

**FINAL DRAFT FOR PUBLIC COMMENT**

STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

In the Matter of Remedial Investigation by:

KIMBERLY-CLARK CORPORATION  
(at the former Scott Anacortes Pulp Mill Site)

NO. DE \_\_\_\_\_

AGREED ORDER

**I. JURISDICTION**

This Agreed Order ("Order") is issued pursuant to the authority of RCW 70.105D.050(1).

**II. DEFINITIONS**

1. Site: means the former Scott Paper Company mill pulping operations and associated facilities that were located at 15<sup>th</sup> Street and Q Avenue on Fidalgo Bay in Anacortes, Washington. The Site also includes associated offshore lands and any area where hazardous and deleterious substances from the mill site have come to be located, including the entire former Scott Paper Company mill site, a portion of which is the Property as defined herein.

2. Property: means generally the southern portion of the former Scott Paper Company mill site and is that portion of the Site owned by MJB Properties, Inc. (MJB), including the associated marine sediments where a release or threatened release of hazardous or deleterious substances from operations on the Site have come to be located. A more detailed description of the Property is attached hereto as Exhibit 1.

3. Port Property: means generally the northern portion of the former Scott Paper Company mill site and is a portion of the Site owned or formally owned by the Port of Anacortes

(Port), including the associated marine sediments where a release or threatened release of hazardous or deleterious substances from operations on the Site have come to be located.

4. Former Scott Paper Company mill site: means the former Scott Paper Company mill pulping operations and associated facilities that were located at 15<sup>th</sup> Street and Q Avenue on Fidalgo Bay in Anacortes, Washington. The former Scott Paper Company mill site also includes associated offshore lands. In general, the Property and the Port Property as defined above, together with certain offshore property currently owned by Snelson-Anvil, Inc., which is generally located between the Property and Port Property, constitute the former Scott Paper Company mill site.

5. Consent Decree: means the Consent Decree between the State of Washington, Department of Ecology (Ecology) and the Port, entered by the Skagit County Superior Court as No. 03-2-00492-1.

6. Uplands Area: means that portion of the Property that lies at greater elevation than the highest observed water level.

7. Marine Area: means that portion of the Property that lies at lesser elevation than the highest observed water level.

### **III. FINDINGS OF FACT**

Ecology makes the following Findings of Fact, without admission of such facts by Kimberly-Clark Corporation ("Kimberly-Clark").

1. Kimberly-Clark is a Delaware corporation.

2. In 1995, Kimberly-Clark acquired Scott Paper Company ("Scott"), including its assets and liabilities.

3. Early uses of the former Scott Paper Company mill site included operation of a sawmill and box factory. The sawmill operated between about 1895 and the 1950's. In 1925, Puget Sound Pulp Company constructed a pulp mill. The pulp mill buildings and process vessels were located on the Property. Ancillary activities were performed on the Port Property. Scott purchased the pulp mill in 1940. The purchase of the real property was recorded in 1947 under

the name of Coos Bay Pulp Company, a Scott subsidiary. The pulp mill operated until 1978 when Scott ceased pulping operations at the Site.

4. In 1978 and 1979, Port purchased a portion of the former Scott Paper Company mill site located north of the Property (the Port Property) from Scott. The remainder of the former Scott Paper Company mill site, with the exception of a small piece of offshore property, was purchased by Snelsen-Anvil at about the same time. MJB purchased the Property in 1990.

5. A portion of the Port Property was used by Scott for a "tailings" pond which was installed to reduce the solids content of the wastewater from the pulp mill. Historical records indicate that the Port Property included two storage sheds, a chip shed, chip bins, fuel bins, a dry kiln, a refuse burner, a boiler room, a smokestack, above-ground storage tanks, and numerous docks and piers. The known discharge points to surface water from the former Scott Paper Company mill site were located on the Property and on other property owned by the Port located approximately a mile to the north along the Guemes Channel.

6. Following the sale by Scott of the former Scott Paper Company mill site, redevelopment activities included demolition of building and wharf structures, and removal of tailings ponds waste. By 1982, some of the accumulated wood debris and geotechnically unsuitable fill materials within the Property were excavated and disposed off-Site and replaced with granular fill materials. Geotechnically structurally suitable fill materials were subsequently imported onto the Property and placed within the excavation areas. However, the exact locations of all these excavated wood waste and structurally filled areas are not known. Currently, the Property is primarily unvegetated with several warehouse buildings leased to companies conducting small boat repair, boat construction and modular home fabrication.

7. In 1980, Roger Lowe Associates, Inc. found wood waste/debris and sulfur waste in boring and test pits on the Property.

8. Waste effluent from the pulp mill was discharged to Fidalgo Bay prior to 1951. A pipeline was constructed through the City of Anacortes in 1951 to carry effluents to the Guemes Channel and a 20,000 gallon surge pond was built on the Property to hold effluent before

entering the pipe. Pulp bleaching facilities using chlorine and hypochlorite processes were added in 1955.

9. In 2000, U.S. Environmental Protection Agency conducted an investigation of the Property and found arsenic, cadmium, lead, mercury, thallium, total petroleum hydrocarbons (TPH), carcinogenic polynuclear aromatic hydrocarbons (cPAH) levels were in exceedance of the State of Washington's Model Toxics Control Act (MTCA) contamination limits in soil. Also, the EPA found MTCA exceedances of antimony, arsenic, barium, beryllium, cadmium, chromium, copper, lead, manganese, mercury, thallium, vanadium, cPAH, and polychlorinated biphenyl's (PCB's) in groundwater collected from undeveloped borings. Furthermore, the EPA found that sediment levels exceed MTCA Sediment Management Standards (SMS) for PCB's.

10. In 2000, the EPA found fill material in borings at the Property included rock fragments, wood, red brick fragments, glass, petroleum staining and/or odor, wood pulp, and sulfur fragments.

11. In 1999, petroleum-containing wood debris and soils was excavated from two areas within the Port Property. Work also included the installation of a sheet pile wall along the shoreline. Excavation areas were then backfilled with structural fill. A campus/office park was subsequently developed on the Port Property. Surface water runoff is collected and discharged to Fidalgo Bay through the City of Anacortes and other storm drain lines.

12. The former Scott Paper Company mill site, which is a portion of the Site, will be addressed through this Order and a separate Consent Decree (No. 03-2-00492-1) with the Port (hereinafter referred to as the "Decree") that covers the Port Property. Taken together the provisions of this Order and the Decree will address the entire former Scott Paper Company mill site, including certain offshore property currently owned by Snelson-Anvil, Inc. The Order and the Decree do not, however, address the entire Site.

#### **IV. ECOLOGY DETERMINATIONS**

1. Kimberly-Clark is a former owner and operator of the Site and as such is an "owner or operator" as defined at RCW 70.105D.020(12) of a "facility" as defined in RCW 70.105D.020(4).

2. The facility is known as the Former Scott Paper Mill Site ("Site") and is located in Anacortes, Washington.

3. Certain substances found at the facility are "hazardous substances" as defined at RCW 70.105D.020(7).

4. Based on the presence of these hazardous substances at the facility and all factors known to Ecology, there is a release or threatened release of hazardous substances from the facility, as defined at RCW 70.105D.020(20).

5. By letter dated March 6, 2001, Ecology notified Kimberly-Clark of its status as a "potentially liable person" under RCW 70.105D.040 after notice and opportunity for comment. The Port, Shared Healthcare Systems, and MJB were similarly designated potentially liable persons.

6. Pursuant to RCW 70.105D.030(1) and 70.105D.050, Ecology may require potentially liable persons to investigate or conduct other remedial actions with respect to the release or threatened release of hazardous substances, whenever it believes such action to be in the public interest.

7. Based on the foregoing facts, Ecology believes the remedial action required by this Order is in the public interest.

#### **V. WORK TO BE PERFORMED**

Based on the foregoing Facts and Determinations, it is hereby ordered that Kimberly-Clark take the following actions, which are described in more detail in the Scope of Work (attached as Exhibit 2), and that these actions be conducted in accordance with Chapter 173-340 WAC unless otherwise specifically provided for herein.

1. Prepare the following:

- a. A Remedial Investigation/Feasibility Study ( RI/FS) Work Plan for the uplands and marine areas of the Property in accordance with WAC 173-340-350 and WAC 173-340-357, for Ecology review and approval;
  - b. An RI/FS in accordance with the RI/FS Work Plan to be approved by Ecology; and
  - c. Monthly progress reports summarizing the work completed, the work planned for the next quarter and significant findings.
2. The schedule for performance and/or deliverables is included as part of the Scope of Work (Exhibit 2).
3. All exhibits are incorporated by reference and the exhibits are integral and enforceable parts of the Order.
4. Within sixty (60) days after submittal of the RI/FS Report required by this Order, or upon the submittal of the Port's Uplands Area RI/FS Report under the Decree, whichever is later, Kimberly-Clark will review all the uplands area remedial investigations described in those Reports to identify whether any site-wide issues have not been evaluated. Upon completion of that review, Kimberly-Clark will submit to Ecology either (a) a work plan to address any such issues that have been identified; or (b) a statement describing the review and evaluation and the conclusion that no such issues have been identified or, if such issues have been identified and will not be undertaken by Kimberly-Clark, a statement that such issues are being addressed by the Port under its Decree. If a work plan for further RI/FS work is required to address such site-wide issues, the work plan shall describe the issues and the actions to be taken to address the issues. The work plan shall include a schedule to complete the work. Upon Ecology's determination that any site-wide issues have been identified and Ecology's approval of the work plan for further RI/FS work, Kimberly-Clark will implement the work plan.
5. Within sixty (60) days after submittal of the RI/FS Report or the submittal of the Port's Marine Area RI/FS Report under the Decree, whichever is later, Kimberly-Clark will review the marine area remedial investigations described in those Reports to identify whether any site-wide issues have not been evaluated. Upon completion of that review, Kimberly-Clark

will submit to Ecology either (a) a work plan to address any such issues that have been identified; or (b) a statement describing the review and evaluation and the conclusion that no such issues have been identified or, if such issues have been identified and will not be undertaken by Kimberly-Clark, a statement that any such issues are being addressed by the Port under its Decree. If a work plan for further RI/FS work is required to address such site-wide issues, the work plan shall describe the issues and the actions to be taken to address the issues. The work plan shall include a schedule to complete the work. Upon Ecology's determination that any site-wide issues have been identified and Ecology's approval of the work plan for further RI/FS work, Kimberly-Clark will implement the work plan.

## **VI. INTERIM REMEDIAL ACTIONS**

1. During the term of this Order, Kimberly-Clark may propose to implement interim remedial actions intended to minimize or prevent the spread of contaminants while the long-term, Property-wide cleanup action plan is being developed. Interim remedial actions may be undertaken prior to issuance of the Cleanup Action Plan (CAP) for the former Scott Paper Company mill site. Any interim remedial actions shall be undertaken pursuant to WAC 173-340-430.

2. To undertake an interim remedial action, Kimberly-Clark may submit to Ecology a request to implement interim remedial actions. The request shall include an assessment of the opportunity for interim remedial actions and a description of the proposed actions. If approved by Ecology, Kimberly-Clark shall, within sixty (60) days of Ecology approval, submit to Ecology an Interim Remedial Action Work Plan which shall describe in detail the implementation of the proposed interim actions and a schedule. Upon approval of the Work Plan by Ecology, Kimberly-Clark shall implement the interim remedial actions on the schedule agreed to in the Work Plan.

3. Any approved Work Plan and associated interim remedial action shall be conducted pursuant to this Order and shall be attached as exhibits to this Order. All exhibits to this Order are integral and enforceable parts thereof.

## VII. TERMS AND CONDITIONS OF ORDER

### 1. Public Notices

WAC 173-340-600 (11)(c) requires a 30-day public comment period for this Order. 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 the Order is inadequate or improper in any respect. If Ecology does modify or withdraw any provisions of this Order, Kimberly-Clark is not bound by the provisions of this Order.

### 2. Remedial Action Costs

Kimberly-Clark shall pay to Ecology costs incurred by Ecology reasonably attributable to this Order. These costs shall include work performed by Ecology or its contractors in connection with this Order, including order preparation, oversight and administration. Ecology costs shall include costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2). Kimberly-Clark shall pay the required amount within 90 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 description of work performed will be provided along with the itemized statement. Itemized statements shall be prepared quarterly. Failure to pay Ecology's costs within 90 days of receipt of the itemized statement of costs will result in interest charges.

### 3. Designated Project Coordinators

The project coordinator for Ecology is:

Ron Timm  
Toxics Cleanup Program  
Northwest Regional Office  
3190-160th Ave., S.E.  
Bellevue, WA 98008-5452

Telephone: (425) 649-7185  
Facsimile: (425) 649-7098  
E-mail: [rtim461@ecy.wa.gov](mailto:rtim461@ecy.wa.gov)



The project coordinator for Kimberly-Clark is:

Cynthia L. Jernigan  
Manager, Environmental Programs  
Kimberly-Clark Corporation  
1400 Holcomb Bridge Road  
Roswell, Georgia 30076

Telephone: (770) 587-7014  
Facsimile: (770) 587-7093  
E-mail: [cjerniga@kcc.com](mailto:cjerniga@kcc.com)

The project coordinator(s) shall be responsible for overseeing the implementation of this Order. To the maximum extent possible, communications between Ecology and Kimberly-Clark, 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 coordinator(s). Should Ecology or Kimberly-Clark change project coordinator(s), written notification shall be provided to Ecology or Kimberly-Clark at least ten (10) calendar days prior to the change.

#### 4. Performance

All work performed pursuant to this Order shall be under the direction and supervision, as necessary, of a professional engineer or hydrogeologist, or similar expert, with appropriate training, experience and expertise in hazardous waste site investigation and cleanup. Kimberly-Clark shall notify Ecology as to the identity of such engineer(s) or hydrogeologist(s), and of any contractors and subcontractors to be used in carrying out the terms of this Order, in advance of their involvement at the site. Kimberly-Clark 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 will be in compliance with this Order.

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

#### 5. Access

Kimberly-Clark has an access agreement ("Access Agreement") with MJB, the owner of the Property, for access to the Property for the purposes of implementing this Order. With regard to the offshore property currently owned by Snelson-Anvil, Inc., Kimberly Clark shall make all reasonable efforts to secure access rights where remedial activities or investigations will be performed pursuant to this Order. RCW 70.105D.030(1) authorizes, and the Access Agreement provides for, access to Ecology or any Ecology authorized representative to enter and freely move about the Property 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 progress in carrying out the terms of this Order; conducting such tests or collecting samples as Ecology or the project coordinator 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 Kimberly-Clark. By signing this Order, Kimberly-Clark agrees to provide access to Ecology or any Ecology authorized representatives to the Property consistent with RCW 70.105D.030(1) and the terms of its Access Agreement at all reasonable times for purposes of overseeing work performed under this Order. Ecology shall allow split or replicate samples to be taken by Kimberly-Clark during an inspection and shall provide seven (7) days notice before any sampling activity. Kimberly-Clark shall allow split or replicate samples to be taken by Ecology and shall provide fourteen (14) days notice before any sampling activity. In addition, consistent with the terms of the Access Agreement, Kimberly-Clark will provide reasonable access to the Port for work under its Decree, provided that the Port provides advance written notice to Kimberly-Clark requesting access and includes an Ecology-approved work plan which describes the work to be performed on the Property.

#### 6. Public Participation

Kimberly-Clark shall prepare and/or update a public participation plan for this Order. Ecology shall review, comment on, and approve a public participation plan prepared by Kimberly-Clark. Ecology maintains responsibility for public participation for this Order and all public outreach for the Property shall be coordinated with Ecology.

At the request of Ecology, Kimberly-Clark shall provide assistance to Ecology toward coordination and implementation of the public participation process for the work required by the Order.

7. Retention of Records

Kimberly-Clark shall preserve in a readily retrievable fashion, during the pendency of this Order and for ten (10) years from the date of completion of the work performed pursuant to this Order, all records, reports, documents, and underlying data in its possession relevant to this Order. Should any portion of the work performed hereunder be undertaken through contractors or agents of Kimberly-Clark, then Kimberly-Clark agrees to include in their contract with such contractors or agents a record retention requirement meeting the terms of this paragraph.

8. Dispute Resolution

Kimberly-Clark may request Ecology to resolve disputes which may arise during the implementation of this Order. Such request shall be in writing and directed to the signatory, or his/her successor(s), to this Order. Kimberly-Clark is not relieved of any requirement of this Order during the pendency of the dispute and remains responsible for timely compliance with the terms of the Order unless otherwise provided by Ecology in writing.

9. Reservation of Rights/No Settlement

Except as provided in this paragraph, this Order is not a settlement under ch. 70.105D RCW. Ecology's signature on this Order in no way constitutes a covenant not to sue or a compromise of any Ecology rights or authority.

Ecology reserves the right, however, to require additional remedial actions at the Property should it deem such actions necessary.

Ecology also reserves all rights regarding the injury to, destruction of, or loss of natural resources resulting from the releases or threatened releases of hazardous substances from the Property.

In the event Ecology determines that conditions at the Property are creating or have the potential to create a danger to the health or welfare of the people on the Property or in the

surrounding area or to the environment, Ecology may order Kimberly-Clark to stop further implementation of this Order for such period of time as needed to abate the danger.

10. Transference of Property

Kimberly-Clark is not the owner of the Property and therefore has no control over the transference of the Property. MJB, as the Property owner, has agreed to provide Ecology with notice of a transfer and to ensure that any transfer maintains access to the Property to perform the work required by this Order. MJB's letter agreement is attached hereto as Exhibit 3. Notwithstanding the provisions of this paragraph, the failure of MJB to fulfill these obligations will not be considered a violation of the terms of this Order.

11. Compliance With Applicable Laws

A. All actions carried out by Kimberly-Clark 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 paragraph B of this section.

B. Pursuant to RCW 70.105D.090(1), the work to be performed under this Order is exempt from the procedural requirements of chapters 70.94, 70.95, 70.105, 75.20, 90.48, and 90.58 RCW and of any laws requiring or authorizing local government permits or approvals for the remedial investigation. However, the work to be performed must comply with the substantive requirements of those state and local laws. The state and local laws known to be applicable at the time of issuance of the Order shall be identified in the Work Plan and are binding and enforceable requirements of the Order.

Kimberly-Clark 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 investigation under this Order. In the event Kimberly-Clark determines that additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial investigation under this Order, it shall promptly notify Ecology of this determination. Ecology shall determine whether Ecology or Kimberly-Clark shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, Kimberly-Clark 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 investigation. Ecology shall make the final determination on the additional substantive requirements that must be met by Kimberly-Clark and on how Kimberly-Clark must meet those requirements. Ecology shall inform Kimberly-Clark in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. Kimberly-Clark shall not begin or continue the remedial investigation potentially subject to the additional requirements until Ecology makes its final determination.

Ecology shall ensure that notice and opportunity for comment is provided to the public and appropriate agencies prior to establishing the substantive requirements under this section.

C. 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 which is necessary for the state to administer any federal law, the exemption shall not apply and Kimberly-Clark 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.

#### **VIII. SATISFACTION OF THIS ORDER**

Kimberly-Clark shall submit a written certification to Ecology, upon completion of its obligations under this Order, that it has completed the remedial investigation required by this Order and all provisions of this Order have been complied with. Upon Ecology's review and approval of the written certification, Ecology shall send Kimberly-Clark a written notification that the provisions of this Order, including all exhibits and modifications hereto, have been satisfied and complied with.

#### **IX. ENFORCEMENT**

1. 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 Kimberly-Clark refuses, without sufficient cause, to comply with any term of this Order, Kimberly-Clark will be liable for:

(1) up to three 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 \$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 Section 6 of ch. 70.105D RCW.

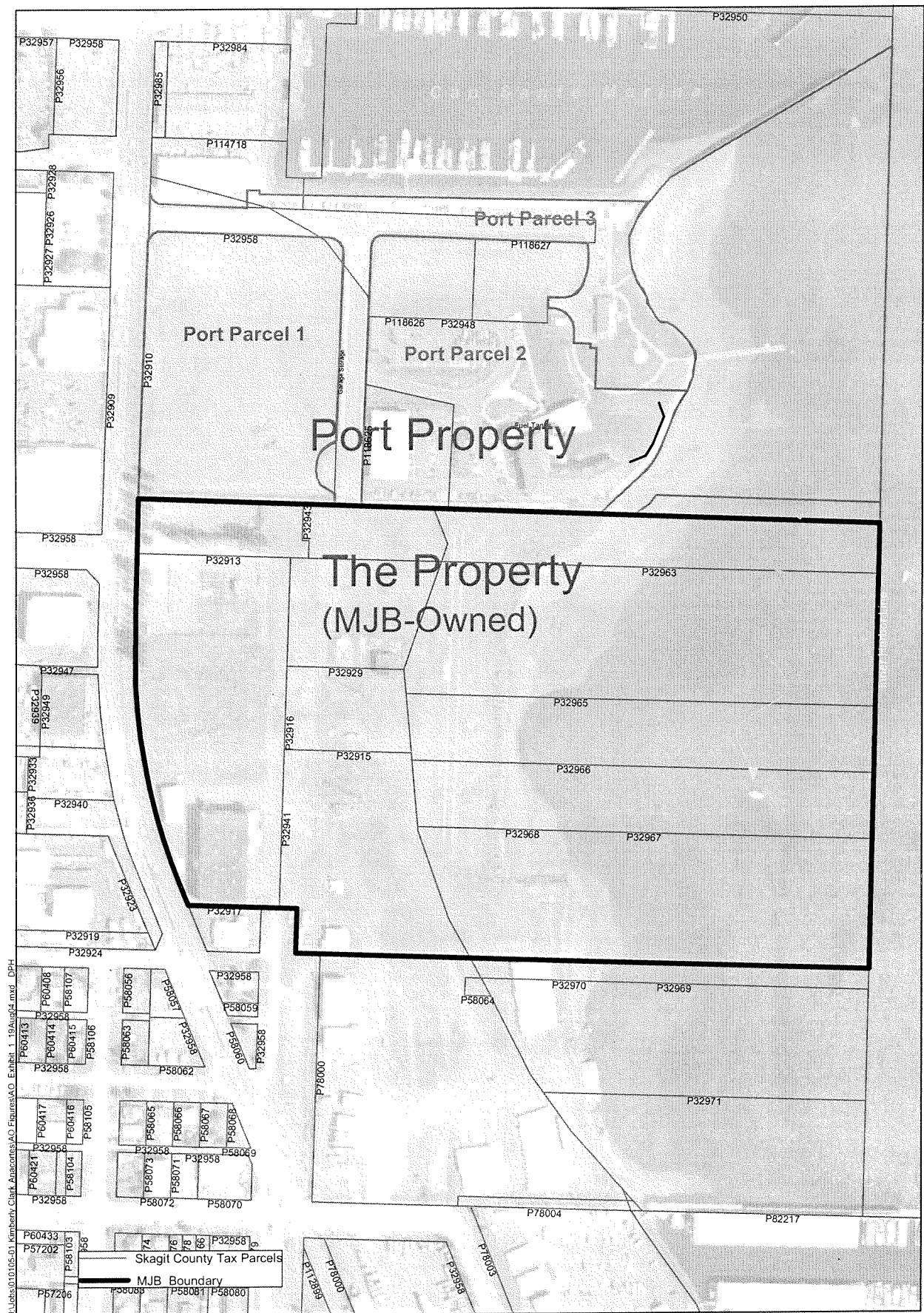
Effective date of this Order: \_\_\_\_\_

**KIMBERLY-CLARK CORPORATION**

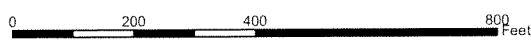
**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

By: \_\_\_\_\_

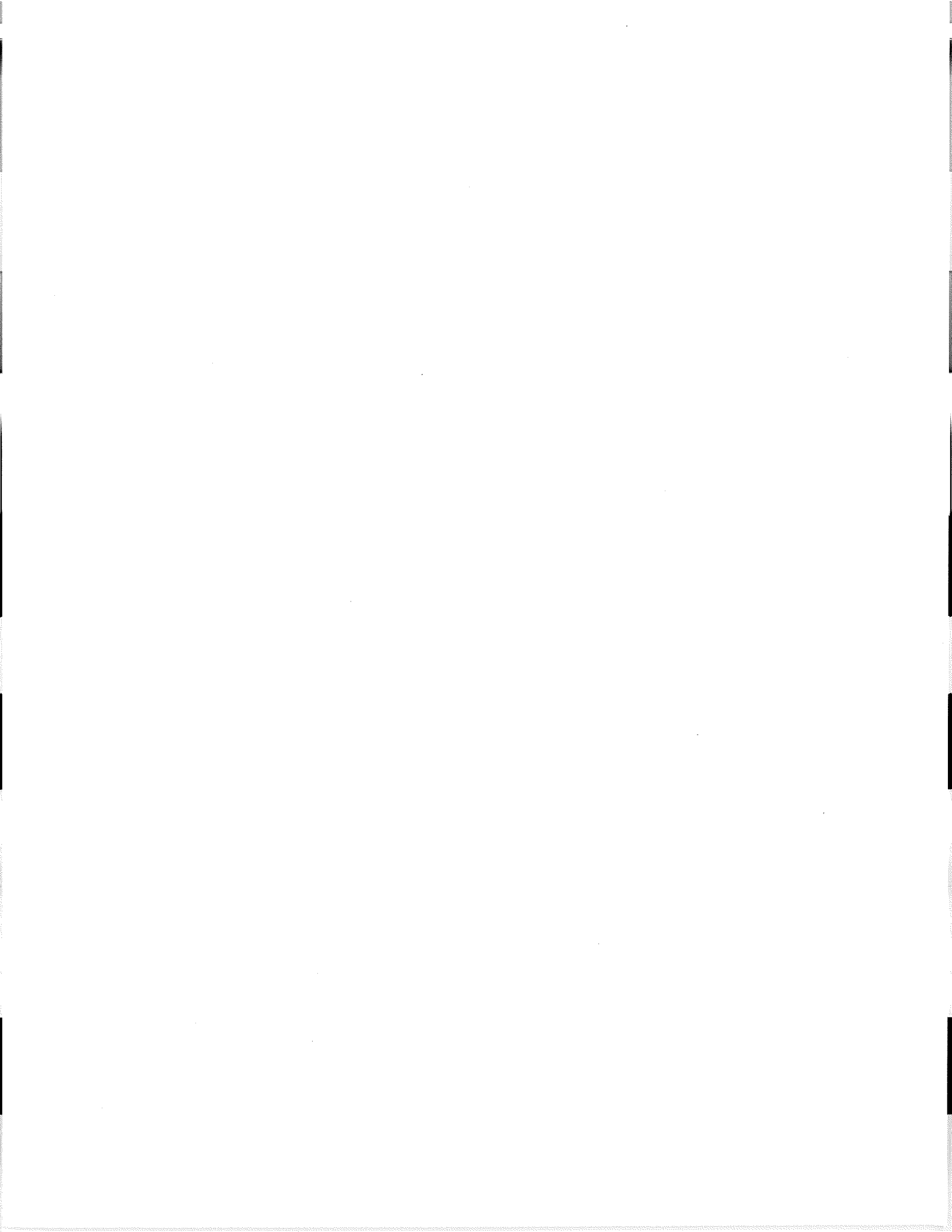
By: \_\_\_\_\_



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**Exhibit 1**  
Property Boundary  
MJB-Owned Property  
Anacortes, Washington





## **SCOPE OF WORK**

The purpose of the Work to be performed is to complete a Remedial Investigation/Feasibility Study ("RI/FS") for certain portions of the Former Scott Mill Site. Specific task details will be documented in the RI/FS Work Plan. A schedule for completion of the RI/FS is presented below.

### **Task 1: RI/FS Work Plan**

A Work Plan for the RI/FS will be prepared in accordance with WAC 173-340-350 and 173-340-357. The plan will describe the work and schedule to complete the RI/FS tasks as described in Tasks 2, 3 and 4. While the site characterization effort to date has been substantial, some additional data may be needed to complete the FS. Accordingly, the Work Plan may include focused data collection components, if necessary.

#### Deliverables:

Draft and Final Work Plans for an integrated RI/FS

### **Task 2: Remedial Investigation/Feasibility Study**

Building directly on the findings presented in the Comprehensive Evaluation of Existing Data: Former Scott Paper Mill Site (Anchor 2002), a RI/FS report will be prepared that characterizes the nature and extent of hazardous and deleterious substances at the Site, and provides sufficient data, analysis, and engineering evaluations to allow Ecology to select a cleanup remedy from among feasible alternatives. MTCA presents methods for determining cleanup levels in WAC 173-340-700 through 173-340-760. The use of a risk assessment to derive cleanup levels and to evaluate cleanup action alternatives is outlined in WAC 173-340-700(6)(c) and 173-340-357, respectively. As appropriate, a site-specific risk assessment will be performed in accordance with WAC 173-340-708 and 173-340-7490, respectively. A detailed analysis of the remedial alternatives to be identified in the RI/FS Work Plan will be presented in the RI/FS Report.

#### Deliverables:

Draft and Final RI/FS Reports

### **Task 3: Interim Remedial Actions**

Interim remedial actions may be undertaken on a limited basis prior to issuance of the Cleanup Action Plan (“CAP”) for the site. Prior to initiating any interim remedial action, Work Plans will be prepared and submitted to Ecology for approval.

#### Deliverables:

Draft and Final Interim Remedial Action Work Plans (as appropriate).

Draft and Final Interim Remedial Action Evaluation Reports (as appropriate).

### **Task 4: Progress Reporting**

The Respondents will provide quarterly progress letter reports to Ecology from the effective date of this Agreed Order until completion of the RI/FS. These letter reports will present a summary of work completed, work planned for the next quarter, and significant findings.

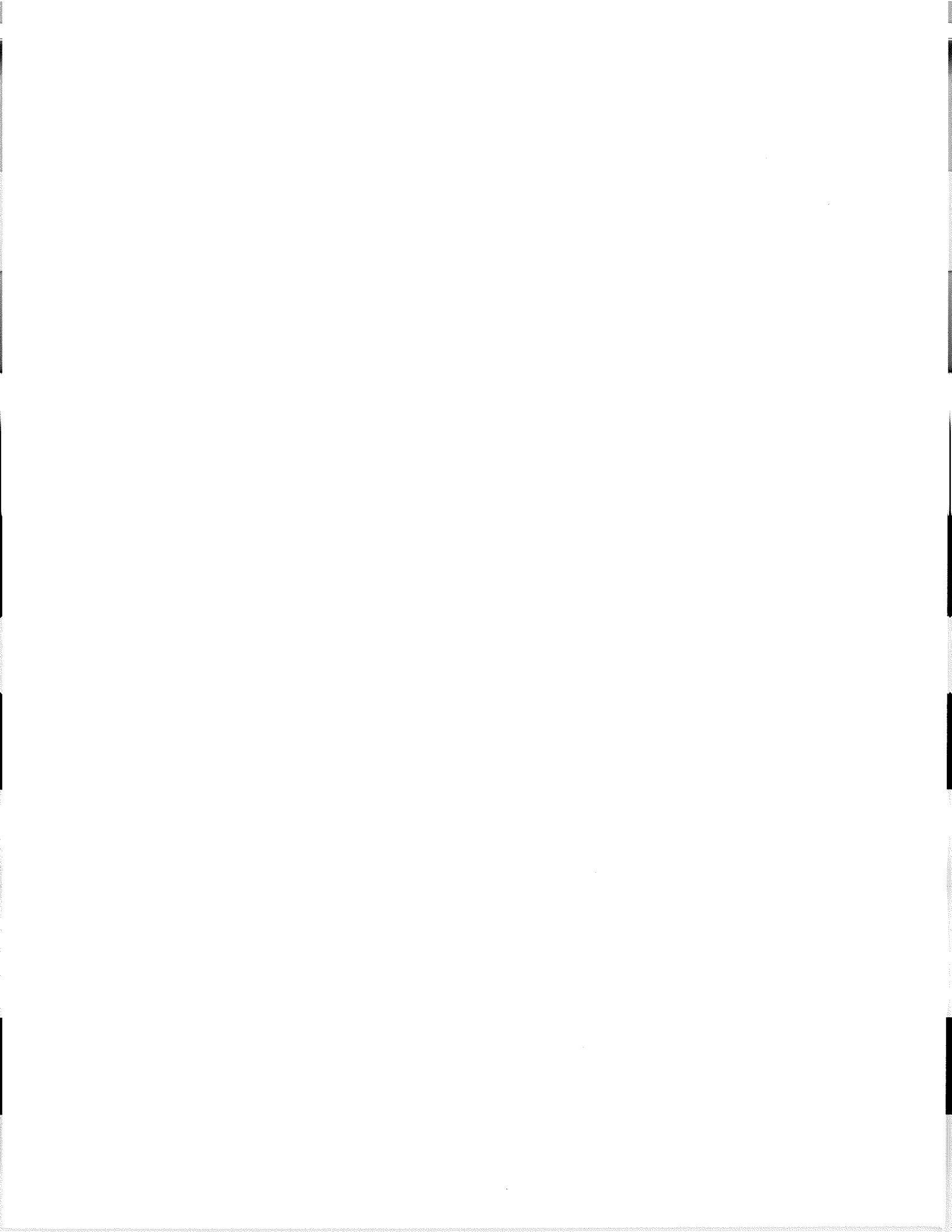
#### Deliverables:

Quarterly Progress Letters.

**SCHEDULE**

The proposed schedule for conducting tasks addressed under this Agreed Order is as follows:

Task	Schedule
Draft RI/FS Work Plan	90 days after close of public comment, or 60 days after the effective date of the Agreed Order, whichever is later
Final RI/FS Work Plan	60 days after resolution of Ecology comments on the Draft RI/FS Work Plan
Draft RI/FS Report	200 days following receipt of final laboratory results from RI/FS data collection, or 200 days following submittal of Draft RI/FS Work Plan, whichever is later
Final RI/FS Report	60 days after resolution of Ecology comments on the Draft RI/FS Report



Ronald W. Timm  
Washington State Department of Ecology  
Northwest Regional Office  
3190 160th Avenue SE  
Bellevue, WA 98008-5452

**RE: Agreed Order No. XXXXXXXX**

Dear Mr. Timm,

This letter serves as an agreement between MJB Properties (MJB), the Washington State Department of Ecology (Ecology), and Kimberly-Clark Corporation (Kimberly-Clark), regarding transference of all or any portion of the property, as that term is defined in Agreed Order No. xxxxxxxxxx.

Ecology has named MJB as a potentially liable person (PLP) for the Former Scott Paper Mill Site (Site). See Agreed Order, Sec.----. MJB is the current owner of the southern portion of the former mill site, which is part of the larger Site. The Kimberly-Clark Corporation, also a PLP for the Site, has entered into Agreed Order No. xxxxxxxxxx with Ecology. The Agreed Order contains a program for the investigation of MJB's property, the southern portion of the former mill site. MJB, the owner of the property, is not a party to the Agreed Order.

In order to facilitate access to the property and to provide Ecology with advance notice of any transfer of MJB's interest in the property, MJB agrees that, prior to the transfer of any legal or equitable interest MJB may have in the property or any portions of the property, MJB shall serve a copy of this letter agreement upon any prospective purchaser, lessee, transferee, assignee, or other successor in any such interest. At least thirty days prior to any finalization of any transfer, MJB shall notify Ecology of the contemplated transfer. MJB further agrees that no voluntary or involuntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the property shall be consummated by MJB without provision for continued access to the property for Ecology and Kimberly-Clark to carry out the work required under the Agreed Order and the implementation of any remedial actions found to be necessary pursuant to the Agreed Order.

MJB's obligations under this letter agreement shall terminate upon the satisfactory completion of the remedial program set forth in Agreed Order xxxxxxxx.

IN WITNESS WHEREOF, the parties hereto have caused this letter agreement to be executed by their proper officers thereto authorized, as of the day and year indicated below.

MJB PROPERTIES

By \_\_\_\_\_  
Its \_\_\_\_\_  
Date: \_\_\_\_\_

KIMBERLY-CLARK CORPORATION

By \_\_\_\_\_  
Its \_\_\_\_\_  
Date: \_\_\_\_\_

WASHINGTON STATE DEPARTMENT OF  
ECOLOGY

By \_\_\_\_\_  
Its \_\_\_\_\_  
Date: \_\_\_\_\_

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# **DRAFT PUBLIC PARTICIPATION PLAN**

## **SOUTHERN PORTION OF THE FORMER SCOTT PAPER MILL SITE ANACORTES, WASHINGTON**

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SEPTEMBER 2004



WASHINGTON STATE  
DEPARTMENT OF  
**E C O L O G Y**

Prepared by  
Washington State Department of Ecology

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## **INTRODUCTION**

The Washington State Department of Ecology (Ecology) has developed this Public Participation Plan in cooperation with the Kimberly-Clark Corporation, pursuant to the Model Toxics Control Act (MTCA) and Agreed Order No. \_\_\_\_\_, to promote meaningful community involvement during the investigation and cleanup of contaminated soils, groundwater, and sediments at the southern portion of the former Scott Paper Mill site in Anacortes, Washington. This plan describes the tools that Ecology uses to inform the public about site activities and identifies opportunities for the community to become involved.

The southern portion of the site has been owned by MJB Properties, Inc. since 1990. Ecology and the Kimberly-Clark Corporation (a successor to Scott Paper Company) have negotiated a legal agreement (called an agreed order) for this portion of the site.

The northern portion of the site, owned by the Port of Anacortes, is covered under a separate legal agreement, which was the subject of public comment in winter 2002-2003.

## **LOCATION AND SITE BACKGROUND**

### **Location**

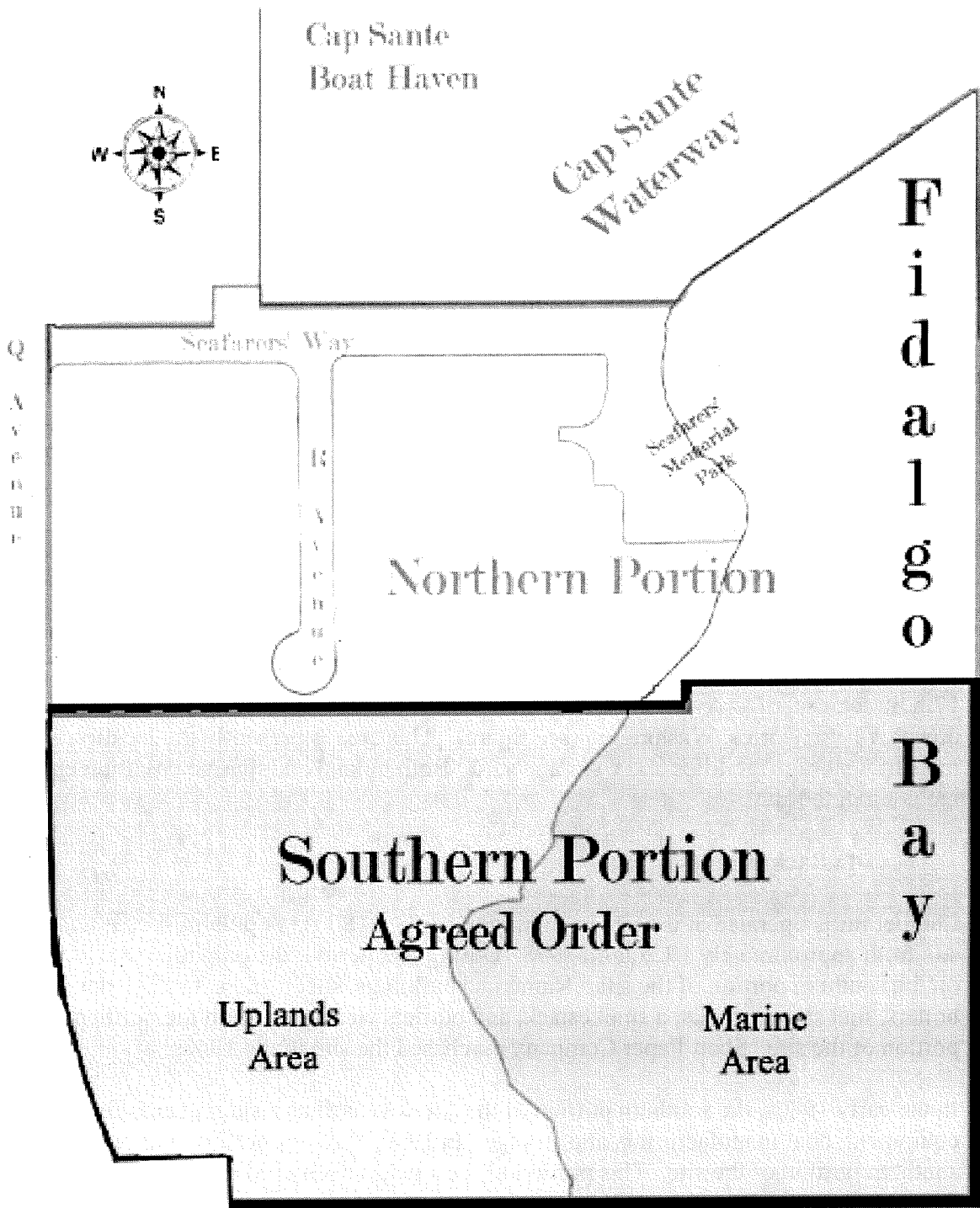
The area of the site covered under this agreed order is located south of an extension of 17th Street, east of Q Avenue, north of 20th Street, on the west shore of Fidalgo Bay in downtown Anacortes, Washington (see figure). This area is presently the location of industrial storage facilities and a storage yard. Both upland and marine environments are included in the site.

### **Site Background**

Lumber mills operated at the site beginning in the late 1800s. A pulp mill operated at the site from approximately 1925 until 1978. During this period, the pulp mill was located on the southern portion of the site. Numerous buildings, sheds, piers, tailings ponds, boilers, fuel storage tanks, a smokestack, and burners were located on the northern portion of the site. Scott Paper Company purchased the site in the 1940s.

In the early 1980s, the southern portion of the site was used as a staging area for oil field equipment, boat manufacturing, and storage. In 1990, MJB Properties, Inc. purchased the southern portion of the site. This portion of the site has been used as an assembly yard for modular houses.

In 2000, the U.S. Environmental Protection Agency conducted an investigation of the southern portion of the site and found wood and sulfur waste in soil, metals and petroleum in soil and groundwater, and polychlorinated biphenyls (PCBs) in sediments.



Site Location Map: Southern Portion of the Former Scott Paper Mill Site

In 2002, Ecology and the Port of Anacortes negotiated a consent decree to address the investigation of the northern portion of the former Scott Paper Mill site. Specifically, the agreement included plans for studies on the extent of contamination at the site and cleanup options. The legal agreement with the Port of Anacortes was available for public comment in winter 2002-2003.

### **Current Activity**

The draft agreed order for the southern portion of the site includes completion of a remedial investigation and feasibility study for soils and groundwater on the uplands area and sediments in the marine area.

The work proposed under this agreed order will be done in conjunction with work conducted on the northern portion of the site under the consent decree.

### **COMMUNITY MEMBER CONCERNS**

Most of the 10 community members interviewed over the telephone by Ecology in October/November 2002 expressed concerns about the former Scott Paper Mill site; those concerns are summarized below. A few did not realize that there is any contamination at the site. One individual had no concerns about the site. Ecology will work to respond to community concerns through the cleanup process and coordination with any other agencies that may become involved.

Additional public concerns may be identified over the course of the cleanup through: public comment periods; further community interviews; surveys; meetings; and other contacts with individuals, community groups, or organizations.

**Health risks:** Some people expressed concern about potential health risks present at the site, including the public park. Cancer concern was raised in connection with sandblasting and spray-painting that may have occurred at the site.

**Community awareness and involvement:** Most people interviewed were aware of the contamination at the site while a few were not. Concern was expressed that the community needs to be made aware of the site and why it needs to be cleaned up. Most of those interviewed expressed a desire to receive information promptly and that the cleanup process, especially public involvement, be open and accessible. Some concern was expressed that public involvement activities occur early in the process.

**Marine environment:** Most people expressed a concern for the health of the marine environment. There is concern about impacts to the coastal habitat (e.g., eelgrass beds) as valuable spawning and feeding areas for herring and other wildlife. Impacts to a local oyster bed also were mentioned. Residents described specific concerns such as: a black line of hydrogen sulfide on the beach which is believed to be leaching to Fidalgo Bay, the toxicity associated with hydrogen sulfide and its anaerobic effects on habitat, the smell of

hydrogen sulfide under certain conditions at the public park, the toxicity of creosoted pilings, the effects of heavy metals from possible on-site sandblasting and spray-painting, and the impacts of wood waste and other debris on the beach and in the water.

**Public access:** One person was concerned about how public access to the waterfront will be affected by the cleanup and wondered whether access will be taken away or limited.

**Future development:** Two people expressed concern about growth development issues at the site, including upland development and responsible development of the waterfront. One individual expressed concern about how long it will take to get the site cleaned up and back to productive use.

**Cleanup:** There was interest in how the extent of contamination will be determined, what remedial actions will be taken to clean up the site, and how future contaminated materials will be disposed. Some people interviewed were concerned about how clean the site will be and what follow-up will be done (e.g., monitoring) to ensure that the cleanup was effective. One person expressed concern that the wood waste be removed from the intertidal area and replaced with clean material graded as the original profile of the beach. There was some interest in cumulative impacts of this and other nearby sites on the environment.

## **PUBLIC PARTICIPATION ACTIVITIES AND RESPONSIBILITIES**

The purpose of this Public Participation Plan is to promote public understanding and participation in the MTCA activities planned for this site. This section of the plan addresses how Ecology will share information and receive public comments and community input on the site activities.

### **Public Involvement Activities**

Ecology uses a variety of activities to facilitate public participation in the investigation and cleanup of MTCA sites. Ecology will implement input provided by the community whenever possible.

The following is a list of the public involvement activities that Ecology will use, their purposes, and descriptions of when and how they will be used during this site cleanup.

#### *Formal Public Comment Periods*

Comment periods are the primary method Ecology uses to get feedback from the public on proposed cleanup decisions. Comment periods usually last 30 days and are required at key points during the investigation and cleanup process before final decisions are made.

During a comment period, the public can comment in writing. Verbal comments are taken if a public hearing is held. After formal comment periods, Ecology reviews all comments received and may respond in a document called a *Responsiveness Summary*.

Ecology will consider the need for changes or revisions based on input from the public. If significant changes are made, then a second comment period may be held. If no significant changes are made, then the draft document(s) will be finalized.

Ecology will hold a 30-day public comment period on the draft agreed order for the southern portion of the site from September 29 through October 28, 2004. Additional public comment periods will be held for draft remedial investigation/feasibility studies, for any draft cleanup action plans that are developed for the site, and for any future legal agreements regarding this site.

#### *Public Meetings and Hearings*

Public meetings may be held at key points during the investigation and cleanup process. Ecology also may offer public meetings for actions expected to be of particular interest to the community. These meetings will be held at locations convenient to the community.

#### *Information Repositories*

Information repositories are places where the public may read and review site information, including documents that are the subject of public comment.

Ecology has established two repositories for the Former Scott Paper Mill site:

- Anacortes Public Library, 1220 10th Street, Anacortes, (360) 293-1910
- Washington State Department of Ecology, 3190 160th Avenue SE, Bellevue, WA 98008, (425) 649-7190. Please call for an appointment.

Some site information also will be posted on Ecology's web site at [http://www.ecy.wa.gov/programs/tcp/sites/scott\\_paper/scott\\_hp.html](http://www.ecy.wa.gov/programs/tcp/sites/scott_paper/scott_hp.html)

#### *Site Register*

Ecology's Toxics Cleanup Program uses its bimonthly *Site Register* to announce all of its public meetings and comment periods, as well as many other activities. To receive the *Site Register* in electronic or hard copy format, contact Linda Thompson at (360) 407-6069 or by e-mail at [Ltho461@ecy.wa.gov](mailto:Ltho461@ecy.wa.gov). It is also available on Ecology's web site at [http://www.ecy.wa.gov/programs/tcp/pub\\_inv/pub\\_inv2.html](http://www.ecy.wa.gov/programs/tcp/pub_inv/pub_inv2.html)

### *Mailing List*

Ecology has compiled a mailing list for the site. The list includes individuals, groups, public agencies, elected officials, private businesses, potentially affected parties, and other known interested parties. The list will be maintained at Ecology's Northwest Regional Office and will be updated as needed.

Please contact Rebekah Padgett at (425) 649-7257 or [rpad461@ecy.wa.gov](mailto:rpad461@ecy.wa.gov) if you would like to have your address added to or deleted from this mailing list.

### *Fact Sheets*

Ecology will mail fact sheets to persons and organizations interested in the former Scott Paper Mill site to inform them of public meetings and comment opportunities and important site activities. Ecology also may mail fact sheets about the progress of site activities.

### *Newspaper Ads*

Ecology may place ads in the *Anacortes American* and *Skagit Valley Herald* to announce public comment periods and public meetings or hearings for the site.

### **Plan Update**

This public participation plan may be updated as the project proceeds. If an update is necessary, the revised plan will be submitted to the public for comment.

### **Points of Contact**

If you have questions or need more information about this plan or the Former Scott Paper Mill site, please contact one of the following persons:

Ron Timm, Site Manager  
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3190 160th Avenue SE  
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Rebekah Padgett, Public Involvement  
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## GLOSSARY

**Agreed Order:** A legal agreement between Ecology and a potentially liable person to conduct work toward a cleanup.

**Cleanup:** Actions taken to deal with a release, or threatened release of hazardous substances that could affect public health and/or the environment. The term "cleanup" is often used broadly to describe various response actions or phases of remedial responses such as the remedial investigation/feasibility study.

**Cleanup Action Plan (CAP):** A document that explains which cleanup alternative(s) will be used at sites for the cleanup. The cleanup action plan is based on information and technical analysis generated during the remedial investigation/feasibility study and consideration of public comments and community concerns.

**Comment Period:** A time period during which the public can review and comment on various documents and proposed actions. For example, a comment period may be provided to allow community members to review and comment on proposed cleanup action alternatives and proposed plans.

**Feasibility Study:** This study develops and evaluates cleanup options for a given site.

**Groundwater:** Water found beneath the earth's surface that fills pores between materials such as sand, soil, or gravel. In some aquifers, ground water occurs in sufficient quantities that it can be used for drinking water, irrigation and other purposes.

**Information Repository:** A file containing current information, technical reports, and reference documents available for public review. The information repository is usually located in a public building that is convenient for local residents such as a public school, city hall, or library.

**Model Toxics Control Act (MTCA):** Legislation passed by citizens of the State of Washington through an initiative in 1988. Its purpose is to identify, investigate, and clean up facilities where hazardous substances have been released. It defines the role of Ecology and encourages public involvement in the decision making process. MTCA regulations are administered by the Washington State Department of Ecology.

**Potentially Liable Person:** Any individual(s) or company(s) potentially responsible for, or contributing to, the contamination problems at a site. Whenever possible, Ecology requires these PLPs, through administrative and legal actions, to clean up sites.

**Public Participation Plan:** A plan prepared to encourage coordinated and effective public involvement designed to the public's needs at a particular site.

**Remedial Investigation:** This study characterizes the site and defines the extent of contamination.

**Remedial Investigation/Feasibility Study:** Two distinct but related studies. They are usually performed at the same time, and together referred to as the "RI/FS." They are intended to:

- Gather the data necessary to determine the type and extent of contamination;
- Establish criteria for cleaning up the site;
- Identify and screen cleanup alternatives for remedial action; and
- Analyze in detail the technology and costs of the alternatives.

**Responsiveness Summary:** A summary of oral and/or written public comments received by Ecology during a comment period on key documents, and Ecology's responses to those comments. The responsiveness summary is especially valuable during the Cleanup Action Plan phase at a site when it highlights community concerns.

**Site:** Any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, vessel, or aircraft; or any site or area where a hazardous substance, other than a consumer product in consumer use, has been deposited, stored, disposed of, or placed, or otherwise come to be located.