



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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

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September 11, 2014

R. Stephen Wilson  
Crowley  
Director, Health, Safety, Security, Environmental and Quality  
201 Arctic Slope Avenue  
Anchorage, AK 99518

Lori Prokes  
DeNovo Properties  
1302 W. Randolph St.  
Chicago, IL 60607

Dear Mr. Wilson and Ms. Prokes:

This letter of amendment (Letter) amends Agreed Order No. DE 6721 (the AO) to add DeNovo Seattle LLC as a party. A copy of the Agreed Order is enclosed. By signing this Letter the Department of Ecology (Ecology) and 8th Avenue Terminals, Inc. agree to the amendments of the AO as shown below. In addition, by signing this Letter, DeNovo Seattle LLC becomes a party to and is bound by the AO. Ecology has determined that the amendments contained in this Letter do not represent a substantial change to the AO.

**AMENDMENTS**

The AO is amended as follows:

The sections shown below shall be incorporated into the AO in place of the existing sections bearing the same section headings. All other sections of the AO shall remain unchanged except that in all places where the AO reads "8th Avenue Terminals, Inc." the AO is amended to read "8th Avenue Terminals, Inc. and DeNovo Seattle LLC."



The cover page of the Agreed Order is amended to read:

TO:

Rockwell Smith  
8th Avenue Terminals, Inc.  
c/o Crowley Marine Services, Inc.  
1102 SW Massachusetts St.  
Seattle, WA 98134-1030

and

Lori Prokes  
DeNovo Properties  
1302 W. Randolph St.  
Chicago, IL 60607

#### V. FINDINGS OF FACT

Ecology makes the following findings of fact, without any express or implied admissions of such facts by 8th Avenue Terminals, Inc. or DeNovo Seattle LLC:

A. The Site is located at 7400 8th Avenue South on the east bank of the Lower Duwamish Waterway (LDW) and the west bank of Slip 4. Crowley Marine Services, Inc. was the property owner from 1993 to 2008. On October 24, 2008, Crowley Marine Services, Inc. transferred the property to 8th Avenue Terminals, Inc. Crowley Marine Services, Inc. and 8th Avenue Terminals, Inc. are subsidiaries of Crowley Maritime Corporation. On April 22, 2014, 8th Avenue Terminals, Inc. transferred ownership of the property to DeNovo Seattle LLC. DeNovo Seattle LLC is the current property owner.

B. The site has been the subject of several environmental investigations beginning in 1989. These investigations and cleanups are summarized in the following reports:

*The Lower Duwamish Waterway Slip 4 Early Action Area Summary of Existing Information and Identification of Data Gaps*, Striplin Environmental Associates, January 15, 2004, prepared for U.S. Environmental Protection Agency, provides a summary of site investigations documenting releases of hazardous substances at the site.

The *Technical Memorandum for Crowley and First South Properties Potential for Slip 4 Sediment Recontamination via Groundwater Discharge*, Science Applications International Corporation (SAIC), October 2006, identifies polycyclic aromatic hydrocarbons (PAHs) in the soil and groundwater, total petroleum hydrocarbons (TPH), polychlorinated biphenyls (PCBs) in the soil, and metals (arsenic, copper) in the soil and groundwater.

The *Environmental Assessment – Parcel F Soil and Groundwater Conditions*, prepared by Hart Crowser on March 22, 1989, and *Environmental Assessment – Parcel D Soil and Groundwater Conditions*, prepared by Hart Crowser on July 20, 1989, document releases of PAHs, TPH, PCBs, and metals in the soil and groundwater.

The *Environmental Site Assessment*, prepared by Landau on June 8, 1990, documents releases of PAHs, TPH, PCBs, and metals in the soil and groundwater.

The *Supplemental Site Characterization Report – Parcel D*, prepared by Hart Crowser on November 15, 1990, documents releases of PAHs, TPH, PCBs, and metals in the soil and groundwater.

The *Environmental Investigation Report, Crowley Marine Services Site*, prepared by SLR International Corp. on July 31, 2008, documents the groundwater conditions near the waterway and presents an evaluation of several potential pathways of sediment recontamination in Slip 4.

C. Environmental investigations and cleanups revealed releases of arsenic, petroleum hydrocarbons, carcinogenic polynuclear aromatic hydrocarbons (cPAHs), and polychlorinated biphenyls (PCBs) to soil; and cPAHs, arsenic, PAHs and copper to groundwater. PAHs and PCBs are present in the LDW and Slip 4 sediments adjacent to the Site.

D. The U.S. Environmental Protection Agency (EPA) added the LDW to the federal Superfund list on September 13, 2001. The LDW Superfund site is undergoing a Remedial Investigation (RI) under the Joint Administrative Order on Consent of April 2000. Ecology listed the LDW on the Confirmed and Suspected Contaminated Sites List (CSCSL) on February 26, 2002. Slip 4 of the LDW was listed on the CSCSL on April 29, 2003. PCBs and PAHs have been identified as contaminants of concern in sediments in Slip 4. Slip 4 was identified as an area for sediment remediation in EPA's May 3, 2006 Action Memorandum for a

Non-Time-Critical Removal Action at the Slip 4 Early Action Area of the LDW and the remediation was completed on February 7, 2012. The Site requires investigation to determine whether contamination, and therefore the Site, extends from the uplands to the LDW, including Slip 4. LDW contamination adjacent to the 8th Avenue Terminals, Inc. property potentially resulting from historic marine operations in Slip 4, other properties adjacent to Slip 4, or from the flume/sewer that has historically drained portions of North Boeing Field and the Georgetown Steam Plant facility have been and will continue to be investigated under separate Ecology and/or EPA administrative orders with other Potentially Liable Parties.

E. During the period of their ownership, Crowley Marine Services, Inc. independently performed additional sampling of soil and groundwater and analyzed potential pathways for sediment recontamination. This work will be evaluated by Ecology as work toward completion of the requirements of this Order.

F. On the basis of the facts set forth herein, Ecology has determined that a release or threatened release of hazardous substances at the Site requires remedial actions to protect human health and the environment. This Order sets forth the measures that need to be taken to perform a RI/FS and DCAP for the Site.

## **VI. ECOLOGY DETERMINATIONS**

A. 8th Avenue Terminals, Inc. was an “owner” of the facility as defined in RCW 70.105.020(17) at the time of disposal or release of hazardous substances at the facility. DeNovo Seattle LLC is an “owner” as defined in RCW 70.105D.020(17) of a “facility” as defined in RCW 70.105D.020(5) because DeNovo Seattle LLC currently owns the property at 7400 8th Avenue South, Seattle, Washington.



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

C. Based upon credible evidence that Crowley Marine Services, Inc. was the current owner of the 7400 8th Avenue South property at the time, Ecology issued a preliminary PLP status letter to Crowley Marine Services, Inc. dated April 24, 2008, pursuant to RCW 70.105D.040, .020(21), and WAC 173-340-500. After providing for notice and opportunity for comment, reviewing any comments submitted, and concluding that credible evidence supported a finding of potential liability, Ecology issued a determination that Crowley Marine Services, Inc. is a PLP under RCW 70.105D.040 and notified Crowley Marine Services, Inc. of this determination by letter dated June 24, 2008.

D. Based upon the October 24, 2008, transfer of the 7400 8th Avenue South property from Crowley Marine Services, Inc. to 8th Avenue Terminals, Inc. Ecology issued a preliminary PLP status letter to 8th Avenue Terminals, Inc. dated March 26, 2009, pursuant to RCW 70.105D.040, .020(21), and WAC 173-340-500. After providing for notice and opportunity for comment, reviewing any comments submitted, and concluding that credible evidence supported a finding of potential liability, Ecology issued a determination that 8th Avenue Terminals, Inc. is a PLP under RCW 70.105D.040 and notified 8th Avenue Terminals, Inc. of this determination by letter dated May 7, 2009. Based upon the April 22, 2014, transfer of the property from 8th Avenue Terminals, Inc. to DeNovo Seattle LLC, Ecology issued a preliminary PLP status letter to DeNovo Seattle LLC dated May 21, 2014, pursuant to RCW 70.105D.040, .020(21), and WAC 173-340-500. On May 29, 2014 Ecology received DeNovo Seattle LLC’s signed voluntary waiver of its right to comment. Ecology issued a determination that DeNovo Seattle

LLC is a PLP under RCW 70.105D.040 and notified DeNovo Seattle LLC of this determination by letter dated June 5, 2014.

E. Pursuant to RCW 70.105D.030(1) and .050(1), Ecology may require 8th Avenue Terminals, Inc. and DeNovo Seattle LLC 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.

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

## VIII. TERMS AND CONDITIONS OF ORDER

### D. Designated Project Coordinators

The project coordinator for Ecology is:

Victoria Sutton  
Washington Department of Ecology  
Northwest Regional Office  
Toxics Cleanup Program  
3190 160<sup>th</sup> Avenue SE  
Bellevue, Washington 98008  
Telephone: (425) 649-7219  
FAX: (425) 649-7161  
Email: [vsut461@ecy.wa.gov](mailto:vsut461@ecy.wa.gov)

The project coordinator for DeNovo Seattle LLC is:

Matthew Woltman  
Anchor QEA, LLC  
720 Olive Way, Suite 1900  
Seattle, WA 98101  
[mwoltman@anchorqea.com](mailto:mwoltman@anchorqea.com)  
(206) 903-3327

The project coordinator for for 8<sup>th</sup> Avenue Terminals, Inc. is:

Stephen Wilson  
Crowley  
Director, Health, Safety, Security, Environmental and Quality  
201 Arctic Slope Avenue  
Anchorage, AK 99518

**F. Access**

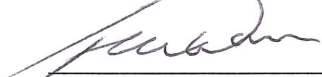
Ecology or any Ecology authorized representative shall have the full authority to enter and freely move about all property at the Site that 8th Avenue Terminals, Inc. or DeNovo Seattle LLC either owns, controls, or has access rights to at all reasonable times for the purposes of, *inter alia*: inspecting records, operation logs, and contracts related to the work being performed pursuant to this Order; reviewing 8th Avenue Terminals, Inc.'s or DeNovo Seattle LLC'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 8th Avenue Terminals, Inc. or DeNovo Seattle LLC. 8th Avenue Terminals, Inc. or DeNovo Seattle LLC shall make all reasonable efforts to secure access rights for those properties within the Site not owned or controlled by 8th Avenue Terminals, Inc. or DeNovo Seattle LLC where remedial activities or investigations will be performed pursuant to this Order. Ecology or any Ecology authorized representative shall give reasonable notice before entering any Site property owned or controlled by 8th Avenue Terminals, Inc. or DeNovo Seattle LLC unless an

emergency prevents such notice. All persons who access the Site pursuant to this Section shall comply with any applicable Health and Safety Plan(s). Ecology employees and their representatives shall not be required to sign any liability release or waiver as a condition of Site property access.

Please sign below and return this letter by mail to Robert Warren at 3190 160th Avenue SE, Bellevue, WA 98008. If you have any questions about this amendment or the Agreed Order, you may contact me at (425) 649-7054 or Victoria Sutton at (425) 649-7219 or [victoria.sutton@ecy.wa.gov](mailto:victoria.sutton@ecy.wa.gov).

This Agreed Order Amendment is effective on the date signed by Ecology:

STATE OF WASHINGTON,  
DEPARTMENT OF ECOLOGY



Robert W. Warren, P.Hg., MBA  
Northwest Regional Office  
Washington Department of Ecology  
3190 160<sup>th</sup> Ave SE  
Bellevue, WA 98008  
Telephone: (425) 649-7054

Date: Sept. 19, 2014

8TH AVENUE TERMINALS, INC.

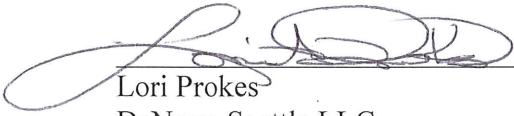


Rockwell Smith  
8th Avenue Terminals, Inc.  
c/o Crowley Marine Services, Inc.  
1102 SW Massachusetts St.  
Seattle, WA 98134-1030  
Telephone: (206) 332-8020

Date: Sept 12, 2014



DENOVO SEATTLE LLC



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Lori Prokes

DeNovo Seattle LLC

1302 W. Randolph St.

Chicago, IL 60607

Telephone: (312) 733-9370

Date: 9/12/14