

**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

In the Matter of Remedial Action by:

**Gig Harbor Sportsman’s Club**

For:

Gig Harbor Sportsman’s Club

Facility Site No. 2566095

Cleanup Site No. 3115

AGREED ORDER

No. DE 12803

TO: Gig Harbor Sportsman’s Club  
Attn: Mr. Le Rodenberg  
9721 Burnham Drive NW  
Gig Harbor, WA 98332

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EXHIBIT A

Site Diagram

## **I. INTRODUCTION**

The mutual objective of the State of Washington, Department of Ecology (Ecology) and the Gig Harbor Sportsman's Club (GHSC) under this Agreed Order (Order) is to provide for remedial action at a facility where there has been a release or threatened release of hazardous substances. This Order requires GHSC to perform a remedial investigation (RI) and feasibility study (FS), and submit a draft cleanup action plan to Ecology for the Gig Harbor Sportsman's Club Site. 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. GHSC agrees to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter GHSC's responsibility under this Order. GHSC 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 Gig Harbor Sportsman's Club and is generally located at 9721 Burnham Drive NW in Gig Harbor, Washington. The Site is defined by the extent of contamination caused by the release of hazardous substances at the Site. Based upon factors currently known to Ecology, the Site is generally described in the Site Diagram (Exhibit A). The Site constitutes a facility under RCW 70.105D.020(8).

- B. Parties: Refers to the State of Washington, Department of Ecology and GHSC.
- C. Potentially Liable Person (PLP): Refers to GHSC.
- D. Agreed Order or Order: Refers to this Order and each of the exhibits to this Order.

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

## V. FINDINGS OF FACT

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

A. The 35.36-acre property, known as the Gig Harbor Sportsman’s Club, is located in Pierce County and consists of the entirety of Pierce County tax parcels 0222313044 (30.36 acres) and 0222314016 (5.0 acres). The property is located east of Burnham Drive NW and north of 97<sup>th</sup> Street NW in Gig Harbor, WA. The property is currently owned by GHSC. The delineation of the Site is yet to be determined in both the vertical and horizontal dimensions.

B. GHSC has maintained ownership of the facility since the mid-1940s. The facility currently contains a shotgun range, including seven trap fields, and a 100-yard combination rifle and pistol range.

C. The Tacoma-Pierce County Health Department (TPCHD) conducted an Initial Investigation between April and September 2002. Surface water samples were collected from two points in an intermittent unnamed tributary to North Creek where it flowed across the southeast section of the GHSC property. Dissolved lead concentrations ranged from 19.5 micrograms per liter ( $\mu\text{g/L}$ ) to 231  $\mu\text{g/L}$ , exceeding the Washington State aquatic life chronic criteria of 0.237  $\mu\text{g/L}$  (adjusted for water hardness). Soil samples were also collected from four discrete areas during the investigation. Results of the soil investigation indicated possible exceedances of MTCA soil cleanup levels for arsenic, lead, naphthalene, and carcinogen polycyclic aromatic compounds (cPAHs) in soil at the locations sampled. The presence of these contaminants may be the result of accumulations of lead ammunition and residue from clay sporting pigeons.

D. On two dates in April 2008, Ecology's Environmental Assessment Program sampled three surface water locations along the intermittent unnamed tributary of North Creek, and two locations along North Creek for lead and copper concentrations. Water quality results were consistent with the TPCHD investigation performed in 2002. The report concluded that GHSC was the source of the observed lead contamination and that North Creek should be retained as Category 5 (impaired waterbody) of the federal Clean Water Act Section 303(d) list for lead and copper. The unnamed tributary discharging to North Creek currently has a listing ID of 12585 in Ecology's Water Quality Assessment (WQA) database (2015 draft).

E. From December 2009 through March 2010, Ecology's Environmental Assessment Program conducted a study of toxicity in the intermittent unnamed tributary to North Creek that flows through the GHSC property. Similar to previous investigations, concentrations of dissolved lead in the surface water of the intermittent unnamed tributary to North Creek proximate to GHSC's property exceeded Washington State aquatic life chronic criteria by a factor of over 1,000. Analysis of periphyton native to the intermittent unnamed tributary to North Creek proximate to the GHSC property revealed that the periphyton community in this portion of the intermittent unnamed tributary is impacted due to the presence of dissolved lead.

## **VI. ECOLOGY DETERMINATIONS**

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

A. GHSC 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 upon credible evidence, Ecology issued a PLP status letter to GHSC dated November 25, 2014, pursuant to RCW 70.105D.040, .020(26), 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 GHSC is a PLP under RCW 70.105D.040 and notified GHSC of this determination by letter dated February 13, 2015.

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 GHSC take the following remedial actions at the Site and that these actions be conducted in accordance with WAC 173-340 unless otherwise specifically provided for herein:

A. RI/FS Work Plan. GHSC shall prepare and submit to Ecology for review and approval a work plan to implement a remedial investigation (RI) and a feasibility study (FS) under WAC 173-340-350. Submit the draft RI/FS Work Plan to Ecology within 60 days from the effective date of this Agreed Order. Submit the final RI/FS Work Plan incorporating Ecology's comments within 30 days of receiving Ecology's comments on the draft plan. Once approved by

Ecology, the RI/FS Work Plan shall become an integral and enforceable part of this Order. GHSC may consult with Ecology prior to writing the RI/FS Work Plan, to discuss scope of the work and outline for the work plan. At a minimum, the RI/FS Work Plan shall include the items listed below.

1. Preliminary conceptual site model.
2. Summary of existing chemical and hydrogeological data relevant to delineating the extent of contamination at the Site, and identification of remaining data gaps regarding the nature and extent of contamination.
3. Provisions for sufficient research and field investigations to delineate the nature and extent of contamination related to releases at this Site, to enable selection of cleanup standards, and to enable selection and evaluation of cleanup alternatives.
4. An evaluation of potential data needs for conducting the FS, and planned methods to obtain the needed data.
5. A Site Safety and Health Plan conforming to the requirements of WAC 173-340-810.
6. A section including the elements of a Sampling and Analysis Plan per the requirements of WAC 173-340-820. This shall include quality assurance/quality control measures necessary to ensure environmental data is complete, representative, accurate, and comparable to regulatory standards.
7. A schedule that provides deadlines for completion of field work, laboratory analysis, submittal of laboratory results to Ecology, submittal of the draft RI and FS reports to Ecology, submittal of the final RI and FS reports to Ecology, submittal of the Draft Cleanup Action Plan, and submittal of data to Ecology's Environmental Information Management (EIM) database. The deadlines shall follow the schedule outlined in this Order for submittals that are linked in time to previous submittals or events.

B. RI Field Work. GHSC shall perform a RI that meets the requirements of WAC 173-340-350 and implements the approved work plan. RI field work shall begin within 30 days of receiving Ecology's approval of the final RI/FS Work Plan.

C. Laboratory and field screening results. GHSC shall submit laboratory and field screening results from the RI field work to Ecology. Laboratory results shall be submitted to the Ecology project manager within 15 days following PLPs receipt of data from the laboratory(ies). Field screening results shall be submitted to the Ecology project manager within 15 days of performing field screening.

D. RI Data Memorandum and Data Spreadsheets. The PLPs shall prepare and submit to Ecology a memorandum, including brief text descriptions, tables, and maps summarizing the relevant historic data and information developed from the RI field and laboratory work, and comparing Site concentrations to Site screening levels. Electronic spreadsheets of the tabulated data shall be submitted along with the RI Data Memorandum. GHSC shall consult with Ecology prior to developing the data memorandum to discuss contents and formats for maps and tables. The RI Data Memorandum and spreadsheets shall be submitted within 45 days from receipt of data from the laboratory.

E. Electronic Data Submittal. In accordance with Section VIII.E (Sampling, Data Submittal, and Availability) of this Order, GHSC shall submit all data generated for the RI to Ecology's EIM database. GHSC may coordinate with Ecology project manager before uploading data to the EIM database. Data shall be submitted to the EIM database within 30 days from completion of data validation.

F. Draft RI Report. GHSC shall prepare and submit to Ecology for review and approval a Draft RI Report documenting the findings of the RI that meets the requirements of WAC 173-340-350. GHSC shall consult with Ecology prior to writing the Draft RI Report to discuss the report outline. The Draft RI Report shall incorporate relevant data from previous reports and studies, and those data shall be incorporated into the maps and tables of the RI Report along with the data from the RI field work. After making revisions based on Ecology's comments on an initial Draft RI report, GHSC shall submit a final Draft RI report. The final Draft RI report will be subjected to public notice and opportunity to comment before final approval by Ecology, in accordance with WAC 173-340-600(13)(c). Submit initial Draft RI Report to Ecology no longer

than 90 days from completion of field work. Submit final Draft RI report that incorporates Ecology's comments within 30 days of receiving Ecology's comments on the initial Draft RI report.

G. Draft FS Report. GHSC shall prepare and submit to Ecology for review and approval a Draft FS that meets the requirements of WAC 173-340-350(8). GHSC shall consult with Ecology prior to writing the Draft FS to discuss the report outline and scope of alternatives to be considered. After making revisions based on Ecology's comments on an initial Draft FS, GHSC shall submit a final Draft FS. The final Draft FS will be subjected to public notice and opportunity to comment before final approval by Ecology, in accordance with WAC 173-340-600(13)(c). Submit initial Draft FS to Ecology no longer than 90 days after Ecology approval of the Draft RI. Submit final Draft FS report that incorporates Ecology's comments within 30 days of receiving Ecology's comments on the initial Draft FS.

H. Draft Cleanup Action Plan. After Ecology approval of the final Draft RI and FS Reports, GHSC shall prepare and submit to Ecology for review a Draft Cleanup Action Plan (Draft CAP) that meets the requirements in WAC 173-340-380. GHSC shall consult with Ecology prior to writing the Draft CAP to discuss the report outline and proposed contents. After making revisions based on Ecology's comments on an initial Draft CAP, GHSC shall submit a revised Draft CAP. Ecology will issue a final Draft CAP for public notice and opportunity to comment in accordance with WAC 173-340-600(14) (a) and (b). Implementation of a final CAP will be addressed by a separate legal agreement. Submit initial Draft CAP no longer than 60 days from Ecology's approval of the Final RI and FS Reports. Submit a revised Draft CAP that incorporates Ecology's comments within 30 days of receiving Ecology's comments on the initial Draft CAP.

I. 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.

J. All plans or other deliverables submitted by GHSC for Ecology's review and approval shall, upon Ecology's approval, become integral and enforceable parts of this Order.



K. If the Parties agree on an interim action under Section VI.E, GHSC 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). GHSC 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 GHSC is required to conduct the interim action in accordance with the approved Interim Action Work Plan.

L. If Ecology determines that GHSC has failed to make sufficient progress or failed to implement the remedial action, in whole or in part, Ecology may, after notice to GHSC, perform any or all portions of the remedial action or at Ecology’s discretion allow GHSC opportunity to correct. GHSC shall reimburse Ecology for the costs of doing such work in accordance with Section VIII.A (Remedial Action Costs). Ecology reserves the right to enforce requirements of this Order under Section X (Enforcement).

M. Except where necessary to abate an emergency situation, GHSC 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.

N. Summary of Schedule

Task	Item	Schedule
A	Draft RI/FS Work Plan	60 days from effective date of Agreed Order
A	Final RI/FS Work Plan	30 days from receiving Ecology comments on the draft
B	Begin RI Field Work	30 days from Ecology approval of Final RI/FS Work Plan
C	Submit Laboratory Results	15 days from PLPs receipt of validated laboratory data
C	Submit Field Screening Results	15 days from conducting field screening
D	RI Data Memorandum and Data Spreadsheets	45 days from PLPs receipt of validated laboratory data
E	Electronic Data Submittal to EIM	30 days from completion of data validation
F	Initial Draft RI Report	90 days from completion of field work
F	Final Draft RI Report	60 days from receiving Ecology comments on the draft
G	Initial Draft FS	90 days from Ecology approval of RI report.
G	Revised Draft FS	30 days from receiving Ecology comments on the draft
H	Initial Draft CAP	60 days from Ecology approval of FS.

H	Revised Draft CAP	30 days from receiving Ecology comments on the draft
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**VIII. TERMS AND CONDITIONS**

**A. Remedial Action Costs**

GHSC shall pay to Ecology costs incurred by Ecology pursuant to this Order and consistent with WAC 173-340-550(2). These costs shall include work performed by Ecology or its contractors for, or on, the Site under RCW 70.105D, including remedial actions and Order preparation, negotiation, oversight, and administration. These costs shall include work performed both prior to and subsequent to the issuance of this Order. Ecology’s costs shall include costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2). Ecology has accumulated \$6,085.66 in remedial action costs related to this Site as of June 30, 2015. Payment for this amount shall be submitted within thirty (30) days of the effective date of this Order. For all costs incurred subsequent to June 30, 2015, GHSC 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:

Jason Landskron, P.E., Cleanup Project Manager  
 Washington State Dept. of Ecology  
 Southwest Regional Office  
 300 Desmond Drive SE  
 Lacey, WA 98503  
 Telephone: (360) 407-6388

The project coordinator for [PLP] is:

Peter D. Jewett, L.G., L.E.G.  
Farallon Consulting, L.L.C.  
975 5th Avenue NW  
Issaquah, Washington 98027  
Telephone: (425) 295-0800

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 GHSC, 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.

GHSC 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**

The Site is an active shooting range, at which issues of personal safety are of paramount concern. Consistent with necessary respect for this concern, GHSC shall permit access to Ecology or any Ecology authorized representative to enter and move about all property at the Site that GHSC 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 GHSC'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 GHSC. Provided, however, that Ecology shall provide notice of the need to exercise such access sufficient to permit GHSC to arrange for such access to be safely conducted. GHSC shall make all reasonable efforts to secure access rights for those properties within the Site not owned or controlled by GHSC 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 GHSC 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, GHSC 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, GHSC shall allow Ecology and/or its authorized representative to take split or duplicate samples of any samples collected by GHSC pursuant to implementation of this Order. GHSC shall notify Ecology seven (7) days in advance of any sample collection or work activity at the Site. Ecology shall, upon request, allow GHSC 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.E (Access), Ecology shall notify GHSC 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**

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 GHSC.

Ecology shall maintain the responsibility for public participation at the Site. However, GHSC 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 GHSC 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 GHSC that do not receive prior Ecology approval, GHSC 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. Pierce County Library- Peninsula Branch  
4424 Point Fosdick Dr NW  
Gig Harbor, WA 98335
- b. Ecology's Southwest Regional Office  
300 Desmond Dr SE  
Lacey, WA 98503  
(360) 407-6365

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, GHSC 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, GHSC 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 GHSC may have under applicable law to limit disclosure of documents protected by the attorney work-product privilege and/or the attorney-client privilege. If GHSC withholds any requested records based on an assertion of privilege, GHSC 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 GHSC elects to invoke dispute resolution, GHSC 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), GHSC 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; GHSC'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. GHSC 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 GHSC 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 GHSC 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 GHSC;

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 GHSC.

3. Ecology shall act upon any written request for extension in a timely fashion. Ecology shall give GHSC 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 GHSC. GHSC 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 GHSC to cease such activities for such period of time as it deems necessary to abate the danger. GHSC shall immediately comply with such direction.

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

If Ecology concurs with or orders a work stoppage pursuant to this section, GHSC'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 GHSC to recover remedial action costs paid to and received by Ecology under this Order. In addition, Ecology will not take additional enforcement actions against GHSC regarding remedial actions required by this Order, provided GHSC 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, GHSC does not admit to any liability for the Site. Although GHSC is committing to conducting the work required by this Order under the terms of this Order, GHSC 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 GHSC 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 GHSC's transfer of any interest in all or any portion of the Site, and during the effective period of this Order, GHSC 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, GHSC shall notify Ecology of said transfer. Upon transfer of any interest, GHSC 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 GHSC 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 the actions required by this Order.

2. Pursuant to RCW 70.105D.090(1), GHSC 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, GHSC shall comply with the substantive requirements of such permits or approvals. At this time, no state or local permits or approvals have been identified as being applicable but procedurally exempt under this section.

GHSC 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 GHSC 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 GHSC shall be responsible to contact the appropriate state and/or local

agencies. If Ecology so requires, GHSC 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 GHSC and on how GHSC must meet those requirements. Ecology shall inform GHSC in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. GHSC 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 GHSC 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**

GHSC 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 (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 GHSC, its officers, employees, agents, or contractors in entering into and implementing this Order. However, GHSC 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, or in entering the Site without having made necessary arrangement to do so safely.

**IX. SATISFACTION OF ORDER**

The provisions of this Order shall be deemed satisfied upon GHSC's receipt of written notification from Ecology that GHSC has completed the remedial activity required by this Order,

as amended by any modifications, and that GHSC 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.

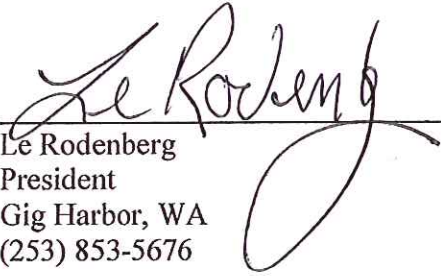
2. Civil penalties of up to twenty-five thousand dollars (\$25,000) per day for each day it refuses to comply.

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

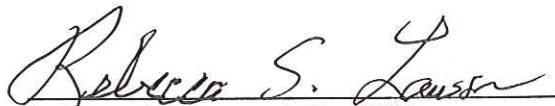
This Order may be reviewed only as provided under RCW 70.105D.060.

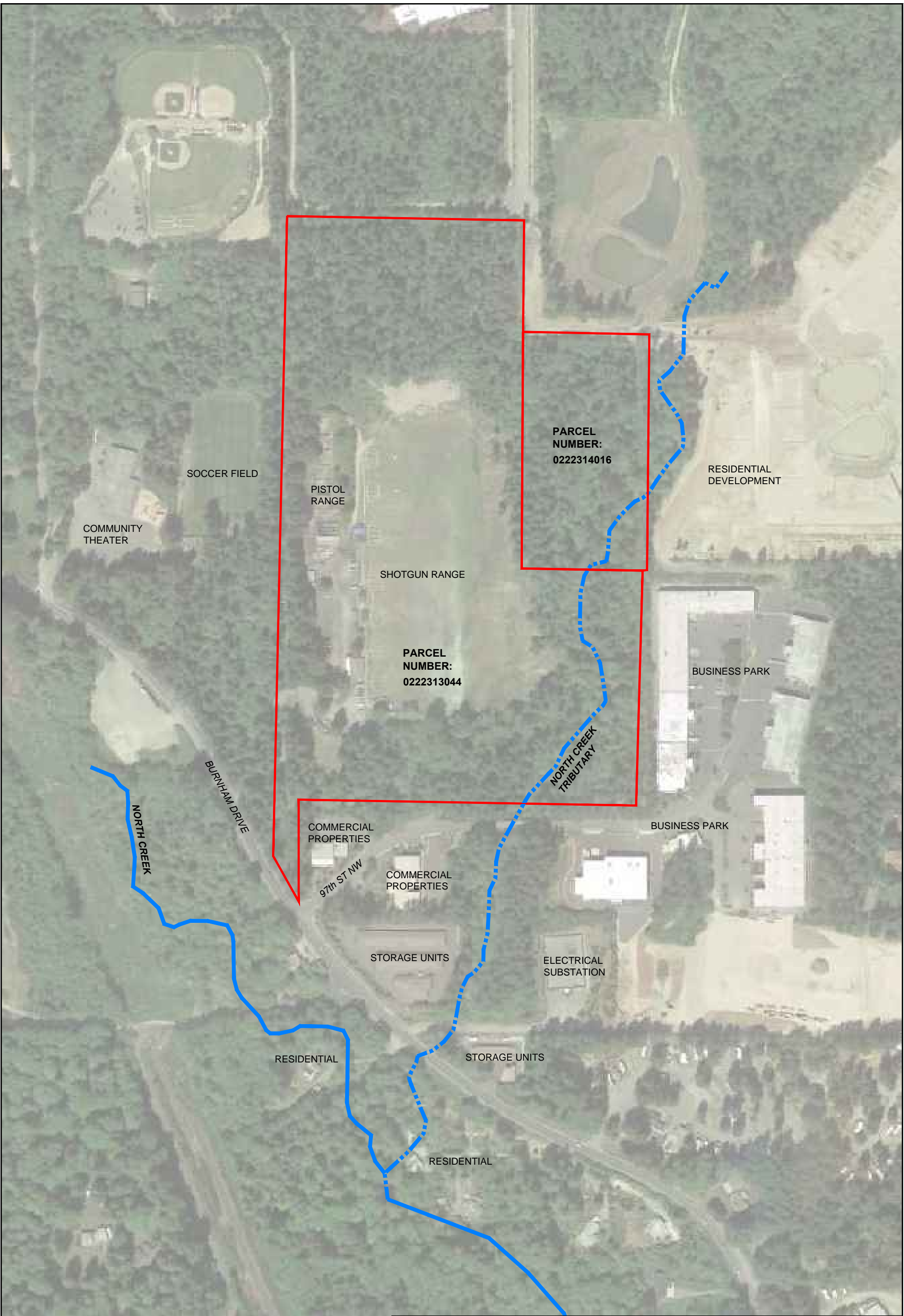
Effective date of this Order: November 10, 2015

GIG HARBOR SPORTSMAN'S CLUB

  
Le Rodenberg  
President  
Gig Harbor, WA  
(253) 853-5676

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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



**LEGEND**

 PARCEL BOUNDARY




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California  
Oakland | Sacramento | Irvine

**EXHIBIT A**

SITE DIAGRAM  
GIG HARBOR SPORTSMAN'S CLUB  
9721 BURNHAM DR NW  
GIG HARBOR, WASHINGTON

FARALLON PN: 1303-001

Drawn By: DEW

Checked By: JM

Date: 6/3/2015

Disk Reference: 1303001