

**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

In the Matter of Remedial Action by:

ExxonMobil Oil Corporation, and
ConocoPhillips Company

AGREED ORDER

No. DE _____

TO: Joseph A. Abel
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I. INTRODUCTION

The mutual objective of the State of Washington, Department of Ecology (Ecology), ExxonMobil Oil Corporation (ExxonMobil), and ConocoPhillips Company (ConocoPhillips) 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 ExxonMobil and ConocoPhillips to complete a remedial investigation/feasibility study (RI/FS) and, if necessary, supplement existing data and reports in accordance with Chapter 173-340 WAC to determine the nature and extent of contamination associated with the Site (as defined below) and evaluate any remedial actions necessary for the Site; and to perform interim actions and monitoring. 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 Parties agree to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter the Parties' respective responsibilities under this Order. The Parties 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 as the ConocoPhillips Renton Terminal and the site is generally located at 2423 Lind Avenue Southwest, Renton, Washington (King County Assessor's Parcel Number 3023059086). 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 is more particularly described in the Site Diagram (Exhibit A). The Site constitutes a Facility under RCW 70.105D.020(4).

B. Parties: Refers to the State of Washington, Department of Ecology, ExxonMobil, and ConocoPhillips.

C. Potentially Liable Persons (PLPs): Refers to ExxonMobil and ConocoPhillips.

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.

E. Remedial Investigation/Feasibility Study (RI/FS): Refers to a remedial action that consists of activities performed under WAC 173-340-350 to collect, develop, and evaluate sufficient information regarding a site to select a cleanup action under WAC 173-340-360 through 173-340-390.

V. FINDINGS OF FACT

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

A. ExxonMobil was the owner/operator of the bulk petroleum distribution facility at 2423 Lind Avenue Southwest, Renton, Washington. King County Assessor records refer to Tosco Corp. C/O ConocoPhillips as taxpayer name for parcel number 3023059086, which is the parcel number of the subject property. ExxonMobil and its predecessors owned and operated the Site until 1988 when the facility was sold to British Petroleum. British Petroleum (BP Exploration & Oil Co.) sold the property to Tosco Corporation in 1993. ConocoPhillips is the present owner/operator of the bulk petroleum distribution facility.

B. Ecology records show that Mobil Oil Corporation (now known as ExxonMobil) discovered petroleum contaminated soils in July 1986 while removing an underground storage tank in the vicinity of the loading rack area of the Site. Subsequent investigation and testing determined that the sources of the release were cracks in the loading rack spill containment system in the truck loading rack area, which was repaired. The petroleum hydrocarbon product from the 1986 discovery was identified as chiefly leaded gasoline. On April 8, 1987, Ecology was notified that “undetermined but significant” quantities of petroleum product existed in groundwater at the (then) Mobil Renton Terminal.

C. On October 14, 1987, Ecology issued Order No. DE 87-N301 requiring Mobil Oil Corporation (presently ExxonMobil) to initiate recovery of product from waters of the state (groundwater at the Mobil Renton Terminal). On November 3, 1987, the Order was amended (the First Amendment). On December 16, 1987, a Second Amendment to the Order was issued which rescinded the First Amendment in its entirety and required that Mobil Oil Corporation continue product recovery, monitor the groundwater and product, collect samples, and provide reports to Ecology. On November 8, 1991, the Third Amendment was issued which amended the Order regarding the timing of monitoring and reports to be provided on free product recovery at the Site. Order No. DE 87-N301 requires ExxonMobil to perform free product recovery, monitoring of groundwater and product, and reporting to Ecology. ExxonMobil continues to operate under Order No. DE 87-N301.

D. Remediation efforts by ExxonMobil under Order No. DE 87-N301 included installation of two recovery trenches with a recovery well in each trench (Trench 1 and Trench 2). The remediation initially consisted of a product recovery pump and groundwater extraction pump. In 2003, the remediation was converted to a ground water extraction and treatment system. The ExxonMobil system is largely remediating the petroleum hydrocarbon plume discovered in 1986, located roughly north of the Tank 2 area.

E. ConocoPhillips is the present owner/operator of the bulk petroleum distribution facility at 2423 Lind Avenue Southwest, Renton, Washington. King County Assessor records

refer to Tosco Corp. C/O ConocoPhillips as taxpayer name for parcel number 3023059086, which is the parcel number of the subject property.

F. Ecology records show that on November 13, 2002, Tosco had a release of 14,800 gallons of super-unleaded gasoline, resulting from a bulk tank bottom failure in the bulk storage tank designated as Tank 2 at the south half of the property.

G. Following the 2002 release, ConocoPhillips (under the Voluntary Cleanup Program, formerly VCP #NW1259) installed a Dual Phase Vacuum Extraction System and ground water treatment system. The ConocoPhillips remedial system is remediating the petroleum hydrocarbon plume within the vicinity, and south of, the Tank 2 area where the 2002 release occurred.

H. The petroleum hydrocarbon groundwater plume from the 1986 ExxonMobil discovery has commingled with the petroleum hydrocarbon plume caused by a release of petroleum product in November 2002 by ConocoPhillips.

I. A number of reports document the release and presence of hazardous substances released into the environment at the Site. These documents are available at Ecology's Northwest Regional Central Records Office:

Semiannual Status Report ConocoPhillips Renton Terminal Renton, Washington, by Landau Associates, dated October 25, 2004

Semiannual Status Report ConocoPhillips Renton Terminal Renton, Washington, by Landau Associates, dated March 9, 2005

Subsurface Assessment Report ConocoPhillips Facility No. 3485 2423 Lind Avenue, Renton, Washington, by SECOR, dated May 27, 2005

Semiannual Status Report for ConocoPhillips Company Renton Terminal 2423 Lind Avenue SW, Renton, Washington, by SECOR, dated August 8, 2005

2004 Groundwater Monitoring Report Former Mobil Oil Renton Terminal (Site#46-080) 2423 Lind Avenue Southwest, Renton, Washington, by Kleinfelder, Inc., dated August 23, 2005

Quarterly Status Report for ConocoPhillips Company Renton Terminal 2423 Lind Avenue SW, Renton, Washington, by SECOR, dated November 8, 2005

Well Deepening Report ConocoPhillips Renton Terminal (Site No. 3485) 2423 Lind Avenue, Renton, Washington, by SECOR, dated November 18, 2005

Quarterly Status Report for ConocoPhillips Company Renton Terminal 2423 Lind Avenue SW, Renton, Washington, by SECOR, dated March 9, 2006

December 2005 Semi-Annual Monitoring Report Olympic Pipe Line Company Renton Pump Station 2319 Lind Avenue SW Renton, Washington Delta Project GOCTV-PP60-1, by Delta Environmental Consultants, Inc., dated May 3, 2006

Second Quarter 2006 Report ConocoPhillips Company Renton Terminal 2423 Lind Avenue SW, Renton, Washington, by SECOR, dated June 16, 2006

Quarterly Status Report for ConocoPhillips Company Renton Terminal 2423 Lind Avenue SW, Renton, Washington, by SECOR, dated September 8, 2006

Quarterly Status Report for ConocoPhillips Company Renton Terminal 2423 Lind Avenue SW, Renton, Washington, by SECOR, dated November 17, 2006

Quarterly Status Report for ConocoPhillips Company Renton Terminal 2423 Lind Avenue SW, Renton, Washington, by SECOR, dated February 15, 2007

2006 Annual Ground Water Monitoring and Remediation Report Former Mobil Renton Terminal #46-080 2423 Lind Avenue SW, Renton, Washington, by Acton Mickelson Environmental, Inc., dated May 4, 2007

Quarterly Status Report for ConocoPhillips Company Renton Terminal 2423 Lind Avenue SW, Renton, Washington, by SECOR, dated May 31, 2007

Quarterly Status Report for ConocoPhillips Company Renton Terminal 2423 Lind Avenue SW, Renton, Washington, by SECOR, dated June 25, 2007

Work Plan for the Investigation of Trench#2 Former Mobil Renton Terminal #46-080 Washington State Department of Ecology Identifier 2070 ConocoPhillips Renton Terminal 2423 Lind Ave SW, Renton Washington, by Acton Mickelson Environmental, Inc., dated September 24, 2007

Trench 2 Investigation Report Former Mobil Renton Terminal #46-080 2423 Lind Avenue SW, Renton, Washington, by Acton Mickelson Environmental, Inc., dated November 5, 2007

Quarterly Status Report for ConocoPhillips Company Renton Terminal 2423 Lind Avenue SW, Renton, Washington, by SECOR, dated November 6, 2007

Ground Water Monitoring Well MW-3A Installation Report Former Mobil Renton Terminal #46-080 Washington State Department of Ecology Identifier 2070

ConocoPhillips Renton Terminal 2423 Lind Ave SW, Renton Washington, by Acton Mickelson Environmental, Inc., dated January 14, 2008

2007 Annual Ground Water Monitoring and Remediation Report Former Mobil Renton Terminal #46-080 2423 Lind Avenue SW, Renton, Washington, by Acton Mickelson Environmental, Inc., dated April 23, 2008

J. Several contaminants in soil and/or groundwater are currently known to exceed MTCA cleanup levels and pose a potential threat to human health or the environment.

VI. ECOLOGY DETERMINATIONS

A. ExxonMobil was an owner or operator of the bulk petroleum distribution facility (henceforth known as the ConocoPhillips Renton Terminal). ExxonMobil is an “owner or operator” as defined in RCW 70.105D.020(17) of a “facility” as defined in RCW 70.105D.020(5).

B. ConocoPhillips is an owner or operator of the bulk petroleum distribution facility (henceforth known as the ConocoPhillips Renton Terminal). ConocoPhillips is an “owner or operator” as defined in RCW 70.105D.020(17) of a “facility” as defined in RCW 70.105D.020(5).

C. Based upon all factors known to Ecology, a “release” or “threatened release” of “hazardous substance(s)” as defined in RCW 70.105D.020(25) and RCW 70.105D.020(10), respectively, has occurred at the Site.

D. Based upon credible evidence, Ecology issued a PLP status letter to ExxonMobil dated April 28, 2008, pursuant to RCW 70.105D.040, -.020(21), 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 ExxonMobil is a PLP under RCW 70.105D.040 and notified ExxonMobil of this determination by letter dated June 30, 2008.

E. Based upon credible evidence, Ecology issued a PLP status letter to ConocoPhillips dated April 29, 2008, pursuant to RCW 70.105D.040, -.020(21), 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 ConocoPhillips is a PLP under RCW 70.105D.040 and notified ConocoPhillips of this determination by letter dated June 30, 2008.

F. 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.

G. 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, correct a problem that may become substantially worse or cost substantially more to address if the remedial action is delayed, or provide for completion of a site hazard assessment, remedial investigation/feasibility study, or design of a cleanup action. The petroleum hydrocarbon groundwater plume from the 1986 ExxonMobil discovery has commingled with the petroleum hydrocarbon plume caused by a release of petroleum product in November 2002 by ConocoPhillips. Interim actions are warranted to prevent the spread of both plumes off-site and in order to continue to remove free product and groundwater contamination from the environment. Continued operation of the groundwater extraction and treatment system, and monitoring of groundwater and product will help reduce or eliminate the threat of potential or ongoing impacts to human health and the environment.

VII. WORK TO BE PERFORMED

Based on the Findings of Fact and Ecology Determinations, it is hereby ordered that ExxonMobil and ConocoPhillips 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:

Interim Action:

A. As described in this Order, Findings of Fact (Section V), ExxonMobil and ConocoPhillips have each been operating groundwater extraction and treatment systems at the Site. Operation of their respective existing remedial systems and monitoring and associated reporting will continue by the PLPs as an interim action under this Order to reduce or eliminate the threat of potential or ongoing impacts to human health and the environment. ExxonMobil will continue operation of recovery trenches, ground water and soil vapor recovery wells and treatment system. ConocoPhillips will continue its operation of dual phase vacuum extraction and ground water treatment system. Operation of the existing remedial systems will take place pursuant to the Work Plans attached as Exhibit E to this Order. Operation of the existing remedial systems as an interim action will continue until Ecology's approval of the Final Interim Action Work Plan (as noted in the Scope of Work and Schedule). Upon Ecology's approval, the Final Interim Action Work Plan will supersede the Interim Action Work Plans (Exhibit E).

Statement of Work:

B. The work to be performed will be conducted as set forth in the Statement of Work (Exhibit B). The Statement of Work outlines a number of deliverables for Ecology's review and approval. Once approved by Ecology, the deliverables become an integral and enforceable part of this Order. The Statement of Work includes the following deliverables:

1. Draft RI/FS Work Plan
2. Final RI/FS Work Plan
3. Draft RI/FS Report
4. Final RI/FS Report
5. Draft Interim Action Work Plan
6. Final Interim Action Work Plan
7. Draft Cleanup Action Plan

C. The Schedule for implementation of the Statement of Work by the PLPs is included as Exhibit C.

D. Electronic data shall be entered into Ecology's Environmental Information Management (EIM) System.

E. 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 PLPs 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 PLPs 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.

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 PLPs have failed without good cause to implement the remedial action, in whole or in part, Ecology may, after notice to the PLPs, 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 PLPs' failure to comply with its obligations under this Order, The PLPs shall reimburse Ecology for the costs of doing such work in accordance with Section VIII.B (Remedial Action Costs), provided that the PLPs are 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 PLPs 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:

Jerome Cruz
Department of Ecology
3190 160th Avenue SE
Bellevue, WA 98008-5452
(425) 649-7094

The project coordinators for the PLPs are:

Myron W. Smith
Area Manager
RM&R ConocoPhillips
1230 W. Washington Street, Suite 212
Tempe, AZ 85021
(602) 452-2505

Joseph A. Abel
Project Manager, ExxonMobil
1001 Wampanoag Trail
Riverside, RI 02915
(401) 434-7356

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 PLPs, 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 PLPs 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 PLPs 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 PLPs' 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 PLPs. The PLPs shall make all reasonable efforts to secure access rights for those properties within the Site not owned or controlled by the PLPs 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 PLPs 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 PLPs 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 PLPs shall allow Ecology and/or its authorized representative to take split or duplicate samples of any samples collected by the PLPs pursuant to implementation of this Order. The PLPs shall notify Ecology seven (7) days in advance of any sample collection or work activity at the Site. Ecology shall, upon request, allow the PLPs

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.F (Access), Ecology shall notify the PLPs 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 review any existing Public Participation Plan to determine its continued appropriateness and whether it requires amendment, or if no plan exists, Ecology shall develop a Public Participation Plan alone or in conjunction with the PLPs.

Ecology shall maintain the responsibility for public participation at the Site. However, the PLPs 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 PLPs 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 PLPs that do not receive prior Ecology approval, the PLPs 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. Fairwood Library
17009 140th Avenue SE
Renton, WA 98058
- b. Ecology's Northwest Regional Office
3190 160th Avenue SE
Bellevue, WA 98008-5452

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 PLPs 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 PLPs 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 PLPs have 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 PLPs 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 PLPs' 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 PLPs 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 PLPs 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 PLPs;
- 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 PLPs.

3. Ecology shall act upon any written request for extension in a timely fashion. Ecology shall give the PLPs 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 PLPs. The PLPs 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 PLPs to cease such activities for such period of time as it deems necessary to abate the danger. The PLPs shall immediately comply with such direction.

In the event the PLPs determine 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 PLPs may cease such activities. The PLPs 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 PLPs shall provide Ecology with documentation of the basis for the determination or cessation of such activities. If Ecology disagrees with the PLPs' cessation of activities, it may direct the PLPs to resume such activities.

If Ecology concurs with or orders a work stoppage pursuant to Section VIII.M (Endangerment), the PLPs' 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 PLPs 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 PLPs regarding remedial actions required by this Order, provided the PLPs comply 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 PLPs 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 PLPs' transfer of any interest in all or any portion of the Site, and during the effective period of this Order, the PLPs 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 PLPs shall notify Ecology of said transfer. Upon transfer of any interest, the PLPs 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 PLPs 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. The permits or specific federal, state, or local requirements that the agency has determined are applicable and that are known at the time of entry of this Order have been identified in Exhibit D.

2. Pursuant to RCW 70.105D.090(1), the PLPs are 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 PLPs 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 PLPs have 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 PLPs determine 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 PLPs shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, the PLPs 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 PLPs and on how the PLPs must meet those requirements under RCW 70.105D.090(1). Ecology shall inform the PLPs in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. The PLPs 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 PLPs 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

Each PLP 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 PLP, its officers, employees, agents, or contractors in entering into and implementing this Order. However, the PLP 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 PLPs' receipt of written notification from Ecology that the PLPs have completed the remedial activity required by this Order, as amended by any modifications, and that the PLPs have 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 PLPs refuse, without sufficient cause, to comply with any term of this Order, the PLPs will be liable for:

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

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

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

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

Effective date of this Order: _____

EXXONMOBIL OIL CORPORATION

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY

Kurt W. Fischer
Global Area Manager – Major Projects
ExxonMobil Oil Corporation
Telephone: 703-846-5956

Robert W. Warren, P.Hg., MBA
Section Manager
Toxics Cleanup Program
Northwest Regional Office
Telephone: 425-649-7054

CONOCOPHILLIPS COMPANY

John Skopak
Manager, RM&R
ConocoPhillips Company
Telephone: 918-661-3116

X. ENFORCEMENT

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EXXONMOBIL OIL CORPORATION

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY



Mike W. Schwehr *AGENT and ATTORNEY-
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EXHIBIT A Site Diagram and Location

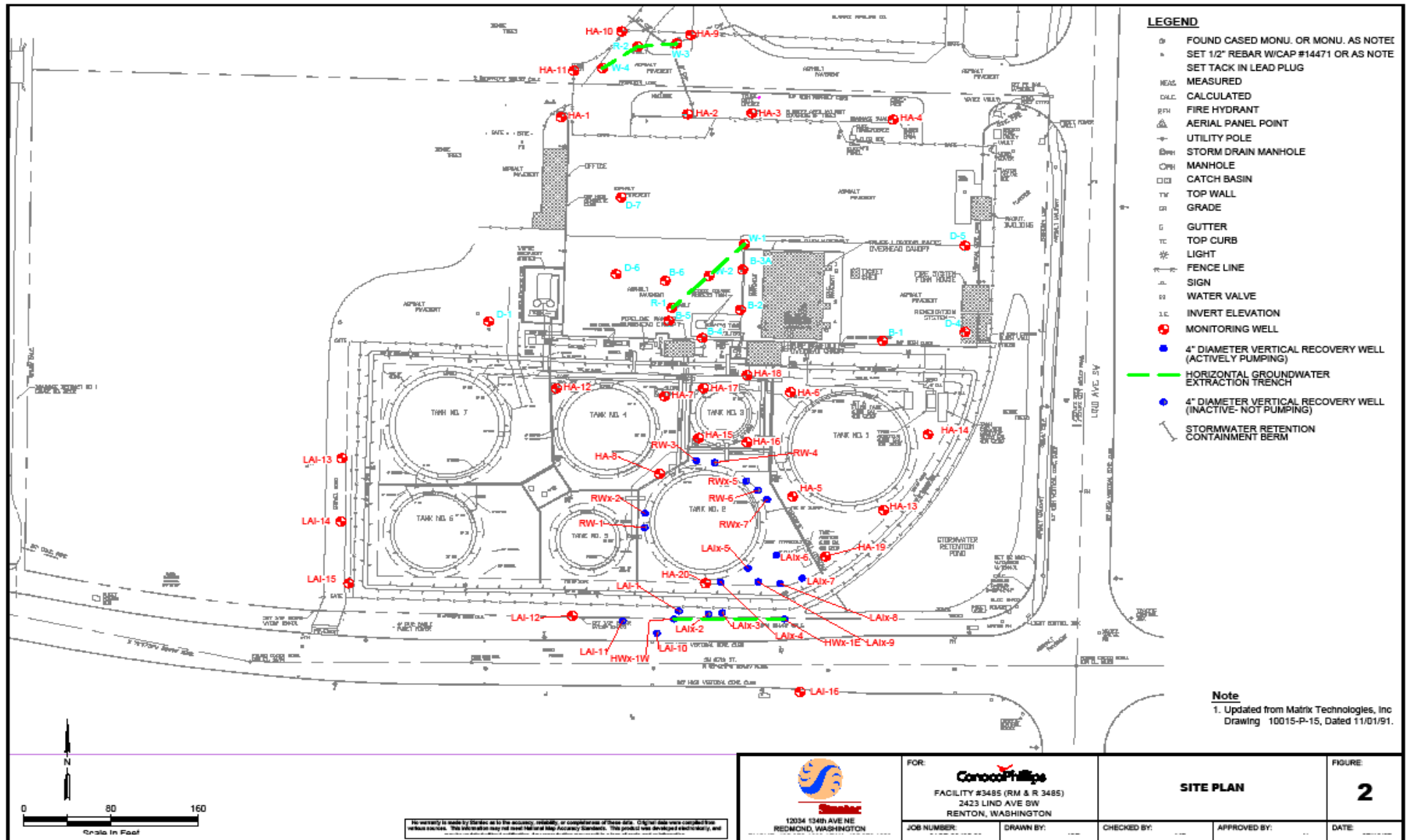


EXHIBIT B

Statement of Work

The Potentially Liable Persons (PLPs) shall take the following remedial actions per the Schedule detailed in Exhibit C of this Agreed Order (Order) for conducting a remedial investigation and feasibility study (RI/FS), conducting interim actions, and preparing a draft cleanup action plan (CAP). The PLPs will work cooperatively with Ecology to support public participation in the scoping and implementation of the work performed under this Agreed Order in accordance with Section VIII.H of the Agreed Order. All deliverables will adhere to Ecology Executive Policy 1-81 (Establishing Plain Talk at Ecology).

Deliverable 1: Draft RI/FS Work Plan

An RI/FS Work Plan will be prepared to consolidate, compile, and analyze past investigation results, monitoring reports, and remedial actions undertaken at the ConocoPhillips Renton Terminal Site. The RI/FS Work Plan will also identify data gaps and specify a scope of work necessary to complete the RI/FS. The purpose of the RI/FS is to collect, develop, and evaluate sufficient information regarding the ConocoPhillips Renton Terminal Site to select a cleanup action under Chapters 173-340-350 through 173-340-390 of the Washington Administrative Code. The RI/FS Work Plan will include a Sampling and Analysis Plan, Quality Assurance Plan, and Health and Safety Plan.

The RI/FS Work Plan will include the following:

- Defining the nature and extent (location, composition, concentration, quantity, lateral extent, geometry, and thickness) of the petroleum hydrocarbon product plumes or product zones, smear zones, and dissolved phase plumes from prior investigations, including the review of groundwater monitoring reports, subsurface investigations, remediation reports, and related facility and public records relating to discovery or release of contaminants at the site. Previous subsurface work has included drilling of boreholes, installation of monitoring wells, test pit excavations, aquifer tests, and collection of surface soil samples. Additional subsurface exploration may be necessary to identify the nature and extent of petroleum hydrocarbon contamination in soil, sediments, ground water and surface water at the site, along with their associated contaminants. The investigation will include characterization of aquifers or hydrostratigraphic units at the site and the extent to which impacts to water quality have occurred from contamination at the site.

- Designing an integrated site-wide groundwater monitoring network (taking into account the existing network) to measure the presence and distribution of the contaminants of potential concern. A site-wide, synoptic monitoring schedule will be created to gather information on the configuration and seasonal fluctuations of the water table or piezometric surfaces, and the spatial and temporal variation of contaminant plume concentrations at the site.
- Periodically assessing the effectiveness of the interim remedial actions in containing and mitigating the effects of the contaminants of potential concern.
- Identifying risk pathways and receptors for the contaminants of potential concern.
- Ensuring that the existing remedial systems are operating sufficiently to prevent migration or commingling off-site of the petroleum hydrocarbon plume(s) with potential contaminated groundwater plumes that may be present in adjacent properties. Potential off-site migration of plumes at the ConocoPhillips Renton Terminal site may have occurred north of the site (Olympic Pipe Line Company Renton Station property, King County parcel number 3023059084) and south of the site along SW 27th Street (City of Renton property, King County parcel number 1253810090).
- Assessing soil, surface water, and sediments in the adjacent wetland to the west and northwest of the site for the presence and distribution of contaminants of potential concern. A similar assessment for impacts will be made for the storm water retention pond southeast of Tank 2 and areas south of the site.
- An engineering assessment and stability analysis will be made of the existing containment dike surrounding the main tank farm area and the surface water containment dike in the southwest corner of the storm water retention pond, southeast of Tank 2. The evaluation will focus on spill containment performance and related issues that pertain to cleanup at this site.
- Utilize existing environmental data and data collected for the RI/FS to develop a conceptual site model. The conceptual site model will include ground-water flow, contaminant sources, contaminant source loading to groundwater, preferred pathways, and contaminant fate and transport. Identify any data needs for assessment of extent of off-property migration of contaminants, and investigate to meet those data needs.
- The PLPs will identify any other sources of contaminants and areas of impact that may be present on the site or that may have intermingled with other undocumented hazardous

substance releases or sources. Other potential sources of contamination and potential areas of contamination will be evaluated and investigated within the regulatory scope of MTCA remediation of the site.

- The PLPs may provide for Ecology's review any evidence of other PLPs that may have contributed contaminants that may be intermingling with any contaminants from the site.
- Numerical, analytical, or semi-analytical modeling may be used to predict the migration of contaminants in the ground water or to simulate the performance of existing or proposed remedial systems at the site. The modeling may also incorporate proposed remedial alternatives that may be useful for the RI/FS by predicting the effectiveness of a remedial system, such as groundwater extraction and treatment. The PLPs may propose a modeling plan for Ecology review and approval. The modeling plan should include, but not be limited to:
 - An explanation of the purpose of modeling.
 - Identification of the models proposed to predict ground water flow and contaminant transport (e.g. MODFLOW, MT3D99, BIOCHLOR).
 - Model input parameter sensitivity analyses.
 - Model calibration and verification tests.
 - Model simulation scenarios.
 - Model output, interpretations and conclusions
 - Model validation if applicable
- Pilot and/or bench scale tests may be carried out with Ecology approval to evaluate the effectiveness, practicability and cost of potential remedial alternatives. This includes, but is not limited to, active engineered solutions such as in-situ or ex-situ remediation (for example, air sparging, soil vapor extraction, product or total fluids recovery, groundwater pump and treat, chemical oxidation, etc.).
- Prepare a feasibility study to develop and evaluate cleanup action alternatives that will be used to support the selection of a cleanup action for the site. As per MTCA WAC 173-340-360, this plan will collect data needed to evaluate alternatives that will meet the threshold requirements for cleanup actions, and will include using permanent solutions to the maximum extent practicable, and providing for a reasonable restoration time (WAC 173-340-360(2)(b)).

Deliverable 2: Final RI/FS Work Plan

Following public comment and Ecology approval a Final RI/FS Work Plan will be completed and submitted to Ecology.

Deliverable 3: Draft RI/FS Report.

The Site remedial investigation and feasibility study (RI/FS) Report will be completed in accordance with WAC 173-340-350 and -360, by conducting the requirements in the RI/FS Work Plan. The PLPs will submit a draft RI/FS report for Ecology's review and approval. The RI/FS report will include, but not be limited to, the information listed under WAC 173-340-350(7)(c) and (8)(b). After receiving Ecology's comments on the draft RI/FS report, if any, the PLPs shall revise the report to address Ecology's comments and, resubmit the report

Deliverable 4: Final RI/FS Report.

Following public comment and Ecology approval a Final RI/FS Report will be completed and submitted to Ecology.

Deliverable 5: Draft Interim Action Work Plan

The draft Interim Action Work Plan will include the design and implementation of interim actions to facilitate protection of human health and the environment. The Interim Action Work Plan shall include the information listed in WAC 173-340-430(7). The scope of the interim action will include remediation, mitigation, monitoring, and spill prevention components already existing at the site such as:

- Performance evaluation of recovery trenches, ground water and soil vapor recovery wells and treatment system (ExxonMobil);
- Performance evaluation of dual phase vacuum extraction and ground water treatment system (ConocoPhillips);
- Suggested corrective action for the interim remedial systems based on evaluations;
- Suggested course of action for continued operation, augmentation, or termination of existing interim remedial systems in the draft cleanup action plan;
- Storm water controls;
- Fuel containment, spill prevention, and recovery plans at existing operating facility;
- Ground water and surface water monitoring;
- Existing remedial system operation and performance reports;
- Schedule; and
- Health and Safety.

The interim action shall be designed in a manner that will not foreclose reasonable alternatives for the final cleanup action in accordance with WAC 173-340-430(3)(b).

Deliverable 6: Final Interim Action Work Plan

Following public comment and Ecology approval a Final Interim Action Work Plan will be completed and submitted to Ecology.

Deliverable 7: Draft Cleanup Action Plan

The PLPs will submit a draft Cleanup Action Plan (CAP) for Ecology's review and approval. Ecology's comments on the draft CAP, if any, will be incorporated. The draft CAP will include, but not be limited to, the information listed under WAC 173-340-380.

EXHIBIT C
Schedule for Implementation of Statement of Work

Deliverables. Refer to Exhibit B (Statement of Work) for Key Components.	Due Dates in Calendar Days*
1. Implement interim actions as detailed in the Work Plans (Exhibit E)	Commence by the effective date of the Agreed Order.
2. Draft RI/FS work plan for Ecology review and approval.	90 days after effective date of the Agreed Order.
3. Final RI/FS work plan.	30 days after receipt of Ecology comments on the draft RI/FS work plan.
4. Draft RI/FS report for Ecology review and approval.	90 days after completion of RI/FS work plan.
4. Final RI/FS report	30 days after receipt of Ecology comments on the draft RI/FS report.
5. Draft Interim Action Work Plan for Ecology review and approval.	90 days after effective date of the Agreed Order.
6. Final Interim Action Work Plan.	30 days after receipt of Ecology comments on the draft Interim Action Work Plan.
7. Draft Cleanup Action Plan for Ecology review and approval.	30 days after completion of draft RI/FS report.
Total anticipated calendar days for completion	

** An extension to the listed due dates may be granted by Ecology under the terms of the Agreed Order, Section VIII.K. (Extension of Schedule).*

EXHIBIT D: Applicable Permits and Substantive Requirements

Laws and regulations addressing permits or federal, state, or local requirements that Ecology believes may be applicable at the time of entry of this Order are listed below. This list may not include all pertinent laws and regulations.

- Chapter 70.150D RCW (Model Toxics Control Act), and Chapter 173-340 WAC (MTCA Regulations)
- Chapter 173-160 RCW (Minimum Standards for Construction and Maintenance of Wells)
- Chapter 43.21C RCW (State Environmental Policy Act), and Chapter 197-11 WAC (State Environmental Policy Act Rules)
- Chapter 70.94 RCW, Washington Clean Air Act
- Washington Industrial Safety and Health Act (WISHA)
- Applicable City of Renton Municipal Codes
- Applicable King County Codes
- ExxonMobil Corporation Major Discharge Authorization Number 264-03 issued by King County Industrial Waste Program (effective date: February 2, 2006 expiration date: February 1, 2011)
- ExxonMobil Corporation Puget Sound Air Pollution Control Agency Order to Construct, Install or Establish
- ConocoPhillips Puget Sound Clean Air Agency (PSCAA) Permit No. 9648
- ConocoPhillips King County Discharge Permit No. 4057-02

The PLPs have 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 PLPs determine that additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order, they shall promptly notify the other party of their determination. Ecology shall determine whether Ecology or the PLPs shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, the PLPs 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 PLPs and on how the PLPs must meet those requirements. Ecology shall inform the PLPs in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. The PLPs shall not begin or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination. Work performed shall be in accordance within the substantive requirements of any applicable law or regulation.

EXHIBIT E:
Interim Action Work Plans