State of Washington
Department of Ecology

In the Matter of Remedial Action by:
Port of Whitman County
Agreed Order
No. DE 24805

To: Kara Riebold
Executive Director
Port of Whitman County
302 North Mill Street
Colfax, WA 99111

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Exhibit A Site Location Diagram

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1. Introduction

The mutual objective of the State of Washington, Department of Ecology (Ecology) and the Port of Whitman County (the Port) under this Agreed Order (Order) is to provide for remedial action at a facility where there has been a release or threatened release of hazardous substances. This Order requires the Port to complete a Remedial Investigation (RI) and Feasibility Study (FS) per Washington Administrative Code (WAC) 173-340-350. Ecology believes the actions required by this Order are in the public interest.

2. Jurisdiction

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

3. Parties Bound

This Agreed Order shall apply to and be binding upon the Parties to this Order, their successors and assigns. The undersigned representative of each Party hereby certifies that he or she is fully authorized to enter into this Order and to execute and legally bind such Party to comply with this Order. The Port agrees to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter the Port's responsibility under this Order. The Port shall provide a copy of this Order to all agents, contractors, and subcontractors retained to perform work required by this Order and shall ensure that all work undertaken by such agents, contractors, and subcontractors complies with this Order.

4. Definitions

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

4.1 Site

The Site is referred to as Rogers Brothers Seed. The Site constitutes a facility under RCW 70A.305.020(8). The Site is defined by where a hazardous substance, other than a consumer product in consumer use, has been deposited, stored, disposed of, or placed, or otherwise come to be located. Based upon factors currently known to Ecology, the Site is generally located in the vicinity of 308 E. 3rd St. in Colfax, WA as shown in the Site Location Diagram (Exhibit A).

4.2 Party/Parties

The State of Washington, Department of Ecology, and the Port of Whitman County, shall individually be referred to as a "Party" and collectively as the "Parties."

4.3 Potentially Liable Persons (PLP(s))

Refers to the Port of Whitman County (Port).

4.4 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.

5. Findings of Fact

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

5.1

Based upon factors currently known to Ecology, the Site is generally located in the vicinity of 308 E. 3rd St. in Colfax, WA as shown in the Site Location Diagram (Exhibit A). The Site is located in the NW ¼ of the SE ¼ of Section 11, Township 25, Range 3 EWM.

5.2

The Site is a former pea seed processing and storage facility. The Rogers Brothers Seed Company (RBSC) owned and operated at the Site from the early 1940s until the early 1990s. In 1991, RBSC changed its name to Rogers NK Seed Co. In 1994, Rogers NK Seed Co. then changed its name to Rogers Seed Co. In 1997, Rogers Seed Co. merged into Novartis Seeds, Inc., which changed its name to Syngenta Seeds, Inc., in 2000, and then converted to Syngenta Seeds, LLC, in 2016.

The Site was sold to Juaul, Inc. in 1993 and used for the storage of boats, cars, and other miscellaneous equipment. The Port purchased the Site in January 2026.

5.3

While owned and operated by RBSC, pesticides were used to treat agricultural products stored at the Site. Additionally, petroleum products were stored and used at the Site to fuel equipment. Ballast sourced from the Silver Valley of Idaho (now known as the Bunker Hill Superfund Site) was also deposited along the rail line at the Site.

5.4

Investigations at the Site in the 1990s documented soil and groundwater contaminated with pesticides and total petroleum hydrocarbons. In 2025, three separate Phase II Environmental Site Assessments were completed at the Site. The first Phase II Environmental Site Assessments found that additional metals, volatile organic compounds, and polycyclic aromatic hydrocarbons were present in soil, and that groundwater is contaminated with similar metals and pesticides, as well as volatile petroleum products.

5.5

Ecology was notified of a release of hazardous substances at the Site on February 19, 2026. On February 23, 2026, an initial investigation was completed. On February 25, 2026 Ecology issued an Early Notice Letter which recommended the Site be placed on the Contaminated Sites List.

5.6

Ecology completed a Site Hazard and Ranking Process assessment on February 23, 2026, and rated the Site as medium.

5.7

Pursuant to RCW 70A.305.040, .020(26), and WAC 173-340-500, Ecology issued an Preliminary Determination of PLP status to the Port on April 23, 2026. On May 14, 2026, after having provided notice and opportunity for comment to the Port, Ecology received an executed waiver of the right to the thirty-day notice and comment period. On May 14, 2026, under RCW 70A.305.040, Ecology issued to the Port, via certified mail, a letter confirming the Port's status as a PLP for the Site.

6. Ecology Determinations

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

6.1

The Port is an “owner or operator” as defined in RCW 70A.305.020(22) of a “facility” as defined in RCW 70A.305.020(8).

6.2

Based upon all factors known to Ecology, a “release” or “threatened release” of “hazardous substance(s)” as defined in RCW 70A.305.020(32), (13), respectively, has occurred at the Site.

6.3

Based upon credible evidence, Ecology issued a PLP status letter to the Port dated April 23, 2026, pursuant to RCW 70A.305.040, .020(26), and WAC 173-340-500. By letter dated May 14, 2026 - following the Port voluntarily waiving its rights to notice and comment, and accepting Ecology's determination that the Port is a PLP under RCW 70A.305.040 - Ecology issued a determination that the Port is a PLP and notified the Port of this determination.

6.4

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

6.5

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. Either Party may propose an interim action under this Order. If the Parties are in agreement concerning the interim action, the Parties will follow the process in Section 7 (Work to be Performed).

7. Work to be Performed

Based on the Findings of Fact and Ecology Determinations, it is hereby ordered that the Port take the following remedial actions at the Site. These remedial actions must be conducted in accordance with WAC 173-340:

7.1

The Port will complete a Remedial Investigation/Feasibility Study in accordance with the schedule and terms of the Scope of Work and Schedule (Exhibit B) 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).

7.2

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

7.3

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

7.3.1

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

7.3.2

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

7.3.3

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

7.3.4

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

7.3.5

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

7.3.6

A list of deliverables for the upcoming quarter.

7.4

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

7.5

If the Parties agree on an interim action under Section 6 (Ecology Determinations), the Port shall prepare and submit to Ecology an Interim Action Work Plan, including a scope of work and schedule, by the date determined by Ecology. Ecology will provide public notice and opportunity to comment on the Interim Action Work Plan in accordance with WAC 173-340-600(16). The Port shall not conduct the interim action until Ecology approves the Interim Action Work Plan. Upon approval by Ecology, the Interim Action Work Plan becomes an integral and enforceable part of this Order, and the Port is required to conduct the interim action in accordance with the approved Interim Action Work Plan. If the Parties are not in agreement, Ecology reserves its authority to require interim action(s) under a separate order or other enforcement action under RCW 70A.305, or to undertake the interim action itself.

7.6

If Ecology determines that the Port has failed to make sufficient progress or failed to implement the remedial action, in whole or in part, Ecology may, after notice to the Port, perform any or all portions of the remedial action or at Ecology's discretion allow the Port opportunity to correct. In an emergency, Ecology is not required to provide notice to the Port, or an opportunity for dispute resolution. The Port shall reimburse Ecology for the costs of doing such work in accordance with Section 8.1 (Payment of Remedial Action Costs). Ecology reserves the right to enforce requirements of this Order under Section 10 (Enforcement).

7.7

Except where necessary to abate an emergency situation or where required by law, the Port shall not perform any remedial actions at the Site outside those remedial actions required by this Order to address the contamination that is the subject of this Order, unless Ecology concurs, in writing, with such additional remedial actions pursuant to Section 8.11 (Amendment of Order). In the event of an emergency, or where actions are taken as required by law, the Port 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.

7.8

8. Terms and Conditions

8.1 Payment of Remedial Action Costs

The Port shall pay to Ecology costs incurred by Ecology pursuant to this Order and consistent with WAC 173-340-550(2). These costs shall include work performed by Ecology or its contractors for, or on, the Site under RCW 70A.305, including remedial actions and Order preparation, negotiation, oversight, and administration. These costs shall include work performed both prior to and subsequent to the issuance of this Order. Ecology's costs shall include costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2). Ecology has accumulated $5749.20 in remedial action costs related to this Site as of June 22, 2026. For all Ecology costs incurred, the Port shall pay the required amount within thirty (30) days of receiving from Ecology an itemized statement of costs that includes a summary of costs incurred, an identification of involved staff, and the amount of time spent by involved staff members on the project. A general statement of work performed will be provided upon request. Itemized statements shall be prepared quarterly. Pursuant to WAC 173-340-550(4), failure to pay Ecology's costs within ninety (90) days of receipt of the itemized statement of costs will result in interest charges at the rate of twelve percent (12%) per annum, compounded monthly.

In addition to other available relief, pursuant to RCW 19.16.500, Ecology may utilize a collection agency to recover unreimbursed remedial action costs

8.2 Designated Project Coordinators

The project coordinator for Ecology is:

Sandra Treccani
4601 N Monroe
Spokane, WA 99205
509-724-1205
Sandra.treccani@ecy.wa.gov

The project coordinator for the Port is:

Kara Riebold
Executive Director
Port of Whitman County
302 North Mill Street
Colfax, WA 99111

Email: kara@portwhitman.com

(509) 288-0179

Each project coordinator shall be responsible for overseeing the implementation of this Order. Ecology's project coordinator will be Ecology's designated representative for the Site. To the maximum extent possible, communications between Ecology and the Port, and all documents, including reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order shall be directed through the project coordinators. The project coordinators may designate, in writing, working level staff contacts for all or portions of the implementation of the work to be performed required by this Order.

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

8.3 Performance

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

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

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

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

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

8.4 Access

Ecology or any Ecology authorized representative shall have access to enter and freely move about all property at the Site that the Port either owns, controls, or has access rights to at all reasonable times for the purposes of, inter alia: inspecting records, operation logs, and contracts related to the work being performed pursuant to this

Order; reviewing the Port's progress in carrying out the terms of this Order; conducting such tests or collecting such samples as Ecology may deem necessary; using a camera, sound recording, or other documentary type equipment to record work done pursuant to this Order; and verifying the data submitted to Ecology by the Port. Ecology or any Ecology authorized representative shall give reasonable notice before entering any Site property owned or controlled by the Port unless an emergency prevents such notice. All persons who access the Site pursuant to this section shall comply with any applicable health and safety plan(s). Ecology employees and their representatives shall not be required to sign any liability release or waiver as a condition of Site property access.

The Port shall make best efforts to secure access rights for those properties within the Site not owned or controlled by the Port where remedial activities or investigations will be performed pursuant to this Order. As used in this Section, "best efforts" means the efforts that a reasonable person in the position of the Port would use so as to achieve the goal in a timely manner, including the cost of employing professional assistance and the payment of reasonable sums of money to secure access and/or use restriction agreements, as required by this Section. If, within 90 days after the effective date of this Order, the Port is unable to accomplish what is required through "best efforts," they shall notify Ecology, and include a description of the steps taken to comply with the requirements. If Ecology deems it appropriate, it may assist the Port, or take independent action, in obtaining such access and/or use restrictions. Ecology reserves the right to seek payment from the Port for all costs, including cost of attorneys' time, incurred by Ecology in obtaining such access or agreements to restrict land, water, or other resource use.

8.5 Sampling, Data Submittal, and Availability

With respect to the implementation of this Order, the Port shall make the results of all sampling, laboratory reports, and/or test results generated by it or on its behalf available to Ecology. Pursuant to WAC 173-340-840(5), all sampling data shall be submitted to Ecology in both printed and electronic formats in accordance with Section 7 (Work to be Performed), Ecology's Toxics Cleanup Program Policy 840 (Data Submittal Requirements), and/or any subsequent procedures specified by Ecology for data submittal.

If requested by Ecology, the Port shall allow Ecology and/or its authorized representative to take split or duplicate samples of any samples collected by the Port pursuant to implementation of this Order. The Port shall notify Ecology seven (7) days in advance of any sample collection or work activity at the Site. Ecology shall, upon request, allow the Port and/or its authorized representative to take split or duplicate samples of any samples collected by Ecology pursuant to the implementation of this Order, provided that doing so does not interfere with Ecology's sampling. Without limitation on Ecology's rights under Section 8.4 (Access), Ecology shall notify the Port prior to any sample collection activity unless an emergency prevents such notice.

In accordance with WAC 173-340-830(5)(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.

8.6 Public Participation

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

8.6.1

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

8.6.2

Notify Ecology's project coordinator prior to the preparation of all press releases and fact sheets, and before meetings related to remedial action work to be performed at the Site with the interested public and/or local governments. Likewise, Ecology shall notify the Port prior to the issuance of all press releases and fact sheets related to the Site, and before meetings related to the Site with the interested public and local governments. For all press releases, fact sheets, meetings, and other outreach efforts by the Port that do not receive prior Ecology approval, the Port shall clearly indicate to its audience that the press release, fact sheet, meeting, or other outreach effort was not sponsored or endorsed by Ecology.

8.6.3

When requested by Ecology, participate in public presentations on the progress of the remedial action at the Site. Participation may be through attendance at public meetings to assist in answering questions or as a presenter.

8.6.4

A copy of all documents related to this Site shall be maintained in the repository at Ecology's Eastern Region Office in Spokane, Washington.

8.7 Access to Information

The Port shall provide to Ecology, upon request, copies of all records, reports, documents, and other information (including records, reports, documents, and other information in electronic form) (hereinafter referred to as "Records") within the Port's possession or control or that of their contractors or agents relating to activities at the Site or to the implementation of this Order, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information regarding the work. The Port shall also make available to Ecology, for purposes of investigation, information gathering, or testimony, their employees, agents, or representatives with knowledge of relevant facts concerning the performance of the work.

Nothing in this Order is intended to waive any right the Port may have under applicable law to limit disclosure of Records protected by the attorney work-product privilege and/or the attorney-client privilege. If the Port withholds any requested Records based on an assertion of privilege, the Port shall provide Ecology with a privilege log specifying the Records withheld and the applicable privilege. No Site-related data collected pursuant to this Order shall be considered privileged, including: (1) any data regarding the Site, including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, radiological, biological, or engineering data, or the portion of any other record that evidences conditions at or around the Site; or (2) the portion of any Record that Respondents are required to create or generate pursuant to this Order.

Notwithstanding any provision of this Order, Ecology retains all of its information gathering and inspection authorities and rights, including enforcement actions related thereto, under any other applicable statutes or regulations.

8.8 Retention of Records

During the pendency of this Order, and for ten (10) years from the date of completion of the work performed pursuant to this Order, the Port shall preserve all records, reports, documents, and underlying data in its possession relevant to the implementation of this Order and shall insert a similar record retention requirement into all contracts with project contractors and subcontractors.

8.9 Resolution of Disputes

8.9.1

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

8.9.1.1 Upon the triggering event (receipt of Ecology's project coordinator's written decision or an itemized billing statement), the Port has fourteen (14) calendar days within which to notify Ecology's project coordinator in writing of its dispute (Informal Dispute Notice).

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

8.9.1.3 The Port may then request regional management review of the dispute. The Port must submit this request (Formal Dispute Notice) in writing to the Eastern Region Toxics Cleanup Section Manager within seven (7) calendar days of receipt of Ecology's Informal Dispute Decision. The Formal Dispute Notice shall include a written statement of dispute setting forth: the nature of the dispute; the Port's position with respect to the dispute; and the information relied upon to support its position.

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

8.9.2

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

8.9.3

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

8.9.4

In case of a dispute, failure to either proceed with the work required by this Order or timely invoke dispute resolution may result in Ecology's determination that insufficient progress is being made in preparation of a deliverable, and may result in Ecology undertaking the work under Section 7.1 (Work to be Performed) or initiating enforcement under Section 10 (Enforcement).

8.10 Extension of Schedule

8.10.1

The Port's request for an extension of schedule shall be granted only when a request for an extension is submitted in a timely fashion, generally at least thirty (30) days prior to expiration of the deadline for which the extension is requested, and good cause exists for granting the extension. All extensions shall be requested in writing. The request shall specify:

8.10.1.1 The deadline that is sought to be extended.

8.10.1.2 The length of the extension sought.

8.10.1.3 The reason(s) for the extension.

8.10.1.4 Any related deadline or schedule that would be affected if the extension were granted.

8.10.2

The burden shall be on the Port to demonstrate to the satisfaction of Ecology that the request for such extension has been submitted in a timely fashion and that good cause exists for granting the extension. Good cause may include, but may not be limited to:

8.10.2.1 Circumstances beyond the reasonable control and despite the due diligence of the Port including delays caused by unrelated third parties or Ecology, such as (but not limited to) delays by Ecology in reviewing, approving, or modifying documents submitted by the Port.

8.10.2.2 A shelter in place or work stoppage mandated by state or local government order due to public health and safety emergencies.

8.10.2.3 Acts of God, including fire, flood, blizzard, extreme temperatures, storm, or other unavoidable casualty.

8.10.2.4 Endangerment as described in Section 8.12 (Endangerment).

However, neither increased costs of performance of the terms of this Order nor changed economic circumstances shall be considered circumstances beyond the reasonable control of the Port.

8.10.3

Ecology shall act upon the Port's written request for extension in a timely fashion. Ecology shall give the Port written notification of any extensions granted pursuant to this Order. The requested extension shall not be effective until approved by Ecology. Unless the extension is a substantial change, it shall not be necessary to amend this Order pursuant to Section 8.11 (Amendment of Order) when a schedule extension is granted.

8.10.4

At the Port's request, an extension shall only be granted for such period of time as Ecology determines is reasonable under the circumstances. Ecology may grant schedule extensions exceeding ninety (90) days only as a result of one of the following:

8.10.4.1 Delays in the issuance of a necessary permit which was applied for in a timely manner.

8.10.4.2 Other circumstances deemed exceptional or extraordinary by Ecology.

8.10.4.3 Endangerment as described in Section 8.12 (Endangerment).

8.11 Amendment of Order

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

Except as provided in Section 8.13 (Reservation of Rights), substantial changes to the work to be performed shall require formal amendment of this Order. This Order may only be formally amended by the written consent of both Ecology and the Port. Ecology will provide its written consent to a formal amendment only after public notice and opportunity to comment on the formal amendment.

When requesting a change to the Order, the Port shall submit a written request to Ecology for approval. Ecology shall indicate its approval or disapproval in writing and in a timely manner after the written request is received. If Ecology determines that the change is substantial, then the Order must be formally amended. Reasons for the disapproval of a proposed change to this Order shall be stated in writing. If Ecology does not agree to a proposed change, the disagreement may be addressed through the dispute resolution procedures described in Section 8.9 (Resolution of Disputes).

8.12 Endangerment

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

In the event the Port determines that any activity being performed at the Site under this Order is creating or has the potential to create a danger to human health or the environment, the Port may cease such activities. The Port shall notify Ecology's project coordinator as soon as possible, but no later than twenty-four (24) hours after making such determination or ceasing such activities. Upon Ecology's direction, the Port shall provide Ecology with documentation of the basis for the determination or cessation of such activities. If Ecology disagrees with the Port's cessation of activities, it may direct the Port to resume such activities.

If Ecology concurs with or orders a work stoppage pursuant to this section, the Port's obligations with respect to the ceased activities shall be suspended until Ecology determines the danger is abated, and the time for performance of such activities, as well as the time for any other work dependent upon such activities, shall be extended in accordance with Section 8.10 (Extension of Schedule) for such period of time as Ecology determines is reasonable under the circumstances.

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

8.13 Reservation of Rights

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

Ecology nevertheless reserves its rights under RCW 70A.305, including the right to require additional or different remedial actions at the Site should it deem such actions necessary to protect human health or the environment, and to issue orders requiring such remedial actions. Ecology also reserves all rights regarding the injury to, destruction of, or loss of natural resources resulting from the release or threatened release of hazardous substances at the Site.

By entering into this Order, the Port does not admit to any liability for the Site. Although the Port is committing to conducting the work required by this Order under the terms of this Order, the Port expressly reserves all rights available under law, including but not limited to the right to seek cost recovery or contribution against third parties, and the right to assert any defenses to liability in the event of enforcement.

8.14 Transfer of Interest in Property

No voluntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Site shall be consummated by the Port without provision for continued implementation of all requirements of this Order and implementation of any remedial actions found to be necessary as a result of this Order.

Prior to the Port's transfer of any interest in all or any portion of the Site, and during the effective period of this Order, the Port shall provide a copy of this Order to any prospective purchaser, lessee, transferee, assignee, or other successor in said interest; and, at least thirty (30) days prior to any transfer, the Port shall notify Ecology of said transfer. Upon transfer of any interest, the Port shall notify all transferees of the restrictions on the activities and uses of the property under this Order and incorporate any such use restrictions into the transfer documents.

8.15 Compliance with Applicable Laws

8.15.1 Applicable Laws

All actions carried out by the Port pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements, including requirements to obtain necessary permits or approvals, except as provided in RCW 70A.305.090. At this time, no federal, state, or local requirements have been identified as being applicable to the actions required by this Order. The Port has a continuing obligation to identify additional applicable federal, state, and local requirements which apply to actions carried out pursuant to this Order, and to comply with those requirements. As additional federal, state, and local requirements are identified by Ecology or the Port, Ecology will document in writing if they are applicable to actions carried out pursuant to this Order, and the Port must implement those requirements.

8.15.2 Relevant and Appropriate Requirements.

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

8.15.3

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

8.15.4

The Port has a continuing obligation to determine whether additional permits or approvals addressed in RCW 70A.305.090(1) would otherwise be required for the remedial action under this Order. In the event either Ecology or the Port determines that additional permits or approvals addressed in RCW 70A.305.090(1) would otherwise be required for the remedial action under this Order, it shall promptly notify the other Party of its determination. Ecology shall determine whether Ecology or the Port shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, the Port shall promptly consult with the appropriate state and/or local agencies and provide Ecology with written documentation from those agencies of the substantive requirements those agencies believe are applicable to the remedial action. Ecology shall make the final determination on the additional substantive requirements that must be met by the Port and on how the Port must meet those requirements. Ecology shall inform the Port in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. The Port shall not begin or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination.

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

8.16 Indemnification

To the extent permitted by law, the Port agrees to indemnify and save and hold the State of Washington, its employees, and agents harmless from any and all claims or causes of action (1) for death or injuries to persons, or (2) for loss or damage to property, to the extent arising from or on account of acts or omissions of the Port, its officers, employees, agents, or contractors in entering into and implementing this Order. However, the Port shall not indemnify the State of Washington nor save nor hold its employees and agents harmless from any claims or causes of action to the extent arising out of the negligent acts or omissions of the State of Washington, or the employees or agents of the State, in entering into or implementing this Order.

9. Satisfaction of Order

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

10. Enforcement

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

10.1

The Attorney General may bring an action to enforce this Order in a state or federal court.

10.2

The Attorney General may seek, by filing an action, if necessary, to recover amounts spent by Ecology for investigative and remedial actions and orders related to the Site.

10.3

A liable party who refuses, without sufficient cause, to comply with any term of this Order will be liable for:

10.3.1

Up to three (3) times the amount of any costs incurred by the State of Washington as a result of its refusal to comply.

10.3.2

Civil penalties of up to twenty-five thousand dollars ($25,000) per day for each day it refuses to comply.

10.4

This Order is not appealable to the Washington Pollution Control Hearings Board. This Order may be reviewed only as provided under RCW 70A.305.070.

Effective date of this Order: 9/14/2026

Port of Whitman County

Kara L Riebold

Kara Riebold
Executive Director

State of Washington
Department of Ecology

Nicholas M. Acklam

Nicholas M. Acklam
Section Manager
Toxics Cleanup Program, Eastern Region

Exhibit A | Site Location Diagram

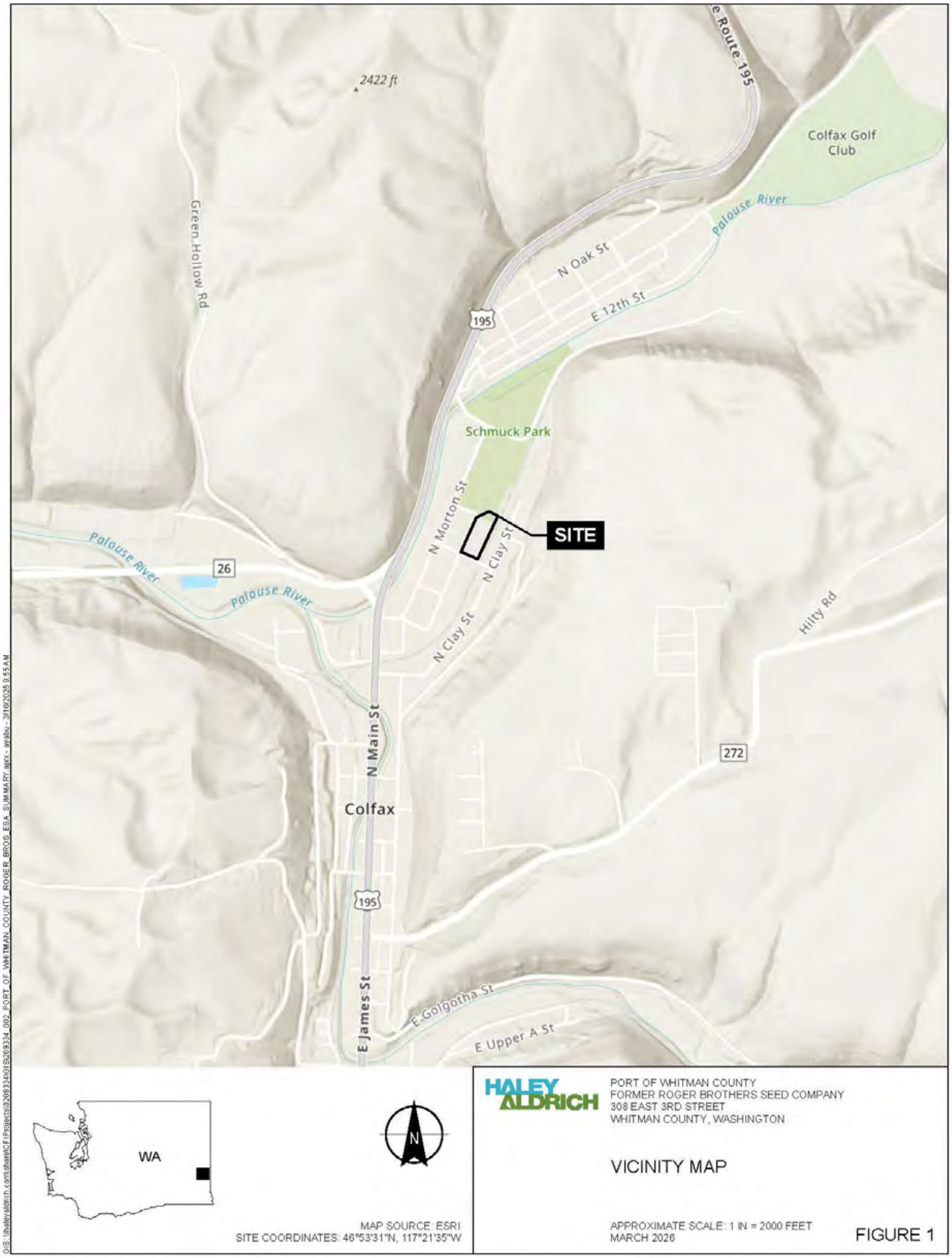

Exhibit B | Scope of Work and Schedule

Scope of Work

Purpose

The work under this Agreed Order (AO) requires the Potentially Liable Person (PLPs) to conduct a Remedial Investigation (RI) and Feasibility Study (FS). The purpose of the RI/FS for the Site is to provide sufficient data, analysis, and evaluations to enable Ecology to select a cleanup alternative for the Site.

The PLPs will coordinate with Ecology throughout the development of the work required by the AO and will keep Ecology informed of changes to any Work Plan or other project plans, and of any issues or problems as they develop.

The PLPs will furnish all personnel, materials, and services necessary for, or incidental to, performing the RI and/or FS.

Deliverables prepared under this AO will be submitted to Ecology for review and approval in electronic format as both a tracked Word document (.doc) and Adobe (.pdf) format. Work may not begin for each task before receiving written approval from Ecology.

The PLPs or their contractors will submit all sampling data generated under this AO and previously collected at the Site to Ecology for entry into the Environmental Information Management System (EIM) in accordance with WAC 173-340-840(5) and Ecology's Toxics Cleanup Program Policy 840: Data Submittal Requirements. Validated data is required to be in the EIM database within 60 days of submittal.

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

Task 1	RI/FS Work Plan
Task 2	Remedial Investigation
Task 3	RI/FS Report
Task 4	Quarterly Groundwater Monitoring and Reporting
Task 5	Progress Reports

Task 1. Remedial Investigation and Feasibility Study (RI/FS) Work Plan

The PLPs will prepare an RI/FS Work Plan (Work Plan) that includes an overall description and schedule of all RI activities and FS development.

A Remedial Investigation Planning Meeting will be held prior to submittal of the Work Plan to:

- Determine data gaps that need to be addressed.

- Plan the RI field work.
- Review the Sampling and Analysis Plan/Quality Assurance Project Plan (SAP/QAPP) requirements.
- Discuss the best way to review and evaluate the data collected.
- Discuss the preliminary Conceptual Site Model.
- Determine a high level project schedule, including any cultural resource plans and approvals.
- Identify any other project data needs.

The Work Plan will outline procedures for the RI and FS, comply with WAC 173-340-350, and should include the following information:

1. **General Facility Information,** including, but not limited to, legal description of the facility, present owner and/or operator including chronological listing of past owners and/or operators, adjacent property owners, zoning designations of property and adjacent properties, and other pertinent information.
2. **Site History** providing descriptions of historical, current, and future Site activities/operations, and their location.
3. **Site Conditions Map(s)** that illustrate relevant current Site features such as property boundaries, proposed facility boundaries, surface topography, surface and subsurface structures, utility lines, well locations, and other pertinent information (for example, surface water bodies near the vicinity of the Site). All maps will be consistent with the requirements in WAC 173-340-840(4) and be of sufficient detail and accuracy to document all current and future work performed at the Site.
4. **Site geology and hydrogeology** and a brief discussion of local climate. Should include well logs of known monitoring well locations, groundwater supply wells, and a summary of well construction details, including top of casing elevations and well screen elevations.
5. **Data Reports** from previous analyses of soils and groundwater, along with documentation of any remedial activities if undertaken.
6. **Preliminary Conceptual Site Model** that describes the current understanding of contaminant release, fate, and transport (including migration pathways in all environmental media and identifying potential receptors), and Site-specific concerns such as identification of natural resources and ecological receptors.
7. **Sampling and Analysis Plan (SAP)** for use during all Site characterization activities and for SOW Task 4 Quarterly Groundwater Monitoring and Reporting. The plan will conform to the requirements of WAC 173-340-820 and WAC 173-340-830, and will generally contain:

- Purpose and objectives of the data collection activities.
- Specific sampling methods, including number and type of QA/QC samples. The sampling suite should be guided by historical property use.
- Sampling locations and designations.
- Types of media to be sampled and the number of samples of each.
- Proposed number and location of monitoring wells, soil borings, test pits, and other investigative activities.
- Schedule and task assignments.
- Supplies and equipment.
- Monitoring well construction requirements.
- Analytical procedures, methods, and detection limits.
- Sample custody procedures, including holding times, containers, and preservation.
- Investigation-derived waste management.
- Shipping and handling arrangements.

8. **Health and Safety Plan (HSP)** to cover the level of chemical protection, hazard evaluation, waste characteristics and special considerations, and emergency information in accordance with WAC 173-340-810.
9. **Quality Assurance Project Plan (QAPP**) to include field QA/QC methods, chain-of-custody procedures, laboratory QA/QC methods, and electronic data management, archival, and transmittal protocols.
10. **Inadvertent Discovery Plan (IDP)** will outline procedures to perform in the event of a discovery of archaeological materials or human remains, in accordance with applicable state and federal laws.
11. **Groundwater Monitoring Plan (GMP)**, to include:

- Description of groundwater monitoring activities in compliance with WAC 173-340-410(3).
- Groundwater sampling equipment, description and rationale for pump intake placement, and sampling protocols.
- Description of field parameter measurements and instrumentation.
- Sample collection, handling, packaging, and transport requirements.
- Required method detection limits and reporting limits.

- Monitoring locations (existing and proposed) and well construction logs.
- Analytical methods for an analytical suite that will be sufficiently broad to encompass contaminants known or found to be present in soil and groundwater at the Site.
- Quarterly reporting procedures developed in accordance with SOW Task 4 Quarterly Groundwater Monitoring and Reporting.
- The Groundwater Monitoring Plan will reference the SAP and QAPP whenever possible to reduce redundancy between those and the Groundwater Monitoring Plan.

The PLPs will provide Ecology with an Agency Review Draft RI/FS Work Plan. After incorporating Ecology's comments on the Agency Review Draft Work Plan and after Ecology approval, the PLPs will prepare and submit to Ecology the Final RI/FS Work Plan, which will be implemented based on the schedule contained in this Exhibit.

Task 2. Remedial Investigation

The PLPs will conduct an RI that meets the requirements of WAC 173-340-350 and WAC 173-204-550 according to the Work Plan as approved by Ecology. The RI will determine the nature and extent of contamination exceeding preliminary Model Toxics Control Act (MTCA) cleanup levels and any other regulatory requirements. The RI must provide sufficient data and information to define the nature and extent of contamination. The RI will include the following elements:

1. **Site Characterization** to conduct representative sampling and testing to assess the nature and extent of contamination. Conduct analytical tests on groundwater, soil, and other potentially contaminated media in the vicinity of the Site. Data must be sufficient to delineate the sources, type, depth, concentration, mass, and areal extent of contaminants, along with information that addresses the rate and direction of contaminant movement.

2. **Groundwater**

   2.1. Install new groundwater monitoring wells, background wells, and soil borings where needed and comply with the resource protection well requirements of WAC 173-160.

   2.2. Generate well logs such that regional stratigraphy may be characterized.

   2.3. Characterize Site-specific stratigraphy and lithology based on well logs, maps, and any other information available.

   2.4. Estimate hydrogeologic parameters such as hydraulic conductivity and porosity.

   2.5. Measure water levels in all wells and new borings.

   2.6. Determine groundwater flow direction.

2.7. Collect quarterly groundwater samples at Site monitoring wells so seasonal fluctuations are captured and report results in accordance with SOW Task 4, Groundwater Monitoring and Reporting.

2.8. Analyze groundwater samples for a contaminant suite guided by historical property use.

2.9. Generate maps and/or figures showing water levels and regional/Site hydrogeology.

3. **Soils**

3.1. Install soil borings and/or excavate test pits and collect representative soil samples for the characterization of lithology, subsurface conditions, and contaminant concentrations.

3.2. Characterize soil samples using the Unified Soil Classification System (USCS).

3.3. Generate logs for each boring and/or test pit.

3.4. Analyze soil samples for a contaminant suite guided by historical property use.

4. **Potential Receptor Information** for collection of data on the surrounding human and ecological populations that may be in contact with contaminants and potential routes of exposure for those populations in support of the Feasibility Study.

4.1. Public Use/Site Access – Potential uses of the affected properties and the presence or absence of controls on Site access, including any planned future use(s).

4.2. Potential Groundwater Uses – Any consumptive, recreational, or other use of groundwater and surface water in the area, and by which populations.

4.3. Environmental Receptors – Information on the presence of endangered or threatened species, potential habitats, and ecological environments.

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.

The PLPs will provide interim data reports and updates to Ecology as new Site data and information become available. Laboratory analysis data will also be provided in electronic format when it has been validated. Raw laboratory data will be provided to Ecology upon request. Periodic reporting will occur in accordance with SOW Task 5, Progress Reports.

Task 3. Remedial Investigation/Feasibility Study (RI/FS) Report

The PLPs will use the information obtained in the RI to prepare an Agency Review Draft RI/FS Report that meets the applicable requirements of WAC 173-340-350 and will be submitted according to the Schedule in this exhibit.

The FS will 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.

The RI/FS Report will include the following elements:

1. Remedial Investigation.

  1.1. Background Information.

    1.1.1. Site History.

    1.1.2. Previous Studies, including maps showing sampling locations and areas of reported remedial actions.

  1.2. Nature and Extent of Contamination - The PLPs will prepare an assessment and description of the degree and extent of contamination. This should include:

    1.2.1. Data Analysis – Analyze all data collected during Task 2 and prepare supporting maps and tables.

    1.2.2. Lab reports, previous investigations, well and boring logs, and any other documentation of characterization activities must be included.

    1.2.3. Maps showing sampling results by media and by contaminant

    1.2.4. Updates to the conceptual site model.

  1.3. Applicable or Relevant and Appropriate Requirements (ARARs) Analysis - Identify applicable local, state, and federal laws for cleanup of the Site in accordance with WAC 173-340-710.

  1.4. Cleanup Levels/Risk Assessment Analysis - Perform a baseline MTCA cleanup levels analysis/baseline risk assessment characterizing the current and potential threats to public health and the environment. The assessment will integrate cleanup standards and risk assessment as required by WAC 173-340-357 and WAC 173-340-708.

  1.5. Discussion and Recommendations

1.5.1. Interpret and discuss data to determine the nature and extent of the contamination and to support final recommendations for the Site.

1.5.2. A summary of all possible and suspected source areas of contamination based on the data collected will be included.

1.5.3. Any known or potential risks to public health, welfare, and the environment should be discussed.

1.5.4. Recommendations should be provided identifying additional data requirements.

2. Feasibility Study.

2.1. Identification of contamination to be remediated.

2.2. Identification and initial screening of treatment technologies.

2.3. Proposed remedial alternatives and evaluation with respect to MTCA criteria. The remedial alternatives will be evaluated for compliance with the applicable requirements of WAC 173-340-360 and WAC 173-204-570.

2.4. Recommended alternative.

Prior to submittal of the Agency Review Draft RI/FS Report, a Key Project Meeting will be held. During the RI/FS Pre-Report Check-In, Ecology and the PLPs will review available data, an updated conceptual site model, ARARs, proposed points of compliance, potential remedial alternatives, and proposed points of compliance; and discuss the content and organization of the Draft RI/FS Report.

The PLPs will compile the identified elements into an Agency Review Draft RI/FS Report and submit an electronic copy to Ecology for review and comment.

After incorporating Ecology's comments on the Agency Review Draft RI/FS Report, the PLPs will submit the Public Review Draft RI/FS Report to Ecology for distribution and public comment. The RI/FS Report will not be considered Final until after a public review and comment period and consideration of all public comments received.

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 will be conducted to define the extent of contamination.

Task 4. Quarterly Groundwater Monitoring and Reporting

Quarterly groundwater monitoring will occur in compliance with the Groundwater Monitoring Plan developed as part of the RI/FS Work Plan. The Groundwater Monitoring Plan will describe the groundwater monitoring activities to be implemented during the period of performance of the AO. Quarterly Groundwater Monitoring Reports will include, but not be limited to, the following:

1. Groundwater monitoring and sample collection methodology.
2. Description of the groundwater monitoring network.
3. Analytical methods.
4. Findings.
   - 4.1. Groundwater Elevation Data.
     - 4.1.1. Evaluation of groundwater flow rates and directions.
     - 4.1.2. Evaluation of vertical gradients.
   - 4.2. Groundwater Quality Data.
     - 4.2.1. Well stabilization parameters.
     - 4.2.2. Results summary.
     - 4.2.3. Description of vertical and lateral contaminant distribution.
5. Investigative-derived waste generation and handling documentation.
6. **Tables** that include groundwater elevation data, method detection and reporting limits, stabilization parameter results, and analytical results.
7. **Figures** that include a vicinity map, monitoring locations, sample results, potentiometric surface maps, and an estimated extent of contamination.
8. Appendices with:
   - 8.1. Chain-of-custody forms.
   - 8.2. Raw laboratory analytical results.
   - 8.3. Data validation reports.

Task 5. Progress Reports

Progress reports will be completed quarterly and contain:

1. Site-related activities that have taken place during the reporting period, including progress on upcoming deliverables.
2. Detailed descriptions of any deviations from required tasks.
3. Detailed descriptions of any deviations from this SOW and schedule or from enforceable deliverables for the current reporting period and any planned deviations for the upcoming reporting period.
4. For any deviations in the schedule, a plan for maintaining compliance with the schedule.
5. All raw data (including laboratory analyses) received during the previous month together with a detailed description of the underlying samples collected.
6. A list of deliverables and activities for the upcoming reporting period.

Schedule of Deliverables

The schedule for deliverables described in the Agreed Order and the Scope of Work is presented below. References to days in the schedule are calendar days. If the date for submission of any item or notification required by this Schedule of Deliverables occurs on a weekend, state or federal holiday, the date for submission of that item or notification is extended to the next business day following the weekend or holiday. Where a deliverable due date is triggered by Ecology notification, comments or approval, the starting date for the period shown is the date the PLPs received such notification, comments, or approval. Where triggered by Ecology receipt of a deliverable, the starting date for the period shown is the date Ecology receives the deliverable.

Task	Deliverables or Actions	Completion Times
	Effective date of Order	Start
1	PLPs to submit Agency Review Draft RI/FS Work Plan, SAP, HSP, QAPP, IDP, and GMP	90 days after Start
1	PLPs to submit revised RI/FS Work Plan, SAP, HSP, QAPP, IDP, and GMP	30 days after PLPs receive Ecology's comments on draft documents
1	PLPs to submit Final RI/FS Work Plan, SAP, HSP, QAPP, IDP, and GMP	14 days after receipt of any final Ecology comments and/or Ecology's approval of revised RI/FS Work Plan
2	PLPs to begin RI field work	30 days after PLPs receive Ecology's approval of revised RI/FS Work Plan
3	PLPs to submit Agency Review Draft RI/FS Report	90 days following submission of Monthly Report to Ecology documenting completion of RI field work
3	PLPs to submit Revised Public Review Draft RI/FS Report	30 days after PLPs receive Ecology's comments on Draft RI/FS Report
3	PLPs to submit Final RI/FS Report	30 days after receipt of any final Ecology comments and/or Ecology's approval of Public Review Draft RI Report

Task	Deliverables or Actions	Completion Times
4	Quarterly groundwater monitoring	Every 3 months, commencing according to the schedule in the final GMP
4	PLPs to submit Draft Quarterly Groundwater Monitoring Reports, as described in Task 6	Quarterly; 45 days after PLPs receive complete analytical report from the laboratory
4	PLPs to submit revised Quarterly Groundwater Monitoring Reports, if needed	30 days after PLPs receive Ecology comments on draft Quarterly Groundwater Monitoring Report
4	PLPs to submit Final Quarterly Groundwater Monitoring Report, if needed	15 days after Ecology's approval of revised Quarterly Groundwater Monitoring Report
5	Progress reports	Quarterly, on the 10th day of each following quarter