

**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

In the Matter of Remedial Action by:

The Port of Seattle

MINOR CHANGE TO AGREED ORDER

No. DE 8938

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TO: Port of Seattle  
Attention Mr. Tay Yoshitani  
P.O. Box 1209  
Seattle, Washington 98111

**I. INTRODUCTION**

The State of Washington, Department of Ecology (Ecology) and Port of Seattle (the Port) entered into Agreed Order No. DE 8938 (Order) on April 10, 2012. The Order applies to the “Terminal 91 Facility,” defined in relevant part by the Order as “the real property owned by the Port of Seattle encompassing approximately 216 acres and located at 2001 West Garfield Street, Seattle, Washington, as depicted in Exhibit B.” Agreed Order No. DE 8938 at 5, § IV, ¶ 14.

Ecology’s Water Quality Program is requiring King County, Washington (King County) to take actions to address combined sewer overflow issues in the Seattle area. In response to part of Ecology’s requirements, King County has designed a sewer improvement project, which includes the construction of an underground storage tank to control sewer overflows (South Magnolia CSO Facility). This underground storage tank will be located in the area of the Terminal 91 Facility known as the “West Yard.” To accomplish the construction of the underground storage tank, King County will acquire real property rights to the West Yard portion of the Terminal 91 Facility. Such rights could take the form of outright ownership of a fee interest, or of a leasehold or easement interest granted to the County by a local government

entity which takes fee ownership of the West Yard from the Port, such as the City of Seattle, which could use other portions of the West Yard for park and recreation purposes. King County's development of the South Magnolia CSO Facility at the West Yard was determined to be subject to the procedural requirements of the State Environmental Policy Act (SEPA). The threshold analysis under SEPA resulted in a determination of nonsignificance issued by King County, dated May 23, 2011.

Pursuant to Section VIII.L of the Order, the Port on November 16, 2012, requested that Ecology approve a minor change to the Order, which will consist of the removal of the West Yard from the definition/description of the Terminal 91 Facility. Ecology has determined that the removal of the West Yard from the Terminal 91 Facility will not result in a change to the work to be performed by the Order. Based on this determination, Ecology agrees to the Port's requested minor change to the Order. With the removal of the West Yard from the Terminal 91 Facility, the West Yard is no longer subject to the Order.

## **II. MINOR CHANGE**

This minor change to the Order does not attempt to recite all of the provisions found in the Order. Provisions of the Order not specifically changed in this modification remain in full force and effect. The minor change to the Order described below shall take effect upon the conveyance by the Port of a fee simple interest in the West Yard (substantially as depicted by Exhibit 1) either directly to King County or to any local governmental transferee that takes ownership to facilitate the County's construction of the South Magnolia CSO Facility, provided such conveyance occurs on or before December 31, 2014 (Conveyance). If the Conveyance does not occur by that time, this minor change shall be void and have no effect.

Upon occurrence of the Conveyance, the following provision of and exhibits to the Order shall be deemed modified, without further action by Ecology or the Port, to reflect the removal of the West Yard from the Terminal 91 Facility:

**A. DEFINITIONS**

9. Terminal 91 Facility means the real property owned by the Port of Seattle encompassing approximately 210.6 acres and located at 2001 West Garfield Street, Seattle, Washington as depicted on Exhibit B.

**B. EXHIBITS**

EXHIBIT A Cleanup Action Plan's Figure 2 (Port of Seattle Terminal 91 Facility and Tank Farm Lease Parcel) (modified in accordance with Exhibit 2)

EXHIBIT B Diagram of Port of Seattle Terminal 91 Facility (modified in accordance with Exhibit 2)


EXHIBIT E Contamination Contingency Work Plan's Figure 2 (Site Plan) (modified in accordance with Exhibit 2)

Execution date of this minor change: 3/28/2013

PORT OF SEATTLE

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

By   
Tay Yoshitani  
Chief Executive Officer

By   
Dennis B. Johnson  
Section Manager  
Hazardous Waste and Toxics Reduction  
Northwest Regional Office

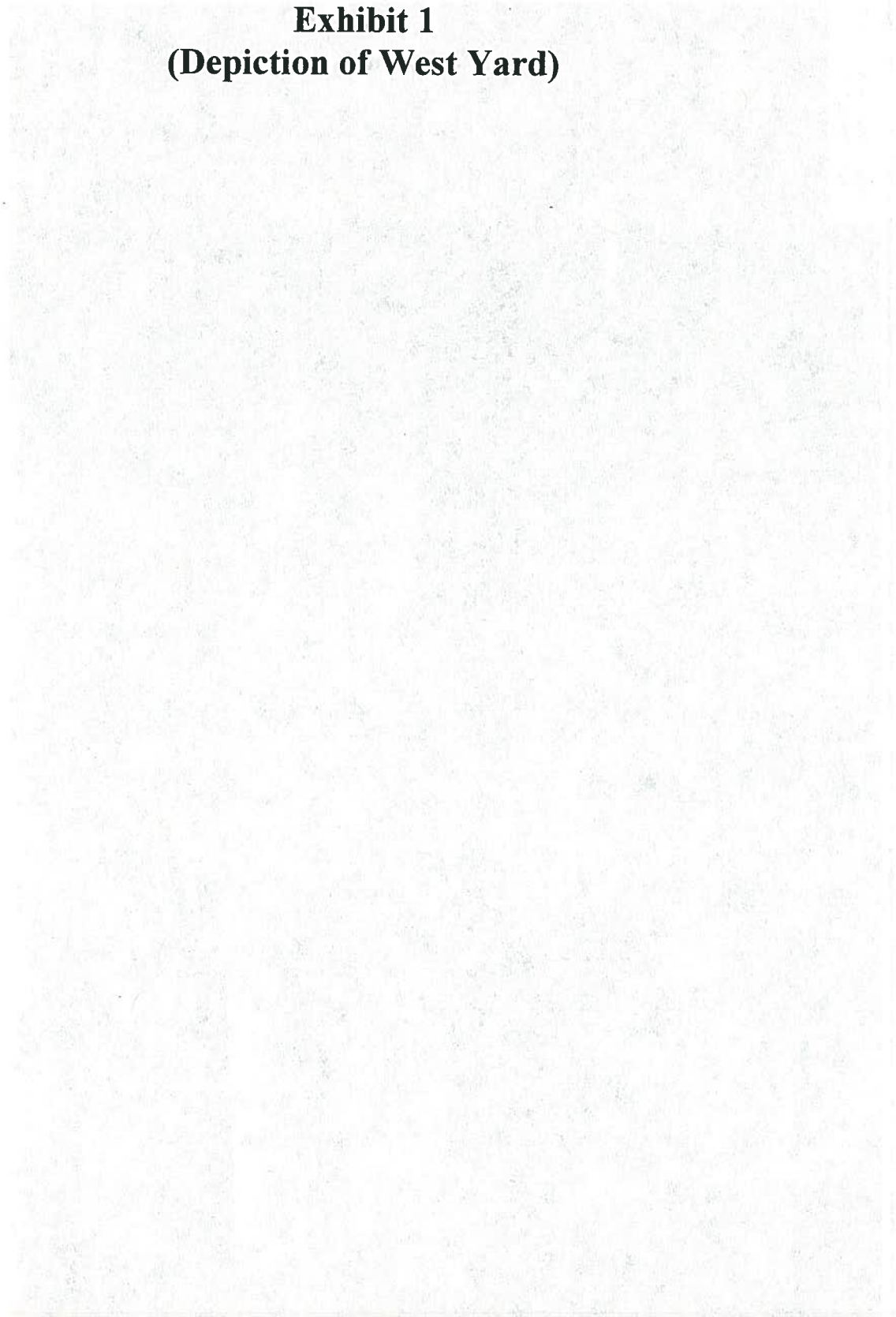
Exhibits

Exhibit 1: Depiction of West Yard

Exhibit 2: Depiction of Terminal 91 Facility without the West Yard



**Exhibit 1**  
**(Depiction of West Yard)**



Imagery Date: June 19, 2002  
Source: Google Earth



0 700 feet

Explanation



West Yard Limits

Exhibit 1  
 Port of Seattle West Yard Property  
 Seattle, Washington

The locations of all features are approximate.





**Exhibit 2**  
**(Depiction of Terminal 91 Facility**  
**without the West Yard)**

Imagery Date: June 19, 2002  
 Source: Google Earth



Note: For areas shown as Tank Farm Affected Area ("TFAA") that are outside the Tank Farm Lease Parcel, the TFAA includes only soil and ground water below the water table. Soil above the water table (and outside the Tank Farm Lease Parcel) is outside the TFAA.

**Explanation**

	Port of Seattle Property Limits
	Tank Farm Lease Parcel
	Tank Farm Affected Area
	Submerged Land

0 700 feet

The locations of all features are approximate.

**Exhibit 2**  
**Port of Seattle Terminal 91 Facility**  
 Seattle, Washington