

**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

In the Matter of Remedial Action by:

**City of Bellingham;**

**Douglas Management Company**

FIRST AMENDMENT TO  
AGREED ORDER NO. DE 2186

**I. INTRODUCTION**

Agreed Order No. DE 2186 (2005 Order), entered into by the State of Washington, Department of Ecology (Ecology) and Douglas Management Company (DM) in 2005, requires DM to perform a Remedial Investigation/Feasibility Study (RI/FS) at the RG Haley International Site (Site) generally located at 500 Cornwall Avenue in Bellingham, Washington. In 2009, the City of Bellingham purchased property within the Site from DM, while this work was ongoing. DM then paid Ecology's costs in overseeing work performed by DM under the 2005 Order.

This First Amendment to the 2005 Order (First Amendment) removes DM as a signatory party from further obligation under the 2005 Order, and adds the City as signatory to complete its requirements.

**II. JURISDICTION**

This First Amendment is issued by Ecology pursuant to RCW 70.105D.050(1).

**III. AMENDMENT**

This First Amendment does not attempt to recite all of the provisions of the 2005 Order. Provisions of the 2005 Order not specifically addressed in this First Amendment remain in full force and effect.

The 2005 Order is hereby amended as follows:

A. DM is removed as a signatory party from the 2005 Order, and is no longer contractually bound to perform work at the Site under the 2005 Order or this First Amendment.

B. The City hereby becomes signatory to the 2005 Order and agrees to complete an RI/FS that meets the requirements of Chapters 173-340 and 173-204 WAC according to the 2005 Order's requirements, terms and conditions, as amended herein.

C. All references to DM in the 2005 Order are hereby removed and replaced with reference to the City, with the exception of Section II (Findings of Fact) and Section III (Ecology Determinations).

D. As of July 31, 2010, Ecology has accumulated \$17,574.25 in unreimbursed remedial action costs attributable to the Site. Payment for this amount shall be submitted within thirty (30) days of the effective date of this First Amendment. For all costs incurred subsequent to this date, the City shall pay the required amount of remedial action costs within thirty (30) days as outlined in the 2005 Order.

E. The City is responsible for entry of all soil, ground water, and sediment data collected pursuant to the 2005 Order into the Environmental Information Management system, Ecology's electronic database.

F. Section II (Findings of Fact) of the 2005 Order is amended to add the following finding of fact in addition to those findings already set forth:

14. In 2009, the City purchased the property located at 500 Cornwall Avenue in Bellingham, Washington.

G. Section III (Ecology Determinations) of the 2005 Order is amended to add the following determinations in addition to the determinations already set forth:

8. Pursuant to RCW 70.105D.040(1)(a), the City is an "owner or operator" as defined in RCW 70.105D.020(17) of a "facility" as defined in RCW 70.105D.020(5), by virtue of its purchase of the property located at 500 Cornwall Avenue in Bellingham, Washington.

9. Based upon credible evidence, Ecology issued a PLP status letter to the City dated November 24, 2009, pursuant to RCW 70.105D.040, -.020(21) and WAC 173-340-500. By letter dated December 7, 2009, the City voluntarily waived its rights to notice and comment "without admitting liability and for purpose of facilitating agreed

order negotiations only,” and accepted Ecology’s determination that the City is a PLP under RCW 70.105D.040.

10. Based upon credible evidence, Ecology issued a PLP status letter to the Port of Bellingham (Port), dated April 9, 2010, pursuant to RCW 70.105D.040, -.020(21) and WAC 173-340-500. After providing for notice and opportunity for comment, reviewing 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 September 28, 2010.

11. Ecology has determined that this First Amendment will expedite the investigation and cleanup of the Site.

12. This First Amendment is not a substantial change to the 2005 Order under WAC 173-340-600(11)(d), thus additional public notice is not required.

H. Section IV.4 (Work to Be Performed, Schedule of Work) of the 2005 Order is hereby amended to read:

4. Schedule of Work: Within thirty (30) days of the Effective Date of this First Amendment, the City shall submit a revised schedule for completion of all actions required by the 2005 Order, plus a list of any modifications necessary to existing work plans, to Ecology’s project coordinator for review and approval. Once Ecology approves the revised schedule it shall become an integral and enforceable part of the 2005 Order, as amended. The project coordinators may verbally agree to minor changes to the work to be performed without formally amending the 2005 Order. Minor changes will be documented in writing by Ecology within seven (7) days of verbal agreement.

I. Section V.4 (Terms and Conditions, Designated Project Coordinators) is amended to delete all the project coordinator names listed, and will now read as follows:

The project coordinator for the City is:

Amy Kraham  
201 Lottie Street

Bellingham, WA 98225-4089  
(360) 778-8278

Ecology's designated project coordinator is:

Robert Swackhamer  
Department of Ecology  
Northwest Regional Office/Toxics Cleanup Program  
3190 - 160th Ave SE  
Bellevue, WA 98008-5452  
(425) 649-7233

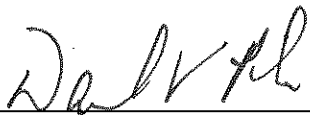
**IV. SIGNATURE AUTHORITY**

The undersigned representative of each party hereby certifies that he or she is fully authorized to enter into this First Amendment to Agreed Order DE 2186 and to execute and legally bind such party to the same.

**V. EFFECTIVE DATE**


This First Amendment to Agreed Order DE 2186 shall be effective upon execution by DM, the City, and Ecology.

**CITY OF BELLINGHAM**

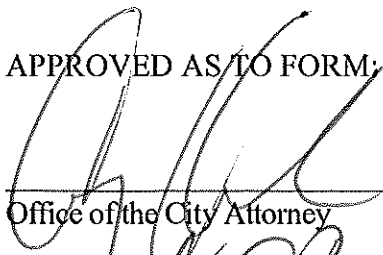

  
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Dan Pike  
Mayor, City of Bellingham  
(360) 778-8100

Date Signed: 10/1/10

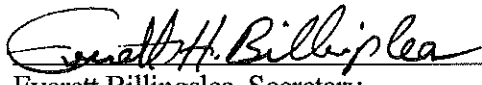
**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

  
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Robert W. Warren  
Section Manager  
Toxics Cleanup Program  
Northwest Regional Office  
(425) 649-7054  
Date Signed: OCTOBER 15, 2010

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Office of the City Attorney  
ATTEST:   
\_\_\_\_\_  
Finance Director  
Date Signed: 10/4/10

**DOUGLAS MANAGEMENT COMPANY**

  
\_\_\_\_\_  
Everett Billingslea, Secretary  
Phone: 206-439-5490  
Date Signed: 10.8.10