

**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

In the Matter of Remedial Action by:

Bremerton School District
134 Marion Avenue
Bremerton, WA 98312

AGREED ORDER

No. DE 7916

TO: Bremerton School District
Attn: Ron Carpenter
Facilities Director
200 Bruenn Avenue
Bremerton, WA 98312

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I. INTRODUCTION

The mutual objective of the State of Washington, Department of Ecology (Ecology) and Bremerton School District (BSD) 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 BSD to conduct a Remedial Investigation and Feasibility Study (RI/FS) in accordance with WAC 173-340 to determine the nature and extent of contamination associated with a former Kitsap County landfill and evaluate any remedial actions necessary at the Bremerton School District Crownhill Elementary School Site (as defined below). Ecology believes the actions required by this Order are in the public interest.

II. JURISDICTION

This Agreed Order is issued pursuant to the authority of 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 the Order. BSD agrees to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter BSD's responsibility under this Order. BSD 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 used in this Order.

A. Site: The Site is referred to as the Bremerton School District Crownhill Elementary School Site, and is generally located at 1500 Rocky Point Road in the City of Bremerton, Kitsap County, Washington. The Site includes property owned by the Bremerton School District (“Property”) and is defined by the extent of contamination caused by the release of hazardous substances at the Site, which may extend to adjacent properties. Such releases occurred when the Site was operated as a landfill by Kitsap County and utilized for disposal of waste products and debris by the United States Navy and other parties. Based upon factors currently known to Ecology, the Site is more particularly described in Exhibit A to this Order, which includes a detailed Site diagram. The Site constitutes a Facility under RCW 70.105D.020(5).

B. Parties: Refers to Ecology and BSD.

C. Potentially Liable Parties (PLPs): Refers to the signatory Parties that have been notified of PLP status, which includes BSD. Ecology may identify additional parties, not currently identified in this Order, as PLPs in the future based upon credible evidence.

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

V. FINDINGS OF FACT

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

A. In the 1930s, the Property was owned by Robert and Viola Barlow and other individuals. Successive title documents of properties at the site consisted of right-of-way and warranty deeds between private individuals. Portions of the Property were progressively deeded to Kitsap County by various individuals between 1941 and 1948. Kitsap County and several individuals deeded the Property to the BSD on February 15, 1954. First Methodist Church is the current owner of property to the south of the Property. Adjacent properties on other sides of the Property are primarily residential.

B. The Site was originally used for the mining of sand and gravel during the 1930's. The resulting mining excavations or "Borrow Pits" were used as a landfill for various materials including municipal and industrial wastes. Some of the industrial wastes were reported to be imported from the Puget Sound Naval Shipyard by the United States Navy, including sandblast grit, scrap metal, asbestos insulation material, metal shavings, and fire bricks. Some of the borrow pits at the Site were filled by the time the Property was deeded to BSD in 1954.

C. The original Crownhill Elementary School was constructed on the Property in 1956 and partially burned down in 1993. The burned sections and remaining portions of the school were demolished after the fire in 1993.

D. In 1994, site work for a new Crownhill Elementary School was started on the Property. During site preparation and utility excavation work, soils were identified as known or suspected contaminated soils. BSD notified the Kitsap County Health Department (Health Department) and Ecology of the suspected contaminated soils. After consultation with the

Health Department and Ecology, known or suspected contaminated soils were segregated and stockpiled for additional characterization work. Following analytical characterization, soils were disposed of at an appropriate landfill consistent with applicable state or local regulations. Construction of the new school was completed in 1996.

E. Between 1994 and 2009, a number of investigations (Parametrix 1994, AGRA 1995, Terracon 2010) confirmed the presence of elevated concentrations of metals, volatile organic compounds (VOCs), polycyclic aromatic hydrocarbons (PAHs) and petroleum hydrocarbons in subsurface soil at the Site. However, sampling of shallow soil conducted by the Kitsap County Health Department in April 2009 did not detect concentrations of arsenic, cadmium, chromium, lead, and mercury above applicable cleanup levels. On behalf of BSD, Terracon submitted to Ecology a Limited Site Investigation Report dated December 17, 2009 and a draft Remedial Investigation Report dated May 4, 2010 that summarized the investigations. The May 2010 draft Remedial Investigation detected concentrations of lead (8,500 mg/kg), Arsenic (33.6 mg/kg), and diesel range petroleum products (10,000 mg/kg) above MTCA cleanup levels at depth.

F. Groundwater at the Site is at least 85 feet below ground surface and is not known to be used for drinking water. Groundwater sampling results between 1995 and 2004 indicate that contaminants from landfill materials do not appear to have impacted groundwater above applicable cleanup levels.

G. The Property currently consists of a two-story elementary school, one portable classroom, paved parking areas, landscaping, and grass/gravel/soil play areas. Ground surface covering the majority of the Property consists of grass in the playfield areas, asphalt and concrete in the parking areas, and the school building.

- H. The Site has not received a Site Hazard Assessment Ranking.

VI. ECOLOGY DETERMINATIONS

Based on the findings of fact, Ecology makes the following determinations, without any express or implied admissions of such determinations by the BSD:

- A. BSD is the owner of the referenced Property and is an “owner or operator” under RCW 70.105D.040(1)(b) of a “facility” as defined in RCW 70.105D.020(5). The facility, including adjacent properties where releases of hazardous substances from the facility may have come to be located, is known as the Bremerton School District Crownhill Elementary School Site (the Site).
- B. Based upon all factors known to Ecology, a “release” or “threatened release” of “hazardous substances” as defined in RCW 70.105D.020(25) and RCW 70.105D.020(10), respectively, has occurred at the Site.
- C. Based upon credible evidence, Ecology issued a PLP status letter to the BSD dated June 17, 2010, pursuant to RCW 70.105D.040, -.020(21) and WAC 173-340-500. By letter dated June 30, 2010, the BSD voluntarily waived its rights to notice and comment and accepted Ecology’s determination that the BSD is a PLP under RCW 70.105D.040, without admitting liability. Ecology issued a determination that the BSD is a potentially liable person (PLP) under RCW 70.105D.040 by letter dated July 19, 2010.
- D. Based upon credible evidence, Ecology may identify additional PLPs for this Site that are not currently identified in this Order.
- E. 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 action required by this Order is in the public interest.

VII. WORK TO BE PERFORMED

Based on the Findings of Fact and Ecology Determinations, it is hereby ordered that the BSD will 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 and in accordance with Exhibit F (Remedial Investigation/Feasibility Study Scope of Work). The BSD shall conduct a Remedial Investigation and Feasibility Study and draft the first draft of the Draft Cleanup Action Plan (DCAP) that meets the requirements of WAC 173-340-350 through-390. Ecology reserves the right to require the implementation of an interim action as defined in WAC 173-340-430. Ecology and the BSD will agree in writing prior to the implementation of an interim action.

- A. Develop and conduct a RI/FS at the Site in accordance with WAC 173-340-350 and with the attached Remedial Investigation/Feasibility Study Scope of Work (Exhibit F), which contains the deliverables required by this Order.
- B. Develop the first draft of a DCAP for Ecology's review and approval in accordance with the attached Remedial Investigation/Feasibility Study Scope of Work (Exhibit F).
- C. Perform the work tasks set out in the Scope of Work (Exhibit F) in accordance with the attached Scope of Work and the Ecology approved RI/FS Work Plan.
- D. Enter electronic data into Ecology's Environmental Information management (EIM) System.

E. Each deliverable required by this Order, once approved by Ecology, becomes an integral and enforceable part of this Order.

F. 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 shall provide written notice to the BSD that it has thirty (30) days to demonstrate sufficient progress in preparation of the required deliverable(s). If, in Ecology's estimation, the lack of progress is not cured within thirty (30) days, Ecology may then complete and issue the final deliverable. Ecology need only provide an opportunity to cure once per deliverable.

G. If required by Ecology, perform the work tasks set out in the Scope of Work (Exhibit F) in accordance with the attached Scope of Work and the Ecology approved Interim Action work plan.

VIII. TERMS AND CONDITIONS OF ORDER

A. Public Notices

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 the Order is inadequate or improper in any respect.

B. Remedial Action Costs

BSD 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). 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.

Ecology hereby incorporates into this order the previous remedial actions as approved by the project manager. Reimbursement for specific project tasks under a grant agreement with Ecology is contingent upon a determination by Ecology's Toxics Cleanup Program that the work performed complies with the substantive requirements of Chapter 173-340 WAC and consistent with the remedial action required under this Order. Remedial actions that are eligible for reimbursement are actions taken to identify, eliminate, or minimize any threat posed by hazardous substances to human health or the environment.

In addition to other available relief, pursuant to RCW 19.16.500, Ecology may utilize a collection agency and/or, pursuant to RCW 70.105D.055, file a lien against real property subject to the remedial actions to recover unreimbursed remedial action costs.

C. Implementation of Remedial Action

If Ecology determines that the BSD has failed without good cause to implement the remedial action, in whole or in part, Ecology may, after notice to the BSD, perform any or all portions of the remedial action that remain incomplete. Except in emergency situations, Ecology shall endeavor, where practicable, to provide the PLPs this notice in writing, and a thirty (30) day opportunity to cure. If Ecology performs all or portions of the remedial action because of the BSD's failure to comply with its obligations under this Order, the BSD shall reimburse Ecology for the costs of doing such work in accordance with Section VIII.B (Remedial Action Costs),

provided that the BSD is not obligated under this Section to reimburse Ecology for costs incurred for work inconsistent with or beyond the scope of this Order.

Except where necessary to abate an emergency situation, the BSD 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:

Russell E. Olsen
Department of Ecology
Northwest Regional office
3190 – 160th Avenue SE
Bellevue, WA 98008
425-649-7038
rols461@ecy.wa.gov

The project coordinator for the BSD:

Ron Carpenter
Bremerton School District
200 Bruenn Avenue
Bremerton, WA 98312
360-473-0502
ron.carpenter@bremertonschools.org

The project coordinators shall be responsible for overseeing the implementation of this Order. The Ecology project coordinator will be Ecology's designated representative for the Site. To the maximum extent possible, communications between Ecology and BSD, 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 under this Order. Any party

may change its respective project coordinator. Written notification shall be given to the other parties 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 BSD 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 access to enter and freely move about all property at the Site that the BSD either owns, controls, or has access rights to at

all reasonable times for the purposes of, *inter alia*: inspecting non-privileged records (BSD must follow the procedures outlined in Section VIII.I (Retention of Records) for records withheld on the basis of privilege), operation logs, and contracts related to the work being performed pursuant to this Order; reviewing the BSD's progress in carrying out the terms of this Order; conducting such tests or collecting such samples as Ecology may deem necessary; using a camera, sound recording, or other documentary type equipment to record work done pursuant to this Order; and verifying the data submitted to Ecology by the BSD. Ecology shall use reasonable efforts to coordinate its access to the Site with BSD's school schedule. The BSD shall make all reasonable efforts to secure access rights for those properties within the Site not owned or controlled by the BSD 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 BSD, 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. Ecology employees and their representative shall not be required to sign any 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 BSD shall make the results of all sampling, laboratory reports, and/or test results generated by them or on their 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 BSD shall allow Ecology and/or its authorized representative to take split or duplicate samples of any samples collected by the BSD pursuant to implementation of this Order. The BSD shall notify Ecology seven (7) days in advance of any sample collection or work activity at the Site. The seven (7) day notification requirement shall be satisfied where the BSD has identified the work planned for the next reporting period in a quarterly progress report, including a schedule identifying any sample collection or work activity to take place at the Site, provided that Ecology is notified of any schedule changes at least seven (7) days ahead of the sampling event in question. Ecology shall, upon request, allow split or duplicate samples of any samples collected by Ecology pursuant to the implementation of this Order to be taken by the BSD, or its authorized representative provided it does not interfere with Ecology's sampling. Without limitation on Ecology's rights under Section VIII.F (Access), Ecology shall notify the BSD prior to any sample collection activity by Ecology or Ecology's representative 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 BSD.

Ecology shall maintain the responsibility for public participation at the Site. However, the BSD shall cooperate with Ecology, and shall, with respect to public participation concerning work undertaken pursuant to this Order:

1. If agreed to by Ecology, develop appropriate mailing lists, 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 BSD 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 BSD that do not receive prior Ecology approval, the BSD shall clearly indicate to their 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) Department of Ecology
Northwest Regional Office
3190 – 160th Avenue SE
Bellevue, WA 98008
(425) 649-7190

- b) Bremerton School District
134 Marion Avenue
Bremerton, WA 98312-3542
(360) 470-1003

- c) Kitsap Regional Library
612 5th Street N
Bremerton, WA 98337-1416
360-377-3955

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 BSD 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 BSD shall make all records available to Ecology and allow access for review within a reasonable time. Nothing in this Order is intended by the BSD to waive any right each may have under applicable law to limit disclosure of documents protected by the attorney work product and/or attorney-client privilege. If the BSD withholds any requested records based on an assertion of privilege, it shall notify Ecology that records are being withheld and shall, upon written request from Ecology, provide Ecology with a privilege log specifying the records withheld and the applicable privilege. No actual data collected on site pursuant to this Order shall be considered privileged.

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 BSD has fourteen (14) days within which to notify Ecology's project coordinator in writing of its objection to the decision or itemized statement.
 - b. The Parties' project coordinators shall then confer in an effort to resolve the dispute. If the project coordinators cannot resolve the dispute within fourteen (14) days, Ecology's project coordinator shall issue a written decision.
 - c. The BSD 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 BSD's request for review. The Section Manager's decision shall be Ecology's final decision on the disputed matter.
2. The Parties agree to only utilize the dispute resolution process in good faith and agree to expedite, to the extent possible, the dispute resolution process whenever it is used.

3. Implementation of these dispute resolution procedures shall not provide a basis for delay of any activities required in this Order, unless Ecology agrees in writing to a schedule extension.

K. Extension of Schedule

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

All extensions shall be requested in writing. The request shall specify:

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

2. The burden shall be on the BSD 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 BSD 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 BSD;
- b. Acts of God, including fire, flood, blizzard, extreme temperatures, storm, or other unavoidable casualty;

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 BSD.

3. Ecology shall act upon any written request for extension in a timely fashion. Ecology shall give the BSD written notification in a timely fashion of any extensions granted pursuant to the 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) of this Order.

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 Ecology and the BSD. The BSD 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 the 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 BSD to cease such activities for such period of time as it deems necessary to abate the danger. The BSD shall immediately comply with such direction. In the event the BSD 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 BSD may cease such activities. The BSD 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 BSD shall provide Ecology with documentation of the basis for the determination or cessation of such activities. If Ecology disagrees with the BSD's cessation of activities, it may direct the BSD to resume such activities.

If Ecology concurs with or orders a work stoppage pursuant to this Section (Endangerment), the BSD's obligations with respect to the ceased activities shall be suspended until Ecology determines the danger is abated, and the time for performance of such activities, as

well as the time for any other work dependent upon such activities, shall be extended in accordance with Section VIII.K (Extension of Schedule) for such period of time as Ecology determines is reasonable under the circumstances.

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

N. Reservation of Rights

This Order is not a settlement under Chapter 70.105D RCW. Ecology's signature on this Order in no way constitutes a covenant not to sue or a compromise of any of Ecology's rights or authority. Ecology will not, however, bring an action against the BSD 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 BSD regarding remedial actions required by this Order, provided the BSD complies with this Order.

Ecology nevertheless reserves its rights under Chapter 70.105D RCW, including the right to require additional or different remedial actions at the Site should it deem such actions necessary to protect human health and the environment, and to issue orders requiring such remedial actions. Ecology also reserves all rights regarding the injury to, destruction of, or loss of natural resources resulting from the release or threatened release of hazardous substances at the Site.

By entering into this Agreed Order, the BSD does not admit any liability for the Site. Although the BSD is committing to performing the work required by this Order under the terms of this Order, the BSD expressly reserves all rights available under law, including but not limited to the right to seek cost recovery or contribution against third parties, and the right to assert any defenses to liability in the event of enforcement.

O. Transfer of Interest in Property

During the effective period of this Order, no voluntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Site shall be consummated by the BSD 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 BSD's transfer of any interest in all or any portion of the Site and during the effective period of this Order, the BSD shall provide a copy of this Order upon any prospective purchaser, lessee, transferee, assignee, or other successor in said interest; and, at least thirty (30) days prior to any transfer, the BSD shall notify Ecology of said transfer. Upon transfer of any interest, the BSD 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 BSD 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. Requirements that have been identified as being applicable to the actions required by this Order are set forth in Exhibit D.

2. Pursuant to RCW 70.105D.090(1), the BSD is exempt from the procedural requirements of Chapters 70.94, 70.95, 70.105, 77.55, 90.48, and 90.58 RCW and of any laws requiring or authorizing local government permits or approvals. However, the BSD 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 paragraph.

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

4. 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 BSD 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. Financial Assurances

Pursuant to WAC 173-340-440(11), Bremerton School District shall maintain sufficient and adequate financial assurance mechanisms to cover all costs associated with the operation and maintenance of the remedial action at the Site, including institutional controls, compliance monitoring, and corrective measures.

1. If required by Ecology, within sixty (60) days of the effective date of this Order, Bremerton School District shall submit to Ecology for review and approval an estimate of the costs that it will incur in carrying out the terms of this Order, including operation and maintenance, and compliance monitoring. Within sixty (60) days after Ecology approves the aforementioned cost estimate, Bremerton School District shall provide proof of financial assurance sufficient to cover all such costs in a form acceptable to Ecology. The form of the financial assurance mechanism shall be in accordance with WAC 173-340-440(11)(a).

Bremerton School District shall adjust its financial assurance coverage and provide Ecology's project coordinator with documentation of the updated financial assurance for: Inflation, annually, within thirty (30) days of the anniversary date of the entry of this Order; or if applicable, the modified anniversary date established in accordance with this Section, or if applicable, ninety (90) days after the close of the Bremerton School District's fiscal year if the financial test or corporate guarantee is used, and

2. Changes in cost estimates, within thirty (30) days of issuance of Ecology's approval of a modification or revision to the cleanup action plan (CAP) that result in increases to the cost or expected duration of remedial actions. Any adjustments for inflation since the most recent preceding anniversary date shall be made concurrent with adjustments for changes in cost estimates. The issuance of Ecology's approval of a revised or modified CAP will revise the anniversary date established under this Section to become the date of issuance of such revised or modified CAP.

S. Periodic Review

As remedial action, including groundwater monitoring, continues at the Site, the Parties agree to review the progress of remedial action at the Site, and to review the data accumulated as a result of monitoring the Site as often as is necessary and appropriate under the circumstances. At least every five (5) years after the initiation of cleanup action at the Site the Parties shall meet to discuss the status of the Site and the need, if any, for further remedial action at the Site. At least ninety (90) days prior to each periodic review, Bremerton School District shall submit a report to Ecology that documents whether human health and the environment are being protected based on the factors set forth in WAC 173-340-420(4). Ecology reserves the right to require further remedial action at the Site under appropriate circumstances. This provision shall remain in effect for the duration of this Order.

T. Indemnification

To the extent allowed under state law, Bremerton School District 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 Bremerton School District, its officers, employees, agents, or contractors in entering into and implementing this Order. However, Bremerton School District 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 BSD's receipt of written notification from Ecology that the BSD has completed the remedial activity required by this Order, as amended by any modifications, and that the BSD has complied with all other provisions of this Agreed Order.

X. ENFORCEMENT

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

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

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

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

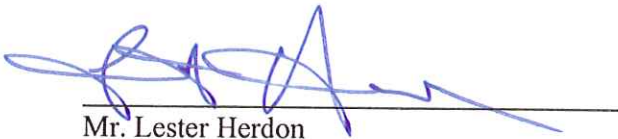
a. Up to three (3) times the amount of any costs incurred by the State of Washington as a result of its refusal to comply; and

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

D. This Order is not appealable to the Washington State Pollution Control Hearings Board. This Order may be reviewed only as provided under RCW 70.105D.060.

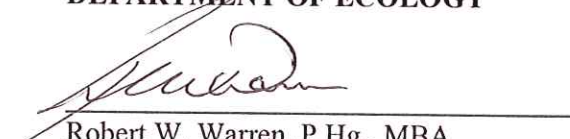
Effective date of this Order (completed by Ecology): SEPTEMBER 20, 2010

Bremerton School District



Mr. Lester Herdon
Superintendent
Bremerton School District
143 N. Marion Ave.
Bremerton, WA 98312-3542
Phone: 360-473-1004

STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY



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

**EXHIBIT A
SITE DIAGRAM**

***The nature and extent of contamination is not defined at this time**



EXHIBIT B
LEGAL DESCRIPTION

***The nature and extent of contamination is not defined at this time this will be defined during the Remedial Investigation.**

EXHIBIT C
PUBLIC PARTICIPATION PLAN
Bremerton School District
Crownhill Elementary School Cleanup Site

I. INTRODUCTION

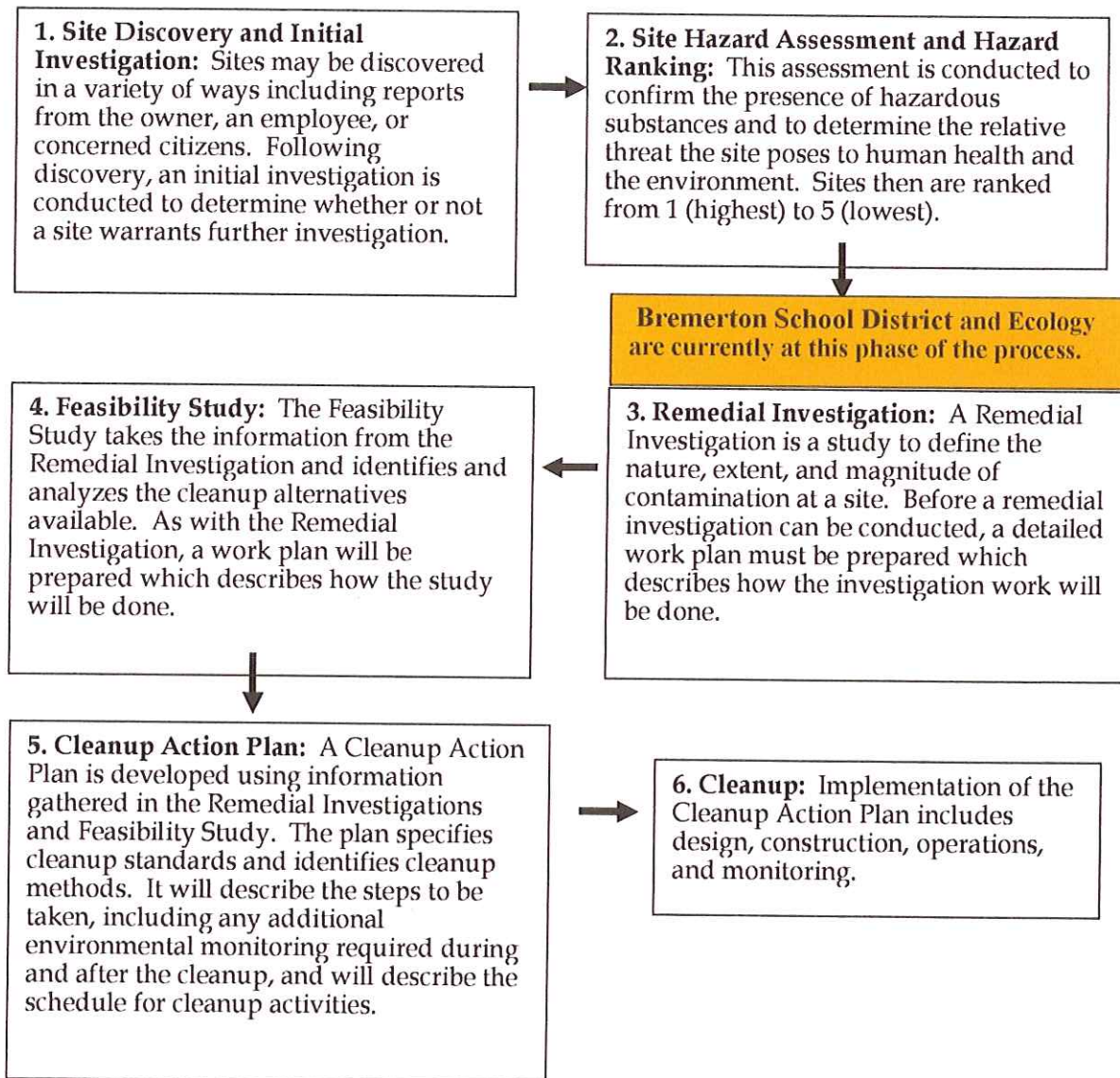
The Washington State Department of Ecology (Ecology) has developed this public participation plan in cooperation with Bremerton School District, pursuant to the Model Toxics Control Act (MTCA) WAC 173-340-600. The intent is to promote meaningful community involvement during the cleanup process at the Crownhill Elementary School cleanup site in Bremerton, Washington. This plan outlines and describes the tools that Ecology uses to inform the public about site activities and identifies opportunities for the community to become involved.

Bremerton School District (PLP) negotiated a legal agreement with Ecology called an **Agreed Order**. The Agreed Order describes the working relationship and outlines the scope of work to be implemented. The PLP will complete the remedial action outlined in the Agreed Order. The remedial action tasks covered by the Agreed Order are to complete the **Remedial Investigation (RI)**, and to develop a **Feasibility Study (FS)**. The purpose of the RI is to determine the nature and extent of contamination on the site. The FS will use the results of the RI to evaluate and select effective measures to prevent releases of contamination from the site.

Following completion of the draft RI/FS report, additional public involvement activities may be scheduled. The public involvement activities will be tailored based on the public comments received for this site and MTCA requirements. This will include public notifications and comment periods where appropriate.

STEPS IN THE CLEANUP PROCESS

The MTCA rules detail each step in the cleanup process to ensure that cleanups are thorough and protective of human health and the environment. The chart below defines these steps and how they apply to the project site. Legal documents such as “Agreed Orders” or “Consent Decrees” further define some of the steps and associated time frames. The current Agreed Order takes the site through Step 4. An Agreed Order will be issued for the Cleanup Action Plan.



A. SITE BACKGROUND

In 1994, the Bremerton School District (BSD) started this cleanup project as an independent cleanup action with limited Ecology oversight. The property was once used as a landfill in the 1940s. The construction of a new Crownhill Elementary School was initiated after a 1993 fire burned the original school. During site preparation work numerous areas were uncovered that contained known or suspected hazardous materials in addition to contaminated soils. Contaminated soil was removed and the current Crownhill building was completed in 1998. However, a complete characterization of the site was not done and the extent and type(s) of contamination present is also not known.

II. BREMERTON SCHOOL DISTRICT CROWNHILL SITE MAP



Contaminants of Concern

The primary sources of contaminants are those associated with landfills including chemicals found in petroleum products, lead, and industrial solvents. Once the cleanup actions are completed, the end result will reduce the exposure of children to soils containing potentially harmful levels of contamination.

Cleanup Work to be Performed

The proposed work tasks (or actions) under this Agreed Order are to complete the Remedial Investigation (RI) and Feasibility Study (FS). The RI will establish the nature and extent of the contamination. This will allow Ecology to define the entire area needing remediation, known as the "site." The FS will evaluate the possible cleanup alternatives for the site.

The work plan for the RI/FS is part of the Agreed Order, and will be reviewed and revised as necessary for approval by Ecology.

Future actions may include interim actions, if necessary, and a new legal agreement to implement the Ecology approved final Cleanup Action Plan (CAP).

III. PUBLIC PARTICIPATION ACTIVITIES AND RESPONSIBILITIES

The purpose of this Public Participation Plan is to promote public understanding and participation in the Model Toxics Control Act (MTCA) cleanup 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.

Ecology urges the public to become involved in the remedial action process. Information will be provided regularly to provide many opportunities to review materials and provide comments. This plan is intended to be a flexible working document that will be updated as community concerns emerge and/or more information becomes available during the cleanup process. To arrange for a briefing with project staff, ask questions or provide comments on the plan or other aspects of the cleanup, please contact one of the persons listed below.

For technical questions, please contact:

Russ Olsen, Site Manager
Washington State Department of Ecology
Address: 3190 160th Avenue SE
Bellevue, WA 98008
Phone: 425-649-7038
Email: rols461@ecy.wa.gov

For community outreach questions for Department of Ecology, please contact:

Nancy Lui, Community Outreach Coordinator
Washington State Department of Ecology
Address: 3190 160th Avenue SE
Bellevue, WA 98008
Phone: 425-649-7117
Email: nlui461@ecy.wa.gov

For community outreach questions for the Bremerton School District, please contact:

Patty Glaser, Bremerton School District, Community Relations Coordinator
Address: 134 Marion Avenue N.
Bremerton, WA 98312
Phone: 360-473-1003
E-mail: patty.glaser@bremertonschools.org
Website: <http://www.bremertonschools.org>

For public health questions, please contact:

Grant Holdcroft
Kitsap County Health District
Address: 345 6th Street, Suite 300
Bremerton, WA 98337
Phone: 360-337-5605
Email: holdcg@health.co.kitsap.wa.us
Website Address: <http://www.kitsapcountyhealth.com>

A. Public Involvement Activities

Ecology uses a variety of activities to facilitate public participation in the investigation and cleanup of MTCA sites. Ecology will take into consideration input provided by the community.

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

B. 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 evaluation of proposed cleanup process before final decisions are made.

During a comment period, the public can comment in writing. At the conclusion of the comment period, Ecology reviews all comments 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.

C. Public Meetings and Hearings

Public meetings may be held at key points during the cleanup process. Ecology may also offer public meetings for actions expected to be of particular interest to the community. Also, if ten or more people request a public meeting or hearing during the 30 day comment period, Ecology will hold a public meeting for the purpose of taking comments on draft documents.

D. Information Repositories

Information repositories are convenient places where the public can go to read and review site information. The information repositories are often at libraries or community sites which provide public access. During the comment period, the site documents will be available for review at each repository listed below. For special accommodations or translation assistance, please contact Nancy Lui at nlui461@ecy.wa.gov or at 425-649-7117, please indicate you would like assistance with the “**Bremerton School District – Crownhill Elementary School Cleanup Site**”.

Ecology has established two repositories for the Crownhill Elementary School Cleanup Site.

Kitsap Regional Library – Downtown Bremerton Library Branch

612 5th Street N, Bremerton, WA 98337
Phone: (360) 377-3955

Washington State Department of Ecology, Northwest Regional Office,
3190 160th Avenue SE, Bellevue, WA 98008, (425) 649-7190. Please call for an appointment.

Bremerton School District

134 Marion Avenue, Bremerton, WA 98312-3542
(360) 470-1003

Ecology's web site for the Bremerton School District Crownhill Elementary School Cleanup Site: http://www.ecy.wa.gov/programs/tcp/sites/crownhill/crownhill_hp.html

E. Site Register

Ecology's Toxics Cleanup Program uses the 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. It is also available on Ecology's web site at: http://www.ecy.wa.gov/programs/tcp/pub_inv/pub_inv2.html

F. Fact Sheet

Ecology will mail fact sheets to persons and organizations interested in the Bremerton School District Crownhill Elementary School Cleanup 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.

G. Mailing List

Ecology has compiled and maintained a list of interested parties, organizations and residents living near the cleanup site. This mailing list will be used to provide information regarding this project. If you are not on the mailing list for this site and wish to be added, please contact Nancy Lui at nlui461@ecy.wa.gov or at 425-649-7117. In the subject line, please indicate “**Bremerton School District Crownhill Elementary School Cleanup Site**” mailing list.

H. Newspaper Display Ads

Ecology will place ads in the local area Newspaper to announce public comment periods, public meetings or hearings for the site.

PUBLIC PARTICIPATION GRANTS AND TECHNICAL ASSISTANCE

Additionally, citizen groups living near contaminated sites may apply for public participation grants during open application periods. These grants help citizens receive technical assistance in understanding the cleanup process and create additional public participation avenues. For more information about the public participation grant, please go to Ecology’s website at:
<http://www.ecy.wa.gov/programs/swfa/grants/ppg.html>

Ecology currently does not have a citizen technical advisor for providing technical assistance to citizens on issues related to the investigation and cleanup of the Site.

PUBLIC PARTICIPATION PLAN AMENDMENTS

The Plan was developed by Ecology and complies with the MTCA regulations (Chapter 173-340 WAC). It will be reviewed as cleanup progresses and may be amended if necessary. Amendments may be submitted to Ecology’s site manager, Brad Gilmore, for review and consideration.

IV. GLOSSARY

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.

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.

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 the State of Washington 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 became effective March 1, 1989 and are administered by the Washington State Department of Ecology.

Public Notice: At a minimum, adequate notice mailed to all persons who have made a timely request of Ecology and to persons residing in the potentially affected vicinity of the proposed action; mailed to appropriate news media; published in the local (city and county) newspaper of largest circulation; and the opportunity for the interested persons to comment.

Public Participation Plan: A plan prepared under the authority of WAC 173-340-600 to encourage coordinated and effective public involvement tailored to the public's needs at a particular site.

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.

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.

Site Register: Publication issued every two weeks of major activities conducted statewide related to the study and cleanup of hazardous waste sites under the Model Toxics Control Act. To receive this publication, please call 360-407-7200.

EXHIBIT D
APPLICABLE PERMITS AND SUBSTANTIVE REQUIREMENTS

- Chapter 70.105D RCW (Model Toxics Control Act), and Chapter 173-340 WAC (MTCA Regulations);
- Chapter 70.105 RCW (Washington State Hazardous Waste Management Act), and Chapter 173-303 WAC (State Dangerous Waste Regulations);
- Chapter 173-160 RCW (Minimum Standards for Construction and Maintenance of Wells);
- Washington Industrial Safety and Health Act (WISHA);

EXHIBIT E

Model Restrictive (Environmental) Covenant

After Recording Return to:

Department of Ecology
3190 160th Ave SE
Bellevue, Washington 98008

1

Environmental Covenant

Grantor: [land owner]

Grantee: State of Washington, Department of Ecology

Legal: [fill in brief legal description]

Tax Parcel Nos.: [fill in]

Cross Reference: [if amendment, recording number of original covenant]

Grantor, [land owner], hereby binds Grantor, its successors and assigns to the land use restrictions identified herein and grants such other rights under this environmental covenant (hereafter "Covenant") made this .day of _____, 200__ in favor of the State of Washington Department of Ecology (Ecology). Ecology shall have full right of enforcement of the rights conveyed under this Covenant pursuant to the Model Toxics Control Act, RCW 70.105D.030(1)(g), and the Uniform Environmental Covenants Act, 2007 Wash. Laws ch. 104, sec. 12.

This Declaration of Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by [NAME OF PROPERTY OWNER], its successors and assigns, and the State of Washington Department of Ecology, its successors and assigns (hereafter "Ecology").

A remedial action (hereafter "Remedial Action") occurred at the property that is the subject of this Covenant. The Remedial Action conducted at the property is described in the following document[s]:

[INSERT THE DATE AND TITLE FOR CLEANUP ACTION PLAN and other documents as applicable].

These documents are on file at Ecology's [Insert Office Location] Office.

++++++Select the appropriate scenario for the property++++++

SCENARIO 1:

This Covenant is required because the Remedial Action resulted in residual concentrations of [SPECIFICALLY LIST SUBSTANCE(S)] which exceed the Model Toxics Control Act Method [LIST APPLICABLE METHOD] Cleanup Level(s) for [SOIL, GROUNDWATER, ETC.] established under WAC 173-340-____.

++++and/or++++

SCENARIO 2:

This Restrictive Covenant is required because a conditional point of compliance has been established for [SOIL, GROUNDWATER, ETC.].

SCENARIO 3:

If the Remedial Action does not fit within Scenarios 1 and/or 2 and you believe that the property still needs a Restrictive Covenant, contact the AG's office.

+++++

The undersigned, [NAME OF PROPERTY OWNER], is the fee owner of real property (hereafter "Property") in the County of [NAME OF COUNTY], State of Washington, that is subject to this Covenant. The Property is legally described [AS FOLLOWS: (insert legal description language)] -or- [IN ATTACHMENT A OF THIS COVENANT AND MADE A PART HEREOF BY REFERENCE (attach document containing legal description)].

[NAME OF PROPERTY OWNER] makes the following declaration as to limitations, restrictions, and uses to which the Property may be put and specifies that such declarations shall constitute covenants to run with the land, as provided by law and shall be binding on all parties and all persons claiming under them, including all current and future owners of any portion of or interest in the Property (hereafter "Owner").

Section 1. (This Section must describe with particularity the restrictions to be placed on the property.)

1. If the property was remediated to industrial soil cleanup standards, then use the following sentence: "The Property shall be used only for traditional industrial uses, as described in RCW 70.105D.020(23) and defined in and allowed under the [CITY -or- COUNTY] of [_____] 's] zoning regulations codified in the [OFFICIAL NAME OF ZONING REGULATION] as of the date of this Restrictive Covenant."

2. If the groundwater contains hazardous substances above cleanup levels, then use the following sentence: "No groundwater may be taken for [LIST THE PROHIBITED USES, E.G., DOMESTIC, AGRICULTURAL, OR ANY USE] from the Property."

3. If the soil contains hazardous substances above cleanup levels, then describe prohibited activities as follows:

a. For contaminated soil under a structure use the following sentence: "A portion of the Property contains [SPECIFICALLY LIST SUBSTANCE(S)] contaminated soil located [SPECIFICALLY DESCRIBE WHERE THE SOIL IS LOCATED, I.E., UNDER THE SOUTHEAST PORTION OF BUILDING 10]. The Owner shall not alter, modify, or remove the existing structure[s] in any manner that may result in the release or exposure to the environment of that contaminated soil or create a new exposure pathway without prior written approval from Ecology."

b. Example language for contaminated soil under a cap: "Any activity on the Property that may result in the release or exposure to the environment of the contaminated soil that was contained as part of the Remedial Action, or create a new exposure pathway, is prohibited. Some examples of activities that are prohibited in the capped areas include: drilling, digging, placement of any objects or use of any equipment which deforms or stresses the surface beyond its load bearing capability, piercing the surface with a rod, spike or similar item, bulldozing or earthwork."

Section 2. Any activity on the Property that may interfere with the integrity of the Remedial Action and continued protection of human health and the environment is prohibited.

Section 3. Any activity on the Property that may result in the release or exposure to the environment of a hazardous substance that remains on the Property as part of the Remedial Action, or create a new exposure pathway, is prohibited without prior written approval from Ecology.

Section 4. The Owner of the property must give thirty (30) day advance written notice to Ecology of the Owner's intent to convey any interest in the Property. No conveyance of title, easement, lease, or other interest in the Property shall be consummated by the Owner without adequate and complete provision for continued monitoring, operation, and maintenance of the Remedial Action.

Section 5. The Owner must restrict leases to uses and activities consistent with the Covenant and notify all lessees of the restrictions on the use of the Property.

Section 6. The Owner must notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Covenant. Ecology may approve any inconsistent use only after public notice and comment.

Section 7. The Owner shall allow authorized representatives of Ecology the right to enter the Property at reasonable times for the purpose of evaluating the Remedial Action; to take samples, to inspect remedial actions conducted at the property, to determine compliance with this Covenant, and to inspect records that are related to the Remedial Action.

Section 8. The Owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this Covenant shall no longer limit use of the Property or be of any further force or effect. However, such an instrument may be recorded only if Ecology, after public notice and opportunity for comment, concurs.

[NAME OF GRANTOR]

[Name of Signatory]

[Title]

Dated: _____

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

[Name of Person Acknowledging Receipt]

[Title]

Dated: _____

[INDIVIDUAL ACKNOWLEDGMENT]
STATE OF ____
COUNTY OF ____

On this ____ day of _____, 20__, I certify that _____ personally appeared before me, and acknowledged that **he/she** is the individual described herein and who executed the within and foregoing instrument and signed the same at **his/her** free and voluntary act and deed for the uses and purposes therein mentioned.

Notary Public in and for the State of
Washington, residing at _____.
My appointment expires _____.
[CORPORATE ACKNOWLEDGMENT]
STATE OF ____
COUNTY OF ____

On this ____ day of _____, 20__, I certify that _____ personally appeared before me, acknowledged that **he/she** is the _____ of the corporation that executed the within and foregoing instrument, and signed said instrument by free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that **he/she** was authorized to execute said instrument for said corporation.

Notary Public in and for the State of
Washington, residing at _____.
My appointment expires _____.

[REPRESENTATIVE ACKNOWLEDGEMENT]
STATE OF ____
COUNTY OF ____

On this ____ day of _____, 20__, I certify that _____ personally appeared before me, acknowledged that **he/she** signed this instrument, on oath stated that **he/she** was authorized to execute this instrument, and acknowledged it as the _____ [type of authority] of _____ [name of party being represented] to be the free and voluntary act and deed of such party for the uses and purposes mentioned in the instrument.

Notary Public in and for the State of
Washington, residing at _____.
My appointment expires _____.

Exhibit F

BREMERTON SCHOOL DISTRICT CROWNHILL ELEMENTARY SCHOOL SITE REMEDIAL INVESTIGATION/FEASIBILITY STUDY SCOPE OF WORK

PURPOSE

The purpose of this Remedial Investigation/Feasibility Study (RI/FS) and Draft Cleanup Plan (DCAP) Scope of Work (SOW) for the Bremerton School District Crownhill Elementary School Site (the Site) is to implement the Agreed Order (AO) entered into by the Department of Ecology (Ecology) and Bremerton School District (BSD), to which this SOW is an Exhibit.

The RI/FS is intended to provide sufficient data, analysis, and evaluations to enable Ecology to select a cleanup action for the Site.

The RI/FS Scope of Work (SOW) is divided into five major tasks as follows:

- 1) Progress Reports
- 2) Work Plan
- 3) Other Project Plans
- 4) Remedial Investigation
- 5) Feasibility Study
- 6) Draft Cleanup plan
- 7) Interim Action (if required by Ecology)

TASK 1 PROGRESS REPORTS

The BSD shall submit progress reports quarterly unless a longer reporting period is approved by Ecology in writing. Progress reports shall be submitted to Ecology until satisfaction of the AO. Progress Reports shall be submitted to the Ecology project coordinator by the 10th of every third month following the effective date of the AO. If this day is a weekend or holiday, deliverables shall be submitted to Ecology on the next business day. At a minimum, progress reports shall contain the following information regarding the preceding reporting period:

- A description of the actions which have been taken to comply with the AO and SOW during the previous reporting period;
- Description of sampling and testing activities completed during the reporting period, including laboratory data reports received by the BSD;
- Summaries of deviations from approved work plans;
- Summaries of contacts with representatives of the local community, public interest groups, press, and federal, state or tribal government;
- Summaries of problems or anticipated problems in meeting the schedule or objectives set forth in the SOW and Work Plan;
- Summaries of solutions developed and implemented or planned to address any actual or anticipated problems or delays;

- Changes in key personnel; and
- A description of work planned for the next reporting period.

TASK 2 WORK PLAN

In order to plan and manage the RI/FS, the Parties shall document project tasks and management strategies in a RI/FS Work Plan (Work Plan), which shall be developed and submitted to Ecology for review and approval in accordance with this SOW, including the schedule contained below, and in accordance with the SOW described in Tasks 4 and 5 below. The Work Plan shall not be implemented until approved by Ecology. Once approved by Ecology, the BSD shall implement the Work Plan according to the schedule contained in this SOW — and according to any subsequent amendments to the Work Plan or schedule made under the Order.

The Work Plan shall specify and describe all tasks to be accomplished to complete an RI/FS that meets the requirements of WAC 173-340-350, in accordance with the AO and this SOW.

The Work Plan shall clearly describe the overall project management strategy for implementing and reporting on RI/FS activities. The responsibility and authority of all organizations and key personnel involved in conducting the RI/FS shall be outlined.

Elements of the Work Plan include, but are not limited to, the following:

- A project management strategy including a description of individual RI/FS subtasks;
- A review of existing and available data to support the development of RI/FS tasks which may include, as appropriate, the following:
 - a) Physical features, including topography, structure locations, and utilities;
 - b) Soil, surface water and groundwater data, including contaminant concentrations and conventional parameters, depths and location of samples, which are necessary to determine the nature and extent of the contaminant(s), and comparison to MTCA;
 - c) Hydrogeologic data;
 - d) Natural resource data including plant and animal species, habitat types, and sensitive ecosystems;
 - e) Location and composition of current and historical contaminant sources;
 - f) Current property ownership and zoning;
 - g) Current or planned land uses and their location, which may affect investigation and cleanup activities, including tribal and recreational;
 - h) Historical, archeological, and cultural uses of the site including recent and historical photographs; and
 - i) A list of potential permits or approvals that may be required for sampling activities, or the substantive requirements of applicable permits or approvals that are procedurally exempt under RCW 70.105D.090
- Data Gaps identified for completion of the RI/FS;

- A draft outline of the final RI and FS Reports including the types of data evaluation, figures, and tables that shall be included;
- A proposed schedule for completion of all RI/FS subtasks not currently accounted for in the schedule; and
- Project personnel and responsibilities.

TASK 3 OTHER PROJECT PLANS

Pursuant to WAC 173-340-350(7)(c)(iv), the BSD shall prepare and submit for Ecology review and approval a Sampling and Analysis Plan (SAP) which provides specific guidance for field and laboratory methodology. A Quality Assurance Project Plan (QAPP) and Health and Safety Plan (HASP) shall also be submitted as appendices to the SAP. The HASP is subject to comment by Ecology, but not subject to Ecology approval. Details of these plans are provided below.

Sampling and Analysis Plan - BSD shall prepare a SAP for RI sampling and analysis activities in accordance with WAC 173-340-820, WAC 173-204-600, and the Sediment Sampling and Analysis Appendix, as updated. The purpose of the SAP is to provide an overview of the RI sampling program that shall obtain information needed to meet the data needs described in Task 4 of the SOW.

The SAP shall describe the sampling objectives and the rationale for the sampling approach. A detailed description of sampling tasks shall then be provided, including specifications for sample identifiers; the type, number, and location of samples to be collected; the analyses to be performed; descriptions of sampling equipment and collection methods to be used; description of sample documentation; sample containers, collection, preservation and handling. The SAP shall describe sample custody and handling procedures, decontamination procedures, and the handling of investigative-derived wastes.

Quality Assurance Project Plan (Appendix to SAP). The BSD shall prepare a QAPP for RI sampling and analysis activities. The QAPP shall identify and describe laboratory methods and the QA/QC measures that shall be taken during the performance of all sampling and analysis tasks to ensure the fulfillment of data quality objectives. Data quality objectives shall reflect the criteria or threshold values used for remedial decisions. Laboratory methodology and QA/QC requirements shall be developed in accordance with Ecology guidance and the requirements of the Ecology Laboratory Accreditation Program and shall include the following elements:

- A brief project description, referencing the Work Plan and/or SAP for details;
- Project management and QA responsibilities;
- Quality assurance objectives;
- Procedures for analysis of samples and reporting of results, including:
 - a) Detection or quantitation limits;
 - b) Analytical techniques and procedures;
 - c) Quality assurance and quality control procedures; and
 - d) Data reporting procedures and validation procedures.

The BSD shall use an Ecology-accredited laboratory for the specific analyses to be performed under this AO. If an unaccredited lab is proposed to be used, the results of recent performance audits and systems audits shall be provided to Ecology prior to use of the lab.

Health and Safety Plan (Appendix to SAP) - The BSD shall prepare a HASP for RI activities in accordance with WAC 173-340-810. The HASP must be consistent with the requirements of the Washington Industrial Safety and Health Act of 1973, Chapter 49.17 RCW and implementing regulations, including any updates or amendments. The HASP shall identify specific monitoring and management responsibilities and activities to ensure the protection of human health activities associated with the RI.

TASK 4 REMEDIAL INVESTIGATION (RI)

The BSD shall conduct a remedial investigation that meets the requirements of WAC 173-340-350(7), according to the Work Plan as approved by Ecology and the schedule contained below. The remedial investigation may incorporate data and information from reports previously submitted to Ecology, including the draft Remedial Investigation Report dated May 4, 2010. Key components of the RI for this Site that may be captured in the Work Plan are as follows:

- Describe the basis for the characterization of the Site, including:
 - a) The nature and extent of any investigations.
 - b) Whether off-property areas were investigated.
 - c) Whether alternatives to off-property investigations were used, such as assuming off property affects, modeling off-property affects, or establishing cleanup levels to protect off-property media or receptors.
- Describe the conceptual model of the Site.
 - a) Conceptual model of the Site developed for each contaminant;
 - b) All Site exposure pathways identified for each media;
 - c) All potential Site receptors identified for each media;
 - d) Considerations on off-property impacts and nearby surface waters issues.
- Describe the nature and extent of contamination at the Site.
- Investigation necessary to establish cleanup standards for the Site, including both cleanup levels and points of compliance.
 - a) Contaminants of concerns identified (list them);
 - b) Extent of contamination delineated (lateral & vertical extents);
 - c) Media affected (soil, groundwater, air, surface water, sediments);
 - d) Pathways for each media;
 - e) Discussion of applicable land use;
 - f) Classification: ground water and beneficial use of surface water.
- Establishment of Cleanup Standards for the Site.
 - a) The indicator hazardous substances and cleanup standards (cleanup levels and points of compliance) established for those substances.
 - b) The land or resource use the cleanup levels are based on (e.g., for soil, cleanup levels may be based on unrestricted land use).
 - c) The method used to establish the cleanup levels (e.g., Method B), and whether that method was modified.

- d) The pathway the cleanup levels are based on (e.g., for soil, the cleanup levels may be based on protection of ground water quality).
- e) Whether the point of compliance is standard or conditional, and the basis for the point of compliance (e.g., for soil, the point of compliance may be based on protection of ground water quality).
- Evaluation of soil cleanup standards for protection of terrestrial ecological receptors.
 - a) Attach the appropriate terrestrial ecological evaluation or exclusion form to document the evaluation.
- Areas requiring cleanup.
 - a) Soil – vertical and lateral
 - b) Ground water – vertical and lateral
 - c) Soil Vapor/air
- Source control and recontamination evaluation.
- All the associated figures, tables, and photos.

TASK 5 FEASIBILITY STUDY (FS)

The BSD shall use the information obtained in the RI to conduct a Feasibility Study that meets the requirements of WAC 173-340-350(8). The FS shall include:

- Areas requiring cleanup;
- Identification and screening of cleanup technologies;
- Basis for assembly of cleanup action alternatives;
- Selection and description of cleanup alternatives;
- MTCA requires:
 - a) A reasonable number and type of alternatives
 - b) Alternatives that protect human health and the environment by eliminating, reducing, or otherwise controlling risks
 - c) Alternatives that have the standard point of compliance for all affected media, unless they are not technically possible or are disproportionately costly for the benefit obtained.
 - d) At least one permanent cleanup action alternative, unless it is not technically possible or is disproportionately costly for the benefit obtained.
- Detailed evaluation of cleanup alternatives;
 - A cleanup action must meet these minimum requirements [WAC 173-340-360(2)(a)]:
 - Threshold requirements
 - a) Protect human health and the environment
 - b) Comply with cleanup standards
 - c) Comply with applicable state and federal laws
 - d) Provide for compliance monitoring
 - Other requirements
 - a) Use permanent solutions to the maximum extent practicable (PEMP)
 - b) Provide for a reasonable restoration time frame
 - c) Consider public concerns
 - Project-specific requirements

- a) Engineering criteria established for the specific project, as appropriate)
- Identification of a preferred cleanup alternative.
- All the associated figures, tables and photos.

Task 6 Submit First Draft of Draft Cleanup Action Plan(DCAP)

The BSD will submit the first draft of the Draft Cleanup Plan (DCAP) to Ecology. The DCAP will include, but not be limited to, the information listed in WAC 173-340-380.

DELIVERABLES

The BSD shall prepare and submit all plans, reports, and studies listed below (items a through c) as required by the Order. In particular:

- All deliverables shall be submitted to Ecology in both electronic (Word and Adobe Portable Document Format [PDF] formats) and hard-copy formats;
- A draft shall be submitted to Ecology for review and approval in accordance with this SOW, including the schedule outlined below, and the Work Plan;
- Ecology will provide written comments on a draft as necessary. Technical comments will be provided under separate cover in addition to any redline editorial comments, directly from Ecology's Project Coordinator to the Parties after Ecology's Project Coordinator has reviewed the comments for relevance and edited them appropriately, so that Ecology speaks with a unified voice when communicating with the Parties;
- If Ecology provides comments on a draft document, the BSD shall revise the draft document by incorporating and/or otherwise addressing Ecology's comments. The BSD shall resubmit an electronic redlined/strikeout revised draft to Ecology for review and approval (only revised sections shall be reviewed by Ecology for completion, unless necessary to review the document more comprehensively due to revisions);
- For the DCAP, once Ecology approves a draft as the final version, it shall be considered the final draft for public review purposes (the public review draft or draft final document);
- Following public review of the draft DCAP final document, the BSD shall prepare and submit for approval by Ecology a final version, which addresses public comments as Ecology determines necessary (if changes to the document following public comment are determined to be substantial, the revised document shall be subject to additional public notice and comment);
- Upon Ecology approval, the final version submitted shall be considered the final DCAP document; and
- Ecology, in its discretion, and with assistance from the BSD pursuant to the terms of the Order, may prepare a Responsiveness Summary to public comments.

Specific deliverables described in this SOW include:

- a) RI/FS Work Plan and Other Project Plans – The BSD shall submit for Ecology review and approval an RI/FS Work Plan, SAP, and QAPP in accordance with the schedule below. The HASP shall also be submitted but not approved by Ecology.
- b) RI/FS Report – The BSD shall summarize and compile the results of Tasks 4 and 5 into an RI/FS Report. The RI/FS report shall follow the draft outline contained in the work

plan as revised during the course of work. Revision of the outline shall require approval of Ecology.

- c) DCAP will select the cleanup action and specify cleanup standards and other requirements of the cleanup action as specified in WAC 173-340-380.

Task 7 Submit Draft Interim Action Work Plan

If required by Ecology, the BSD will submit a draft and final Interim Action Work Plan for Ecology's review and approval.

- The draft Interim Action Work Plan will also include the design and implementation of interim actions to facilitate protection of human health and the environment. The scope of the interim action may include excavation and off-site disposal, confirmational sampling, backfill with clean material, and groundwater monitoring in major areas of contamination at the site as identified in preliminary remedial investigative work. The Interim Action Work Plans shall include, as appropriate, submittal requirements in accordance with WAC 173-340-430(7).
- 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).
- Implement Approved Interim Action: Implement approved interim action(s) after Ecology review and approval and public review and comment necessary under WAC 173-340-600(16) and the State Environmental Policy Act.
- Interim Action Report: An Interim Action Report shall be prepared as a separate deliverable that includes the information listed in WAC 173-340-430(7). A draft and final Interim Action Report shall be submitted for Ecology review and approval.

SCHEDULE

The schedule for all tasks described in this SOW is presented below. If, at any time during the RI/FS process, unanticipated conditions or changed circumstances are discovered which may result in a schedule delay, the BSD shall bring such information to the attention of Ecology. Pursuant to Section VIII.K of the AO, Ecology shall determine whether a schedule extension is warranted.

Completion times are calendar days. Any deadline which falls on a holiday or weekend shall be extended to next business day.

Actions

Draft RI/FS Work Plan, SAP, QAPP,
and HASP

Completion Time

90 calendar days from effective date of AO

Final RI/FS Work Plan, SAP, QAPP,
and HASP incorporating Ecology's
comments

60 calendar days from receipt of
Ecology's comments on Draft
RI/FS Work Plan, SAP, and QAPP and
HASP pursuant to review process described
in the Deliverable Section

Completion of RI work
and Submittal of RI data

360 calendar days from Ecology's
approval of Final RI/FS Work Plan, SAP,
and QAPP documents, or as set forth in the
Final RI/FS Work Plan schedule

Draft RI/FS Report

180 calendar days from completion of RI
work and submittal of RI data

Provide final RI/FS Report

90 calendar days from receipt of
Ecology's comments on the Draft RI/FS
Report pursuant to review process described
in the Deliverable Section

Draft Interim Action Work Plan

30 calendar days from Ecology notice to
draft an Interim Action Work Plan

Implement the Interim Action Work Plan

30 calendar days from Ecology notice to
implement the Interim Action Work Plan

Submittal of first draft Cleanup Action Plan

First draft of Draft Cleanup Action Plan to
Ecology 90 days from the issuance of the
final RI/FS