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STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

In the Matter of Remedial Action by:

PORT of SKAGIT COUNTY

AGREED ORDER for REMEDIAL
INVESTIGATION/FEASIBILITY STUDY –
TAXIWAY F SITE, SKAGIT REGIONAL
AIRPORT

No. 6158

TO: Port of Skagit County
PO Box 348
Burlington, WA 98233

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I. INTRODUCTION

The mutual objective of the State of Washington, Department of Ecology (Ecology) and the Port of Skagit County (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 perform a remedial investigation/feasibility study (RI/FS) for the Taxiway F Site at Skagit Regional Airport. The Taxiway F Site is formally known as and entered in Ecology databases as the Skagit County Port Site (Ecology FSID# 67457634) as described in WAC 173-340-350 in a manner that complies with all requirements of the Model Toxics Control Act Cleanup Regulation. The Port shall collect, develop and evaluate sufficient information to enable Ecology to select a cleanup action for the site. Ecology believes the actions required by this Order are in the public interest.

II. JURISDICTION

This Agreed Order is issued pursuant to the Model Toxics Control Act (MTCA), RCW 70.105D.050(1).

III. PARTIES BOUND

This Agreed Order shall apply to and be binding upon the Parties to this Order, their successors and assigns. The undersigned representative of each party hereby certifies that he or she is fully authorized to enter into this Order and to execute and legally bind such party to comply with 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.

IV. DEFINITIONS

Unless otherwise specified herein, the definitions set forth in Chapter 70.105D RCW and Chapter 173-340 WAC shall control the meanings of the terms in this Order.

A. Site: The Site is referred to formally and in Ecology databases as the Skagit County Port Site (Ecology FSID# 67457634), and is generally located near the western edge of the Skagit Regional Airport in Burlington, Washington. The Site is informally known as the Taxiway F Site. The Site is defined by the extent of contamination caused by the release of hazardous substances at the Site. Based upon factors currently known to Ecology, the Site located at and near the location of the hangar from which aircraft operations were conducted. See Exhibit A. The Site constitutes a Facility under RCW 70.105D.020(4).

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

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

D. Agreed Order or Order: Refers to this Order and each of the exhibits to this Order. All exhibits are integral and enforceable parts of this Order. The terms "Agreed Order" or "Order" shall include all exhibits to this Order.

V. FINDINGS OF FACT

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

A. The Site is located adjacent to an Taxiway F near the western edge of the Skagit Regional Airport (Airport) in Skagit County, Washington, and consists of a paved taxiway area, a hangar/storage building, and adjacent undeveloped areas.

B. Taxiway F was constructed in 1933 as the original runway of a one-runway airfield constructed by Federal New Deal agencies for light airplanes. In 1943 the U.S. Navy constructed the existing two-runway system still in use today at the Skagit Regional Airport as an alternate training field for the Whidbey Island Naval Air Station. After World War II, the federal government continued to operate the airport, primarily for the Civil Air Patrol, until transferring the facility to Skagit County in 1958. The Port assumed full ownership and operation of the airport in 1975.

C. Starting in 1978, the Port leased the portion of the Site immediately adjacent to the taxiway to a series of individuals and companies engaged in the business of crop dusting. As part of the crop dusting operations, the hangar/storage building was constructed on the Site and used for aircraft parking and materials storage, including storage of chemicals used for crop dusting.

D. As part of the crop dusting operations at the Site, pesticides, herbicides, and fungicides were stored in the hangar/storage building and handled including the process of loading the chemicals onto crop dusting aircraft.

E. The Port discovered stained soils at the Site in 2000 and began the process of soil and groundwater sampling to characterize the Site contamination. The results were summarized in a series of soil and groundwater sampling reports generated between 2001 and 2004.

F. In May 2004, the Port of Skagit County entered into the voluntary cleanup program (VCP) for the Site. Site investigations and remedial actions were conducted under VCP as discussed in paragraph G below. Because Ecology and the Port have negotiated this Agreed Order to remediate the Site under the formal program, the site was removed from the VCP on February 3, 2009.

G. From 2006 - 2008, the Port conducted what it described for internal administrative purposes as an independent "Remedial Investigation/Feasibility Study", and developed what it described for internal administrative purposes as a "Cleanup Action Plan" and supporting documents. The investigation documented the presence of pesticides and fungicides at the Site with concentrations exceeding MTCA Method-A and/or Method-B soil and groundwater cleanup levels. Exhibit B lists reports of previous investigations, including the investigation work described in this paragraph and paragraph E above.

VI. ECOLOGY DETERMINATIONS

A. The Port is an "owner or operator" as defined in RCW 70.105D.020(12), of a "facility" as defined in RCW 70.105D.020(4) because it is the current owner of the Site and because it owned the site at the time of the above-described release.

B. Based upon all factors known to Ecology, a "release" or "threatened release" of "hazardous substance(s)" as defined in RCW 70.105D.020(20) and RCW 70.105D.020(7), respectively, has occurred at the Site.

C. Based upon credible evidence, Ecology issued a PLP status letter to the Port dated May 26, 2005, pursuant to RCW 70.105D.040, -.020(16) and WAC 173-340-500. After providing for notice and opportunity for comment, reviewing any comments submitted, and concluding that credible evidence supported a finding of potential liability, Ecology issued a

determination that the Port is a PLP under RCW 70.105D.040 and notified the Port of this determination by letter dated August 25, 2005.

D. Pursuant to RCW 70.105D.030(1) 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.

E. Ecology hereby incorporates into this Order the previous remedial actions described in Section V, Subsections E and G. Reimbursement eligibility for specific project tasks under a grant agreement with Ecology is contingent upon the determination by Ecology's Toxic Cleanup Program that the work performed complies with the substantive requirements of Chapter 173-340 WAC and is consistent with the remedial action required under this Order.

VII. WORK TO BE PERFORMED

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

A. The Port shall conduct a remedial investigation/feasibility study (RI/FS) as described in WAC 173-340-350 in a manner that complies with all requirements of the Model Toxics Control Act Cleanup Regulation. The Port shall collect, develop and evaluate sufficient information to enable Ecology to select a cleanup action for the site under WAC 173-340-360 through 173-340-390.

B. The Port shall prepare a RI/FS Work Plan that describes the scope and rationale for the work to be performed to conduct the RI/FS. The work plan will include a summary of past investigations, identify data gaps, and provide plans to collect data to fill those data gaps. The work plan will provide for performing sufficient historical background research, collecting sufficient data, and conducting sufficient evaluations and analyses to define the nature and extent

of contamination in soil, sediment, groundwater, surface water, and air and to develop and assess feasible cleanup alternatives in accordance with the requirements of Ch. 173-340-WAC.

C. The RI/FS Work Plan must include a Sampling and Analysis Plan (SAP) and Quality Assurance Project Plan (QAPP) in compliance with WAC 173-340-820, should field data collection be deemed necessary. A Public Participation Plan and a site specific health and safety plan also will be included in the Work Plan meeting the requirements of WAC 173-340-600 and -810 respectively, describing the process for public involvement and worker safety during the project.

D. The RI/FS Work Plan must include a description of how data will be managed and how data and documents will be exchanged between the Port and Ecology.

E. The RI/FS Work Plan must include a schedule of deliverables. The schedule of deliverables must include at least a Draft RI/FS report and a Final RI/FS report. Additional deliverables at key points in the RI/FS process may be identified. The RI/FS should be phased to allow assessment of initial work to decide what, if any, additional work must be done to develop sufficient information to enable Ecology to select a cleanup action.

F. The Final RI/FS report must be approved by Ecology as providing sufficient information to enable Ecology to select a cleanup action.

G. The Port shall submit a draft RI/FS Work Plan to Ecology for review and approval within 60 days of the effective date of this Order. The Port shall incorporate Ecology's comments and submit a final RI/FS Work Plan within 30 days of receipt of Ecology's comments.

H. The Final RI/FS Work Plan, and all deliverables identified within it, will become integral and enforceable parts of this Order.

I. Unless otherwise specified by the department, all reports, plans, specifications, and similar information submitted under this chapter shall meet the general submittal requirements specified in WAC 183-340-840, except that the number of hard copies will be specified by Ecology. Documents will be submitted as Word, AutoCAD, Excel, Adobe Acrobat,

jpg, or other electronic file formats as specified by Ecology. The RI/FS Work Plan shall specify the horizontal and vertical datums and Washington State Plane Coordinate System to be used for survey data [See WAC 173-340-840(e) and (f)].

J. The Port shall submit monthly progress reports that include: (1) a list of activities that have taken place during the reporting period; (2) a detailed description of any deviations from required tasks and where those deviations will be documented in project plans or amendment requests; (3) a description of all deviations from the Schedule, and any planned deviations in the upcoming month; (4) for any deviations in schedule, a plan for recovering lost time and maintaining compliance with the schedule; (5) all raw data (including laboratory analyses) received by the Port during the reporting period, including upload of this data to Ecology's Environmental Information Management System; (6) and a list of deliverables for the upcoming reporting period. Monthly reports will be submitted as Adobe Acrobat files transmitted to Ecology via email. Data submittal will be by upload to EIMS or by transmittal of Adobe Acrobat or other appropriate files for data such as boring logs and other forms and graphical information.

K. If, at any time after the first exchange of comments on drafts, Ecology determines that insufficient progress is being made in the preparation of any of the deliverables required by this Section, Ecology may complete and issue the final deliverable.

VIII. TERMS AND CONDITIONS OF ORDER

A. Public Notice

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

B. Remedial Action Costs

The Port shall pay to Ecology costs incurred by Ecology pursuant to this Order and consistent with WAC 173-340-550(2). These costs shall include work performed by Ecology or its contractors for, or on, the Site under Chapter 70.105D RCW, including remedial actions and Order preparation, negotiation, oversight, and administration. These costs shall include work performed both prior to and subsequent to the issuance of this Order. Ecology's costs shall include costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2). The Port shall pay the required amount within 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 thirty (30) days of receipt of the itemized statement of costs will result in interest charges at the rate of twelve percent (12%) per annum, compounded monthly.

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

C. Implementation of Remedial Action

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

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

D. Designated Project Coordinators

The project coordinator for Ecology is:

David L. South
3190 160th Avenue SE
Bellevue, WA 98008-5452
425-649-7200
Email: dsou461@ecy.wa.gov

The project coordinator for the Port is:

Sara K. Young
Manager of Planning & Environmental Services
Port of Skagit County
15400 Airport Drive
Burlington, WA 98233
Tel: (360) 757-0011
Email: saray@portofskagit.com

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

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.

E. Performance

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

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

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

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

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

F. Access

Ecology or any Ecology authorized representative shall have the full authority to enter and freely move about all property at the Site that the Port either owns, 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. The Port shall make all reasonable efforts to secure access rights for those properties within the Site not owned or controlled by the Port where remedial activities or investigations will be performed pursuant to this Order. Ecology or any Ecology authorized representative shall give reasonable notice before entering any Site property owned or controlled by the Port unless an emergency prevents such notice. All persons who access the Site pursuant to this 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.

G. Sampling, Data Submittal, and Availability

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

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 VIII.____ (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(2)(a), all hazardous substance analyses shall be conducted by a laboratory accredited under Chapter 173-50 WAC for the specific analyses to be conducted, unless otherwise approved by Ecology.

H. Public Participation

A Public Participation Plan is required for this Site. Ecology shall develop a Public Participation Plan alone or in conjunction with the Port.

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

1. If agreed to by Ecology, develop appropriate mailing 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 major meetings with the interested public and local governments. Likewise, Ecology shall notify the Port prior to the issuance of all press releases and fact sheets, and before major meetings with the interested public and local governments. For all press releases, fact sheets, meetings, and other outreach efforts by the Port that do not receive prior Ecology approval, the Port shall clearly indicate to its audience that the press release, fact sheet, meeting, or other outreach effort was not sponsored or endorsed by Ecology.

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

4. When requested by Ecology, arrange and/or continue information repositories to be located at the following locations:

- a. Skagit County Regional Airport
Administration Building
15400 Airport Drive
Burlington, WA 98233
Tel: (360) 757-0011
- b. Burlington Public Library
820 E. Washington Avenue
Burlington, WA 98233
Tel: 360-755-0760
- c. Ecology's Northwest Regional Office
3190 160th Avenue SE
Bellevue, WA 908008-5452
Tel: 425-649-7000

At a minimum, copies of all public notices, fact sheets, and press releases; all quality assured monitoring data; remedial action plans and reports, supplemental remedial planning documents, and all other similar documents relating to performance of the remedial action required by this Order shall be promptly placed in these repositories.

I. Retention of Records

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

J. Resolution of Disputes

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

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

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

c. The Port may then request regional management review of the decision. This request shall be submitted in writing to the Northwest Region Toxics Cleanup

Section Manager within seven (7) days of receipt of Ecology's project coordinator's written decision.

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

2. The Parties agree to 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.

K. Extension of Schedule

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

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

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

- a. Circumstances beyond the reasonable control and despite the due diligence of the Port including delays caused by unrelated third parties or Ecology, such

as (but not limited to) delays by Ecology in reviewing, approving, or modifying documents submitted by the Port;

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

c. Endangerment as described in Section VIII.M (Endangerment).

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

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

4. 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:

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

b. Other circumstances deemed exceptional or extraordinary by Ecology; or

c. Endangerment as described in Section VIII.M (Endangerment).

L. Amendment of Order

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

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

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

M. Endangerment

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

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

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

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

N. Reservation of Rights

This Order is not a settlement under Chapter 70.105D RCW. Ecology's signature on this Order in no way constitutes a covenant not to sue or a compromise of any 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 Chapter 70.105D RCW, including the right to require additional or different remedial actions at the Site should it deem such actions necessary to protect human health and the environment, and to issue orders requiring such remedial actions. Ecology also reserves all rights regarding the injury to, destruction of, or loss of natural resources resulting from the release or threatened release of hazardous substances at the Site.

O. Transfer of Interest in Property

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

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

P. Compliance with Applicable Laws

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

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

The Port has a continuing obligation to determine whether additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order. In the event either Ecology or the Port determines that additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order, it shall promptly notify the other party of its determination. Ecology shall determine whether Ecology or the Port shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, the Port shall promptly consult with the appropriate state and/or local agencies and provide Ecology with written documentation from those agencies of the substantive requirements those agencies believe are applicable to the remedial action. Ecology shall make the final determination on the additional substantive requirements that must be met by the Port and on how the Port must meet those requirements. Ecology shall inform the Port in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. The Port shall not begin

or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination.

3. Pursuant to RCW 70.105D.090(2), in the event Ecology determines that the exemption from complying with the procedural requirements of the laws referenced in RCW 70.105D.090(1) would result in the loss of approval from a federal agency that is necessary for the State to administer any federal law, the exemption shall not apply and the Port shall comply with both the procedural and substantive requirements of the laws referenced in RCW 70.105D.090(1), including any requirements to obtain permits.

Q. Indemnification

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

IX. SATISFACTION OF ORDER

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

X. ENFORCEMENT

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

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

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

C. In the event the Port refuses, without sufficient cause, to comply with any term of this Order, the Port will be liable for:

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

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

D. This Order is not appealable to the Washington Pollution Control Hearings Board.

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

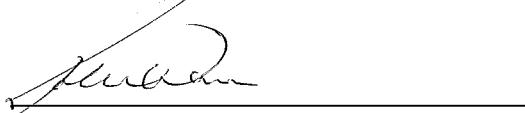
Effective date of this Order: April 10, 2009

PORT OF SKAGIT COUNTY



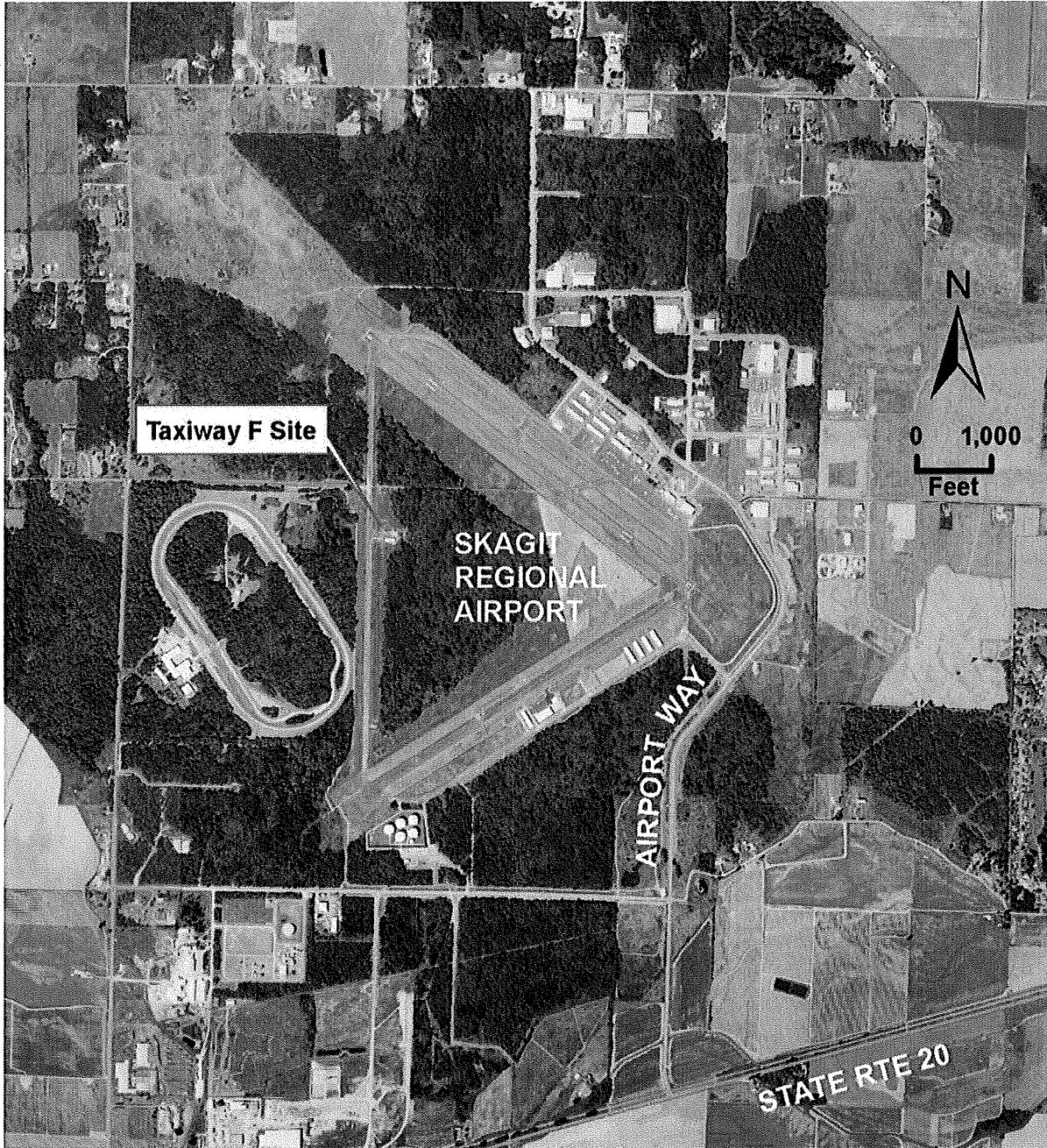
Patricia H. Botsford-Martin
Executive Director
Telephone: (360) 757-0011

**STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY**



Robert W. Warren
Section Manager
Toxics Cleanup Program
Northwest Regional Office
Telephone: (425) 649-7054

**EXHIBIT A
SITE LOCATION**



The Taxiway F Site at Skagit Regional Airport. Arrow points to the hangar from which aircraft operations were conducted.

EXHIBIT B
LIST OF PREVIOUS INVESTIGATIONS

EAI (Environmental Associates, Inc.), 2000. Soil Sampling and Testing. Skagit Farmers Supply – Port of Skagit Lease Property, Skagit County Airport, Skagit County, WA. Report JN 20250. Environmental Associates, Inc., September 19, 2000. Bellevue, Washington.

GeoEngineers, Inc., 2001. Report: Supplemental Soil and Groundwater Sampling, Former Skagit Farmers Supply Site, Skagit County, WA. File No. 5364-003-01-1150. July 6, 2001. Seattle, Washington.

GeoEngineers, Inc. 2004. Report: Supplemental Surface Soil and Waster Sampling and Testing January 2004, Former Skagit Farmers Supply Site, Skagit County, WA. File No. 5364-003-03/050304. May 3, 2004. Seattle, Washington.

Pentec Environmental, 2005. Skagit Farmers Supply Site Terrestrial Ecological Evaluation and Status Report. Prepared for Port of Skagit County, Skagit County, Washington. April 15, 2005. File No. 12053-18. Pentec Environmental, Edmonds, Washington.

HartCrowser, 2006. Focused Remedial Investigation/Feasibility Study, Skagit Farmers Supply Site, Burlington, Washington. Prepared for Port of Skagit County. April 24, 2006. File No. 12053-18. Hart Crowser, Seattle, Washington.

HartCrowser, 2007. Critical Areas Report - Wetlands, Port of Skagit County, Farmers Supply/Tronsdale Site, Skagit County, Washington. Prepared for Port of Skagit County. August 22, 2007. File No. 12053-18. Hart Crowser, Seattle, Washington.

HartCrowser, 2008. Wetland Restoration Plan, Port of Skagit County, Farmers Supply/Tronsdale Site, Skagit County, Washington. Prepared for Port of Skagit County. June 24, 2008. File No. 12053-18. Hart Crowser, Seattle, Washington.

HartCrowser, 2008. Focused Remedial Investigation/Feasibility Study Addendum, Skagit Farmers Supply Site, Burlington, Washington. Prepared for Port of Skagit County. June 30, 2008. File No. 12053-18. Hart Crowser, Seattle, Washington.

HartCrowser, 2008. Cleanup Action Plan (CAP), Voluntary Cleanup Action, Skagit Farmers Supply Site, Burlington, Washington. Prepared for Port of Skagit County. June 30, 2008. File No. 12053-18. Hart Crowser, Seattle, Washington.

HartCrowser, 2008. Engineering Design Report, Skagit Farmers Supply Site, Burlington, Washington. Prepared for Port of Skagit County. July 24, 2008. File No. 12053-18. Hart Crowser, Seattle, Washington.