) and WAC 173-204-550 according to the Final RI Work Plan as approved by Ecology, or approved addendums. The RI will determine the nature and extent of contamination exceeding preliminary Model Toxics Control Act (MTCA) cleanup levels, preliminary Sediment Management Standards (SMS) cleanup standards, and other regulatory requirements. The RI must provide sufficient data and information to define the nature and extent of contamination.

Field sampling and analysis will be completed in general accordance with the SAP and QAPP. Deviation(s) from the approved SAP and QAPP must be communicated to Ecology immediately and documented as required by Ecology.

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

Intalco Aluminum LLC and Petrogas Pacific LLC shall prepare one (1) copy of the Draft RI Report and submit it, including one electronic copy each in Word (.doc or .docx) and Adobe (.pdf) formats, to Ecology for review and comment.

## **Task 3. Remedial Investigation and Feasibility Study Report**

Prior to submittal of the Agency Review Draft RI/FS Report, an RI/FS Pre-Report Check-In Meeting will be held. During the RI/FS Pre-Report Check-In Meeting, Ecology, Intalco Aluminum LLC, and Petrogas Pacific LLC will review available data and an updated conceptual site model and discuss the content and organization of the Agency Review Draft RI/FS Report; and review applicable or relevant and appropriate requirements, potential remedial alternatives and establish points of compliance.

The RI/FS must:

- Compile the results of the RI,
- Meet the applicable requirements of WAC 173-340-351,
- Evaluate remedial alternatives for site cleanup, consistent with MTCA and SMS requirements to ensure protection of human health and the environment by eliminating, reducing, or otherwise controlling risk posed through each exposure pathway and migration route,
- Include a detailed analysis of each remedial alternative according to the applicable requirements of WAC 173-340-351 and 173-204-550. The remedial alternatives will be evaluated for compliance with the applicable requirements of WAC 173-340-360 and 173-204-570, and
- Include the remedial alternative that is judged to best satisfy the evaluation criteria will be identified. Justification for the selection will be provided.

After incorporating Ecology's comments on the Draft RI Report, Intalco Aluminum LLC and Petrogas Pacific LLC shall prepare one (1) copy of the Agency Review Draft RI/FS Report and submit it, including one electronic copy each in Word (.doc or .docx) and Adobe (.pdf) formats, to Ecology for review and comment.

If a Final RI Work Plan Addendum was implemented after submitting the Agency Review Draft RI/FS Report, Intalco Aluminum LLC and Petrogas Pacific LLC shall prepare one (1) copy of a Revised Agency Review Draft RI/FS Report incorporating the Final RI Work Plan Addendum activities and submit it, including one electronic copy each in Word (.doc or .docx) and Adobe (.pdf) formats, to Ecology for review and comment.

After incorporating Ecology's comments on the Agency Review Draft RI/FS Report (or Revised Agency Review Draft RI/FS Report if required) and after Ecology approval, Intalco Aluminum LLC and Petrogas Pacific LLC shall prepare two (2) copies of the Public Review Draft RI/FS Report and submit them, including one electronic copy each in Word (.doc or .docx) and Adobe (.pdf) formats, to Ecology for distribution and public comment.

After incorporating Ecology's comments on the Public Review Draft RI/FS Report and after Ecology approval, Intalco Aluminum LLC and Petrogas Pacific LLC shall prepare one (1) copy of the Final RI/FS Report and submit it, including one electronic copy in Adobe (.pdf) format, to Ecology.

Electronic survey data for monitoring locations, electronic lab data, and GIS maps of contaminant distribution shall also be provided for the Agency Review Draft RI/FS Report (or Revised Agency Review Draft RI/FS Report if required), Public Review Draft RI/FS Report, and Final RI/FS Report either in the reports or as attachments. The Final RI/FS Report will not be considered final until after a public review and comment period.

If the data collected during this investigation is insufficient to define the nature and extent of contamination, and/or to select a cleanup action plan an additional phase of investigation shall be conducted to define the extent of contamination.

#### **Task 4. Interim Action(s)**

##### *Draft Demolition Interim Action Work Plan*

After a public notice and comment period for the Draft Demolition Interim Action Work Plan (and SEPA determination), Ecology will approve the Demolition Interim Action Work Plan (if appropriate), and the documents will be considered Final. After approval, Intalco Aluminum LLC and Petrogas Pacific LLC shall prepare one (1) copy of each Final Demolition Interim Action Work Plan and submit it, including one electronic copy each in Adobe (.pdf) format. Once approved by Ecology, Intalco Aluminum LLC and Petrogas Pacific LLC will implement the Final Demolition Interim Action Work Plans according with the approved schedule and Exhibit C.

Upon successful completion of the work performed under the Final Demolition Interim Action Work Plan, an Agency Review Draft Demolition Interim Action Report will be prepared. Intalco Aluminum LLC and Petrogas Pacific LLC shall prepare one (1) copy of the Agency Review Draft Demolition Interim Action Report and submit it, including one electronic copy each in Word (.doc or .docx) and Adobe (.pdf) formats, to Ecology for review and approval.

After incorporating Ecology's comments on the Agency Review Draft Demolition Interim Action Report and after Ecology approval, Intalco Aluminum LLC and Petrogas Pacific LLC shall prepare one (1) copy of the Final Demolition Interim Action Report and submit it, including one electronic copy in Adobe (.pdf) format, to Ecology.

### *Other Interim Actions*

Remedial actions implemented prior to completion of the RI/FS will be considered interim actions, will be implemented in accordance with WAC 173-340-430 and the AO, and will be designed in a manner that will not foreclose reasonable alternatives for any final cleanup action that may be required.

Remedial actions are those that:

- Are technically necessary to reduce a threat to human health or the environment by eliminating or substantially reducing one or more pathways for exposure to a hazardous substance;
- Correct a problem that may become substantially worse or cost substantially more to address if the remedial action is delayed; or
- Are needed to provide for completion of the remedial investigation/feasibility study or design of the cleanup action.

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

The scope of the interim actions may include, but not be limited to, typical source control or containment elements such as:

- Soil or sediment removal,
- Groundwater remediation,
- Repair, slip lining, replacement, or closure of stormwater conveyances or other structures such as conduit, vaults, catch basins, etc.,
- Removal of underground storage tanks and pipes,
- Removal of old drain fields or former surface impoundments,
- Proper abandonment of old wells,
- Removal of contaminated building or other structural material,
- Construction of a treatment facility, or
- Shoreline stabilization such as bulkhead repair, erosion or seepage control, and grading or clearing.

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

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

Intalco Aluminum LLC and Petrogas Pacific LLC will be responsible for complying with the State Environmental Policy Act (SEPA) rules including preparing and submitting an environmental checklist for the interim action and will assist Ecology with presentations at any additional meetings or hearings that might be necessary for SEPA compliance or as part of the Public Participation Plan.

Intalco Aluminum LLC and Petrogas Pacific LLC shall prepare one (1) copy of the Agency Review Draft IAWP and submit it, including one electronic copy each in Word (.doc or .docx) and Adobe (.pdf) formats, to Ecology for review and comment.

After incorporating Ecology's comments on the Agency Review Draft IAWP and after Ecology approval, Intalco Aluminum LLC and Petrogas Pacific LLC shall prepare two (2) copies of the Public Review Draft IAWP and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for distribution and public comment.

After a public notice and comment period for the Public Review Draft IAWP (and SEPA determination), Ecology will approve the IAWP (if appropriate), and the document will be considered Final. Intalco Aluminum LLC and Petrogas Pacific LLC shall prepare one (1) copy of the Final IAWP and submit it, including one electronic copy in Adobe (.pdf) format. Once approved by Ecology, Intalco Aluminum LLC and Petrogas Pacific LLC will implement the interim action in accordance with the approved schedule and Exhibit C.

Upon successful completion of the work, an Agency Review Draft Interim Action Report will be prepared as a separate deliverable. Intalco Aluminum LLC and Petrogas Pacific LLC shall prepare one (1) copy of the Agency Review Draft Interim Action Report and submit it, including one electronic copy each in Word (.doc or .docx) and Adobe (.pdf) formats, to Ecology for review and approval.

After incorporating Ecology's comments on the Agency Review Draft Interim Action Report and after Ecology approval, Intalco Aluminum LLC and Petrogas Pacific LLC shall prepare one (1) copy of the Final Interim Action Report and submit it, including one electronic copy in Adobe (.pdf) format, to Ecology.

### **Task 5. SEPA Compliance**

Intalco Aluminum LLC and Petrogas Pacific LLC shall be responsible for complying with the SEPA rules including preparing and submitting an environmental checklist. If the result of the threshold determination is a determination of significance (DS), Intalco Aluminum LLC and Petrogas Pacific LLC will be responsible for the preparation of draft and final environmental impact statements. Intalco Aluminum LLC and Petrogas Pacific LLC will assist Ecology with coordinating SEPA public involvement requirements with MTCA public involvement requirements whenever possible, such that public comment periods and meetings or hearings can be held concurrently.

### **Task 6. Public Participation**

Intalco Aluminum LLC and Petrogas Pacific LLC shall support Ecology in presenting the Public Review Draft RI/FS Report and SEPA evaluations at one public meeting or hearing. Intalco Aluminum LLC and Petrogas Pacific LLC will assist Ecology with presentations at any additional meetings or hearings that might be necessary for SEPA compliance or as part of the Public Participation Plan.

After the public comment periods are completed, Intalco Aluminum LLC and Petrogas Pacific LLC shall prepare an Agency Review Draft Responsiveness Summary(s) that addresses public comments. Intalco Aluminum LLC and Petrogas Pacific LLC shall prepare one (1) copy of the Agency Review Draft Responsiveness Summary and submit it to Ecology for review and approval, including one electronic copy each in Word (.doc or .docx) and Adobe (.pdf) formats, to Ecology for distribution and public comment.

After incorporating Ecology's comments on the Agency Review Draft Responsiveness Summary and after Ecology approval, Intalco Aluminum LLC and Petrogas Pacific LLC shall prepare one (1) copy of the Final Responsiveness Summary and submit it to Ecology for distribution, including one electronic copy each in Word (.doc or .docx) and Adobe (.pdf) formats.

### **Task 7. Draft Cleanup Action Plan**

Upon Ecology approval of the Public Review Draft RI/FS Report, a Cleanup Action Plan Meeting will be held regarding the Draft Cleanup Action Plan (DCAP). The Cleanup Action Plan Meeting will be used to review plans for developing the Agency Review DCAP.

Intalco Aluminum LLC and Petrogas Pacific LLC shall prepare an Agency Review DCAP in accordance with WAC 173-340-380 that provides a proposed remedial action to address the contamination present on the Facility site. The Agency Review DCAP shall include a general description of the proposed remedial actions; cleanup standards developed from the RI/FS and rationale regarding their selection; a schedule for implementation; description of any institutional controls proposed; and a summary of applicable local, state, and federal laws pertinent to the proposed cleanup actions. Intalco Aluminum LLC and Petrogas Pacific LLC shall prepare one (1) copy of the Agency Review DCAP and submit it, including one electronic copy each in Word (.doc or .docx) and Adobe (.pdf) formats, to Ecology for review and approval.

After incorporating Ecology's comments on the Agency Review DCAP and after Ecology approval, Intalco Aluminum LLC and Petrogas Pacific LLC shall prepare two (2) copies of the Public Review DCAP and submit them, including one electronic copy each in Word (.doc or .docx) and Adobe (.pdf) formats, to Ecology for distribution and public comment.

After incorporating Ecology's comments on the Public Review DCAP and after Ecology approval, Intalco Aluminum LLC and Petrogas Pacific LLC shall prepare one (1) copy of the Final DCAP and submit it, including one electronic copy each in Word (.doc or .docx) and Adobe (.pdf) formats, to Ecology.

**EXHIBIT C: SCHEDULE OF DELIVERABLES**

The schedule for deliverables described in the Agreed Order and the Scope of Work is presented below. If the date for submission of any item or notification required by this Schedule of Deliverables occurs on a weekend, state or federal holiday, the date for submission of that item or notification is extended to the next business day following the weekend or holiday. Where a deliverable due date is triggered by Ecology notification, comments or approval, the starting date for the period shown is the date Intalco Aluminum LLC and Petrogas Pacific LLC received such notification, comments or approval by certified mail or electronic mail (i.e., email) return receipt requested, unless otherwise noted below. Where triggered by Ecology receipt of a deliverable, the starting date for the period shown is the date Ecology receives the deliverable by certified mail, electronic mail return receipt requested, or the date of Ecology signature on a hand-delivery form.

Table 1. Schedule of Deliverables

Deliverable/Task	Date
Quarterly Progress Reports	Twentieth (20 <sup>th</sup> ) day of the month (April 20 <sup>th</sup> for the January through March quarter, July 20 <sup>th</sup> for the April through June quarter, October 20 <sup>th</sup> for the July through September quarter, and January 20 <sup>th</sup> for the October through December quarter)
Final Demolition Interim Action Work Plan	Within forty-five (45) calendar days following receipt of Ecology’s approval of the Draft Demolition Interim Action Work Plan
Implementation of Final Demolition Interim Action Work Plan	As described in the Final Demolition Interim Action Work Plan
Agency Review Draft Demolition Interim Action Report	Within ninety (90) calendar days of completing work performed under the Final Demolition Interim Action Work Plan
Final Demolition Interim Action Report	Within forty-five (45) calendar days following receipt of Ecology’s comments on the Agency Review Draft Demolition Interim Action Report
Agency Review Draft RI Work Plan	Within ninety (90) calendar days following effective date of the Agreed Order
Final RI Work Plan	Within sixty (60) calendar days following receipt of Ecology comments on the Agency Review Draft RI Work Plan
Initiate implementation of Final RI Work Plan	Within ninety (90) calendar days following submittal of Final RI Work Plan

Deliverable/Task	Date
Completion of RI Field Work	Within twelve (12) months following Ecology approval of the Final Work Plan, or as otherwise approved by Ecology
Draft RI Report (to be incorporated into Agency Review Draft RI/FS Report)	Approximately ninety (90) calendar days prior to submitting the Agency Review Draft RI/FS Report
Agency Review Draft RI/FS Report	Within ninety (90) calendar days following receipt of Ecology comments on the Draft RI
Agency Review Draft RI Work Plan Addendum (if needed)	Within sixty (60) calendar days following Ecology's written notification that an Agency Review Draft RI Work Plan Addendum is necessary
Final RI Work Plan Addendum (if needed)	Within forty-five (45) calendar days following receipt of Ecology comments on the Agency Review Draft RI Work Plan Addendum
Initiate implementation of Final RI Work Plan Addendum (if needed)	Within thirty (30) calendar days following submittal of Final RI Work Plan Addendum
Revised Agency Review Draft RI/FS Report incorporating Final RI Work Plan Addendum activities (if needed)	If no sampling is required: Within ninety (90) calendar days of completing Final RI Work Plan Addendum activities If sampling is required: Within ninety (90) calendar days following receipt of validated laboratory data
Public Review Draft RI/FS Report	If a Final RI Work Plan Addendum is not required: Within forty-five (45) calendar days following receipt of Ecology comments on the Agency Review Draft RI/FS Report If a Final RI Work Plan Addendum is required: Within forty-five (45) calendar days following receipt of Ecology comments on the Revised Agency Review Draft RI/FS Report
Final RI/FS Report	Within forty-five (45) calendar days following receipt of Ecology comments on the Public Review Draft RI/FS Report
Agency Review Draft IAWP (if needed)	Within sixty (60) calendar days following Ecology's written notification that an Interim Action is necessary

Deliverable/Task	Date
Public Review Draft IAWP (if needed)	Within forty-five (45) calendar days following receipt of Ecology comments on the Agency Review Draft IAWP
Final IAWP (if needed)	Within thirty (30) calendar days following receipt of Ecology's comments on the Public Review Draft IAWP
Initiate implementation of Final IAWP (if needed)	Within thirty (30) calendar days following submittal of Final IAWP
Agency Review Draft Interim Action Report (if needed)	Within ninety (90) calendar days of completing the Final IAWP activities
Final Interim Action Report (if needed)	Within thirty (30) calendar days following receipt of Ecology's comments on the Agency Review Draft Interim Action Report
Agency Review Draft Responsiveness Summary, as applicable	Within forty-five (45) calendar days of a public comment period ending
Agency Review DCAP	Within ninety (90) calendar days following submittal of the Final RI/FS Report
Public Review DCAP	Within forty-five (45) calendar days following receipt of Ecology's comments on the Agency Review DCAP
Final DCAP	Within forty-five (45) calendar days following receipt of Ecology's comments on the Public Review DCAP
Final Responsiveness Summary, as applicable	Within thirty (30) calendar days following receipt of Ecology's comments on an Agency Review Draft Responsiveness Summary
Enter validated data into the Environmental Information Management System	At the time of report submittal

**EXHIBIT D: APPLICABLE PERMITS AND REGULATORY REQUIREMENTS**

Chapter 70A.305 RCW (Model Toxics Control Act), and Chapter 173-340 WAC (MTCA Regulations);

Chapter 70A.300 RCW (Hazardous Waste Management) and Chapter 173-303 WAC (Dangerous Waste Regulations);

Chapter 90.48 RCW (State Water Pollution Control Act);

Chapter 70.95 RCW (Solid Waste Management – Reduction and Recycling);

Chapter 173-204 WAC (Sediment Management Regulations);

Chapter 173-160 WAC (Minimum Standards for Construction and Maintenance of Wells);

Chapter 43.21C RCW (State Environmental Policy Act), and Chapter 197-11 WAC (State Environmental Policy Act Rules);

Washington Industrial Safety and Health Act (WISHA);

Whatcom County Code (excavation and grading, solids waste, health and safety, environmental);

Final Demolition Interim Action Work Plan