

**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

In the Matter of Remedial Action by:

AGREED ORDER

Port of Tacoma, Former Kaiser Site
3400 Taylor Way
Tacoma, WA

No. DE - 5698

TO: Port of Tacoma
P.O. Box 1837 98401/3: 59
One Sitcum Plaza 98421
Tacoma, WA
Attn: John Wolfe

TABLE OF CONTENTS

I.	INTRODUCTION.....	2
II.	JURISDICTION.....	2
III.	PARTIES BOUND.....	2
IV.	DEFINITIONS.....	3
V.	FINDINGS OF FACT.....	5
VI.	ECOLOGY DETERMINATIONS.....	9
VII.	WORK TO BE PERFORMED.....	10
	A. Remedial Investigation/Feasibility Study (RI/FS) Work Plan.....	10
	B. Remedial Investigation/Feasibility Study Report.....	11
	C. Draft Cleanup Action Plan (DCAP).....	12
	D. Interim Action.....	13
VIII.	TERMS AND CONDITIONS OF ORDER.....	14
	A. Public Notice.....	14
	B. Remedial Action Costs.....	14
	C. Implementation of Remedial Action.....	15
	D. Designated Project Coordinators.....	15
	E. Performance.....	16
	F. Access.....	17
	G. Sampling, Data Submittal, and Availability.....	17
	H. Public Participation.....	19
	I. Retention of Records.....	20
	J. Resolution of Disputes.....	20
	K. Extension of Schedule.....	21
	L. Amendment of Order.....	23
	M. Endangerment.....	23
	N. Reservation of Rights.....	24
	O. Transfer of Interest in Property.....	24
	P. Compliance with Applicable Laws.....	25
	Q. Land Use Restrictions.....	26
	R. Financial Assurance for Remedial Action.....	27

S.	Periodic Review	31
T.	Indemnification	32
IX.	SATISFACTION OF ORDER.....	32
X.	ENFORCEMENT	32
EXHIBIT A: Site Diagram		
EXHIBIT B: Legal Description		
EXHIBIT C: Public Participation Plan		
EXHIBIT D: Applicable Permits and Substantive Requirements		
EXHIBIT E: Model Restrictive Covenant		
EXHIBIT F: References of Previous Reports and Documents		
EXHIBIT G: Financial Assurance Summary Table		

I. INTRODUCTION

The mutual objective of the State of Washington, Department of Ecology (Ecology) and the Port of Tacoma (Port) under this Agreed Order (Order) is to provide for remedial action at the Former Kaiser Aluminum and Chemical Corporation (Kaiser Aluminum) Site where there has been a release or threatened release of hazardous substances. This Order requires the Port to perform a Remedial Investigation and Feasibility Study (RI/FS), and prepare a Draft Cleanup Action Plan (DCAP), in accordance with Chapter 70.105D RCW and Chapter 173-340 WAC. Interim actions may be performed by the Port under this Order, as defined in Chapter 173-340-430. Ecology believes the actions required by this Order are in the public interest.

After successful completion of the Scope of Work identified in this Order, Ecology and the Port anticipate that preparation of a final cleanup action plan, and performance of final cleanup actions may be performed under a consent decree.

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 Chapter 70.105D RCW, Chapter 173-340 WAC shall control the meanings of the terms in this Order.

A. Site: The Site is referred to as Port of Tacoma Kaiser and is generally located at 3400 Taylor Way, Tacoma, WA. The Site is defined by the extent of contamination caused by the release of hazardous substances at the Site, except for releases of carcinogenic PAH compounds (cPAH) in wet scrubber sludge disposed of within the Wet Scrubber Sludge Management Area as designated for purposes of the July 12, 1990 Consent Decree in Pierce County Superior Court Docket No. 90-2-06209-6, and Stipulated First Amendment to Consent Agreement No. 90-2-06209-6, approved by the Court April 21, 1992. The Site is more particularly described in the Site Diagram (Exhibit A). 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 of Tacoma.

C. Potentially Liable Person (PLP): Refers to the Port of Tacoma.

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

E. Area of Concern (AOC): Refers to any area of the Site where a release of dangerous constituents (including dangerous waste and hazardous substances) has occurred, is occurring, is suspected to have occurred, or threatens to occur.

F. Cleanup Action Plan (CAP): Refers to the document issued by Ecology under WAC 173-340-360 which selects Site-specific remedial measures and specifies cleanup standards (cleanup levels, points of compliance, and other requirements for the remedial measures). Preparation of a Draft Cleanup Action Plan (DCAP) is one component of the scope of work to be addressed in this Order.

G. Cleanup Standards: Refers to the standards promulgated under RCW 70.105D.030(2)(e) and include (1) hazardous substance concentrations (cleanup levels) that protect human health and the environment, (2) the location at the Site where those cleanup levels must be attained (points of compliance), and (3) additional regulatory requirements that apply to a cleanup because of the type of action and/or the location of the Site.

H. Remedial Measure: Refers to any measure or action to control, prevent, or mitigate release(s) and/or potential release(s) of a hazardous substance (including dangerous waste) reviewed and approved by Ecology for the Site and set forth in a Site-specific CAP prepared in compliance with the requirements of Chapter 173-340 WAC, including WAC 173-340-360. Remedial measures may include interim actions as defined by Chapter 173-340 WAC. Interim actions will not necessarily be set forth in a Site-specific CAP.

I. Hazardous Substance: Refers to any constituent defined as a hazardous substance under RCW 70.105D.020(10). Dangerous wastes are included within the definition of hazardous substances under RCW 70.105D.020(10).

J. Dangerous Waste: Refers to any solid waste designated in WAC 173-303-070 through -100 as dangerous or extremely hazardous or mixed waste.

K. Feasibility Study (FS): Refers to the investigation and evaluation of potential remedial measures performed in accordance with the requirements of WAC 173-340-350.

L. Remedial Investigation (RI): Refers to a Site-wide investigation and characterization performed in accordance with the requirements of Chapter 173-340-350 WAC.

M. Compliance Monitoring: Refers to a remedial action that consists of monitoring as described in WAC 173-340-410.

N. Institutional Controls: Refers to measures undertaken to limit or prohibit activities that may interfere with the integrity of an interim action or a cleanup action or result in exposure to hazardous substances at the site. For examples of institutional controls see WAC 173-340-440(1).

O. Solid Waste Management Unit (SWMU): Refers to any discernable location at a facility where solid wastes have been placed at any time, irrespective of whether the location was intended for the management of solid or dangerous waste. Such locations include any area at a facility at which solid wastes, including spills, have been routinely and systematically released. Such units include regulated units as defined by Chapter 173-303 WAC.

P. Facility: Means the same as "Site".

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 US Department of Defense/Olin Corporation built the smelter in 1941 for WW II military aluminum production. Records indicate the government operated the plant until 1945; it then sat idle until sold to Kaiser Aluminum in 1947.

B. Kaiser Aluminum operated the aluminum smelter between 1947 and 2000 (with occasional curtailments). The facility's Rod Mill was operated by Kaiser Aluminum until 2001, using molten aluminum imported from Kaiser's Spokane WA facility. In 2002 the entire facility was permanently decommissioned by Kaiser Aluminum.

C. The size of the property varied over time. At the time of permanent decommissioning the parcel totaled approximately 96 acres, as described in Exhibit B.

D. Prior to and during Kaiser Aluminum's operation of the aluminum smelter and Rod Mill facility on the Site, there were numerous releases of hazardous substances to the soil and groundwater. Various remedial investigation or site characterization studies, and cleanup projects, have been performed at the Site and are documented in the following reports (Note: This list is not all inclusive. A more comprehensive list is found in Exhibit F):

- Annual Groundwater monitoring reports for monitoring wells around the Former Wet Scrubber Sludge Ponds.
 - Summary of Findings Former Kaiser Aluminum Log Yard, Tacoma, WA, Kennedy / Jenks Consultants, July 2005.
 - Geotechnical Engineering Services Kaiser Wet Scrubber Sludge Consolidation Area, Port of Tacoma, GeoEngineers, Inc., April 2004.
 - Supplemental Soil Investigation Report, Rectifier Yard, Former Kaiser – Tacoma Facility, Tacoma, WA, Landau Associates, January, 2005.
 - Port of Tacoma – Kaiser Facility Building #65 RCRA Decontamination Report, Sterling Technologies, LLC, September 2007.
 - Interim Action Completion, Stormwater Conveyance Ditch Cleanup Action, Rod Mill Area – Former Kaiser Property, Kaiser Redevelopment Project E2223, Tacoma, WA, Landau Associates, November 2009.
 - Interim Action Completion, Roof Drainage Area Cleanup Action, Rod Mill Area – Former Kaiser Property, Kaiser Redevelopment Project E2223, Tacoma, WA, Landau Associates, November 2009.
- E. Areas of the Site that have had documentation of contamination of soil or groundwater above MTCA cleanup levels (CULs) include:
- Spent Pot Lining (SPL) Area: SPL is present in the subsurface within the SPL Area. Cyanide and cPAHs associated with the SPL have been detected in soil, and cyanide has been detected in groundwater. Future remedial measures are anticipated within this area.
 - Rod Mill Area Former Landfill: The Rod Mill Area former Landfill is located within an area used by Kaiser aluminum in the early 1980's as a source of soil borrow. The resulting "pit" was then used by Kaiser Aluminum for the disposal of various plant-related wastes. Investigations in 2003 and 2004 indicated the

presence of petroleum hydrocarbons, semi-volatile organic compounds, PCBs and metals in soil. Future remedial measures are anticipated within this area.

- **Rectifier Yard Area:** In 1984 PCBs were identified in soil within the Rectifier Yard Area at concentrations above the MTCA CULs for industrial properties. Investigations in 2003 and 2004 identified petroleum hydrocarbons (transformer oil) above MTCA industrial CULs, but did not identify exceedances of MTCA industrial CULs for PCBs. A supplemental investigation in 2008 found no exceedances of MTCA industrial CULs for petroleum hydrocarbons or PCBs. While it does not appear that further remedial action is warranted within the Rectifier Yard Area at this time, the RI/FS will further assess this location.
- **Former Wet Scrubber Sludge Ponds:** Remedial actions at the Former Wet Scrubber Sludge Ponds were addressed in 1990 to 1992, consistent with the consent decree noted in section IV. A. of this Order. Long term groundwater monitoring is on-going at this location.
- **Former Log Yard Area:** The Log Yard Area at the former Kaiser site was located along the north margins of the property and contained a log sorting operation for a brief period of time in the early 1980's. Arsenic impacts to site soil and groundwater, most likely from Asarco slag used as ballast rock, are present in site soil and groundwater, but are relatively minor. In 2007 the Port placed several feet of clean fill throughout the area, effectively isolating the log yard wastes. While it does not appear that additional remedial measures are warranted within the Log Yard Area at this time, the RI/FS will further assess conditions at this location.
- **Rod Mill Demister Oil Area:** Surficial soil staining was historically observed adjacent to roof downspouts on the northwest side of the former Rod Mill building, as a result of oil released from a roof mounted demister. Concentrations of cPAHs in shallow stained soil exceeded CULs; however, deeper soil was not

impacted and investigation results indicated the oil had not reached groundwater. About 850 tons of soil was removed from the area in 2008; confirmation samples demonstrated that remaining soil met CULs for cPAHs and diesel and oil-range petroleum hydrocarbons. Based on the current data, additional remedial measures do not appear warranted within the Demister Oil Area. The RI/FS will reevaluate the data to assess the validity of this conclusion.

- Rod Mill Area Stormwater Ditch, South and East Sides: Data from investigations in 2003 and 2008 indicated cPAHs were present in soil at concentrations above the CULs within this ditch. About 180 tons of soil was removed from this location in 2008; confirmation samples demonstrated that remaining soil met CULs for cPAHs. Based on current data, additional remedial measures do not appear warranted within the former Stormwater Ditch along the south and east sides of the former Rod Mill. The RI/FS will reevaluate the data to assess the validity of this conclusion.

F. Constituents of concern that have been identified at the Site include polynuclear aromatic hydrocarbons (PAH), petroleum hydrocarbons, polychlorinated biphenyls (PCB), heavy metals, and cyanide.

G. The Port purchased the property described in Exhibit B on February 10, 2003. On that same date the Port submitted a revised Part A Permit Application for the “Closed Waste Pile Area” (the SPL Area) at the former Kaiser Tacoma Works Site (WAD 001882984) to Ecology, reflecting a transfer in ownership of the Site from Kaiser Aluminum to the Port of Tacoma.

H. Although various remedial actions have already been undertaken at the site, an area of continuing concern is the SPL Area. This area was used from 1942 to 1985 to rebuild reduction cell cathodes, to store SPL, and, occasionally, to store pot room duct dust (particulates removed from pot room air control system duct work) and other materials such as anode fragments, gutter cleanout wastes, refractory brick and aluminum pads. Between 1942 and 1967, SPL and the other materials were stored on the unpaved ground surface. Releases of SPL and

other PAH/carbon containing materials occurred prior to and may have occurred following the construction of the SPL “management unit” in 1967. The SPL management unit, including concrete pad, runoff sump, storage tanks, and associated piping, was constructed within the SPL area and operated until 1985. In 1985 Kaiser ceased operations at the SPL management unit and moved the reduction cell rebuilding activity indoors to former Kaiser Aluminum building no. 65. The concrete pad, storage tanks, leachate treatment tank, and ancillary pumps and piping were decommissioned by Kaiser Aluminum in late 2002, per an Ecology-reviewed closure plan. The SPL management unit was a dangerous waste management unit as defined by Chapter 173-303 WAC.

VI. ECOLOGY DETERMINATIONS

A. The Port is an "owner or operator" as defined in RCW 70.105D.020(17) of a "facility" as defined in RCW 70.105D.020(5).

B. 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 on credible evidence, Ecology issued a PLP status letter to the Port dated June 8, 2010, pursuant to RCW 70.105D.040 & .020(21), and WAC 173-340-500. By letter dated June 18, 2010, the Port voluntarily waived its rights to notice and comment and accepted Ecology’s determination that the Port is a PLP under RCW 70.105D.040.

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

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, RI/FS or design of a cleanup action. Depending upon the outcome of the RI/FS, Ecology may determine that an interim action consistent with WAC 173-340-430 is warranted.

F. In the SPL Area, a dangerous waste unit was situated among other solid waste management units, a release has occurred, and both the dangerous waste unit and the SWMUs are likely to have contributed to the release.

G. Pursuant to WAC 173-303-400(3) and 40 CFR 265.110(d)(1), the cleanup requirements of Chapter 173-340 WAC will serve to meet the alternative requirements for closure and post closure of the SPL Area and will protect human health and the environment.

H. Pursuant to WAC 173-303-400(3) and 40 CFR 265.140(d), the financial assurance requirements in Section VIII.R. of this Order will serve to meet the alternative requirements for financial assurance for closure and post closure for the SPL Area and will protect human health and the environment.

I. Pursuant to WAC 173-303-400(3) and 40 CFR 265.90(f), the groundwater monitoring requirements of Chapter 173-340 WAC will serve to meet the alternative requirements for groundwater monitoring for the SPL Area and will protect human health and the environment.

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 Chapter 173-340 WAC unless otherwise specifically provided for herein:

A. Remedial Investigation/Feasibility Study (RI/FS) Work Plan

Scope of Work

a. Based on investigations conducted to date, various parties have gathered data to partially or wholly meet the requirements for a remedial investigation necessary to determine the

extent and nature of the contaminants identified on the Site within discrete areas, pursuant to WAC 173-340-350(7). Data from these investigations are reported in the documents listed in Section V (Findings of Fact) and Exhibit F. Additional soil and groundwater investigation shall be conducted to fill data gaps and complete the documentation of the extent and character of contamination within the various locations at the Site. Plans to conduct the additional investigation shall be provided in a Draft RI/FS Work Plan, submitted to Ecology for review and approval. The Draft RI/FS Work Plan shall include a Sampling and Analysis Plan, QA/QC procedures, a Health and Safety Plan, and provisions for progress reports. The information from the various reports of investigations shall be compiled into one comprehensive RI/FS Report that meets the expectations of WAC 173-340-350. Information shall also be provided that discusses the fate and transport of contamination.

b. Schedule: The Port shall submit a compilation of existing reports and draft information to Ecology within ninety (90) days of the effective date of this Order. Within thirty (30) days of the receipt of Ecology's comments on the submittal, the Port shall provide a final compilation report. In order to fill any remaining data gaps, the Port shall submit a draft RI/FS Work Plan to Ecology for review and approval within sixty (60) days of the final compilation report submittal date. The Port shall then submit a final RI/FS Work Plan to Ecology for review and approval within thirty (30) days of the receipt of Ecology's comments.

B. Remedial Investigation/Feasibility Study Report

Scope of Work

a. RI/FS: Based on the results of the RI/FS investigations and previous relevant reports and studies the Port shall prepare a draft RI/FS report in accordance with WAC 173-340-350 that provides information adequately documenting the nature and extent of contamination at the Site. The draft RI/FS shall report the results of remedial investigations at the Site including vertical and lateral distribution of contaminants in soil and groundwater and concentrations of COCs in both media. Additionally, the report shall include an analysis of potential remedial

alternatives and recommendations regarding preferred remedial actions to be implemented. Cost estimates and time frames for completion shall be included in the analysis of alternatives.

b. Schedule: The Port shall submit the draft RI/FS report to Ecology for review and approval within sixty (60) days of completing the remainder of the Remedial Investigation. The Port shall submit a final RI/FS report to Ecology for review and approval within thirty (30) days of the receipt of Ecology's comments.

C. Draft Cleanup Action Plan (DCAP)

Scope of Work

a. Upon Ecology approval of the final RI/FS report, the Port shall prepare a DCAP in accordance with WAC 173-340-380 that details the proposed cleanup measures for addressing contamination present on the Site, and addresses the requirements for developing a cleanup action in accordance with WAC 173-340-350 through 173-340-390, including Ecology's expectations for cleanup alternatives in WAC 173-340-370.

b. DCAP: The DCAP shall meet the requirements of WAC 173-340-380, and include a description of the proposed cleanup action, cleanup standards from the RI/FS and a rationale regarding their selection, a proposed schedule for implementation, description of any institutional controls proposed, and a summary of federal, state and local laws that are applicable to the proposed cleanup action. The DCAP shall include QA/QC procedures, a Health and Safety Plan, provisions for progress reports, and compliance sampling and monitoring plans. The proposed cleanup measures shall meet the requirements of WAC 173-340-360.

c. Schedule: The Port shall submit the DCAP to Ecology for review within sixty (60) days of Ecology's review and acceptance of the final RI/FS.

D. Interim Action

Scope of Work

a. If an interim action is deemed necessary to abate an emergency condition that threatens human health or the environment, or that will substantially improve the efficacy of the final cleanup, the Port shall submit to Ecology a work plan that describes the anticipated scope of work and expected costs and time frames for completion. Any proposed interim action shall be designed and executed in accordance with WAC 173-340-430 and shall not foreclose reasonable alternatives for the final cleanup action.

b. Interim Action: The work will consist of activities approved by Ecology as proposed in a work plan submitted to Ecology.

c. Schedule: Prior to implementing an interim action, the Port shall provide to Ecology for review and approval a work plan to implement an interim action. In accordance with Section VIII.P of this Order, the work plan shall also identify any federal, state or local requirements applicable to this action, including any state or local permits or approvals that are procedurally exempt under RCW 70.105D.090. Once approved by Ecology, the interim action shall be performed in accordance with the work plan and schedule provided in the work plan.

Each deliverable, once approved by Ecology, becomes an integral and enforceable part of this Order and shall be in accordance with WAC 173-340-350(7)(c)(iv).

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 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). Ecology has accumulated \$50,053.83 in remedial action costs related to this facility as of 4/30/2010. Payment for this amount shall be submitted within thirty (30) days of the effective date of this Order. For all costs incurred subsequent to 4/30/2010, 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.

The Port must continuously consider and evaluate information regarding releases, suspected releases, or potential releases of hazardous substances, including dangerous waste and dangerous constituents as defined by WAC 173-303-64610(4), at the Site. The Port must notify Ecology's designated project coordinator, in writing, of any newly-identified areas of concern (AOCs) at or from the Site, no later than fifteen (15) days after discovery.

D. Designated Project Coordinators

The project coordinator for Ecology is:

Marv Coleman, Site Manager / Inspector

P.O. Box 47775

Olympia, WA 98504-7775

360.407.6259

The project coordinator for the Port of Tacoma is:

Bill Evans, Environmental Project Manager

P.O. Box 1837

Tacoma, WA 98401

253.593.4563

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 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 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

By signing this Order, the Port grants Ecology or any Ecology authorized representative 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. Pursuant to oversight of activities conducted under this Order, Ecology or any Ecology authorized representative shall attempt to 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 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.

The Port's initial drafts of the RI/FS and DCAP shall be submitted to Ecology in Microsoft Office 2007 electronic format. Upon receipt of Ecology's "track changes" comments on the initial drafts, the Port shall submit final drafts of the RI/FS and DCAP to Ecology in pdf electronic format for distribution during the Public Comment period. Following the Public Comment period, and after comments have been addressed, the final versions of the RI/FS and DCAP shall be submitted to Ecology in pdf electronic format; five (5) hard copies of both documents will also be provided. Three (3) of the five hard copies are intended for distribution to the repositories cited in Section VIII. H. of this Order.

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 unless an emergency prevents such notice. The Port shall notify Ecology within 24 hours of such emergency sampling. 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 an 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 and draft 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. Citizens for a Healthy Bay
917 Pacific Avenue, Suite 100
Tacoma, Washington 98402
253/383-2429

- b. Ecology's Southwest Regional Office
300 Desmond Drive SE
Lacey, Washington 98503
360/407-6300
- c. Tacoma Public Library – Main Branch
Northwest Room
1102 Tacoma Avenue South
Tacoma, WA 98402

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.

For any proposal under Section VII (Work to Be Performed) that includes activities that require preparation of a State Environmental Policy Act (SEPA) checklist, the Port must prepare a SEPA checklist per Chapter 197-11 (SEPA Rules). Such activities may include demolishing or constructing structures, excavating or filling, and capping contaminated soils.

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.

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 Southwest 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. Except when required by WAC 173-303-830(4)(i)(N)(5) to incorporate a substantial change requiring public comment under WAC 173-340-600, 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).

Copies of all correspondence pursuant to this Section must be kept in the Site's operating record.

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

O. Transfer of Interest in Property

No voluntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Site shall be consummated by the 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.

If there is a lessee(s) on the Site at the effective date of this Order, the Port shall serve a copy of this Order upon any current lessee(s) within fifteen (15) days of the effective date of this Order. Within thirty (30) days of the effective date of this Order, the Port shall amend the current lease(s), if necessary, to ensure that Ecology, any authorized representative of Ecology, or any party or entity directed or authorized by Ecology, has access to all property at the Site that the Port either owns, controls, or has access rights to at all reasonable times for the purpose of investigating and remediating the release of hazardous substances at the Site, consistent with Section VII of this Order.

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. The permits or specific federal, state or local requirements that the agency has determined are applicable and that are known at the time of entry of this Order have been identified in Exhibit D.

2. Pursuant to RCW 70.105D.090(1), the Port 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 Port shall comply with the substantive requirements of such permits or approvals. The exempt permits or approvals and the applicable substantive requirements of those permits or approvals, as they are known at the time of entry of this Order, have been identified in Exhibit D.

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 federal, state and/or local agencies. If Ecology so requires, the Port shall promptly consult with the appropriate federal, 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. Land Use Restrictions

Based on the remedial action required pursuant to this Order, Ecology may determine that an Environmental Covenant is required for the Site. If Ecology makes such a determination, the Port shall record an Environmental Covenant (Exhibit E) with the office of the Pierce County Auditor within ten (10) days of the completion of the remedial action. The Environmental

Covenant shall restrict future uses of the Site. The Port shall provide Ecology with a copy of the recorded Restrictive Covenant and proof of filing within thirty (30) days of the recording date.

R. Financial Assurance for Remedial Action

1. Ecology's Financial Assurance Officer shall determine when The Port's actions and submissions meet the financial assurance requirements of this Order.

2. The Port must submit the original executed or otherwise finalized financial assurance instruments or documents to Ecology's Financial Assurance Officer; facsimiles or photocopies are not acceptable to meet this requirement.

3. Unless otherwise specified, the definitions and requirements for allowable financial assurance mechanisms set forth in the current financial assurance rules covering RCRA closure and post-closure (40 CFR 265.141, 40 CFR 265.142, 40 CFR 265.143, 40 CFR 265.144, 40 CFR 265.145, 40 CFR 265.151, and WAC 173-303-620) will be the definitions and requirements for allowable financial assurance for remedial action under this Order. It is the intention of the Parties that these definitions and requirements will apply to this remedial action, and the words "remedial action" are hereby substituted for the words "closure" or "post closure" in the above listed regulations as needed to produce this result.

4. Ecology's Financial Assurance Officer may use the following resources as guidance:

a. The Financial Assurance for Corrective Action Proposed Rule, 51 FR 37853 (October 24, 1986);

b. The financial assurance provisions of Corrective Action for Releases from Solid Waste Management Units Advance Notice of Proposed Rulemaking, 61 FR 19432 (May 1, 1996); and

c. The Interim Guidance on Financial Responsibility for Facilities Subject to RCRA Corrective Action (U.S. EPA, September 30, 2003); or

d. Any other guidance applicable to financial assurance and remedial or corrective action that may be available at the time.

The financial assurance provisions of the Remedial Action for Solid Waste Management Units at Hazardous Waste Management Facilities, 55 FR 30798 (July 27, 1990), may be used as secondary guidance at the discretion of Ecology. Unless otherwise specified herein, where the language of this Order conflicts with these rules, proposed rules, notices, and guidance documents, the language of this Order will prevail.

5. Within thirty (30) days from the effective date of this Order, the Port must submit to Ecology for review and approval a written cost estimate to cover remedial activities outlined in Section VII (Work to Be Performed), including compliance monitoring and institutional controls. If Ecology rejects the Port's cost estimate as submitted, Ecology shall provide to the Port a revised cost estimate amount that will be the approved cost estimate. Ecology will, if requested by the Port in writing, provide a written explanation of the variance between the Port's proposed cost estimate and Ecology's approved cost estimate. Within thirty (30) days after Ecology's final approval of the Port's cost estimate amount or the Port's receipt of Ecology's approved cost estimate amount, the Port must establish and maintain continuous coverage of financial assurance in the amount of the approved cost estimate and submit the applicable financial assurance documentation. If Ecology does not accept, reject, or revise the Port's cost estimate within sixty (60) days after submittal, the Port's cost estimate will be deemed approved for purposes of this Order condition. A cost estimate approved per the terms of this Order will replace any pre-existing cost estimate. Ecology reserves the right to review and revise the Port's cost estimate after the 60-day review period. If Ecology revises the Port's cost estimate after the 60-day review period, the Port must provide an updated financial assurance instrument within sixty (60) days after the revision. If the Port disagrees with Ecology's cost estimate, they may enter into "Resolution of Dispute" procedures pursuant to Section J (Resolution of Disputes).

6. If the Port is required to submit an additional work plan(s) under this Order, or to conduct activities related to remedial action not previously part of the original cost estimate, the process outlined in Section VIII.Q.5 above will apply in the submission process of an additional work plan(s).

7. If the Port believes that the estimated cost of work to complete activities under this Order has diminished below the amount covered by existing financial assurance provided under this Order, the Port may submit a written proposal to Ecology to reduce the amount of the financial assurance provided under Section Q so that the amount of the financial assurance is equal to the estimated cost of the remaining work to be performed. The written proposal must specify, at a minimum, the cost of the remaining work to be performed and the basis upon which such cost was calculated. If Ecology decides to accept such a proposal, Ecology will notify the Port of its decision in writing. After receiving Ecology's written decision, the Port may reduce the amount of financial assurance only in accordance with and to the extent permitted by such written decision. Within thirty (30) days after receipt of Ecology's written decision, the Port must submit the applicable financial assurance documentation. No change to the form or terms of any financial assurance provided under Section Q, other than a reduction in amount, is authorized under this Section.

8. Within thirty (30) days of written notice that Ecology has selected a final remedy, the Port must prepare a detailed written estimate of the cost for the remaining amount of work to be completed under this Order including, but not limited to, implementation of the final remedy, compliance monitoring, and institutional controls, and submit the same to both Ecology's Financial Assurance Officer and Project Coordinator for review and approval. The process outlined in Section VIII.Q.5 will apply in the submission of cost estimates.

9. All cost estimates must be based on the costs to the owner or operator of hiring a third party to complete the work. A third party is neither a parent nor a subsidiary of the Port. On a case-by-case basis, Ecology may also determine that an affiliate or a company which shares a common higher-tier corporate parent or subsidiary might not qualify as a third party. A cost

estimate may not incorporate any salvage value that may be realized with the sale of wastes, Site structures or equipment, land, or other assets associated with the Site. The Port may also not incorporate a zero cost for wastes that might have economic value.

10. The Port must annually adjust all cost estimates for inflation.

11. Acceptable financial assurance mechanisms are trust funds, surety bonds, letters of credit, insurance, the financial test, and the corporate guarantee. Ecology may allow other financial assurance mechanisms if they are consistent with the laws of Washington and if the Port demonstrates to the satisfaction of Ecology that those mechanisms provide adequate financial assurance.

12. If the Port is using the financial test or corporate guarantee to meet its financial assurance obligation, the annual inflationary adjustment must occur by March 31 of each year. If the Port is using any mechanism other than the financial test or corporate guarantee, this adjustment must occur each year within thirty (30) days after the anniversary of the effective date of this Order.

13. If the Port seeks to establish financial assurance by using a surety bond for payment or a letter of credit, the Port must at the same time establish and thereafter maintain a standby trust fund acceptable to Ecology into which funds from the other financial assurance instrument can be deposited, if the financial assurance provider is directed to do so by Ecology, pursuant to the terms of this Order.

14. The Port must notify Ecology's Project Coordinator and Financial Assurance Officer by certified mail of the commencement of a voluntary or involuntary bankruptcy proceeding, naming the Port as debtor, within ten (10) days after commencement of the proceeding. A guarantor of a corporate guarantee must make such a notification if it is named as debtor as required under the terms of the corporate guarantee.

a. Once the Port has established financial assurance with an acceptable mechanism as described above, the Port will be deemed to be without the required financial assurance:

1. In the event of bankruptcy of the trustee or issuing institution; or
2. If the authority of the trustee institution to act as trustee has been suspended or revoked; or
3. If the authority of the institution issuing the surety bond, letter or credit, or insurance policy has been suspended or revoked.

b. In the event of bankruptcy of the trustee or a suspension or revocation of the authority of the trustee institution to act as a trustee, the Port must establish a replacement financial assurance mechanism or other financial instrument as approved by Ecology within sixty (60) days after such an event.

15. Ecology's Financial Assurance Officer is:

Kimberly Goetz

Department of Ecology

Hazardous Waste and Toxics Reduction Program

P.O. Box 47600

Olympia, Washington 98504-7600

Telephone: (360) 407-6754

FAX: (360) 407-6715

E-mail: kimberly.goetz@ecy.wa.gov

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 interim actions or remedial measures 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. 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

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:

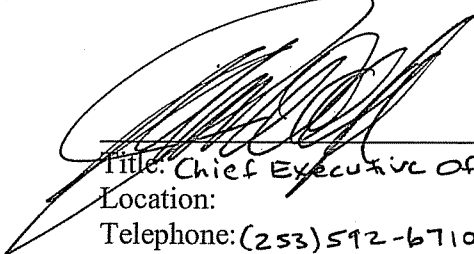
a. Up to three (3) times the amount of any costs incurred by the State of Washington as a result of its refusal to comply; and

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.

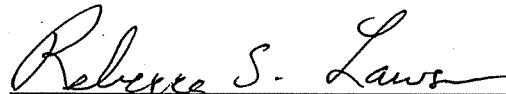
Effective date of this Order: May 23rd, 2011

PORT OF TACOMA



Title: Chief Executive Officer
Location:
Telephone: (253) 512-6710

**STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY**



Section Manager
Toxics Cleanup Program
SWRO Regional Office
Telephone: 360.407.6241

EXHIBIT A
SITE DIAGRAM

EXHIBIT A – Site Diagram

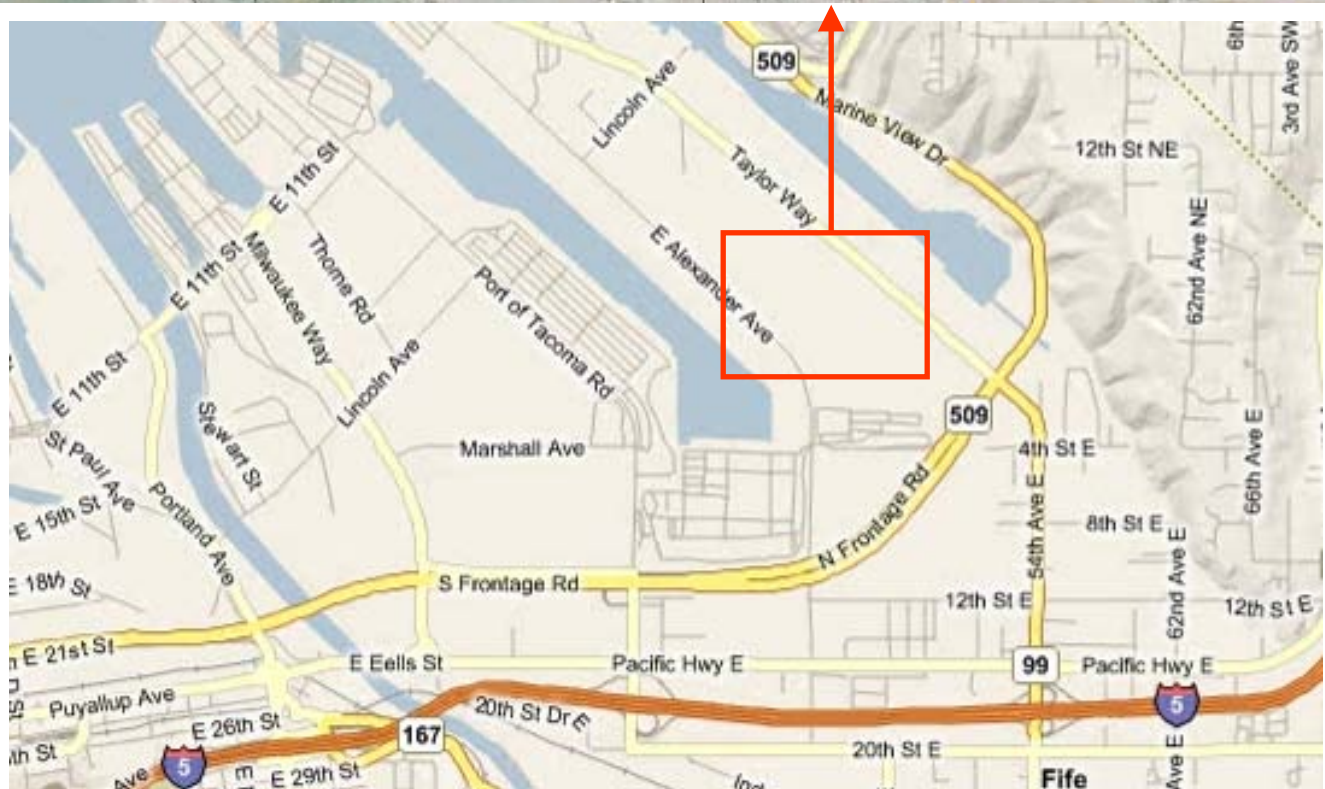
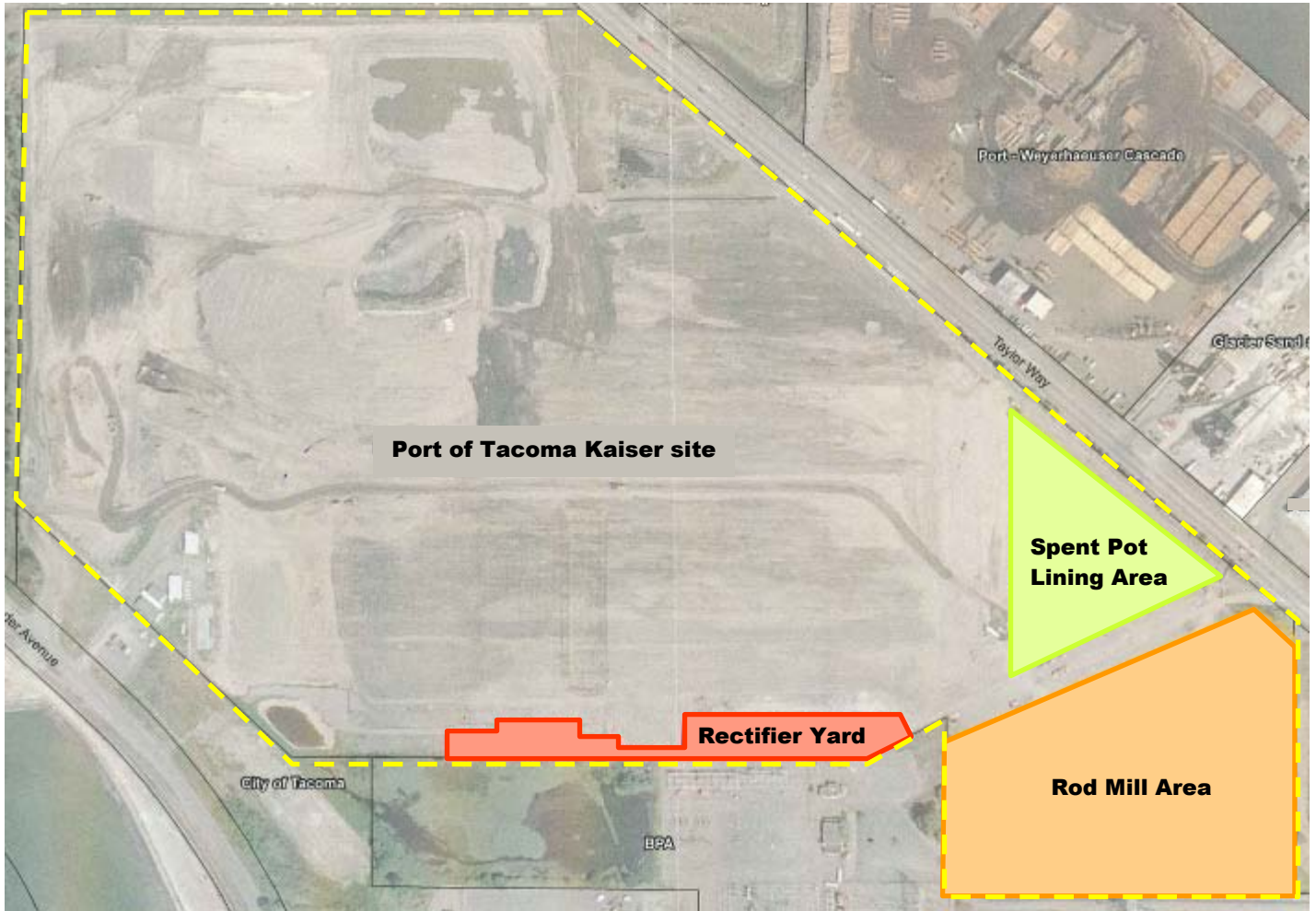


EXHIBIT B

LEGAL DESCRIPTION

PARCEL A:

THAT CERTAIN PROPERTY SITUATED IN THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER AND THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 21 NORTH, RANGE 3 EAST OF THE W.M., AS SHOWN ON A CERTAIN PIERCE COUNTY RECORD OF SURVEY DRAWING RECORDED UNDER AUDITOR'S NO. 8512030273 IN PIERCE COUNTY, WASHINGTON, LYING SOUTHWESTERLY OF THE SOUTHERLY RIGHT OF WAY LINE OF TAYLOR WAY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH LINE OF SAID SECTION 36, BEING THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER (THE SOUTH QUARTER CORNER) OF SAID SECTION 36; THENCE NORTH 89°00'20" WEST, 163.91 FEET ALONG THE SOUTH LINE OF SAID SECTION 36; THENCE NORTH 00°02'09" EAST, 416.30 FEET ALONG THE EAST LINE OF BONNEVILLE POWER ADMINISTRATION SUBSTATION SITE (BPA) PROPERTY RECORDED UNDER AUDITOR'S NO. 1378605; THENCE SOUTH 63°32'10" WEST 211.50 FEET ALONG THE NORTHEASTERLY LINE OF SAID BPA'S PROPERTY; THENCE CONTINUING NORTH 89°57'51" WEST, 1172.22 FEET ALONG THE NORTH LINE OF SAID BPA'S PROPERTY TO THE NORTHWEST CORNER OF SAID BPA PROPERTY, SAID POINT BEING THE NORTHEAST CORNER OF A TRACT OF LAND CONVEYED TO THE PORT OF TACOMA, RECORDED UNDER AUDITOR'S NO. 1919462; THENCE CONTINUING NORTH 89°57'51" WEST 189.18 FEET ALONG THE NORTH LINE OF PORT OF TACOMA PROPERTY; THENCE NORTH 47°16'01" WEST 829.39 FEET ALONG THE NORTHEASTERLY PROPERTY LINE OF THE PORT OF TACOMA, RECORDED UNDER AUDITOR'S NO. 1919462 TO THE EAST LINE OF A TRACT OF LAND CONVEYED TO THE PORT OF TACOMA, RECORDED UNDER AUDITOR'S NO. 8110260223; THENCE NORTH 01 °14'50" EAST, 757.30 FEET

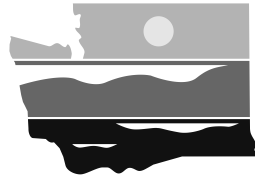
PARALLEL WITH THE WEST LINE OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 36, TO THE SOUTHWEST CORNER OF A TRACT OF LAND CONVEYED TO KAISER ALUMINUM AND CHEMICAL CORPORATION RECORDED UNDER AUDITOR'S NOS. 8110260224 AND 1440041; THENCE NORTH 00°00'00" EAST 411.54 FEET ALONG THE WEST LINE OF SAID KAISER ALUMINUM'S PROPERTY, AUDITOR'S NO. 8110260224 TO THE NORTHWEST CORNER OF SAID TRACT OF LAND; THENCE NORTH 90°00'00" EAST, 1319.70 FEET ALONG THE NORTH LINE OF SAID PROPERTY, TO THE SOUTHERLY RIGHT OF WAY LINE OF TAYLOR WAY; THENCE SOUTH 49°19'39" EAST, 678.23 FEET ALONG THE SOUTHERLY RIGHT OF WAY LINE OF SAID TAYLOR WAY, TO A BRASS PLUG MONUMENT AT THE INTERSECTION OF THE SOUTHERLY RIGHT OF WAY LINE OF TAYLOR WAY WITH THE NORTHERLY LINE OF THE SOUTH ~HALF OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 36, AS DESCRIBED IN AUDITOR'S NO. 8110260224; THENCE CONTINUING SOUTH 49°19'39" EAST, 1549.37 FEET ALONG THE SOUTHERLY RIGHT OF WAY LINE OF SAID TAYLOR WAY TO THE EAST LINE OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 36; THENCE SOUTH 00°43'04" WEST, 651.47 FEET ALONG THE EAST LINE OF THE WEST HALF OF SAID SUBDIVISION TO THE SOUTH LINE OF SECTION 36; THENCE NORTH 89°42'41" WEST, 647.71 FEET ALONG THE SOUTH LINE OF SAID SECTION 36 TO THE SOUTH QUARTER CORNER OF SAID SECTION 36, TOWNSHIP 21 NORTH, RANGE 3 EAST OF THE W.M., AND THE POINT OF BEGINNING.

PARCEL B:

A NON-EXCLUSIVE EASEMENT FOR THE PURPOSE OF PLACEMENT, OPERATION AND MAINTENANCE OF A DRAINAGE PIPE-AS GRANTED BY INSTRUMENT RECORDED UNDER RECORDING NUMBER 9309220180.

SITUATE IN THE CITY OF TACOMA, COUNTY OF PIERCE, STATE OF WASHINGTON.

EXHIBIT C
PUBLIC PARTICIPATION PLAN



DEPARTMENT OF
ECOLOGY
State of Washington

PUBLIC PARTICIPATION PLAN

**Port of Tacoma Kaiser Site
3400 Taylor Way
Tacoma, Washington**

Prepared by
Washington State Department of Ecology
Southwest Regional Office
Toxics Cleanup Program
PO Box 47775
Olympia, Washington 98504-7775

March / 2011

Table of Contents

INTRODUCTION 3

LOCATION AND SITE BACKGROUND 3

 Site Contamination 3

 Cleanup Activities..... 3

SITE CLEANUP PROCESS..... 4

PUBLIC PARTICIPATION ACTIVITIES AND RESPONSIBILITIES..... 4

 Formal Public Comment Periods..... 5

 Public Meetings and Hearings 5

 Information Repositories 5

 Site Register..... 5

 Mailing List 6

 Fact Sheets 6

 Newspaper Display Ads..... 6

 Plan Update 6

 Contacts 6

GLOSSARY 8

INTRODUCTION

Department of Ecology has developed this Public Participation Plan to promote meaningful community involvement during the investigation and cleanup of the Port of Tacoma Kaiser site. This plan describes the tools that Ecology uses to inform the public about site activities and identify opportunities for the community involvement.

LOCATION AND SITE BACKGROUND

The Kaiser site consists of 96 acres in the Tacoma tideflats, at 3400 Taylor Way (see map on page 6). The Department of Defense and Kaiser Aluminum Company operated an aluminum smelter and manufacturing plant on the property for over 60 years. During that time contaminants were released to soil, air and water. From about the 1950's to when the plant closed in 2002, Kaiser Aluminum installed many pollution control systems and did several cleanups called Interim Actions. In 2003, the Port of Tacoma bought the site. Since 2003 the Port of Tacoma (Port) has demolished the smelter, done additional interim cleanup work and filled approximately 80 of the 96 acres. The port is now finishing the cleanup actions so the site can be put back into productive use.

Site Contamination

The aluminum smelting process created several kinds of contamination around the site (see map on page 6 for three of those areas). Spent pot liner is the major contaminant remaining on the site. Kaiser smelted aluminum in large metal pots lined with an asphalt-like substance. Over time, the lining broke down and had to be replaced. This spent pot liner was put on the bare ground, leaving polycyclic aromatic hydrocarbon and cyanide contamination in the soil. The Port will be addressing this area during the cleanup actions.

Two other areas of the site include:

- **Rectifier yard:** Electrical equipment in this area leaked transformer oil which contained small amounts of polychlorinated biphenyls (PCBs). PCBs are a mix of chemicals no longer made in the United States. However, they do not break down easily and stay in the environment for a long time.
- **Rod mill:** Kaiser formed some of their aluminum into continuously formed rods for sale. This was done at the rod mill. This area had several contaminants: petroleum hydrocarbons; carcinogenic polycyclic aromatic hydrocarbons; PCBs; and heavy metals. The Port removed over 1,000 tons of contaminated soils from parts of the rod mill area in 2008. The rod mill area also contains a small landfill created by Kaiser. The landfill will be addressed by the Port during the final cleanup actions.

Cleanup Activities

Cleanup activities at the Kaiser site fall under Washington's Model Toxics Control Act (MTCA) and accompanying regulations. MTCA has procedures for the cleanup of

contaminated sites to standards that are safe for both human health and the environment. Ecology is responsible for implementing and enforcing MTCA. For more information, visit Ecology's website: <http://www.ecy.wa.gov/biblio/ftc94129.html>.

Under the current Agreed Order with Ecology, the Port of Tacoma will finish investigating contamination at the site, with a focus on the spent pot liner contamination. The port must then write a Remedial Investigation and Feasibility Study report, which describes all contamination at the site and evaluates cleanup options. This report will include information from the spent pot liner and rod mill areas, and the rectifier yard. The port will then draft a Cleanup Action Plan, which outlines the final cleanup steps.

SITE CLEANUP PROCESS

Toxic sites are cleaned up in stages, described below. Each stage has a related report or plan that the public is welcome to review and comment on.

Remedial Investigation & Feasibility Study (RI/FS) - The RI/FS looks at the extent and type of pollution on the site. It is used to evaluate possible human health and environmental impacts, and to find cleanup alternatives.

Interim Actions - Ecology may sometimes take Interim Actions to partially clean up a site before the final cleanup plan is complete.

Cleanup Action Plan (CAP) - The CAP describes the cleanup methods and how they will meet Ecology's cleanup standards.

Cleanup - Toxic substances are removed from the site, contained on the site, or treated to make them less toxic. Ecology will make sure that the CAP has been followed and can require that the site be monitored. Major changes to the CAP require a public notice before they can be finalized.

Delisting - Ecology keeps track of toxic cleanup sites on the Hazardous Sites List. Once cleanup is complete, the public will have a chance to comment before a site is taken off the list.

More information about toxic cleanups is available on Ecology's Web site: http://www.ecy.wa.gov/programs/tcp/cu_support/cu_process_steps_defns.htm.

PUBLIC PARTICIPATION ACTIVITIES AND RESPONSIBILITIES

The purpose of this Public Participation Plan is to promote public understanding and participation in the cleanup activities planned for this site. This section of the plan

describes how Ecology will share information and receive public comments on the site activities. The following is a list of the public involvement activities that Ecology will use, their purposes, and descriptions of when and how they will be used during cleanup of the Kaiser site.

Formal Public Comment Periods

Comment periods are the primary method Ecology uses to get feedback from the public on proposed cleanup decisions. They usually last 30 days and are required at key points during the investigation and cleanup process before final decisions are made. During a comment period, the public can comment in writing. Verbal comments are taken if a public hearing is held. After comment periods, Ecology reviews all comments received and may respond in a document called a Responsiveness Summary. Ecology considers the need for changes or revisions to a document or decision based on input from the public. If significant changes are made, a second comment period may be held. If no significant changes are made, the draft document(s) will be finalized.

Public Meetings and Hearings

Public meetings may be held at key points during the investigation and cleanup process. Ecology also may offer public meetings for actions expected to be of particular interest to the community. These meetings will be held at locations convenient to the community. A public meeting will also be scheduled if ten or more people request one.

Information Repositories

Information repositories are places where the public may read and review site information, including documents that are the subject of public comment. Ecology has two repositories for the Kaiser cleanup:

- Tacoma Public Library, 1102 Tacoma Avenue, Tacoma, WA 98402, (253) 591-5666.
- Citizens for a Healthy Bay, 917 Pacific Avenue, Suite 100, Tacoma, WA 98402, (253) 383-2429.
- Washington State Department of Ecology, 300 Desmond Drive, Lacey, WA 98516. Please call (360) 407-6045 for an appointment.

Site information also will be posted on Ecology's Web site:

http://www.ecy.wa.gov/programs/tcp/sites/PortTacomaKaiser/PortTacomaKaiser_hp.html

Site Register

Ecology's Toxics Cleanup Program uses its bimonthly Site Register to announce all of its public meetings and comment periods, as well as many other activities. It is available on Ecology's website: http://www.ecy.wa.gov/programs/tcp/pub_inv/pub_inv2.html.

Mailing List

Ecology has compiled a mailing list for the site. It includes neighbors, public agencies, and other known interested parties. The list will be maintained at Ecology's Southwest Regional Office and will be updated as needed. Please contact Hannah Aoyagi at (360) 407-6790 or by e-mail at Hannah.Aoyagi@ecy.wa.gov if you would like to be involved or have your address added to or deleted from this mailing list.

Fact Sheets

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

Newspaper Display Ads

Ecology will place ads in the Tacoma News Tribune to announce public comment periods and public meetings or hearings for the site.

Plan Update

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

Contacts

For questions or more information about this plan or the Kaiser cleanup, please contact:

Marv Coleman, Site Manager
Washington State Department of Ecology
300 Desmond Drive
Lacey, WA 98503
Tel: (360) 407-6259
Email: Marv.Coleman@ecy.wa.gov

Hannah Aoyagi, Public Involvement Coordinator
Washington State Department of Ecology
Tel: (360) 407-6790
Email: Hannah.Aoyagi@ecy.wa.gov

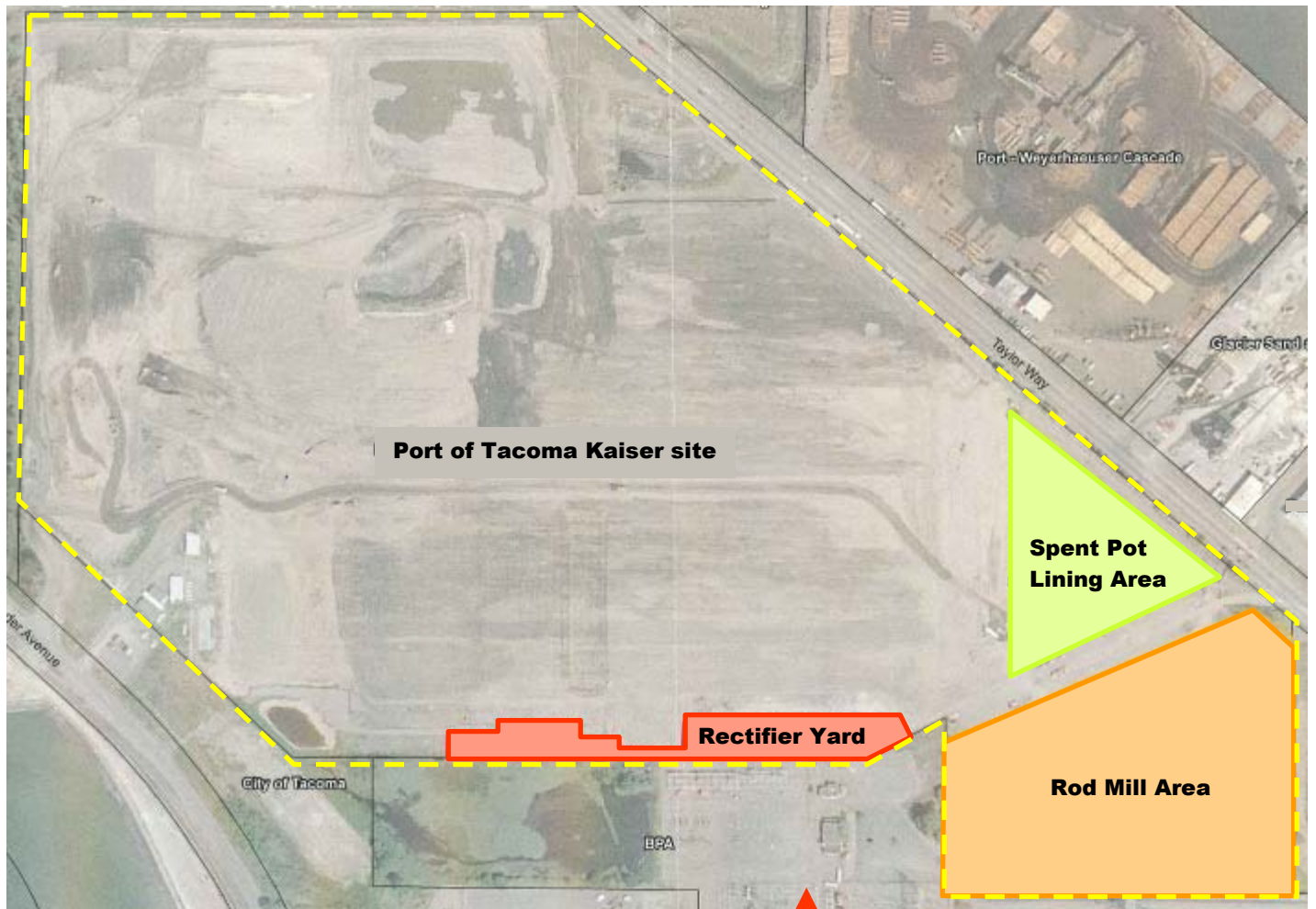


Figure 1. Kaiser Site Map - 3400 Taylor Way, Tacoma, WA

GLOSSARY

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

Cleanup: Actions taken to deal with a release, or threatened release of hazardous substances that could affect public health or the environment. The term "cleanup" is often used broadly to describe various response actions or phases of cleanup.

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

Contaminant: Any hazardous substance that does not occur naturally or occurs at greater than natural background levels

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

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

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

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

Risk: The probability that a hazardous substance, when released into the environment, will cause an adverse effect in the exposed humans or living organisms.

Site: Any building, structure, installation, equipment, pipe or pipeline, 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.

Toxicity: The degree to which a substance at a particular concentration is capable of causing harm to living organisms, including people, plants and animals.

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 90.48 RCW (State Water Pollution Control Act);
- Chapter 70.95 RCW (Solid Waste Management – Reduction and Recycling);
- Chapter 70.94 RCW (Washington Clean Air Act);
- Chapter 173-160 RCW (Minimum Standards for Construction and Maintenance of Wells);
- Chapter 43.21C RCW (State Environmental Policy Act), and Chapter 197-11 WAC (State Environmental Policy Act Rules);
- Washington Industrial Safety and Health Act (WISHA);
- Toxic Substances Control Act of 1975 (TSCA)
- Puget Sound Air Pollution Control Agency (Regulation I and III);
- City of Tacoma Municipal Code – Chapter 70 (Uniform Building Code – Excavation and Grading);
- City of Tacoma Municipal Code – Chapter 12.08 City Code (Provisions for Acceptance for Discharges to Sewer System); and
- Tacoma Pierce County Health Department (Waste Disposal Authorization).

EXHIBIT E
Model Restrictive (Environmental) Covenant

After Recording Return to:

Department of Ecology
[fill in regional address]

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

REFERENCES OF PREVIOUS REPORTS AND DOCUMENTS

- Dames & Moore. 1985. Report of Ground-Water Quality Related to Potlining Management for the Kaiser Aluminum and Chemical Corporation, Tacoma, Washington. April 16.
- GeoEngineers, 2004. Final Report, Geotechnical Engineering Services, Kaiser Site Wet Scrubber Sludge, Consolidation Area, Port of Tacoma. April 5.
- Kaiser. 1983. Characterization of Ditch Sediments of the Tacoma Works (Kaiser). September 9.
- Kaiser. 1980. Part A Hazardous Waste Permit Application. October 30.
- Kennedy/Jenks Consultants. 2003. Preliminary Due Diligence Evaluation Kaiser Aluminum Facility. March 2003.
- Landau Associates. 2009 Technical Memorandum: Interim Action Completion, Roof Drainage Area Cleanup Action, Rod Mill Area – Former Kaiser Property, Kaiser Redevelopment Project E2223, Tacoma, Washington. Prepared for Port of Tacoma. November 3.
- Landau Associates. 2009 Technical Memorandum: Interim Action Completion, Stormwater Conveyance Ditch Cleanup Action, Rod Mill Area – Former Kaiser Property, Kaiser Redevelopment Project E2223, Tacoma, Washington. Prepared for Port of Tacoma. November 3.
- Landau Associates. 2008. Final Report, Supplemental Investigation, Kaiser Redevelopment Project E2223, Rectifier Yard Area, 3400 Taylor Way, Tacoma, Washington. Prepared for Jacobs Engineering Group and Port of Tacoma. August 14.
- Landau Associates. 2008. Work Plan, Supplemental Investigation, Kaiser Redevelopment Project, 3400 Taylor Way, Tacoma, Washington. Prepared for Jacobs Engineering Group and Port of Tacoma. June 16.

- Landau Associates. 2006. Letter Report: Annual Groundwater Monitoring Report, June 2006, Former Kaiser Aluminum & Chemical Corporation – Tacoma Facility, Wet Scrubber Sludge Management Area. Prepared for the Port of Tacoma. July 31.
- Landau Associates. 2005. Supplemental Soil Investigation Report, Rectifier Yard, Former Kaiser-Tacoma Works Facility, Tacoma, Washington. January 11.
- Landau Associates. 2004. Letter Report: Groundwater Monitoring Report, June and July 2004, Former Kaiser Aluminum & Chemical Corporation, Former Spent Potlining Management Area. Prepared for the Port of Tacoma. November 19.
- Landau Associates. 2004. Soil Investigation Report, Rectifier Yard, Kaiser-Tacoma Works Facility, Tacoma, Washington. July 12.
- Landau Associates. 2004. Soil Investigation Report, Rectifier Yard, Kaiser-Tacoma Works Facility, Tacoma, Washington. January 13.
- Landau Associates, 2003. Annual Groundwater Monitoring Report, June 2003, Former Kaiser Tacoma Facility, Wet Scrubber Sludge Management Area, Tacoma, WA. September 9.
- Landau Associates. 2003. Rectifier Yard Sampling and Analysis Plan, Kaiser-Tacoma Works, Tacoma, Washington. July 21.
- Landau Associates. 2003. Decommissioning and Concrete Pad Sampling, Former Spent Potlining Facility, Kaiser Aluminum & Chemical Corp., Tacoma, Washington. April 30.
- Landau Associates. 2002. Annual Groundwater Monitoring Report, June 02, Wet Scrubber Sludge Management Area, Kaiser Aluminum & Chemical Corporation – Tacoma Facility. December 13.

- Landau Associates. 2002. Groundwater Monitoring Report, June 02, Former Spent Potlining Management Area, Kaiser Aluminum & Chemical Corporation – Tacoma Facility. December 13.
- Landau Associates. 2002. Former Diesel Aboveground Storage Tank, Groundwater Sampling Events, June 2002. December 13.
- Landau Associates. 2002. Report, 2001 Groundwater Data, Former Spent Potlining Management Area, Kaiser Tacoma Facility, Tacoma Washington. June 27.
- Landau Associates. 2002. Closure Plan, Spent Potlining Management Facility, Kaiser Aluminum & Chemical Corporation, Tacoma Works. Prepared for Kaiser Aluminum & Chemical Corporation. June 6.
- Landau Associates. 2002. Cleanup Report, Rod Mill Coolant Tank Waste, Kaiser Aluminum & Chemical Corporation, Tacoma, Washington. January 17.
- Landau Associates. 2001. Letter Report – Groundwater Monitoring Report, December 2000, Former Spent Potlining Management Area, Kaiser Aluminum & Chemical Corporation. April 11.
- Landau Associates. 2000. Letter Report – Groundwater Monitoring Report, December 1999 and July 2000, Former Spent Potlining Management Area, Kaiser Aluminum & Chemical Corporation. December 7.
- Landau Associates. 2000. Letter Report – Groundwater Monitoring Report, July 2000, Wet Scrubber Sludge Management Area, Kaiser Aluminum & Chemical Corporation. December 7.
- Landau Associates. 2000. Letter Report – Former Diesel Aboveground Storage Tank, Groundwater Sampling Events, July 2000. December 6.
- Landau Associates. 2000. 15,000 Gallon Diesel AST Site, Kaiser Aluminum & Chemical Corporation, Tacoma Plant, Tacoma, WA. December 6.
- Landau Associates. 1999. Semiannual Groundwater Monitoring Report, December 1998, Former Spent Potlining Management Area. January 19.

- Landau Associates. 1998. Semiannual GW Monitoring Report, June 1998, Former Spent Potlining Mgmt Area. July 13.
- Landau Associates. 1998. Semiannual GW Monitoring Report, June 1998, Wet Scrubber Sludge Mgmt Area. July 13.
- Landau Associates. 1998. Report on Environmental Investigation, 15000-Gallon Diesel AST Site, Kaiser's Tacoma Works, Tacoma, WA. April 22.
- Landau Associates. 1998. Report, GW Monitoring Data, Former Spent Potlining Management Area, Kaiser Tacoma Plant. March 9.
- Landau Associates. 1998. Semiannual GW Monitoring Report, December 1997, Former Spent Potlining Mgmt Area. January 9.
- Landau Associates. 1997. Semiannual Groundwater Monitoring, June 1997, Wet Scrubber Sludge Mgmt Area. July.
- Landau Associates. 1997. Semiannual Groundwater Monitoring, June 1997, Former Spent Potlining Mgmt Area. July.
- Landau Associates. 1996. Semiannual Groundwater Monitoring, Wet Scrubber Sludge Management Area. December.
- Landau Associates. 1996. Former Spent Potlining Management Area. June.
- Landau Associates. 1996. Wet Scrubber Sludge Management Area. June.
- Landau Associates. 1995. *Wet Scrubber Sludge Management Area*. December.
- Landau Associates. 1995. *Former Spent Potlining Management Area*. December.
- Landau Associates. 1995. *Wet Scrubber Sludge Management Area*. July.
- Landau Associates. 1995. Former Spent Potlining Management Area. July.
- Landau Associates. 1995. Data Quality Evaluation of Kaiser Potlining Groundwater. January 13.
- Landau Associates. 1995. *Wet Scrubber Sludge Management Area*. January.
- Landau Associates. 1995. *Former Potlining Management Area*. January.
- Landau Associates. 1994. *Potlining Management Area*. November.

- Landau Associates. 1994. *Wet Scrubber Sludge Management Area*. June.
- Landau Associates. 1993. *Wet Scrubber Sludge Management Area*. December 29.
- Landau Associates. 1993. *Wet Scrubber Sludge Management Area*. June.
- Landau Associates. 1992. *Wet Scrubber Sludge Management Area*. December.
- Landau Associates. 1990. Construction Certification Sludge Cleanup Project, Kaiser Aluminum & Chemical Corporation, Tacoma, WA. December 17.
- Landau Associates. 1987. Final Ground Water Monitoring Report, Kaiser Wet Scrubber Sludge, Management Area, Kaiser Tacoma Works, Tacoma, Washington. July.
- Landau Associates. 1987. Sludge Management Area, Kaiser Aluminum and Chemical Corporation. January.
- Landau Associates. 1986. Fifth and Sixth Quarterly Progress Reports, Ground Water Monitoring Wet Scrubber. October.
- MFG. 2005. Feasibility Study of Former Landfill Area, Within the Rod Mill Area, Kaiser Aluminum & Chemical Corporation, Tacoma, Washington. October.
- MFG. 2005. Remedial Action Work Plan, Rod Mill Area, Kaiser Aluminum & Chemical Corporation, Tacoma, Washington. August.
- MFG. 2005. Site Characterization Report, Rod Mill Area, Kaiser Aluminum & Chemical Corporation, Tacoma, Washington. January.
- MFG. 2005. Site Characterization Report, Spent Potlining Management Area, Kaiser Aluminum & Chemical Corporation, Tacoma, Washington. January.
- MFG. 2004. Site Characterization Report, Rod Mill Area, Kaiser Aluminum & Chemical Corporation, Tacoma, Washington. Draft. July.
- MFG. 2004. Site Characterization Report, Rod Mill Area, Kaiser Aluminum & Chemical Corporation, Tacoma, Washington. Draft. March.
- MFG. 2004. Site Characterization Report, Spent Potlining Management Area, Kaiser Aluminum & Chemical Corporation, Tacoma, Washington. Draft. July.

- MFG. 2003. Sampling and Analysis Plan, Spent Potlining Management Area, Kaiser Aluminum & Chemical Corporation, Tacoma, Washington. Draft. August.
- MFG. 2003. Draft, Sampling and Analysis Plan, Rod Mill Area, Kaiser Aluminum & Chemical Corporation, Tacoma, Washington. July 15.
- Sterling Technologies, LLC. 2007. *Building #65 RCRA Decontamination Report, Port of Tacoma – Kaiser Site.* Prepared for the Port of Tacoma. September 26.
- Sterling Technologies, LLC. 2007. Transformer and Electrical Equipment Removal Report, Port of Tacoma – Kaiser Facility. Prepared for the Port of Tacoma. March.

EXHIBIT G
FINANCIAL ASSURANCE SUMMARY TABLE

Financial Assurance Summary Table
Port of Tacoma
Agreed Order DE-5698

Area	RI/FIS, DCAP under 2011 MTCA AO (a)	Subsequent MTCA Order/Decree (a)		RCRA Management Unit Closure	Total Cost for Financial Assurance
		Cleanup/Corrective Action (a)	Institutional Controls/Operation and Maintenance/ Long Term Compliance Monitoring (a)		
SPL Area	\$80,000	\$2,020,000	\$300,000	\$10,000	\$2,410,000
Rod Mill Area Former Landfill	\$80,000	\$200,000	\$150,000	\$0	\$430,000
Rectifier Yard Area	\$20,000	\$0	\$0	\$0	\$20,000
Former Log Yard Area	\$20,000	\$0	\$0	\$0	\$20,000
Rod Mill Demister Oil Area	\$5,000	\$0	\$0	\$0	\$5,000
Rod Mill Area Stormwater Ditch, South and East Sides	\$5,000	\$0	\$0	\$0	\$5,000
Former Wet Scrubber Sludge Ponds	\$0	\$0	\$0 (b)	\$0	\$0
Total Cost for Financial Assurance	\$210,000	\$2,220,000	\$450,000	\$10,000	\$2,890,000

(a) Also required for RCRA Completion

(b) Port estimate of future monitoring cost at Former Wet Scrubber Sludge Ponds is \$100,000. This cost is currently not included in the financial assurance total amount.

Note: This table is intended to be used to calculate the Port's financial assurance obligations. It is anticipated that costs will change as work is completed or added.