

**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

In the Matter of Remedial Action by:

PORT OF RIDGEFIELD

AGREED ORDER

No. DE 11057

TO: Brent Grening
Chief Executive Officer
Port of Ridgefield
111 W Division Street
Ridgefield, WA 98642

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I. INTRODUCTION

The mutual objective of the State of Washington, Department of Ecology (Ecology) and the Port of Ridgefield (Port) under this Agreed Order (Order) is to provide for remedial action at a portion of the Site, Pacific Wood Treating Corporation (Ecology Facility Site Identification No. 1019) (the “Off-Property Portion” defined below), where there has been a release or threatened release of hazardous substances. This Order requires the Port to complete a remedial investigation and feasibility study and unless Ecology determines otherwise prepare a preliminary Draft Cleanup Action Plan for the Off-Property Portion. Ecology believes the actions required by this Order are in the public interest.

II. JURISDICTION

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

III. PARTIES BOUND

This Agreed Order shall apply to and be binding upon the Parties to this Order, their successors and assigns. The undersigned representative of each party hereby certifies that he or she is fully authorized to enter into this Order and to execute and legally bind such party to comply with this Order. The Port agrees to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter the Port’s responsibility under this Order. The Port shall provide a copy of this Order to all agents, contractors, and subcontractors retained to perform work required by this Order, and shall ensure that all work undertaken by such agents, contractors, and subcontractors complies with this Order.

IV. DEFINITIONS

Unless otherwise specified herein, the definitions set forth in RCW 70.105D and WAC 173-340 shall control the meanings of the terms in this Order.

A. Site: The Site is referred to as the former Pacific Wood Treating (PWT) Site and is generally located at and near 111 West Division Street in Ridgefield, Washington. The Site is

more particularly described in the Site and Property Diagram (Exhibit A). The Site is defined by the extent of contamination caused by the release of hazardous substances at the Site. The Site constitutes a Facility under RCW 70.105D.020(4).

B. Parties: Refers to the Washington State Department of Ecology and the Port.

C. Potentially Liable Person (PLP): Refers to the Port, City of Ridgefield (City) and Union Pacific Railroad. The City of Ridgefield and Union Pacific Railroad are named PLPs, but are not parties to this Order.

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. Off-Property Portion: Refers to a portion of the Site where dioxin contamination is found in soil of a residential neighborhood and additional remedial action is required under this Order. This portion is more particularly described in the Off-Property Portion Diagram (Exhibit B).

V. FINDINGS OF FACT

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

A. The Site is located in Ridgefield, Washington. The Site encompasses the Lake River Industrial Site (LRIS), Carty Lake to the north, the Port’s Railroad Avenue properties, residential area to the east, the Port’s Marina property and the Railroad Overpass property to the south, and a portion of Lake River to the west. The Site and Property Diagram in Exhibit A shows the Site and the ownership in the vicinity. The Site is defined by where a hazardous substance has come to be located from a release. Ecology has determined that dioxin contamination has come to be located in the Off-Property Portion of the Site seen on Exhibit B. Therefore this area will be considered part of the Site.

B. Pacific Wood Treating (PWT) operated at the Site from 1964 to 1993 as a leasee of property owned by the Port, the City of Ridgefield and Union Pacific Railroad. PWT

produced treated wood products and used oil-based treatment solutions containing various hazardous substances such as creosote, pentachlorophenol (PCP), and CCA (a copper, chromium, and arsenic mixture). PWT ceased wood treating operations in 1993, when the company declared bankruptcy.

C. Ecology issued a PLP status letter to the Port in 1996, and entered into an Agreed Order with the Port in September 1996 which required the Port to: 1) address the stormwater system and contaminants leaving the Site via the outfalls; 2) remove/demolish tanks, retorts, ancillary equipment, chemicals and hazardous wastes, and the concrete containment wall in the former tank farm area; 3) characterize soil and groundwater in the former tank farm area and address free product if necessary; 4) clean up impacted soil from a historic granular PCP spill; and 5) assess recommendations from previous PWT Site studies.

D. In September 2001, the Port and Ecology signed a second Agreed Order, which acknowledged completion of the first Agreed Order and required the Port to: 1) conduct Phase 1 of an interim/emergency action to remove non-aqueous phase liquid (NAPL) from the axis of the NAPL plume and reduce the risk of further contaminant migration to the Ridgefield National Wildlife Refuge (RNWR) and groundwater beneath the Site; 2) remove free product, soil and groundwater contamination from the most highly contaminated portions of Cells 1 and 2 (the LRIS was divided into Cells 1 through 4 for prioritization of development activities); 3) continue work to improve stormwater quality; 4) demolish structures/buildings as needed to make the Site more accessible for characterization and remediation work in support of the interim/emergency action; and 5) conduct and prepare a Remedial Investigation/Risk Assessment/Feasibility Study of the Site.

E. In October 2013, the Port, City and Ecology entered into a partial Consent Decree, which required the Port and City to: 1) conduct groundwater monitoring; 2) record environmental covenants on property within the Site; 3) cap portions of the Site; and 4) remove sediments in Lake River and Carty Lake and cover these areas with clean sand. The partial Consent Decree did not include the Off-Property Portion. However, it acknowledged that

additional remedial action was required for the Off- Property Portion, and indicated that the work would be done under a separate Agreed Order.

VI. ECOLOGY DETERMINATIONS

Ecology makes the following determinations, without any express or implied admissions of such determinations (and underlying facts) by the Port.

A. The Port is an “owner or operator” as defined in RCW 70.105D.020(22) of a “facility” as defined in RCW 70.105D.020(8).

B. Based upon all factors known to Ecology, a “release” or “threatened release” of “hazardous substance(s)” as defined in RCW 70.105D.020(32) and (13), respectively, has occurred at the Site.

C. Based on credible evidence, Ecology issued a PLP status letter to the Port dated July 15, 1996, pursuant to RCW 70.105D.040, 70.105D.020(21), and WAC 173-340-500. By letter dated August 6, 1996, 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) and .050(1), Ecology may require PLPs to investigate or conduct other remedial actions with respect to any release or threatened release of hazardous substances, whenever it believes such action to be in the public interest. Based on the foregoing facts, Ecology believes the remedial actions required by this Order are in the public interest.

E. Under WAC 173-340-430, an interim action is a remedial action that is technically necessary to reduce a threat to human health or the environment by eliminating or substantially reducing one or more pathways for exposure to a hazardous substance, that corrects a problem that may become substantially worse or cost substantially more to address if the remedial action is delayed, or that is needed to provide for completion of a site hazard assessment, remedial investigation/feasibility study, or design of a cleanup action plan. Either party may propose an interim action under this Order. If the Parties are in agreement concerning the interim action, the Parties will follow the process in Section VII.E. If the Parties are not in

agreement, Ecology reserves its authority to require interim action(s) under a separate order or other enforcement action under RCW 70.105D, or to undertake the interim action itself.

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 Off-Property Portion and that these actions be conducted in accordance with WAC 173-340 unless otherwise specifically provided for herein:

A. The Port shall prepare and submit to Ecology an Agency Review Draft Work Plan to conduct a Remedial Investigation (RI). The Port will incorporate Ecology comments and after approval of the RI work plan by Ecology, the Port shall implement the RI work plan. Using information from the RI, the Port shall conduct a Feasibility Study (FS), and provide Ecology with an Agency Review Draft RI/FS Report. The Port will incorporate Ecology comments on that document and after Ecology approval of the Agency Review Draft RI/FS Report the Port will prepare a Public Review Draft RI/FS Report. Then, unless Ecology determines otherwise, the Port will prepare an Agency Review Preliminary Draft Cleanup Action Plan (DCAP) and submit to Ecology. These deliverables will be prepared in accordance with Exhibit C, "Scope of Work" and Exhibit D, "Project Schedule", which are incorporated by reference as an enforceable part of this Order.

B. The schedule of work performance and list of deliverables is described in Exhibit C, "Scope of Work" and Exhibit D, "Project Schedule" and are incorporated by reference as an enforceable part of this Order.

C. The Port is required to produce Quality Assurance/Quality Control plans (with work plan), plus any other Ecology-requested reports, plans, and performance tasks. Pursuant to WAC 173-340-350(7)(c)(iv), a Health and Safety Plan and a Sampling and Analysis Plan shall be prepared as part of the Remedial Investigation and Feasibility Study products and shall conform to the requirement specified in WAC 173-340-810 and WAC 173-340-820, respectively. The Health and Safety Plan and a Sampling and Analysis Plan shall be submitted

to Ecology for review and comment prior to implementation. Analytical procedures shall be in accordance with WAC 173-340-830.

D. All plans or other deliverables submitted by the Port for Ecology's review and approval under the Scope of Work and Project Schedule (Exhibits C and D) shall, upon Ecology's approval, become integral and enforceable parts of this Order.

E. If the Parties agree on an interim action under Section VI.E, the Port shall prepare and submit to Ecology an Interim Action Work Plan, including a scope of work and schedule, by the date determined by Ecology. Ecology will provide public notice and opportunity to comment on the Interim Action Work Plan in accordance with WAC 173-340-600(16). The PLP shall not conduct the interim action until Ecology approves the Interim Action Work Plan. Upon approval by Ecology, the Interim Action Work Plan becomes an integral and enforceable part of this Order, and the Port is required to conduct the interim action in accordance with the approved Interim Action Work Plan.

F. If Ecology determines that the Port has failed to make sufficient progress or failed 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 or at Ecology's discretion allow the Port opportunity to correct. The Port shall reimburse Ecology for the costs of doing such work in accordance with Section VII.A (Remedial Action Costs). Ecology reserves the right to enforce requirements of this Order under Section X (Enforcement).

G. 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.

VIII. TERMS AND CONDITIONS

A. Remedial Action Costs

The Port shall pay to Ecology costs incurred by Ecology pursuant to this Order and consistent with WAC 173-340-550(2). These costs shall include work performed by Ecology or its contractors for, or on, the Site under RCW 70.105D, including remedial actions and Order

preparation, negotiation, oversight, and administration. These costs shall include work performed both prior to and subsequent to the issuance of this Order. Ecology's costs shall include costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2). For all costs incurred, 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.

B. Designated Project Coordinators

The project coordinator for Ecology is:

Craig Rankine, Cleanup Project Manager
Washington State Department of Ecology
SWRO-Vancouver Field Office
2108 Grand Blvd.
Vancouver, WA 98661-4622
(360)690-4795

The project coordinator for the Port is:

Brent Grening
Chief Executive Officer
Port of Ridgefield
P.O. Box 297
Ridgefield, WA 98642
(360)887-3873

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.

C. Performance

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

All engineering work performed pursuant to this Order shall be under the direct supervision of a professional engineer registered by 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 by the State of Washington, except as otherwise provided for by RCW 18.43.130.

Any documents submitted containing geologic, hydrologic, or engineering work shall be under the seal of an appropriately licensed professional as required by RCW 18.43 and 18.220.

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.

D. Access

Ecology or any Ecology authorized representative shall have access to enter and freely move about all property at the Site that the Port either owns, controls, or has access rights to at

all reasonable times for the purposes of, *inter alia*: inspecting records, operation logs, and contracts related to the work being performed pursuant to this Order; reviewing the Port's progress in carrying out the terms of this Order; conducting such tests or collecting such samples as Ecology may deem necessary; using a camera, sound recording, or other documentary type equipment to record work done pursuant to this Order; and verifying the data submitted to Ecology by the Port. The Port shall make all reasonable efforts to secure access rights for those properties within the Site not owned or controlled by the Port where remedial activities or investigations will be performed pursuant to this Order. Ecology or any Ecology authorized representative shall give reasonable notice before entering any Site property owned or controlled by the Port unless an emergency prevents such notice. All persons who access the Site pursuant to this section shall comply with any applicable health and safety plan(s). Ecology employees and their representatives shall not be required to sign any liability release or waiver as a condition of Site property access.

E. Sampling, Data Submittal, and Availability

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

If requested by Ecology, the Port shall allow Ecology and/or its authorized representative to take split or duplicate samples of any samples collected by the Port pursuant to implementation of this Order. The Port shall notify Ecology seven (7) days in advance of any sample collection or work activity at the Site. Ecology shall, upon request, allow the Port and/or its authorized representative to take split or duplicate samples of any samples collected by Ecology pursuant to the implementation of this Order, provided that doing so does not interfere with Ecology's sampling. Without limitation on Ecology's rights under Section VIII.D (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 WAC 173-50 for the specific analyses to be conducted, unless otherwise approved by Ecology.

F. Public Participation

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 this 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.

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

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

1. If agreed to by Ecology, develop appropriate mailing lists and prepare drafts of public notices and fact sheets at important stages of the remedial action, such as the submission of work plans, remedial investigation/feasibility study reports, cleanup action plans, and engineering design reports. As appropriate, Ecology will edit, finalize, and distribute such fact sheets and prepare and distribute public notices of Ecology's presentations and meetings.
2. Notify Ecology's project coordinator prior to the preparation of all press releases and fact sheets, and before major meetings with the interested public and local governments. Likewise, Ecology shall notify the Port prior to the issuance of all press releases and fact sheets, and before major meetings with the interested public and local

governments. For all press releases, fact sheets, meetings, and other outreach efforts by the Port that do not receive prior Ecology approval, the Port shall clearly indicate to its audience that the press release, fact sheet, meeting, or other outreach effort was not sponsored or endorsed by Ecology.

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

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

- a. Ridgefield Public Library
210 N. Main Street
Ridgefield, WA 98642
- b. Washington State Department of Ecology
Southwest Regional Office
300 Desmond Drive
Lacey, WA 98503

At a minimum, copies of all public notices, fact sheets, and documents relating to public comment periods shall be promptly placed in these repositories. A copy of all documents related to this Site shall be maintained in the repository at Ecology's Southwest Regional Office in Lacey, Washington.

G. 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.

Nothing in this Order is intended to waive any right the Port may have under applicable law to limit disclosure of documents protected by the attorney work-product privilege and/or the

attorney-client privilege. If the Port withholds any requested records based on an assertion of privilege, the Port shall provide Ecology with a privilege log specifying the records withheld and the applicable privilege. No Site-related data collected pursuant to this Order shall be considered privileged.

H. Resolution of Disputes

1. In the event that the Port elects to invoke dispute resolution the Port must utilize the procedure set forth below.

a. Upon the triggering event (receipt of Ecology's project coordinator's written decision or an itemized billing statement), the Port has fourteen (14) calendar days within which to notify Ecology's project coordinator in writing of its dispute ("Informal Dispute Notice").

b. The Parties' project coordinators shall then confer in an effort to resolve the dispute informally. The parties shall informally confer for up to fourteen (14) calendar days from receipt of the Informal Dispute Notice. If the project coordinators cannot resolve the dispute within those 14 calendar days, then within seven (7) calendar days Ecology's project coordinator shall issue a written decision ("Informal Dispute Decision") stating: the nature of the dispute; the Port's position with regards to the dispute; Ecology's position with regards to the dispute; and the extent of resolution reached by informal discussion.

c. The Port may then request regional management review of the dispute. This request ("Formal Dispute Notice") must be submitted in writing to the Southwest Region Toxics Cleanup Section Manager within seven (7) calendar days of receipt of Ecology's Informal Dispute Decision. The Formal Dispute Notice shall include a written statement of dispute setting forth: the nature of the dispute; the disputing Party's position with respect to the dispute; and the information relied upon to support its position.

d. The Section Manager shall conduct a review of the dispute and shall issue a written decision regarding the dispute ("Decision on Dispute") within thirty (30)

calendar days of receipt of the Formal Dispute Notice. The Decision on Dispute 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.

4. In case of a dispute, failure to either proceed with the work required by this Order or timely invoke dispute resolution may result in Ecology's determination that insufficient progress is being made in preparation of a deliverable, and may result in Ecology undertaking the work under Section VII.E (Work to be Performed) or initiating enforcement under Section X (Enforcement).

I. 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.L (Endangerment).

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

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

J. 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.M (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.I (Resolution of Disputes).

K. Endangerment

In the event Ecology determines that any activity being performed at the Site under this Order 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 under this Order 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 this section, 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.J (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.

L. Reservation of Rights

This Order is not a settlement under RCW 70.105D. Ecology's signature on this Order in no way constitutes a covenant not to sue or a compromise of any of Ecology's rights or authority. Ecology will not, however, bring an action against the Port to recover remedial action costs paid to and received by Ecology under this Order. In addition, Ecology will not take additional enforcement actions against the Port regarding remedial actions required by this Order, provided the Port complies with this Order.

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

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

M. 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 notify all transferees of the restrictions on the activities and uses of the property under this Order and incorporate any such use restrictions into the transfer documents.

N. 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. At this time, no federal, state or local requirements have been identified as being applicable to actions required by this Order.

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

The Port has a continuing obligation to determine whether additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order. In the event either Ecology or the Port determines that additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order, it shall promptly notify the other party of its determination. Ecology shall determine whether Ecology or the Port shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, the Port shall promptly consult with the appropriate state and/or local agencies and provide Ecology with written documentation from those agencies of the substantive requirements those agencies believe are applicable to the remedial action. Ecology shall make the final determination on the additional substantive requirements that must be met by the Port and on how the Port must meet those requirements. Ecology shall inform the Port in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. The Port shall not begin

or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination.

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

O. Indemnification

The Port agrees, to the extent permitted by law, to indemnify and save and hold the State of Washington, its employees, and agents harmless from any and all claims or causes of action (1) for death or injuries to persons, or (2) 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. A liable party who refuses, without sufficient cause, to comply with any term of this Order will be liable for:

1. Up to three (3) times the amount of any costs incurred by the State of Washington as a result of its refusal to comply.
2. 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.

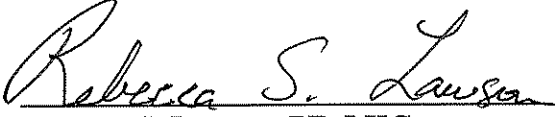
Effective date of this Order: December 8, 2014

PORT OF RIDGEFIELD



Brent Grening
Chief Executive Officer
Port of Ridgefield
(360) 887-3873

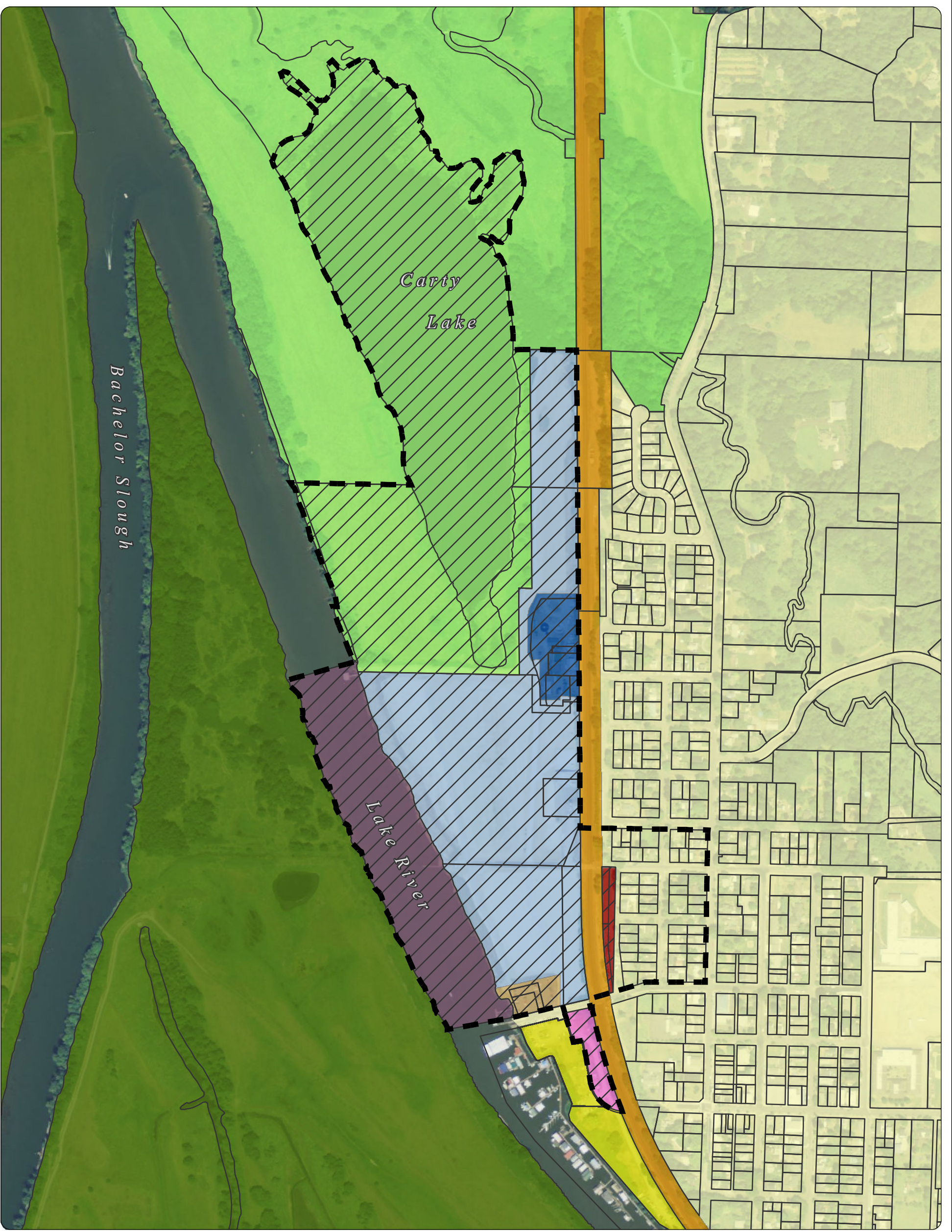
**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**



Rebecca S. Lawson, PE, LHG
Section Manager
Toxics Cleanup Program
Southwest Regional Office
(360) 407-6241

EXHIBIT A

Site and Property Diagram



Source: Aerial photograph (2013) obtained from the National Agriculture Imagery Program (NAIP). Tax lots obtained from Clark County GIS.

- Notes:**
1. BNSF = Burlington Northern Sante Fe
 2. LRIS = Lake River Industrial Site
 3. Port = Port of Ridgefield
 4. RNWR = Ridgefield National Wildlife Refuge
 5. WWTP = Wastewater treatment plant



This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

Legend

Pacific Wood Treating Site	Clark County Tax Lots (2014)
The Property	
Area Designations	
LRIS	
Port-Owned	
City of Ridgefield WWTP	
Port-Owned	
Railroad Avenue Property	
Marina Property	
Overpass Property	
Upland Off-Property	
Residential; Low-Density	
McCuddy's Marina Property	
Other	
RNWR-Carty Unit	
RNWR-River S Unit	
BNSF Railroad Property	
Lake River	

Site and Property Diagram
Former PWT Site
Ridgefield, Washington

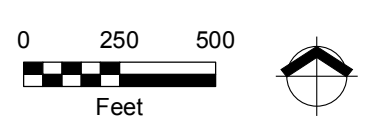
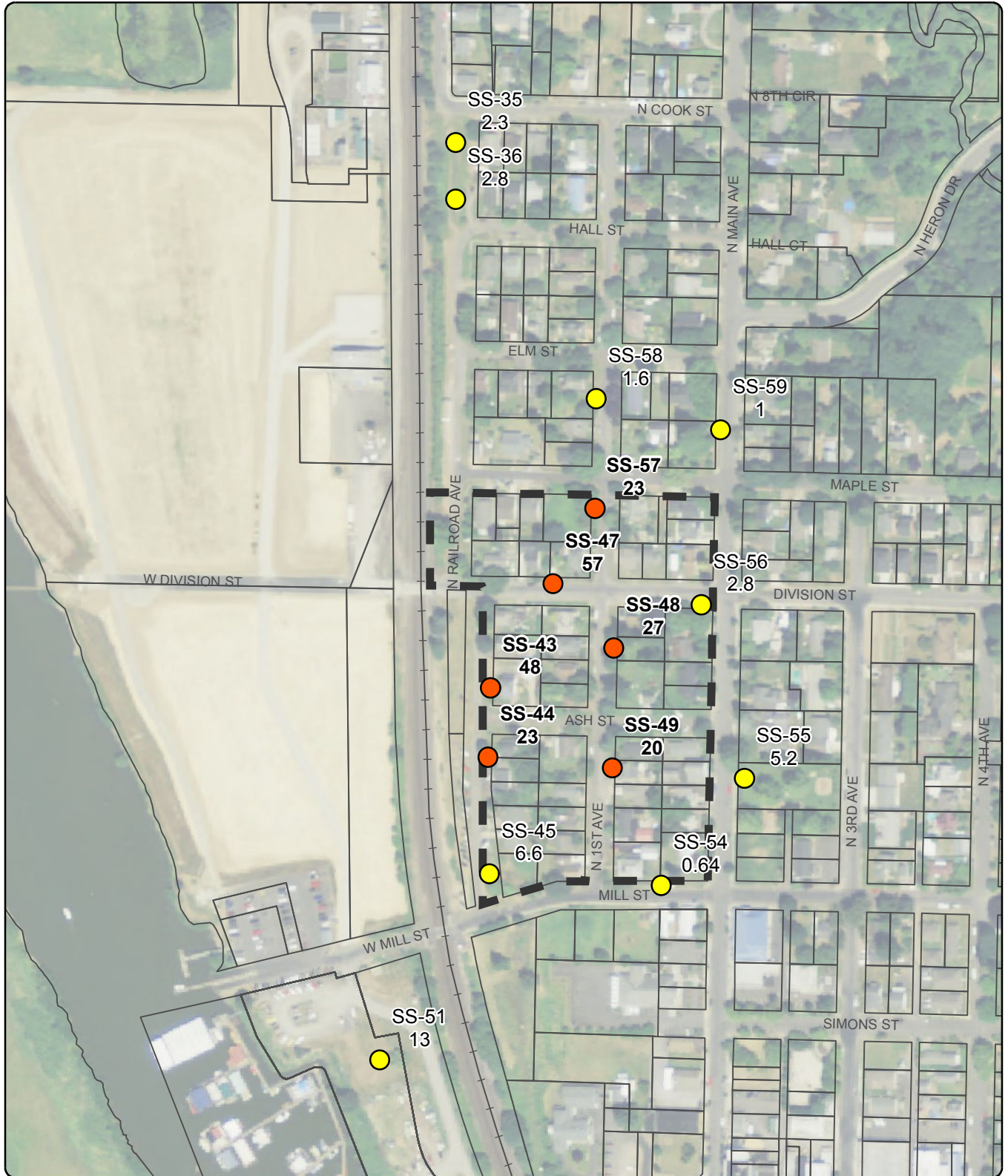


EXHIBIT B

Off-Property Portion Diagram



Source: Aerial photograph (2013) obtained from the National Agriculture Imagery Program (NAIP). Tax lots (2014) from Clark County GIS. All data shown is presented in Table 3-5 in the Former PWT Site Remedial Investigation/Feasibility Study (MFA, 2013).

Note: ng/kg = nanograms per kilogram



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Surface Soil Sample Location
Dioxin Toxicity Equivalent
Concentration (TEC)

- Below Cleanup Level (< 13 ng/kg)
- Above Cleanup Level (> 13 ng/kg)

Off-Property Portion

Clark County Tax Lots (2014)

SS-59 = surface soil sample identification
2.1 = Dioxin TEC in ng/kg

Off-Property Portion
Dioxin Toxicity Equivalent
Concentration in Soil

Ridgefield, Washington

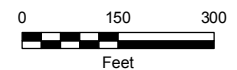


EXHIBIT C
Port of Ridgefield

SCOPE OF WORK

PURPOSE

The work under this Agreed Order (Order) involves the Port of Ridgefield (Port) preparing a Agency Review Draft Work Plan to conduct a Remedial Investigation (RI) and a Final RI Work Plan, conducting a RI, preparing a Feasibility Study (FS) and preparing an Agency Review Draft Remedial Investigation/Feasibility Study (RI/FS) report and Public Review Draft RI/FS report. The Order also requires the Port to prepare a Preliminary Draft Cleanup Action Plan (DCAP). The purpose of this RI/FS and Preliminary DCAP is to facilitate remedial action for a portion of the Pacific Wood Treating site (Site) (referred to as the “Off-Property Portion”) consisting of approximately fifty tax lots as shown on Exhibit A, and provide sufficient data, analysis, and evaluations to enable Ecology to determine if cleanup is necessary and if so select a cleanup alternative for the Off-Property Portion.

The Scope of Work is divided into four major tasks as follows:

- Task 1. Prepare RI Work Plan
- Task 2. Conduct RI
- Task 3. Prepare RI/FS report
- Task 4. Prepare Preliminary DCAP

TASK 1: PREPARE REMEDIAL INVESTIGATION WORK PLAN

The Port shall prepare an Agency Review Draft Remedial Investigation Work Plan (Work Plan). The Work Plan shall include an overall description and schedule of all RI activities. The Work Plan shall clearly describe the project management strategy for implementing and reporting on RI activities. The responsibility and authority of all organizations and key personnel involved in conducting the RI will be outlined.

The Work Plan shall describe general information regarding the “Off-Property Portion”; site history and conditions, including previous operations and ownership; past field investigations, including any data collection and analysis of soils; a conceptual site model showing contaminants, migration pathways in all environmental media, and potential receptors; geology; past, current, and future land use; hazardous substances and their sources, etc., in compliance with WAC 173-340-350.

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

extent of contamination. The Port will also submit a Health and Safety Plan (HASP) for the project.

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

The QAPP will be prepared in accordance with the Guidance for Preparation of Quality Assurance Project Plans, EPA Region 10, Quality Data Management Program, QA/R-5 and requirements of the EPA Contract Laboratory Program. The QAPP will also follow Ecology's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies (July 2004). This document can be found at <http://www.ecy.wa.gov/biblio/0403030.html>. Examples of completed QAPPs can be found at <http://www.ecy.wa.gov/biblio/qapp.html>. Laboratories must meet the accreditation standards established in Chapter 173-50 WAC. Data quality objectives will reflect the criteria or threshold values used for the source control evaluation.

The SAP, including the QAPP, and HSP will be submitted for Ecology review. Environmental work pursuant to this Order at the Off-Property Portion may not begin without written approval from Ecology. Except where necessary to abate an emergency situation, The Port shall not perform any remedial actions at the site outside those remedial actions required by the Order, unless Ecology concurs, in writing, with such additional remedial actions. Ecology may obtain split samples.

RI tasks and subtasks will include the following:

- Creating a resident contact list for the Off-Property Portion
- Contact residents to obtain information on yard use to evaluate which yards are viable for soil sample collection
- Diligently attempt to obtain access for soil sampling
- Collect and analyze soil samples

Ecology will provide the Port with comments on the Work Plan. The Port will incorporate Ecology's comments and submit a Final RI Work Plan. The Final RI Work Plan shall not be implemented until approved by Ecology. Once approved by Ecology, the Port will implement the Final RI Work Plan according to the schedule contained in Order Exhibit D.

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

The Port shall prepare one electronic copy of the Agency Review Draft RI Work Plan and submit it in Adobe (.pdf) format to Ecology for review and comment. After addressing Ecology's

comments on the Draft Work Plan and after Ecology approval, the Port shall prepare and submit one electronic copy via Adobe (.pdf) format and one hard cover copy of the Final RI Work Plan to Ecology.

TASK 2: CONDUCT REMEDIAL INVESTIGATION

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

Field sampling and analysis will be completed in general accordance with the SAP and QAPP. Deviation(s) from the approved SAP and QAPP must be communicated to Ecology immediately and documented as required by Ecology. All sampling data shall be consistent with procedures specified by Ecology. Unless otherwise specified by Ecology, all such sampling data shall be submitted in both printed and electronic form. The Port or their contractors shall submit all new sampling data generated under the SAP and any other recently collected data to Ecology for entry into the Environmental Information Management System (EIM) in accordance with WAC 173-340-840(5) and Ecology's Toxics Cleanup Program Policy 840: Data Submittal Requirements. Only validated data will be entered into the EIM database. Raw laboratory data will be provided to Ecology upon request.

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

TASK 3: PREPARE REMEDIAL INVESTIGATION AND FEASIBILITY STUDY REPORT

Remedial Investigation

The Port shall compile the results of the Off-Property Portion investigation into the RI section of a RI/FS report meeting applicable requirements of WAC 173-340-350(7)(c). The RI should include an evaluation of the available data to show sufficient information has been collected to adequately characterize the Off-Property Portion of the Site for the purpose of developing and evaluating cleanup action alternatives. The RI shall describe general facility information; site history and conditions, including previous operations and ownership; past and present field investigations, including any data collection and analysis of soils; a conceptual site model showing contaminants, migration pathways in all environmental media and potential receptors; geology; past, current, and future land use; identification of natural resources and ecological receptors; hazardous substances and their sources.

Feasibility Study

The Port shall use the information obtained in the RI to develop and evaluate cleanup action alternatives and prepare a Feasibility Study (FS) that meets the applicable requirements of WAC 173-340-350(8). Preparation of the RI/FS report will be conducted following the timeline in the Order Project Schedule (Exhibit D).

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

The FS will provide a detailed analysis of each remedial alternative according to the applicable requirements of WAC 173-340-350, MTCA Remedial Investigation and Feasibility Study. The remedial alternatives will be evaluated for compliance with the applicable requirements of WAC 173-340-360, Selection of Cleanup Actions including a detailed evaluation of remedial alternatives relative to the following criteria:

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

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

The Port shall prepare and submit one electronic copy in Adobe (.pdf) format and one hard cover copy of the Agency Review Draft RI/FS report to Ecology for review and comment.

After addressing Ecology's comments on the Agency Review Draft RI/FS report and after Ecology approval, The Port shall prepare and submit one electronic copy in Adobe (.pdf) format and enough hard cover copies of the Public Review Draft RI/FS Report for public comment period review purposes (to be determined) to Ecology. Electronic survey data for sampling locations, electronic lab data, and GIS maps of contaminant distribution shall also be provided for both the Agency Review and Public Review Draft RI/FS reports.

TASK 4: PREPARE PRELIMINARY DRAFT CLEANUP ACTION PLAN

Upon Ecology approval of the Public Review Draft RI/FS, the Port shall prepare a Preliminary DCAP in accordance with WAC 173-340-380 that provides a proposed remedial action to address the contamination present on the Off-Property Portion unless Ecology determines cleanup activity is not required. The Preliminary DCAP shall include a general description of the proposed remedial actions, cleanup standards developed from the RI/FS and rationale regarding their selection, a schedule for implementation, description of any institutional controls proposed, and a summary of applicable local, state, and federal laws pertinent to the proposed cleanup actions.

The Port will submit an Agency Review Preliminary DCAP to Ecology. The Agency Review Preliminary DCAP will include, but not be limited to the information listed under WAC 173-340-380. The Port shall submit one electronic copy in Word format and one hard cover copy.

EXHIBIT D
Port of Ridgefield

SCOPE OF WORK AND PROJECT SCHEDULE*

Performance or Deliverable	Timing
Port Submit Agency Review Draft Remedial Investigation (RI) Work Plan to Ecology	Complete 30 calendar days after effective date of this Agreed Order
Ecology provide comments on Agency Review Draft RI Work Plan to Port	Endeavor to provide Ecology's comments within 21 calendar days following receipt of Agency Review Draft RI Work Plan
Port Submit Revised Agency Review Draft RI Work Plan to Ecology	Complete 30 calendar days after receipt of Ecology comments
Ecology approve of Final RI Work Plan	When all comments are resolved
Port Implement Final RI Work Plan	Complete 90 calendar days after Ecology approval of the Final RI Work Plan
Port Submit Agency Review Draft RI/Feasibility Study (FS) Report to Ecology	Complete 60 calendar days after receipt of final soil sample analytical report
Ecology provide comments on the Agency Review Draft RI/FS Report to Port	Endeavor to provide Ecology comments 30 calendar days after receipt of the Agency Review Draft RI/FS Report
Port Submit Public Review Draft RI/FS Report to Ecology	Complete 45 calendar days after receipt of Ecology comments on the Agency Review Draft RI/FS Report
Ecology approve Public Review Draft RI/FS Report	When all comments are resolved
Port Submit Agency Review Preliminary Draft Cleanup Action Plan (CAP) to Ecology	Complete 60 calendar days after Ecology approval of the Public Review Draft RI/FS Report
Ecology Submit comments on the Agency Review Preliminary Draft CAP to Port	Endeavor to provide Ecology comments 21 calendar days after receipt of the Agency Review Preliminary Draft CAP
Port Submit revised Public Review Preliminary Draft CAP to Ecology	Complete 30 calendar days after receipt of Ecology comments on the Agency Review Preliminary Draft CAP
(*Refer to Sections I and VII of Agreed Order)	