



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Ave SE • Bellevue, WA 98008-5452 • 425-649-7000
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March 2, 2011

Mr. Brick Spangler
Port of Seattle
2711 Alaskan Way
Seattle, WA 98121

**Re: Effective Date of Agreed Order No. 8099 for
Remedial Investigation/Feasibility Study and draft Cleanup Action Plan,
Port of Seattle N Terminal 115 Site, Seattle, WA**

Dear Mr. Spangler:

The 30-day comment period on the draft Agreed Order for the Port of Seattle N Terminal 115 Site located at 6000 West Marginal Way SW., Seattle, WA with the Facility Site Number of 2177 has ended. Ecology will not be making any change to the Agreed Order based on comments received. Ecology signed the Agreed Order on March 2, 2011. The Agreed Order became effective on that date for all purposes, including the schedule of deliverables included in the Agreed Order Exhibit C.

The rights and responsibilities as a PLP are outlined in Chapter 70.105D RCW, and WAC 173-340. The first set of deliverables; the Draft Remedial Investigation /Feasibility Study Work Plan, Sampling Plan, and Quality Assurance Project Plan, is due on May 2, 2011.

We look forward to working with the Port on this Site Cleanup. If you have any questions or need assistance, you can contact Donna Ortiz de Anaya at 425-649-7231 or Donna.Ortiz@ecy.wa.gov.

Sincerely,

Robert W. Warren, P. Hg., MBA
Section Manager, NWRO

bw/kh.

By certified mail 7009 2820 0001 7154 5546

Enclosure (1)

cc: Central Files, Ecology
Ivy Anderson, Attorney General's Office



**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

In the Matter of Remedial Action by:

The Port of Seattle

AGREED ORDER

No. DE **8099**

TO: **Mr. Tay Yoshitani
Port of Seattle
PO Box 1209
Seattle, WA 98111**

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I. INTRODUCTION

The mutual objective of the State of Washington, Department of Ecology (Ecology) and the Port of Seattle (the Port) 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 the Port to conduct a Remedial Investigation (RI), Feasibility Study (FS), and prepare a Draft Cleanup Action Plan (DCAP) under formal guidance provided by Ecology. Ecology believes the actions required by this Order are in the public interest.

II. JURISDICTION

This Agreed Order is issued pursuant to the Model Toxics Control Act (MTCA), RCW 70.105D.050(1).

III. PARTIES BOUND

This Agreed Order shall apply to and be binding upon the Parties to this Order, their successors and assigns. The undersigned representative of each party hereby certifies that he or she is fully authorized to enter into this Order and to execute and legally bind such party to comply with this Order. The Port agrees to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter The Port's responsibility under this Order. The Port 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 RCW 70.105D and WAC 173-340 shall control the meanings of the terms in this Order.

A. Site: The Site is referred to as Port of Seattle N Terminal 115 and is generally located at 6000 West Marginal Way SW., Seattle, WA 98106. The Site is defined by the extent of contamination caused by the release of hazardous substances at the Site. Based upon factors

currently known to Ecology, the Site is more particularly described in Exhibit A (Site Diagram). The Site constitutes a Facility under RCW 70.105D.020(5).

- B. Parties: Refers to the State of Washington, Department of Ecology and the Port.
- C. Potentially Liable Person (PLP): Refers to the Port.
- D. Agreed Order or Order: Refers to this Order and each of the exhibits to this Order. All exhibits are integral and enforceable parts of this Order. The terms “Agreed Order” or “Order” shall include all exhibits to this Order.

V. FINDINGS OF FACT

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

A. The Site is located at 6000 W. Marginal Way SW, Seattle, WA on the west bank of the Lower Duwamish Waterway (LDW) approximately 1.6 miles south of Harbor Island. The currently known extent of the Site is located in the northwestern portion of Terminal 115. King county tax records note that parcel number 5367202505, owned by the Port, contains the Site to its currently known extent. The footprint of the tin reclamation operations area (see description below) comprises approximately 1.88 acres of the 98.7 acre parcel. The Site is zoned for commercial use. The Port acknowledged through a letter dated February 19, 2009 that it is nominally a PLP at this Site based on the fact that it is the current owner.

B. A tin reclamation facility was operated by several businesses on this Site between 1963 and 1998. M & T Chemicals operated at this location from 1963 to 1978. From 1978 to 1991 Metals Recycling, Inc. (MRI) (affiliated with American Can) continued reclaiming tin on-site. From 1991 to 1997 MRI Division of Proler Corporation continued tin reclamation. From 1997 to 1998 Schnitzer Steel Industries closed the tin reclamation operations at the Site. The Port currently leases the western portion of the Site (0.78 acres) to Gene Summy Lumber Co. The eastern portion of the Site (1.1 acres) is currently unoccupied.

C. Limited sampling has been done on the Site. A *Site Hazard Assessment* letter dated February 1998 from Seattle-King County Public Health to the Port noted the presence of lead in soil at a concentration of 470 mg/kg at one sample location adjacent to railroad tracks. This exceeds the MTCA Method A residential cleanup level for lead of 250 mg/kg. Additionally, *The Remedial Activities Summary Report* dated April 2008, prepared by Shaw Environmental for Reichhold, Inc. and Glacier Northwest, Inc. notes a sample result of 1,100 ug/L of arsenic in ground water collected from the Site on July 29, 2003. The MTCA Method A Cleanup Level for arsenic in ground water is 5 ug/L. The Reichhold Report also notes a sample result of 250 mg/kg of arsenic in soil on Port property compared to the MTCA Method A Cleanup Level for arsenic in soils of 20 mg/kg. Based on data then available, the Site Hazard Assessment assigned a Hazard Ranking of 5 (lowest ranking) to this Site in 1998.

Additional sampling was performed in fall, 2009. *Environmental Investigation Report, Port of Seattle Terminal 115 North Seattle, Washington*, dated December 31, 2009, and prepared for the Port by Landau Associates documented several exceedences with screening levels based on MTCA Method C, background and MTCA Method B values based on protection of marine and fresh surface water. At the twelve locations sampled, there were elevated concentrations of contaminants in soil. Soil sample exceedences included copper at two locations, lead at one location, mercury at two locations, zinc at one location and carcinogenic poly-aromatic hydrocarbons (cPAHs) at two locations. The report additionally noted exceedences in groundwater including lube oil range hydrocarbons, metals including arsenic, cadmium, chromium, copper, lead, mercury, nickel, zinc; the volatile acetone; and semivolatiles including benzo(a)anthracene, chrysene, bis(2-Ethylhexyl)phthalate, Benzo(b)fluoranthene, Benzo(k)fluoranthene, Benzo(a)pyrene, Indeno(1,2,3-cd)pyrene, Debenz(a,h)anthracene, Benzo(g,h)perylene and Total cPAHs (TEQ). Groundwater monitoring wells 7, 8, and 9 lie outside the footprint of the former MRI tin reclamation facility toward the direction of the LDW.

These wells include exceedences of metals, with MW-7 exceeding screening levels for semivolatiles as well.

A catch basin solids sample collected at the Site contained a concentration of zinc in excess of the sediment quality standard (SQS) for zinc. The *Lower Duwamish Waterway Glacier Bay Source Control Area, Summary of Existing Information and Identification of Data Gaps*, by Science Applications International Corporation (SAIC) dated June, 2007, prepared for Department of Ecology, provides a summary of Site investigations documenting releases of hazardous substances at the Site. The report noted spent plating solution and black mud were discharged to two unlined settling and evaporation lagoons located in the eastern portion of the Site. Eventually the solution was discharged to King County Wastewater Treatment Plant (KCWTP). Also noted in the report were KCWTP exceedences related to zinc, lead and pH. Further, the contaminants; arsenic, mercury, zinc, copper, lead, tin, phthalates, butyl benzyl phthalate, and PAHs were identified as contaminants of concern at Glacier Bay with regard to potential sediment recontamination.

VI. ECOLOGY DETERMINATIONS

A. The Port is the current owner of the property at 6000 West Marginal Way SW, Seattle, WA. The Port is an "owner" as defined in RCW 70.105D.020(17) of a "facility" as defined in RCW 70.105D.020(5).

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

C. Based upon credible evidence, Ecology issued a PLP status letter to the Port dated January 20, 2009, pursuant to RCW 70.105D.040, -.020(21) and WAC 173-340-500. After providing for notice and opportunity for comment, reviewing the comments submitted, and concluding that credible evidence supported a finding of potential liability, Ecology issued a

determination that the Port is a PLP under RCW 70.105D.040 and notified the Port of this determination by letter dated July 9, 2009.

D. Pursuant to RCW 70.105D.030(1) and -.050(1), Ecology may require a PLP to investigate or conduct other remedial actions with respect to any release or threatened release of hazardous substances, whenever it believes such action to be in the public interest. Based on the foregoing facts, Ecology believes the remedial actions required by this Order are in the public interest.

E. Under WAC 173-340-430, an interim action is a remedial action that is technically necessary to reduce a threat to human health or the environment by eliminating or substantially reducing one or more pathways for exposure to a hazardous substance, that corrects a problem that may become substantially worse or cost substantially more to address if the remedial action is delayed, or that is needed to provide for completion of a site hazard assessment, remedial investigation/feasibility study or design of a cleanup action. Ecology, with input from the PLP, will determine if interim actions are warranted, including those that reduce or eliminate sources of contamination into the adjacent inlet and/or LDW.

VII. WORK TO BE PERFORMED

Based on the Findings of Fact and Ecology Determinations, it is hereby ordered that the Port take the following remedial actions at the Site and that these actions be conducted in accordance with WAC 173-340 unless otherwise specifically provided for herein:

A. The PLP shall prepare the following deliverables in accordance with WAC 173-340-350 through 173-340-390, and WAC 173-204:

- Remedial Investigation (RI) /Feasibility Study (FS) Work Plan;
- Remedial Investigation;
- Feasibility Study; and
- Draft Cleanup Action Plan (DCAP)

A scope of work for the RI/FS and is more particularly described in Exhibit B (Scope of Work) and is incorporated by reference as an enforceable part of this Order. To plan and manage the RI/FS, the project tasks and management strategies shall be summarized in the RI/FS Work Plans (Work Plan) that will be developed and submitted to Ecology for review and approval in accordance with the Scope of Work.

B. The schedule of performance and list of deliverables is described in Exhibit C (Schedule of Deliverables) and is incorporated by reference as an enforceable part of this Order.

C. Should an interim remedial action be determined necessary under Section VI.E., the PLP will prepare and implement an Interim Action Work Plan as specified in Exhibit B (Scope of Work).

D. If, at any time after the first exchange of comments on drafts, Ecology determines that insufficient progress is being made in the preparation of any of the deliverables required by this Section, Ecology may complete and issue the final deliverable.

VIII. TERMS AND CONDITIONS OF ORDER

A. Public Notice

RCW 70.105D.030(2)(a) requires that, at a minimum, this Order be subject to concurrent public notice. Ecology shall be responsible for providing such public notice and reserves the right to modify or withdraw any provisions of this Order should public comment disclose facts or considerations which indicate to Ecology that this Order is inadequate or improper in any respect.

B. Remedial Action Costs

The Port 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 RCW 70.105D, 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). Ecology has accumulated \$48,460.40 in remedial action costs related to this facility as of August 31, 2010. Payment for this amount shall be submitted within thirty (30) days of the effective date of this Order. For all costs incurred subsequent to August 31, 2010, the Port shall pay the required amount within thirty (30) days of receiving from Ecology an itemized statement of costs that includes a summary of costs incurred, an identification of involved staff, and the amount of time spent by involved staff members on the project. A general statement of work performed will be provided upon request. Itemized statements shall be prepared quarterly. Pursuant to WAC 173-340-550(4), failure to pay Ecology's costs within ninety (90) days of receipt of the itemized statement of costs will result in interest charges at the rate of twelve percent (12%) per annum, compounded monthly.

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 Port has failed without good cause to implement the remedial action, in whole or in part, Ecology may, after notice to the Port, perform any or all portions of the remedial action that remain incomplete. If Ecology performs all or portions of the remedial action because of the Port's failure to comply with its obligations under this Order, the Port shall reimburse Ecology for the costs of doing such work in accordance with Section VIII.B (Remedial Action Costs), provided that the Port 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 Port 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:

Donna Ortiz de Anaya
State of Washington Department of Ecology
Northwest Regional Office
Toxics Cleanup Program
3190 160th Avenue SE
Bellevue, Washington 98008
Telephone: (425) 649-7231
Fax: (425) 649-7161
Email: dort461@ecy.wa.gov

The project coordinator for the Port is:

Brick Spangler
Port of Seattle
PO Box 1209
Seattle, WA 98111-1209
Telephone: (206) 787-3193
Email: spangler.b@portseattle.org

Each project coordinator shall be responsible for overseeing the implementation of this Order. Ecology's project coordinator will be Ecology's designated representative for the Site. To the maximum extent possible, communications between Ecology and the Port, and all documents, including reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order shall be directed through the project coordinators. The project coordinators may designate, in writing, working level staff contacts for all or portions of the implementation of the work to be performed required by this Order.

Any party may change its respective project coordinator. Written notification shall be given to the other party at least ten (10) calendar days prior to the change.

E. Performance

All geologic and hydrogeologic work performed pursuant to this Order shall be under the supervision and direction of a geologist licensed in the State of Washington or under the direct supervision of an engineer registered in the State of Washington, except as otherwise provided for by RCW 18.220 and 18.43.

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 RCW 18.220 or RCW 18.43.130.

The Port shall notify Ecology in writing of the identity of any engineer(s) and geologist(s), contractor(s) and subcontractor(s), and others to be used in carrying out the terms of this Order, in advance of their involvement at the Site.

F. Access

Ecology or any Ecology authorized representative shall have the full authority to enter and freely move about all property at the Site that the Port either owns, controls, or has access rights to at all reasonable times for the purposes of, *inter alia*: inspecting records, operation logs, and contracts related to the work being performed pursuant to this Order; reviewing the Port'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 Port. The Port shall make all reasonable efforts to secure access rights for those properties within the Site not owned or controlled by the Port 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 Port unless an emergency prevents such notice. All persons who access the Site pursuant to this Section shall comply with any applicable Health and Safety Plan(s). Ecology employees

and their representatives shall not be required to sign any liability release or waiver as a condition of Site property access.

G. Sampling, Data Submittal, and Availability

With respect to the implementation of this Order, the Port shall make the results of all sampling, laboratory reports, and/or test results generated by it or on its behalf available to Ecology. Pursuant to WAC 173-340-840(5), all sampling data shall be submitted to Ecology in both printed and electronic formats in accordance with Section VII. (Work to be Performed), Ecology's Toxics Cleanup Program Policy 840 (Data Submittal Requirements), and/or any subsequent procedures specified by Ecology for data submittal.

If requested by Ecology, the Port shall allow Ecology and/or its authorized representative to take split or duplicate samples of any samples collected by the Port pursuant to implementation of this Order. The Port shall notify Ecology seven (7) days in advance of any sample collection or work activity at the Site. Ecology shall, upon request, allow the Port and/or its authorized representative to take split or duplicate samples of any samples collected by Ecology pursuant to the implementation of this Order, provided that doing so does not interfere with Ecology's sampling. Without limitation on Ecology's rights under Section VIII.F (Access), Ecology shall notify the Port prior to any sample collection activity unless an emergency prevents such notice.

In accordance with WAC 173-340-830(2)(a), all hazardous substance analyses shall be conducted by a laboratory accredited under Chapter 173-50 WAC for the specific analyses to be conducted, unless otherwise approved by Ecology.

H. Public Participation

A Public Participation Plan is required for this Site. Ecology shall review any existing Public Participation Plan to determine its continued appropriateness and whether it requires amendment, or if no plan exists, Ecology shall develop a Public Participation Plan alone or in conjunction with the Port.

Ecology shall maintain the responsibility for public participation at the Site. However, the Port shall cooperate with Ecology, and shall:

1. If agreed to by Ecology, develop appropriate mailing list, prepare drafts of public notices and fact sheets at important stages of the remedial action, such as the submission of work plans, remedial investigation/feasibility study reports, cleanup action plans, and engineering design reports. As appropriate, Ecology will edit, finalize, and distribute such fact sheets and prepare and distribute public notices of Ecology's presentations and meetings.

2. Notify Ecology's project coordinator prior to the preparation of all press releases and fact sheets, and before major meetings with the interested public and local governments. Likewise, Ecology shall notify the Port 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 Port that do not receive prior Ecology approval, the Port shall clearly indicate to its audience that the press release, fact sheet, meeting, or other outreach effort was not sponsored or endorsed by Ecology.

3. When requested by Ecology, participate in public presentations on the progress of the remedial action at the Site. Participation may be through attendance at public meetings to assist in answering questions or as a presenter.

4. When requested by Ecology, arrange and/or continue information repositories to be located at the following locations:

- a. South Park Branch of Seattle Public Library
8604 Eighth Ave. S. at Cloverdale St.
Seattle, WA 98108
Telephone: (206) 615-1688
- b. Ecology's Northwest Regional Office-Central Files
3190 160th Avenue SE
Bellevue, WA 98008
Telephone: (425) 649-7190

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 Port 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 Port shall make all records available to Ecology and allow access for review within a reasonable time.

J. Resolution of Disputes

1. In the event a dispute arises as to an approval, disapproval, proposed change, or other decision or action by Ecology's project coordinator, or an itemized billing statement under Section VIII.B (Remedial Action Costs), the Parties shall utilize the dispute resolution procedure set forth below.

a. Upon receipt of Ecology's project coordinator's written decision or the itemized billing statement, the Port has fourteen (14) days within which to notify Ecology's project coordinator in writing of its objection to the decision or itemized statement.

i. The PLP shall include in the written objection sufficient detail to allow Ecology to evaluate the merits of the dispute.

ii. Such detail shall include the specific Ecology determination or direction or itemized statement in dispute and shall include specific argument(s) documenting the basis for invoking the dispute resolution procedure.

iii. Clarification of Ecology directions or determinations shall not be handled through the dispute resolution procedure. The Ecology Project Coordinator will make such clarifications in a manner and time they deem appropriate to expedite to the maximum extent practicable the work performed under this order.

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 Port 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 Port'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 Port 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 Port 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 Port;
- b. Acts of God, including fire, flood, blizzard, extreme temperatures, storm, or other unavoidable casualty; or
- c. Endangerment as described in Section VIII.M (Endangerment).

However, neither increased costs of performance of the terms of this Order nor changed economic circumstances shall be considered circumstances beyond the reasonable control of the Port.

3. Ecology shall act upon any written request for extension in a timely fashion. Ecology shall give the Port written notification of any extensions granted pursuant to this Order. A requested extension shall not be effective until approved by Ecology. Unless the extension is a substantial change, it shall not be necessary to amend this Order pursuant to Section VIII.L (Amendment of Order) when a schedule extension is granted.

4. An extension shall only be granted for such period of time as Ecology determines is reasonable under the circumstances. Ecology may grant schedule extensions exceeding ninety (90) days only as a result of:

- a. Delays in the issuance of a necessary permit which was applied for in a timely manner;
- b. Other circumstances deemed exceptional or extraordinary by Ecology; or
- c. Endangerment as described in Section VIII.M (Endangerment).

L. Amendment of Order

The project coordinators may verbally agree to minor changes to the work to be performed without formally amending this Order. Minor changes will be documented in writing by Ecology within seven (7) days of verbal agreement.

Except as provided in Section VIII.N (Reservation of Rights), substantial changes to the work to be performed shall require formal amendment of this Order. This Order may only be formally amended by the written consent of both Ecology and the Port. The Port shall submit a written request for amendment to Ecology for approval. Ecology shall indicate its approval or disapproval in writing and in a timely manner after the written request for amendment is received. If the amendment to this Order represents a substantial change, Ecology will provide public notice and opportunity to comment. Reasons for the disapproval of a proposed amendment to this Order shall be stated in writing. If Ecology does not agree to a proposed amendment, the disagreement may be addressed through the dispute resolution procedures described in Section VIII.J (Resolution of Disputes).

M. Endangerment

In the event Ecology determines that any activity being performed at the Site is creating or has the potential to create a danger to human health or the environment on or surrounding the Site, Ecology may direct the Port to cease such activities for such period of time as it deems necessary to abate the danger. The Port shall immediately comply with such direction.

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

If Ecology concurs with or orders a work stoppage pursuant to Section VIII.M (Endangerment), the Port'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 Port 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 Port regarding remedial actions required by this Order, provided the Port complies with this Order.

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

O. Transfer of Interest in Property

No voluntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Site shall be consummated by the Port 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 Port's transfer of any interest in all or any portion of the Site, and during the effective period of this Order, the Port shall provide a copy of this Order to any prospective purchaser, lessee, transferee, assignee, or other successor in said interest; and, at least thirty (30) days prior to any transfer, the Port shall notify Ecology of said transfer. Upon transfer of any interest, the Port 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 Port 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. Federal requirements that apply include the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) or federal Superfund Law, and National Pollution Discharge Elimination System (NPDES). State requirements that apply include the Sediment Management Standards (WAC 173-204).

2. Pursuant to RCW 70.105D.090(1), the Port is exempt from the procedural requirements of RCW 70.94, 70.95, 70.105, 77.55, 90.48, and 90.58 and of any laws requiring or authorizing local government permits or approvals. However, the Port shall comply with the substantive requirements of such permits or approvals. At this time, no state or local permits or approvals have been identified as being applicable but procedurally exempt under this Section.

The Port 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 Port 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 Port shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, the Port 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 Port and on how the Port must meet those requirements. Ecology shall inform the Port in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. The Port shall not begin or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination.

3. Pursuant to RCW 70.105D.090(2), in the event Ecology determines that the exemption from complying with the procedural requirements of the laws referenced in RCW 70.105D.090(1) would result in the loss of approval from a federal agency that is necessary for the State to administer any federal law, the exemption shall not apply and the Port shall comply with both the procedural and substantive requirements of the laws referenced in RCW 70.105D.090(1), including any requirements to obtain permits.

Q. Indemnification

The Port agrees to indemnify and save and hold the State of Washington, its employees, and agents harmless from any and all claims or causes of action for death or injuries to persons or for loss or damage to property to the extent arising from or on account of acts or omissions of the Port, its officers, employees, agents, or contractors in entering into and implementing this Order. However, the Port 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 Port's receipt of written notification from Ecology that the Port has completed the remedial activity required by this Order, as amended by any modifications, and that the Port 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 investigative and remedial actions and orders related to the Site.

C. In the event the Port refuses, without sufficient cause, to comply with any term of this Order, the Port 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 it refuses to comply.

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

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

Effective date of this Order: MARCH 2, 2011

PORT OF SEATTLE



Tay Yoshitani

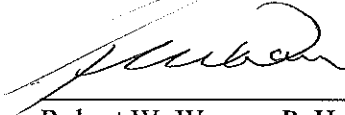
CEO

PO Box 1209

Seattle, WA 98111-1209

Telephone: (206) 728-3000

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY



Robert W. Warren, P. Hg., MBA

Section Manager

Toxics Cleanup Program

Northwest Regional Office

3190 160th Avenue SE

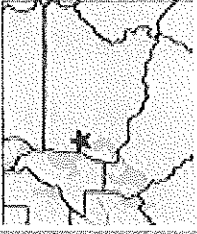
Bellevue, WA 98008

Telephone: (425) 649-7054

AGREED ORDER

NO. DE 8099

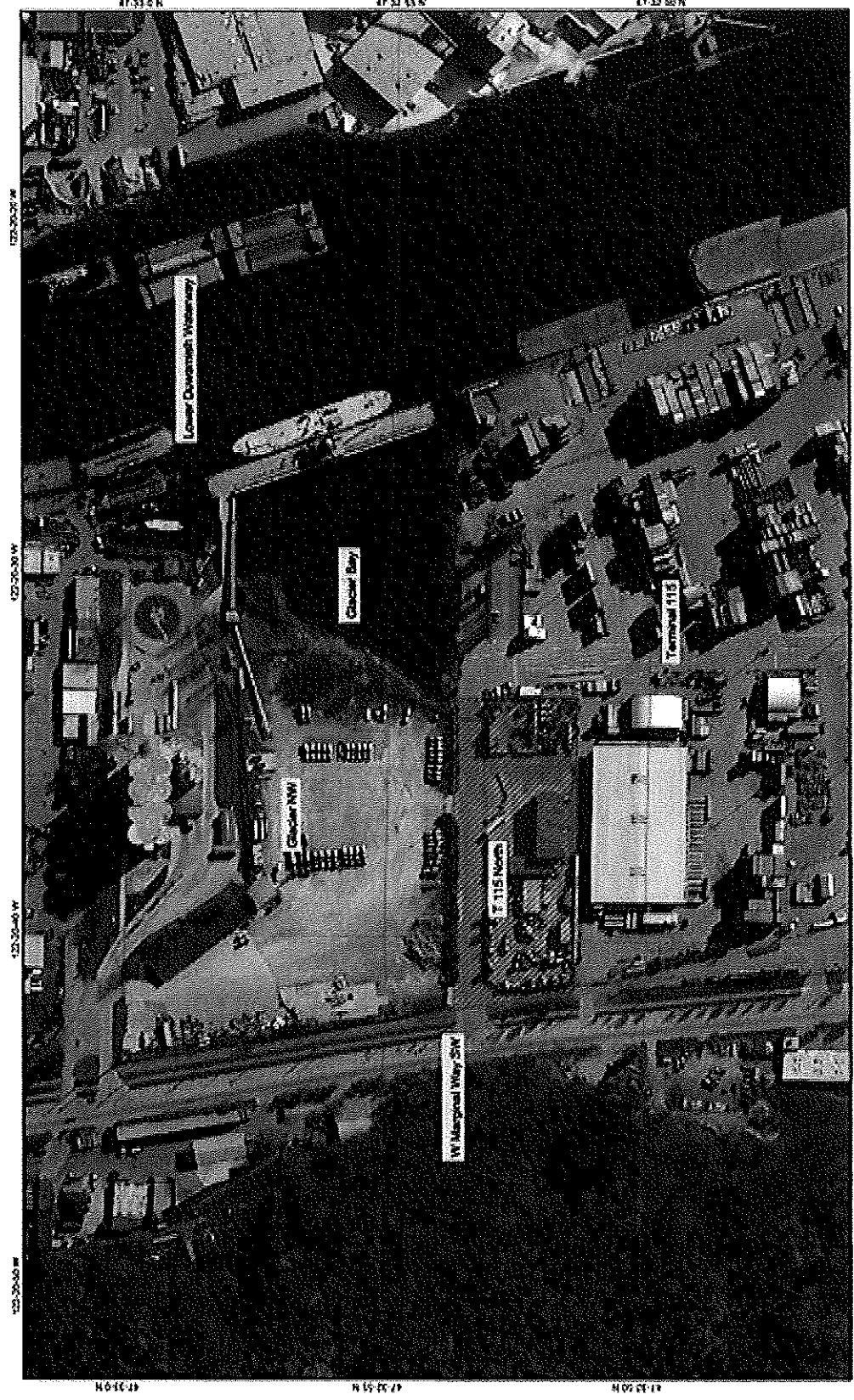
Page 21 of 21



Legend
 2001 City of Seattle Street Center

Scale: 1:2,377

Terminal 115 North



Map center: 47° 32' 54.1" N, 122° 20' 33.0" W

Exhibit A Port of Seattle N Terminal 115

0 70 140 210 m

This map is not guaranteed to be accurate. It is provided for informational purposes only. City bears no responsibility for any use of this map for navigation, or other purposes. THIS MAP IS NOT FOR USE IN NAVIGATION.

EXHIBIT B – SCOPE OF WORK (SOW)

PURPOSE

The Scope of Work (SOW) under this Agreed Order (AO) involves completing an approved Remedial Investigation (RI), Feasibility Study (FS) and Draft Cleanup Action Plan (DCAP) to provide for the selection of a cleanup alternative. The site is generally located at 6000 West Marginal Way Southwest in Seattle, Washington and is referred to as Port of Seattle N Terminal 115 (the Site). The purpose of the RI/FS and DCAP for the Site is to provide sufficient data, analysis, and evaluations to enable the State of Washington, Department of Ecology (Ecology) to select a cleanup alternative for the Site. The Potentially Liable Persons (PLP) shall complete a RI/FS that meets the requirements of Chapter 173-340 WAC.

The Port of Seattle (Port) and Ecology will work cooperatively to support public participation in the scoping and implementation of the work performed under the AO in accordance with Section VIII.C of the AO. All work identified below shall be performed in accordance with the schedule in Exhibit C.

The SOW is divided into six major tasks as follows:

- Task 1. RI/FS Work Plan
- Task 2. Remedial Investigation
- Task 3. Interim Action Work Plan (if required)
- Task 4. Feasibility Study and SEPA Compliance
- Task 5. Draft Cleanup Action Plan (DCAP)
- Task 6. Progress Reports

TASK 1: PREPARE RI/FS WORK PLANS

The Port shall prepare a draft RI/FS Work Plan. The Work Plan shall include an overall description and schedule of all RI/FS activities. The Work Plan shall clearly describe the 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 will be outlined.

The Work Plan shall describe general facility information; site history and conditions, including previous operations and ownership; past field investigations, including any data collection and analysis of soils, air, groundwater, surface water, and sediments; a conceptual site model showing contaminants, migration pathways in all environmental media, and potential receptors; geology and groundwater system characteristics; past, current, and future land use; identification of natural resources and ecological receptors; hazardous substances and their sources, etc., in compliance with WAC 173-340-350 and WAC 173-204-560.

As part of the project background, existing environmental data on site soil, groundwater, surface water, and sediments will be compiled and evaluated for data gaps. The data gaps will be used as the basis for conducting additional site investigations. The Draft Work Plan will also identify specific data collection procedures in a Sampling and Analysis Plan (SAP) and Quality Assurance Project Plan (QAPP) as part of the Work Plan in compliance with WAC 173-340-820 and WAC 173-204-600 for defining the

Scope of Work
Port of Seattle N Terminal 115

nature and extent of contamination. The Draft Work Plan will also contain a Health and Safety Plan (HSP) to be followed during conductance of the RI/FS.

The SAP identifies the proposed number and location of all environmental samples and methods, including soil borings, groundwater monitoring wells, soil, groundwater, stormwater, seep, catch basin and sediment samples, approximate depths, and includes a quality assurance project plan. The SAP will describe the sampling objectives, the rationale for the sampling approach (based upon the identified data gaps), and plans for data use, and shall provide a detailed description of sampling tasks. The SAP shall describe specifications for sample identifiers; sampling equipment; the type, number, and location of samples to be collected; the analyses to be performed; descriptions of sampling equipment and methods to be used; sample documentation; sample containers, collection and handling; data and records management; and schedule.

The QAPP will be prepared in accordance with the Guidance for Preparation of Quality Assurance Project Plans, EPA Region 10, Quality Data Management Program, QA/R-5 and requirements of the EPA Contract Laboratory Program. The QAPP will also follow Ecology's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies (July 2004) and Sediment Sampling and Analysis Plan Appendix (February 2008). These documents can be found at <http://www.ecy.wa.gov/pubs/wac173204.pdf> and <http://www.ecy.wa.gov/biblio/0309043.html> respectively. Examples of completed QAPPs can be found at <http://www.ecy.wa.gov/biblio/qapp.html>. Laboratories must meet the accreditation standards established in WAC 173-50. Data quality objectives will reflect the criteria or threshold values used for the source control evaluation.

The SAP, including the QAPP, and HSP will be submitted to Ecology as part of the RI/FS Work Plan for review and approval. Environmental work pursuant to this AO at the Site may not begin without written approval from Ecology. Except where necessary to abate an emergency situation, the Port shall not perform any remedial actions at the Site outside those remedial actions required by the AO, unless Ecology concurs, in writing, with such additional remedial actions. The plan shall provide fourteen (14) days notice to Ecology prior to beginning sampling. Ecology may obtain split samples.

The Port or their contractors shall submit all new sampling data generated under this SAP and any other recently collected data to Ecology for entry into the Environmental Information Management System (EIM) in accordance with WAC 173-340-840(5) and Ecology's Toxics Cleanup Program Policy 840: Data Submittal Requirements. Only validated data will be entered into the EIM database.

RI/FS tasks and subtasks will include the following:

- Sampling and analysis of soil, groundwater, and seeps.
- Sampling and analysis of surface and subsurface sediments in the Lower Duwamish Waterway (LDW).
- Sampling and analysis of stormwater and catch basin solids; if stormwater and catch basin contaminants are present, determine the source of the contaminants by sampling necessary media.
- An evaluation of the exposure pathways for known and suspected discharges from operations, which shall include:
 - Direct discharges
 - Site operations
 - Stormwater discharges from all operations
 - Preferential subsurface pathways
 - Groundwater discharges, seeps and interflow

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Port of Seattle N Terminal 115

- Soil erosion
 - Historical spills, dumping, leaks, housekeeping, and management practices
 - Underground storage tanks (USTs), underground piping, and similar structures;
 - Air deposition
- Development of a Preliminary Conceptual Site Model (CSM) that includes the characterization of contaminant sources, types, concentrations and distribution of hazardous substances, potentially contaminated media, and actual and potential exposure pathways and receptors;
 - Identification and evaluation of data gaps; and
 - Evaluate the potential to contaminate or re-contaminate sediments
 - Evaluate whether fill is contaminated or provides a contaminate source to the LDW or sediments.

The FS portion of the Work Plan will provide a detailed analysis of each remedial alternative according to the applicable requirements of WAC 173-340-350, MTCA Remedial Investigation and Feasibility Study, and WAC 173-204-560, Sediment Management Standards Cleanup Study. The remedial alternatives will be evaluated for compliance with the applicable requirements of WAC 173-340-360, Selection of Cleanup Actions, and WAC 173-204-560(4). See Task 4 for more specific requirements.

The Work Plan shall not be implemented until approved by Ecology. Once approved by Ecology, The Port will implement the work plan according to the schedule contained in Exhibit C.

The Port shall coordinate with Ecology throughout the development of the RI/FS and DCAP and shall keep Ecology informed of changes to the work plan and other project plans and of issues and problems as they develop.

The Port shall prepare two (2) copies of the Draft RI/FS Work Plan and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for review and comment. After addressing Ecology's comments on the Draft Work Plan and after Ecology approval, The Port shall prepare five (10) copies of the Final Work Plan and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology.

TASK 2. REMEDIAL INVESTIGATION

The Port shall conduct a Remedial Investigation (RI) that meets the requirements of WAC 173-340-350(7) and WAC 173-204-560 according to the Work Plan as approved by Ecology. The RI will determine the nature and extent of contamination exceeding Model Toxics Control Act (MTCA) cleanup levels, Sediment Management Standards (SMS) cleanup standards, and other regulatory requirements. The RI must provide sufficient data and information to define the nature and extent of contamination.

Field sampling and analysis will be completed in general accordance with the Work Plan SAP, QAPP, and HSP. Deviation(s) from the approved SAP, QAPP, and reviewed HSP must be communicated to Ecology immediately and documented as required by Ecology.

The Port shall provide interim data reports and updates to Ecology as new site data and information become available. Laboratory analysis data shall also be provided in

Scope of Work
Port of Seattle N Terminal 115

electronic format when it has been validated. Raw laboratory data will be provided to Ecology upon request.

During Site investigations, remedial actions might be identified that if taken will reduce or eliminate sources of contamination to the LDW. Ecology will determine if the remedial actions identified should be implemented prior to completion of the RI/FS. Remedial actions implemented prior to completion of the RI/FS will be considered interim actions and will be implemented in accordance with WAC 173-340-430. Remedial actions for contaminated sediments will be designated partial cleanup actions and will be implemented pursuant to WAC 173-204-550(3)(d). Should an interim action be required, Ecology will require that the Port submit an Interim Action Work Plan for approval and implementation.

The Port shall compile the results of the Site investigation into a Draft RI report. The Port shall prepare two (2) copies of the Draft RI report and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for review and comment. Figures, diagrams or maps shall be submitted in the Geographic Information System shape file (.shp) format or AutoCAD file (.dwg) format.

After addressing Ecology's comments on the Draft RI report, The Port shall prepare five (5) copies of a Final RI report and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for distribution and public comment. Electronic survey data for sampling and monitoring locations, electronic lab data, and Geographic Information System GIS shape file (.shp) format or AutoCAD file (.dwg) format maps of contaminant distribution shall also be provided for both the Draft and Final RI reports.

If the data collected during this investigation is insufficient to define the full nature and extent of contamination, an additional phase of investigation shall be conducted to define the extent of contamination.

TASK 3. INTERIM ACTION WORK PLANS (if required)

During Site investigations, remedial actions might be identified that if taken will reduce or eliminate sources of contamination to the Lower Duwamish Waterway. Ecology will determine if the remedial actions identified should be implemented prior to completion of the RI/FS and/or DCAP. Remedial actions at the Site implemented prior to completion of the RI/FS will be considered interim actions and will be designed in a manner that will not foreclose reasonable alternatives for any final cleanup action that may be required and will be implemented in accordance with WAC 173-340-430 and Section VI.E of the Agreed Order.

When required by Ecology, or if proposed by the PLP and approved by Ecology, the PLP will implement interim actions at the Site. Based upon information in the draft RI report, interim action(s) may be needed to expedite control of releases to sediments or other environmental media pursuant to WAC 173-340-430.

Interim remedial actions include those:

- that are technically necessary to reduce a threat to human health or the environment by eliminating or substantially reducing one or more pathways for exposure to a hazardous substance;

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Port of Seattle N Terminal 115

- that correct a problem that may become substantially worse or cost substantially more to address if the remedial action is delayed; or
- that are needed to provide for completion of the remedial investigation/feasibility study or design of the cleanup action.

The scope of the interim actions at the Site may include, but not be limited to typical source control or containment elements such as:

- Soil and/or sediment removal;
- Groundwater remediation;
- Repair, slip lining, replacement, or closure of stormwater conveyances or other structures such as conduit, vaults, catch basins, etc.
- Removal of underground storage tanks and pipes
- Removal of old drain fields or former surface impoundments
- Proper abandonment of old wells
- Removal of contaminated building or other structural material
- Construction of a treatment facility
- Shoreline stabilization such as bulkhead repair, erosion or seepage control, and grading or clearing.
- Performance and/or confirmation sampling; and,

If an interim action is to be performed by the PLP, the PLP will prepare and submit for Ecology review a draft Interim Action Work Plan (IAWP) with detail commensurate with the work to be performed. The draft IAWP shall include, as appropriate:

- Description of the interim action including its purpose, general requirements, and relationship to the (final) cleanup action (to the extent known);
- Summary of relevant RI/FS information, including at a minimum existing site conditions and alternative interim actions considered;
- Information regarding design and construction requirements, including a proposed schedule and personnel roles and responsibilities;
- Compliance Monitoring Plan (CMP); and,
- HSP
- SAP/QAPP.

Once approved by Ecology, the PLP will implement the interim action according to the schedule contained in the IAWP.

The PLP shall prepare two (2) copies of the draft IAWP and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for review and comment. After addressing Ecology's comments on the draft IAWP and after Ecology approval, the PLP shall prepare ten (10) copies of the final IAWP and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology.

Upon successful completion of the work, an Interim Action Report will be prepared as a separate deliverable. The PLP shall prepare two (2) copies of the Interim Action Report and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for review and comment. After Ecology approval, the PLP shall prepare five (5) copies of the Interim Action Report and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology.

TASK 4. FEASIBILITY STUDY AND SEPA COMPLIANCE

Task 4.1 Feasibility Study

The PLP shall use the information obtained in the RI to prepare a FS that meets the requirements of WAC 173-340-350(8) according to the approved RI/FS Work Plan and schedule (Exhibit C).

The Draft FS will evaluate remedial alternatives for Site cleanup, consistent with MTCA requirements to ensure protection of human health and the environment by eliminating, reducing, or otherwise controlling risk posed through each complete exposure pathway and migration route.

The FS will provide an analysis of each remedial alternative according to the applicable requirements of WAC 173-340-350, MTCA Remedial Investigation and Feasibility Study, and WAC 173-204-560, SMS Cleanup Study. The remedial alternatives will be evaluated for compliance with the applicable requirements of WAC 173-340-360, selection of a preferred remedial Cleanup Action, and WAC 173-204-560(4), including a detailed evaluation of remedial alternatives relative to the following criteria:

- Compliance with Cleanup Standards and Applicable Laws.
- Protection of Human Health.
- Protection of the Environment.
- Provision for a Reasonable Restoration Time Frame.
- Use of Permanent Solutions to the Maximum Extent Practicable.
- The Degree to which Recycling, Reuse, and Waste Minimization are Employed.
- Short-term Effectiveness.
- Long-Term Effectiveness.
- Net Environmental Benefit.
- Implementability.
- Provision for Compliance Monitoring.
- Cost-Effectiveness.
- Prospective Community Acceptance.

The remedial alternative that is judged to best satisfy the evaluation criteria will be identified. Justification for the selection will be provided and the recommended remedial alternative further developed in the FS report.

The PLP shall prepare two (2) copies of the Draft FS report and submit them, including one electronic copy in Word (.doc) and Adobe (.pdf) formats, to Ecology for review and comment. Figures, diagrams or maps shall be submitted in the Geographic Information System shape file (.shp) format or AutoCAD file (.dwg) format.

After addressing Ecology's comments on the preliminary draft report and after Ecology approval, the PLP shall prepare ten (10) copies of the Draft Final FS report and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for distribution and public comment. Figures, diagrams or maps shall be submitted in the Geographic Information System shape file (.shp) format or AutoCAD file (.dwg) format.

Task 4.2 SEPA Checklist

The PLP shall be responsible for complying with the State Environmental Policy Act (SEPA) rules including preparing and submitting an environmental checklist. If the result of the threshold determination is a determination of significance (DS), the PLP shall be responsible for the preparation of draft and final Environmental Impact Statements (EIS). The PLP shall assist Ecology with coordinating SEPA public involvement requirements with MTCA public involvement requirements whenever possible, such that public comment periods and meetings or hearings can be held concurrently.

Task 4.3 Final FS and Responsiveness Summary

The PLP shall support Ecology in presenting the Final RI and Draft Final FS reports and SEPA evaluations at one public meeting or hearing. The PLP will assist Ecology with presentations at any additional meetings or hearings that might be necessary for SEPA compliance or as part of the Public Participation Plan.

After the public comment periods are completed, the PLP shall prepare a Draft Responsiveness Summary that addresses public comments and prepare a second Draft Final FS report that addresses public comments. The PLP shall prepare two (2) copies of the Draft Responsiveness Summary and second Draft Final FS report and submit them to Ecology for review and comment, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for distribution and public comment.

After addressing Ecology's comments, the PLP shall prepare ten (10) copies of the Final Responsiveness Summary and Final FS report and submit them to Ecology for distribution, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats.

TASK 5: PREPARE A DRAFT CLEANUP ACTION PLAN

Upon Ecology approval of the final RI and FS report, the PLP shall prepare a draft Cleanup Action Plan (DCAP) in accordance with WAC 173-340-380 that provides a proposed remedial action to address the contamination present on the Site. Where contaminated sediments are included in the remedial action, the cleanup plan will comply with WAC 173-204-580, in addition to the MTCA requirements cited above. The DCAP shall include a general description of the proposed remedial actions, cleanup standards developed from the RI/FS and rationale regarding their selection, a schedule for implementation, description of any institutional controls proposed, and a summary of applicable local, state, and federal laws pertinent to the proposed cleanup actions.

The PLP will submit a DCAP for Ecology's review and approval. The DCAP will include, but not be limited to, the information listed under WAC 173-340-380. The PLP shall prepare two (2) copies of the DCAP and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for review and comment. Figures, diagrams or maps shall be submitted in the Geographic Information System shape file (.shp) format or AutoCAD file (.dwg) format.

After receiving Ecology's comments on the DCAP, if any, the PLP shall revise the DCAP to address Ecology's comments and submit ten (10) copies including one electronic copy each in Word (.doc) and Adobe (.pdf) formats.

TASK 6. PROGRESS REPORTS

The Port shall submit progress reports monthly. Progress reports shall be submitted to Ecology until satisfaction of the AO in accordance with Section IX of the AO. Progress Reports shall be submitted to the Ecology project coordinator by the 15th of the month following the reporting month, beginning with the first full month after the Agreed Order is executed. Ecology expects monthly reports and may allow quarterly reports when there is less work. If the 15th is a weekend or holiday, deliverables will 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 during the previous reporting period,
- Summaries of sampling and testing reports and other data reports received by the Port,
- 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 governments,
- 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.

EXHIBIT C – SCHEDULE OF DELIVERABLES

The schedule for deliverables described in Exhibit B of this Agreed Order is presented below. If at any time during the RI/FS/DCAP process unanticipated conditions or changed circumstances are discovered which might result in a schedule delay, the Port of Seattle shall bring such information to the attention of Ecology. Any requests for a schedule extension will be undertaken as required in this Agreed Order, Section VIII.K. (Extension of Schedule). Any completion times that fall on a holiday or weekend will be extended to the next working day.

Deliverables	Completion Times
Draft Remedial Investigation (RI)/Feasibility Study (FS) Work Plan, Sampling Plan (SAP), and Quality Assurance Project Plan (QAPP)	60 calendar days following effective date of this Agreed Order
Final RI/FS Work Plan, SAP, QAPP and Health and Safety Plan (HSP)	45 calendar days following receipt of Ecology's review comments on the draft RI/FS Work Plan, SAP and QAPP
Remedial Investigation Sampling Completed	12 months following Ecology's approval of the Final RI/FS Work Plan
Submit Validated Data to Ecology	Within 90 days following analysis
Draft RI Report	90 days following receipt of all validated data from RI Sampling
Final RI Report	45 calendar days following receipt of Ecology's review comments on the draft RI report
Draft FS Report	90 days following completion of the Final RI Report
Draft Final FS Report	45 calendar days following receipt of Ecology's review comments
2 nd Draft Final FS Report	60 calendar days following completion of the public comment period
Draft Responsiveness Summary and Final Feasibility Study	45 calendar days following public comment period
Final Responsiveness Summary	30 calendar days following receipt of Ecology's review comments
Draft Cleanup Action Plan (DCAP)	90 calendar days following completion of the Final FS Report
Progress Reports	The 15 th of every month beginning after the completion of the first full month after the effective date of this Agreed Order