SKAGIT COUNTY, WASH
FILED
AUG 1 2011
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Deputy

STATE OF WASHINGTON
SKAGIT COUNTY SUPERIOR COURT

STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY, Plaintiff, v. PORT OF SKAGIT COUNTY, a municipal corporation, Defendant.	NO. 11 2 01536 2 ORDER ENTERING CONSENT DECREE [Proposed]

Having reviewed the Joint Motion for Entry of the Consent Decree, it is hereby ORDERED AND ADJUDGED that the Consent Decree in this matter is entered and that the court shall retain jurisdiction over the Consent Decree to enforce its terms.

DATED this 1 day of Aug, 2011.

MICHAEL RICKERT
Superior Court Judge/Commissioner

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Presented by:

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STATE OF WASHINGTON
SKAGIT COUNTY SUPERIOR COURT

STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY, Plaintiff, v. PORT OF SKAGIT COUNTY, a municipal corporation, Defendant.	NO. SUMMONS

TO: Steven J. Thiele, attorney for Port of Skagit County, Defendant;

A lawsuit has been started against you in the above-entitled court by the State of Washington, Department of Ecology. Plaintiff's claim is stated in the written Complaint, a copy of which is served upon you with this Summons.

The parties have agreed to resolve this matter by entry of a Consent Decree, a copy of which is also attached. Accordingly, this Summons shall not require the filing of an Answer. Further, all disputes arising under this cause shall be resolved under the terms of the Consent Decree.

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DATED this 25th day of July, 2011.

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STATE OF WASHINGTON
SKAGIT COUNTY SUPERIOR COURT

STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY, Plaintiff, v. PORT OF SKAGIT COUNTY, a municipal corporation, Defendant.	NO. COMPLAINT

Plaintiff, State of Washington, Department of Ecology (Ecology) alleges as follows:

I. DESCRIPTION OF ACTION

1. This action is brought on behalf of the State of Washington, Department of Ecology (Ecology) to enter a settlement agreement known as a Consent Decree (Decree), which requires cleanup at a facility where there has been a release and/or threatened release of hazardous substances.

2. The Complaint and settlement are limited to the scope of the Decree. The facility, or Site, is referred to formally and in Ecology databases as the Skagit County Port Site. The Site is generally located near the western edge of the Skagit Regional Airport in Burlington, Washington. The Site is informally known as the Taxiway F Site.

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II. JURISDICTION

3. This court has jurisdiction over the subject matter and over the Parties pursuant to the Model Toxics Control Act (MTCA), Chapter 70.105D RCW. Venue is proper in Skagit County Superior Court, the location of the Site.

III. PARTIES

4. Plaintiff Ecology is an agency of the State of Washington responsible for overseeing remedial action at sites contaminated with hazardous substances under Chapter 70.105D RCW.

5. Defendant refers to Port of Skagit County (Port). The Port has agreed to enter into a Consent Decree with Ecology under MTCA to remedy the release of hazardous substances on their property.

IV. FACTUAL ALLEGATIONS

6. The Port is the current owner and operator of the real property comprising the Taxiway F Site, located at the Skagit Regional Airport. The Taxiway F Site consists of a paved taxiway area, a hangar/storage building, and adjacent undeveloped areas which covers an area of 2.2 acres.

7. Taxiway F was constructed in 1933, and expanded in 1943 by the U.S. Navy. In 1958, the federal government transferred the facility to Skagit County. The Port assumed full ownership and operation of the airport in 1975.

8. Starting in 1978, the Port leased the portion of the Site adjacent to the taxiway to a series of individuals and companies engaged in the business of crop dusting. As part of the historic crop dusting operations, chemicals (pesticides, herbicides, fungicides) were handled at the Site, and the hangar/storage building was constructed on the Site and used for aircraft parking and material storage, including storage of the chemicals used for crop dusting.

9. In 2000, the Port discovered stained soils at the Site and began soil and groundwater sampling to characterize the Site contamination. In May 2004, the Port entered

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into Ecology's Voluntary Cleanup Program to conduct site investigations and remedial actions. The investigations documented the presence of pesticides and fungicides at the Site with concentrations exceeding MTCA Method A and/or Method B soil and groundwater cleanup levels.

10. Ecology named Port as a potentially liable party (PLP) for the Site under MTCA on August 25, 2005.

11. On April 10, 2009, the Port and Ecology entered into Agreed Order No. 6158 under which the Port performed a remedial investigation and feasibility study (RI/FS) for the Site.

12. Ecology has determined that contamination at the Site presents a threat to human health and the environment, and that a final cleanup is necessary to remedy the contamination.

13. Ecology developed a draft Cleanup Action Plan (CAP) for the Site and negotiated a draft Decree with the Port for implementation of the CAP.

14. The draft CAP and draft Decree were subject to public notice and comment. Comments were accepted from April 29 through May 31, 2011.

15. After consideration of all comments received, Ecology issued a final CAP.

16. Ecology and the Port have now entered into the final Decree requiring cleanup of the Site. The final CAP is an integral and enforceable exhibit to the Decree. The Decree is being submitted to the court along with this Complaint.

V. CAUSES OF ACTION

17. Ecology realleges all preceding paragraphs.

18. Ecology alleges that the Port is responsible for remedial action at the Site, pursuant to MTCA, Chapter 70.105D RCW.

VI. PRAYER FOR RELIEF

19. Ecology requests that the court approve and order entry of the proposed Decree.

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20. Ecology further requests that the court retain jurisdiction to enforce the terms of the Decree.

DATED this 25th day of July, 2011.

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IVY ANDERSON, WSBA #30652
Assistant Attorney General

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STATE OF WASHINGTON
SKAGIT COUNTY SUPERIOR COURT

STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY, Plaintiff, v. PORT OF SKAGIT COUNTY, a municipal corporation, Defendant.	NO. JOINT MOTION FOR ENTRY OF CONSENT DECREE

I. INTRODUCTION

Plaintiff, State of Washington, Department of Ecology (Ecology), and Defendant, Port of Skagit County (Port), bring this motion seeking entry of the attached Consent Decree (Decree). This motion is based upon the pleadings filed in this matter, including the Declaration of David L. South, Site Manager, Washington State Department of Ecology, Northwest Regional Office—Toxics Cleanup Program.

II. RELIEF REQUESTED

The Parties request that the court approve and enter the attached Decree, which governs the cleanup of contamination at the Skagit County Port Site (Site) generally located in Burlington, Washington, pursuant to the Model Toxics Control Act (MTCA), Chapter 70.105D

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RCW. The parties also request that the court retain jurisdiction over this action until the work required by the Decree is completed and the Parties request a dismissal of this action.

III. AUTHORITY

A. Authority is conferred upon the Washington State Attorney General by RCW 70.105D.040(4)(a) to agree to a settlement with any potentially liable person (PLP) if, after public notice and any required hearing, Ecology finds the proposed settlement would lead to a more expeditious cleanup of hazardous substances. RCW 70.105D.040(4)(b) requires that such a settlement be entered as a Consent Decree issued by a court of competent jurisdiction.

IV. AGENCY DETERMINATIONS SUPPORTING ENTRY OF DECREE

A. Ecology has determined that a release or threatened release of hazardous substances has occurred at the Site that is the subject of this Decree. Declaration of David L. South (South Decl.) ¶ 4.

B. Ecology has determined that contamination at the Site presents a threat to human health and the environment. South Decl. ¶ 5.

C. Ecology has given notice to the Port of Ecology's determination that the Port is a PLP for the Site, as required by RCW 70.105D.020(16) and WAC 173-340-500. South Decl. ¶ 6.

D. The actions to be taken pursuant to this Decree are necessary to protect public health and the environment. South Decl. ¶ 8.

E. This Decree has been subject to public notice and comment. Ecology considered all comments received, and determined that no additional public comment was required. South Decl. ¶ 7.

F. Ecology has determined that this Decree will lead to a more expeditious cleanup of hazardous substances at the Site in compliance with cleanup standards established under RCW 70.105D.030(2)(e) and Chapter 173-340 WAC. South Decl. ¶ 8.

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V. CONCLUSION

The Parties believe it is appropriate for the court to exercise its discretion and approve the attached Decree, and hereby request that the court enter the attached Order. The parties further request that the court retain jurisdiction to enforce the terms of the Decree.

DATED this 25th day of July, 2011.

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STATE OF WASHINGTON
SKAGIT COUNTY SUPERIOR COURT

STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY, Plaintiff, v. PORT OF SKAGIT COUNTY, a municipal corporation, Defendant.	NO. DECLARATION OF DAVID L. SOUTH

I, David L. South, declare as follows:

1. I am over twenty-one years of age and am competent to testify herein. The facts set forth in this declaration are from my personal knowledge.

2. I am employed by the Washington State Department of Ecology as a Site Manager in the Toxics Cleanup Program for Ecology's Northwest Regional Office. I am the designated Site Manager for the Skagit County Port Site (aka the Taxiway F Site), and I am therefore knowledgeable about matters related to this Site.

3. The Site is located in Burlington, Washington.

4. Ecology has determined that a release or threatened release of hazardous substances has occurred at the Site.

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5. Ecology has determined that contamination at the Site presents a threat to human health or the environment.

6. Ecology has given notice to the Port of Skagit County (Port) of Ecology's determination that it is a potentially liable person (PLP) for the Site, as required by RCW 70.105D.020(21) and WAC 173-340-500.

7. The Consent Decree and Cleanup Action Plan were available for public comment between April 29th and May 31, 2011. Ecology has determined that no additional public comment is required.

8. Ecology has determined that the actions to be taken pursuant to the Consent Decree are necessary to protect public health and the environment, and will lead to a more expeditious cleanup of hazardous substances at the Site in compliance with cleanup standards established under RCW 70.105D.030(2)(e) and Chapter 173-340 WAC.

I declare under penalty of perjury of the laws of the state of Washington that the foregoing is true and correct.

DATED this 4th day of June, 2011, in Bellevue, Washington.

David L. South

DAVID L. SOUTH

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STATE OF WASHINGTON
SKAGIT COUNTY SUPERIOR COURT

STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY, Plaintiff, v. PORT OF SKAGIT COUNTY, a municipal corporation, Defendant.	NO. CERTIFICATE OF SERVICE

Pursuant to RCW 9A.72.085, I certify that on the 26 day of July, 2011, I caused to be served the Summons and Complaint in the above-captioned matter upon the parties herein as indicated below. Also enclosed are courtesy copies of the Joint Motion for Entry of Consent Decree, Declaration of David L. South, Consent Decree, and Proposed Order Entering Consent Decree.

STEVEN J. THIELE STOEL RIVES LLP 600 UNIVERSITY STREET, SUITE 3600 SEATTLE WA 98101-4109	[x] U.S. Mail [ ] State Campus Mail [ ] Hand Delivered [ ] Overnight Express [ ] By Fax

the foregoing being the last known address.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

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DATED this 26 day of July, 2011, in Olympia, Washington.

DELLA D. SHIELDS, Legal Assistant

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STATE OF WASHINGTON
SKAGIT COUNTY SUPERIOR COURT

STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

PORT OF SKAGIT COUNTY, a municipal corporation,

Defendant.

NO. 11 2 01536 2

CONSENT DECREE

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EXHIBIT C. Permits
EXHIBIT D. State & Local Substantive Requirements

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I. INTRODUCTION

A. The mutual objective of the State of Washington, Department of Ecology (Ecology) and the Port of Skagit County (Port) under this Decree is to provide for remedial action at a facility where there has been a release or threatened release of hazardous substances. This Decree requires the Port to implement the cleanup action described in Exhibit B at the Taxiway F Site at Skagit Regional Airport.

Ecology has determined that these actions are necessary to protect human health and the environment.

B. The Complaint in this action is being filed simultaneously with this Decree. An Answer has not been filed, and there has not been a trial on any issue of fact or law in this case. However, the Parties wish to resolve the issues raised by Ecology's Complaint. In addition, the Parties agree that settlement of these matters without litigation is reasonable and in the public interest, and that entry of this Decree is the most appropriate means of resolving these matters.

C. By signing this Decree, the Parties agree to its entry and agree to be bound by its terms.

D. By entering into this Decree, the Parties do not intend to discharge non-settling parties from any liability they may have with respect to matters alleged in the Complaint. The Parties retain the right to seek reimbursement, in whole or in part, from any liable persons for sums expended under this Decree.

E. This Decree shall not be construed as proof of liability or responsibility for any releases of hazardous substances or cost for remedial action nor an admission of any facts; provided, however, that the Port shall not challenge the authority of the Attorney General and Ecology to enforce this Decree.

F. The Court is fully advised of the reasons for entry of this Decree, and good cause having been shown:

Now, therefore, it is HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

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II. JURISDICTION

A. This Court has jurisdiction over the subject matter and over the Parties pursuant to the Model Toxics Control Act (MTCA), Chapter 70.105D RCW.

B. Authority is conferred upon the Washington State Attorney General by RCW 70.105D.040(4)(a) to agree to a settlement with any potentially liable person (PLP) if, after public notice and any required hearing, Ecology finds the proposed settlement would lead to a more expeditious cleanup of hazardous substances. RCW 70.105D.040(4)(b) requires that such a settlement be entered as a consent decree issued by a court of competent jurisdiction.

C. Ecology has determined that a release or threatened release of hazardous substances has occurred at the Site that is the subject of this Decree.

D. Ecology has given notice to the Port of Ecology's determination that the Port is a PLP for the Site, as required by RCW 70.105D.020(21) and WAC 173-340-500.

E. The actions to be taken pursuant to this Decree are necessary to protect public health and the environment.

F. This Decree has been subject to public notice and comment.

G. Ecology finds that this Decree will lead to a more expeditious cleanup of hazardous substances at the Site in compliance with the cleanup standards established under RCW 70.105D.030(2)(e) and Chapter 173-340 WAC.

H. The Port has agreed to undertake the actions specified in this Decree and consents to the entry of this Decree under MTCA.

III. PARTIES BOUND

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

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responsibility under this Decree. The Port shall provide a copy of this Decree to all agents, contractors, and subcontractors retained to perform work required by this Decree, and shall ensure that all work undertaken by such agents, contractors, and subcontractors complies with this Decree.

IV. DEFINITIONS

Unless otherwise specified herein, all definitions in RCW 70.105D.020 and WAC 173-340-200 shall control the meanings of the terms in this Decree.

A. Site: The Site is referred to formally and in Ecology databases as the Skagit County Port Site (Ecology FSID#67457634), and is generally located near the western edge of the Skagit Regional Airport in Burlington, Washington. The Site is informally known as the Taxiway F Site. The Site is more particularly described in the Site Diagram (Exhibit A). The Site constitutes a Facility under RCW 70.105D.020(5).

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

C. The Port: Refers to the Port of Skagit County.

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

V. FINDINGS OF FACTS

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

A. The Site is located adjacent to Taxiway F near the western edge of the Skagit Regional Airport (Airport) in Skagit County, Washington, and consists of a paved taxiway area, a hangar/storage building, and adjacent undeveloped areas.

B. Taxiway F was constructed in 1933 as the original runway of a one-runway airfield constructed by Federal New Deal agencies for light airplanes. In 1943 the U.S. Navy

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constructed the existing two-runway system still in use today at the Skagit Regional Airport as an alternate training field for the Whidbey Island Naval Air Station. After World War II, the federal government continued to operate the airport, primarily for the Civil Air Patrol, until transferring the facility to Skagit County in 1958. The Port assumed full ownership and operation of the airport in 1975.

C. Starting in 1978, the Port leased the portion of the Site immediately adjacent to the taxiway to a series of individuals and companies engaged in the business of crop dusting. As part of the crop dusting operations, the hangar/storage building was constructed on the Site and used for aircraft parking and materials storage, including storage of chemicals used for crop dusting.

D. As part of the crop dusting operations at the Site, pesticides, herbicides, and fungicides were stored in the hangar/storage building and handled including the process of loading the chemicals onto crop dusting aircraft.

E. The Port discovered stained soils at the Site in 2000 and began the process of soil and groundwater sampling to characterize the Site contamination. The results were summarized in a series of soil and groundwater sampling reports generated between 2001 and 2004.

F. In May 2004, the Port of Skagit County entered into the voluntary cleanup program (VCP) for the Site. Site investigations and remedial actions were conducted under VCP as discussed in paragraph G below.

G. From 2006 - 2008, the Port conducted what it described for internal administrative purposes as an independent "Remedial Investigation/Feasibility Study", and developed what it described for internal administrative purposes as a "Cleanup Action Plan" and supporting documents. The investigation documented the presence of pesticides and fungicides at the Site with concentrations exceeding MTCA Method-A and/or Method-B soil and groundwater cleanup levels.

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H. The Site was removed from the VCP on February 3, 2009, because Ecology and the Port agreed to remediate the Site under the formal program.

I. On April 10, 2009, the Port and Ecology entered into Agreed Order No. 6158 under which the Port performed a remedial investigation and feasibility study (RI/FS) for the Site. In performing the RI/FS the Port collected, developed and evaluated sufficient information to enable Ecology to select a cleanup action for the Site. The RI/FS report was subject to public comment concurrent with this Decree.

VI. WORK TO BE PERFORMED

This Decree contains a program designed to protect human health and the environment from the known release, or threatened release, of hazardous substances or contaminants at, on, or from the Site.

A. The Port shall implement the Cleanup Action Plan (CAP) attached to this Decree as Exhibit B. The CAP specifies remedial actions including, but not limited to, excavation and off-site disposal of all Site soils exceeding cleanup levels.

B. The Port agrees not to perform any remedial actions outside the scope of this Decree unless the Parties agree to modify the Scope of Work and Schedule contained in the CAP (Exhibit B) to cover these actions. All work conducted by the Port under this Decree shall be done in accordance with Chapter 173-340 WAC unless otherwise provided herein.

VII. DESIGNATED PROJECT COORDINATORS

The project coordinator for Ecology is:

David L. South
3190 160th Avenue SE
Bellevue, WA 98008-5452
(425) 649-7200
Email: david.south@ecy.wa.gov

The project coordinator for the Port is:

Sara K. Young
Manager of Planning & Environmental Services
Port of Skagit County

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15400 Airport Drive
Burlington, WA 98233
(360) 757-0011
Email: saray@portofskagit.com

Each project coordinator shall be responsible for overseeing the implementation of this Decree. 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 Decree 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 Decree.

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.

VIII. PERFORMANCE

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

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

All construction work performed pursuant to this Decree shall be under the direct supervision of a professional engineer or a qualified technician under the direct supervision of a professional engineer. The professional engineer must be registered in the State of Washington, except as otherwise provided for by RCW 18.43.130.

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Any documents submitted containing geologic, hydrologic or engineering work shall be under the seal of an appropriately licensed professional as required by Chapter 18.220 RCW or RCW 18.43.130.

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

IX. ACCESS

Ecology or any Ecology authorized representative shall have full authority to enter and freely move about all property at the Site that the Port either owns, controls, or has access rights to at all reasonable times for the purposes of, *inter alia*: inspecting records, operation logs, and contracts related to the work being performed pursuant to this Decree; reviewing the Port's progress in carrying out the terms of this Decree; 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 Decree; 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 Decree. 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 Parties 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.

X. SAMPLING, DATA SUBMITTAL, AND AVAILABILITY

With respect to the implementation of this Decree, 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

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in both printed and electronic formats in accordance with Section XI (Progress Reports), 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 the implementation of this Decree. 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 Decree, provided that doing so does not interfere with Ecology's sampling. Without limitation on Ecology's rights under Section IX (Access), Ecology shall notify the Port prior to any sample collection activity unless an emergency prevents such notice.

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

XI. PROGRESS REPORTS

The Port shall submit to Ecology written monthly Progress Reports that describe the actions taken during the previous month to implement the requirements of this Decree. The Progress Reports shall include the following:

A. A list of on-site activities that have taken place during the month.

B. Detailed description of any deviations from required tasks not otherwise documented in project plans or amendment requests.

C. Description of all deviations from the CAP's Scope of Work and Schedule (Exhibit B) during the current month and any planned deviations in the upcoming month.

D. For any deviations in schedule, a plan for recovering lost time and maintaining compliance with the schedule.

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E. All raw data (including laboratory analyses) received by the Port during the past month and an identification of the source of the sample; and

F. A list of deliverables for the upcoming month if different from the schedule.

G. All Progress Reports shall be submitted by the tenth (10^{th}) day of the month in which they are due after the effective date of this Decree. Progress reports shall be submitted by email as attached Adobe Acrobat files.

H. All other documents shall be submitted electronically as Adobe Acrobat files and as hard copy in the number specified by Ecology. Ecology also may require submittal of documents and information in other electronic formats such as Word, Excel, Access, AutoCAD, or ArcGIS format, as specified by Ecology. Hard copy reports shall be sent by regular mail or parcel service unless Ecology specifies or the Port chooses to send the document by certified mail, return receipt requested. All documents are to be submitted to Ecology's project coordinator.

XII. RETENTION OF RECORDS

During the pendency of this Decree, and for ten (10) years from the date this Decree is no longer in effect as provided in Section XXV (Duration of Decree), the Port shall preserve all records, reports, documents, and underlying data in its possession relevant to the implementation of this Decree 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.

XIII. 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 operation and maintenance of any containment system, treatment system, and/or monitoring system installed or implemented pursuant to this Decree.

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Prior to the Port's transfer of any interest in all or any portion of the Site, and during the effective period of this Decree, the Port shall provide a copy of this Decree to any prospective purchaser, lessee, transferee, assignee, or other successor in said interest; and, at least thirty (30) days prior to any transfer, the Port shall notify Ecology of said transfer. Upon transfer of any interest, the Port shall restrict uses and activities to those consistent with this Consent Decree and notify all transferees of the restrictions on the use of the property.

XIV. RESOLUTION OF DISPUTES

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

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

2. The Parties' project coordinators shall then confer in an effort to resolve the dispute. If the project coordinators cannot resolve the dispute within fourteen (14) days, Ecology's project coordinator shall issue a written decision.

3. The Port may then request regional management review of the decision. This request shall be submitted in writing to Ecology's Northwest Region Toxics Cleanup Program Section Manager within seven (7) days of receipt of Ecology's project coordinator's written decision.

4. Ecology's Regional Section Manager shall conduct a review of the dispute and shall endeavor to issue a written decision regarding the dispute within thirty (30) days of the Port's request for review.

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5. If the Port finds Ecology's Regional Section Manager's decision unacceptable, the Port may then request final management review of the decision. This request shall be submitted in writing to the Toxics Cleanup Program Manager within seven (7) days of receipt of the Regional Section Manager's decision.

6. Ecology's Toxics Cleanup Program Manager shall conduct a review of the dispute and shall endeavor to issue a written decision regarding the dispute within thirty (30) days of the Port's request for review of the Regional Section Manager's decision. The Toxics Cleanup Program Manager's decision shall be Ecology's final decision on the disputed matter.

B. If Ecology's final written decision is unacceptable to the Port, the Port has the right to submit the dispute to the Court for resolution. The Parties agree that one judge should retain jurisdiction over this case and shall, as necessary, resolve any dispute arising under this Decree. In the event the Port presents an issue to the Court for review, the Court shall review the action or decision of Ecology on the basis of whether such action or decision was arbitrary and capricious and render a decision based on such standard of review.

C. 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. Where either party utilizes the dispute resolution process in bad faith or for purposes of delay, the other party may seek sanctions.

D. Implementation of these dispute resolution procedures shall not provide a basis for delay of any activities required in this Decree, unless Ecology agrees in writing to a schedule extension or the Court so orders.

XV. AMENDMENT OF DECREE

The project coordinators may agree to minor changes to the work to be performed without formally amending this Decree. Minor changes will be documented in writing by Ecology.

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Substantial changes to the work to be performed shall require formal amendment of this Decree. This Decree may only be formally amended by a written stipulation among the Parties that is entered by the Court, or by order of the Court. Such amendment shall become effective upon entry by the Court. Agreement to amend the Decree shall not be unreasonably withheld by any party.

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 the Decree is a substantial change, Ecology will provide public notice and opportunity for comment. Reasons for the disapproval of a proposed amendment to the Decree 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 XIV (Resolution of Disputes).

XVI. EXTENSION OF SCHEDULE

A. 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:

1. The deadline that is sought to be extended.
2. The length of the extension sought.
3. The reason(s) for the extension.
4. Any related deadline or schedule that would be affected if the extension were granted.

B. 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:

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1. 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.

2. Acts of God, including fire, flood, blizzard, extreme temperatures, storm, or other unavoidable casualty.

3. Endangerment as described in Section XVII (Endangerment).

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

C. 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 Decree. A requested extension shall not be effective until approved by Ecology or, if required, by the Court. Unless the extension is a substantial change, it shall not be necessary to amend this Decree pursuant to Section XV (Amendment of Decree) when a schedule extension is granted.

D. 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:

1. Delays in the issuance of a necessary permit which was applied for in a timely manner.

2. Other circumstances deemed exceptional or extraordinary by Ecology.

3. Endangerment as described in Section XVII (Endangerment).

XVII. ENDANGERMENT

In the event Ecology determines that any activity being performed at the Site is creating or has the potential to create a danger to human health or the environment, Ecology may direct

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the Port to cease such activities for such period of time as it deems necessary to abate the danger. The Port shall immediately comply with such direction.

In the event the Port determines that any activity being performed at the Site is creating or has the potential to create a danger to human health or the environment, the Port may cease such activities. The Port shall notify Ecology's project coordinator as soon as possible, but no later than twenty-four (24) hours after making such determination or ceasing such activities. Upon Ecology's direction, the Port shall provide Ecology with documentation of the basis for the determination or cessation of such activities. If Ecology disagrees with the Port's cessation of activities, it may direct the Port to resume such activities.

If Ecology concurs with or orders a work stoppage pursuant to 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 XVI (Extension of Schedule), for such period of time as Ecology determines is reasonable under the circumstances.

Nothing in this Decree shall limit the authority of Ecology, its employees, agents, or contractors to take or require appropriate action in the event of an emergency.

XVIII. COVENANT NOT TO SUE

A. Covenant Not to Sue: In consideration of the Port's compliance with the terms and conditions of this Decree, Ecology covenants not to institute legal or administrative actions against the Port regarding the release or threatened release of hazardous substances covered by this Decree.

This Decree covers only the Site specifically identified in the Site Diagram (Exhibit A) and those hazardous substances that Ecology knows are located at the Site as of the date of entry of this Decree. This Decree does not cover any other hazardous substance or area. Ecology retains all of its authority relative to any substance or area not covered by this Decree.

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This Covenant Not to Sue shall have no applicability whatsoever to:

1. Criminal liability.

2. Liability for damages to natural resources.

3. Any Ecology action, including cost recovery, against PLPs not a party to this Decree.

If factors not known at the time of entry of the settlement agreement are discovered and present a previously unknown threat to human health or the environment, the Court shall amend this Covenant Not to Sue.

B. Reopeners: Ecology specifically reserves the right to institute legal or administrative action against the Port to require it to perform additional remedial actions at the Site and to pursue appropriate cost recovery, pursuant to RCW 70.105D.050 under the following circumstances:

1. Upon the Port's failure to meet the requirements of this Decree, including, but not limited to, failure of the remedial action to meet the cleanup standards identified in the Cleanup Action Plan (CAP) (Exhibit B).

2. Upon Ecology's determination that remedial action beyond the terms of this Decree is necessary to abate an imminent and substantial endangerment to human health or the environment.

3. Upon the availability of new information regarding factors previously unknown to Ecology, including the nature or quantity of hazardous substances at the Site, and Ecology's determination, in light of this information, that further remedial action is necessary at the Site to protect human health or the environment.

4. Upon Ecology's determination that additional remedial actions are necessary to achieve cleanup standards within the reasonable restoration time frame set forth in the CAP.

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C. Except in the case of an emergency, prior to instituting legal or administrative action against the Port pursuant to this Section, Ecology shall provide the Port with fifteen (15) calendar days notice of such action.

XIX. CONTRIBUTION PROTECTION

With regard to claims for contribution against the Port, the Parties agree that the Port is entitled to protection against claims for contribution for matters addressed in this Decree as provided by RCW 70.105D.040(4)(d).

XX. INDEMNIFICATION

The Port agrees to indemnify and save and hold the State of Washington, its employees, and agents harmless from any and all claims or causes of action for death or injuries to persons or for loss or damage to property to the extent arising from or on account of acts or omissions of the Port, its officers, employees, agents, or contractors in entering into and implementing this Decree. 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 Decree.

XXI. COMPLIANCE WITH APPLICABLE LAWS

A. All actions carried out by the Port pursuant to this Decree shall be done in accordance with all applicable federal, state, and local requirements, including requirements to obtain necessary permits, except as provided in RCW 70.105D.090. The permits or other federal, state or local requirements that the agency has determined are applicable and that are known at the time of entry of this Decree have been identified in Exhibit C ("Permits").

B. Pursuant to RCW 70.105D.090(1), the Port is exempt from the procedural requirements of Chapters 70.94, 70.95, 70.105, 77.55, 90.48, and 90.58 RCW and of any laws requiring or authorizing local government permits or approvals. However, the Port shall comply with the substantive requirements of such permits or approvals. The exempt permits or

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approvals and the applicable substantive requirements of those permits or approvals, as they are known at the time of entry of this Decree, have been identified in Exhibit D ("State & Local Substantive Requirements")

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 Decree. 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 Decree, it shall promptly notify the other party of this 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 Decree. The Port shall not begin or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination.

C. 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.

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XXII. REMEDIAL ACTION COSTS

The Port shall pay to Ecology costs incurred by Ecology pursuant to this Decree and consistent with WAC 173-340-550(2). These costs shall include work performed by Ecology or its contractors for, or on, the Site under Chapter 70.105D RCW, including remedial actions and Decree preparation, negotiation, oversight and administration. These costs shall include work performed both prior to and subsequent to the entry of this Decree. 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 $2,106.76 in remedial action costs related to this facility as of January 31, 2011. Payment fees for this amount shall be submitted within thirty (30) days of the effective date of this Decree. For all costs incurred subsequent to January 31, 2011, 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 12 percent per annum, compounded monthly.

In addition to other available relief, pursuant to RCW 70.105D.055, Ecology has authority to recover unreimbursed remedial action costs by filing a lien against real property subject to the remedial actions.

XXIII. IMPLEMENTATION OF REMEDIAL ACTION

If Ecology determines that the Port has failed without good cause to implement the remedial action, in whole or in part, Ecology may, after notice to the Port, perform any or all portions of the remedial action that remain incomplete. If Ecology performs all or portions of the remedial action because of the Port's failure to comply with its obligations under this Decree, the Port shall reimburse Ecology for the costs of doing such work in accordance with

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Section XXII (Remedial Action Costs), provided that the Port is not obligated under this Section to reimburse Ecology for costs incurred for work inconsistent with or beyond the scope of this Decree.

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 Decree, unless Ecology concurs, in writing, with such additional remedial actions pursuant to Section XV (Amendment of Decree).

XXIV. PUBLIC PARTICIPATION

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

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

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

B. 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.

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C. 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.

D. When requested by Ecology, arrange and/or continue information repositories at the following locations:

1. Skagit Regional Airport
Administration Building
15400 Airport Drive
Burlington, WA 98233
(360) 757-0011

2. Burlington Public Library
820 E. Washington Avenue
Burlington, WA 98233
(360) 755-0760

3. Ecology's Northwest Regional Office
3190 160th Avenue SE
Bellevue, WA 98008-5452
(425) 649-7000

At a minimum, copies of all public notices, fact sheets, and press releases; all quality assured monitoring data; remedial actions plans and reports, supplemental remedial planning documents, and all other similar documents relating to performance of the remedial action required by this Decree shall be promptly placed in these repositories.

XXV. DURATION OF DECREE

The remedial program required pursuant to this Decree shall be maintained and continued until the Port has received written notification from Ecology that the requirements of this Decree have been satisfactorily completed. This Decree shall remain in effect until dismissed by the Court. When dismissed, Section XVIII (Covenant Not to Sue) and Section XIX (Contribution Protection) shall survive.

XXVI. CLAIMS AGAINST THE STATE

The Port hereby agrees that it will not seek to recover any costs accrued in implementing the remedial action required by this Decree from the State of Washington or any

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of its agencies; and further, that the Port will make no claim against the State Toxics Control Account or any local Toxics Control Account for any costs incurred in implementing this Decree. Except as provided above, however, the Port expressly reserves its right to seek to recover any costs incurred in implementing this Decree from any other PLP. This Section does not limit or address funding that may be provided under Chapter 173-322 WAC.

XXVII. EFFECTIVE DATE

This Decree is effective upon the date it is entered by the Court.

XXVIII. WITHDRAWAL OF CONSENT

If the Court withholds or withdraws its consent to this Decree, it shall be null and void at the option of any party and the accompanying Complaint shall be dismissed without costs and without prejudice. In such an event, no party shall be bound by the requirements of this Decree.

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

James Pendowski
Program Manager
Toxics Cleanup Program
(360) 407-7177

Date: 7/21/11

ROBERT M. MCKENNA
Attorney General

Ivy Anderson, WSBA #30652
Assistant Attorney General
(360) 586-4619

Date: 7/25/11

PORT OF SKAGIT COUNTY

Patricia H. Botsford-Martin
Executive Director
(360) 757-0011

Date: 4/11/11

ENTERED this 1 day of Aug, 2011.

MICHAEL RICKERT
JUDGE
Skagit County Superior Court

ATTORNEY GENERAL OF WASHINGTON
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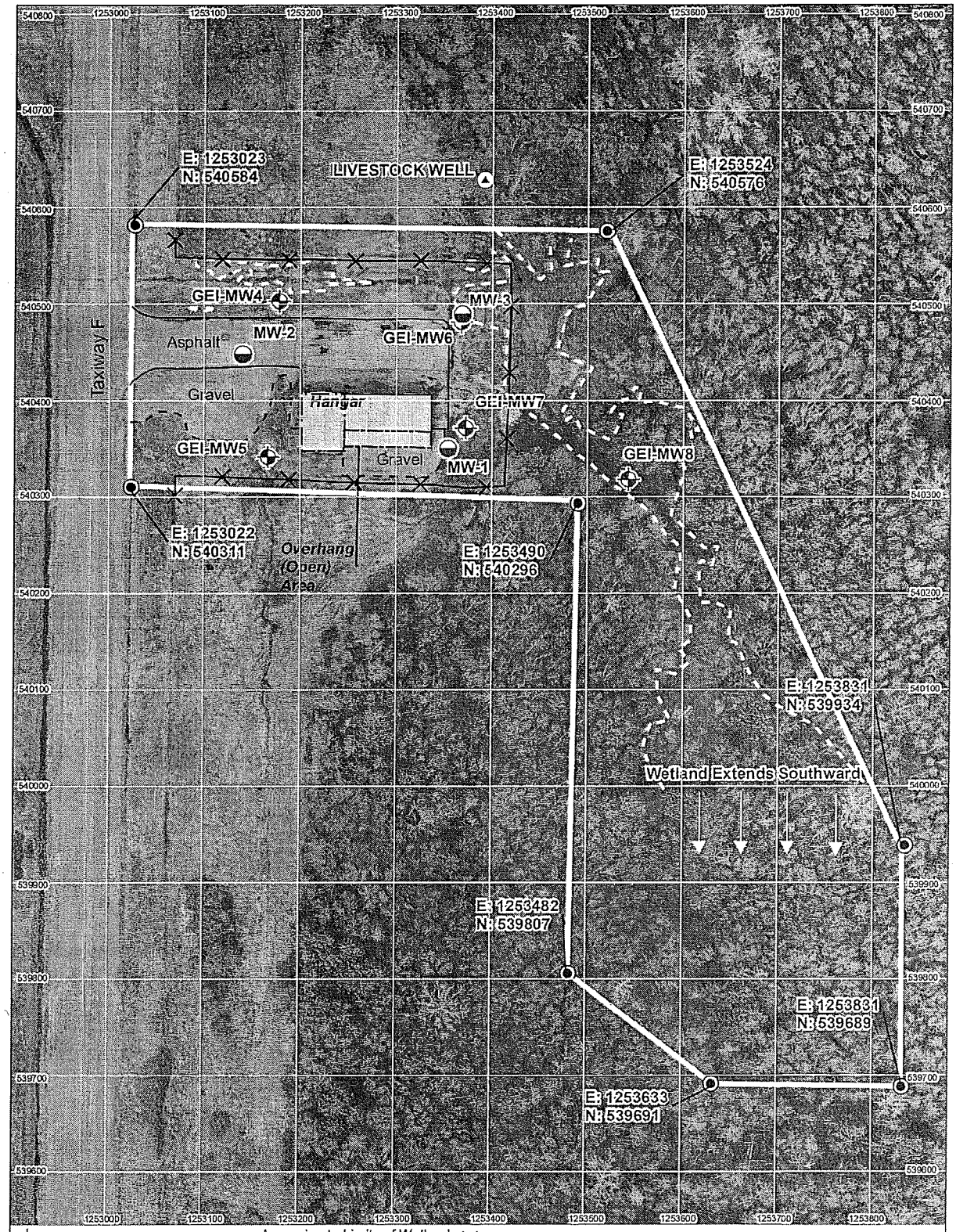
EXHIBIT A
SITE DIAGRAM



Shallow Monitoring Well

Deep Monitoring Well

Water Supply Well

Approximate Limits of Wetland Areas (Based on Hart Crowser 2007 Survey)

Site

Fence Line

150 0 150

Feet

Easting (E): 1253023 = NAD 1983 State Plane Washington
Northing (N): 540584 North, Feet coordinates

N W E S

Site Diagram

Taxiway F Site
Burlington, Washington

GeoEngineers

Exhibit A

Reference: Aerial photo (dated 2004) from Skagit County. Historical Operations Area boundary, fence line, surface water, debris area and wetlands obtained from Hart Crowser (2008b).
Grid Coordinate System: Washington State Plane, North, North American Datum (NAD) 1983, Feet
North arrow oriented to grid north

Office: SEA Path: \\sea\projects\5\536401\GIS\536401302_EXA_BW_8x11.mxd Map Revised: March 23, 2011 CRC:TCK

EXHIBIT B
CLEANUP ACTION PLAN

Cleanup Action Plan

Taxiway F Site, Skagit Regional Airport

for
Washington State Department of Ecology on behalf of Port of Skagit County

March 16, 2011

GeoEngineers

600 Stewart Street
Suite 1700
Seattle, Washington 98101
206.728.2674

30 YEARS 2010

RECEIVED
JUN 20 2011
ATTORNEY GENERAL'S OFFICE
Ecology Division

Cleanup Action Plan

Taxiway F Site, Skagit Regional Airport
Burlington, Washington

File No. 5364-013-02

March 16, 2011

Prepared for:

Washington State Department of Ecology
3190 160th Avenue SE
Bellevue, Washington 98008-5452

On behalf of:

Port of Skagit County
P.O. Box 348
Burlington, Washington 98233

Prepared by:

GeoEngineers, Inc.
600 Stewart Street
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Seattle, Washington 98101
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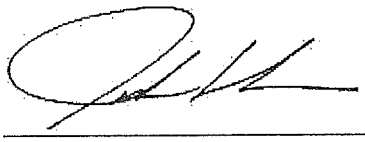

John M. Herzog, PhD
Principal

CEB:RCL:cv
http://projects/sites/0536401302/Draft/536401302_CAP_16-Mar-2011.docx

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1.0 INTRODUCTION

This Cleanup Action Plan (CAP) has been prepared by the Port of Skagit County (Port) for the Taxiway F Site (Site), located at the Skagit Regional Airport in Burlington, Washington (Figure 1). The CAP was prepared pursuant to the authority of Chapter 70.105D.050(1) of the Revised Code of Washington (RCW) and the requirements of the Washington State Model Toxics Control Act Cleanup Regulation (MTCA), as established in Chapter 173-340 of the Washington Administrative Code (WAC 173-340). The CAP provides an overview of the Site history and environmental conditions, summarizes the cleanup action alternatives considered, and presents the proposed cleanup action for soil and groundwater containing concentrations of pesticides and herbicides (collectively referred to herein as constituents of concern [COCs]) that exceed MTCA cleanup levels.

1.1. Regulatory Framework

The Site is formally referenced in the Washington State Department of Ecology (Ecology) databases as the "Skagit County Port Site," Ecology Site ID# 67457634. Prior to preparing this CAP, the Port completed a remedial investigation/feasibility study (RI/FS) at the Site under Agreed Order No. 6158 with Ecology. The RI/FS was conducted between September 2009 and September 2010 in accordance with the *Final Work Plan, Remedial Investigation/Feasibility Study, Taxiway F Site, Skagit Regional Airport* (RI/FS Work Plan; GeoEngineers, 2009). The scope and results of the RI/FS are presented in the *Remedial Investigation/Feasibility Study, Taxiway F Site, Skagit Regional Airport* (RI/FS Report; GeoEngineers, 2011). In addition to the remedial investigation (RI) results, the RI/FS Report also incorporates the results of earlier environmental investigations conducted at the Site between 2000 and 2008.

1.2. Purpose

The CAP has been prepared in accordance with WAC 173-340 to:

- Describe the Site, including an overview of the Site history and environmental conditions.
- Identify indicator hazardous substances, media of concern, Site-specific cleanup levels, and points of compliance for the cleanup action.
- Summarize the cleanup action alternatives evaluation presented in the RI/FS Report.
- Describe the proposed cleanup action for the Site.
- Identify applicable State and Federal laws pertaining to the cleanup action.
- Present the schedule for implementing the cleanup action.

2.0 SUMMARY OF SITE CONDITIONS

Several environmental investigations have been conducted at the Site, beginning with an initial soil investigation in 2000 (EAI, 2000), and culminating in the RI/FS completed in 2010. Investigations conducted prior to 2009 are summarized in the RI/FS Work Plan (GeoEngineers, 2009). The RI/FS Report (GeoEngineers, 2011) presents the results of the RI sampling activities conducted in 2009 and 2010, and uses the results of the RI and earlier investigations to characterize the nature and

extent of contamination. The feasibility study (FS) portion of the RI/FS Report describes the evaluation of cleanup action alternatives for the Site.

This section summarizes pertinent environmental conditions at the Site and provides an overview of the conceptual site model. More detailed descriptions of Site conditions, including sampling data and details regarding the nature and extent of contamination, are provided in the RI/FS Report.

2.1. Site Description and History

Taxiway F of the Skagit Regional Airport was constructed in 1933 as the original runway of a one-runway airfield for light airplanes. In 1943, the U.S. Navy constructed the airport's existing two-runway system as an alternate training field for the Whidbey Island Naval Air Station. After World War II, the Federal government continued to operate the airport, primarily for the Civil Air Patrol, until transferring the facility to Skagit County in 1958. The Port has owned the Site property since the mid-1960s, and assumed full ownership and operation of the airport in 1975. Prior to 1978, the Site and surrounding property was used for cattle grazing and farm equipment storage by various individuals.

Between 1978 and 2000, the Port leased the portion of the Site immediately adjacent to Taxiway F to a series of individuals and companies engaged in the business of crop dusting. In 1978, the Port leased the property to Swanland-Karr, Inc. In 1982, Swanland-Karr proposed to construct the hangar building that currently exists at the Site for aircraft parking and materials storage, including storage of chemicals used for crop dusting. William Swanland and Swanland-Belisle, Inc. leased the property in 1985; pesticide products used by the lessee were reported in 1988 to include Dinoseb, Parathion, Thiodan, Chemho-IPC, and Simazon. An environmental review of the leased property performed by the Port in 1988 identified staining in some of the work areas and an apparent oil release on the property. The Port provided the results of the environmental review and suggestions for addressing the identified issues to the lessee. In 1992, the property lease was assigned to Belisle Bros. Crop-Dusting, Inc. for continued use for crop dusting activities. In 1993 the lease was assigned to Curt Tronsdal and Tronsdal Air Service, Inc., and in 1998 the lease was assigned to Skagit Ag Services, Inc. Skagit Ag Services was the lessee until the Port discontinued leasing of the property in 2000.

During the time the leased property was used for crop dusting operations, pesticides and herbicides were stored in the hangar building and loaded onto aircraft for use. After the fenced operations area was vacated by the crop dusting operation in 2000, the Port discovered discolored soil in the vicinity of the hangar building. Environmental investigations of the property were initiated following this discovery.

For the purposes of the RI/FS and CAP, the Site is divided into three areas: (1) the historical operations area, which comprises approximately 2.2 acres and includes the hangar building and an asphalt-paved aircraft apron; (2) the drainage channel, a shallow, narrow swale that connects the historical operations area to a mixed coniferous-deciduous forest to the east; and (3) the wetland area, which is southeast of the historical operations area and is classified as a forested wetland. Figure 2 shows these three areas of the Site. During wet weather conditions, the drainage channel captures rainwater runoff from the historical operations area and conveys it to the wetland area.

2.2. Environmental Conditions

Shallow soils at the Site consist of approximately 1 to 3 feet of fine to coarse sand and gravel. Clay and silt deposits occur beneath the shallow sandy/gravelly soils to depths of about 50 to 85 feet below ground surface (bgs). During wet weather conditions, perched groundwater has been observed at depths of 2 to 3 feet bgs, near the interface between the shallow sand and gravel horizon and the underlying clay/silt unit. Beneath the clay/silt unit, granular soils consisting of fine to medium sand with varying amounts of silt and gravel are present to the maximum depth explored (115 feet bgs). Unconfined groundwater occurs at a depth of approximately 100 feet bgs in the sandy soils beneath the thick clay/silt unit.

A second-growth, mixed deciduous-coniferous forested wetland (the wetland area) is located southeast of the historical operations area and comprises approximately two-thirds of the Site (Figure 2). Heavy or prolonged rainfall during wet weather conditions at the Site typically results in temporary channelized and overland runoff and local surface water ponding in the wetland area. Channelized flow from the historical operations area to the wetland area occurs via the drainage channel (Figure 2). During the dry summer months, surface water is generally not present, or is only temporarily present at the Site.

Chemical analyses of soil and groundwater samples collected during the various investigations at the Site have detected concentrations of pesticides and herbicides exceeding MTCA cleanup levels in shallow soil and perched groundwater. There have been no confirmed detections of COCs in the deep groundwater zone beneath the clay/silt unit. Pesticides, herbicides, and arsenic have also been detected in surface water samples at concentrations exceeding cleanup levels. However, as noted above, surface water is a temporary Site feature that is present only during wet weather conditions. The cleanup action proposed to address contaminated soil and perched groundwater at the Site (see Section 5.0) is expected to also reduce or eliminate COCs in surface water.

The RI/FS Report (GeoEngineers, 2011) provides a detailed summary of the RI and previous investigation results, and should be referenced for additional information regarding the nature and extent of COCs in Site soil, groundwater, and surface water.

2.3. Conceptual Site Model

A conceptual site model (CSM) for the contamination identified at the Site is presented in the RI/FS Report (GeoEngineers, 2011). The CSM describes the potential contaminant sources, the nature and extent of COCs in each medium of concern, exposure pathways, and potential risks to human health and the environment posed by the COCs. A brief summary of the key elements of the CSM is provided below.

The concentrations of pesticides and herbicides detected in soil, perched groundwater, and seasonal surface water at the Site are attributed to releases and spills associated with historical crop-dusting operations. The suspected primary sources of these contaminants include surface releases from materials handling and storage activities and wash-down of airplanes and equipment. The released chemical products mixed with and infiltrated shallow soils, and the affected soils in the release areas subsequently acted (and likely continue to act) as a secondary source of contamination to perched groundwater, seasonal surface water, and soils in other areas of the Site. Potential transport mechanisms that have likely acted, and may continue to act, to

disperse contaminants at the Site include soil leaching to perched groundwater; soil erosion caused by rainwater runoff and wind, with subsequent downgradient deposition; and dispersion by seasonal fluctuations/flow of perched groundwater and historical cattle grazing.

Soil sampling performed during the RI and previous investigations indicates that concentrations of COCs in soil exceeding MTCA cleanup levels are generally limited to the upper 1 foot of soil throughout the Site. The highest concentrations have generally been detected just off the northern and eastern edges of the asphalt aircraft apron and along the drainage channel southeast of the historical operations area.

Potential receptors of concern that may be exposed to the pesticides and herbicides in shallow soil through dermal contact, dust inhalation, or incidental ingestion include Site visitors and workers, domestic animals (livestock), and terrestrial wildlife. Potential receptors of concern that may be exposed to COCs in perched groundwater through dermal contact or incidental ingestion (via daylighting of perched groundwater during wet weather conditions) include Site visitors/workers, domestic animals (livestock), and terrestrial wildlife.

Shallow groundwater beneath the Site is not currently being used as a drinking water source, nor is it likely to be used as a drinking water source in the future. Human ingestion of Site groundwater is not a potential future exposure pathway for the shallow perched groundwater due to the seasonal nature and insufficient yield of this groundwater zone.

3.0 CLEANUP REQUIREMENTS

Cleanup actions conducted under MTCA must comply with MTCA cleanup standards for the identified COCs and affected media, as well as applicable regulatory requirements based on Federal and State laws (WAC 173-340-710). This section identifies indicator hazardous substances for the Site contamination, the affected media of concern, cleanup standards, and applicable regulatory requirements for the proposed cleanup action.

3.1. Indicator Hazardous Substances

Under MTCA, the term "indicator hazardous substances" means a subset of hazardous substances present at a site that can be used for monitoring and analysis during any phase of remedial action for the purpose of characterizing the site or establishing cleanup compliance. Consistent with WAC 173-340-703, when defining cleanup requirements at a site that is contaminated with a relatively large number of hazardous substances, Ecology may eliminate from consideration those hazardous substances that contribute a small percentage of the overall threat to human health and the environment. The remaining hazardous substances can then serve as indicator hazardous substances for purposes of defining site cleanup requirements.

The investigations conducted at the Taxiway F Site have detected pesticides and herbicides in shallow soil, perched groundwater, and seasonal surface water at concentrations exceeding MTCA cleanup levels (GeoEngineers, 2009, 2011). As noted in the CSM summary (Section 2.3), contaminated Site soils act as a secondary source of contamination to perched groundwater and seasonal surface water. Endosulfan, a chlorinated pesticide, is the most commonly detected and widely distributed COC in Site soils. Endosulfan exceeded Site-specific cleanup levels in 85 percent

of all soil samples that had at least one COC exceeding cleanup levels. Accordingly, endosulfan will be used as an indicator hazardous substance for remedial actions addressing Site soils.

The COCs positively or tentatively detected above MTCA cleanup levels in perched groundwater include dinoseb, bentazon, 2,4-D, MCPA, aldrin, dieldrin, heptachlor, and heptachlor epoxide. These constituents will be used as indicator hazardous substances for perched groundwater. Endosulfan also will be used as an indicator substance in perched groundwater because it is the indicator hazardous substance for soil and was found in surface water as well.

As discussed below, surface water at the Site is generally a temporary, seasonal surface expression of perched groundwater, and will be addressed through the remediation of perched groundwater. Consequently, surface water is not considered to be a separate environmental medium with separate indicator hazardous substances for the cleanup action.

3.2. Media of Concern

Shallow soil and perched groundwater are the media of concern for the proposed cleanup action. The results of the RI indicate that elevated concentrations of pesticides and herbicides are present in shallow soil, perched groundwater, and seasonal surface water at the Site. As previously discussed, surface water is a temporary, seasonal feature at the Site, and is generally a surface expression of perched groundwater during the wet season. Accordingly, seasonal surface water is not considered to be a separate environmental medium for the cleanup action. Surface water will be addressed through the remediation of perched groundwater. Deep groundwater is isolated from the perched groundwater by an approximately 50-to 80-foot thick clay/silt unit and does not contain concentrations of COCs exceeding cleanup levels (GeoEngineers, 2011). Consequently, deep groundwater also is not a medium of concern for the cleanup action.

3.3. Cleanup Standards

Cleanup standards consist of: (1) cleanup levels that are protective of human health and the environment, (2) the point of compliance at which the cleanup levels must be met, and (3) regulatory requirements established in applicable State and Federal laws. The final Site-specific cleanup levels and points of compliance, presented by media, are summarized in the following sections. Applicable State and Federal laws are presented in Section 3.4.

3.3.1. Cleanup Levels

Site-specific cleanup levels for soil and groundwater were derived in the RI/FS Report (GeoEngineers, 2011). Detailed information regarding the derivation of cleanup levels is provided in the RI/FS Report. The Site-specific cleanup levels were developed in accordance with MTCA to be protective of human health and terrestrial wildlife. The cleanup levels are discussed below.

3.3.1.1. SOIL

Site-specific soil cleanup levels for the cleanup action were derived from applicable MTCA Method B cleanup levels, which include the following:

- MTCA Method B standard formula values (carcinogen and non-carcinogen) protective of human health direct-contact under an unrestricted land use scenario.

- MTCA Method B soil concentrations protective of potable groundwater, calculated using Ecology's fixed-parameter, three-phase partitioning model.
- MTCA Method B soil concentrations protective of terrestrial wildlife, calculated using Ecology's wildlife exposure model.

In accordance with WAC 173-340-705(6) and WAC 173-340-709, natural background soil metals concentrations in Washington state (Ecology, 1994) were considered in the derivation of cleanup levels. The lowest applicable protective concentrations, adjusted for natural background metals concentrations, were selected as the soil cleanup levels for the cleanup action. The soil cleanup levels are presented in Table 1.

3.3.1.2. GROUNDWATER

Site-specific groundwater cleanup levels for the cleanup action were derived from applicable MTCA Method B cleanup levels and available State and Federal criteria, which include the following:

- MTCA Method B standard formula values (carcinogen and non-carcinogen) for potable groundwater.
- Federal Maximum Contaminant Levels (MCLs), where deemed to be sufficiently protective (that is, where the risk associated with the MCL is less than 1 in 100,000), in accordance with WAC 173-340-720(4)(b).

In addition to the criteria listed above, analytical practical quantitation limits (PQLs) and natural background groundwater metals concentrations in Washington state (PTI, 1989) were considered in accordance with WAC 173-340-705(6), WAC 173-340-707 and WAC 173-340-709. The lowest applicable protective concentrations, adjusted for PQLs and natural background metals concentrations, were selected as the groundwater cleanup levels for the cleanup action. The groundwater cleanup levels are presented in Table 2.

3.3.2. *Points of Compliance*

Under MTCA, the point of compliance is the point or locations on a site where the cleanup levels must be attained. This section describes the points of compliance for soil and groundwater.

3.3.2.1. SOIL

In accordance with WAC 173-340-740(6)(b), for soil cleanup levels that are based on protection of groundwater, the point of compliance is in soil throughout the Site. In accordance with WAC 173-340-740(6)(e), WAC 173-340-7490(4)(b), and WAC 173-340-740(6)(d), for soil cleanup levels that are based on ecological considerations (e.g., protection of wildlife) or human exposure via direct contact, the point of compliance is in soil throughout the Site from the ground surface to 15 feet bgs.

3.3.2.2. GROUNDWATER

In accordance with WAC 173-340-720(8)(b), the point of compliance for groundwater is throughout the Site from the uppermost level of the saturated zone extending vertically to the lowermost depth which could potentially be affected by the Site. Several of the existing groundwater monitoring wells at the Site may need to be decommissioned to facilitate removal of shallow contaminated soils during the cleanup action (see Section 5.3.1). Decommissioned monitoring wells completed

in the perched groundwater zone would be replaced as appropriate after the soil removal is completed, and would be used along with existing shallow wells not requiring decommissioning to assess compliance with the groundwater cleanup levels. As noted in Section 2.2, groundwater monitoring data indicate that the deep groundwater zone beneath the Site has not been affected by the contamination in shallow soils and perched groundwater. Accordingly, monitoring of the deep groundwater zone will not be required as part of the cleanup action. The locations of shallow groundwater monitoring wells will be specified in the Engineering Design Report.

3.4. Applicable Regulatory Requirements

The applicable laws and regulations provide the framework for the cleanup action. In addition to the cleanup standards developed through MTCA, other regulatory requirements must be considered in the selection and implementation of the cleanup action. MTCA requires the cleanup standards to be "at least as stringent as all applicable state and federal laws" (WAC 173-340-700[6][a]). Besides establishing minimum requirements for cleanup standards, applicable State and Federal laws may also impose certain technical and procedural requirements for performing cleanup actions. These requirements are described in WAC 173-340-710. Potentially applicable State and Federal laws are identified below.

The cleanup action at the Site will be performed pursuant to MTCA under the terms of the Consent Decree between Ecology and the Port of Skagit County. Accordingly, the cleanup action meets the permit exemption provisions of MTCA, obviating the need to follow most procedural requirements of the various local and State regulations that would otherwise apply to the action. Ecology will determine the substantive provisions of State and local laws and regulations that are applicable to this project, following consultation with appropriate State and local regulators. The substantive requirements will be addressed in the Consent Decree.

As the lead agency for the cleanup action, Ecology is responsible for identifying and evaluating the potential adverse impacts of the cleanup action on the environment. Ecology will perform a review and provide an environmental determination under the State Environmental Policy Act (RCW 43.21). A copy of the State Environmental Policy Act (SEPA) Checklist is included as Appendix A to the CAP to facilitate the SEPA review process.

The permits or other Federal, State or local requirements that are applicable to the cleanup action and that are known at this time include the following:

- Federal Clean Water Act, Section 404 Permit and the associated Ecology 401 Certification.
- Solid Waste Handling Standards (RCW 70.95).
- Dangerous Waste Regulations (RCW 70.105).
- Washington Industrial Safety and Health Act (RCW 49.17).
- Federal Occupational Safety and Health Act (29 CFR 1910, 1926).
- Washington Construction Stormwater General Permit.

4.0 EVALUATION OF CLEANUP ACTION ALTERNATIVES

Potential remediation technologies and cleanup action alternatives for the Site were evaluated in the FS. Details of the evaluation are presented in the RI/FS Report (GeoEngineers, 2011). This section summarizes the remediation technologies and cleanup action alternatives considered, and the basis for selection of the proposed cleanup action.

4.1. Development of Alternatives and Evaluation Criteria

A preliminary set of remediation technologies, including no action, institutional controls, soil containment, soil removal and disposal, soil removal with ex-situ treatment, and in-situ treatment, was screened against the MTCA threshold criteria for selection of cleanup actions (WAC 173-340-360) to develop potentially feasible cleanup action alternatives. Four cleanup action alternatives were developed for more detailed evaluation, each consisting of one or a combination of the two retained remediation technologies, soil removal/disposal and capping. Each alternative applied these technologies in different combinations in the three distinct areas of the Site (historical operations area, drainage channel, and wetland area). The cleanup action alternatives evaluated in the FS include the following:

- Alternative 1 – Excavate Historical Operations Area, Drainage Channel, and Wetlands Area
- Alternative 2 – Cap Historical Operations Area; Excavate Drainage Channel and Wetland Area
- Alternative 3 – Cap Historical Operations Area and Drainage Channel; Excavate Wetland Area
- Alternative 4 – Cap Historical Operations Area, Drainage Channel, and Wetland Area

The cleanup action alternatives were evaluated against the applicable MTCA minimum requirements for cleanup actions, which include (WAC 173-340-360[2]):

- Threshold Criteria:
    - Protection of human health and the environment.
    - Compliance with cleanup standards.
    - Compliance with applicable State and Federal laws.
    - Provision for compliance monitoring.
- Provision for a reasonable restoration time frame.
- Use of permanent solutions to the maximum extent practicable, including consideration of the following:
    - Protectiveness
    - Permanence
    - Cost
    - Long-term effectiveness
    - Management of short-term risks
    - Technical and administrative implementability

- Consideration of public concerns

4.2. Evaluation of Alternatives

Brief descriptions and detailed evaluations of each cleanup action alternative relative to the MTCA evaluation criteria are presented in Table 3. All four alternatives comply with the MTCA threshold criteria and all four provide reasonable restoration time frames of approximately one year for design and construction. Because Alternative 1 achieves complete removal of contaminated soil exceeding cleanup levels, it is the most protective alternative and provides the greatest short-term reduction of residual risks associated with perched groundwater. Alternatives 3 and 4 would result in a net loss of wetlands and modification of natural drainage function at the Site due to the filling/capping in the drainage channel and/or wetland area under these alternatives. As a result, wetland mitigation (i.e., wetland restoration or wetland creation at a suitable location in the Site vicinity) would be required under Alternatives 3 and 4.

The MTCA disproportionate cost analysis (DCA) is used to determine which cleanup action alternative is permanent to the maximum extent practicable. The DCA compares cleanup costs and benefits and allows selection of a cleanup action alternative that provides the greatest benefits relative to cost. The DCA presented in the FS is updated in this CAP based on clarification by Ecology that the lateral limits of the cleanup actions considered should be defined by the existing soil sampling data that bound the extent of COCs exceeding cleanup levels (as described in Section 5.2 below). As a result, the area and volume assumptions for each of the cleanup action alternatives were adjusted accordingly. The assumptions for design, management, and compliance monitoring of the cleanup construction also were refined based on the updated cleanup action lateral limits. The most significant changes resulted from the enlargement of the overall cleanup area to the clean sample limits, leading to an increase in the total area requiring excavation and/or capping.

Similar to the FS, the revised DCA evaluated Alternatives 1 through 4 based on the MTCA DCA criteria (WAC 173-340-360[3][e]). The alternatives were ranked on a scale of 1 (lowest) to 10 (highest) for each of the DCA criteria to compare the relative benefits of the alternatives. Each of the DCA criteria was assigned a weighting factor that ranged between 10 percent and 30 percent (the sum of the weighting factors equaled 100 percent). The detailed scoring is shown in Table 3; the relative benefits ranking summary is presented in Table 4. The benefit rankings and estimated cleanup costs for each of the alternatives are summarized below and illustrated graphically in Figure 3.

- Alternative 1: benefit ranking = 8.7 (out of 10); estimated cleanup cost = $2,747,000.
- Alternative 2: benefit ranking = 6.7; estimated cleanup cost = $2,265,000.
- Alternative 3: benefit ranking = 5.8; estimated cleanup cost = $2,122,000.
- Alternative 4: benefit ranking = 4.4; estimated cleanup cost = $1,926,000.

Cost estimates for each alternative are presented in Appendix B.

The revised DCA is summarized in Figure 3. The results of the revised DCA did not modify the results of the DCA presented in the FS. The preferred cleanup action alternative selected in the FS,

and confirmed in this CAP, is Alternative 1 – Excavate Historical Operations Area, Drainage Channel, and Wetland Area. Alternative 1 meets the MTCA threshold requirements for cleanup actions and uses permanent solutions to the maximum extent practicable (WAC 173-340-360[2][b][i]). Among the four alternatives evaluated, Alternative 1 also best preserves the existing and possible future uses and wetland functions of the Site.

The selected cleanup action alternative will result in:

- Permanent removal of contaminant mass from the Site through the excavation and off-site disposal of soil containing COC concentrations above MTCA cleanup levels.
- Elimination of unacceptable risks to potential receptors including humans, domestic animals (livestock), and terrestrial wildlife posed by COCs in Site soils.
- Elimination of the potential for future erosion and migration of COCs from the historical operations area and drainage channel to the adjacent wetland area.
- Short-term reduction and eventual elimination of unacceptable risks to potential receptors including humans, domestic animals (livestock), and terrestrial wildlife posed by COCs in Site groundwater through the removal of contaminated surface soils in contact with perched groundwater.

5.0 PROPOSED CLEANUP ACTION

The proposed cleanup action consists of excavation and off-site disposal of soil containing COC concentrations above MTCA cleanup levels in all three areas of the Site: the historical operations area, the drainage channel, and the wetland area. Following excavation, each of the three areas will be restored.

5.1. Cleanup Action Objectives

Cleanup action objectives (CAOs) consist of chemical- and media-specific goals for protecting human health and the environment. The CAOs specify the COCs and affected media, the exposure routes and receptors targeted by the cleanup action, and the cleanup goals.

The objective of the proposed cleanup action is to eliminate, reduce, or otherwise control to the extent feasible and practicable, unacceptable risks to human health and the environment posed by pesticides and herbicides in soil and groundwater at the Site in accordance with MTCA (WAC 173-340) and other applicable regulatory requirements. Specifically, the objective of the cleanup action is to mitigate risks associated with the following potential receptors and exposure routes:

- Direct contact (dermal, incidental ingestion, or inhalation) with contaminated shallow soils by Site visitors and workers (including construction workers).
- Direct contact (dermal, incidental ingestion, or inhalation) with contaminated shallow soils by domestic animals (livestock) and terrestrial wildlife.
- Direct contact with contaminated perched groundwater during wet weather conditions (via daylighting of perched groundwater) by Site visitors and workers (dermal) and domestic animals/terrestrial wildlife (dermal or ingestion).

The cleanup goal is to mitigate these risks by meeting the Site-specific soil and groundwater cleanup standards identified in Section 3.3. The cleanup standards, which were derived from regulatory criteria protective of human health and ecological receptors, are assumed to also be protective of domestic animals (livestock).

5.2. Cleanup Action Description

The cleanup action will consist of the following activities:

- Removal or shoring of aboveground structures at the Site as necessary to provide access to soil with concentrations of COCs exceeding MTCA cleanup levels.
- Implementation of erosion control and Site security measures.
- Clearing and grubbing vegetated areas of the drainage channel and wetland area.
- Excavation of surface soils throughout the Site containing COC concentrations above MTCA cleanup levels. The lateral limits of the excavation are defined by the existing soil sampling data that bound the extent of COCs exceeding cleanup levels. Excavation will be completed to the existing "clean" sampling locations. The planned excavation areas are shown on Figure 4.
- Transport of excavated contaminated soils for disposal at an off-site, permitted facility.
- Management of surface water, stormwater, and groundwater, as necessary, during excavation activities.
- Collection of data to verify that the lateral limits of excavation have been reached, by methods defined in the Compliance Monitoring Plan.
- Collection of verification soil samples from the bottom of the excavations for laboratory analysis, by methods and at the locations and frequency defined in the Compliance Monitoring Plan.
- Backfilling the excavations with clean, imported fill material, to meet the specifications defined in the Engineering Design Report.
- Wetland vegetation restoration and revegetation monitoring, in accordance with the Wetland Restoration Plan, included as an appendix to the Engineering Design Report.
- Confirmational groundwater monitoring to verify the reduction of COC concentrations in shallow (perched) groundwater as a result of the contaminated soil (source) removal.

The existing groundwater monitoring wells screened in the perched groundwater zone and located within the cleanup action excavation area will be decommissioned as necessary prior to the cleanup action construction. If the pre-established clean sampling locations cannot be reached during the cleanup action, additional sidewall samples will be collected at the limits of the excavation and Ecology be consulted for direction on a case-by-case basis to confirm the completeness of the removal. After contaminated soil excavation is completed, confirmational monitoring wells will be installed as specified in the Compliance Monitoring Plan to monitor perched groundwater quality. The monitoring wells will be monitored to verify that the cleanup levels for groundwater are achieved as a result of the contaminated soil removal.

5.3. Cleanup Action Components

This section provides a summary of the proposed cleanup action. A more detailed description of the cleanup action construction elements and methods will be provided in the Engineering Design Report (see Section 6.1).

5.3.1. Soil Excavation

An estimated total of 4,300 cubic yards of soil with concentrations of COCs exceeding the MTCA cleanup levels will be excavated from the historical operations area, the drainage channel, and the wetland area. The estimated volume of material to be removed by the cleanup action will be refined as necessary during the remedial design and development of the Engineering Design Report for the project. The excavated soil will be transported to an off-site, permitted disposal facility.

Prior to excavation, underground utilities will be located, and a portion of the existing asphalt will be removed from the historical operations area to facilitate removal of the contaminated soil. In addition, it is assumed that some areas/portions of the hangar building (e.g., floor slabs and/or footings) will need to be protected, moved, or demolished during or prior to excavation in the historical operations area and restored following the cleanup action. Approximately 1.4 acres of wetlands would need to be cleared and grubbed prior to soil excavation in the drainage channel and wetland area. Existing monitoring wells GEI-MW4, GEI-MW6, GEI-MW7, and GEI-MW8 will be decommissioned except where they can be protected during the cleanup activities.

The lateral limits of the cleanup action excavation are shown in Figure 4. The lateral limits shown in this figure are defined based on the existing chemical analytical results for soil samples collected at the Site. The cleanup action will remove soil with concentrations of COCs exceeding the MTCA cleanup levels.

5.3.2. Soil Transport and Disposal

The excavated soil will be characterized for disposal as required by MTCA, Washington State Dangerous Waste Regulations (WAC 173-303) where appropriate, and the waste-profiling requirements of the selected disposal facility. The excavated soil is expected to fall into two categories: (1) non-dangerous waste, suitable for disposal at a Subtitle D landfill; and (2) hazardous/dangerous waste requiring either: (a) disposal at a Subtitle C facility, or (b) treatment followed by disposal at a Subtitle D landfill. Based on the existing data, it is anticipated that the majority of excavated soil (90% or greater) will be classified as non-dangerous waste.

5.3.3. Site Restoration

The historical operations area will be backfilled with clean, imported structural fill material. The drainage channel and wetland area will be backfilled with an appropriate topsoil mix. All areas will be restored to match the approximate original topography, features, and surfaces. Approximately 1.4 acres of the drainage channel and wetland area will be restored with wetland vegetation. The revegetated areas will be monitored relative to a set of performance standards for 7 to 10 years to evaluate the success of the revegetation. The restoration and monitoring actions to be implemented in the drainage channel and wetland area will be described in greater detail in the Engineering Design Report.

5.4. Compliance Monitoring

Compliance monitoring and contingency responses (as needed) will be implemented in accordance with WAC 173-340-410. The three types of compliance monitoring to be performed include:

- **Protection Monitoring** to confirm that human health and the environment are adequately protected during the construction phase of the cleanup action.
- **Performance Monitoring** to confirm that the cleanup action has attained cleanup standards.
- **Confirmational Monitoring** to confirm the long-term effectiveness of the cleanup action.

The protection monitoring plan for the cleanup action will be addressed in a Health and Safety Plan (to be included as an appendix of the Engineering Design Report; see Section 5.5). Performance and confirmational monitoring will be detailed in a Compliance Monitoring Plan. The objective of the Compliance Monitoring Plan is to confirm that cleanup standards are achieved and to confirm the long-term effectiveness of the cleanup action. The Compliance Monitoring Plan (discussed further in Section 6.3) will describe the duration and frequency of monitoring, the trigger for contingency response actions, contingency response actions, and the rationale for terminating monitoring.

6.0 ADDITIONAL REQUIREMENTS

This section summarizes additional documentation to be prepared in support of the cleanup action, including an Engineering Design Report, construction plans and specifications, a Compliance Monitoring Plan, and a Construction Completion (As-Built) Report. Permits and other regulatory requirements applicable to the cleanup action are also discussed in this section.

6.1. Engineering Design Report

The Engineering Design Report will include sufficient information for the development and review of construction plans and specifications to document engineering concepts and design criteria used for the design of the cleanup action. The pertinent information specified under WAC 173-340-400(4)(a)(i) through 173-340-400(4)(a)(xx) will be included in the Engineering Design Report as applicable. Appendices to the Engineering Design Report will include a Sampling and Analysis Plan, a Health and Safety Plan, and a Wetland Restoration Plan. The Compliance Monitoring Plan (described in Section 6.3 below) may also be included as an appendix to the Engineering Design Report.

6.2. Construction Plans and Specifications

The construction plans and specifications will provide detailed construction plans needed to carry out the cleanup action. In accordance with WAC 173-340-400(4)(b), the documents will include the following information, as applicable:

- A description of the work to be performed, and a summary of the engineering design criteria from the Engineering Design Report.
- A site location map and a map of existing conditions. Maps will include a grid in Washington State Plan North coordinates, or other coordinates.

- Copies of applicable permit applications and approvals.
- Detailed plans, procedures, and specifications necessary for the cleanup action.
- Specific quality control tests to be performed to document the construction, including specifications for testing or reference to specific testing methods, frequency of testing, acceptable results, and other documentation methods.
- Provisions to ensure that the health and safety requirements of WAC 173-340-810 are met.

Cleanup action construction will be performed and documented in accordance with applicable requirements of WAC 173-340-400(6). These requirements include oversight of construction by a Professional Engineer licensed in the State of Washington, and submittal of as-built drawings and/or a Construction Completion Report that documents the cleanup and includes an opinion of the engineer as to whether the cleanup was conducted in substantial compliance with the construction plans and specifications and related documents.

6.3. Compliance Monitoring Plan

The Compliance Monitoring Plan, prepared in accordance with WAC 173-340-410, will describe the performance and confirmational monitoring to be performed to verify the effectiveness of the cleanup action. Protection monitoring will be addressed in the Health and Safety Plan. The Compliance Monitoring Plan will present the purpose and objectives of data collection and the rationale for the monitoring approach. It will also describe the type, number, and location of the samples to be collected, the analyses to be performed, the monitoring schedule, the trigger for contingency response actions, and contingency response actions. Field sample collection and handling procedures and laboratory analytical methods will be specified in a Sampling and Analysis Plan prepared in accordance with WAC 173-340-820.

6.4. Construction Completion (As-Built) Report

At the completion of construction, the engineer responsible for the oversight of construction will prepare as-built drawings and a report documenting all aspects of facility construction. The report will include reference to all data collected during the cleanup action that is submitted to Ecology's Environmental Information Management System (EIM). In addition, the report will include electronic files in database format of any data not submitted to EIM. The report will be prepared in a manner that clearly documents what was done and clearly presents the data used to verify that compliance has been achieved.

The report will also contain an opinion from the engineer, based on testing results and inspections, as to whether the cleanup action has been constructed in substantial compliance with the plans and specifications and related documents.

6.5. Permits/Requirements

The cleanup action will be conducted under a Consent Decree with Ecology. Consequently, the cleanup action is exempt from the procedural requirements of certain laws and all local permits (WAC 173-340-710[9][a]) but must comply with the substantive requirements of these laws and permits. The exemption from procedural requirements applies to the:

- Washington Clean Air Act (RCW 70.94).

- Solid Waste Management Act (RCW 70.95).
- Hazardous Waste Management Act (RCW 70.105).
- Construction Projects in State Waters (RCW 75.20).
- Water Pollution Control Act (RCW 90.48).
- Shoreline Management Act (RCW 90.58).
- Any laws requiring or authorizing local government permits or approvals.

The exemption is not applicable if Ecology determines that the exemption would result in the loss of approval from a Federal agency that may be necessary for the State to administer any Federal law. The required and exempt permit requirements/approvals are provided in the following sections.

6.5.1. Required Permits/Approvals

The following permits/approvals are applicable to the cleanup action and do not fall under the procedural exemption of WAC -173-340-710(9)(a).

Clean Water Act, Section 404 Permit, U.S. Environmental Protection Agency. The Clean Water Act is the primary Federal law for protecting water quality from pollution. Section 404 of the Clean Water Act requires a permit from the U.S. Army Corps of Engineers (USACE) for grading or clearing in a wetland. In July 2008, the Port obtained verification of coverage under Nationwide Permit (NWP) 38, Cleanup of Hazardous and Toxic Waste, for cleanup actions proposed in a previous CAP prepared by Hart Crowser in 2008 (USACE Jurisdictional Determination Reference Number NWS-2008-19-NO). The current CAP has a smaller wetland impact area and proposes remediation in a slightly different footprint area than the 2008 Hart Crowser CAP. The Port received re-verification that the current CAP is covered under NWP 38 in a letter from the USACE dated February 15, 2011.

401 Water Quality Certification, Ecology. Applicants receiving a Section 404 Permit from the USACE are required to obtain a Section 401 Water Quality Certification from Ecology to demonstrate compliance with State water quality standards and other aquatic resource protection requirements under Ecology's authority. The USACE's July 2008 verification under NWP 38 indicated that the work proposed in the 2008 Hart Crowser CAP complied with Ecology's Water Quality Certification and the Coastal Zone Management Act requirements, and no further coordination with Ecology was necessary to meet these requirements. The USACE has confirmed that the current CAP also complies with Ecology's Water Quality Certification and the Coastal Zone Management Act requirements (McNair, 2011).

Construction Stormwater General Permit, Ecology. This permit is required for clearing, grading and/or excavation that results in the disturbance of one or more acres and discharges stormwater to surface waters of the State. This permit is applicable to the cleanup action because of the potential for discharge of construction stormwater to surface water. Stormwater management and erosion and sedimentation control for the protection of surface water during the cleanup action will be conducted in accordance with the substantive requirements of the Washington State Water Pollution Control Act (RCW 90.48). The Port has applied for this permit and construction will not begin until it is issued.

State Environmental Policy Act, Ecology. The Washington State Environmental Policy Act (SEPA) provides a way to identify possible environmental impacts that may result from governmental decisions. These decisions may be related to issuing permits for private projects, constructing public facilities, or adopting regulations, policies or plans. Information provided during the SEPA review process helps agency decision-makers, applicants, and the public understand how a proposal will affect the environment. Any proposal that requires a State or local agency decision to license, fund, or undertake a project, or the proposed adoption of a policy, plan, or program can trigger environmental review under SEPA (see WAC 197-11-704 for a complete definition of agency action). The SEPA checklist and Ecology's determination that the cleanup activities will not have significant environmental impacts are included in Appendix A.

6.5.2. *Exempt Permits*

The following are exempted permits for which the substantive requirements are applicable to the cleanup action and must be met, as they are known at this time:

- Critical Areas Ordinance, Skagit County
- Grading Permit, Skagit County

The documents required for each of these permits will be included as an appendix to the Engineering Design Report or the construction plans and specifications. The applicable substantive requirements of these permits are included below.

Critical Areas Ordinance, Skagit County. The Skagit County Critical Areas Ordinance was developed under the directives of the Washington State Growth Management Act to designate and protect critical areas. Critical areas are defined as wetlands, aquifer recharge areas, frequently flooded areas, geologically hazardous areas, and fish and wildlife habitat conservation areas. The provisions of the ordinance pertaining to the protection of wetland functions and values are applicable to the proposed cleanup action. Because the cleanup action is being implemented pursuant to a Consent Decree, under WAC 173-340-710(9)(a) (the MTCA Permit Exemption) the cleanup is exempt from the procedural requirements of the Critical Areas Ordinance. Substantive requirements include completion of a critical areas checklist and critical areas review by the Skagit County Department of Planning and Development Services pursuant to Chapter 14.24 of the Skagit County Code. Substantive requirements will be included in the Engineering Design Report.

Grading Permit, Skagit County. The Grading Permit is required by Skagit County for any subsurface excavation and/or fill work and is applicable to the cleanup action based on the excavation for the removal of contaminated soil and subsequent backfilling. Under the MTCA Permit Exemption the cleanup is exempt from the procedural requirements of the Grading Permit. Substantive requirements of the Grading Permit include completion of a Grading Permit Application and a Drainage Plan and Temporary Erosion and Sedimentation Control Plan. Substantive requirements will be included in the Engineering Design Report.

7.0 IMPLEMENTATION OF THE CLEANUP ACTION

The schedule for implementation of the cleanup action will be defined in the Consent Decree. The preliminary remedial design completed to date has included development of concept-level design of the selected cleanup action sufficient to estimate cleanup costs and identify applicable regulations, laws, and permits. The required submittals identified in the Consent Decree, including the Engineering Design Report, Compliance Monitoring Plan, and other required documents, will be prepared and submitted for Ecology review and approval according to the schedule in the Consent Decree. The Port is currently planning to implement the cleanup action in summer or fall of 2011. The anticipated schedule for implementation of the cleanup action includes the following:

- Draft Engineering Design Report – submitted to Ecology for review within 60 days of the effective date of the Consent Decree.
- Final Engineering Design Report – submitted to Ecology 45 days after receipt of comments from Ecology on the Draft Engineering Design Report.
- Draft Compliance Monitoring Plan – submitted to Ecology for review within 60 days of the effective date of the Consent Decree.
- Final Compliance Monitoring Plan – submitted to Ecology 45 days after receipt of comments from Ecology on the Draft Compliance Monitoring Plan.
- Cleanup Action Construction – commence within 30 days of Ecology approval of the Final Engineering Design Report and estimated to occur over a period of 3 to 6 months beginning in August 2011.
- Draft Construction Completion (As-Built) Report – submitted to Ecology within 120 days of completion of cleanup action construction.
- Final Construction Completion (As-Built) Report – submitted to Ecology 45 days after receipt of comments from Ecology on the Draft Construction Completion (As-Built) Report.

The cleanup action construction is tentatively planned to commence in August 2011 to correspond to dry weather conditions and facilitate work in the seasonal wetland. The cleanup action construction may be delayed with approval from Ecology.

Consistent with Chapter 70.105D RCW, as implemented by Chapter 173-340 WAC (MTCA Cleanup Regulation), Ecology has determined that the selected Site cleanup action described in Section 5.0 of this CAP is protective of human health and the environment, will attain Federal and State requirements that are applicable or relevant and appropriate, complies with cleanup standards, and provides for compliance monitoring. The selected cleanup action satisfies the preference expressed in WAC 173-340-360 for the use of permanent solutions to the maximum extent practicable, and provides for a reasonable restoration timeframe.

8.0 REFERENCES

GeoEngineers, Inc. 2011. Draft Final Remedial investigation/Feasibility Study, Taxiway F Site, Skagit Regional Airport, Ecology Agreed order No. 6158. January 10.

GeoEngineers, Inc. 2009. Final Work Plan, Remedial Investigation/Feasibility Study, Taxiway F Site, Skagit Regional Airport, Ecology Agreed order No. 6158. July 31.

McNair, F. 2011. Personal communication with Randel Perry, U.S. Army Corps of Engineers. March 15, 2011

TABLE 1

SOIL CLEANUP LEVELS
TAXIWAY F SITE
BURLINGTON, WASHINGTON

Analyte	CAS No.	Soil Criteria						Analytical Laboratory Criteria[3]		Soil Cleanup Level[6]
		Washington State Background[1]	Method B Standard Formula Value, Carcinogen, Direct Contact, Unrestricted Land Use[2]	Method B Standard Formula Value, Non-Carcinogen, Direct Contact, Unrestricted Land Use[2]	Protection of Groundwater (Calculated)	Site-Specific TEE[4]	Site-Specific Calculated TEE[5]	Practical Quantitation Limit	Analytical Method	
Chlorinated Pesticides										
aldrin	309-00-2	–	0.059	2.4	–	0.1	–	0.025	8081A-GC/ECD	0.059
alpha chlordane (cis-chlordane)	5103-71-9	–	–	–	–	–	–	0.025	8081A-GC/ECD	–
gamma chlordane	5566-34-7	–	–	–	–	–	–	0.025	8081A-GC/ECD	–
total chlordane	57-74-9	–	2.9	40	2.05	2.7	–	0.025	8081A-GC/ECD	2.05
4,4'-DDD	72-54-8	–	4.2	–	–	–	–	0.025	8081A-GC/ECD	4.2
4,4'-DDE	72-55-9	–	2.9	–	–	–	–	0.025	8081A-GC/ECD	2.9
4,4'-DDT	50-29-3	–	2.9	40	3.54	–	–	0.025	8081A-GC/ECD	2.9
total DDT (sum of 4,4' isomers)	EDF-229	–	–	–	–	0.75	–	0.025	8081A-GC/ECD	0.75
dieldrin	60-57-1	–	0.063	4	–	0.07	–	0.025	8081A-GC/ECD	0.063
endosulfan I	959-98-8	–	–	–	–	–	–	0.025	8081A-GC/ECD	–
endosulfan II	33213-65-9	–	–	–	–	–	–	0.025	8081A-GC/ECD	–
endosulfan sulfate	1031-07-8	–	–	–	–	–	–	0.025	8081A-GC/ECD	–
total endosulfan	115-29-7	–	–	480	4.22	–	2.4	0.025	8081A-GC/ECD	2.4
endrin ketone	53494-70-5	–	–	–	–	–	–	0.025	8081A-GC/ECD	–
heptachlor	76-44-8	–	0.22	40	–	0.4	–	0.025	8081A-GC/ECD	0.22
heptachlor epoxide	1024-57-3	–	0.11	1	–	0.4	–	0.025	8081A-GC/ECD	0.11
lindane (gamma-BHC)	58-89-9	–	0.77	24	–	6	–	0.025	8081A-GC/ECD	0.77
methoxychlor	72-43-5	–	–	400	–	–	–	0.025	8081A-GC/ECD	400
toxaphene	8001-35-2	–	0.91	–	–	–	–	0.5	8081A-GC/ECD	0.91
Organophosphate Pesticides										
azinphos-methyl (guthion)	86-50-0	–	–	–	–	–	–	0.25	8141mod-GC/MS	–
chlorpyrifos (chlorpyriphos)	2921-88-2	–	–	240	–	–	–	0.05	8081mod-GC/MS	240
methyl parathion	298-00-0	–	–	20	–	–	–	0.25	8141mod-GC/MS	20
parathion (parathion ethyl)	56-38-2	–	–	480	–	–	–	0.05	8081mod-GC/MS	480
Herbicides										
3,5-dichlorobenzoic acid	51-36-5	–	–	–	–	–	–	0.1	8151A-ECD or GC/MS	–
4-nitrophenol	100-02-7	–	–	–	–	–	–	0.1	8151A-ECD or GC/MS	–
2,4,5-TP (silvex)	93-72-1	–	–	640	–	–	–	0.1	8151A-ECD or GC/MS	640
2,4,5-T (2,4,5-trichlorophenoxyacetic acid)	93-76-5	–	–	800	–	–	–	0.1	8151A-ECD or GC/MS	800
2,4-DB	94-82-6	–	–	640	–	–	–	0.8	8151A-ECD or GC/MS	640
2,4-D (2,4-dichlorophenoxyacetic acid)	94-75-7	–	–	800	–	–	–	0.2	8151A-ECD or GC/MS	800
bentazon	25057-89-0	–	–	2,400	–	–	–	0.1	8151A-ECD or GC/MS	2,400
chloramben	133-90-4	–	–	1,200	–	–	–	0.1	8151A-ECD or GC/MS	1,200
DCPA (dacthal)(total DCPA diacid)(chlorthal)	1861-32-1	–	–	800	–	–	–	0.05	8081mod-GC/MS	800
dicamba	1918-00-9	–	–	2,400	2.20	–	–	0.1	8151A-ECD or GC/MS	2.2
dichlorprop	120-36-5	–	–	–	–	–	–	0.3	8151A-ECD or GC/MS	–
dinoseb	88-85-7	–	–	80	0.524	–	25.8	0.05	8081mod-GC/MS	0.524
MCPA (2-methyl-4-chlorophenoxy-acetic acid)	94-74-6	–	–	40	–	–	–	0.1	8151A-ECD or GC/MS	40
MCPP (2-(2-methyl-4-chlorophenoxy)propanic acid)	7085-19-0	–	–	–	–	–	–	0.1	8151A-ECD or GC/MS	–
pentachlorophenol	87-86-5	–	8.3	2,400	–	4.5	–	0.05	8081mod-GC/MS	4.5
triclopyr (trichlopyr)	55335-06-3	–	–	–	–	–	–	0.1	8151A-ECD or GC/MS	–
Miscellaneous Pesticides/Herbicides										
alachlor	15972-60-8	–	12	800	–	–	–	0.05	8081mod-GC/MS	12
atrazine	1912-24-9	–	4.5	2,800	–	–	–	0.05	8081mod-GC/MS	4.5
triadimefon/bayleton	43121-43-3	–	–	480	–	–	–	0.05	8081mod-GC/MS	480
chlorothalonil (daconil)	1897-45-6	–	91	1,200	–	–	–	0.05	8081mod-GC/MS	91
chlorpropham	101-21-3	–	–	16,000	–	–	–	0.05	8081mod-GC/MS	16,000
dicofol	115-32-2	–	–	–	–	–	–	0.5	8081mod-GC/MS	–
diphenamid	957-51-7	–	–	2,400	–	–	–	0.05	8081mod-GC/MS	2,400
EPTC (S-ethyl dipropylthiocarbamate) (eptam)	759-94-4	–	–	2,000	–	–	–	0.05	8081mod-GC/MS	2,000
metolachlor	51218-45-2	–	–	12,000	–	–	–	0.05	8081mod-GC/MS	12,000

Analyte	CAS No.	Soil Criteria						Analytical Laboratory Criteria[3]		Soil Cleanup Level[6]
		Washington State Background[1]	Method B Standard Formula Value, Carcinogen, Direct Contact, Unrestricted Land Use[2]	Method B Standard Formula Value, Non-Carcinogen, Direct Contact, Unrestricted Land Use[2]	Protection of Groundwater (Calculated)	Site-Specific TEE[4]	Site-Specific Calculated TEE[5]	Practical Quantitation Limit	Analytical Method	
metribuzin	21087-64-9	–	–	2,000	–	–	–	0.05	8081mod-GC/MS	2,000
napropamide	15299-99-7	–	–	8,000	–	–	–	0.05	8081mod-GC/MS	8,000
cis-permethrin	54774-45-7	–	–	–	–	–	–	0.05	8081mod-GC/MS	–
trans-permethrin	61949-77-7	–	–	–	–	–	–	0.05	8081mod-GC/MS	–
total permethrin	52645-53-1	–	–	4,000	–	–	–	0.05	8081mod-GC/MS	4,000
prometon (pramitol 5p)	1610-18-0	–	–	1,200	–	–	–	0.05	8081mod-GC/MS	1,200
propazine	139-40-2	–	–	1,600	–	–	–	0.05	8081mod-GC/MS	1,600
simazine	122-34-9	–	8.3	400	–	–	–	0.05	8081mod-GC/MS	8.3
terbacil	5902-51-2	–	–	1,000	–	–	–	0.05	8081mod-GC/MS	1,000
terbutryn (igran)	886-50-0	–	–	80	–	–	–	0.05	8081mod-GC/MS	80
trifluralin	1582-09-8	–	130	600	–	–	–	0.05	8081mod-GC/MS	130
vernolate/vernam	1929-77-7	–	–	10	–	–	–	0.05	8081mod-GC/MS	10
VOCs										
2-chlorotoluene (o-chlorotoluene)	95-49-8	–	–	1,600	2.06	–	–	0.1	8260B-GC/MS	2.06
benzene	71-43-2	–	18	320	0.0262	–	–	0.1	8260B-GC/MS	0.0262
acetone	67-64-1	–	–	8,000	–	–	–	0.5	8260B-GC/MS	8,000
1,2-dichlorobenzene	95-50-1	–	–	7,200	–	–	–	0.1	8260B-GC/MS	7,200
toluene	108-88-3	–	–	6,400	–	–	–	0.1	8260B-GC/MS	6,400
1,1,1-trichloroethane	71-55-6	–	–	72,000	1.36	–	–	0.1	8260B-GC/MS	1.36
1,2,4-trimethylbenzene	95-63-6	–	–	4,000	–	–	–	0.1	8260B-GC/MS	4,000
1,3,5-trimethylbenzene	108-67-8	–	–	4,000	–	–	–	0.1	8260B-GC/MS	4,000
o-xylene	95-47-6	–	–	160,000	88.0	–	–	0.1	8260B-GC/MS	88
Metals										
arsenic	7440-38-2	20	0.67	24	4.67	7/132*	–	1	6010B	20
zinc	7440-66-6	85	–	24,000	5,970	360	–	2	6010B	360

Notes:

Units in milligrams per kilogram (mg/kg)

[1] Zinc background value based on *Natural Background Soil Metals Concentrations in Washington State* (Ecology, October 1994). Arsenic background value based on MTCA Method A cleanup level (regulatory background value; WAC 173-340-900, Table 740-1).

[2] MTCA Method B standard formula values; direct contact (ingestion) (WAC 173-340-745[5][b][iii][B]).

[3] Values obtained from Edge Analytical, Inc.

[4] Site-specific terrestrial ecological evaluation (TEE) values from Table 749-3, MTCA 173-340-900. Wildlife values used.

[5] TEE values (soil concentrations protective of wildlife) for endosulfan and dinoseb were calculated by GeoEngineers - see Appendix D of Work Plan (GeoEngineers, 2009).

[6] Proposed soil cleanup level is the lowest soil criterion as indicated by shading; adjusted where appropriate based on Washington State natural background.

* Values for arsenic (III)/arsenic (V).

Green-highlighted analytes were detected at least once in soil.

Italic typeface = Constituent previously detected in soil at concentration exceeding proposed cleanup level.

Grey shading indicates value was selected as the cleanup level for the cleanup action.

– = Not established/not calculated

TABLE 2

GROUNDWATER CLEANUP LEVELS

TAXIWAY F SITE

BURLINGTON, WASHINGTON

Analyte	CAS No.	Groundwater Criteria				Analytical Laboratory Criteria[1]		Groundwater Cleanup Level[5]
		Washington State Background[2]	Method B Standard Formula Value, Carcinogen, Direct Contact, Drinking Water Use[3]	Method B Standard Formula Value, Non-Carcinogen, Direct Contact, Drinking Water Use[3]	MCL[4]	Practical Quantitation Limit	Analytical Method	
Chlorinated Pesticides								
aldrin	309-00-2	–	0.0026	0.24	--	0.05	8081A-GC/ECD	0.05
alpha chlordane (cis-chlordane)	5103-71-9	–	–	–	–	0.05	8081A-GC/ECD	–
gamma chlordane (trans-chlordane)	5566-34-7	–	–	–	–	0.05	8081A-GC/ECD	–
total chlordane	57-74-9	–	0.25	8	2	0.05	8081A-GC/ECD	2
4,4'-DDD	72-54-8	–	0.36	–	–	0.05	8081A-GC/ECD	0.36
4,4'-DDE	72-55-9	–	0.26	–	–	0.05	8081A-GC/ECD	0.26
4,4'-DDT	50-29-3	–	0.26	8	–	0.05	8081A-GC/ECD	0.26
total DDT (sum of 4,4' isomers)	EDF-229	–	–	–	–	0.05	8081A-GC/ECD	–
dieldrin	60-57-1	–	0.0055	0.8	–	0.05	8081A-GC/ECD	0.05
endosulfan I	959-98-8	–	–	–	–	0.05	8081A-GC/ECD	–
endosulfan II	33213-65-9	–	–	–	–	0.05	8081A-GC/ECD	–
endosulfan sulfate	1031-07-8	–	–	–	–	0.05	8081A-GC/ECD	–
total endosulfan	115-29-7	–	–	96	–	0.05	8081A-GC/ECD	96
endrin ketone	53494-70-5	–	–	–	–	0.05	8081A-GC/ECD	–
heptachlor	76-44-8	–	0.019	8	0.4	0.05	8081A-GC/ECD	0.05
heptachlor epoxide	1024-57-3	–	0.0048	0.1	0.2	0.05	8081A-GC/ECD	0.05
lindane (gamma-BHC)	58-89-9	–	0.067	4.8	0.2	0.05	8081A-GC/ECD	0.2
methoxychlor	72-43-5	–	–	80	40	0.05	8081A-GC/ECD	80
toxaphene	8001-35-2	–	0.08	–	3	1.00	8081A-GC/ECD	1.00
Organophosphate Pesticides								
azinphos-methyl (guthion)	86-50-0	–	–	–	–	0.5	8141mod-GC/MS	–
chlorpyrifos (chlorpyriphos)	2921-88-2	–	–	48	–	0.1	8081mod-GC/MS	48
methyl parathion	298-00-0	–	–	4	–	0.5	8141mod-GC/MS	4
parathion (parathion ethyl)	56-38-2	–	–	96	–	0.1	8081mod-GC/MS	96
Herbicides								
3,5 - dichlorobenzoic acid	51-36-5	–	–	–	–	0.20	8151A-ECD or GC/MS	–
4-nitrophenol	100-02-7	–	–	–	–	0.20	8151A-ECD or GC/MS	–
2,4,5-TP (silvex)	93-72-1	–	–	–	50	0.20	8151A-ECD or GC/MS	50
2,4,5-T (2,4,5-trichlorophenoxyacetic acid)	93-76-5	–	–	–	–	0.20	8151A-ECD or GC/MS	–
2,4-DB	94-82-6	–	–	130	–	1.60	8151A-ECD or GC/MS	130
2,4-D (2,4-dichlorophenoxyacetic acid)	94-75-7	–	–	160	70	0.40	8151A-ECD or GC/MS	160
bentazon	25057-89-0	–	–	480	–	0.20	8151A-ECD or GC/MS	480
chloramben	133-90-4	–	–	–	–	0.2	8151A-ECD or GC/MS	–
USA DCPA (dacthal)(total DCPA diacid)(chlorthal)	1861-32-1	–	–	160	–	0.1	8081mod-GC/MS	160
dicamba	1918-00-9	–	–	480	–	0.20	8151A-ECD or GC/MS	480
dichlorprop	120-36-5	–	–	–	–	0.60	8151A-ECD or GC/MS	–
dinoseb	88-85-7	–	–	–	7	0.1	8081mod-GC/MS	7
MCPA (2-methyl-4-chlorophenoxy-acetic acid)	94-74-6	–	–	8	–	0.20	8151A-ECD or GC/MS	8
MCPP (2-(2-methyl-4-chlorophenoxy)propianic acid)	7085-19-0	–	–	–	–	0.20	8151A-ECD or GC/MS	–
pentachlorophenol	87-86-5	–	0.73	480	1	0.1	8081mod-GC/MS	1
triclopyr (trichlopyr)	55335-06-3	–	–	–	–	0.20	8151A-ECD or GC/MS	–

Analyte	CAS No.	Groundwater Criteria				Analytical Laboratory Criteria[1]		Groundwater Cleanup Level[5]
		Washington State Background[2]	Method B Standard Formula Value, Carcinogen, Direct Contact, Drinking Water Use[3]	Method B Standard Formula Value, Non-Carcinogen, Direct Contact, Drinking Water Use[3]	MCL[4]	Practical Quantitation Limit	Analytical Method	
Miscellaneous Pesticides/Herbicides								
alachlor	15972-60-8	–	1.1	160	2	0.1	8081mod-GC/MS	2
atrazine	1912-24-9	–	0.4	560	3	0.1	8081mod-GC/MS	3
triadimefon/bayleton	43121-43-3	–	–	480	–	0.1	8081mod-GC/MS	480
chlorothalonil (daconil)	1897-45-6	–	8	240	–	0.1	8081mod-GC/MS	8
chlorpropham	101-21-3	–	–	3,200	–	0.1	8081mod-GC/MS	3,200
dicofol	115-32-2	–	–	–	–	1	8081mod-GC/MS	–
diphenamid	957-51-7	–	–	480	–	0.1	8081mod-GC/MS	480
EPTC (S-ethyl dipropylthiocarbamate) (eptam)	759-94-4	–	–	200	–	0.1	8081mod-GC/MS	200
metolachlor	51218-45-2	–	–	2,400	–	0.1	8081mod-GC/MS	2,400
metribuzin	21087-64-9	–	–	400	–	0.1	8081mod-GC/MS	400
napropamide	15299-99-7	–	–	1,600	–	0.1	8081mod-GC/MS	1,600
cis-permethrin	54774-45-7	–	–	–	–	0.1	8081mod-GC/MS	–
trans-permethrin	61949-77-7	–	–	–	–	0.1	8081mod-GC/MS	–
total permethrin	52645-53-1	–	–	800	–	0.1	8081mod-GC/MS	800
prometon (pramitol 5p)	1610-18-0	–	–	240	–	0.1	8081mod-GC/MS	240
propazine	139-40-2	–	–	320	–	0.1	8081mod-GC/MS	320
simazine	122-34-9	–	0.73	80	4	0.1	8081mod-GC/MS	4
terbacil	5902-51-2	–	–	–	–	0.1	8081mod-GC/MS	–
terbutryn (igran)	886-50-0	–	–	16	–	0.1	8081mod-GC/MS	16
trifluralin	1582-09-8	–	11	120	–	0.1	8081mod-GC/MS	11
vernolate/vernam	1929-77-7	–	–	8	–	0.1	8081mod-GC/MS	8
Volatile Organic Compounds								
2-chlorotoluene (o-chlorotoluene)	95-49-8	–	–	160	–	0.4	8260B-GC/MS	160
benzene	71-43-2	–	0.8	32	5	0.4	8260B-GC/MS	5
acetone	67-64-1	–	–	800	–	2.0	8260B-GC/MS	800
1,2-dichlorobenzene	95-50-1	–	–	720	600	0.4	8260B-GC/MS	720
toluene	108-88-3	–	–	640	1,000	0.4	8260B-GC/MS	640
1,1,1-trichloroethane	71-55-6	–	–	7,200	200	0.4	8260B-GC/MS	200
1,2,4-trimethylbenzene	95-63-6	–	–	400	–	0.4	8260B-GC/MS	400
1,3,5-trimethylbenzene	108-67-8	–	–	400	–	0.4	8260B-GC/MS	400
o-xylene	95-47-6	–	–	16,000	–	0.4	8260B-GC/MS	16,000
Metals								
arsenic	7440-38-2	8.0	0.058	4.8	10	0.6	200.8 - ICP/MS	8.0
zinc	7440-66-6	160	–	4,800	–	20	200.7 - ICP	4,800

Notes:

Units in micrograms per liter (ug/l)

[1] Values obtained from Edge Analytical, Inc.

[2] Source: *Background Concentrations of Selected Chemicals in Water, Soil, Sediments, and Air of Washington State* (PTI, 1989) - 90th percentile values.

[3] MTCA Method B standard formula values; direct-contact (ingestion/inhalation) (WAC 173-340-720[4][b]).

[4] MCL = Federal Maximum Contaminant Level

[5] Proposed groundwater cleanup level is the lowest groundwater criterion as indicated by shading, adjusted where appropriate based on available state/federal ARARs that are adequately protective (HQ ≤ 1, carcinogenic risk ≤ 1E-05), Washington State natural background, and practical quantitation limits.

Green-highlighted analytes were detected at least once in groundwater.

Italic typeface = Constituent previously detected in groundwater at concentration exceeding proposed cleanup level.

Grey shading indicates value was selected as the cleanup level for the cleanup action.

– = Not established

TABLE 3

CLEANUP ACTION ALTERNATIVES SUMMARY

TAXIWAY F SITE

BURLINGTON, WASHINGTON

	Alternative 1 - Excavate Historical Operations Area, Drainage Channel, and Wetland Area	Alternative 2 - Cap Historical Operations Area; Excavate Drainage Channel and Wetland Area	Alternative 3 - Cap Historical Operations Area and Drainage Channel; Excavate Wetland Area	Alternative 4 - Cap Historical Operations Area, Drainage Channel, and Wetland Area
Alternative Description	Complete soil excavation/removal. Soil exceeding cleanup levels in all areas of the Site would be excavated and disposed of at an off-site, permitted landfill. Excavated areas would be backfilled and restored/revegetated.	Cap the historical operations area, excavate the drainage channel and wetland area. Soil exceeding cleanup levels in the historical operations area would be capped in place. Soil exceeding cleanup levels in the drainage channel and wetland area would be excavated and disposed of at an off-site, permitted landfill. Excavated areas would be backfilled and restored/revegetated.	Cap the historical operations area drainage channel, excavate the wetland area. Soil exceeding cleanup levels in the historical operations area and drainage channel would be capped in place. Soil exceeding cleanup levels in the wetland area would be excavated and disposed of at an off-site, permitted landfill. Excavated areas would be backfilled and restored/revegetated. Wetlands mitigation would be required to address net loss of wetlands in drainage channel.	Cap the historical operations area, drainage channel, and wetland area. Soil exceeding cleanup levels in all areas of the Site would be capped in place. Wetlands mitigation would be required to address net loss of wetlands in drainage channel and wetland area.
Area of Containment/Capping	0 sq. ft.	60,331 sq. ft.	81,558 sq. ft.	112,266 sq. ft.
Approximate In Situ Volume of Contaminated Soil Removed	4,300 cubic yards	2,308 cubic yards	1,398 cubic yards	0 cubic yards
Alternative Ranking Under MTCA				
1. Compliance with MTCA Threshold Criteria				
Protection of Human Health and the Environment	Yes - Alternative will protect human health and the environment. Residual contaminated soil left in place, if any, would be managed using institutional controls.	Yes - Alternative will protect human health and the environment. Contaminated soil left in place would be managed using a combination of isolation/containment and institutional controls.	Yes - Alternative will protect human health and the environment. Contaminated soil left in place would be managed using a combination of isolation/containment and institutional controls. Capping results in net loss of wetlands and modification of natural drainage function at the Site.	Yes - Alternative will protect human health and the environment. Contaminated soil left in place would be managed using a combination of isolation/containment and institutional controls. Capping results in net loss of wetlands and modification of natural drainage function at the Site.
Compliance with Cleanup Standards	Yes - Active remedial measure (removal) is used for soils not complying with cleanup standards.	Yes - Active remedial measures (removal and containment) are used for soils not complying with cleanup standards.	Yes - Active remedial measures (removal and containment) are used for soils not complying with cleanup standards.	Yes - Active remedial measure (containment) is used for soils not complying with cleanup standards.
Compliance with Applicable State and Federal Laws	Yes - Alternative complies with applicable state and federal laws.	Yes - Alternative complies with applicable state and federal laws.	Yes - Alternative complies with applicable state and federal laws.	Yes - Alternative complies with applicable state and federal laws.
Provision for Compliance Monitoring	Yes - Alternative includes provisions for compliance monitoring (i.e., verification sampling during remedial excavation, confirmational groundwater monitoring).	Yes - Alternative includes provisions for compliance monitoring (i.e., verification sampling during remedial excavation, confirmational groundwater monitoring).	Yes - Alternative includes provisions for compliance monitoring (i.e., verification sampling during remedial excavation, confirmational groundwater monitoring).	Yes - Alternative includes provisions for compliance monitoring (i.e., confirmational groundwater monitoring).
2. Restoration Time Frame				
	Restoration time frame is approximately 1 year for design and construction. Post-construction groundwater monitoring would likely be required for at least four quarters.	Restoration time frame is approximately 1 year for design and construction. Cap monitoring would likely be required, and groundwater monitoring would also likely be required for at least several years. The cap remedy would be subject to periodic review by Ecology to ensure protectiveness.	Restoration time frame is approximately 1 year for design and construction. Cap monitoring would likely be required, and groundwater monitoring would also likely be required for at least several years. The cap remedy would be subject to periodic review by Ecology to ensure protectiveness.	Restoration time frame is approximately 1 year for design and construction. Cap monitoring would likely be required, and groundwater monitoring would also likely be required for at least several years. The cap remedy would be subject to periodic review by Ecology to ensure protectiveness.
3. Disproportionate Cost Analysis - Relative Benefits Ranking (Scored from 1-lowest to 10-highest)				
Protectiveness (30% weighting factor)	**Score = 10.** Achieves high level of protectiveness. All soil at the Site that poses unacceptable risk to human health and the environment is removed. Thin zone of shallow groundwater is perched, with no nearby drinking water wells or receiving surface water bodies. Groundwater quality expected to improve over time as a result of source removal. Deep groundwater is isolated from shallow groundwater by a thick silt-clay confining layer.	**Score = 7.** Achieves medium-high level of protectiveness. Soil at the Site that poses unacceptable risk to human health and the environment is removed or contained beneath caps. The areas of contaminated soil that are most likely to pose exposure risks to ecological receptors such as small mammals and birds (the drainage channel and wetland area) will be excavated under this alternative. Low potential for direct contact with contaminated soil left in place. Thin zone of shallow groundwater is perched, with no nearby drinking water wells or receiving surface water bodies, but may continue to be impacted by capped contamination. Deep groundwater is isolated from capped soil and shallow groundwater by a thick silt-clay confining layer. Protectiveness depends on cap maintenance and environmental covenants to prevent erosion and contact with contaminated soil left in place.	**Score = 6.** Achieves medium level of protectiveness. Soil at the Site that poses unacceptable risk to human health and the environment is removed or contained beneath caps. Low potential for direct contact with contaminated soil left in place. Thin zone of shallow groundwater is perched, with no nearby drinking water wells or receiving surface water bodies, but may continue to be impacted by capped contamination. Deep groundwater is isolated from capped soil and shallow groundwater by a thick silt-clay confining layer. Installation of cap in drainage channel will impact/modify surface water flow and result in net loss of wetlands and modification of natural drainage function. Protectiveness depends on cap maintenance and environmental covenants to prevent erosion and contact with contaminated soil left in place.	**Score = 5.** Achieves medium level of protectiveness. Soil at the Site that poses unacceptable risk to human health and the environment is contained beneath caps. Low potential for direct contact with contaminated soil left in place. Thin zone of shallow groundwater is perched, with no nearby drinking water wells or receiving surface water bodies, but may continue to be impacted by capped contamination. Deep groundwater is isolated from capped soil and shallow groundwater by a thick silt-clay confining layer. Installation of cap in drainage channel and wetland area will impact/modify surface water flow and result in net loss of wetlands and modification of natural drainage function. Protectiveness depends on cap maintenance and environmental covenants to prevent erosion and contact with contaminated soil left in place.
Permanence (20% weighting factor)	**Score = 9.** Achieves permanent reduction in toxicity and volume of hazardous substances at the Site by removal and off-site treatment/disposal of all the contaminated soil. Contaminant mass is transferred to secure, permitted landfill rather than destroyed.	**Score = 6.** Achieves a significant level of permanent reduction in toxicity and volume of hazardous substances at the Site by removal and off-site treatment/disposal of about 60% of the contaminated soil. Remaining contaminated soil is isolated/contained within the historical operations area. Not as permanent as Alternative 1 due to cap.	**Score = 5.** Achieves permanent reduction in toxicity and volume of hazardous substances at the Site by removal and off-site treatment/disposal of about 50% of the contaminated soil. Remaining contaminated soil is isolated/contained. Scores lower than Alternative 2 due to larger soil volume left in place under cap.	**Score = 3.** Achieves no permanent reduction in volume of hazardous substances at the Site, but reduces the toxicity and mobility through containment of the contaminated soil under a cap. Not as permanent as the other alternatives.

	Alternative 1 - Excavate Historical Operations Area, Drainage Channel, and Wetland Area	Alternative 2 - Cap Historical Operations Area; Excavate Drainage Channel and Wetland Area	Alternative 3 - Cap Historical Operations Area and Drainage Channel; Excavate Wetland Area	Alternative 4 - Cap Historical Operations Area, Drainage Channel, and Wetland Area
Long-Term Effectiveness (20% weighting factor)	**Score = 9.** Relies on removal and off-site treatment/disposal of contaminated soil.	**Score = 7.** Relies on a combination of on-site containment and removal and off-site treatment/disposal of contaminated soil. Contaminated soil left in place is limited to the historical operations area, allowing easier monitoring and control of conditions that may affect cap performance. Environmental covenants would be implemented to minimize potential contact with contaminated soil left in place. Long-term effectiveness depends on adherance to the environmental covenants and on maintaining integrity of the cap and groundwater protectiveness.	**Score = 6.** Relies on a combination of on-site containment and removal and off-site treatment/disposal of contaminated soil. Environmental covenants would be implemented to minimize potential contact with contaminated soil left in place. Long term effectiveness depends on adherance to the environmental covenants and on maintaining integrity of the cap and groundwater protectiveness.	**Score = 4.** Relies entirely on on-site containment. Environmental covenants would be implemented to minimize potential contact with contaminated soil left in place. Long-term effectiveness depends on adherance to the environmental covenants and on maintaining integrity of the cap and groundwater protectiveness.
Management of Short-Term Risks (10% weighting factor)	**Score = 5.** Greatest disturbance and off-site transport of contaminated soil relative to other alternatives. Excavation in the drainage channel and wetland area would result in significant vegetation removal, but removal of mature trees would not be required.	**Score = 6.** Relatively low short-term risks. Excavation in the drainage channel and wetland area would result in significant vegetation removal, but removal of mature trees would not be required.	**Score = 6.** Similar short-term risks to Alternative 2. Excavation of the drainage channel under Alternative 2 is replaced with capping, which would have marginally less impacts in the short term. Capping of the drainage channel and excavation in the wetland area would result in significant vegetation removal, but removal of mature trees would not be required. Capping of the drainage channel would require diversion of surface water and result in a net loss of wetlands.	**Score = 5.** Least disturbance of contaminated soil relative to other alternatives. Capping of the drainage channel and wetland area would result in significant vegetation removal, but removal of mature trees would not be required. The capping under this alternative would require greater diversion of surface water and result in a greater net loss of wetlands than Alternative 3.
Technical and Administrative Implementability (10% weighting factor)	**Score = 7.** Would require permitting. Moderately difficult to access contamination in drainage channel and wetland area.	**Score = 7.** Would require permitting and administration of environmental covenant. Moderately difficult to access contamination in drainage channel and wetland area.	**Score = 6.** Would require permitting and administration of environmental covenant. Moderately difficult to access contamination in wetland area. Capping of the drainage channel would require wetland mitigation.	**Score = 5.** Would require permitting and administration of environmental covenant. Capping of the drainage channel and wetland area would require wetland mitigation.
Consideration of Public Concerns (10% weighting factor)	**Score = 9.** Removes all Site soil exceeding cleanup levels. The contaminated soil is transported off Site and isolated in a secure landfill.	**Score = 7.** Removes or isolates contaminated soil most likely to impact public (i.e., soil in historical operations area), but about 40 % of the contaminated soil would remain capped on Site after cleanup. Cap monitoring, maintenance, and environmental covenants would be required to prevent contact with the remaining contaminated soil.	**Score = 6.** Removes or isolates contaminated soil most likely to impact public (i.e., soil in historical operations area), but about 50 % of the contaminated soil would remain capped on Site after cleanup. Cap monitoring, maintenance, and environmental covenants would be required to prevent contact with the remaining contaminated soil. In addition, capping of the drainage channel would result in a net loss of wetlands at the Site.	**Score = 5.** Isolates contaminated soil most likely to impact public (i.e., soil in historical operations area), but 100% of the contaminated soil would remain capped on Site after cleanup. Cap monitoring, maintenance, and environmental covenants would be required to prevent contact with the remaining contaminated soil. In addition, capping of the drainage channel and wetland area would result in a net loss of wetlands at the Site.

TABLE 4

SUMMARY OF MTCA EVALUATION OF CLEANUP ACTION ALTERNATIVES

TAXIWAY F SITE

BURLINGTON, WASHINGTON

Alternative Number	Alternative 1	Alternative 2	Alternative 3	Alternative 4
Alternative Ranking Under MTCA				
1. Compliant with MTCA Threshold Criteria?[1]	Yes	Yes	Yes	Yes
2. Restoration Time Frame	~1 year	~1 year	~1 year	~1 year
3. DCA Relative Benefits Ranking				
Protectiveness (30% weighting)	3.0 (raw score = 10)	2.1 (raw score = 7)	1.8 (raw score = 6)	1.5 (raw score = 5)
Permanence (20% weighting)	1.8 (raw score = 9)	1.2 (raw score = 6)	1.0 (raw score = 5)	0.6 (raw score = 3)
Long-Term Effectiveness (20% weighting)	1.8 (raw score = 9)	1.4 (raw score = 7)	1.2 (raw score = 6)	0.8 (raw score = 4)
Management of Short-Term Risks (10% weighting)	0.5 (raw score = 5)	0.6 (raw score = 6)	0.6 (raw score = 6)	0.5 (raw score = 5)
Technical and Administrative Implementability (10% weighting)	0.7 (raw score = 7)	0.7 (raw score = 7)	0.6 (raw score = 6)	0.5 (raw score = 5)
Consideration of Public Concerns (10% weighting)	0.9 (raw score = 9)	0.7 (raw score = 7)	0.6 (raw score = 6)	0.5 (raw score = 5)
Total of Weighted Scores	**8.7**	**6.7**	**5.8**	**4.4**
4. DCA Summary				
Probable Remedy Cost (nearest thousand)[3]	$2,747,000	$2,265,000	$2,122,000	$1,926,000
Costs Disproportionate to Incremental Benefits?	No	No	No	NA[2]
Practicability of Remedy	Practicable	Practicable	Practicable	Practicable
Remedy Permanent to Maximum Extent Practicable?	Yes	No	No	No
Overall Alternative Ranking	**1st**	**2nd**	**3rd**	**4th**

Notes:

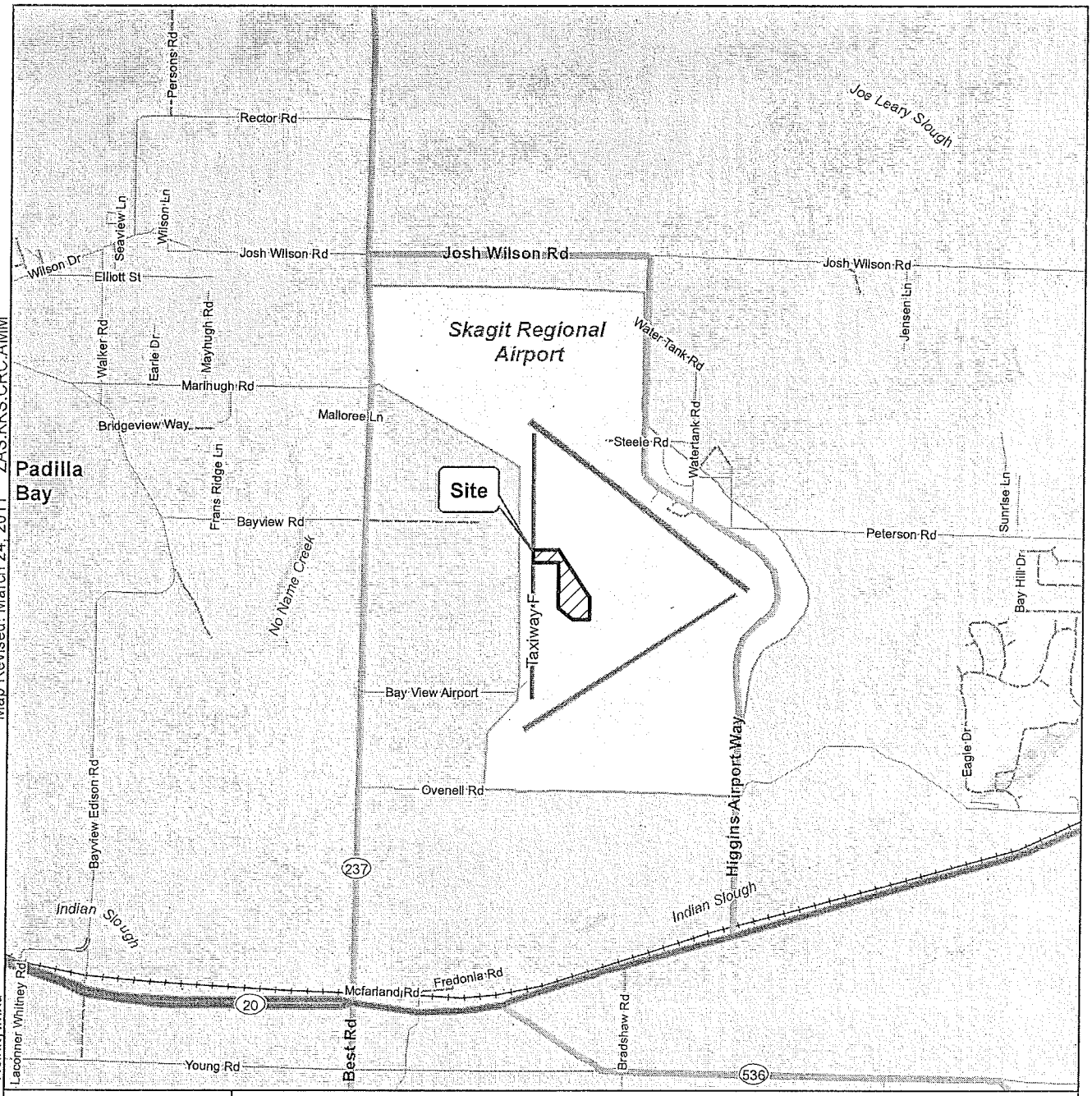
[1] Non-compliant alternatives were not considered in the FS evaluation.

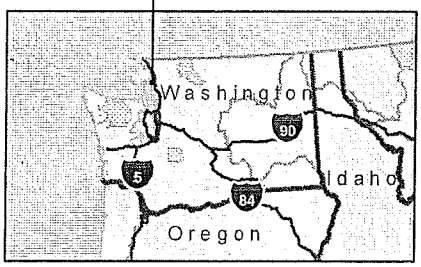
[2] Not applicable since this is the lowest cost alternative.

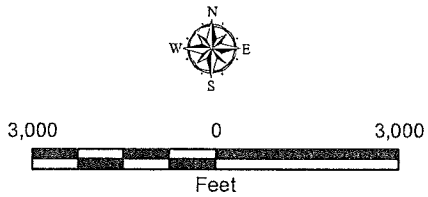
[3] Itemized cost estimates for Alternatives 1 through 4 are provided in Appendix J of the RI/FS report.

MTCA = Model Toxics Control Act

DCA = Disproportionate Cost Analysis







Notes:
1. The locations of all features shown are approximate.
2. This drawing is for information purposes. It is intended to assist in showing features discussed in an attached document. GeoEngineers, Inc. can not guarantee the accuracy and content of electronic files. The master file is stored by GeoEngineers, Inc. and will serve as the official record of this communication.
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Data Sources: ESRI Data & Maps, Street Maps 2005

Transverse Mercator, Zone 10 N North, North American Datum 1983
North arrow oriented to grid north

Vicinity Map

Taxiway F Site
Burlington, Washington

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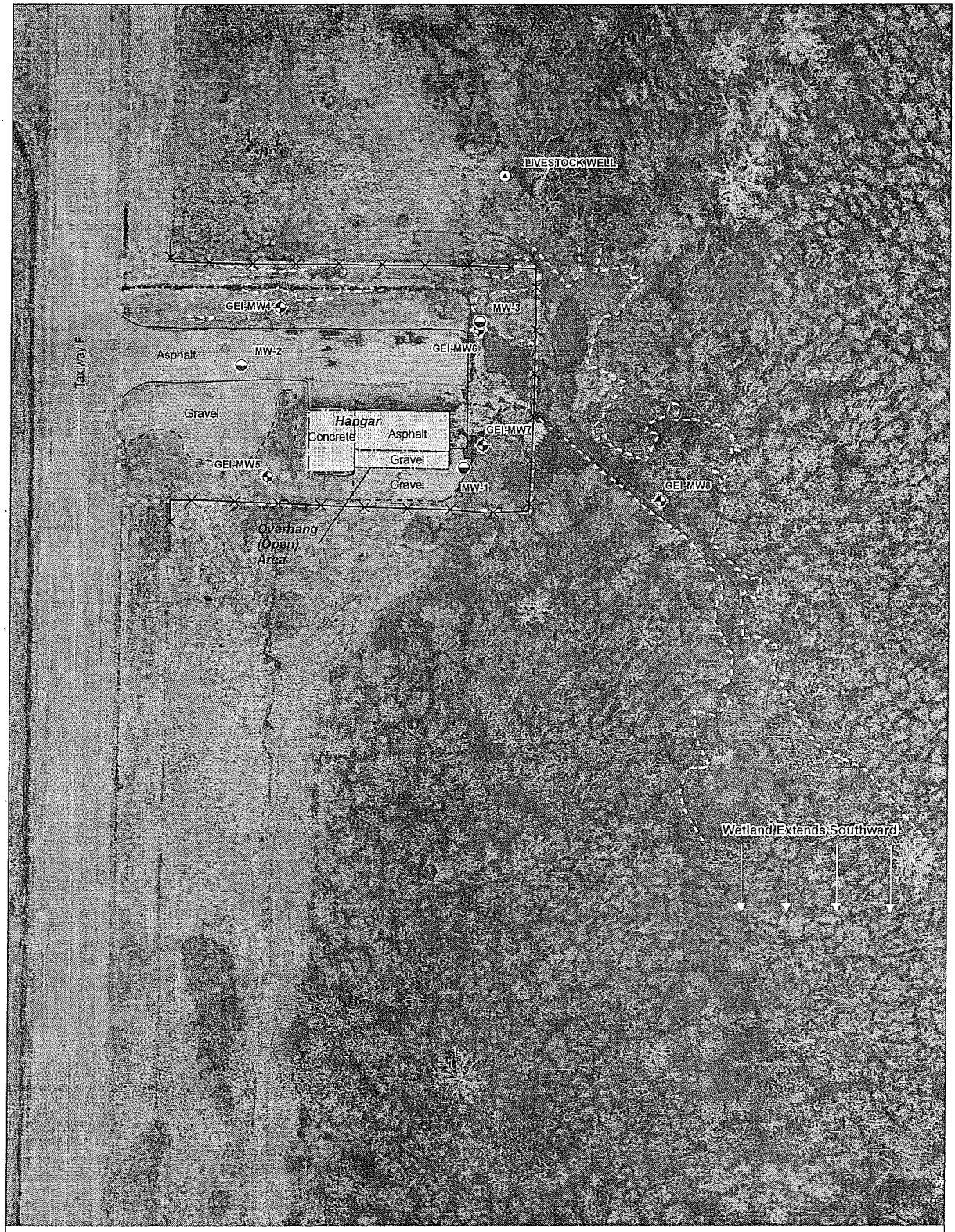
Figure 1

Office: SEA Path: P:\536401\GIS\536401302 FIG-1 Vicinity.mxd Map Revised: March 24, 2011 ZAS:KKS:CRC:AMM

Office: SEA Path: tsea\projects\5\5364013\GIS\536401302_FIG-2.mxd Map Revised: August 11, 2010 TCK:KKS:CRC



Shallow Monitoring Well
Deep Monitoring Well
Water Supply Well
Historical Operations Area
Fence Line
Debris Area
Approximate Rainwater Runoff Flow Direction
Approximate Limits of Wetland Areas (Based on Hart Crowser 2007 Survey)

90 0 90
Feet

N W E S

Site Plan

Taxiway F Site
Burlington, Washington

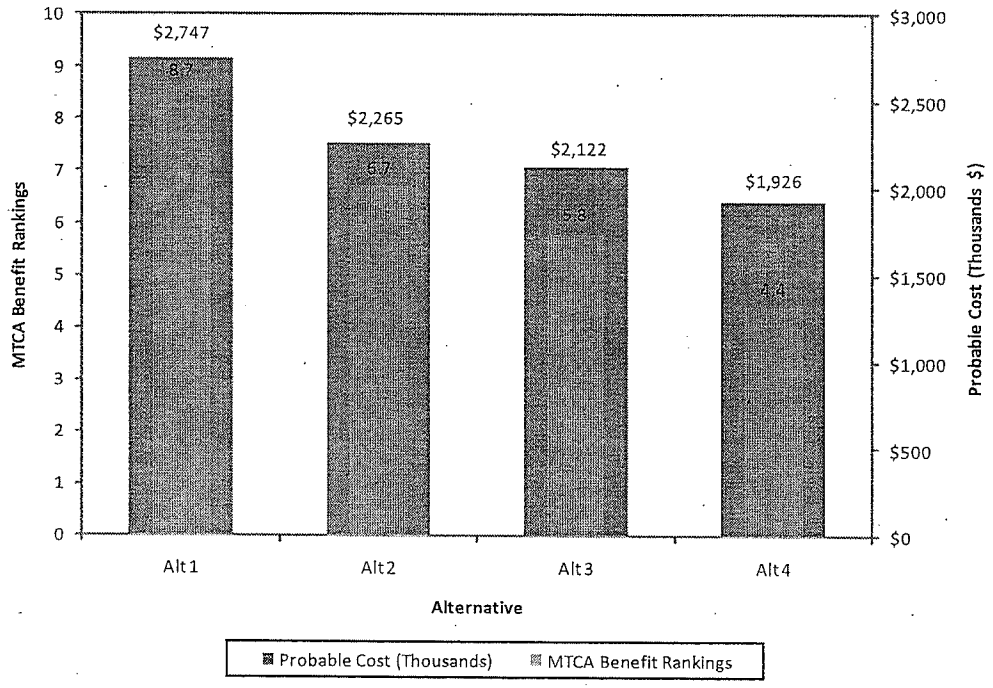
GeoEngineers

Figure 2

Reference: Aerial photo (dated 2004) from Skagit County. Historical Operations Area boundary, fence line, surface water, debris area and wetlands obtained from Hart Crowser (2008b).

Notes:
1. The locations of all features shown are approximate.
2. This drawing is for information purposes. It is intended to assist in showing features discussed in an attached document. GeoEngineers, Inc. cannot guarantee the accuracy and content of electronic files. The master file is stored by GeoEngineers, Inc. and will serve as the official record of this communication.

P:\5\536401\3\02\CAD\536401302 FIG 3.DWG\TAB:LANDSCAPE MODIFIED BY TMICHAUD ON MAR 23, 2011 - 11:26



Benefit Summary		Alt 1		Alt 2		Alt 3		Alt 4	
Factor	Weighting	Rank	Value	Rank	Value	Rank	Value	Rank	Value
Protectiveness	0.3	10	3	7	2.1	6	1.8	5	1.5
Permanence	0.2	9	1.8	6	1.2	5	1	3	0.6
Long-Term Effectiveness	0.2	9	1.8	7	1.4	6	1.2	4	0.8
Short-Term Risk	0.1	5	0.5	6	0.6	6	0.6	5	0.5
Implementability	0.1	7	0.7	7	0.7	6	0.6	5	0.5
Public Concerns	0.1	9	0.9	7	0.7	6	0.6	5	0.5
Sum	1	8.7		6.7		5.8		4.4	

Disproportionate Cost Analysis Rankings

Taxiway F Site
Burlington, Washington

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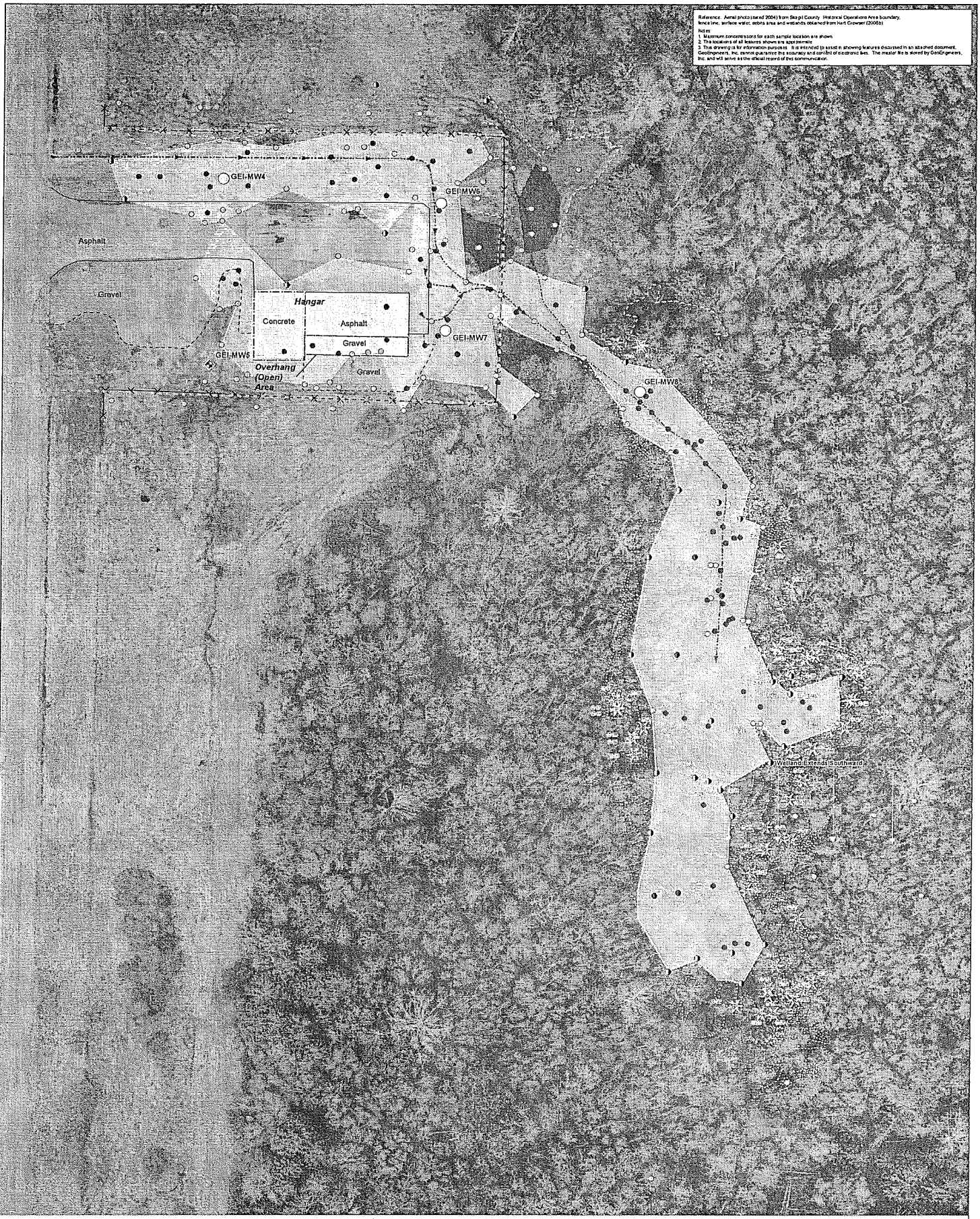
Figure 3



Map Revised: February 21, 2011 CPF:TOX

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Office: SEA

Existing Data Summary

- No Soil Cleanup Level Exceedance (GEI 2009-2010)
- No Soil Cleanup Level Exceedance (Historical)
- Soil Cleanup Level Exceedance (GEI 2009-2010)
- Soil Cleanup Level Exceedance (Historical)
- Groundwater Cleanup Level Exceedance in Shallow Groundwater (2009 - 2010 Data)
- No Groundwater Cleanup Level Exceedance in Shallow Groundwater (2009 - 2010 Data)
- Estimated Excavation Area
- Historical Operations Area
- Fence Line
- Debris Area
- Approximate Rainwater Runoff Flow Direction
- Approximate Limits of Wetland Areas (Based on Hart Crowser 2007 Survey)
- Mature Cedar/Fir Tree
- Topographic Contour (elevation in feet)

N W E S

50 0 50
Feet

Site Plan Showing Cleanup Action Excavation Areas

Taxiway F Site
Burlington, Washington

GeoEngineers

Figure 4

APPENDIX A
SEPA ENVIRONMENTAL CHECKLIST AND DETERMINATION OF NONSIGNIFICANT ENVIRONMENTAL IMPACTS

ENVIRONMENTAL CHECKLIST

Purpose of Checklist:

The State Environmental Policy Act (SEPA), Chapter 43.21 RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information to help you and the agency identify impacts from your proposal (and to reduce or avoid impacts from the proposal, if it can be done) and to help the agency decide whether an EIS is required.

Instructions for Applicants:

This environmental checklist asks you to describe some basic information about your proposal. Governmental agencies use this checklist to determine whether the environmental impacts of your proposal are significant, requiring the preparation of an EIS. Answer the questions briefly, with the most precise information known, or give the best description you can.

You must answer each question accurately and carefully, to the best of your knowledge. In most cases, you should be able to answer the question from your own observations or project plans without the need to hire experts. If you really do not know the answer, or if a question does not apply to your proposal, write "do not know" or "does not apply". Complete answers to the questions now may avoid unnecessary delays later.

Some questions ask about governmental regulations, such as zoning, shoreline, and landmark designations. Answer these questions if you can. If you have problems, the governmental agencies can assist you.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or to provide additional information reasonably related to determining if there may be significant adverse impact.

Use of checklist for nonproject proposals:

Complete this checklist for nonproject proposals, even though questions may be answered "does not apply." **IN ADDITION**, complete **the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS** (Part D).

For nonproject actions, the references in the checklist to the words "project," "applicant," and "property or site" should be read as "proposal," "proposer," and "affected geographic area," respectively.

A. BACKGROUND

1. Name of proposed project, if applicable:

Taxiway F Site Cleanup, Skagit Regional Airport (Sheet 1 – Vicinity Map)

2. Name of applicant:

Port of Skagit County

3. Address and phone number of applicant and contact person:

Sara Young
Manager of Planning and Environmental Services
Port Administrative Offices
P.O. Box 348
Burlington, WA 98233
(360) 757-0011

4. Date checklist prepared:

February 15, 2011

5. Agency requesting checklist:

Department of Ecology

6. Proposed timing or schedule (including phasing, if applicable):

A cleanup contractor will be selected in approximately Spring 2011, with cleanup beginning as soon as soils are sufficiently dry (approximately August 1, 2011). Work will be conducted during the summer months and is expected to be complete by December 30, 2011.

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.

No

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

EAI (Environmental Associates, Inc.), Soil Sampling and Testing. Skagit Farmers Supply – Port of Skagit Lease Property, Skagit County Airport, Skagit County, WA, Report JN 20250, dated September 19, 2000.

GeoEngineers, Inc., 2011a. "Draft Final Remedial Investigation/Feasibility Study, Taxiway F Site, Skagit Regional Airport, Ecology Agreed Order No. 6158, dated January 10, 2011.

GeoEngineers, Inc., 2011b. "Cleanup Action Plan, Taxiway F Site, Skagit Regional Airport, Burlington, Washington, dated March 16, 2011.

GeoEngineers, Inc. ,2011c, Updated Wetland Restoration Plan, Port of Skagit County, Taxiway F Site, Skagit County, Washington," File No. 05364-013-02, Prepared for Port of Skagit County, dated January 26, 2011.

GeoEngineers, Inc., 2010a, "Environmental Status Summary, Taxiway F Cleanup Site, Skagit Regional Airport, Letter to Port of Skagit County (Sara Young) from Christopher Bailey and John Herzog.

GeoEngineers, Inc., 2010b, "Sampling and Analysis Plan, Supplemental Soil Characterization in Dispersed Wetland Area, Taxiway F Site, Skagit Regional Airport, Ecology Agreed Order No. 6158," dated May 21, 2010.

GeoEngineers, Inc., 2009, "Final Work Plan, Remedial Investigation/Feasibility Study, Taxiway F Site, Skagit Regional Airport, Ecology Agreed Order No. 6158, dated July 31, 2009

GeoEngineers, Inc.,2004, "Report: Supplemental Surface Soil and Water Sampling and Testing January 2004, Former Skagit Farmers Supply Site, Skagit County, WA," File No. 5364-003-03, dated May 5, 2004.

GeoEngineers, Inc., 2001, "Report: Supplemental Soil and Groundwater Sampling, Former Skagit Farmers Supply Site, Skagit County, WA," File No. 5364-003-01-1150, dated July 6, 2001.

Hart Crowser, 2008a, "Wetland Restoration Plan, Port of Skagit County, Farmers Supply/Tronsdale Site, Skagit County, Washington," File No. 12053-18, Prepared for Port of Skagit County, File No. 12053-18, dated June 24, 2008.

Hart Crowser, 2008b, "Focused Remedial Investigation/Feasibility Study Addendum, Skagit Farmers Supply Site, Burlington, Washington," File No. 12053-18, Prepared for Port of Skagit County, dated June 30, 2008.

Hart Crowser, 2008c, "Cleanup Action Plan (CAP), Voluntary Cleanup Action, Skagit Farmers Supply Site, Burlington, Washington," Prepared for Port of Skagit County, File No. 12053-18, dated June 30, 2008.

Hart Crowser, 2008d, "Engineering Design Report, Skagit Farmers Supply Site, Burlington, Washington," Prepared for Port of Skagit County, File No. 12053-18, dated July 24, 2008.

Hart Crowser, 2007, Critical Areas Report – Wetlands. Port of Skagit County Farmers Supply/Tronsdale Site. Skagit County, Washington. Prepared for Port of Skagit County. Hart Crowser Project # 12053-18.

Hart Crowser, 2006, "Focused Remedial Investigation/Feasibility Study, Skagit Farmers Supply Site, Burlington, Washington," Prepared for Port of Skagit County, File No. 12053-18, dated April 24, 2006.

Pentec Environmental, 2005, Skagit Farmers Supply Site Terrestrial Ecological Evaluation and Status Report, Port of Skagit County, Skagit County Washington; Prepared for Port of Skagit County; April 15, 2005.

Washington State Department of Ecology (Ecology), "Agreed Order No. 6158 for Remedial Investigation/Feasibility Study – Taxiway F Site, Skagit Regional Airport, In the Matter of Remedial Action by: Port of Skagit County," dated April 10, 2009.

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

- Clean Water Act, Section 404 Permit, United States Army Corps of Engineers Nationwide Permit (38) Cleanup of Hazardous and Toxic Waste
  - Awaiting Corps re-authorization under Nationwide Permit 38.
- Stormwater Permit, Washington State Department of Ecology
  - Notice of Intent for coverage under the Construction Stormwater General Permit will be filed with Ecology in February or March of 2011.

10. List any government approvals or permits that will be needed for your proposal, if known.

The cleanup action will be conducted under a Consent Decree with Ecology. Consequently, the cleanup action is exempt from the procedural requirements of certain laws and all local permits (WAC 173-340-710[9][a]) but must comply with the substantive requirements of these laws and permits. The exemption from procedural requirements applies to the:

- Washington Clean Air Act (RCW 70.94).
- Solid Waste Management Act (RCW 70.95).
- Hazardous Waste Management Act (RCW 70.105).
- Construction Projects in State Waters (RCW 75.20).
- Water Pollution Control Act (RCW 90.48).
- Shoreline Management Act (RCW 90.58).
- Any laws requiring or authorizing local government permits or approvals.

The exemption is not applicable if Ecology determines that the exemption would result in the loss of approval from a Federal agency that may be necessary for the State to administer any Federal law. The applicable and non-applicable required and exempt permit requirements/approvals are provided in the following sections.

The following permits/approvals are applicable to the cleanup action and do not fall under the procedural exemption of WAC -173-340-710[9][a].

- Clean Water Act, Section 404 Permit, United States Army Corps of Engineers Nationwide Permit (38) Cleanup of Hazardous and Toxic Waste
- Construction Stormwater General Permit, Washington State Department of Ecology
- State Environmental Policy Act, Washington State Department of Ecology

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page.

The Site will be subject to a remedial action as directed by the department of Ecology. Currently the Site is used by the Port for storage of equipment. Remediation will include excavation and disposal of soils at an approved landfill facility. Contamination at the Site was delineated as part of the the Site Remedial Investigation and Feasibility Study – both completed under formal order with Ecology. Site contamination is the result of historical crop dusting operations. The remediation area is approximately 95,886 square feet (2.2 acres). Soils will be removed from the top 6 inches to 2 feet. Following completion of the remediationexcavation the Site will be restored in accordance with the approved Wetland Restoration Plan and project permit. Future site use is expected to be consistent with the current site use.

12. Location of proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographical map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any applications related to this checklist.

The Taxiway F Site is located west of Burlington, WA in the northeast quarter of Section 4, Township 34N and Range 3E (Sheet 1). The site is east of Taxiway F on the western side of the Skagit Regional Airport. The *Former Skagit Farmers Supply Site* (original remediation area) is located within the fenced area of the Taxiway F site.

B. ENVIRONMENTAL ELEMENTS

1. Earth

a. General description of the site (circle/underline one): Flat, rolling, hilly, steep slopes or mountains. Other:

b. What is the steepest slope on the site (approximate percent slope)?

The slope is generally flat (2-3%) and gently slopes to the east.

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any prime farmland.

Shallow soils at the Site consist of approximately 1 to 3 feet of fine to coarse sand and gravel. Clay and silt deposits occur beneath the shallow sandy/gravelly soils to depths of about 50 to 85 feet below ground surface (bgs). During wet weather conditions, perched groundwater has been observed at depths of 2 to 3 feet bgs, near the interface between the shallow sand and gravel horizon and the underlying clay/silt unit. Beneath the clay/silt unit, granular soils consisting of fine to medium sand with varying amounts of silt and gravel are present to the maximum depth explored (115 feet bgs). Unconfined groundwater occurs at a depth of approximately 100 feet bgs in the sandy soils beneath the thick clay/silt unit.

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

None

e. Describe the purpose, type, and approximate quantities of any filling or grading proposed. Indicate source of fill.

The remediation area is approximately 95,886 square feet (2.2 acres) (Sheet 2). Soils will be removed from the top 6 inches to 2 feet for an approximate volume of 3,200 cubic yards.

Vegetation in the drainage channel and wetland areas will be cleared and grubbed. Surface soils at the Site with concentrations of COCs above MTCA cleanup levels, will be excavated to an expected depth of 6 inches to 2 feet. The lateral limits of the excavation are defined by the existing soil sampling data that bound the extent of COCs exceeding cleanup levels. Excavation will be completed to the existing "clean" sampling locations. During excavation activities surface water, stormwater, and groundwater, will be managed as necessary. As described in the Engineering Design Report, data will be collected to verify that the lateral limits of excavation have been reached and verification soil samples will be collected from the bottom of the excavations for laboratory analysis. The planned excavation areas are shown on Sheet 2.

Excavated contaminated soils will be transported off-site for disposal at a permitted facility. The remediation areas will be backfilled with clean, imported fill material, to meet the specifications defined in the Engineering Design Report.

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

The site is flat and remediated areas will be seeded with an erosion control seed mix, so erosion is unlikely to occur.

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

The impervious surfaces for the site will remain the same.

Prior to excavation, a portion of the existing asphalt will be removed from the historical operations area (fenced area) to facilitate removal of the contaminated soil. Any existing asphalt areas that are removed will be replaced after cleanup actions. In addition, it is assumed that some areas/portions of the hangar building (e.g., floor slabs and/or footings) will need to be protected, moved, or demolished during or prior to excavation in the historical operations area and restored following the cleanup action.

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

Minimal erosion could occur as the result of this project. Given the lack of any appreciable slope at the site, the potential for erosion to occur is small. Work will be done during the dry season so that water is not expected to be a significant issue during construction.

The contractor will develop a SWPPP and implement BMPs (e.g., silt fences, wattles, straw bales, and mulch) to control sediment loss at the site. Cleanup construction will occur in the dry season, when soils are dry and the likelihood of rain is low. At a minimum, a silt fence will be installed around the perimeter of the remediation area to contain any runoff in the unlikely event of rain. Based on results of shallow groundwater (5 feet bgs) monitoring conducted at the site during the summer, groundwater is not anticipated to be encountered during cleanup actions (removal and replacement of the top 1-2 feet of soil). Should water be encountered within the excavations, the contractor will be required to maintain a dry excavation within reason. Measures such as trenches and sumps may be installed within the construction area to contain water. Stormwater pumped from the trenches will be rerouted from the excavation area or collected and either removed from the site and disposed of according to permit conditions, treated on-site and released south of the remediation area once compliance with groundwater standards is met, or released to a sewer – if allowable.

2. Air

a. What types of emissions to the air would result from this proposal (i.e. dust, automobile, odors, industrial wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if known.

The project may generate dust and additional diesel emissions during construction as a result of operating construction equipment at the site. The completed project will not generate air emissions.

b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

None known

c. Proposed measures to reduce or control emissions or other impacts to air, if any:

Diesel exhaust will be managed with residential grade mufflers on construction equipment. Dust will be managed with a watering truck, as needed.

3. Water

a. Surface:

1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

A wetland delineation was completed for the site on August 22, 2007 by Hart Crowser, Inc. – Pentec Environmental (Hart Crowser, 2007). Four wetlands were delineated on the site, identified as Wetlands A, B, C, D (see Table 1 below, Sheet 2). The fenced Hangar area contains all of Wetlands B and C and portions of Wetlands A and D. Wetland D extends north of the fenced area and Wetland A extends north, east and south of the fenced area.

TABLE 1. SUMMARY INFORMATION FOR WETLANDS AT THE SITE

Wetland	Cowardin Vegetation Class[1]	Size (square feet)	Wetland Category[2]
Wetland A	Forested & Emergent	95,561	III
Wetland B	Scrub-Shrub	303	IV
Wetland C	Emergent	73	IV
Wetland D	Emergent	3,141	IV
TOTAL		53,478	

Notes:
1 – Cowardin vegetation class assigned based on *Classification of Wetland and Deep Water Habitats of the United States* (Cowardin et al 1979), as reported in the Hart Crowser Critical Areas Report (Hart Crowser, 2007).
2 – Wetland Category based on the Washington State Wetland Rating System for Western Washington (Hruby, 2004), as reported in the Hart Crowser Critical Areas Report (Hart Crowser, 2007).

Cowardin LM, Carter V, Golet FC, and LaRoe ET. 1979. Classification of Wetland and Deep Water Habitats of the United States. Performed for Office of Biological Services, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C.

2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

Yes.
The proposed project will require the excavation and replacement of soils within wetland areas. Approximately 31,464 square feet (0.72 acres) of wetland areas will be temporarily impacted by the proposal (see Table 2 below, Sheet 3). Following remediation, wetland portions of the site will be planted with native wetland vegetation and monitored according to the Updated Wetland Restoration Plan (GeoEngineers, 2011c; Sheet 3).

TABLE 2. PROPOSED WETLAND IMPACTS AND RESTORATION AREAS

Wetland	Cowardin Vegetation Class Impacted	Plant Communities to be Restored	Wetland Impact and Restoration Areas (square feet)
Wetland A	Forested	Tree and shrub	25,519
	Emergent	Grass and emergent	3,897
Wetland B	Scrub-Shrub	Shrub	229
Wetland C	Emergent	Grass and emergent	73
Wetland D	Emergent	Grass and emergent	1,746
TOTAL			31,464

3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of the fill material.

See 3(a)(2) above for estimated square footage impacts to wetlands.

Table 3 below presents estimated volumes of soil to be excavated from Wetlands A, B, C and D as part of cleanup actions. An equal amount of clean fill and topsoil will replace the contaminated soils removed from the site. Finished surface grades and topography will approximately match pre-existing conditions.

TABLE 3. ESTIMATED EXCAVATION VOLUMES IN WETLANDS WITHIN THE REMEDIATION AREA

Wetland	Cowardin Vegetation Class Impacted	Current Proposed Volume of Excavation in Wetlands[1]	
		(cubic feet)	(cubic yards)
Wetland A	Forested	30,623	1,134
	Emergent	4,676	173
Wetland B	Scrub-Shrub	275	10
Wetland C	Emergent	88	3
Wetland D	Emergent	2,095	78
TOTAL		37,757	1,398

Notes:

1. Proposed volume to be excavated within wetlands was calculated assuming an average remedial excavation depth of 1.2 feet (GeoEngineers, 2011a).

4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

No

5) Does the proposal lie within a 100 year floodplain? If so, note location on the site plan.

No

6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

No

b. Ground:

1) Will groundwater be withdrawn, or will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.

Groundwater will not be withdrawn at the site.

During construction, measures such as trenches and sumps may be installed within the construction area to contain stormwater. Stormwater pumped from the trenches will be rerouted from the excavation area or collected and either removed from the site and disposed of according to permit condition, treated on-site and released south of the remediation area once compliance with groundwater standards is met, or released to a sewer – if allowable.

2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals . . .; agricultural; etc.). Describe the general size of the system, the number such systems, the number of houses to be served (if applicable), or the number animals or humans the system(s) are expected to serve.

None

c. Water Runoff (including storm water):

1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities if known). Where will this water flow? Will this water flow into other waters? If so, describe.

Surface water runoff flows onto the former Skagit Farmers Supply Site (fenced area) from the north and leaves the area along the east fence line before flowing into the forested wetland area (Wetland A). A shallow ditch along the north side of the Skagit Farmers Supply Site collects rainwater which eventually flows into Wetland A to the southeast via a shallow drainage channel. During the wet season and heavy rains, shallow ponded water accumulates just east of the hangar building. This area receives flow from one of the hangar roof drains and from the southwest corner of the paved area. The roof drains from the southern side of the hangar discharge to shallow channels that flow across the southern margin of the Site toward the adjacent field. The hangar's western roof drain also discharges to a shallow channel toward the southern margin of the Site. The eastern roof discharges to merge with runoff flowing eastward.

Wetland A drains to the south and eventually to a drainage ditch along Runway 04/22, where it flows east towards Taxiway F. This drainage connects to off site wetlands via culverts under Taxiway F and connects to a network of drainage ditches that flow into Indian Slough, which flows to the west and north into Padilla Bay.

The contractor will develop a SWPPP and implement BMPs (e.g., silt fences, wattles, straw bales, and mulch) to control sediment loss at the site. To the extent possible, cleanup construction will occur in the dry season, when soils

are dry and the likelihood of rain is low. At a minimum, a silt fence will be installed around the perimeter of the remediation area to contain any runoff in the unlikely event of rain. Based on results of shallow groundwater (5 feet bgs) monitoring conducted at the site during the summer, groundwater is not anticipated to be encountered during cleanup actions (removal and replacement of the top 1-2 feet of soil). Should water be encountered within the excavations, the contractor will be required to maintain a dry excavation within reason. Measures such as trenches and sumps may be installed within the construction area to contain water. Stormwater pumped from the trenches will be rerouted from the excavation area or collected and either removed from the site and disposed of according to permit conditions, treated on-site and released south of the remediation area once compliance with groundwater standards is met, or released to a sewer – if allowable.

2) **Could waste material enter ground or surface waters? If so, generally describe.**

No waste materials will be produced from this project. As discussed in Section 3(c)(1), stormwater pumped from the trenches will be rerouted from the excavation area or collected and either removed from the site and disposed of according to permit conditions, treated on-site and released south of the remediation area once compliance with groundwater standards is met, or released to a sewer – if allowable.

d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:

Project will be done in the dry season to the degree possible, and all Best Management Practices will be used.

4. Plants

a. Check/circle/underline types of vegetation found on the site:

- deciduous trees: red alder, big leaf maple, black cottonwood, willow
- evergreen trees: western redcedar
- shrubs: salmonberry, vine maple, Indian plum, swamp gooseberry, hardhack/spirea, red elderberry, Himalayan blackberry
- grasses: reed canarygrass and a variety of native and non-native grasses.
- pasture: non-native grasses
- crop or grain: no
- wet soil plants: soft rush and slough sedge
- water plants: slough sedge
- other types of vegetation: poison-hemlock, sword fern, lady fern, stinging nettle, piggy-back plant, large-leaf avens, trailing blackberry, false lily-of-the-valley

b. What kind and amount of vegetation will be removed or altered?

Forest, shrub, and emergent/grass vegetation will be removed from the cleanup area. Vegetated areas will be restored according to the Updated Wetland Restoration Plan.

c. List threatened or endangered species known to be on or near the site.

None known.

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

Re-vegetation at the site will include installation of native trees (10-foot-on-center) and shrubs (5-foot-on-center) as well as seeding emergent portions of the impact areas with a native grass/emergent seed mixture. Upland buffer areas will be re-seeded with an erosion control seed mix. More details on re-vegetation are provided in the Updated Wetland Restoration Plan (GeoEngineers, 2011c).

5. Animals

a. Circle/underline any birds and animals which have been observed on or near the site or are known to be on or near the site:

birds: redtail hawk, harrier, blue heron, bald eagle, and songbirds
mammals: deer and rodents.
fish: **None.**

b. List any threatened or endangered species known to be on or near the site.

None known.

c. Is the site part of a migration route? If so, explain.

The site is located along the pacific flyway for migrant birds, as is all of coastal Washington State.

d. Proposed measures to preserve or enhance wildlife, if any:

Wetlands serve as important habitat for many species of wildlife. Removal of contaminated soils from within wetlands and replacement with clean topsoil will enhance wildlife habitat. In addition, re-vegetation measures will result in replacement of invasive grasses with native species in emergent habitat areas and replacement of mature conifer trees (western redcedar) will occur at an approximate ratio of 7:1.

6. Energy and Natural Resources

a. What kinds of energy (electrical, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

N/A

b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.

N/A

c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

N/A

7. Environmental Health

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste that could occur as a result of this proposal? If so, describe.

Yes, there is some risk of exposure to toxic chemicals. Site soils contain endosulfans in exceedance of MTCA criteria. Endosulfan, a chlorinated pesticide, is the most commonly detected and widely distributed chemical of concern (COC) in Site soils. Endosulfan exceeded Site-specific cleanup levels in 85 percent of all soil samples that had at least one COC exceeding cleanup levels. Other COCs at the site that exceeded preliminary soil cleanup levels include dieldrin, toxaphene, and dinoseb.

If during cleanup actions soils become excessively dry, there is a risk of workers being exposed to chemicals through inhalation of dust.

Shallow groundwater samples were analyzed for endosulfans, chlordanes, aldrin, dieldrin, heptachlor, heptachlor epoxide, toxaphene, total DDT (4,4'-DDD, 4,4'-DDE and 4,4'-DDT), dinoseb, and MCPA. Of nine shallow groundwater wells (approximately 2 to 8 feet below top of casing) sampled in 2009 and 2010, four wells contained cleanup level exceedances as summarized below:

In the historical operations area (fenced area), groundwater samples from GEI-MW-4, GEI-MW-6, and GEI-MW-7 had positive or tentative exceedances of dieldrin, dinoseb, MCPA, bentazon, heptachlor, and/or heptachlor epoxide.

In the area of the drainage channel connecting the historical operations area to Wetland A, groundwater samples from GEI-MW-8 had positive or tentative exceedances of aldrin, dinoseb, MCPA, 2,4-D, and heptachlor epoxide.

Groundwater will likely not be encountered during cleanup actions (based on monitoring well results during the dry season). Stormwater may accumulate on site if heavy rains occur during construction.

The shallow groundwater at the Site is not used as a drinking source.

1) Describe any emergency services that might be required.

None

2) Propose measures to reduce or control environmental health hazards, if any:

Protection monitoring for human health will be conducted during and other construction activities by ensuring that Site workers are appropriately trained in health and safety. Air monitoring will be performed for respirable dust and action levels may be established based on maximum soil pesticides concentrations and permissible exposure levels (PELs). Health and safety and contingency plans for encouraging hazardous materials will also be available prior to and during Site cleanup activities.

b. Noise

1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

None

2) What types and levels of noise would be created by or associated with the project on a short-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

The project will generate short-term noise during construction due to increased truck traffic and equipment operation. The Site is completely located within the Ports controlled airport area. It is anticipated that construction will occur between the hours of 6:00 am and 7:00 pm daily.

3) Proposed measures to reduce or control noise impacts, if any:

Short-term noise impacts due to construction will be reduced by limiting construction to daylight hours and by requiring mufflers on construction equipment.

8. Land and Shoreline Use

a. What is the current use of the site and adjacent properties?

The site is currently used by the Port for storage of maintenance equipment. The adjacent property is either vacant or used for livestock grazing.

b. Has the site been used for agriculture? If so, describe.

No

c. Describe any structures on the site.

The site contains one existing structure consisting of a 7,800 square foot hangar/storage shed building.

d. Will any structures be demolished? if so, what?

Part if the hangar may need to be demolished to access contaminated soils during cleanup actions.

e. What is the current zoning classification of the site?

Aviation related (AVR)

f. What is the current comprehensive plan designation of the site?

Aviation related (AVR)

g. If applicable, what is the current shoreline master program designation of the site?

N/A

h. Has any part of the site been classified as an "environmentally sensitive" area? If so, specify.

No

i. Approximately how many people would reside or work in the completed project?

None

j. Approximately how many people would the completed project displace?

None

k. Proposed measures to avoid or reduce displacement impacts, if any:

N/A

l. **Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:**

The proposal is consistent with the existing zoning and Airport Master Plan.

9. Housing

a. Approximately how many units would be provided, if any? Indicate whether high, middle or low-income housing.

N/A

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

N/A

c. Proposed measures to reduce or control housing impacts, if any:

N/A

10. Aesthetics

a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

If the hangar or a portion of the hangar is demolished during cleanup actions, it will be re-built but not expanded.

b. What views in the immediate vicinity would be altered or obstructed?

None

c. Proposed measures to reduce or control aesthetic impacts, if any:

N/A

11. Light and Glare

a. What kind of light or glare will the proposal produce? What time of day would it mainly occur?

None

b. Could light or glare from the finished project be a safety hazard or interfere with views?

No

c. **What existing off-site sources of light or glare may affect your proposal?**

None

d. **Proposed measures to reduce or control light and glare impacts, if any:**

None

12. Recreation

a. **What designated and informal recreation opportunities are in the immediate vicinity?**

Bayview State Park, Bayview Bicycle Tour Route, and the Padilla Bay National Estuarine Research Reserve.

b. **Would the proposed project displace any existing recreational uses? If so, describe.**

No

c. **Proposed measures to reduce or control impacts on recreation, including recreational opportunities to be provided by the project or applicant, if any:**

No impacts are anticipated and no measures are proposed.

13. Historic and Cultural Preservation

a. **Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe.**

There are no places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site.

b. **Generally describe any landmarks or evidence of historic, archeological, scientific, or cultural importance known to be on or next to the site? If so, generally describe.**

None

c. **Proposed measures to reduce or control impacts, if any:**

No measures are proposed.

14. Transportation

a. Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show on site plans if any.

None

b. Is the site currently served by public transit? If not, what is the approximate distance to the nearest transit stop?

No

c. How many parking spaces would the completed project have? How many would the project eliminate?

N/A

d. Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private).

No

e. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

No

f. How many vehicular trips per day would be generated by the completed project? If known, indicate when peak volumes would occur.

N/A

g. Proposed measures to reduce or control transportation impacts, if any:

N/A

15. Public Services

a. Would the project result in an increased need for public services (for example: fire protection, police protection, health care, schools, other)? If so, generally describe.

No

b. Proposed measures to reduce or control direct impacts on public services, if any.

N/A

16. Utilities

a. Circle/underline utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other:

b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

None

C. SIGNATURE

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

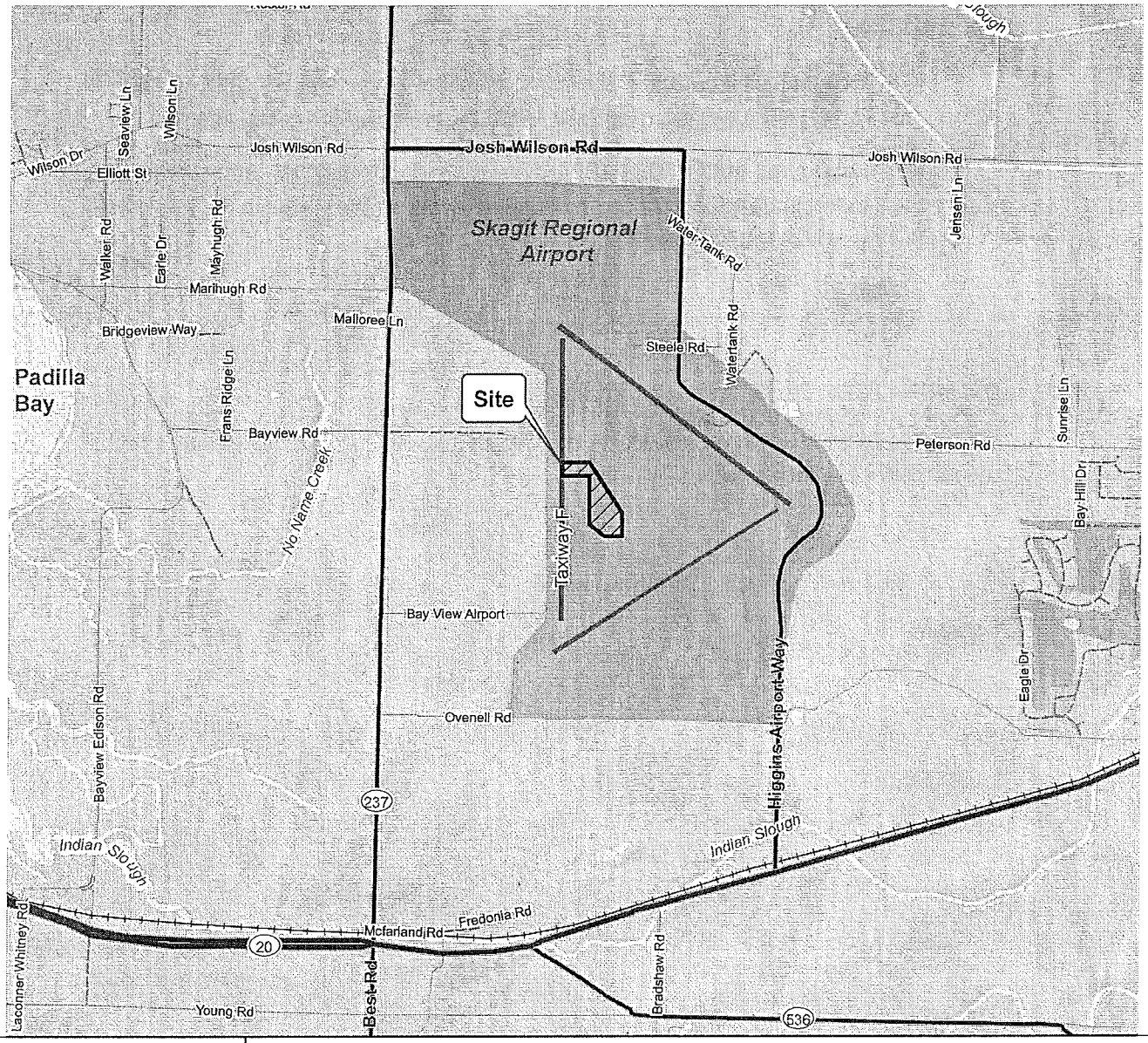
Signature

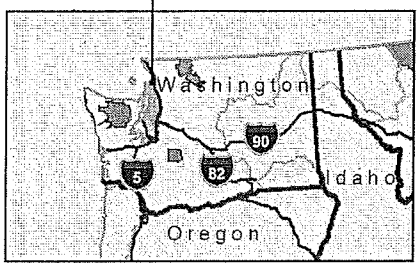
3/16/11

Date Submitted

SEC. 4, T34N, R03E, W.M.

LOG.: 48°28'13.85" NORTH - LAT.: 122°25'46.38" WEST





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REFERENCE: ESRI DATA & MPAS, STREET MAPS 2005

PURPOSE:

REMOVE CONTAMINATED SOIL, PLACE BACKFILL AND RESTORE. REVERIFICATION OF PERMIT (NWS-2008-19-NO)

ADJACENT PROPERTY OWNERS:

1. PORT OF SKAGIT COUNTY

VICINITY MAP

TAXIWAY F SITE
SKAGIT COUNTY, WA

IN: SKAGIT COUNTY
COUNTY OF: SKAGIT
STATE OF: WASHINGTON
APPLICATION BY:
PORT OF SKAGIT COUNTY
SHEET: 1 of 3
DATE: 01/14/11
CREATED BY: GEOENGINEERS, INC.

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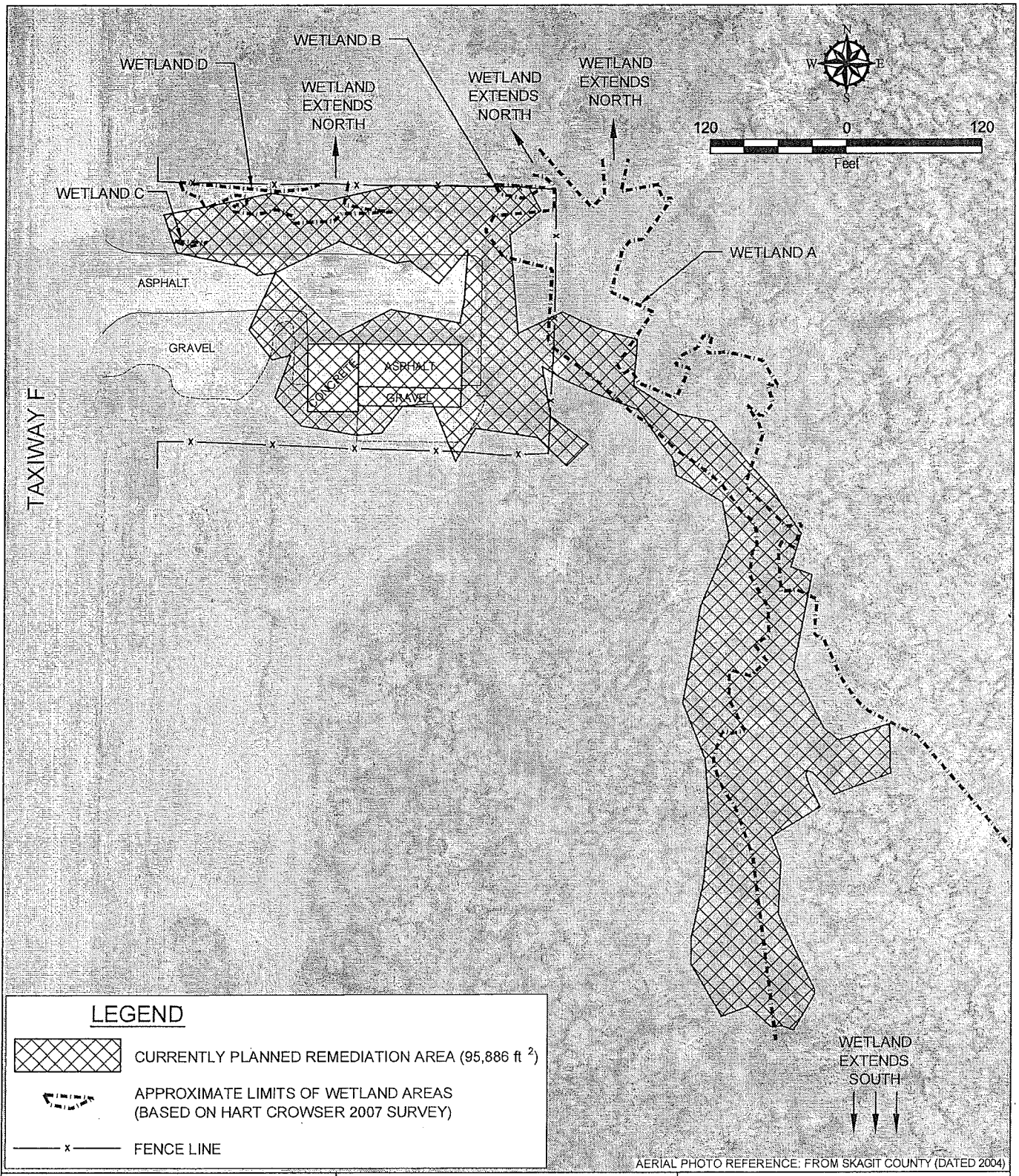
OFFICE:SEA



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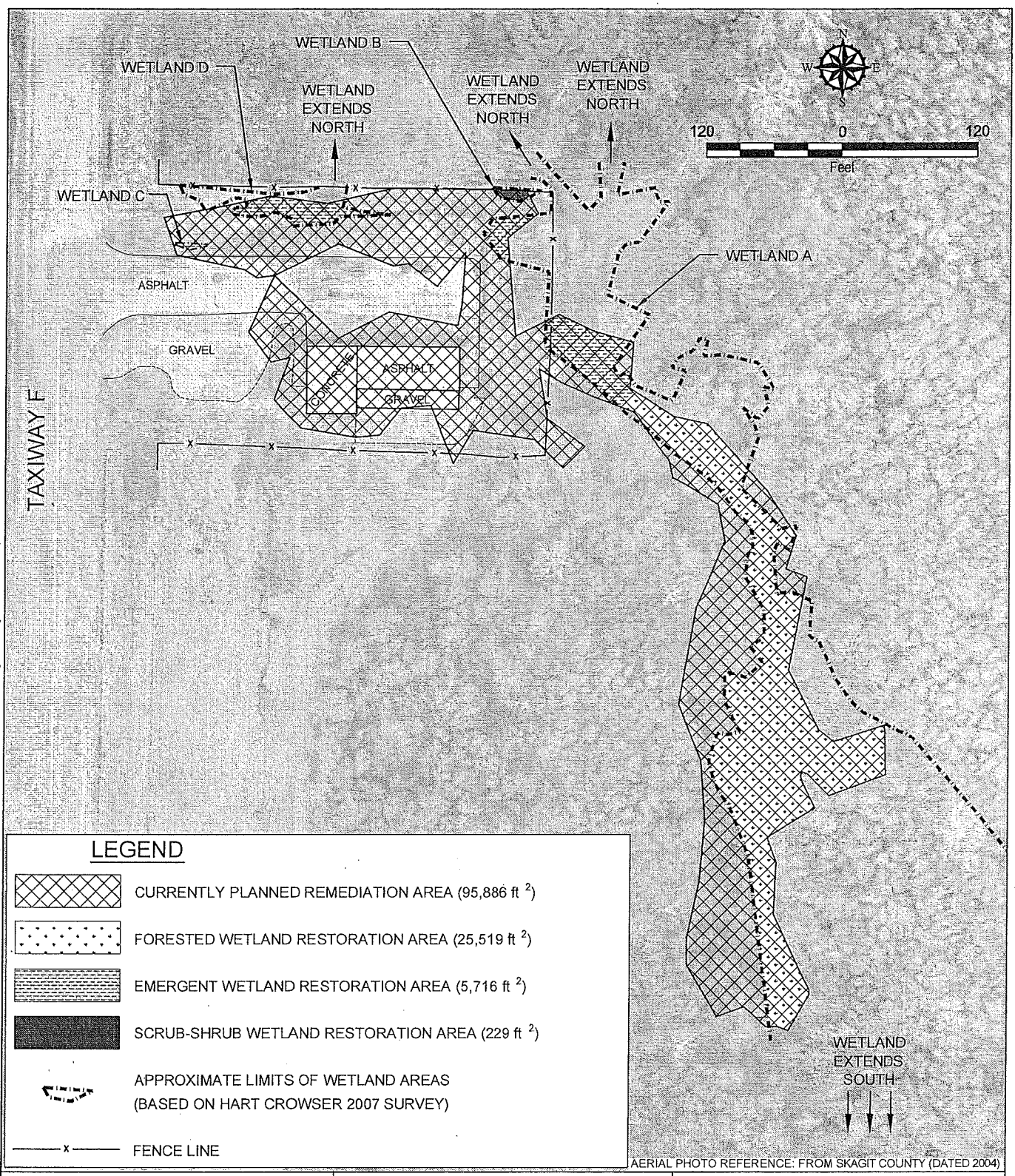
OFFICE:SEA

PURPOSE: REMOVE CONTAMINATED SOIL, PLACE BACKFILL AND RESTORE. REVERIFICATION OF PERMIT (NWS-2008-19-NO) ADJACENT PROPERTY OWNERS: 1. PORT OF SKAGIT COUNTY	SITE PLAN REMEDIATION AREA TAXIWAY F SITE SKAGIT COUNTY, WA	IN: SKAGIT COUNTY COUNTY OF: SKAGIT STATE OF: WASHINGTON APPLICATION BY: PORT OF SKAGIT COUNTY SHEET: 2 of 3 DATE: 01/14/11 CREATED BY: GEOENGINEERS, INC.



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OFFICE:SEA

PURPOSE:

REMOVE CONTAMINATED SOIL, PLACE BACKFILL AND RESTORE. REVERIFICATION OF PERMIT (NWS-2008-19-NO)

ADJACENT PROPERTY OWNERS:

1. PORT OF SKAGIT COUNTY

SITE PLAN
WETLAND RESTORATION AREAS

TAXIWAY F SITE
SKAGIT COUNTY, WA

IN: SKAGIT COUNTY
COUNTY OF: SKAGIT
STATE OF: WASHINGTON
APPLICATION BY:
PORT OF SKAGIT COUNTY
SHEET: 3 of 3
DATE: 01/14/11
CREATED BY: GEOENGINEERS, INC.

WAC 197-11-970

DETERMINATION OF NONSIGNIFICANCE
TAXIWAY F CLEANUP AT THE SKAGIT REGIONAL AIRPORT

Description of proposal: The Taxiway F site will be subject to a remedial action as directed by the Department of Ecology. Currently the site is used by the Port of Skagit County for storage of equipment. Remediation will include excavation and disposal of soils at an approved landfill facility. Contamination at the site was delineated as part of the Site Remedial Investigation and Feasibility Study. Site contamination is the result of historical crop dusting operations. The remediation area covers approximately 2.2 acres. Soil will be removed from the top six inches to two feet. Following completion of excavation the Site will be restored in accordance with an approved Wetland Restoration Plan and project permit. Future site use is expected to be consistent with current site use.

Proponent: Port of Skagit County

Location of proposal: Skagit Regional Airport, 15400 Airport Drive, Burlington, WA 98233

Lead agency: Washington State Department of Ecology

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030 (2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

☐ There is no comment period for this DNS.

☐ This DNS is issued after using the optional DNS process in WAC 197-11-355. There is no further comment period on the DNS.

☒ This DNS is issued under WAC 197-11-340(2); the lead agency will not act on this proposal for 14 days from the date below. Comments must be submitted by the end of the public comment period for the Consent Decree implementing this cleanup action.

Responsible official: Robert A. Warren

Position/title: Section Manager, Toxics Cleanup Program, Northwest Regional Office **Phone:** 425-649-7054

Address: 3190 160th Avenue SE, Bellevue, WA 98008

Date: April 7, 2011 **Signature:**

ROBERT W. WARREN
NWRO SECTION MANAGER

APPENDIX B
CLEANUP ALTERNATIVE COST ESTIMATE TABLES

TABLE B-1

COST ESTIMATE - PROPOSED CLEANUP ACTION ALTERNATIVE 1

EXCAVATE HISTORICAL OPERATIONS AREA, DRAINAGE CHANNEL, AND WETLAND AREA

TAXIWAY F SITE

BURLINGTON, WASHINGOTN

ITEM No.	DESCRIPTION	PLAN QUANT	UNIT	UNIT PRICE	AMOUNT (2010$)	NOTE
Mobilization and Site Preparation						
1	Mobilization/Site Controls/Demobilization	1	LS	$5,000.00	$5,000	
	Subtotal				**$5,000**	
Demolition						
2	Asphalt demolition and disposal	11,910	SF	$1.50	$17,900	
3	Clearing and Grubbing	1.43	ACRE	$15,000.00	$21,500	Drainage channel and wetland cap and excavation areas plus a 20% buffer.
4	Protect/demolish hanger building	1	LS	$50,000.00	$50,000	
	Subtotal				**$89,400**	
Soil Removal, Backfill						
5	Excavate Operations Area Soil (0'-1 bgs)	2,391	CY	$12.00	$28,700	Total of all soil excavated. Assume 20% expansion above in-place volume. Cost includes excavation and stockpile. Assume 20% of excavation area requires over-excavation to 2-feet bgs.
6	Excavate Wetland/Stream Area Soil (0'-1 bgs)	2,770	CY	$18.00	$49,900	
7	Contaminated Soil (non-haz) Transport and Disposal at approved off-site facility	7,432	TON	$56.00	$416,200	90% of all soil excavated. Assume 1.6 ton/CY. Cost includes loading and hauling. Quote from WM.
8	Contaminated Soil (Subtitle C) Transport and Disposal at approved off-site facility	826	TON	$266.00	$219,700	10% of all soil excavated. Assume 1.6 ton/CY . Cost includes transport ($66), disposal ($180), and tax ($20). Quote from WM.
9	Purchase, Place and Compact General Backfill Material	2,869	TON	$13.00	$37,300	Use general backfill material for backfilling unpaved (75%) areas in operations area and for backfilling below 1-foot bgs. Assume 1.6 ton/CY.
10	Purchase, Place and Compact Crushed Rock Surface Material	598	CY	$35.00	$20,900	Backfill of excavations in operations areas with existing gravel/pave surface (25%) with crushed rock.
11	Purchase and Place Topsoil	2,770	CY	$28.00	$77,600	Use topsoil for backfilling in wetland area.
	Subtotal				**$850,300**	
Capping						
12	Grading cap area to prepare surface for geotextile		ACRE		$0	
13	Install permeable geotextile layer to separate existing soil from crushed rock surface layer		SY		$0	
14	Placement and compaction of 1-foot crushed rock surface		SY		$0	
15	Install permeable geotextile layer to separate existing soil from topsoil surface layer	0	SY	$2.25	$0	
16	Placementof 1-foot cap layer of topsoil	0	CY	$28.00	$0	
	Subtotal				**$0**	

ITEM No.	DESCRIPTION	PLAN QUANT	UNIT	UNIT PRICE	AMOUNT (2010$)	NOTE
Surface Restoration						
17	Wetland and other Site Vegetation Restoration	1.43	ACRE	$150,000.00	$214,600	Assume the areas cleared and grubbed from Line 3 are restored.
18	Fencing wetland area	0	LF	$10.00	$0	
19	Hydroseeding	0	SF	$0.25	$0	
20	Pavement Restoration	221	Ton	$170.00	$37,500	Restore original pavement demolished for excavation. Assume compacted crushed rock backfill is adequate base course for asphalt. Assume 3-inch course of HMA and 2 tons/CY.
	Subtotal				**$252,100**	
Utility Alteration and Replacement						
21	Remove, Bypass, and/or Replace utilities in project area	1	LS	$5,000.00	$5,000	Assume nominal utilities impacted by excavation in Hangar.
	Subtotal				**$5,000**	
Monitoring						
22	Groundwater Monitoring	1.00	LS	$50,000.00	$50,000	Install four monitoring wells; complete four quarterly monitoring events; prepare quarterly memoranda of results
23	Wetland revegetation monitoring	5.00	Year	$12,000.00	$60,000	Assume 5 years of monitoring.
	Subtotal				**$110,000**	
Site Survey						
24	Post-Construction (As-Built) Surveys	1	LS	$5,000.00	$5,000	
	Subtotal				**$5,000**	
	Contractor Overhead (Based on total of Tasks 1-24)	10.00%	%		$131,680	
	Sales Tax	8.2%	%		$118,775	Sales Tax applied to sum of construction items 1-24 and construction overhead.
	Total Purchase and Installation Cost				**$1,567,255**	
	Construction Management and Field Monitoring	1	LS	$155,000.00	$155,000	
	Confirmation sample and waste characterization analysis	1	LS	$111,000.00	$111,000	Analysis of samples collected in accordance with Ecology guidance for defining limits of excavation. Analyze stockpile samples for waste characterization, including dangerous waste analyses.
Construction Total					**$1,833,255**	
	Contingency (Concept design level)	30.0%	%		$549,977	
Construction Total with Contingency					**$2,383,232**	
	Design and Permitting	1	LS	$161,000.00	$161,000	
	Project Closeout Reporting	1	LS	$60,000.00	$60,000	
	Port Internal Costs	6.0%	%		$142,994	
	OVERALL PROJECT TOTAL COSTS				**$2,747,226**	

TABLE B-2

COST ESTIMATE - PROPOSED CLEANUP ACTION ALTERNATIVE 2

CAP HISTORICAL OPERATIONS AREA, EXCAVATE DRAINAGE CHANNEL AND WETLAND AREA

TAXIWAY F SITE

BURLINGTON, WASHINGTON

ITEM No.	DESCRIPTION	PLAN QUANT	UNIT	UNIT PRICE	AMOUNT (2010$)	NOTE
Mobilization and Site Preparation						
1	Mobilization/Site Controls/Demobilization	1	LS	$5,000.00	$5,000	
	Subtotal				**$5,000**	
Demolition						
2	Asphalt demolition and disposal	17,000	SF	$1.50	$25,500	Approximately A 17,000 square foot area removed to prepare subgrade for cap.
3	Clearing and Grubbing	1.43	ACRE	$15,000.00	$21,500	Drainage channel and wetland cap and excavation areas plus a 20% buffer.
4	Protect/demolish hanger building	1	LS	$50,000.00	$50,000	
	Subtotal				**$97,000**	
Soil Removal, Backfill						
5	Excavate Operations Area Soil (0'-1 bgs)	0	CY	$12.00	$0	Total of all soil excavated. Assume 20% expansion above in-place volume. Cost includes excavation and stockpile. Assume 20% of excavation area requires over-excavation to 2-feet bgs.
6	Excavate Wetland/Stream Area Soil (0'-1 bgs)	2,770	CY	$18.00	$49,900	
7	Contaminated Soil (non-haz) Transport and Disposal at approved off-site facility	3,989	TON	$56.00	$223,400	90% of all soil excavated. Assume 1.6 ton/CY. Cost includes loading and hauling. Quote from WM.
8	Contaminated Soil (Subtitle C) Transport and Disposal at approved off-site facility	443	TON	$266.00	$117,900	10% of all soil excavated. Assume 1.6 ton/CY . Cost includes transport ($66), disposal ($180), and tax ($20). Quote from WM.
9	Purchase, Place and Compact General Backfill Material	0	TON	$13.00	$0	Use general backfill material for backfilling unpaved (75%) areas in operations area and for backfilling below 1-foot bgs. Assume 1.6 ton/CY.
10	Purchase, Place and Compact Crushed Rock Surface Material	0	CY	$35.00	$0	Backfill of excavations in operations areas with existing gravel/pave surface (25%) with crushed rock.
11	Purchase and Place Topsoil	2,770	CY	$28.00	$77,600	Use topsoil for backfilling in wetland area.
	Subtotal				**$468,800**	
Capping						
12	Grading cap area to prepare surface for geotextile	6,703	SY	$2.00	$13,400	
13	Install permeable geotextile layer to separate existing soil from crushed rock surface layer	6,703	SY	$2.25	$15,100	
14	Placement and compaction of 1-foot crushed rock surface	2,234	CY	$35.00	$78,200	
15	Install permeable geotextile layer to separate existing soil from topsoil surface layer	0	SY	$2.25	$0	
16	Placementof 1-foot cap layer of topsoil	0	CY	$28.00	$0	
	Subtotal				**$106,700**	

ITEM No.	DESCRIPTION	PLAN QUANT	UNIT	UNIT PRICE	AMOUNT (2010$)	NOTE
Surface Restoration						
17	Wetland and other Site Vegetation Restoration	1.43	ACRE	$150,000.00	$214,600	Assume the areas cleared and grubbed from Line 3 are restored.
18	Fencing wetland area	0	LF	$10.00	$0	Installation of fencing around wetland area with remaining contamination.
19	Hydroseeding	0	SF	$0.25	$0	Hydroseed drainage channel and/or wetland cap areas
20	Pavement Restoration	315	Ton	$170.00	$53,500	Restore original pavement demolished for excavation. Assume compacted crushed rock backfill is adequate base course for asphalt. Assume 3-inch course of HMA and 2 tons/CY.
	Subtotal				**$268,100**	
Utility Alteration and Replacement						
21	Remove, Bypass, and/or Replace utilities in project area	1	LS	$5,000.00	$5,000	Assume nominal utilities impacted by excavation in Hangar.
	Subtotal				**$5,000**	
Monitoring						
22	Groundwater Monitoring	1.00	LS	$50,000.00	$50,000	Install four monitoring wells; complete four quarterly monitoring events; prepare quarterly memoranda of results
23	Wetland revegetation monitoring	5.00	Year	$12,000.00	$60,000	Assume 5 years of monitoring.
	Subtotal				**$110,000**	
Site Survey						
24	Post-Construction (As-Built) Surveys	1	LS	$5,000.00	$5,000	
	Subtotal				**$5,000**	
	Contractor Overhead (Based on total of Tasks 1-24)	10.00%	%		$106,560	
	Sales Tax	8.2%	%		$96,117	Sales Tax applied to sum of construction items 1-22 and construction overhead.
	Total Purchase and Installation Cost				**$1,268,277**	
	Construction Management and Field Monitoring	1	LS	$155,000.00	$155,000	
	Confirmation sample and waste characterization analysis	1	LS	$60,000.00	$60,000	Analysis of samples collected in accordance with Ecology guidance for defining limits of excavation. Analyze stockpile samples for waste characterization, including dangerous waste analyses.
Construction Total					**$1,483,277**	
	Contingency (Concept design level)	30.0%	%		$444,983	
Construction Total with Contingency					**$1,928,260**	
	Design and Permitting	1	LS	$161,000.00	$161,000	
	Project Closeout Reporting	1	LS	$60,000.00	$60,000	
	Port Internal Costs	6.0%	%		$115,696	
	OVERALL PROJECT TOTAL COSTS				**$2,264,956**	

TABLE B-3

COST ESTIMATE - PROPOSED CLEANUP ACTION ALTERNATIVE 3
CAP HISTORICAL OPERATIONS AREA AND DRAINAGE CHANNEL, EXCAVATE WETLAND AREA
TAXIWAY F SITE
BURLINGTON, WASHINGTON

ITEM No.	DESCRIPTION	PLAN QUANT	UNIT	UNIT PRICE	AMOUNT (2010$)	NOTE
Mobilization and Site Preparation						
1	Mobilization/Site Controls/Demobilization	1	LS	$5,000.00	$5,000	
	Subtotal				**$5,000**	
Demolition						
2	Asphalt demolition and disposal	17,000	SF	$1.50	$25,500	Approximately A 17,000 square foot area removed to prepare subgrade for cap.
3	Clearing and Grubbing	0.95	ACRE	$15,000.00	$14,300	Drainage channel and wetland cap and excavation areas plus a 20% buffer.
4	Protect/demolish hanger building	1	LS	$50,000.00	$50,000	
	Subtotal				**$89,800**	
Soil Removal, Backfill						
7					$0	
5	Excavate Operations Area Soil (0'-1 bgs)	0	CY	$12.00	$0	Total of all soil excavated. Assume 20% expansion above in-place volume. Cost includes excavation and stockpile. Assume 20% of excavation area requires over-excavation to 2-feet bgs.
6	Excavate Wetland Area Soil (0'-1 bgs)	1,678	CY	$18.00	$30,200	
7	Contaminated Soil (non-haz) Transport and Disposal at approved off-site facility	2,416	TON	$56.00	$135,300	90% of all soil excavated. Assume 1.6 ton/CY. Cost includes loading and hauling. Quote from WM.
8	Contaminated Soil (Subtitle C) Transport and Disposal at approved off-site facility	268	TON	$266.00	$71,400	10% of all soil excavated. Assume 1.6 ton/CY. Cost includes transport ($66), disposal ($180), and tax ($20). Quote from WM.
9	Purchase, Place and Compact General Backfill Material	0	TON	$13.00	$0	Use general backfill material for backfilling unpaved (75%) areas in operations area and for backfilling below 1-foot bgs. Assume 1.6 ton/CY.
10	Purchase, Place and Compact Crushed Rock Surface Material	0	CY	$35.00	$0	Backfill of excavations in operations areas with existing gravel/pave surface (25%) with crushed rock.
11	Purchase and Place Topsoil	1,678	CY	$28.00	$47,000	Use topsoil for backfilling in wetland area.
	Subtotal				**$283,900**	
Capping						
12	Grading cap area to prepare surface for geotextile	6,703	SY	$2.00	$13,400	
13	Install permeable geotextile layer to separate existing soil from crushed rock surface layer	6,703	SY	$2.25	$15,100	
14	Placement and compaction of crushed rock 1-foot cap layer	2,234	CY	$35.00	$78,200	
15	Install permeable geotextile layer to separate existing soil from topsoil surface layer	2,359	SY	$2.25	$5,300	
16	Placementof 1-foot cap layer of topsoil	786	CY	$28.00	$22,000	
	Subtotal				**$134,000**	

ITEM No.	DESCRIPTION	PLAN QUANT	UNIT	UNIT PRICE	AMOUNT (2010$)	NOTE
Surface Restoration						
17	Wetland Restoration	2.04	ACRE	$150,000.00	$305,400	Assume areas excavated plus a 20% buffer requires restoration. Assume drainage channel/wetland cap area requires 2 to 1 wetland mitigation.
18	Fencing wetland area	0	LF	$10.00	$0	Installation of fencing around wetland area with remaining contamination.
19	Hydroseeding	25,475	SF	$0.25	$6,400	Hydroseed drainage channel and/or wetland cap areas
20	Pavement Restoration	315	Ton	$170.00	$53,500	Restore original pavement demolished for excavation. Assume compacted crushed rock backfill is adequate base course for asphalt. Assume 3-inch course of HMA and 2 tons/CY.
	Subtotal				**$365,300**	
Utility Alteration and Replacement						
21	Remove, Bypass, and/or Replace utilities in project area	1	LS	$5,000.00	$5,000	Assume nominal utilities impacted by capping by Hangar.
	Subtotal				**$5,000**	
Monitoring						
22	Groundwater Monitoring	1.00	LS	$50,000.00	$50,000	Install four monitoring wells; complete four quarterly monitoring events; prepare quarterly memoranda of results
23	Wetland revegetation monitoring	5.00	Year	$12,000.00	$60,000	Assume 5 years of monitoring.
	Subtotal				**$110,000**	
Site Survey						
24	Post-Construction (As-Built) Surveys	1	LS	$5,000.00	$5,000	
	Subtotal				**$5,000**	
	Contractor Overhead (Based on total of Tasks 1-24)	10.00%	%		$99,800	
	Sales Tax	8.2%	%		$90,020	Sales Tax applied to sum of construction items 1-22 and construction overhead.
	Total Purchase and Installation Cost				**$1,187,820**	
	Construction Management and Field Monitoring	1	LS	$155,000.00	$155,000	
	Confirmation sample and waste characterization analysis	1	LS	$37,000.00	$37,000	Analysis of samples collected in accordance with Ecology guidance for defining limits of excavation. Analyze stockpile samples for waste characterization, including dangerous waste analyses.
Construction Total					**$1,379,820**	
	Contingency (Concept design level)	30.0%	%		$413,946	
Construction Total with Contingency					**$1,793,765**	
	Design and Permitting	1	LS	$161,000.00	$161,000	
	Project Closeout Reporting	1	LS	$60,000.00	$60,000	
	Port Internal Costs	6.0%	%		$107,626	
	OVERALL PROJECT TOTAL COSTS				**$2,122,391**	

TABLE B-4

COST ESTIMATE - PROPOSED CLEANUP ACTION ALTERNATIVE 4
CAP HISTORICAL OPERATIONS AREA, DRAINAGE CHANNEL, AND WETLAND AREA
TAXIWAY F SITE
BURLINGTON, WASHINGTON

ITEM No.	DESCRIPTION	PLAN QUANT	UNIT	UNIT PRICE	AMOUNT (2010$)	NOTE
Mobilization and Site Preparation						
1	Mobilization/Site Controls/Demobilization	1	LS	$5,000.00	$5,000	
	Subtotal				**$5,000**	
Demolition						
2	Asphalt demolition and disposal	17,000	SF	$1.50	$25,500	Approximately A 17,000 square foot area removed to prepare subgrade for cap.
3	Clearing and Grubbing	1.43	ACRE	$15,000.00	$21,500	Drainage channel and wetland cap and excavation areas plus a 20% buffer.
4	Protect/demolish hanger building	1	LS	$50,000.00	$50,000	
	Subtotal				**$97,000**	
Soil Removal, Backfill						
7					$0	
5	Excavate Operations Area Soil (0'-1 bgs)	0	CY	$12.00	$0	Total of all soil excavated. Assume 20% expansion above in-place volume. Cost includes excavation and stockpile. Assume 20% of excavation area requires over-excavation to 2-feet bgs.
6	Excavate Wetland/Stream Area Soil (0'-1 bgs)	0	CY	$18.00	$0	
7	Contaminated Soil (non-haz) Transport and Disposal at approved off-site facility	0	TON	$56.00	$0	90% of all soil excavated. Assume 1.6 ton/CY. Cost includes loading and hauling. Quote from WM.
8	Contaminated Soil (Subtitle C) Transport and Disposal at approved off-site facility	0	TON	$266.00	$0	10% of all soil excavated. Assume 1.6 ton/CY. Cost includes transport ($66), disposal ($180), and tax ($20). Quote from WM.
9	Purchase, Place and Compact General Backfill Material	0	TON	$13.00	$0	Use general backfill material for backfilling unpaved (75%) areas in operations area and for backfilling below 1-foot bgs. Assume 1.6 ton/CY.
10	Purchase, Place and Compact Crushed Rock Surface Material	0	CY	$35.00	$0	Backfill of excavations in operations areas with existing gravel/pave surface (25%) with crushed rock.
11	Purchase and Place Topsoil	0	CY	$28.00	$0	Use topsoil for backfilling in wetland area.
	Subtotal				**$0**	
Capping						
12	Grading operation area to prepare surface for geotextile	6,703	SY	$2.00	$13,400	
13	Install permeable geotextile layer to separate existing soil from crushed rock surface layer	6,703	SY	$2.25	$15,100	
14	Placement and compaction of crushed rock 1-foot cap layer in operation area	2,234	CY	$35.00	$78,200	
15	Install permeable geotextile layer to separate existing soil from topsoil surface layer	5,771	SY	$2.25	$13,000	
16	Placementof 1-foot cap layer of topsoil	1,924	CY	$28.00	$53,900	
	Subtotal				**$173,600**	

ITEM No.	DESCRIPTION	PLAN QUANT	UNIT	UNIT PRICE	AMOUNT (2010$)	NOTE
Surface Restoration						
17	Wetland Restoration	2.86	ACRE	$150,000.00	$429,300	Assume drainage channel/wetland cap area requires 2 to 1 wetland mitigation.
18	Fencing dispersed wetland area	1,280	LF	$10.00	$12,800	Installation of fencing around wetland area with remaining contamination.
19	Hydroseeding	51,942	SF	$0.25	$13,000	Hydroseed drainage channel and/or wetland cap areas
20	Pavement Restoration	315	Ton	$170.00	$53,500	Restore original pavement demolished for excavation. Assume compacted crushed rock backfill is adequate base course for asphalt. Assume 3-inch course of HMA and 2 tons/CY.
	Subtotal				**$508,600**	
Utility Alteration and Replacement						
21	Remove, Bypass, and/or Replace utilities in project area	1	LS	$10,000.00	$10,000	Assume nominal utilities impacted by capping by Hangar.
	Subtotal				$10,000	
Monitoring						
22	Groundwater Monitoring	1.00	LS	$50,000.00	$50,000	Install four monitoring wells; complete four quarterly monitoring events; prepare quarterly memoranda of results
23	Wetland revegetation monitoring	5.00	Year	$12,000.00	$60,000	Assume 5 years of monitoring.
	Subtotal				**$110,000**	
Site Survey						
24	Post-Construction (As-Built) Surveys	1	LS	$5,000.00	$5,000	
	Subtotal				**$5,000**	
	Contractor Overhead (Based on total of Tasks 1-24)	10.00%	%		$90,920	
	Sales Tax	8.2%	%		$82,010	Sales Tax applied to sum of construction items 1-22 and construction overhead.
	Total Purchase and Installation Cost				**$1,082,130**	
	Construction Management and Field Monitoring	1	LS	$155,000.00	$155,000	
Construction Total					**$1,237,130**	
	Contingency (Concept design level)	30.0%	%		$371,139	
Construction Total with Contingency					**$1,608,269**	
	Design and Permitting	1	LS	$161,000.00	$161,000	
	Project Closeout Reporting	1	LS	$60,000.00	$60,000	
	Port Internal Costs	6.0%	%		$96,496	
	OVERALL PROJECT TOTAL COSTS				**$1,925,765**	

EXHIBIT C
PERMITS

EXHIBIT C
PERMITS

Pursuant to RCW 70.105D.090(1), the Port is exempt from the procedural requirements of certain state and local laws requiring or authorizing local government permits or approvals for the remedial actions described in the Decree. However, 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. Ecology has determined that pursuant to RCW 70.105D.090(2), the following permits must be obtained for the remedial actions described in the Decree:

1) U.S. Corps of Engineer's permit issued under §404 of the federal Cleanup Water Act for activities within wetlands present at the Site. This permit has already been issued as Nationwide Permit 38 Reference Number NWS-2008-19 and is attached to this Exhibit C. This authorization includes a determination by the Corps that the authorized work complies with Ecology's Water Quality Certification and the Coastal Zone Management Act requirements for this Nationwide Permit.

2) Coverage under the NPDES Construction Stormwater General Permit and companion order issued by Ecology pursuant to the federal Clean Water Act and RCW 90.48. This permit protects water quality by requiring construction projects that disturb land to follow specific best management practices and have a written plan for pollution prevention from stormwater generated by the project. The companion order provides further protections specific to the Taxiway F cleanup. Provisions of the NPDES Construction Stormwater General Permit can be found at:

http://www.ecy.wa.gov/programs/wq/stormwater/construction/permitdocs/cswgppermit120110.pdf

The NPDES Permit and companion order will be included in the Engineering Design Report. The companion order has had a separate public comment process.

NATIONWIDE PERMIT 38 REFERENCE NUMBER NWS-2008-19

DEPARTMENT OF THE ARMY
SEATTLE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 3755
SEATTLE, WASHINGTON 98124-3755

REPLY TO
ATTENTION OF

JUL 17 2008

RECEIVED
JUL 21 2008
PORT OF SKAGIT COUNTY

Regulatory Branch

Port of Skagit County
Ms. Sara Young
Post office Box 348
Burlington, Washington 98233

Reference: NWS-2008-19-NO
Skagit County, Port of

Dear Ms. Young:

We have reviewed your application to excavate and place fill in wetlands near Burlington, Skagit County, Washington. Based on the information you provided to us, Nationwide Permit 38, *Cleanup of Hazardous and Toxic Waste* (Federal Register, March 12, 2007 Vol. 72, No. 47), authorizes your proposal to clean up contaminated sediments as depicted on the enclosed drawings dated June 2008. In order for this NWP authorization to be valid, you must ensure that the work is performed in accordance with the enclosed *Nationwide Permit 38, Terms and Conditions* and the following special conditions:

a. The permittee must install and maintain sediment and erosion control during construction at the site and until the disturbed soil has been stabilized.

b. The permittee must implement the provisions of the document titled, "*Wetland Restoration Plan, Port of Skagit County Farmer's Supply/Tronsdale Site, Skagit County, Washington,*" dated June 24, 2008 and the addendum (planting plan) dated July 7, 2008 in their entirety.

c. A status reports on the wetland and buffer remediation (restoration), including photos, must be submitted to the Corps, Seattle District, Regulatory Branch, 13 months from the date of permit issuance. All reports must be submitted to the Corps, Seattle District, Regulatory Branch and must prominently display the reference number NWS-2008-19-NO.

The authorized work complies with the Washington State Department of Ecology's (Ecology) Water Quality Certification and the Coastal Zone Management Act requirements for this NWP. No further coordination with Ecology is required for these requirements.

We have reviewed your project pursuant to the requirements of the Endangered Species Act (ESA) and the Magnuson-Stevens Fishery Conservation and Management Act in regards to Essential Fish Habitat (EFH). We have determined that this project complies with the requirements of NWP National General Condition regarding ESA and will not adversely affect EFH.

We have completed an approved jurisdictional determination for your project area which can be found on our website at http://www.nws.usace.army.mil/ click on Regulatory, Regulatory/Permits, Recent Jurisdictional Determinations. If you object to this determination, you may request an administrative appeal under our regulations 33 CFR 331 as described in the enclosed *Appeal Process Fact Sheet* and the *Notification of Administrative Appeal Options and Process and Request for Appeal* form.

Our verification of this NWP authorization is valid for 2 years from the date of this letter unless the NWP is modified, reissued, or revoked prior to that date. If the authorized work has not been completed by that date, please contact us to discuss the status of your authorization. Failure to comply with all terms and conditions of this NWP verification invalidates this authorization and could result in a violation of Section 404 of the Clean Water Act and/or Section 10 of the 1899 Rivers and Harbors Act. Also, you must obtain all State and local permits that apply to this project.

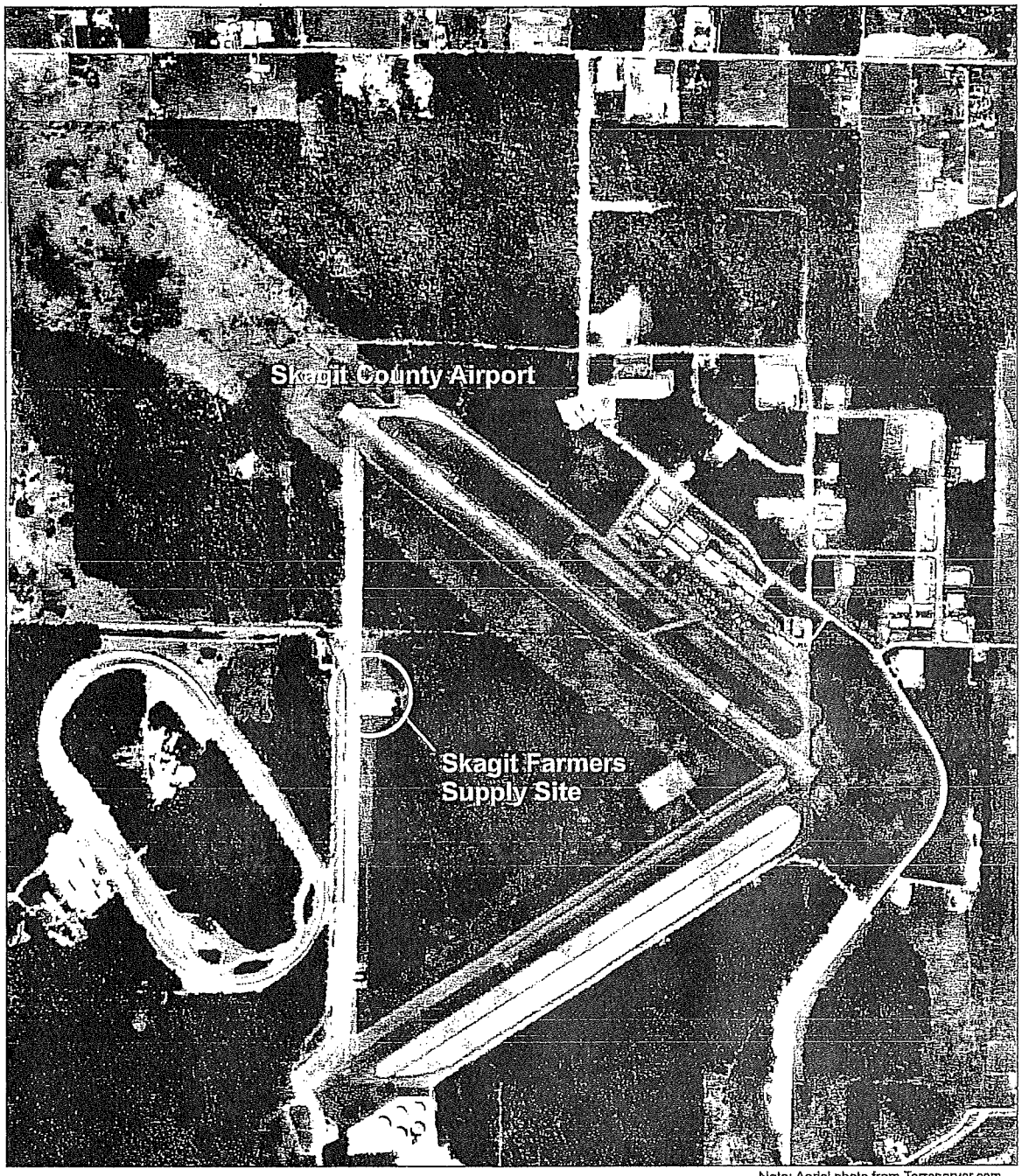
Upon completing the authorized work, you must fill out and return the enclosed *Certificate of Compliance with Department of the Army Permit* form. Thank you for your cooperation during the permit process. We are interested in your experience with our Regulatory Program and encourage you to complete a customer service survey form. This form and information about our program is available on our website.

A copy of this letter with enclosure will be furnished to Celina Abercrombie of Hart Crowser, Inc. at 120 3rd Avenue South, Suite 110, Edmonds, Washington 98020. If you have any questions about this letter, please contact me at (206) 764-6985 or via email at randel.j.perry@usace.army.mil.

Sincerely,

Randel Perry, Project Manager
Regulatory Branch

Enclosures

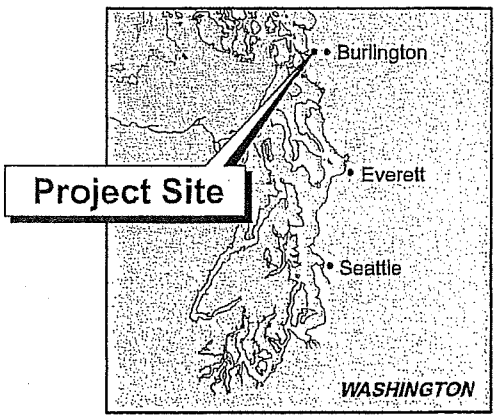


Note: Aerial photo from Terraserver.com

48° 28' 13.88"
122° 25' 46.55"

0 1,400 2,800

Approximate Scale in Feet



Former Skagit Farmers Supply Site
Burlington, Washington

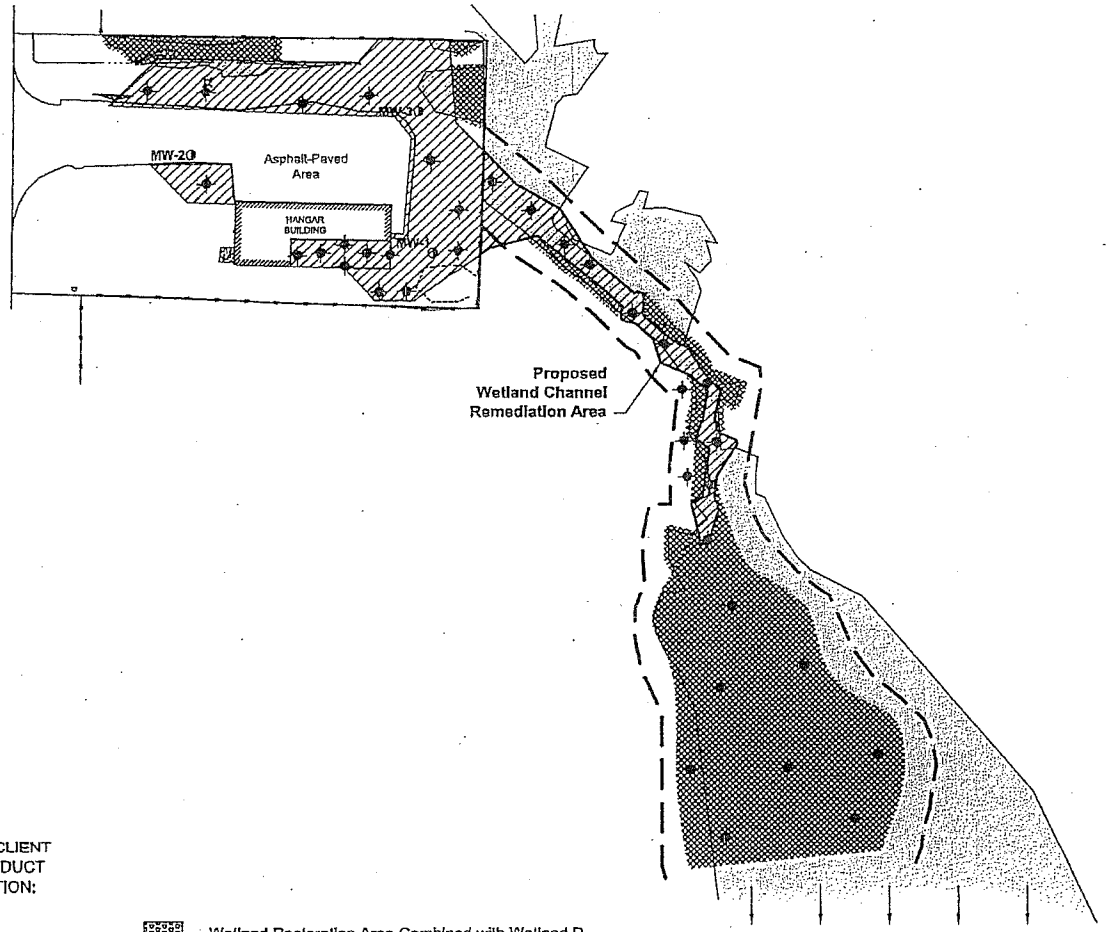
Vicinity Map

12053-18 Corps Ref# NWS-2008-19-NO 6/08

HARTCROWSER

Figure 1 of 2

EAL 06/24/08 1205318-AD.cdr



CONFIDENTIAL: PRIVILEGED ATTORNEY-CLIENT COMMUNICATION ATTORNEY WORK PRODUCT PREPARED IN ANTICIPATION OF LITIGATION: RESTRICTED DISTRIBUTION

MW-10 2004 Groundwater Monitoring Well Location and Number

Proposed Verification Sample Location

Additional Verification Sample Location

Note:

1. Refer to the Wetland Restoration Plan (Hart Crowser 2007) for additional wetland delineation information.
2. Monitoring wells MW-1, MW-2, and MW-3 to be abandoned.

Wetland Restoration Area Combined with Wetland D

Original Planned Remediation Area

Additional Remediation Area

Wetland Area (Based on July 2007 Survey)

Expanded Remediation Area (to improve access and reduce risk)

Remediation Contingency Area

Former Skagit Farmers Supply Site
Burlington, Washington

Facility Remediation Areas and Verification Sample Location Plan

12053-16 NWJ-7008-19-NO 6/08

HARTCROWSER

Figure 2 of 2

EAL 062308 12053-16-073.dwg

US Army Corps
of Engineers
Seattle District

NATIONWIDE PERMIT 38
Terms and Conditions

Effective Date: September 10, 2007

A. Description of Authorized Activities

B. Corps National General Conditions for all NWPs

C. Corps Seattle District Regional General Conditions

D. Corps Regional Specific Conditions for this NWP

E. State 401 Certification General Conditions

F. State 401 Certification Specific Conditions for this NWP

G. EPA 401 Certification General Conditions

H. EPA 401 Certification Specific Conditions for this NWP

I. Spokane Tribe of Indians 401 Certification General Conditions

J. Tribal 401 Certification Specific Conditions for this NWP

K. CZM Consistency Response Specific Conditions for this NWP

L. Additional Limitations on the Use of NWPs

In addition to any special condition that may be required on a case-by-case basis by the District Engineer, the following terms and conditions must be met, as applicable, for a Nationwide Permit 38 authorization to be valid in Washington State.

A. DESCRIPTION OF AUTHORIZED ACTIVITIES

38. Cleanup of Hazardous and Toxic Waste. Specific activities required to effect the containment, stabilization, or removal of hazardous or toxic waste materials that are performed, ordered, or sponsored by a government agency with established legal or regulatory authority. Court ordered remedial action plans or related settlements are also authorized by this NWP. This NWP does not authorize the establishment of new disposal sites or the expansion of existing sites used for the disposal of hazardous or toxic waste.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity. (See general condition 27.) (Sections 10 and 404)

Note: Activities undertaken entirely on a Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) site by authority of CERCLA as approved or required by EPA, are not required to obtain permits under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act.

B. CORPS NATIONAL GENERAL CONDITIONS FOR ALL NWPs

1. Navigation. (a) No activity may cause more than a minimal adverse effect on navigation. (b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States. (c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions.

3. Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. Migratory Bird Breeding Areas. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48.

6. Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

7. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. Management of Water Flows. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. Equipment. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable

date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.

13. Removal of Temporary Fills. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety.

15. Wild and Scenic Rivers. No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).

16. Tribal Rights. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

17. Endangered Species. (a) No activity is authorized under any NWP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed. (b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. (c) Non-federal permittees shall notify the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have "no effect" on listed species or critical habitat, or until Section 7 consultation has been completed. (d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species-specific regional endangered species conditions to the NWPs. (e) Authorization of an activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the U.S. FWS or the NMFS, both lethal and non-lethal "takes" of protected species are in violation of the ESA. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. FWS and NMFS or their World Wide Web pages at *http://www.fws.gov/* and *http://www.noaa.gov/fisheries.html* respectively.

18. Historic Properties. (a) In cases where the district engineer determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied. (b) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. (c) Non-federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may have the potential to cause effects to any historic properties listed, determined to be eligible for listing on, or potentially eligible for listing on the National Register of

Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties which the activity may have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed. (d) The district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR §800.3(a)). If NHPA section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed. (e) Prospective permittees should be aware that section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, explaining the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

19. Designated Critical Resource Waters. Critical resource waters include, NOAA-designated marine sanctuaries, National Estuarine Research Reserves, state natural heritage sites, and outstanding national resource waters or other waters officially designated by a state as having particular environmental or ecological significance and identified by the district engineer after notice and opportunity for public comment. The district engineer may also designate additional critical resource waters after notice and opportunity for comment. (a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, and 50 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters. (b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with general condition 27, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

20. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal: (a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site). (b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal. (c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10 acre and require pre-construction notification, unless the district engineer determines in writing that some other form of mitigation would be more environmentally appropriate and provides a project-specific waiver of this requirement. For wetland losses of 1/10 acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered. (d) For losses of streams or other

open waters that require pre-construction notification, the district engineer may require compensatory mitigation, such as stream restoration, to ensure that the activity results in minimal adverse effects on the aquatic environment. (e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2 acre, it cannot be used to authorize any project resulting in the loss of greater than 1/2 acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NWPs. (f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the establishment, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, riparian areas may be the only compensatory mitigation required. Riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses. (g) Permittees may propose the use of mitigation banks, in-lieu fee arrangements or separate activity-specific compensatory mitigation. In all cases, the mitigation provisions will specify the party responsible for accomplishing and/or complying with the mitigation plan. (h) Where certain functions and services of waters of the United States are permanently adversely affected, such as the conversion of a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse effects of the project to the minimal level.

21. Water Quality. Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA Section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

22. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

23. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

24. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

25. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

"When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated

liabilities associated with compliance with its terms and conditions, have the transferee sign and date below."

(Transferee)

(Date)

26. Compliance Certification. Each permittee who received an NWP verification from the Corps must submit a signed certification regarding the completed work and any required mitigation. The certification form must be forwarded by the Corps with the NWP verification letter and will include: (a) A statement that the authorized work was done in accordance with the NWP authorization, including any general or specific conditions; (b) A statement that any required mitigation was completed in accordance with the permit conditions; and (c) The signature of the permittee certifying the completion of the work and mitigation.

27. Pre-Construction Notification. (a) Timing. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, as a general rule, will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity: (1) Until notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or (2) If 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 17 that listed species or critical habitat might affected or in the vicinity of the project, or to notify the Corps pursuant to general condition 18 that the activity may have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or Section 106 of the National Historic Preservation (see 33 CFR 330.4(g)) is completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee cannot begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) Contents of Pre-Construction Notification: The PCN must be in writing and include the following information: (1) Name, address and telephone numbers of the prospective permittee; (2) Location of the proposed project; (3) A description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. The description should be sufficiently detailed to allow the district engineer to determine that the adverse effects of the project will be minimal and to determine the need for compensatory mitigation. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the project and when provided result in a quicker decision.); (4) The PCN must include a delineation of special aquatic sites and other waters of the United States on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters of the United States, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the United States. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, where appropriate; (5) If the proposed activity will result in the loss of greater than 1/10 acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan. (6) If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, for non-Federal applicants the

PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act; and (7) For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-Federal applicants the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

(c) Form of Pre-Construction Notification: The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is a PCN and must include all of the information required in paragraphs (b)(1) through (7) of this general condition. A letter containing the required information may also be used.

(d) Agency Coordination: (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the project's adverse environmental effects to a minimal level. (2) For all NWP 48 activities requiring pre-construction notification and for other NWP activities requiring pre-construction notification to the district engineer that result in the loss of greater than 1/2-acre of waters of the United States, the district engineer will immediately provide (e.g., via facsimile transmission, overnight mail, or other expeditious manner) a copy of the PCN to the appropriate Federal or state offices (U.S. FWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Office (THPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will then have 10 calendar days from the date the material is transmitted to telephone or fax the district engineer notice that they intend to provide substantive, site-specific comments. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5. (3) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act. (4) Applicants are encouraged to provide the Corps multiple copies of pre-construction notifications to expedite agency coordination. (5) For NWP 48 activities that require reporting, the district engineer will provide a copy of each report within 10 calendar days of receipt to the appropriate regional office of the NMFS.

(e) District Engineer's Decision: In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If the proposed activity requires a PCN and will result in a loss of greater than 1/10 acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for projects with smaller impacts. The district engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed work are minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the district engineer will notify the permittee and include any conditions the district engineer deems necessary. The district engineer must approve any compensatory mitigation proposal before the permittee commences work. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the district engineer to be minimal, the district engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP.

If the district engineer determines that the adverse effects of the proposed work are more than minimal, then the district engineer will notify the applicant either: (1) That the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (2) that the project is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level; or (3) that the project is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period. The authorization will include the necessary conceptual or specific mitigation or a requirement that the applicant submit a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level. When mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan.

28. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

C. Corps Seattle District Regional General Conditions

1. Aquatic Resources Requiring Special Protection. The following restrictions apply to activities in Washington State requiring Department of the Army authorization:

(a) Activities resulting in a loss of waters of the United States in a mature forested wetland, bog, bog-like wetland, aspen-dominated wetland, or alkali wetland are not authorized by NWP, except the following NWPs:

NWP 3 – Maintenance
NWP 20 – Oil Spill Cleanup
NWP 32 – Completed Enforcement Actions
NWP 38 – Cleanup of Hazardous and Toxic Waste
NWP 47 – Pipeline Safety Program Designated Time Sensitive Inspections and Repairs

(b) For activities in or affecting a mature forested wetland, bog, bog-like wetland, wetland in a dunal system along the Washington coast, vernal pool, aspen-dominated wetland, alkali wetland, camas prairie wetland, or marine water with eelgrass beds (except for NWP 48) *and not prohibited by the preceding general regional condition 1.a.*, the permittee must submit a pre-construction notification to the District Engineer in accordance with Nationwide Permit General Condition 27 (Pre-Construction Notification).

2. Access. You must allow representatives of this office to inspect the authorized activity at any time deemed necessary to ensure that the work is being, or has been, accomplished in accordance with the terms and conditions of your permit.

3. Commencement Bay. Activities requiring Department of the Army authorization and located in the Commencement Bay Study Area are not authorized by the following NWPs:

NWP 12 – Utility Line Activities (substations)
NWP 13 – Bank Stabilization
NWP 14 – Linear Transportation Projects
NWP 23 – Approved Categorical Exclusions
NWP 29 – Residential Developments
NWP 39 – Commercial and Institutional Developments
NWP 40 – Agricultural Activities
NWP 41 – Reshaping Existing Drainage Ditches
NWP 42 – Recreational Facilities
NWP 43 – Stormwater Management Facilities

4. Bank Stabilization. All bank stabilization projects require pre-construction notification to the District Engineer in accordance with Nationwide Permit General Condition 27 (Pre-Construction Notification). Each notification must include a planting plan using native riparian plant species unless the applicant demonstrates that a planting plan is

not appropriate or not practicable. Each notification must also include the following information, except as waived by the District Engineer:

(a) Need for the work, including the cause of the erosion and the threat posed to structures, infrastructure, and/or public safety.

(b) Current and expected post-project sediment movement and deposition patterns in and near the project area.

(c) Current and expected post-project habitat conditions, including the presence of fish, wildlife and plant species in the project area.

(d) Demonstration that the proposed project incorporates the least environmentally damaging practicable bank protection methods. These methods include, but are not limited to, the use of bioengineering, biotechnical design, root wads, large woody debris, native plantings, and beach nourishment in certain circumstances. If rock must be used due to site erosion conditions, explain how the bank stabilization structure incorporates elements beneficial to fish.

(e) Assessment of the likely impact of the proposed work on upstream, downstream and cross-stream properties (at a minimum the area assessed should extend from the nearest upstream bend to the nearest downstream bend of the watercourse). Discuss the methodology used for determining effects.

NOTE: Information on designing bank stabilization projects can be found in the Washington Department of Fish and Wildlife's *Integrated Streambank Protection Guidelines* (*http://www.wdfw.wa.gov/hab/ahg/ispgdoc.htm*); King County's *Reconnaissance Assessment of the State of the Nearshore Ecosystem* (*http://dnr.metrokc.gov/wlr/watersheds/puget/nearshore/sonr.htm*); and three technical (white) papers – *Marine and Estuarine Shoreline Modification Issues*, *Ecological Issues in Floodplains and Riparian Corridors*, and *Over-Water Structures: Marine, Freshwater, and Treated Wood Issues* (*http://wdfw.wa.gov/hab/ahg/ahgwhite.htm*).

5. Cultural Resources and Human Burials. Permittees must immediately stop work and notify the District Engineer within 24 hours if, during the course of conducting authorized work, human burials, cultural resources, or historic properties, as identified by the National Historic Preservation Act, are discovered and may be affected by the work. Failure to stop work in the area of discovery until the Corps can comply with the provisions of 33 CFR 325 Appendix C, the National Historic Preservation Act, and other pertinent laws and regulations could result in a violation of state and federal laws. Violators are subject to civil and criminal penalties.

6. Essential Fish Habitat. An activity which may adversely affect essential fish habitat, as identified under the Magnuson-Stevens Fishery Conservation and Management Act (MSA), may not be authorized by NWP until essential fish habitat requirements have been met by the applicant and the Corps. Non-federal permittees shall notify the District Engineer if essential fish habitat may be affected by, or is in the vicinity of, a proposed activity and shall not begin work until notified by the District Engineer that the requirements of the essential fish habitat provisions of the MSA have been satisfied and the activity is authorized. The notification must identify the type(s) of essential fish habitat (i.e., Pacific salmon, groundfish, and/or coastal-pelagic species) managed by a Fishery Management Plan that may be affected. Information about essential fish habitat is available at *http://www.nwr.noaa.gov/*

7. Vegetation Protection and Restoration. Permittees must clearly mark all construction area boundaries before beginning work and minimize the removal of native vegetation in riparian areas and wetlands to the maximum extent practicable. Areas subject to temporary vegetation removal in wetlands or riparian areas during construction shall be replanted with appropriate native species by the end of the first planting season following the disturbance except as waived by the District Engineer.

D. Corps Regional Specific Conditions for this NWP: None

E. State 401 Certification General Conditions

1. For in-water construction activities. Individual 401 review is required under this condition for projects or activities authorized under NWPs that will cause, or be likely to cause or contribute to an exceedence of a State water quality standard (WAC 173-201A) or sediment management standard (WAC 173-204).
State water quality standards can be located on Ecology's website: http://www.ecy.wa.gov/programs/wq/swqs/.

Sediment management standards can be located on Ecology's website:
http://www.ecy.wa.gov/biblio/wac173204.html.
Information is also available by contacting Ecology's Federal Permit staff.

2. Projects or Activities Discharging to Impaired Waters. Individual 401 review is required by this condition for projects or activities authorized under NWPs if the project or activity may result in further exceedences of a specific parameter the waterbody is listed for on the state's list of impaired waterbodies (the 303(d) list).
The current 303(d) listed waterbodies can be identified using search tools available on Ecology's website: *http://www.ecy.wa.gov/programs/wq/303d/2002/2002-index.html* or by contacting Ecology's Federal Permit staff.

3. Notification. For projects or activities that will require individual 401 review, applicants must provide Ecology with the written documentation provided to the Corps (as described in Corps Nationwide Permit General Condition 27, Pre-Construction Notification), including, when applicable:

(a) A description of the project, including site plans, project purpose, direct and indirect adverse environmental effects the project would cause, any other Department of the Army permits used or intended to be used to authorize any part of the proposed project or any related activity.

(b) Delineation of special aquatic sites and other waters of the United States. Wetland delineations must be prepared in accordance with the current method required by the Corps and shall include Ecology's Wetland Rating form. *Note: Forms are available at Ecology's Wetlands website:*
http://www.ecy.wa.gov/programs/sea/wetlands/index.html or by contacting Ecology's Federal Permit staff.

(c) Coastal Zone Management Program "Certification of Consistency" Form if the project is located within a coastal county (Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Mason, Pacific, Pierce, San Juan, Skagit, Snohomish, Thurston, Wahkiakum, and Whatcom counties).
Note: Forms are available at the Army Corps of Engineers website: http://www.nws.usace.army.mil
or by contacting Ecology's Federal Permit staff.

(d) Other applicable requirements of Corps Nationwide Permit General Condition 27, Corps Regional Conditions, or notification conditions of the applicable NWP.

Ecology's review time shall not begin until the applicable documents noted above have been provided to Ecology and Ecology has received a copy of the final Nationwide Permit verification letter from the Corps.

4. Aquatic resources requiring special protection. Certain aquatic resources are unique, difficult-to-replace components of the aquatic environment in Washington State. Activities that would affect these resources must be avoided to the greatest extent possible. Compensating for adverse impacts to high value aquatic resources is typically difficult, prohibitively expensive, and may not be possible in some landscape settings.
Individual 401 review is required for activities in or affecting the following aquatic resources (and not prohibited by Regional Condition 1), except for:

NWP 20 – Oil Spill Cleanup
NWP 32 – Completed Enforcement Actions
NWP 38 – Cleanup of Hazardous Waste
NWP 47 – Pipeline Safety Program Repair

(a) Wetlands with special characteristics (as defined in the Washington State Wetland Rating Systems for western and eastern Washington, Ecology Publication #s04-06-025 and #04-06-015):

- estuarine wetlands
- Natural Heritage wetlands
- Bogs
- old-growth and mature forested wetlands
- wetlands in coastal lagoons
- interdunal wetlands
- vernal pools
- alkali wetlands

(b) Bog-like wetlands, aspen-dominated wetlands, camas prairie wetlands, and marine water with eelgrass beds (except for NWP 48).

(c) Category I wetlands

(d) Category II wetlands with a habitat score >29 points.

5. Mitigation. 401 Certification is based on adequate compensatory mitigation being provided for wetland and other water quality-related impacts of projects or activities authorized under the NWP Program.
Mitigation plans submitted for Ecology review and approval shall be based on the guidance provided in Wetland Mitigation in Washington State, Parts 1 and 2 (Ecology Publication #s06-06-011a and #06-06-011b) and shall, at a minimum, include the following:

(a) A description of the measures taken to avoid and minimize impacts to wetlands and other waters of the U.S.

(b) The nature of the proposed impacts (i.e., acreage of wetlands and functions lost or degraded)

(c) The rationale for the mitigation site that was selected

(d) The goals and objectives of the compensatory mitigation project

(e) How the mitigation project will be accomplished, including proposed performance standards for measuring success and the proposed buffer widths

(f) How it will be maintained and monitored to assess progress towards goals and objectives. Monitoring will generally be required for a minimum of five years. For forested and scrub-shrub wetlands, 10 years of monitoring will often be necessary.

(g) How the compensatory mitigation site will be legally protected for the long-term.

Refer to Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Ecology Publication #06-06-011b) for guidance on developing mitigation plans.
Ecology encourages the use of alternative mitigation approaches, including advance mitigation and other programmatic approaches, such as mitigation banks and programmatic mitigation areas at the local level. If you are interested in proposing use of an alternative mitigation approach, consult with the appropriate Ecology regional staff person. (see *http://www.ecy.wa.gov/programs/sea/wetlands/contacts.htm*)
For information on the state wetland mitigation banking program go to:
http://www.ecy.wa.gov/programs/sea/wetlands/mitigation/banking/index.html

6. Temporary Fills. Individual 401 review is required for any project or activity with temporary fill in wetlands or other waters of the State for more than 90 days, unless the applicant has received written approval from Ecology.

7. Mill Creek Special Area Management Plan. This condition applies to all NWPs within the boundaries described in the Mill Creek Special Area Management Plan (SAMP), King County, Washington, dated April 2000 (SAMP). The boundaries of the SAMP encompass all sub-basins and tributaries drained by Algona Creek, Auburn Creek, Bingaman Creek, Midway Creek, Mill Creek, and Mullen Slough. The area is bounded roughly on the south by 8th Avenue N in Algona and 4th Street NE in Auburn, on the east and north by the Ordinary High Water Mark of the Green River, and on the west by the plateau that parallels Interstate 5 above the Green River valley.

Individual 401 review is required for projects or activities authorized under the NWPs unless:

(a) The project or activity will result in fill-related impacts to only wetlands designated as developable under Alternative #8, as shown on Figure 4-8 of the SAMP.

(b) Compensatory mitigation for such impacts is onsite and/or within the areas designated on Figure 3-3, "Maximum Areas for Restoration by Target Habitat Type," in the SAMP Aquatic Resources Restoration Plan (April 2000).

(c) Mitigation plans comply with the requirements of the SAMP and, in general, with the guidance in the interagency Wetland Mitigation in Washington State (March 2006; Ecology publications #06-06-011a and #06-06-011b). Note: You can download the SAMP and Aquatic Resources Restoration Plan at *http://www.nws.usace.army.mil/PublicMenu/Menu.cfm?sitename=REG&pagename=Mill_Creek_SAMP*.

8. State Certification for PCNs not receiving 45-day response. In the event the U.S. Army Corps of Engineers does not respond to a complete pre-construction notification within 45 days, the applicant must contact Ecology for Individual 401 review.

F. State 401 Certification Specific Conditions for this NWP

Certified, subject to conditions. Individual 401 review is required for projects or activities authorized under this NWP if the project or activity is not authorized though a Model Toxics Control Act (MTCA) order or a Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) order.

G. EPA 401 Certification General Conditions

In order for any NWP authorization to be valid in Washington State, permittees must comply with all applicable 401 Certification general conditions. EPA 401 Certification general conditions apply to all NWP authorizations involving Section 404 activities on Native American Indian Tribal lands (excluding the tribal lands of the Chehalis Tribes, Port Gamble S'Klallum Tribe, Kalispel Tribe, Makah Indian Tribe, Puyallup Tribe, Spokane Tribe, and Tulalip Tribe) and Federal land with exclusive jurisdiction within Washington State.

A. Special Aquatic Sites. Any activities in the following types of wetlands and waters of the U.S. will need to apply for an individual 401 certification: Mature forested wetlands; bogs; bog-like wetlands; wetlands in dunal systems along the Washington coast; vernal pools; aspen-dominated wetlands; alkali wetlands; camas prairie wetlands; salt marshes; or marine water with eelgrass beds.

B. Soil Erosion and Sediment Controls. An individual 401 certification is based on the project or activity meeting established turbidity levels. EPA will be using as guidance the state of Washington's water quality standards [WAC 173-201a] and sediment quality standards [WAC 173-204]. Projects or activities that are expected to exceed these levels or that do exceed these levels will require an individual 401 certification.

C. Compliance with Stormwater Provisions. Individual 401 certification is required for projects or activities not designed in accordance with Ecology's most recent stormwater manual or Ecology approved equivalent manual.

D. Compliance with requirements of the National Pollutant Discharge Elimination System. For projects and activities requiring coverage under an NPDES permit, certification is based on compliance with the requirements of that permit. Projects and activities not in compliance with NPDES requirements will require individual 401 certification.

E. Projects or Activities Discharging to Impaired Waters. Individual 401 certification is required for projects or activities authorized under NWPs if the project will discharge to a waterbody on the list of impaired waterbodies (the 303(d) List) *and* the discharge may result in further exceedence of a specific parameter the waterbody is listed for.

EPA may issue 401 certification for projects or activities that would result in further exceedence or impairment if mitigation is provided that would result in a net decrease in listed contaminants or less impairment in the waterbody. This determination would be made during individual 401 certification review.

F. Notification. For projects requiring individual 401 certification, applicants must provide EPA with the same documentation provided to the Corps (as described in Corps National General Condition 27, Pre-Construction Notification), including, when applicable:

(a) A description of the project, including site plans, project purpose, direct and indirect adverse environmental effects the project would cause, any other U.S. Department of the Army permits used or intended to be used to authorize any part of the proposed project or any related activity.

(b) Delineation of special aquatic sites and other waters of the United States. Wetland delineations must be prepared in accordance with the current method required by the Corps.

(c) A statement describing how the mitigation requirement will be satisfied. A conceptual or detailed mitigation or restoration plan may be submitted.

(d) Other applicable requirements of Corps National General Condition 27, Corps Regional Conditions, or notification conditions of the applicable NWP.

A request for individual 401 review is not complete until EPA receives the applicable documents noted above and EPA has received a copy of the final authorization letter from the Corps providing coverage for a proposed project or activity under the NWP Program.

G. Mitigation. An individual 401 certification is based on adequate compensatory mitigation being provided for wetland and other water quality-related impacts of projects or activities authorized under the NWP Program. Mitigation plans submitted shall be based on the Joint Agency guidance provided in *Wetland Mitigation in Washington State, Parts 1 and 2* (Ecology Publication #06-06-011a and #06-06-011b) and shall, at a minimum, include the following:

1. A description of the measures taken to avoid and minimize impacts to wetlands and other waters of the U.S.
2. The nature of the proposed impacts (i.e., acreage of wetlands and functions lost or degraded).
3. The rationale for the mitigation site that was selected.
4. The goals and objectives of the compensatory mitigation project.
5. How the mitigation project will be accomplished, including proposed performance standards for measuring success and the proposed buffer widths.
6. How it will be maintained and monitored to assess progress towards goals and objectives. Monitoring will generally be required for a minimum of five years. For forested and scrub-shrub wetlands, 10 years of monitoring will often be necessary.
7. How the compensatory mitigation site will be legally protected for the long-term.

H. Temporary Fills. An individual 401 certification is required for any activity where temporary fill will remain in wetlands or other waterbodies for more than 90 days. The 90 day period begins when filling activity starts in the wetland or other waterbody.

H. EPA 401 Certification Specific Conditions for this NWP

Partially denied without prejudice. Individual 401 review is required for projects authorized under this NWP if the project or activities are not part of an EPA ordered cleanup.

I. Spokane Tribe of Indians 401 Certification General Conditions

Specific to the Reservation and the Tribal Water Quality Standards, the applicant must comply with the following when there could be a discharge to waters of the Spokane Indian Reservation:

1. The applicant shall be responsible for achieving compliance with the Spokane Tribal Water Quality Standards.

2. The applicant shall submit copies of applications materials to the Spokane Tribal Water Control Board for review and approval at the same time they are submitted to Army Corps of Engineers and prior to any disturbance activities.

3. The applicant shall comply with all Spokane Tribal Integrated Resource Management Plan (IRMP) guidelines for land use activities and disturbances.

4. The applicant shall allow the Tribal Water Control board and Interdisciplinary Team to inspect the area in question and adopt recommendations made throughout its operation.

5. Monitoring of the discharge shall occur at a level indicated by EPA and the Tribe, are subject to change, and shall be submitted to both entities.

J. Tribal 401 Certification Specific Conditions for this NWP

Denied without prejudice by the Chehalis, Kalispel, Makah, Port Gamble S'Klallum, Puyallup, and Tulalip tribes. Certified subject to general conditions by the Spokane Tribe.

K. CZM Consistency Response Specific Conditions for this NWP

Concur, subject to the following condition:

1. Where individual 401 review is triggered, an individual CZM Consistency Response must be obtained for projects located within the 15 coastal counties. A "Certification of Consistency" form must be submitted in accordance with State General Condition 3 (Notification).

L. ADDITIONAL LIMITATIONS ON THE USE OF NWPs

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.

2. NWPs do not obviate the need to obtain other Federal, state, or local permits, approvals, or authorizations required by law.

3. NWPs do not grant any property rights or exclusive privileges.

4. NWPs do not authorize any injury to the property or rights of others.

5. NWPs do not authorize interference with any existing or proposed Federal project.

US Army Corps
of Engineers ®
Seattle District

Appeal Process Fact Sheet

27 April 2006

Our letter cites a Department of the Army administrative appeal rule for permit decisions and approved jurisdictional determinations that went into effect March 9, 1999. In accordance with this rule, we have included a *Notification of Administrative Appeal Options and Process and Request for Appeal* form of which Section I is the Notification of Appeal Process (NAP) fact sheet and Section II is the Request for Appeal (RFA) form.

If a permit decision was made, you may decline to accept a permit if you object to any of the terms or conditions, ***and*** you believe that these terms or conditions are based on procedural errors; incorrect data; omission of fact; incorrect application of current Federal manual or guidance associated with wetlands; or incorrect application of a law, regulation, or policy that governs our permit program. Once you accept the permit, you waive the right to further appeal unless we later modify the permit.

If you object to this permit decision or jurisdictional determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. As stated previously, enclosed you will find a *Notification of Appeal Options and Process and Request for Appeal* form. If you request to appeal this determination, you must submit a completed RFA form to the Division Engineer at the following address:

Division Engineer
U.S. Army Corps of Engineers, Northwest Division
Karen Kochenbach, Regulatory Program Manager
Post Office Box 2870
Portland, Oregon 97208-2870
Telephone: (503) 808-3888

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by the 60th day. "Day 1" is designated as the date of the NAP form. "Day 60" is designated as the 60th calendar day after the date of the NAP form, with the official counting of calendar days beginning on "Day 1" as designated above. When "Day 60" is a traditional non-working day (e.g., a holiday or a weekend), the 60 day timeframe is extended to the next business day. Our Division Office has 90 days to resolve the appeal with you once your completed and acceptable NAO-RFA form has been received.

It is not necessary to submit an RFA form to the Division office if you do not object to the decision or determination in our letter.

If you have any questions about your options or the appeal process in general, please contact the project manager indicated on the form.

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

JUL 17 2008

Applicant: Port of Skagit County	File Number: NWS-2008-19-NO	Date:
Attached is:		See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
	PERMIT DENIAL	C
x	APPROVED JURISDICTIONAL DETERMINATION	D
	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at http://usace.army.mil/inet/functions/cw/cecwo/reg or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- OBJECT: If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- APPEAL: If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- ACCEPT: You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- APPEAL: If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also, you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:	If you only have questions regarding the appeal process you may also contact:
Randel Perry, Project Manager U.S. Army Corps of Engineers, Seattle District Post Office Box 3755 Seattle, Washington 98124-3755 Telephone: (206) 764-6985	Division Engineer U.S. Army Corps of Engineers, Northwest Division Karen Kochenbach, Regulatory Program Manager Post Office Box 2870 Portland, Oregon 97208-2870 Telephone: (503) 808-3888

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15-day notice of any site investigation, and will have the opportunity to participate in all site investigations.

	Date:	Telephone number:
_____ Signature of appellant or agent.		

US Army Corps
of Engineers ®
Seattle District

CERTIFICATE OF COMPLIANCE WITH DEPARTMENT OF THE ARMY PERMIT

Permit Number: NWS-2008-19-NO

Name of Permittee: Port of Skagit County

Date of Issuance: _____

Upon completion of the activity authorized by this permit, please check the applicable boxes below, sign this certification, and return it to the following address:

Department of the Army
U.S. Army Corps of Engineers
Seattle District, Regulatory Branch
Post Office Box 3755
Seattle, Washington 98125-3755

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with the terms and conditions of your authorization, your project is subject to suspension, modification, or revocation.

☐ The work authorized by the above-referenced permit has been completed in accordance with the terms and conditions of this permit.

☐ The mitigation required (not including monitoring) by the above-referenced permit has been completed in accordance with the terms and conditions of this permit.

_____
Signature of Permittee

DEPARTMENT OF THE ARMY
SEATTLE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 3755
SEATTLE, WASHINGTON 98124-3755

REPLY TO
ATTENTION OF

Regulatory Branch

RECEIVED
JUL 22 2010
PORT OF SKAGIT COUNTY

July 20, 2010

Ms. Sara Young
Port of Skagit County
Post office Box 348
Burlington, Washington 98233

Reference: NWS-2008-19
Skagit County, Port of

Dear Ms. Young:

In your correspondence dated July 15, 2010, you requested a time extension to the referenced Nationwide Permit (NWP) 38 verification issued to you on July 17, 2008. The work authorized by NWP 38 involves excavation and the placement of fill in wetlands to clean up contaminated sediments. The work will occur in wetlands near Burlington, Skagit County, Washington.

We have reviewed your time extension request and verified that NWP 38 authorizes this project under current regulations. In order for this NWP authorization to be valid, you must ensure that the work is performed in accordance with the previously approved plans dated June 2008. You are cautioned that any change in project plans will require that you submit a copy of the revised plans to this office and obtain our approval before you begin work.

This verification is valid until the NWP is modified, reissued, or revoked. All of the existing NWPs are scheduled to be modified, reissued, or revoked on March 18, 2012. It is incumbent upon you to remain informed of changes to the NWPs. We will issue a public notice when the NWPs are reissued. Furthermore, if you commence or are under contract to commence this activity before March 18, 2012, you will have until March 18, 2013 to complete the activity under the present terms and conditions of this NWP.

Failure to comply with all terms and conditions of this NWP verification invalidates this authorization and could result in a violation of Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act of 1899. Also, you must obtain all State and local permits that apply to this project. All other terms and conditions contained in the original NWP verification remain in full force and effect.

If you have any questions about this letter, please contact me at (360) 734-3156 or via email at randel.j.perry@usace.army.mil.

Sincerely,

Randel J. Perry

Randel Perry, Project Manager
Regulatory Branch

DEPARTMENT OF THE ARMY
SEATTLE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 3755
SEATTLE, WASHINGTON 98124-3755

REPLY TO
ATTENTION OF

February 15, 2011

Regulatory Branch

Port of Skagit County
Ms. Sara Young
Post office Box 348
Burlington, Washington 98233

Reference: NWS-2008-19
Skagit County, Port of

Dear Ms. Young:

In correspondence dated January 27, 2011, your agent, Ms. Fiona McNair, requested a modification to the referenced Nationwide Permit (NWP) 38 verification issued to you on July 17, 2008 and re-verified on July 20, 2010. The work authorized by NWP 38 involves excavation and the placement of fill in wetlands to clean up contaminated sediments. The work will occur in wetlands near Burlington, Skagit County, Washington.

We have reviewed your request and verified that NWP 38 authorizes this project under current regulations. In order for this NWP authorization to be valid, you must ensure that the work is performed in accordance with the enclosed approved modified plans dated January 14, 2011 and in accordance with the following modified special conditions "b" and "c":

b. The permittee must implement the provisions of the document titled, "*Updated Wetland Restoration Plan, Port of Skagit County – Taxiway F Site, Skagit County, WA*," dated January 27, 2011 in their entirety.

c. A status reports on the wetland and buffer remediation (restoration), including photos, must be submitted to the Corps, Seattle District, Regulatory Branch, 13 months from the date of this reverification. All reports must be submitted to the Corps, Seattle District, Regulatory Branch and must prominently display the reference number NWS-2008-19.

This verification is valid until the NWP is modified, reissued, or revoked. All of the existing NWPs are scheduled to be modified, reissued, or revoked on March 18, 2012. It is incumbent upon you to remain informed of changes to the NWPs. We will issue a public notice when the NWPs are reissued. Furthermore, if you commence or are under contract to commence this activity before March 18, 2012, you will have until March 18, 2013 to complete the activity under the present terms and conditions of this NWP.

Failure to comply with all terms and conditions of this NWP verification invalidates this authorization and could result in a violation of Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act of 1899. Also, you must obtain all State and local permits that apply to this project. All other terms and conditions contained in the original NWP verification remain in full force and effect.

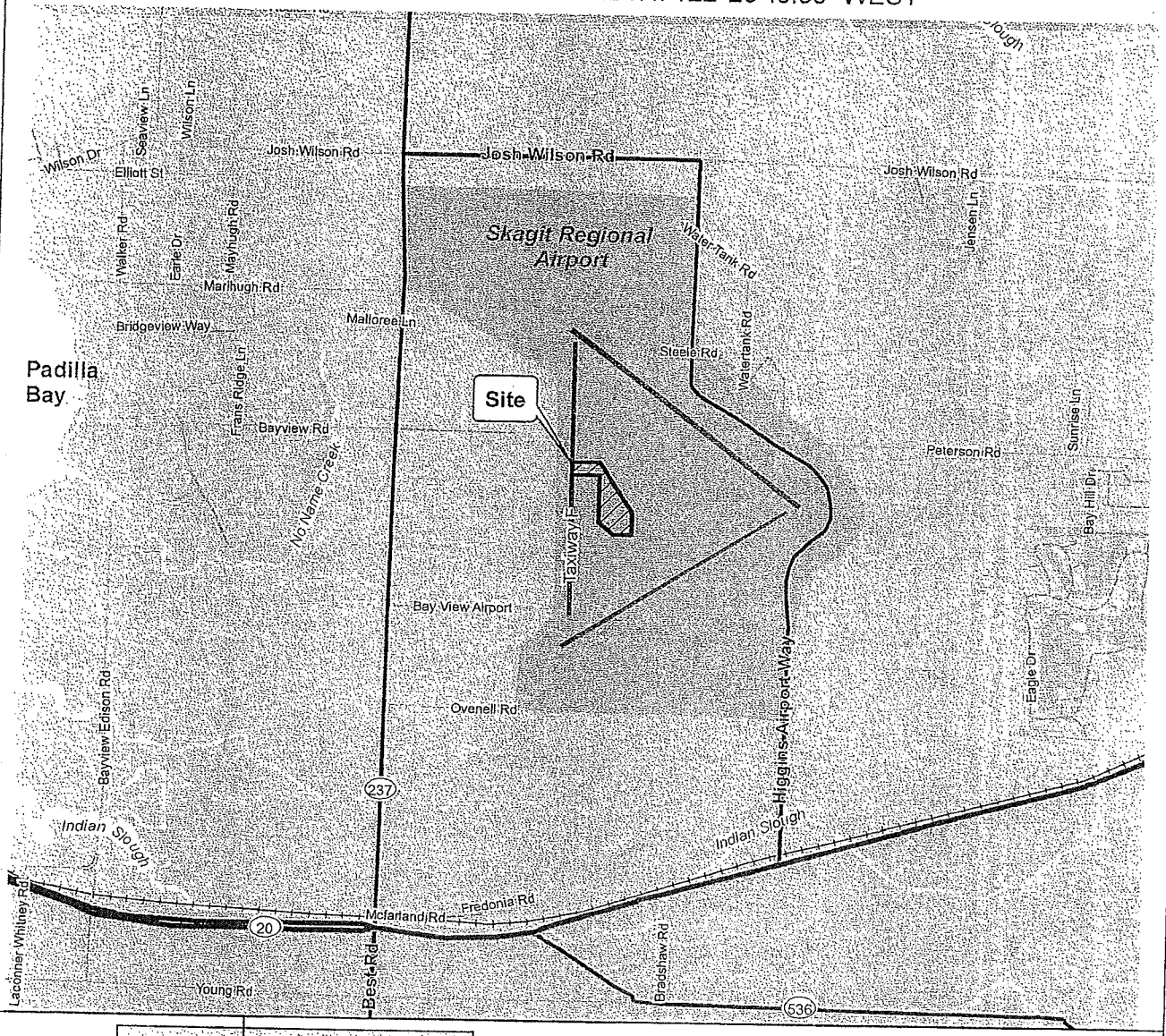
A copy of this correspondence with enclosures will be provided to Ms. Fiona McNair of GeoEngineers, Inc. at 600 Stewart Street, Suite 1700, Seattle, WA 98101. If you have any questions about this letter, please contact me at (360) 734-3156 or via email at randel.j.perry@usace.army.mil.

Sincerely,

Randel Perry, Project Manager
Regulatory Branch

SEC. 4, T34N, R03E, W.M.

LOG.: 48°28'13.85" NORTH - LAT.: 122°25'46.38" WEST



REFERENCE: ESRI DATA & MPAS, STREET MAPS 2005

P:\538401302\CAD\JARPA\538401302 JARPA Figs.dwg\TAB:VM modified by tmichaud on Jan 13, 2011 - 10:18

OFFICE:SEA

PURPOSE:

REMOVE CONTAMINATED SOIL, PLACE BACKFILL AND RESTORE. REVERIFICATION OF PERMIT (NWS-2008-19-~~NC~~)

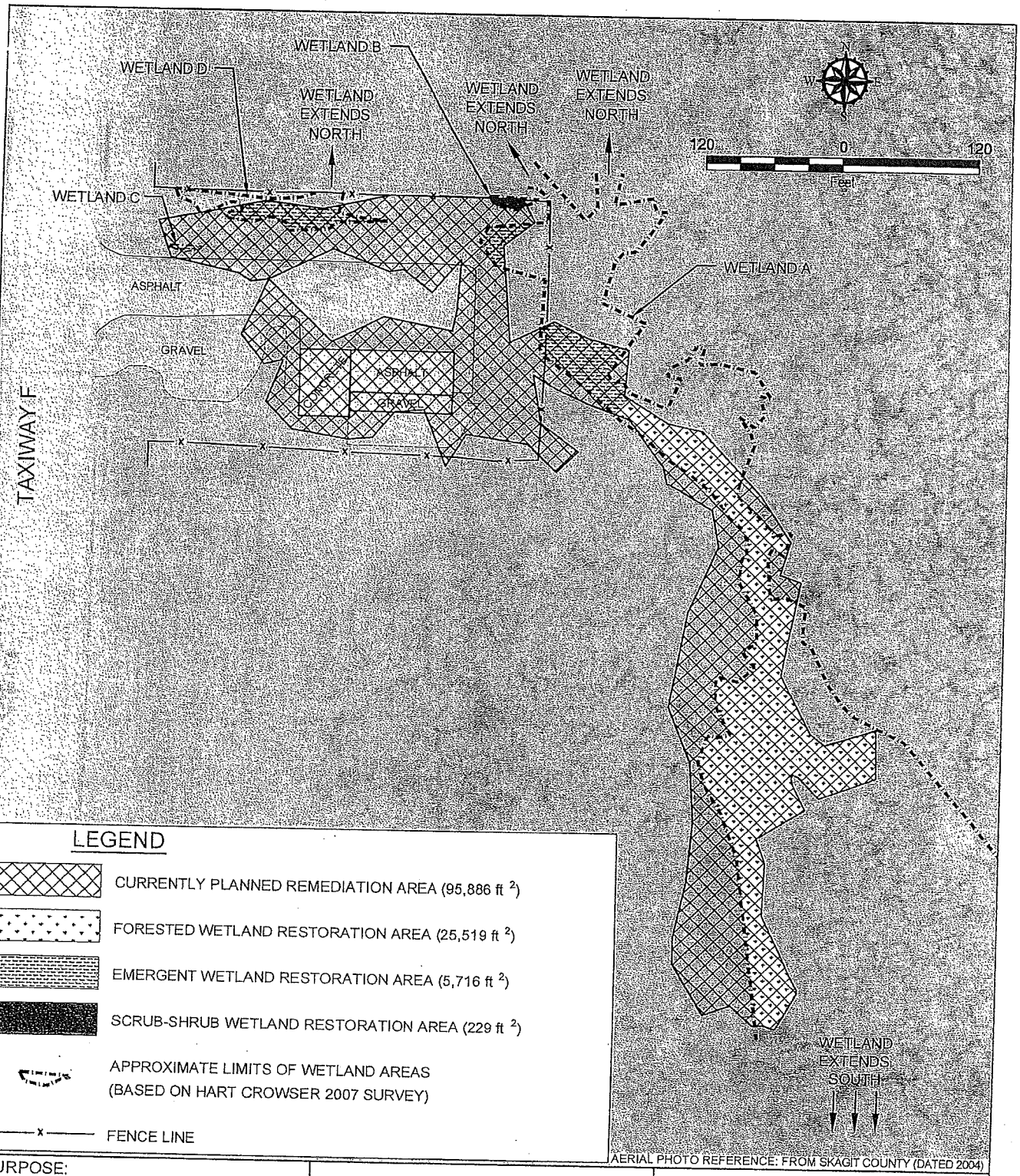
ADJACENT PROPERTY OWNERS:

1. PORT OF SKAGIT COUNTY

VICINITY MAP

TAXIWAY F SITE
SKAGIT COUNTY, WA

IN: SKAGIT COUNTY
COUNTY OF: SKAGIT
STATE OF: WASHINGTON
APPLICATION BY:
PORT OF SKAGIT COUNTY
SHEET: 1 of 2
DATE: 01/14/11
CREATED BY: GEOENGINEERS, INC.



P:\153640131302\CAD\JARPA\536401302 JARPA Sheet 3.dwg\TAB:Site Plan modified by cvanslyke on Jan 18, 2011 - 12:04

OFFICE:SEA

PURPOSE:

REMOVE CONTAMINATED SOIL, PLACE BACKFILL AND RESTORE. REVERIFICATION OF PERMIT (NWS-2008-19-~~NO~~)

ADJACENT PROPERTY OWNERS:
1. PORT OF SKAGIT COUNTY

SITE PLAN
WETLAND RESTORATION AREAS

TAXIWAY F SITE
SKAGIT COUNTY, WA

IN: SKAGIT COUNTY
COUNTY OF: SKAGIT
STATE OF: WASHINGTON
APPLICATION BY:
PORT OF SKAGIT COUNTY
SHEET: 3 of 3
DATE: 01/14/11
CREATED BY: GEOENGINEERS, INC.

EXHIBIT D
STATE & LOCAL SUBSTANTIVE REQUIREMENTS

Exhibit D
State & Local Substantive Requirements

Pursuant to RCW 70.105D.090(1), the cleanup action described in the Decree are exempt from the procedural requirements of Chapters 70.94, 70.95, 70.105, 77.55, 90.48, and 90.58 RCW and of any laws requiring or authorizing local government permits or approvals. However, the Port shall comply with the substantive requirements of such permits or approvals. The exempt permits or approvals and the applicable substantive requirements of those permits or approvals, as they are known at the time of entry of this Decree, are as follows:

1) Skagit County Fill and Grade Permit. The substantive requirements of this approval are applicable to the cleanup action required in the Decree because it involves substantial excavation and placement of clean fill. As applied to the cleanup action, the fill and grade permit's substantive requirements generally consist of development of a temporary erosion and sediment control plan and drainage control. Substantive requirements for the *Skagit County Fill and Grade Permit* will be included in the Engineering Design Report and will become integral and enforceable parts of this Decree.

2) Skagit County Critical Areas Review. The substantive requirements of this approval are applicable to the cleanup action required in the Decree because it involves disturbance to jurisdictional wetlands. As applied to the cleanup action, the critical areas review substantive requirements generally consist of minimization of impact to wetlands, replanting and wetland restoration, and post construction restoration monitoring. Substantive requirements for the *Skagit County Critical Areas Review* will be included in the Engineering Design Report and will become integral and enforceable parts of this Decree.

SKAGIT COUNTY, WASH
FILED
AUG 1 2011
NANCY K. SCOTT, CO. CLERK
Deputy

STATE OF WASHINGTON
SKAGIT COUNTY SUPERIOR COURT

STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY, Plaintiff, v. PORT OF SKAGIT COUNTY, a municipal corporation, Defendant.	NO. 11 2 01536 2 ORDER ENTERING CONSENT DECREE [Proposed]

Having reviewed the Joint Motion for Entry of the Consent Decree, it is hereby ORDERED AND ADJUDGED that the Consent Decree in this matter is entered and that the court shall retain jurisdiction over the Consent Decree to enforce its terms.

DATED this 1 day of Aug, 2011.

MICHAEL RICKERT
Superior Court Judge/Commissioner

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
(360) 586-6770

Presented by:

ROBERT M. MCKENNA
Attorney General

IVY ANDERSON, WSBA #30652
Assistant Attorney General

Attorneys for Plaintiff
State of Washington,
Department of Ecology
(360) 586-4619

STOEL RIVES LLP

STEVEN J. THIELE, WSBA # 20275

Attorney for Defendant
Port of Skagit County
(206) 386-7530

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Ecology Division
PO Box 40117
Olympia, WA 98504-0117
(360) 586-6770

STATE OF WASHINGTON
SKAGIT COUNTY SUPERIOR COURT

STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY, Plaintiff, v. PORT OF SKAGIT COUNTY, a municipal corporation, Defendant.	NO. SUMMONS

TO: Steven J. Thiele, attorney for Port of Skagit County, Defendant;

A lawsuit has been started against you in the above-entitled court by the State of Washington, Department of Ecology. Plaintiff's claim is stated in the written Complaint, a copy of which is served upon you with this Summons.

The parties have agreed to resolve this matter by entry of a Consent Decree, a copy of which is also attached. Accordingly, this Summons shall not require the filing of an Answer. Further, all disputes arising under this cause shall be resolved under the terms of the Consent Decree.

///

///

//

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
(360) 586-6770

DATED this 25th day of July, 2011.

ROBERT M. MCKENNA
Attorney General

IVY ANDERSON, WSBA #30652
Assistant Attorney General

Attorneys for Plaintiff
State of Washington,
Department of Ecology
(360) 586-4619

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
(360) 586-6770

STATE OF WASHINGTON
SKAGIT COUNTY SUPERIOR COURT

STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY, Plaintiff, v. PORT OF SKAGIT COUNTY, a municipal corporation, Defendant.	NO. COMPLAINT

Plaintiff, State of Washington, Department of Ecology (Ecology) alleges as follows:

I. DESCRIPTION OF ACTION

1. This action is brought on behalf of the State of Washington, Department of Ecology (Ecology) to enter a settlement agreement known as a Consent Decree (Decree), which requires cleanup at a facility where there has been a release and/or threatened release of hazardous substances.

2. The Complaint and settlement are limited to the scope of the Decree. The facility, or Site, is referred to formally and in Ecology databases as the Skagit County Port Site. The Site is generally located near the western edge of the Skagit Regional Airport in Burlington, Washington. The Site is informally known as the Taxiway F Site.

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II. JURISDICTION

3. This court has jurisdiction over the subject matter and over the Parties pursuant to the Model Toxics Control Act (MTCA), Chapter 70.105D RCW. Venue is proper in Skagit County Superior Court, the location of the Site.

III. PARTIES

4. Plaintiff Ecology is an agency of the State of Washington responsible for overseeing remedial action at sites contaminated with hazardous substances under Chapter 70.105D RCW.

5. Defendant refers to Port of Skagit County (Port). The Port has agreed to enter into a Consent Decree with Ecology under MTCA to remedy the release of hazardous substances on their property.

IV. FACTUAL ALLEGATIONS

6. The Port is the current owner and operator of the real property comprising the Taxiway F Site, located at the Skagit Regional Airport. The Taxiway F Site consists of a paved taxiway area, a hangar/storage building, and adjacent undeveloped areas which covers an area of 2.2 acres.

7. Taxiway F was constructed in 1933, and expanded in 1943 by the U.S. Navy. In 1958, the federal government transferred the facility to Skagit County. The Port assumed full ownership and operation of the airport in 1975.

8. Starting in 1978, the Port leased the portion of the Site adjacent to the taxiway to a series of individuals and companies engaged in the business of crop dusting. As part of the historic crop dusting operations, chemicals (pesticides, herbicides, fungicides) were handled at the Site, and the hangar/storage building was constructed on the Site and used for aircraft parking and material storage, including storage of the chemicals used for crop dusting.

9. In 2000, the Port discovered stained soils at the Site and began soil and groundwater sampling to characterize the Site contamination. In May 2004, the Port entered

ATTORNEY GENERAL OF WASHINGTON
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into Ecology's Voluntary Cleanup Program to conduct site investigations and remedial actions. The investigations documented the presence of pesticides and fungicides at the Site with concentrations exceeding MTCA Method A and/or Method B soil and groundwater cleanup levels.

10. Ecology named Port as a potentially liable party (PLP) for the Site under MTCA on August 25, 2005.

11. On April 10, 2009, the Port and Ecology entered into Agreed Order No. 6158 under which the Port performed a remedial investigation and feasibility study (RI/FS) for the Site.

12. Ecology has determined that contamination at the Site presents a threat to human health and the environment, and that a final cleanup is necessary to remedy the contamination.

13. Ecology developed a draft Cleanup Action Plan (CAP) for the Site and negotiated a draft Decree with the Port for implementation of the CAP.

14. The draft CAP and draft Decree were subject to public notice and comment. Comments were accepted from April 29 through May 31, 2011.

15. After consideration of all comments received, Ecology issued a final CAP.

16. Ecology and the Port have now entered into the final Decree requiring cleanup of the Site. The final CAP is an integral and enforceable exhibit to the Decree. The Decree is being submitted to the court along with this Complaint.

V. CAUSES OF ACTION

17. Ecology realleges all preceding paragraphs.

18. Ecology alleges that the Port is responsible for remedial action at the Site, pursuant to MTCA, Chapter 70.105D RCW.

VI. PRAYER FOR RELIEF

19. Ecology requests that the court approve and order entry of the proposed Decree.

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
(360) 586-6770

20. Ecology further requests that the court retain jurisdiction to enforce the terms of the Decree.

DATED this 25th day of July, 2011.

ROBERT M. MCKENNA
Attorney General

IVY ANDERSON, WSBA #30652
Assistant Attorney General

Attorneys for Plaintiff
State of Washington,
Department of Ecology
(360) 586-4619

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
(360) 586-6770

STATE OF WASHINGTON
SKAGIT COUNTY SUPERIOR COURT

STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY, Plaintiff, v. PORT OF SKAGIT COUNTY, a municipal corporation, Defendant.	NO. JOINT MOTION FOR ENTRY OF CONSENT DECREE

I. INTRODUCTION

Plaintiff, State of Washington, Department of Ecology (Ecology), and Defendant, Port of Skagit County (Port), bring this motion seeking entry of the attached Consent Decree (Decree). This motion is based upon the pleadings filed in this matter, including the Declaration of David L. South, Site Manager, Washington State Department of Ecology, Northwest Regional Office—Toxics Cleanup Program.

II. RELIEF REQUESTED

The Parties request that the court approve and enter the attached Decree, which governs the cleanup of contamination at the Skagit County Port Site (Site) generally located in Burlington, Washington, pursuant to the Model Toxics Control Act (MTCA), Chapter 70.105D

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Ecology Division
PO Box 40117
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RCW. The parties also request that the court retain jurisdiction over this action until the work required by the Decree is completed and the Parties request a dismissal of this action.

III. AUTHORITY

A. Authority is conferred upon the Washington State Attorney General by RCW 70.105D.040(4)(a) to agree to a settlement with any potentially liable person (PLP) if, after public notice and any required hearing, Ecology finds the proposed settlement would lead to a more expeditious cleanup of hazardous substances. RCW 70.105D.040(4)(b) requires that such a settlement be entered as a Consent Decree issued by a court of competent jurisdiction.

IV. AGENCY DETERMINATIONS SUPPORTING ENTRY OF DECREE

A. Ecology has determined that a release or threatened release of hazardous substances has occurred at the Site that is the subject of this Decree. Declaration of David L. South (South Decl.) ¶ 4.

B. Ecology has determined that contamination at the Site presents a threat to human health and the environment. South Decl. ¶ 5.

C. Ecology has given notice to the Port of Ecology's determination that the Port is a PLP for the Site, as required by RCW 70.105D.020(16) and WAC 173-340-500. South Decl. ¶ 6.

D. The actions to be taken pursuant to this Decree are necessary to protect public health and the environment. South Decl. ¶ 8.

E. This Decree has been subject to public notice and comment. Ecology considered all comments received, and determined that no additional public comment was required. South Decl. ¶ 7.

F. Ecology has determined that this Decree will lead to a more expeditious cleanup of hazardous substances at the Site in compliance with cleanup standards established under RCW 70.105D.030(2)(e) and Chapter 173-340 WAC. South Decl. ¶ 8.

ATTORNEY GENERAL OF WASHINGTON
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PO Box 40117
Olympia, WA 98504-0117
(360) 586-6770

V. CONCLUSION

The Parties believe it is appropriate for the court to exercise its discretion and approve the attached Decree, and hereby request that the court enter the attached Order. The parties further request that the court retain jurisdiction to enforce the terms of the Decree.

DATED this 25th day of July, 2011.

ROBERT M. MCKENNA
Attorney General

IVY ANDERSON, WSBA #30652
Assistant Attorney General

Attorneys for Plaintiff
State of Washington,
Department of Ecology
(360) 586-4619

STOEL RIVES LLP

STEVEN J. THIELE, WSBA # 20275

Attorney for Defendant
Port of Skagit County
(206) 386-7530

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
(360) 586-6770

STATE OF WASHINGTON
SKAGIT COUNTY SUPERIOR COURT

STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY, Plaintiff, v. PORT OF SKAGIT COUNTY, a municipal corporation, Defendant.	NO. DECLARATION OF DAVID L. SOUTH

I, David L. South, declare as follows:

1. I am over twenty-one years of age and am competent to testify herein. The facts set forth in this declaration are from my personal knowledge.

2. I am employed by the Washington State Department of Ecology as a Site Manager in the Toxics Cleanup Program for Ecology's Northwest Regional Office. I am the designated Site Manager for the Skagit County Port Site (aka the Taxiway F Site), and I am therefore knowledgeable about matters related to this Site.

3. The Site is located in Burlington, Washington.

4. Ecology has determined that a release or threatened release of hazardous substances has occurred at the Site.

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
FAX (360) 586-6760

5. Ecology has determined that contamination at the Site presents a threat to human health or the environment.

6. Ecology has given notice to the Port of Skagit County (Port) of Ecology's determination that it is a potentially liable person (PLP) for the Site, as required by RCW 70.105D.020(21) and WAC 173-340-500.

7. The Consent Decree and Cleanup Action Plan were available for public comment between April 29th and May 31, 2011. Ecology has determined that no additional public comment is required.

8. Ecology has determined that the actions to be taken pursuant to the Consent Decree are necessary to protect public health and the environment, and will lead to a more expeditious cleanup of hazardous substances at the Site in compliance with cleanup standards established under RCW 70.105D.030(2)(e) and Chapter 173-340 WAC.

I declare under penalty of perjury of the laws of the state of Washington that the foregoing is true and correct.

DATED this 4th day of June, 2011, in Bellevue, Washington.

David L. South

DAVID L. SOUTH

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
FAX (360) 586-6760

STATE OF WASHINGTON
SKAGIT COUNTY SUPERIOR COURT

STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY, Plaintiff, v. PORT OF SKAGIT COUNTY, a municipal corporation, Defendant.	NO. CERTIFICATE OF SERVICE

Pursuant to RCW 9A.72.085, I certify that on the 26 day of July, 2011, I caused to be served the Summons and Complaint in the above-captioned matter upon the parties herein as indicated below. Also enclosed are courtesy copies of the Joint Motion for Entry of Consent Decree, Declaration of David L. South, Consent Decree, and Proposed Order Entering Consent Decree.

STEVEN J. THIELE STOEL RIVES LLP 600 UNIVERSITY STREET, SUITE 3600 SEATTLE WA 98101-4109	[x] U.S. Mail [ ] State Campus Mail [ ] Hand Delivered [ ] Overnight Express [ ] By Fax

the foregoing being the last known address.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
(360) 586-6770

DATED this 26 day of July, 2011, in Olympia, Washington.

DELLA D. SHIELDS, Legal Assistant

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
(360) 586-6770

SKAGIT COUNTY, WASH
FILED
AUG 1 2011
NANCY K. SCOTT, CO. CLERK
Deputy

STATE OF WASHINGTON
SKAGIT COUNTY SUPERIOR COURT

STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

PORT OF SKAGIT COUNTY, a municipal corporation,

Defendant.

NO. 11 2 01536 2

CONSENT DECREE

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ATTORNEY GENERAL OF WASHINGTON
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PO Box 40117
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EXHIBIT A. Site Diagram
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EXHIBIT D. State & Local Substantive Requirements

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
(360) 586-6770

I. INTRODUCTION

A. The mutual objective of the State of Washington, Department of Ecology (Ecology) and the Port of Skagit County (Port) under this Decree is to provide for remedial action at a facility where there has been a release or threatened release of hazardous substances. This Decree requires the Port to implement the cleanup action described in Exhibit B at the Taxiway F Site at Skagit Regional Airport.

Ecology has determined that these actions are necessary to protect human health and the environment.

B. The Complaint in this action is being filed simultaneously with this Decree. An Answer has not been filed, and there has not been a trial on any issue of fact or law in this case. However, the Parties wish to resolve the issues raised by Ecology's Complaint. In addition, the Parties agree that settlement of these matters without litigation is reasonable and in the public interest, and that entry of this Decree is the most appropriate means of resolving these matters.

C. By signing this Decree, the Parties agree to its entry and agree to be bound by its terms.

D. By entering into this Decree, the Parties do not intend to discharge non-settling parties from any liability they may have with respect to matters alleged in the Complaint. The Parties retain the right to seek reimbursement, in whole or in part, from any liable persons for sums expended under this Decree.

E. This Decree shall not be construed as proof of liability or responsibility for any releases of hazardous substances or cost for remedial action nor an admission of any facts; provided, however, that the Port shall not challenge the authority of the Attorney General and Ecology to enforce this Decree.

F. The Court is fully advised of the reasons for entry of this Decree, and good cause having been shown:

Now, therefore, it is HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
(360) 586-6770

II. JURISDICTION

A. This Court has jurisdiction over the subject matter and over the Parties pursuant to the Model Toxics Control Act (MTCA), Chapter 70.105D RCW.

B. Authority is conferred upon the Washington State Attorney General by RCW 70.105D.040(4)(a) to agree to a settlement with any potentially liable person (PLP) if, after public notice and any required hearing, Ecology finds the proposed settlement would lead to a more expeditious cleanup of hazardous substances. RCW 70.105D.040(4)(b) requires that such a settlement be entered as a consent decree issued by a court of competent jurisdiction.

C. Ecology has determined that a release or threatened release of hazardous substances has occurred at the Site that is the subject of this Decree.

D. Ecology has given notice to the Port of Ecology's determination that the Port is a PLP for the Site, as required by RCW 70.105D.020(21) and WAC 173-340-500.

E. The actions to be taken pursuant to this Decree are necessary to protect public health and the environment.

F. This Decree has been subject to public notice and comment.

G. Ecology finds that this Decree will lead to a more expeditious cleanup of hazardous substances at the Site in compliance with the cleanup standards established under RCW 70.105D.030(2)(e) and Chapter 173-340 WAC.

H. The Port has agreed to undertake the actions specified in this Decree and consents to the entry of this Decree under MTCA.

III. PARTIES BOUND

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

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responsibility under this Decree. The Port shall provide a copy of this Decree to all agents, contractors, and subcontractors retained to perform work required by this Decree, and shall ensure that all work undertaken by such agents, contractors, and subcontractors complies with this Decree.

IV. DEFINITIONS

Unless otherwise specified herein, all definitions in RCW 70.105D.020 and WAC 173-340-200 shall control the meanings of the terms in this Decree.

A. Site: The Site is referred to formally and in Ecology databases as the Skagit County Port Site (Ecology FSID#67457634), and is generally located near the western edge of the Skagit Regional Airport in Burlington, Washington. The Site is informally known as the Taxiway F Site. The Site is more particularly described in the Site Diagram (Exhibit A). The Site constitutes a Facility under RCW 70.105D.020(5).

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

C. The Port: Refers to the Port of Skagit County.

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

V. FINDINGS OF FACTS

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

A. The Site is located adjacent to Taxiway F near the western edge of the Skagit Regional Airport (Airport) in Skagit County, Washington, and consists of a paved taxiway area, a hangar/storage building, and adjacent undeveloped areas.

B. Taxiway F was constructed in 1933 as the original runway of a one-runway airfield constructed by Federal New Deal agencies for light airplanes. In 1943 the U.S. Navy

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constructed the existing two-runway system still in use today at the Skagit Regional Airport as an alternate training field for the Whidbey Island Naval Air Station. After World War II, the federal government continued to operate the airport, primarily for the Civil Air Patrol, until transferring the facility to Skagit County in 1958. The Port assumed full ownership and operation of the airport in 1975.

C. Starting in 1978, the Port leased the portion of the Site immediately adjacent to the taxiway to a series of individuals and companies engaged in the business of crop dusting. As part of the crop dusting operations, the hangar/storage building was constructed on the Site and used for aircraft parking and materials storage, including storage of chemicals used for crop dusting.

D. As part of the crop dusting operations at the Site, pesticides, herbicides, and fungicides were stored in the hangar/storage building and handled including the process of loading the chemicals onto crop dusting aircraft.

E. The Port discovered stained soils at the Site in 2000 and began the process of soil and groundwater sampling to characterize the Site contamination. The results were summarized in a series of soil and groundwater sampling reports generated between 2001 and 2004.

F. In May 2004, the Port of Skagit County entered into the voluntary cleanup program (VCP) for the Site. Site investigations and remedial actions were conducted under VCP as discussed in paragraph G below.

G. From 2006 - 2008, the Port conducted what it described for internal administrative purposes as an independent "Remedial Investigation/Feasibility Study", and developed what it described for internal administrative purposes as a "Cleanup Action Plan" and supporting documents. The investigation documented the presence of pesticides and fungicides at the Site with concentrations exceeding MTCA Method-A and/or Method-B soil and groundwater cleanup levels.

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H. The Site was removed from the VCP on February 3, 2009, because Ecology and the Port agreed to remediate the Site under the formal program.

I. On April 10, 2009, the Port and Ecology entered into Agreed Order No. 6158 under which the Port performed a remedial investigation and feasibility study (RI/FS) for the Site. In performing the RI/FS the Port collected, developed and evaluated sufficient information to enable Ecology to select a cleanup action for the Site. The RI/FS report was subject to public comment concurrent with this Decree.

VI. WORK TO BE PERFORMED

This Decree contains a program designed to protect human health and the environment from the known release, or threatened release, of hazardous substances or contaminants at, on, or from the Site.

A. The Port shall implement the Cleanup Action Plan (CAP) attached to this Decree as Exhibit B. The CAP specifies remedial actions including, but not limited to, excavation and off-site disposal of all Site soils exceeding cleanup levels.

B. The Port agrees not to perform any remedial actions outside the scope of this Decree unless the Parties agree to modify the Scope of Work and Schedule contained in the CAP (Exhibit B) to cover these actions. All work conducted by the Port under this Decree shall be done in accordance with Chapter 173-340 WAC unless otherwise provided herein.

VII. DESIGNATED PROJECT COORDINATORS

The project coordinator for Ecology is:

David L. South
3190 160th Avenue SE
Bellevue, WA 98008-5452
(425) 649-7200
Email: david.south@ecy.wa.gov

The project coordinator for the Port is:

Sara K. Young
Manager of Planning & Environmental Services
Port of Skagit County

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15400 Airport Drive
Burlington, WA 98233
(360) 757-0011
Email: saray@portofskagit.com

Each project coordinator shall be responsible for overseeing the implementation of this Decree. 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 Decree 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 Decree.

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.

VIII. PERFORMANCE

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

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

All construction work performed pursuant to this Decree shall be under the direct supervision of a professional engineer or a qualified technician under the direct supervision of a professional engineer. The professional engineer must be registered in the State of Washington, except as otherwise provided for by RCW 18.43.130.

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Any documents submitted containing geologic, hydrologic or engineering work shall be under the seal of an appropriately licensed professional as required by Chapter 18.220 RCW or RCW 18.43.130.

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

IX. ACCESS

Ecology or any Ecology authorized representative shall have full authority to enter and freely move about all property at the Site that the Port either owns, controls, or has access rights to at all reasonable times for the purposes of, *inter alia*: inspecting records, operation logs, and contracts related to the work being performed pursuant to this Decree; reviewing the Port's progress in carrying out the terms of this Decree; 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 Decree; 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 Decree. 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 Parties 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.

X. SAMPLING, DATA SUBMITTAL, AND AVAILABILITY

With respect to the implementation of this Decree, 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

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in both printed and electronic formats in accordance with Section XI (Progress Reports), 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 the implementation of this Decree. 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 Decree, provided that doing so does not interfere with Ecology's sampling. Without limitation on Ecology's rights under Section IX (Access), Ecology shall notify the Port prior to any sample collection activity unless an emergency prevents such notice.

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

XI. PROGRESS REPORTS

The Port shall submit to Ecology written monthly Progress Reports that describe the actions taken during the previous month to implement the requirements of this Decree. The Progress Reports shall include the following:

A. A list of on-site activities that have taken place during the month.

B. Detailed description of any deviations from required tasks not otherwise documented in project plans or amendment requests.

C. Description of all deviations from the CAP's Scope of Work and Schedule (Exhibit B) during the current month and any planned deviations in the upcoming month.

D. For any deviations in schedule, a plan for recovering lost time and maintaining compliance with the schedule.

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E. All raw data (including laboratory analyses) received by the Port during the past month and an identification of the source of the sample; and

F. A list of deliverables for the upcoming month if different from the schedule.

G. All Progress Reports shall be submitted by the tenth (10^{th}) day of the month in which they are due after the effective date of this Decree. Progress reports shall be submitted by email as attached Adobe Acrobat files.

H. All other documents shall be submitted electronically as Adobe Acrobat files and as hard copy in the number specified by Ecology. Ecology also may require submittal of documents and information in other electronic formats such as Word, Excel, Access, AutoCAD, or ArcGIS format, as specified by Ecology. Hard copy reports shall be sent by regular mail or parcel service unless Ecology specifies or the Port chooses to send the document by certified mail, return receipt requested. All documents are to be submitted to Ecology's project coordinator.

XII. RETENTION OF RECORDS

During the pendency of this Decree, and for ten (10) years from the date this Decree is no longer in effect as provided in Section XXV (Duration of Decree), the Port shall preserve all records, reports, documents, and underlying data in its possession relevant to the implementation of this Decree 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.

XIII. 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 operation and maintenance of any containment system, treatment system, and/or monitoring system installed or implemented pursuant to this Decree.

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Prior to the Port's transfer of any interest in all or any portion of the Site, and during the effective period of this Decree, the Port shall provide a copy of this Decree to any prospective purchaser, lessee, transferee, assignee, or other successor in said interest; and, at least thirty (30) days prior to any transfer, the Port shall notify Ecology of said transfer. Upon transfer of any interest, the Port shall restrict uses and activities to those consistent with this Consent Decree and notify all transferees of the restrictions on the use of the property.

XIV. RESOLUTION OF DISPUTES

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

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

2. The Parties' project coordinators shall then confer in an effort to resolve the dispute. If the project coordinators cannot resolve the dispute within fourteen (14) days, Ecology's project coordinator shall issue a written decision.

3. The Port may then request regional management review of the decision. This request shall be submitted in writing to Ecology's Northwest Region Toxics Cleanup Program Section Manager within seven (7) days of receipt of Ecology's project coordinator's written decision.

4. Ecology's Regional Section Manager shall conduct a review of the dispute and shall endeavor to issue a written decision regarding the dispute within thirty (30) days of the Port's request for review.

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5. If the Port finds Ecology's Regional Section Manager's decision unacceptable, the Port may then request final management review of the decision. This request shall be submitted in writing to the Toxics Cleanup Program Manager within seven (7) days of receipt of the Regional Section Manager's decision.

6. Ecology's Toxics Cleanup Program Manager shall conduct a review of the dispute and shall endeavor to issue a written decision regarding the dispute within thirty (30) days of the Port's request for review of the Regional Section Manager's decision. The Toxics Cleanup Program Manager's decision shall be Ecology's final decision on the disputed matter.

B. If Ecology's final written decision is unacceptable to the Port, the Port has the right to submit the dispute to the Court for resolution. The Parties agree that one judge should retain jurisdiction over this case and shall, as necessary, resolve any dispute arising under this Decree. In the event the Port presents an issue to the Court for review, the Court shall review the action or decision of Ecology on the basis of whether such action or decision was arbitrary and capricious and render a decision based on such standard of review.

C. 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. Where either party utilizes the dispute resolution process in bad faith or for purposes of delay, the other party may seek sanctions.

D. Implementation of these dispute resolution procedures shall not provide a basis for delay of any activities required in this Decree, unless Ecology agrees in writing to a schedule extension or the Court so orders.

XV. AMENDMENT OF DECREE

The project coordinators may agree to minor changes to the work to be performed without formally amending this Decree. Minor changes will be documented in writing by Ecology.

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Substantial changes to the work to be performed shall require formal amendment of this Decree. This Decree may only be formally amended by a written stipulation among the Parties that is entered by the Court, or by order of the Court. Such amendment shall become effective upon entry by the Court. Agreement to amend the Decree shall not be unreasonably withheld by any party.

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 the Decree is a substantial change, Ecology will provide public notice and opportunity for comment. Reasons for the disapproval of a proposed amendment to the Decree 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 XIV (Resolution of Disputes).

XVI. EXTENSION OF SCHEDULE

A. 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:

1. The deadline that is sought to be extended.
2. The length of the extension sought.
3. The reason(s) for the extension.
4. Any related deadline or schedule that would be affected if the extension were granted.

B. 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:

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1. 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.

2. Acts of God, including fire, flood, blizzard, extreme temperatures, storm, or other unavoidable casualty.

3. Endangerment as described in Section XVII (Endangerment).

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

C. 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 Decree. A requested extension shall not be effective until approved by Ecology or, if required, by the Court. Unless the extension is a substantial change, it shall not be necessary to amend this Decree pursuant to Section XV (Amendment of Decree) when a schedule extension is granted.

D. 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:

1. Delays in the issuance of a necessary permit which was applied for in a timely manner.

2. Other circumstances deemed exceptional or extraordinary by Ecology.

3. Endangerment as described in Section XVII (Endangerment).

XVII. ENDANGERMENT

In the event Ecology determines that any activity being performed at the Site is creating or has the potential to create a danger to human health or the environment, Ecology may direct

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the Port to cease such activities for such period of time as it deems necessary to abate the danger. The Port shall immediately comply with such direction.

In the event the Port determines that any activity being performed at the Site is creating or has the potential to create a danger to human health or the environment, the Port may cease such activities. The Port shall notify Ecology's project coordinator as soon as possible, but no later than twenty-four (24) hours after making such determination or ceasing such activities. Upon Ecology's direction, the Port shall provide Ecology with documentation of the basis for the determination or cessation of such activities. If Ecology disagrees with the Port's cessation of activities, it may direct the Port to resume such activities.

If Ecology concurs with or orders a work stoppage pursuant to 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 XVI (Extension of Schedule), for such period of time as Ecology determines is reasonable under the circumstances.

Nothing in this Decree shall limit the authority of Ecology, its employees, agents, or contractors to take or require appropriate action in the event of an emergency.

XVIII. COVENANT NOT TO SUE

A. Covenant Not to Sue: In consideration of the Port's compliance with the terms and conditions of this Decree, Ecology covenants not to institute legal or administrative actions against the Port regarding the release or threatened release of hazardous substances covered by this Decree.

This Decree covers only the Site specifically identified in the Site Diagram (Exhibit A) and those hazardous substances that Ecology knows are located at the Site as of the date of entry of this Decree. This Decree does not cover any other hazardous substance or area. Ecology retains all of its authority relative to any substance or area not covered by this Decree.

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This Covenant Not to Sue shall have no applicability whatsoever to:

1. Criminal liability.

2. Liability for damages to natural resources.

3. Any Ecology action, including cost recovery, against PLPs not a party to this Decree.

If factors not known at the time of entry of the settlement agreement are discovered and present a previously unknown threat to human health or the environment, the Court shall amend this Covenant Not to Sue.

B. Reopeners: Ecology specifically reserves the right to institute legal or administrative action against the Port to require it to perform additional remedial actions at the Site and to pursue appropriate cost recovery, pursuant to RCW 70.105D.050 under the following circumstances:

1. Upon the Port's failure to meet the requirements of this Decree, including, but not limited to, failure of the remedial action to meet the cleanup standards identified in the Cleanup Action Plan (CAP) (Exhibit B).

2. Upon Ecology's determination that remedial action beyond the terms of this Decree is necessary to abate an imminent and substantial endangerment to human health or the environment.

3. Upon the availability of new information regarding factors previously unknown to Ecology, including the nature or quantity of hazardous substances at the Site, and Ecology's determination, in light of this information, that further remedial action is necessary at the Site to protect human health or the environment.

4. Upon Ecology's determination that additional remedial actions are necessary to achieve cleanup standards within the reasonable restoration time frame set forth in the CAP.

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C. Except in the case of an emergency, prior to instituting legal or administrative action against the Port pursuant to this Section, Ecology shall provide the Port with fifteen (15) calendar days notice of such action.

XIX. CONTRIBUTION PROTECTION

With regard to claims for contribution against the Port, the Parties agree that the Port is entitled to protection against claims for contribution for matters addressed in this Decree as provided by RCW 70.105D.040(4)(d).

XX. INDEMNIFICATION

The Port agrees to indemnify and save and hold the State of Washington, its employees, and agents harmless from any and all claims or causes of action for death or injuries to persons or for loss or damage to property to the extent arising from or on account of acts or omissions of the Port, its officers, employees, agents, or contractors in entering into and implementing this Decree. 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 Decree.

XXI. COMPLIANCE WITH APPLICABLE LAWS

A. All actions carried out by the Port pursuant to this Decree shall be done in accordance with all applicable federal, state, and local requirements, including requirements to obtain necessary permits, except as provided in RCW 70.105D.090. The permits or other federal, state or local requirements that the agency has determined are applicable and that are known at the time of entry of this Decree have been identified in Exhibit C ("Permits").

B. Pursuant to RCW 70.105D.090(1), the Port is exempt from the procedural requirements of Chapters 70.94, 70.95, 70.105, 77.55, 90.48, and 90.58 RCW and of any laws requiring or authorizing local government permits or approvals. However, the Port shall comply with the substantive requirements of such permits or approvals. The exempt permits or

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approvals and the applicable substantive requirements of those permits or approvals, as they are known at the time of entry of this Decree, have been identified in Exhibit D ("State & Local Substantive Requirements")

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 Decree. 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 Decree, it shall promptly notify the other party of this 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 Decree. The Port shall not begin or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination.

C. 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.

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XXII. REMEDIAL ACTION COSTS

The Port shall pay to Ecology costs incurred by Ecology pursuant to this Decree and consistent with WAC 173-340-550(2). These costs shall include work performed by Ecology or its contractors for, or on, the Site under Chapter 70.105D RCW, including remedial actions and Decree preparation, negotiation, oversight and administration. These costs shall include work performed both prior to and subsequent to the entry of this Decree. 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 $2,106.76 in remedial action costs related to this facility as of January 31, 2011. Payment fees for this amount shall be submitted within thirty (30) days of the effective date of this Decree. For all costs incurred subsequent to January 31, 2011, 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 12 percent per annum, compounded monthly.

In addition to other available relief, pursuant to RCW 70.105D.055, Ecology has authority to recover unreimbursed remedial action costs by filing a lien against real property subject to the remedial actions.

XXIII. IMPLEMENTATION OF REMEDIAL ACTION

If Ecology determines that the Port has failed without good cause to implement the remedial action, in whole or in part, Ecology may, after notice to the Port, perform any or all portions of the remedial action that remain incomplete. If Ecology performs all or portions of the remedial action because of the Port's failure to comply with its obligations under this Decree, the Port shall reimburse Ecology for the costs of doing such work in accordance with

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Section XXII (Remedial Action Costs), provided that the Port is not obligated under this Section to reimburse Ecology for costs incurred for work inconsistent with or beyond the scope of this Decree.

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 Decree, unless Ecology concurs, in writing, with such additional remedial actions pursuant to Section XV (Amendment of Decree).

XXIV. PUBLIC PARTICIPATION

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

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

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

B. 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.

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C. 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.

D. When requested by Ecology, arrange and/or continue information repositories at the following locations:

1. Skagit Regional Airport
Administration Building
15400 Airport Drive
Burlington, WA 98233
(360) 757-0011

2. Burlington Public Library
820 E. Washington Avenue
Burlington, WA 98233
(360) 755-0760

3. Ecology's Northwest Regional Office
3190 160th Avenue SE
Bellevue, WA 98008-5452
(425) 649-7000

At a minimum, copies of all public notices, fact sheets, and press releases; all quality assured monitoring data; remedial actions plans and reports, supplemental remedial planning documents, and all other similar documents relating to performance of the remedial action required by this Decree shall be promptly placed in these repositories.

XXV. DURATION OF DECREE

The remedial program required pursuant to this Decree shall be maintained and continued until the Port has received written notification from Ecology that the requirements of this Decree have been satisfactorily completed. This Decree shall remain in effect until dismissed by the Court. When dismissed, Section XVIII (Covenant Not to Sue) and Section XIX (Contribution Protection) shall survive.

XXVI. CLAIMS AGAINST THE STATE

The Port hereby agrees that it will not seek to recover any costs accrued in implementing the remedial action required by this Decree from the State of Washington or any

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
(360) 586-6770

of its agencies; and further, that the Port will make no claim against the State Toxics Control Account or any local Toxics Control Account for any costs incurred in implementing this Decree. Except as provided above, however, the Port expressly reserves its right to seek to recover any costs incurred in implementing this Decree from any other PLP. This Section does not limit or address funding that may be provided under Chapter 173-322 WAC.

XXVII. EFFECTIVE DATE

This Decree is effective upon the date it is entered by the Court.

XXVIII. WITHDRAWAL OF CONSENT

If the Court withholds or withdraws its consent to this Decree, it shall be null and void at the option of any party and the accompanying Complaint shall be dismissed without costs and without prejudice. In such an event, no party shall be bound by the requirements of this Decree.

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

James Pendowski
Program Manager
Toxics Cleanup Program
(360) 407-7177

Date: 7/21/11

ROBERT M. MCKENNA
Attorney General

Ivy Anderson, WSBA #30652
Assistant Attorney General
(360) 586-4619

Date: 7/25/11

PORT OF SKAGIT COUNTY

Patricia H. Botsford-Martin
Executive Director
(360) 757-0011

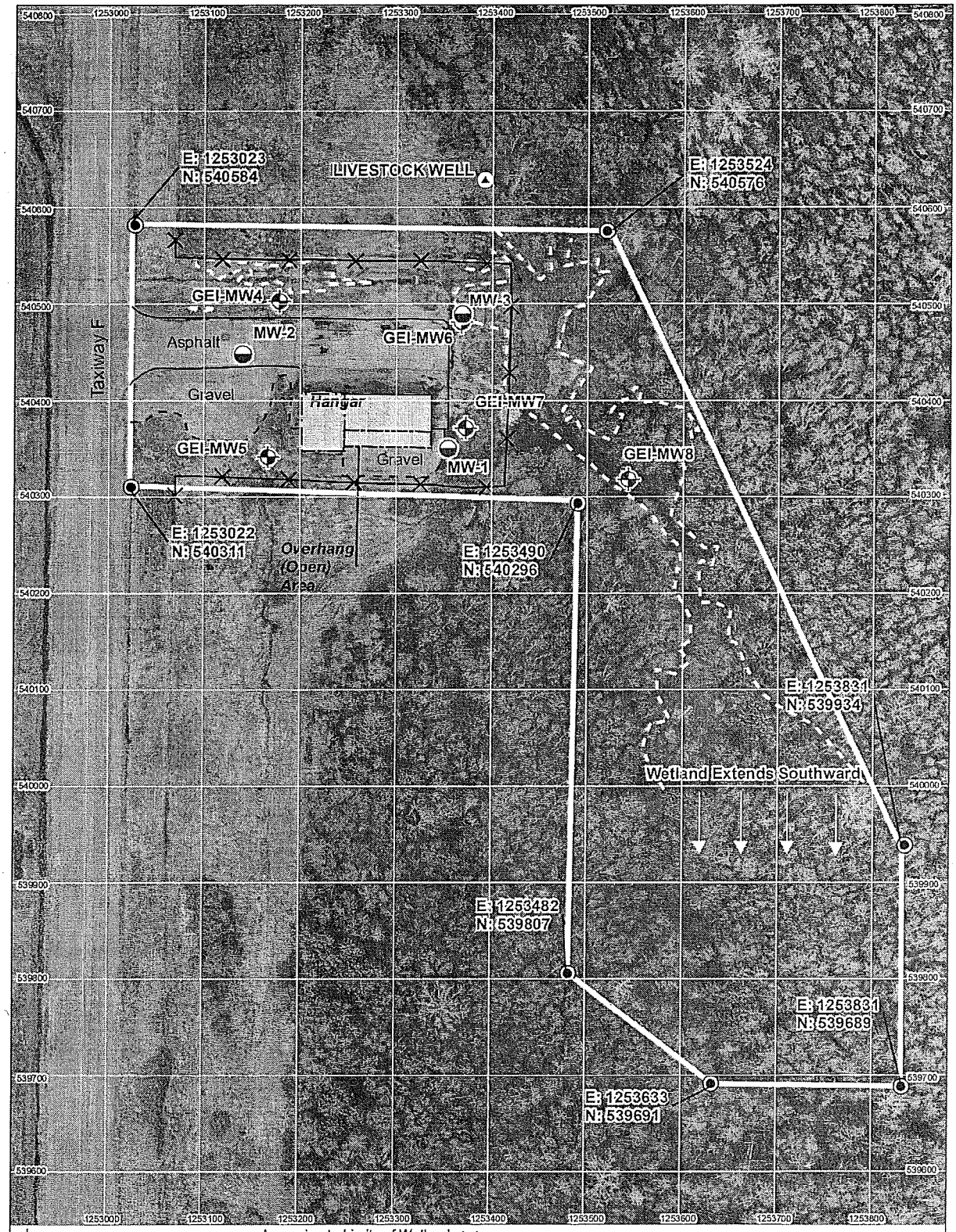
Date: 4/11/11

ENTERED this 1 day of Aug, 2011.

MICHAEL RICKERT
JUDGE
Skagit County Superior Court

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
(360) 586-6770

EXHIBIT A
SITE DIAGRAM



Shallow Monitoring Well

Deep Monitoring Well

Water Supply Well

Approximate Limits of Wetland Areas (Based on Hart Crowser 2007 Survey)

Site

Fence Line

150 0 150

Feet

Easting (E): 1253023 = NAD 1983 State Plane Washington
Northing (N): 540584 North, Feet coordinates

N W E S

Site Diagram

Taxiway F Site
Burlington, Washington

GeoEngineers

Exhibit A

Reference: Aerial photo (dated 2004) from Skagit County. Historical Operations Area boundary, fence line, surface water, debris area and wetlands obtained from Hart Crowser (2008b).
Grid Coordinate System: Washington State Plane, North, North American Datum (NAD) 1983, Feet
North arrow oriented to grid north

Office: SEA Path: \\sea\projects\5\536401\GIS\536401302_EXA_BW_8x11.mxd Map Revised: March 23, 2011 CRC:TCK

EXHIBIT B
CLEANUP ACTION PLAN

Cleanup Action Plan

Taxiway F Site, Skagit Regional Airport

for
Washington State Department of Ecology on behalf of Port of Skagit County

March 16, 2011

GeoEngineers

600 Stewart Street
Suite 1700
Seattle, Washington 98101
206.728.2674

30 YEARS 2010

RECEIVED
JUN 20 2011
ATTORNEY GENERAL'S OFFICE
Ecology Division

Cleanup Action Plan

Taxiway F Site, Skagit Regional Airport
Burlington, Washington

File No. 5364-013-02

March 16, 2011

Prepared for:

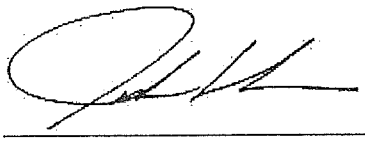
Washington State Department of Ecology
3190 160th Avenue SE
Bellevue, Washington 98008-5452

On behalf of:

Port of Skagit County
P.O. Box 348
Burlington, Washington 98233

Prepared by:

GeoEngineers, Inc.
600 Stewart Street
Suite 1700
Seattle, Washington 98101
206.728.2674



John M. Herzog, PhD
Principal

CEB:RCL:cv
http://projects/sites/0536401302/Draft/536401302_CAP_16-Mar-2011.docx

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1.0 INTRODUCTION

This Cleanup Action Plan (CAP) has been prepared by the Port of Skagit County (Port) for the Taxiway F Site (Site), located at the Skagit Regional Airport in Burlington, Washington (Figure 1). The CAP was prepared pursuant to the authority of Chapter 70.105D.050(1) of the Revised Code of Washington (RCW) and the requirements of the Washington State Model Toxics Control Act Cleanup Regulation (MTCA), as established in Chapter 173-340 of the Washington Administrative Code (WAC 173-340). The CAP provides an overview of the Site history and environmental conditions, summarizes the cleanup action alternatives considered, and presents the proposed cleanup action for soil and groundwater containing concentrations of pesticides and herbicides (collectively referred to herein as constituents of concern [COCs]) that exceed MTCA cleanup levels.

1.1. Regulatory Framework

The Site is formally referenced in the Washington State Department of Ecology (Ecology) databases as the "Skagit County Port Site," Ecology Site ID# 67457634. Prior to preparing this CAP, the Port completed a remedial investigation/feasibility study (RI/FS) at the Site under Agreed Order No. 6158 with Ecology. The RI/FS was conducted between September 2009 and September 2010 in accordance with the *Final Work Plan, Remedial Investigation/Feasibility Study, Taxiway F Site, Skagit Regional Airport* (RI/FS Work Plan; GeoEngineers, 2009). The scope and results of the RI/FS are presented in the *Remedial Investigation/Feasibility Study, Taxiway F Site, Skagit Regional Airport* (RI/FS Report; GeoEngineers, 2011). In addition to the remedial investigation (RI) results, the RI/FS Report also incorporates the results of earlier environmental investigations conducted at the Site between 2000 and 2008.

1.2. Purpose

The CAP has been prepared in accordance with WAC 173-340 to:

- Describe the Site, including an overview of the Site history and environmental conditions.
- Identify indicator hazardous substances, media of concern, Site-specific cleanup levels, and points of compliance for the cleanup action.
- Summarize the cleanup action alternatives evaluation presented in the RI/FS Report.
- Describe the proposed cleanup action for the Site.
- Identify applicable State and Federal laws pertaining to the cleanup action.
- Present the schedule for implementing the cleanup action.

2.0 SUMMARY OF SITE CONDITIONS

Several environmental investigations have been conducted at the Site, beginning with an initial soil investigation in 2000 (EAI, 2000), and culminating in the RI/FS completed in 2010. Investigations conducted prior to 2009 are summarized in the RI/FS Work Plan (GeoEngineers, 2009). The RI/FS Report (GeoEngineers, 2011) presents the results of the RI sampling activities conducted in 2009 and 2010, and uses the results of the RI and earlier investigations to characterize the nature and

extent of contamination. The feasibility study (FS) portion of the RI/FS Report describes the evaluation of cleanup action alternatives for the Site.

This section summarizes pertinent environmental conditions at the Site and provides an overview of the conceptual site model. More detailed descriptions of Site conditions, including sampling data and details regarding the nature and extent of contamination, are provided in the RI/FS Report.

2.1. Site Description and History

Taxiway F of the Skagit Regional Airport was constructed in 1933 as the original runway of a one-runway airfield for light airplanes. In 1943, the U.S. Navy constructed the airport's existing two-runway system as an alternate training field for the Whidbey Island Naval Air Station. After World War II, the Federal government continued to operate the airport, primarily for the Civil Air Patrol, until transferring the facility to Skagit County in 1958. The Port has owned the Site property since the mid-1960s, and assumed full ownership and operation of the airport in 1975. Prior to 1978, the Site and surrounding property was used for cattle grazing and farm equipment storage by various individuals.

Between 1978 and 2000, the Port leased the portion of the Site immediately adjacent to Taxiway F to a series of individuals and companies engaged in the business of crop dusting. In 1978, the Port leased the property to Swanland-Karr, Inc. In 1982, Swanland-Karr proposed to construct the hangar building that currently exists at the Site for aircraft parking and materials storage, including storage of chemicals used for crop dusting. William Swanland and Swanland-Belisle, Inc. leased the property in 1985; pesticide products used by the lessee were reported in 1988 to include Dinoseb, Parathion, Thiodan, Chemho-IPC, and Simazon. An environmental review of the leased property performed by the Port in 1988 identified staining in some of the work areas and an apparent oil release on the property. The Port provided the results of the environmental review and suggestions for addressing the identified issues to the lessee. In 1992, the property lease was assigned to Belisle Bros. Crop-Dusting, Inc. for continued use for crop dusting activities. In 1993 the lease was assigned to Curt Tronsdal and Tronsdal Air Service, Inc., and in 1998 the lease was assigned to Skagit Ag Services, Inc. Skagit Ag Services was the lessee until the Port discontinued leasing of the property in 2000.

During the time the leased property was used for crop dusting operations, pesticides and herbicides were stored in the hangar building and loaded onto aircraft for use. After the fenced operations area was vacated by the crop dusting operation in 2000, the Port discovered discolored soil in the vicinity of the hangar building. Environmental investigations of the property were initiated following this discovery.

For the purposes of the RI/FS and CAP, the Site is divided into three areas: (1) the historical operations area, which comprises approximately 2.2 acres and includes the hangar building and an asphalt-paved aircraft apron; (2) the drainage channel, a shallow, narrow swale that connects the historical operations area to a mixed coniferous-deciduous forest to the east; and (3) the wetland area, which is southeast of the historical operations area and is classified as a forested wetland. Figure 2 shows these three areas of the Site. During wet weather conditions, the drainage channel captures rainwater runoff from the historical operations area and conveys it to the wetland area.

2.2. Environmental Conditions

Shallow soils at the Site consist of approximately 1 to 3 feet of fine to coarse sand and gravel. Clay and silt deposits occur beneath the shallow sandy/gravelly soils to depths of about 50 to 85 feet below ground surface (bgs). During wet weather conditions, perched groundwater has been observed at depths of 2 to 3 feet bgs, near the interface between the shallow sand and gravel horizon and the underlying clay/silt unit. Beneath the clay/silt unit, granular soils consisting of fine to medium sand with varying amounts of silt and gravel are present to the maximum depth explored (115 feet bgs). Unconfined groundwater occurs at a depth of approximately 100 feet bgs in the sandy soils beneath the thick clay/silt unit.

A second-growth, mixed deciduous-coniferous forested wetland (the wetland area) is located southeast of the historical operations area and comprises approximately two-thirds of the Site (Figure 2). Heavy or prolonged rainfall during wet weather conditions at the Site typically results in temporary channelized and overland runoff and local surface water ponding in the wetland area. Channelized flow from the historical operations area to the wetland area occurs via the drainage channel (Figure 2). During the dry summer months, surface water is generally not present, or is only temporarily present at the Site.

Chemical analyses of soil and groundwater samples collected during the various investigations at the Site have detected concentrations of pesticides and herbicides exceeding MTCA cleanup levels in shallow soil and perched groundwater. There have been no confirmed detections of COCs in the deep groundwater zone beneath the clay/silt unit. Pesticides, herbicides, and arsenic have also been detected in surface water samples at concentrations exceeding cleanup levels. However, as noted above, surface water is a temporary Site feature that is present only during wet weather conditions. The cleanup action proposed to address contaminated soil and perched groundwater at the Site (see Section 5.0) is expected to also reduce or eliminate COCs in surface water.

The RI/FS Report (GeoEngineers, 2011) provides a detailed summary of the RI and previous investigation results, and should be referenced for additional information regarding the nature and extent of COCs in Site soil, groundwater, and surface water.

2.3. Conceptual Site Model

A conceptual site model (CSM) for the contamination identified at the Site is presented in the RI/FS Report (GeoEngineers, 2011). The CSM describes the potential contaminant sources, the nature and extent of COCs in each medium of concern, exposure pathways, and potential risks to human health and the environment posed by the COCs. A brief summary of the key elements of the CSM is provided below.

The concentrations of pesticides and herbicides detected in soil, perched groundwater, and seasonal surface water at the Site are attributed to releases and spills associated with historical crop-dusting operations. The suspected primary sources of these contaminants include surface releases from materials handling and storage activities and wash-down of airplanes and equipment. The released chemical products mixed with and infiltrated shallow soils, and the affected soils in the release areas subsequently acted (and likely continue to act) as a secondary source of contamination to perched groundwater, seasonal surface water, and soils in other areas of the Site. Potential transport mechanisms that have likely acted, and may continue to act, to

disperse contaminants at the Site include soil leaching to perched groundwater; soil erosion caused by rainwater runoff and wind, with subsequent downgradient deposition; and dispersion by seasonal fluctuations/flow of perched groundwater and historical cattle grazing.

Soil sampling performed during the RI and previous investigations indicates that concentrations of COCs in soil exceeding MTCA cleanup levels are generally limited to the upper 1 foot of soil throughout the Site. The highest concentrations have generally been detected just off the northern and eastern edges of the asphalt aircraft apron and along the drainage channel southeast of the historical operations area.

Potential receptors of concern that may be exposed to the pesticides and herbicides in shallow soil through dermal contact, dust inhalation, or incidental ingestion include Site visitors and workers, domestic animals (livestock), and terrestrial wildlife. Potential receptors of concern that may be exposed to COCs in perched groundwater through dermal contact or incidental ingestion (via daylighting of perched groundwater during wet weather conditions) include Site visitors/workers, domestic animals (livestock), and terrestrial wildlife.

Shallow groundwater beneath the Site is not currently being used as a drinking water source, nor is it likely to be used as a drinking water source in the future. Human ingestion of Site groundwater is not a potential future exposure pathway for the shallow perched groundwater due to the seasonal nature and insufficient yield of this groundwater zone.

3.0 CLEANUP REQUIREMENTS

Cleanup actions conducted under MTCA must comply with MTCA cleanup standards for the identified COCs and affected media, as well as applicable regulatory requirements based on Federal and State laws (WAC 173-340-710). This section identifies indicator hazardous substances for the Site contamination, the affected media of concern, cleanup standards, and applicable regulatory requirements for the proposed cleanup action.

3.1. Indicator Hazardous Substances

Under MTCA, the term "indicator hazardous substances" means a subset of hazardous substances present at a site that can be used for monitoring and analysis during any phase of remedial action for the purpose of characterizing the site or establishing cleanup compliance. Consistent with WAC 173-340-703, when defining cleanup requirements at a site that is contaminated with a relatively large number of hazardous substances, Ecology may eliminate from consideration those hazardous substances that contribute a small percentage of the overall threat to human health and the environment. The remaining hazardous substances can then serve as indicator hazardous substances for purposes of defining site cleanup requirements.

The investigations conducted at the Taxiway F Site have detected pesticides and herbicides in shallow soil, perched groundwater, and seasonal surface water at concentrations exceeding MTCA cleanup levels (GeoEngineers, 2009, 2011). As noted in the CSM summary (Section 2.3), contaminated Site soils act as a secondary source of contamination to perched groundwater and seasonal surface water. Endosulfan, a chlorinated pesticide, is the most commonly detected and widely distributed COC in Site soils. Endosulfan exceeded Site-specific cleanup levels in 85 percent

of all soil samples that had at least one COC exceeding cleanup levels. Accordingly, endosulfan will be used as an indicator hazardous substance for remedial actions addressing Site soils.

The COCs positively or tentatively detected above MTCA cleanup levels in perched groundwater include dinoseb, bentazon, 2,4-D, MCPA, aldrin, dieldrin, heptachlor, and heptachlor epoxide. These constituents will be used as indicator hazardous substances for perched groundwater. Endosulfan also will be used as an indicator substance in perched groundwater because it is the indicator hazardous substance for soil and was found in surface water as well.

As discussed below, surface water at the Site is generally a temporary, seasonal surface expression of perched groundwater, and will be addressed through the remediation of perched groundwater. Consequently, surface water is not considered to be a separate environmental medium with separate indicator hazardous substances for the cleanup action.

3.2. Media of Concern

Shallow soil and perched groundwater are the media of concern for the proposed cleanup action. The results of the RI indicate that elevated concentrations of pesticides and herbicides are present in shallow soil, perched groundwater, and seasonal surface water at the Site. As previously discussed, surface water is a temporary, seasonal feature at the Site, and is generally a surface expression of perched groundwater during the wet season. Accordingly, seasonal surface water is not considered to be a separate environmental medium for the cleanup action. Surface water will be addressed through the remediation of perched groundwater. Deep groundwater is isolated from the perched groundwater by an approximately 50-to 80-foot thick clay/silt unit and does not contain concentrations of COCs exceeding cleanup levels (GeoEngineers, 2011). Consequently, deep groundwater also is not a medium of concern for the cleanup action.

3.3. Cleanup Standards

Cleanup standards consist of: (1) cleanup levels that are protective of human health and the environment, (2) the point of compliance at which the cleanup levels must be met, and (3) regulatory requirements established in applicable State and Federal laws. The final Site-specific cleanup levels and points of compliance, presented by media, are summarized in the following sections. Applicable State and Federal laws are presented in Section 3.4.

3.3.1. Cleanup Levels

Site-specific cleanup levels for soil and groundwater were derived in the RI/FS Report (GeoEngineers, 2011). Detailed information regarding the derivation of cleanup levels is provided in the RI/FS Report. The Site-specific cleanup levels were developed in accordance with MTCA to be protective of human health and terrestrial wildlife. The cleanup levels are discussed below.

3.3.1.1. SOIL

Site-specific soil cleanup levels for the cleanup action were derived from applicable MTCA Method B cleanup levels, which include the following:

- MTCA Method B standard formula values (carcinogen and non-carcinogen) protective of human health direct-contact under an unrestricted land use scenario.

- MTCA Method B soil concentrations protective of potable groundwater, calculated using Ecology's fixed-parameter, three-phase partitioning model.
- MTCA Method B soil concentrations protective of terrestrial wildlife, calculated using Ecology's wildlife exposure model.

In accordance with WAC 173-340-705(6) and WAC 173-340-709, natural background soil metals concentrations in Washington state (Ecology, 1994) were considered in the derivation of cleanup levels. The lowest applicable protective concentrations, adjusted for natural background metals concentrations, were selected as the soil cleanup levels for the cleanup action. The soil cleanup levels are presented in Table 1.

3.3.1.2. GROUNDWATER

Site-specific groundwater cleanup levels for the cleanup action were derived from applicable MTCA Method B cleanup levels and available State and Federal criteria, which include the following:

- MTCA Method B standard formula values (carcinogen and non-carcinogen) for potable groundwater.
- Federal Maximum Contaminant Levels (MCLs), where deemed to be sufficiently protective (that is, where the risk associated with the MCL is less than 1 in 100,000), in accordance with WAC 173-340-720(4)(b).

In addition to the criteria listed above, analytical practical quantitation limits (PQLs) and natural background groundwater metals concentrations in Washington state (PTI, 1989) were considered in accordance with WAC 173-340-705(6), WAC 173-340-707 and WAC 173-340-709. The lowest applicable protective concentrations, adjusted for PQLs and natural background metals concentrations, were selected as the groundwater cleanup levels for the cleanup action. The groundwater cleanup levels are presented in Table 2.

3.3.2. *Points of Compliance*

Under MTCA, the point of compliance is the point or locations on a site where the cleanup levels must be attained. This section describes the points of compliance for soil and groundwater.

3.3.2.1. SOIL

In accordance with WAC 173-340-740(6)(b), for soil cleanup levels that are based on protection of groundwater, the point of compliance is in soil throughout the Site. In accordance with WAC 173-340-740(6)(e), WAC 173-340-7490(4)(b), and WAC 173-340-740(6)(d), for soil cleanup levels that are based on ecological considerations (e.g., protection of wildlife) or human exposure via direct contact, the point of compliance is in soil throughout the Site from the ground surface to 15 feet bgs.

3.3.2.2. GROUNDWATER

In accordance with WAC 173-340-720(8)(b), the point of compliance for groundwater is throughout the Site from the uppermost level of the saturated zone extending vertically to the lowermost depth which could potentially be affected by the Site. Several of the existing groundwater monitoring wells at the Site may need to be decommissioned to facilitate removal of shallow contaminated soils during the cleanup action (see Section 5.3.1). Decommissioned monitoring wells completed

in the perched groundwater zone would be replaced as appropriate after the soil removal is completed, and would be used along with existing shallow wells not requiring decommissioning to assess compliance with the groundwater cleanup levels. As noted in Section 2.2, groundwater monitoring data indicate that the deep groundwater zone beneath the Site has not been affected by the contamination in shallow soils and perched groundwater. Accordingly, monitoring of the deep groundwater zone will not be required as part of the cleanup action. The locations of shallow groundwater monitoring wells will be specified in the Engineering Design Report.

3.4. Applicable Regulatory Requirements

The applicable laws and regulations provide the framework for the cleanup action. In addition to the cleanup standards developed through MTCA, other regulatory requirements must be considered in the selection and implementation of the cleanup action. MTCA requires the cleanup standards to be "at least as stringent as all applicable state and federal laws" (WAC 173-340-700[6][a]). Besides establishing minimum requirements for cleanup standards, applicable State and Federal laws may also impose certain technical and procedural requirements for performing cleanup actions. These requirements are described in WAC 173-340-710. Potentially applicable State and Federal laws are identified below.

The cleanup action at the Site will be performed pursuant to MTCA under the terms of the Consent Decree between Ecology and the Port of Skagit County. Accordingly, the cleanup action meets the permit exemption provisions of MTCA, obviating the need to follow most procedural requirements of the various local and State regulations that would otherwise apply to the action. Ecology will determine the substantive provisions of State and local laws and regulations that are applicable to this project, following consultation with appropriate State and local regulators. The substantive requirements will be addressed in the Consent Decree.

As the lead agency for the cleanup action, Ecology is responsible for identifying and evaluating the potential adverse impacts of the cleanup action on the environment. Ecology will perform a review and provide an environmental determination under the State Environmental Policy Act (RCW 43.21). A copy of the State Environmental Policy Act (SEPA) Checklist is included as Appendix A to the CAP to facilitate the SEPA review process.

The permits or other Federal, State or local requirements that are applicable to the cleanup action and that are known at this time include the following:

- Federal Clean Water Act, Section 404 Permit and the associated Ecology 401 Certification.
- Solid Waste Handling Standards (RCW 70.95).
- Dangerous Waste Regulations (RCW 70.105).
- Washington Industrial Safety and Health Act (RCW 49.17).
- Federal Occupational Safety and Health Act (29 CFR 1910, 1926).
- Washington Construction Stormwater General Permit.

4.0 EVALUATION OF CLEANUP ACTION ALTERNATIVES

Potential remediation technologies and cleanup action alternatives for the Site were evaluated in the FS. Details of the evaluation are presented in the RI/FS Report (GeoEngineers, 2011). This section summarizes the remediation technologies and cleanup action alternatives considered, and the basis for selection of the proposed cleanup action.

4.1. Development of Alternatives and Evaluation Criteria

A preliminary set of remediation technologies, including no action, institutional controls, soil containment, soil removal and disposal, soil removal with ex-situ treatment, and in-situ treatment, was screened against the MTCA threshold criteria for selection of cleanup actions (WAC 173-340-360) to develop potentially feasible cleanup action alternatives. Four cleanup action alternatives were developed for more detailed evaluation, each consisting of one or a combination of the two retained remediation technologies, soil removal/disposal and capping. Each alternative applied these technologies in different combinations in the three distinct areas of the Site (historical operations area, drainage channel, and wetland area). The cleanup action alternatives evaluated in the FS include the following:

- Alternative 1 – Excavate Historical Operations Area, Drainage Channel, and Wetlands Area
- Alternative 2 – Cap Historical Operations Area; Excavate Drainage Channel and Wetland Area
- Alternative 3 – Cap Historical Operations Area and Drainage Channel; Excavate Wetland Area
- Alternative 4 – Cap Historical Operations Area, Drainage Channel, and Wetland Area

The cleanup action alternatives were evaluated against the applicable MTCA minimum requirements for cleanup actions, which include (WAC 173-340-360[2]):

- Threshold Criteria:
    - Protection of human health and the environment.
    - Compliance with cleanup standards.
    - Compliance with applicable State and Federal laws.
    - Provision for compliance monitoring.
- Provision for a reasonable restoration time frame.
- Use of permanent solutions to the maximum extent practicable, including consideration of the following:
    - Protectiveness
    - Permanence
    - Cost
    - Long-term effectiveness
    - Management of short-term risks
    - Technical and administrative implementability

- Consideration of public concerns

4.2. Evaluation of Alternatives

Brief descriptions and detailed evaluations of each cleanup action alternative relative to the MTCA evaluation criteria are presented in Table 3. All four alternatives comply with the MTCA threshold criteria and all four provide reasonable restoration time frames of approximately one year for design and construction. Because Alternative 1 achieves complete removal of contaminated soil exceeding cleanup levels, it is the most protective alternative and provides the greatest short-term reduction of residual risks associated with perched groundwater. Alternatives 3 and 4 would result in a net loss of wetlands and modification of natural drainage function at the Site due to the filling/capping in the drainage channel and/or wetland area under these alternatives. As a result, wetland mitigation (i.e., wetland restoration or wetland creation at a suitable location in the Site vicinity) would be required under Alternatives 3 and 4.

The MTCA disproportionate cost analysis (DCA) is used to determine which cleanup action alternative is permanent to the maximum extent practicable. The DCA compares cleanup costs and benefits and allows selection of a cleanup action alternative that provides the greatest benefits relative to cost. The DCA presented in the FS is updated in this CAP based on clarification by Ecology that the lateral limits of the cleanup actions considered should be defined by the existing soil sampling data that bound the extent of COCs exceeding cleanup levels (as described in Section 5.2 below). As a result, the area and volume assumptions for each of the cleanup action alternatives were adjusted accordingly. The assumptions for design, management, and compliance monitoring of the cleanup construction also were refined based on the updated cleanup action lateral limits. The most significant changes resulted from the enlargement of the overall cleanup area to the clean sample limits, leading to an increase in the total area requiring excavation and/or capping.

Similar to the FS, the revised DCA evaluated Alternatives 1 through 4 based on the MTCA DCA criteria (WAC 173-340-360[3][e]). The alternatives were ranked on a scale of 1 (lowest) to 10 (highest) for each of the DCA criteria to compare the relative benefits of the alternatives. Each of the DCA criteria was assigned a weighting factor that ranged between 10 percent and 30 percent (the sum of the weighting factors equaled 100 percent). The detailed scoring is shown in Table 3; the relative benefits ranking summary is presented in Table 4. The benefit rankings and estimated cleanup costs for each of the alternatives are summarized below and illustrated graphically in Figure 3.

- Alternative 1: benefit ranking = 8.7 (out of 10); estimated cleanup cost = $2,747,000.
- Alternative 2: benefit ranking = 6.7; estimated cleanup cost = $2,265,000.
- Alternative 3: benefit ranking = 5.8; estimated cleanup cost = $2,122,000.
- Alternative 4: benefit ranking = 4.4; estimated cleanup cost = $1,926,000.

Cost estimates for each alternative are presented in Appendix B.

The revised DCA is summarized in Figure 3. The results of the revised DCA did not modify the results of the DCA presented in the FS. The preferred cleanup action alternative selected in the FS,

and confirmed in this CAP, is Alternative 1 – Excavate Historical Operations Area, Drainage Channel, and Wetland Area. Alternative 1 meets the MTCA threshold requirements for cleanup actions and uses permanent solutions to the maximum extent practicable (WAC 173-340-360[2][b][i]). Among the four alternatives evaluated, Alternative 1 also best preserves the existing and possible future uses and wetland functions of the Site.

The selected cleanup action alternative will result in:

- Permanent removal of contaminant mass from the Site through the excavation and off-site disposal of soil containing COC concentrations above MTCA cleanup levels.
- Elimination of unacceptable risks to potential receptors including humans, domestic animals (livestock), and terrestrial wildlife posed by COCs in Site soils.
- Elimination of the potential for future erosion and migration of COCs from the historical operations area and drainage channel to the adjacent wetland area.
- Short-term reduction and eventual elimination of unacceptable risks to potential receptors including humans, domestic animals (livestock), and terrestrial wildlife posed by COCs in Site groundwater through the removal of contaminated surface soils in contact with perched groundwater.

5.0 PROPOSED CLEANUP ACTION

The proposed cleanup action consists of excavation and off-site disposal of soil containing COC concentrations above MTCA cleanup levels in all three areas of the Site: the historical operations area, the drainage channel, and the wetland area. Following excavation, each of the three areas will be restored.

5.1. Cleanup Action Objectives

Cleanup action objectives (CAOs) consist of chemical- and media-specific goals for protecting human health and the environment. The CAOs specify the COCs and affected media, the exposure routes and receptors targeted by the cleanup action, and the cleanup goals.

The objective of the proposed cleanup action is to eliminate, reduce, or otherwise control to the extent feasible and practicable, unacceptable risks to human health and the environment posed by pesticides and herbicides in soil and groundwater at the Site in accordance with MTCA (WAC 173-340) and other applicable regulatory requirements. Specifically, the objective of the cleanup action is to mitigate risks associated with the following potential receptors and exposure routes:

- Direct contact (dermal, incidental ingestion, or inhalation) with contaminated shallow soils by Site visitors and workers (including construction workers).
- Direct contact (dermal, incidental ingestion, or inhalation) with contaminated shallow soils by domestic animals (livestock) and terrestrial wildlife.
- Direct contact with contaminated perched groundwater during wet weather conditions (via daylighting of perched groundwater) by Site visitors and workers (dermal) and domestic animals/terrestrial wildlife (dermal or ingestion).

The cleanup goal is to mitigate these risks by meeting the Site-specific soil and groundwater cleanup standards identified in Section 3.3. The cleanup standards, which were derived from regulatory criteria protective of human health and ecological receptors, are assumed to also be protective of domestic animals (livestock).

5.2. Cleanup Action Description

The cleanup action will consist of the following activities:

- Removal or shoring of aboveground structures at the Site as necessary to provide access to soil with concentrations of COCs exceeding MTCA cleanup levels.
- Implementation of erosion control and Site security measures.
- Clearing and grubbing vegetated areas of the drainage channel and wetland area.
- Excavation of surface soils throughout the Site containing COC concentrations above MTCA cleanup levels. The lateral limits of the excavation are defined by the existing soil sampling data that bound the extent of COCs exceeding cleanup levels. Excavation will be completed to the existing "clean" sampling locations. The planned excavation areas are shown on Figure 4.
- Transport of excavated contaminated soils for disposal at an off-site, permitted facility.
- Management of surface water, stormwater, and groundwater, as necessary, during excavation activities.
- Collection of data to verify that the lateral limits of excavation have been reached, by methods defined in the Compliance Monitoring Plan.
- Collection of verification soil samples from the bottom of the excavations for laboratory analysis, by methods and at the locations and frequency defined in the Compliance Monitoring Plan.
- Backfilling the excavations with clean, imported fill material, to meet the specifications defined in the Engineering Design Report.
- Wetland vegetation restoration and revegetation monitoring, in accordance with the Wetland Restoration Plan, included as an appendix to the Engineering Design Report.
- Confirmational groundwater monitoring to verify the reduction of COC concentrations in shallow (perched) groundwater as a result of the contaminated soil (source) removal.

The existing groundwater monitoring wells screened in the perched groundwater zone and located within the cleanup action excavation area will be decommissioned as necessary prior to the cleanup action construction. If the pre-established clean sampling locations cannot be reached during the cleanup action, additional sidewall samples will be collected at the limits of the excavation and Ecology be consulted for direction on a case-by-case basis to confirm the completeness of the removal. After contaminated soil excavation is completed, confirmational monitoring wells will be installed as specified in the Compliance Monitoring Plan to monitor perched groundwater quality. The monitoring wells will be monitored to verify that the cleanup levels for groundwater are achieved as a result of the contaminated soil removal.

5.3. Cleanup Action Components

This section provides a summary of the proposed cleanup action. A more detailed description of the cleanup action construction elements and methods will be provided in the Engineering Design Report (see Section 6.1).

5.3.1. Soil Excavation

An estimated total of 4,300 cubic yards of soil with concentrations of COCs exceeding the MTCA cleanup levels will be excavated from the historical operations area, the drainage channel, and the wetland area. The estimated volume of material to be removed by the cleanup action will be refined as necessary during the remedial design and development of the Engineering Design Report for the project. The excavated soil will be transported to an off-site, permitted disposal facility.

Prior to excavation, underground utilities will be located, and a portion of the existing asphalt will be removed from the historical operations area to facilitate removal of the contaminated soil. In addition, it is assumed that some areas/portions of the hangar building (e.g., floor slabs and/or footings) will need to be protected, moved, or demolished during or prior to excavation in the historical operations area and restored following the cleanup action. Approximately 1.4 acres of wetlands would need to be cleared and grubbed prior to soil excavation in the drainage channel and wetland area. Existing monitoring wells GEI-MW4, GEI-MW6, GEI-MW7, and GEI-MW8 will be decommissioned except where they can be protected during the cleanup activities.

The lateral limits of the cleanup action excavation are shown in Figure 4. The lateral limits shown in this figure are defined based on the existing chemical analytical results for soil samples collected at the Site. The cleanup action will remove soil with concentrations of COCs exceeding the MTCA cleanup levels.

5.3.2. Soil Transport and Disposal

The excavated soil will be characterized for disposal as required by MTCA, Washington State Dangerous Waste Regulations (WAC 173-303) where appropriate, and the waste-profiling requirements of the selected disposal facility. The excavated soil is expected to fall into two categories: (1) non-dangerous waste, suitable for disposal at a Subtitle D landfill; and (2) hazardous/dangerous waste requiring either: (a) disposal at a Subtitle C facility, or (b) treatment followed by disposal at a Subtitle D landfill. Based on the existing data, it is anticipated that the majority of excavated soil (90% or greater) will be classified as non-dangerous waste.

5.3.3. Site Restoration

The historical operations area will be backfilled with clean, imported structural fill material. The drainage channel and wetland area will be backfilled with an appropriate topsoil mix. All areas will be restored to match the approximate original topography, features, and surfaces. Approximately 1.4 acres of the drainage channel and wetland area will be restored with wetland vegetation. The revegetated areas will be monitored relative to a set of performance standards for 7 to 10 years to evaluate the success of the revegetation. The restoration and monitoring actions to be implemented in the drainage channel and wetland area will be described in greater detail in the Engineering Design Report.

5.4. Compliance Monitoring

Compliance monitoring and contingency responses (as needed) will be implemented in accordance with WAC 173-340-410. The three types of compliance monitoring to be performed include:

- **Protection Monitoring** to confirm that human health and the environment are adequately protected during the construction phase of the cleanup action.
- **Performance Monitoring** to confirm that the cleanup action has attained cleanup standards.
- **Confirmational Monitoring** to confirm the long-term effectiveness of the cleanup action.

The protection monitoring plan for the cleanup action will be addressed in a Health and Safety Plan (to be included as an appendix of the Engineering Design Report; see Section 5.5). Performance and confirmational monitoring will be detailed in a Compliance Monitoring Plan. The objective of the Compliance Monitoring Plan is to confirm that cleanup standards are achieved and to confirm the long-term effectiveness of the cleanup action. The Compliance Monitoring Plan (discussed further in Section 6.3) will describe the duration and frequency of monitoring, the trigger for contingency response actions, contingency response actions, and the rationale for terminating monitoring.

6.0 ADDITIONAL REQUIREMENTS

This section summarizes additional documentation to be prepared in support of the cleanup action, including an Engineering Design Report, construction plans and specifications, a Compliance Monitoring Plan, and a Construction Completion (As-Built) Report. Permits and other regulatory requirements applicable to the cleanup action are also discussed in this section.

6.1. Engineering Design Report

The Engineering Design Report will include sufficient information for the development and review of construction plans and specifications to document engineering concepts and design criteria used for the design of the cleanup action. The pertinent information specified under WAC 173-340-400(4)(a)(i) through 173-340-400(4)(a)(xx) will be included in the Engineering Design Report as applicable. Appendices to the Engineering Design Report will include a Sampling and Analysis Plan, a Health and Safety Plan, and a Wetland Restoration Plan. The Compliance Monitoring Plan (described in Section 6.3 below) may also be included as an appendix to the Engineering Design Report.

6.2. Construction Plans and Specifications

The construction plans and specifications will provide detailed construction plans needed to carry out the cleanup action. In accordance with WAC 173-340-400(4)(b), the documents will include the following information, as applicable:

- A description of the work to be performed, and a summary of the engineering design criteria from the Engineering Design Report.
- A site location map and a map of existing conditions. Maps will include a grid in Washington State Plan North coordinates, or other coordinates.

- Copies of applicable permit applications and approvals.
- Detailed plans, procedures, and specifications necessary for the cleanup action.
- Specific quality control tests to be performed to document the construction, including specifications for testing or reference to specific testing methods, frequency of testing, acceptable results, and other documentation methods.
- Provisions to ensure that the health and safety requirements of WAC 173-340-810 are met.

Cleanup action construction will be performed and documented in accordance with applicable requirements of WAC 173-340-400(6). These requirements include oversight of construction by a Professional Engineer licensed in the State of Washington, and submittal of as-built drawings and/or a Construction Completion Report that documents the cleanup and includes an opinion of the engineer as to whether the cleanup was conducted in substantial compliance with the construction plans and specifications and related documents.

6.3. Compliance Monitoring Plan

The Compliance Monitoring Plan, prepared in accordance with WAC 173-340-410, will describe the performance and confirmational monitoring to be performed to verify the effectiveness of the cleanup action. Protection monitoring will be addressed in the Health and Safety Plan. The Compliance Monitoring Plan will present the purpose and objectives of data collection and the rationale for the monitoring approach. It will also describe the type, number, and location of the samples to be collected, the analyses to be performed, the monitoring schedule, the trigger for contingency response actions, and contingency response actions. Field sample collection and handling procedures and laboratory analytical methods will be specified in a Sampling and Analysis Plan prepared in accordance with WAC 173-340-820.

6.4. Construction Completion (As-Built) Report

At the completion of construction, the engineer responsible for the oversight of construction will prepare as-built drawings and a report documenting all aspects of facility construction. The report will include reference to all data collected during the cleanup action that is submitted to Ecology's Environmental Information Management System (EIM). In addition, the report will include electronic files in database format of any data not submitted to EIM. The report will be prepared in a manner that clearly documents what was done and clearly presents the data used to verify that compliance has been achieved.

The report will also contain an opinion from the engineer, based on testing results and inspections, as to whether the cleanup action has been constructed in substantial compliance with the plans and specifications and related documents.

6.5. Permits/Requirements

The cleanup action will be conducted under a Consent Decree with Ecology. Consequently, the cleanup action is exempt from the procedural requirements of certain laws and all local permits (WAC 173-340-710[9][a]) but must comply with the substantive requirements of these laws and permits. The exemption from procedural requirements applies to the:

- Washington Clean Air Act (RCW 70.94).

- Solid Waste Management Act (RCW 70.95).
- Hazardous Waste Management Act (RCW 70.105).
- Construction Projects in State Waters (RCW 75.20).
- Water Pollution Control Act (RCW 90.48).
- Shoreline Management Act (RCW 90.58).
- Any laws requiring or authorizing local government permits or approvals.

The exemption is not applicable if Ecology determines that the exemption would result in the loss of approval from a Federal agency that may be necessary for the State to administer any Federal law. The required and exempt permit requirements/approvals are provided in the following sections.

6.5.1. Required Permits/Approvals

The following permits/approvals are applicable to the cleanup action and do not fall under the procedural exemption of WAC -173-340-710(9)(a).

Clean Water Act, Section 404 Permit, U.S. Environmental Protection Agency. The Clean Water Act is the primary Federal law for protecting water quality from pollution. Section 404 of the Clean Water Act requires a permit from the U.S. Army Corps of Engineers (USACE) for grading or clearing in a wetland. In July 2008, the Port obtained verification of coverage under Nationwide Permit (NWP) 38, Cleanup of Hazardous and Toxic Waste, for cleanup actions proposed in a previous CAP prepared by Hart Crowser in 2008 (USACE Jurisdictional Determination Reference Number NWS-2008-19-NO). The current CAP has a smaller wetland impact area and proposes remediation in a slightly different footprint area than the 2008 Hart Crowser CAP. The Port received re-verification that the current CAP is covered under NWP 38 in a letter from the USACE dated February 15, 2011.

401 Water Quality Certification, Ecology. Applicants receiving a Section 404 Permit from the USACE are required to obtain a Section 401 Water Quality Certification from Ecology to demonstrate compliance with State water quality standards and other aquatic resource protection requirements under Ecology's authority. The USACE's July 2008 verification under NWP 38 indicated that the work proposed in the 2008 Hart Crowser CAP complied with Ecology's Water Quality Certification and the Coastal Zone Management Act requirements, and no further coordination with Ecology was necessary to meet these requirements. The USACE has confirmed that the current CAP also complies with Ecology's Water Quality Certification and the Coastal Zone Management Act requirements (McNair, 2011).

Construction Stormwater General Permit, Ecology. This permit is required for clearing, grading and/or excavation that results in the disturbance of one or more acres and discharges stormwater to surface waters of the State. This permit is applicable to the cleanup action because of the potential for discharge of construction stormwater to surface water. Stormwater management and erosion and sedimentation control for the protection of surface water during the cleanup action will be conducted in accordance with the substantive requirements of the Washington State Water Pollution Control Act (RCW 90.48). The Port has applied for this permit and construction will not begin until it is issued.

State Environmental Policy Act, Ecology. The Washington State Environmental Policy Act (SEPA) provides a way to identify possible environmental impacts that may result from governmental decisions. These decisions may be related to issuing permits for private projects, constructing public facilities, or adopting regulations, policies or plans. Information provided during the SEPA review process helps agency decision-makers, applicants, and the public understand how a proposal will affect the environment. Any proposal that requires a State or local agency decision to license, fund, or undertake a project, or the proposed adoption of a policy, plan, or program can trigger environmental review under SEPA (see WAC 197-11-704 for a complete definition of agency action). The SEPA checklist and Ecology's determination that the cleanup activities will not have significant environmental impacts are included in Appendix A.

6.5.2. *Exempt Permits*

The following are exempted permits for which the substantive requirements are applicable to the cleanup action and must be met, as they are known at this time:

- Critical Areas Ordinance, Skagit County
- Grading Permit, Skagit County

The documents required for each of these permits will be included as an appendix to the Engineering Design Report or the construction plans and specifications. The applicable substantive requirements of these permits are included below.

Critical Areas Ordinance, Skagit County. The Skagit County Critical Areas Ordinance was developed under the directives of the Washington State Growth Management Act to designate and protect critical areas. Critical areas are defined as wetlands, aquifer recharge areas, frequently flooded areas, geologically hazardous areas, and fish and wildlife habitat conservation areas. The provisions of the ordinance pertaining to the protection of wetland functions and values are applicable to the proposed cleanup action. Because the cleanup action is being implemented pursuant to a Consent Decree, under WAC 173-340-710(9)(a) (the MTCA Permit Exemption) the cleanup is exempt from the procedural requirements of the Critical Areas Ordinance. Substantive requirements include completion of a critical areas checklist and critical areas review by the Skagit County Department of Planning and Development Services pursuant to Chapter 14.24 of the Skagit County Code. Substantive requirements will be included in the Engineering Design Report.

Grading Permit, Skagit County. The Grading Permit is required by Skagit County for any subsurface excavation and/or fill work and is applicable to the cleanup action based on the excavation for the removal of contaminated soil and subsequent backfilling. Under the MTCA Permit Exemption the cleanup is exempt from the procedural requirements of the Grading Permit. Substantive requirements of the Grading Permit include completion of a Grading Permit Application and a Drainage Plan and Temporary Erosion and Sedimentation Control Plan. Substantive requirements will be included in the Engineering Design Report.

7.0 IMPLEMENTATION OF THE CLEANUP ACTION

The schedule for implementation of the cleanup action will be defined in the Consent Decree. The preliminary remedial design completed to date has included development of concept-level design of the selected cleanup action sufficient to estimate cleanup costs and identify applicable regulations, laws, and permits. The required submittals identified in the Consent Decree, including the Engineering Design Report, Compliance Monitoring Plan, and other required documents, will be prepared and submitted for Ecology review and approval according to the schedule in the Consent Decree. The Port is currently planning to implement the cleanup action in summer or fall of 2011. The anticipated schedule for implementation of the cleanup action includes the following:

- Draft Engineering Design Report – submitted to Ecology for review within 60 days of the effective date of the Consent Decree.
- Final Engineering Design Report – submitted to Ecology 45 days after receipt of comments from Ecology on the Draft Engineering Design Report.
- Draft Compliance Monitoring Plan – submitted to Ecology for review within 60 days of the effective date of the Consent Decree.
- Final Compliance Monitoring Plan – submitted to Ecology 45 days after receipt of comments from Ecology on the Draft Compliance Monitoring Plan.
- Cleanup Action Construction – commence within 30 days of Ecology approval of the Final Engineering Design Report and estimated to occur over a period of 3 to 6 months beginning in August 2011.
- Draft Construction Completion (As-Built) Report – submitted to Ecology within 120 days of completion of cleanup action construction.
- Final Construction Completion (As-Built) Report – submitted to Ecology 45 days after receipt of comments from Ecology on the Draft Construction Completion (As-Built) Report.

The cleanup action construction is tentatively planned to commence in August 2011 to correspond to dry weather conditions and facilitate work in the seasonal wetland. The cleanup action construction may be delayed with approval from Ecology.

Consistent with Chapter 70.105D RCW, as implemented by Chapter 173-340 WAC (MTCA Cleanup Regulation), Ecology has determined that the selected Site cleanup action described in Section 5.0 of this CAP is protective of human health and the environment, will attain Federal and State requirements that are applicable or relevant and appropriate, complies with cleanup standards, and provides for compliance monitoring. The selected cleanup action satisfies the preference expressed in WAC 173-340-360 for the use of permanent solutions to the maximum extent practicable, and provides for a reasonable restoration timeframe.

8.0 REFERENCES

GeoEngineers, Inc. 2011. Draft Final Remedial investigation/Feasibility Study, Taxiway F Site, Skagit Regional Airport, Ecology Agreed order No. 6158. January 10.

GeoEngineers, Inc. 2009. Final Work Plan, Remedial Investigation/Feasibility Study, Taxiway F Site, Skagit Regional Airport, Ecology Agreed order No. 6158. July 31.

McNair, F. 2011. Personal communication with Randel Perry, U.S. Army Corps of Engineers. March 15, 2011

TABLE 1

SOIL CLEANUP LEVELS
TAXIWAY F SITE
BURLINGTON, WASHINGTON

Analyte	CAS No.	Soil Criteria						Analytical Laboratory Criteria[3]		Soil Cleanup Level[6]
		Washington State Background[1]	Method B Standard Formula Value, Carcinogen, Direct Contact, Unrestricted Land Use[2]	Method B Standard Formula Value, Non-Carcinogen, Direct Contact, Unrestricted Land Use[2]	Protection of Groundwater (Calculated)	Site-Specific TEE[4]	Site-Specific Calculated TEE[5]	Practical Quantitation Limit	Analytical Method	
Chlorinated Pesticides										
aldrin	309-00-2	–	0.059	2.4	–	0.1	–	0.025	8081A-GC/ECD	0.059
alpha chlordane (cis-chlordane)	5103-71-9	–	–	–	–	–	–	0.025	8081A-GC/ECD	–
gamma chlordane	5566-34-7	–	–	–	–	–	–	0.025	8081A-GC/ECD	–
total chlordane	57-74-9	–	2.9	40	2.05	2.7	–	0.025	8081A-GC/ECD	2.05
4,4'-DDD	72-54-8	–	4.2	–	–	–	–	0.025	8081A-GC/ECD	4.2
4,4'-DDE	72-55-9	–	2.9	–	–	–	–	0.025	8081A-GC/ECD	2.9
4,4'-DDT	50-29-3	–	2.9	40	3.54	–	–	0.025	8081A-GC/ECD	2.9
total DDT (sum of 4,4' isomers)	EDF-229	–	–	–	–	0.75	–	0.025	8081A-GC/ECD	0.75
dieldrin	60-57-1	–	0.063	4	–	0.07	–	0.025	8081A-GC/ECD	0.063
endosulfan I	959-98-8	–	–	–	–	–	–	0.025	8081A-GC/ECD	–
endosulfan II	33213-65-9	–	–	–	–	–	–	0.025	8081A-GC/ECD	–
endosulfan sulfate	1031-07-8	–	–	–	–	–	–	0.025	8081A-GC/ECD	–
total endosulfan	115-29-7	–	–	480	4.22	–	2.4	0.025	8081A-GC/ECD	2.4
endrin ketone	53494-70-5	–	–	–	–	–	–	0.025	8081A-GC/ECD	–
heptachlor	76-44-8	–	0.22	40	–	0.4	–	0.025	8081A-GC/ECD	0.22
heptachlor epoxide	1024-57-3	–	0.11	1	–	0.4	–	0.025	8081A-GC/ECD	0.11
lindane (gamma-BHC)	58-89-9	–	0.77	24	–	6	–	0.025	8081A-GC/ECD	0.77
methoxychlor	72-43-5	–	–	400	–	–	–	0.025	8081A-GC/ECD	400
toxaphene	8001-35-2	–	0.91	–	–	–	–	0.5	8081A-GC/ECD	0.91
Organophosphate Pesticides										
azinphos-methyl (guthion)	86-50-0	–	–	–	–	–	–	0.25	8141mod-GC/MS	–
chlorpyrifos (chlorpyriphos)	2921-88-2	–	–	240	–	–	–	0.05	8081mod-GC/MS	240
methyl parathion	298-00-0	–	–	20	–	–	–	0.25	8141mod-GC/MS	20
parathion (parathion ethyl)	56-38-2	–	–	480	–	–	–	0.05	8081mod-GC/MS	480
Herbicides										
3,5-dichlorobenzoic acid	51-36-5	–	–	–	–	–	–	0.1	8151A-ECD or GC/MS	–
4-nitrophenol	100-02-7	–	–	–	–	–	–	0.1	8151A-ECD or GC/MS	–
2,4,5-TP (silvex)	93-72-1	–	–	640	–	–	–	0.1	8151A-ECD or GC/MS	640
2,4,5-T (2,4,5-trichlorophenoxyacetic acid)	93-76-5	–	–	800	–	–	–	0.1	8151A-ECD or GC/MS	800
2,4-DB	94-82-6	–	–	640	–	–	–	0.8	8151A-ECD or GC/MS	640
2,4-D (2,4-dichlorophenoxyacetic acid)	94-75-7	–	–	800	–	–	–	0.2	8151A-ECD or GC/MS	800
bentazon	25057-89-0	–	–	2,400	–	–	–	0.1	8151A-ECD or GC/MS	2,400
chloramben	133-90-4	–	–	1,200	–	–	–	0.1	8151A-ECD or GC/MS	1,200
DCPA (dacthal)(total DCPA diacid)(chlorthal)	1861-32-1	–	–	800	–	–	–	0.05	8081mod-GC/MS	800
dicamba	1918-00-9	–	–	2,400	2.20	–	–	0.1	8151A-ECD or GC/MS	2.2
dichlorprop	120-36-5	–	–	–	–	–	–	0.3	8151A-ECD or GC/MS	–
dinoseb	88-85-7	–	–	80	0.524	–	25.8	0.05	8081mod-GC/MS	0.524
MCPA (2-methyl-4-chlorophenoxy-acetic acid)	94-74-6	–	–	40	–	–	–	0.1	8151A-ECD or GC/MS	40
MCPP (2-(2-methyl-4-chlorophenoxy)propanic acid)	7085-19-0	–	–	–	–	–	–	0.1	8151A-ECD or GC/MS	–
pentachlorophenol	87-86-5	–	8.3	2,400	–	4.5	–	0.05	8081mod-GC/MS	4.5
triclopyr (trichlopyr)	55335-06-3	–	–	–	–	–	–	0.1	8151A-ECD or GC/MS	–
Miscellaneous Pesticides/Herbicides										
alachlor	15972-60-8	–	12	800	–	–	–	0.05	8081mod-GC/MS	12
atrazine	1912-24-9	–	4.5	2,800	–	–	–	0.05	8081mod-GC/MS	4.5
triadimefon/bayleton	43121-43-3	–	–	480	–	–	–	0.05	8081mod-GC/MS	480
chlorothalonil (daconil)	1897-45-6	–	91	1,200	–	–	–	0.05	8081mod-GC/MS	91
chlorpropham	101-21-3	–	–	16,000	–	–	–	0.05	8081mod-GC/MS	16,000
dicofol	115-32-2	–	–	–	–	–	–	0.5	8081mod-GC/MS	–
diphenamid	957-51-7	–	–	2,400	–	–	–	0.05	8081mod-GC/MS	2,400
EPTC (S-ethyl dipropylthiocarbamate) (eptam)	759-94-4	–	–	2,000	–	–	–	0.05	8081mod-GC/MS	2,000
metolachlor	51218-45-2	–	–	12,000	–	–	–	0.05	8081mod-GC/MS	12,000

Analyte	CAS No.	Soil Criteria						Analytical Laboratory Criteria[3]		Soil Cleanup Level[6]
		Washington State Background[1]	Method B Standard Formula Value, Carcinogen, Direct Contact, Unrestricted Land Use[2]	Method B Standard Formula Value, Non-Carcinogen, Direct Contact, Unrestricted Land Use[2]	Protection of Groundwater (Calculated)	Site-Specific TEE[4]	Site-Specific Calculated TEE[5]	Practical Quantitation Limit	Analytical Method	
metribuzin	21087-64-9	–	–	2,000	–	–	–	0.05	8081mod-GC/MS	2,000
napropamide	15299-99-7	–	–	8,000	–	–	–	0.05	8081mod-GC/MS	8,000
cis-permethrin	54774-45-7	–	–	–	–	–	–	0.05	8081mod-GC/MS	–
trans-permethrin	61949-77-7	–	–	–	–	–	–	0.05	8081mod-GC/MS	–
total permethrin	52645-53-1	–	–	4,000	–	–	–	0.05	8081mod-GC/MS	4,000
prometon (pramitol 5p)	1610-18-0	–	–	1,200	–	–	–	0.05	8081mod-GC/MS	1,200
propazine	139-40-2	–	–	1,600	–	–	–	0.05	8081mod-GC/MS	1,600
simazine	122-34-9	–	8.3	400	–	–	–	0.05	8081mod-GC/MS	8.3
terbacil	5902-51-2	–	–	1,000	–	–	–	0.05	8081mod-GC/MS	1,000
terbutryn (igran)	886-50-0	–	–	80	–	–	–	0.05	8081mod-GC/MS	80
trifluralin	1582-09-8	–	130	600	–	–	–	0.05	8081mod-GC/MS	130
vernolate/vernam	1929-77-7	–	–	10	–	–	–	0.05	8081mod-GC/MS	10
VOCs										
2-chlorotoluene (o-chlorotoluene)	95-49-8	–	–	1,600	2.06	–	–	0.1	8260B-GC/MS	2.06
benzene	71-43-2	–	18	320	0.0262	–	–	0.1	8260B-GC/MS	0.0262
acetone	67-64-1	–	–	8,000	–	–	–	0.5	8260B-GC/MS	8,000
1,2-dichlorobenzene	95-50-1	–	–	7,200	–	–	–	0.1	8260B-GC/MS	7,200
toluene	108-88-3	–	–	6,400	–	–	–	0.1	8260B-GC/MS	6,400
1,1,1-trichloroethane	71-55-6	–	–	72,000	1.36	–	–	0.1	8260B-GC/MS	1.36
1,2,4-trimethylbenzene	95-63-6	–	–	4,000	–	–	–	0.1	8260B-GC/MS	4,000
1,3,5-trimethylbenzene	108-67-8	–	–	4,000	–	–	–	0.1	8260B-GC/MS	4,000
o-xylene	95-47-6	–	–	160,000	88.0	–	–	0.1	8260B-GC/MS	88
Metals										
arsenic	7440-38-2	20	0.67	24	4.67	7/132*	–	1	6010B	20
zinc	7440-66-6	85	–	24,000	5,970	360	–	2	6010B	360

Notes:

Units in milligrams per kilogram (mg/kg)

[1] Zinc background value based on *Natural Background Soil Metals Concentrations in Washington State* (Ecology, October 1994). Arsenic background value based on MTCA Method A cleanup level (regulatory background value; WAC 173-340-900, Table 740-1).

[2] MTCA Method B standard formula values; direct contact (ingestion) (WAC 173-340-745[5][b][iii][B]).

[3] Values obtained from Edge Analytical, Inc.

[4] Site-specific terrestrial ecological evaluation (TEE) values from Table 749-3, MTCA 173-340-900. Wildlife values used.

[5] TEE values (soil concentrations protective of wildlife) for endosulfan and dinoseb were calculated by GeoEngineers - see Appendix D of Work Plan (GeoEngineers, 2009).

[6] Proposed soil cleanup level is the lowest soil criterion as indicated by shading; adjusted where appropriate based on Washington State natural background.

* Values for arsenic (III)/arsenic (V).

Green-highlighted analytes were detected at least once in soil.

Italic typeface = Constituent previously detected in soil at concentration exceeding proposed cleanup level.

Grey shading indicates value was selected as the cleanup level for the cleanup action.

– = Not established/not calculated

TABLE 2

GROUNDWATER CLEANUP LEVELS

TAXIWAY F SITE

BURLINGTON, WASHINGTON

Analyte	CAS No.	Groundwater Criteria				Analytical Laboratory Criteria[1]		Groundwater Cleanup Level[5]
		Washington State Background[2]	Method B Standard Formula Value, Carcinogen, Direct Contact, Drinking Water Use[3]	Method B Standard Formula Value, Non-Carcinogen, Direct Contact, Drinking Water Use[3]	MCL[4]	Practical Quantitation Limit	Analytical Method	
Chlorinated Pesticides								
aldrin	309-00-2	–	0.0026	0.24	--	0.05	8081A-GC/ECD	0.05
alpha chlordane (cis-chlordane)	5103-71-9	–	–	–	–	0.05	8081A-GC/ECD	–
gamma chlordane (trans-chlordane)	5566-34-7	–	–	–	–	0.05	8081A-GC/ECD	–
total chlordane	57-74-9	–	0.25	8	2	0.05	8081A-GC/ECD	2
4,4'-DDD	72-54-8	–	0.36	–	–	0.05	8081A-GC/ECD	0.36
4,4'-DDE	72-55-9	–	0.26	–	–	0.05	8081A-GC/ECD	0.26
4,4'-DDT	50-29-3	–	0.26	8	–	0.05	8081A-GC/ECD	0.26
total DDT (sum of 4,4' isomers)	EDF-229	–	–	–	–	0.05	8081A-GC/ECD	–
dieldrin	60-57-1	–	0.0055	0.8	–	0.05	8081A-GC/ECD	0.05
endosulfan I	959-98-8	–	–	–	–	0.05	8081A-GC/ECD	–
endosulfan II	33213-65-9	–	–	–	–	0.05	8081A-GC/ECD	–
endosulfan sulfate	1031-07-8	–	–	–	–	0.05	8081A-GC/ECD	–
total endosulfan	115-29-7	–	–	96	–	0.05	8081A-GC/ECD	96
endrin ketone	53494-70-5	–	–	–	–	0.05	8081A-GC/ECD	–
heptachlor	76-44-8	–	0.019	8	0.4	0.05	8081A-GC/ECD	0.05
heptachlor epoxide	1024-57-3	–	0.0048	0.1	0.2	0.05	8081A-GC/ECD	0.05
lindane (gamma-BHC)	58-89-9	–	0.067	4.8	0.2	0.05	8081A-GC/ECD	0.2
methoxychlor	72-43-5	–	–	80	40	0.05	8081A-GC/ECD	80
toxaphene	8001-35-2	–	0.08	–	3	1.00	8081A-GC/ECD	1.00
Organophosphate Pesticides								
azinphos-methyl (guthion)	86-50-0	–	–	–	–	0.5	8141mod-GC/MS	–
chlorpyrifos (chlorpyriphos)	2921-88-2	–	–	48	–	0.1	8081mod-GC/MS	48
methyl parathion	298-00-0	–	–	4	–	0.5	8141mod-GC/MS	4
parathion (parathion ethyl)	56-38-2	–	–	96	–	0.1	8081mod-GC/MS	96
Herbicides								
3,5 - dichlorobenzoic acid	51-36-5	–	–	–	–	0.20	8151A-ECD or GC/MS	–
4-nitrophenol	100-02-7	–	–	–	–	0.20	8151A-ECD or GC/MS	–
2,4,5-TP (silvex)	93-72-1	–	–	–	50	0.20	8151A-ECD or GC/MS	50
2,4,5-T (2,4,5-trichlorophenoxyacetic acid)	93-76-5	–	–	–	–	0.20	8151A-ECD or GC/MS	–
2,4-DB	94-82-6	–	–	130	–	1.60	8151A-ECD or GC/MS	130
2,4-D (2,4-dichlorophenoxyacetic acid)	94-75-7	–	–	160	70	0.40	8151A-ECD or GC/MS	160
bentazon	25057-89-0	–	–	480	–	0.20	8151A-ECD or GC/MS	480
chloramben	133-90-4	–	–	–	–	0.2	8151A-ECD or GC/MS	–
USA DCPA (dacthal)(total DCPA diacid)(chlorthal)	1861-32-1	–	–	160	–	0.1	8081mod-GC/MS	160
dicamba	1918-00-9	–	–	480	–	0.20	8151A-ECD or GC/MS	480
dichlorprop	120-36-5	–	–	–	–	0.60	8151A-ECD or GC/MS	–
dinoseb	88-85-7	–	–	–	7	0.1	8081mod-GC/MS	7
MCPA (2-methyl-4-chlorophenoxy-acetic acid)	94-74-6	–	–	8	–	0.20	8151A-ECD or GC/MS	8
MCPP (2-(2-methyl-4-chlorophenoxy)propianic acid)	7085-19-0	–	–	–	–	0.20	8151A-ECD or GC/MS	–
pentachlorophenol	87-86-5	–	0.73	480	1	0.1	8081mod-GC/MS	1
triclopyr (trichlopyr)	55335-06-3	–	–	–	–	0.20	8151A-ECD or GC/MS	–

Analyte	CAS No.	Groundwater Criteria				Analytical Laboratory Criteria[1]		Groundwater Cleanup Level[5]
		Washington State Background[2]	Method B Standard Formula Value, Carcinogen, Direct Contact, Drinking Water Use[3]	Method B Standard Formula Value, Non-Carcinogen, Direct Contact, Drinking Water Use[3]	MCL[4]	Practical Quantitation Limit	Analytical Method	
Miscellaneous Pesticides/Herbicides								
alachlor	15972-60-8	–	1.1	160	2	0.1	8081mod-GC/MS	2
atrazine	1912-24-9	–	0.4	560	3	0.1	8081mod-GC/MS	3
triadimefon/bayleton	43121-43-3	–	–	480	–	0.1	8081mod-GC/MS	480
chlorothalonil (daconil)	1897-45-6	–	8	240	–	0.1	8081mod-GC/MS	8
chlorpropham	101-21-3	–	–	3,200	–	0.1	8081mod-GC/MS	3,200
dicofol	115-32-2	–	–	–	–	1	8081mod-GC/MS	–
diphenamid	957-51-7	–	–	480	–	0.1	8081mod-GC/MS	480
EPTC (S-ethyl dipropylthiocarbamate) (eptam)	759-94-4	–	–	200	–	0.1	8081mod-GC/MS	200
metolachlor	51218-45-2	–	–	2,400	–	0.1	8081mod-GC/MS	2,400
metribuzin	21087-64-9	–	–	400	–	0.1	8081mod-GC/MS	400
napropamide	15299-99-7	–	–	1,600	–	0.1	8081mod-GC/MS	1,600
cis-permethrin	54774-45-7	–	–	–	–	0.1	8081mod-GC/MS	–
trans-permethrin	61949-77-7	–	–	–	–	0.1	8081mod-GC/MS	–
total permethrin	52645-53-1	–	–	800	–	0.1	8081mod-GC/MS	800
prometon (pramitol 5p)	1610-18-0	–	–	240	–	0.1	8081mod-GC/MS	240
propazine	139-40-2	–	–	320	–	0.1	8081mod-GC/MS	320
simazine	122-34-9	–	0.73	80	4	0.1	8081mod-GC/MS	4
terbacil	5902-51-2	–	–	–	–	0.1	8081mod-GC/MS	–
terbutryn (igran)	886-50-0	–	–	16	–	0.1	8081mod-GC/MS	16
trifluralin	1582-09-8	–	11	120	–	0.1	8081mod-GC/MS	11
vernolate/vernam	1929-77-7	–	–	8	–	0.1	8081mod-GC/MS	8
Volatile Organic Compounds								
2-chlorotoluene (o-chlorotoluene)	95-49-8	–	–	160	–	0.4	8260B-GC/MS	160
benzene	71-43-2	–	0.8	32	5	0.4	8260B-GC/MS	5
acetone	67-64-1	–	–	800	–	2.0	8260B-GC/MS	800
1,2-dichlorobenzene	95-50-1	–	–	720	600	0.4	8260B-GC/MS	720
toluene	108-88-3	–	–	640	1,000	0.4	8260B-GC/MS	640
1,1,1-trichloroethane	71-55-6	–	–	7,200	200	0.4	8260B-GC/MS	200
1,2,4-trimethylbenzene	95-63-6	–	–	400	–	0.4	8260B-GC/MS	400
1,3,5-trimethylbenzene	108-67-8	–	–	400	–	0.4	8260B-GC/MS	400
o-xylene	95-47-6	–	–	16,000	–	0.4	8260B-GC/MS	16,000
Metals								
arsenic	7440-38-2	8.0	0.058	4.8	10	0.6	200.8 - ICP/MS	8.0
zinc	7440-66-6	160	–	4,800	–	20	200.7 - ICP	4,800

Notes:

Units in micrograms per liter (ug/l)

[1] Values obtained from Edge Analytical, Inc.

[2] Source: *Background Concentrations of Selected Chemicals in Water, Soil, Sediments, and Air of Washington State* (PTI, 1989) - 90th percentile values.

[3] MTCA Method B standard formula values; direct-contact (ingestion/inhalation) (WAC 173-340-720[4][b]).

[4] MCL = Federal Maximum Contaminant Level

[5] Proposed groundwater cleanup level is the lowest groundwater criterion as indicated by shading, adjusted where appropriate based on available state/federal ARARs that are adequately protective (HQ ≤ 1, carcinogenic risk ≤ 1E-05), Washington State natural background, and practical quantitation limits.

Green-highlighted analytes were detected at least once in groundwater.

Italic typeface = Constituent previously detected in groundwater at concentration exceeding proposed cleanup level.

Grey shading indicates value was selected as the cleanup level for the cleanup action.

– = Not established

TABLE 3

CLEANUP ACTION ALTERNATIVES SUMMARY

TAXIWAY F SITE

BURLINGTON, WASHINGTON

	Alternative 1 - Excavate Historical Operations Area, Drainage Channel, and Wetland Area	Alternative 2 - Cap Historical Operations Area; Excavate Drainage Channel and Wetland Area	Alternative 3 - Cap Historical Operations Area and Drainage Channel; Excavate Wetland Area	Alternative 4 - Cap Historical Operations Area, Drainage Channel, and Wetland Area
Alternative Description	Complete soil excavation/removal. Soil exceeding cleanup levels in all areas of the Site would be excavated and disposed of at an off-site, permitted landfill. Excavated areas would be backfilled and restored/revegetated.	Cap the historical operations area, excavate the drainage channel and wetland area. Soil exceeding cleanup levels in the historical operations area would be capped in place. Soil exceeding cleanup levels in the drainage channel and wetland area would be excavated and disposed of at an off-site, permitted landfill. Excavated areas would be backfilled and restored/revegetated.	Cap the historical operations area drainage channel, excavate the wetland area. Soil exceeding cleanup levels in the historical operations area and drainage channel would be capped in place. Soil exceeding cleanup levels in the wetland area would be excavated and disposed of at an off-site, permitted landfill. Excavated areas would be backfilled and restored/revegetated. Wetlands mitigation would be required to address net loss of wetlands in drainage channel.	Cap the historical operations area, drainage channel, and wetland area. Soil exceeding cleanup levels in all areas of the Site would be capped in place. Wetlands mitigation would be required to address net loss of wetlands in drainage channel and wetland area.
Area of Containment/Capping	0 sq. ft.	60,331 sq. ft.	81,558 sq. ft.	112,266 sq. ft.
Approximate In Situ Volume of Contaminated Soil Removed	4,300 cubic yards	2,308 cubic yards	1,398 cubic yards	0 cubic yards
Alternative Ranking Under MTCA				
1. Compliance with MTCA Threshold Criteria				
Protection of Human Health and the Environment	Yes - Alternative will protect human health and the environment. Residual contaminated soil left in place, if any, would be managed using institutional controls.	Yes - Alternative will protect human health and the environment. Contaminated soil left in place would be managed using a combination of isolation/containment and institutional controls.	Yes - Alternative will protect human health and the environment. Contaminated soil left in place would be managed using a combination of isolation/containment and institutional controls. Capping results in net loss of wetlands and modification of natural drainage function at the Site.	Yes - Alternative will protect human health and the environment. Contaminated soil left in place would be managed using a combination of isolation/containment and institutional controls. Capping results in net loss of wetlands and modification of natural drainage function at the Site.
Compliance with Cleanup Standards	Yes - Active remedial measure (removal) is used for soils not complying with cleanup standards.	Yes - Active remedial measures (removal and containment) are used for soils not complying with cleanup standards.	Yes - Active remedial measures (removal and containment) are used for soils not complying with cleanup standards.	Yes - Active remedial measure (containment) is used for soils not complying with cleanup standards.
Compliance with Applicable State and Federal Laws	Yes - Alternative complies with applicable state and federal laws.	Yes - Alternative complies with applicable state and federal laws.	Yes - Alternative complies with applicable state and federal laws.	Yes - Alternative complies with applicable state and federal laws.
Provision for Compliance Monitoring	Yes - Alternative includes provisions for compliance monitoring (i.e., verification sampling during remedial excavation, confirmational groundwater monitoring).	Yes - Alternative includes provisions for compliance monitoring (i.e., verification sampling during remedial excavation, confirmational groundwater monitoring).	Yes - Alternative includes provisions for compliance monitoring (i.e., verification sampling during remedial excavation, confirmational groundwater monitoring).	Yes - Alternative includes provisions for compliance monitoring (i.e., confirmational groundwater monitoring).
2. Restoration Time Frame				
	Restoration time frame is approximately 1 year for design and construction. Post-construction groundwater monitoring would likely be required for at least four quarters.	Restoration time frame is approximately 1 year for design and construction. Cap monitoring would likely be required, and groundwater monitoring would also likely be required for at least several years. The cap remedy would be subject to periodic review by Ecology to ensure protectiveness.	Restoration time frame is approximately 1 year for design and construction. Cap monitoring would likely be required, and groundwater monitoring would also likely be required for at least several years. The cap remedy would be subject to periodic review by Ecology to ensure protectiveness.	Restoration time frame is approximately 1 year for design and construction. Cap monitoring would likely be required, and groundwater monitoring would also likely be required for at least several years. The cap remedy would be subject to periodic review by Ecology to ensure protectiveness.
3. Disproportionate Cost Analysis - Relative Benefits Ranking (Scored from 1-lowest to 10-highest)				
Protectiveness (30% weighting factor)	**Score = 10.** Achieves high level of protectiveness. All soil at the Site that poses unacceptable risk to human health and the environment is removed. Thin zone of shallow groundwater is perched, with no nearby drinking water wells or receiving surface water bodies. Groundwater quality expected to improve over time as a result of source removal. Deep groundwater is isolated from shallow groundwater by a thick silt-clay confining layer.	**Score = 7.** Achieves medium-high level of protectiveness. Soil at the Site that poses unacceptable risk to human health and the environment is removed or contained beneath caps. The areas of contaminated soil that are most likely to pose exposure risks to ecological receptors such as small mammals and birds (the drainage channel and wetland area) will be excavated under this alternative. Low potential for direct contact with contaminated soil left in place. Thin zone of shallow groundwater is perched, with no nearby drinking water wells or receiving surface water bodies, but may continue to be impacted by capped contamination. Deep groundwater is isolated from capped soil and shallow groundwater by a thick silt-clay confining layer. Protectiveness depends on cap maintenance and environmental covenants to prevent erosion and contact with contaminated soil left in place.	**Score = 6.** Achieves medium level of protectiveness. Soil at the Site that poses unacceptable risk to human health and the environment is removed or contained beneath caps. Low potential for direct contact with contaminated soil left in place. Thin zone of shallow groundwater is perched, with no nearby drinking water wells or receiving surface water bodies, but may continue to be impacted by capped contamination. Deep groundwater is isolated from capped soil and shallow groundwater by a thick silt-clay confining layer. Installation of cap in drainage channel will impact/modify surface water flow and result in net loss of wetlands and modification of natural drainage function. Protectiveness depends on cap maintenance and environmental covenants to prevent erosion and contact with contaminated soil left in place.	**Score = 5.** Achieves medium level of protectiveness. Soil at the Site that poses unacceptable risk to human health and the environment is contained beneath caps. Low potential for direct contact with contaminated soil left in place. Thin zone of shallow groundwater is perched, with no nearby drinking water wells or receiving surface water bodies, but may continue to be impacted by capped contamination. Deep groundwater is isolated from capped soil and shallow groundwater by a thick silt-clay confining layer. Installation of cap in drainage channel and wetland area will impact/modify surface water flow and result in net loss of wetlands and modification of natural drainage function. Protectiveness depends on cap maintenance and environmental covenants to prevent erosion and contact with contaminated soil left in place.
Permanence (20% weighting factor)	**Score = 9.** Achieves permanent reduction in toxicity and volume of hazardous substances at the Site by removal and off-site treatment/disposal of all the contaminated soil. Contaminant mass is transferred to secure, permitted landfill rather than destroyed.	**Score = 6.** Achieves a significant level of permanent reduction in toxicity and volume of hazardous substances at the Site by removal and off-site treatment/disposal of about 60% of the contaminated soil. Remaining contaminated soil is isolated/contained within the historical operations area. Not as permanent as Alternative 1 due to cap.	**Score = 5.** Achieves permanent reduction in toxicity and volume of hazardous substances at the Site by removal and off-site treatment/disposal of about 50% of the contaminated soil. Remaining contaminated soil is isolated/contained. Scores lower than Alternative 2 due to larger soil volume left in place under cap.	**Score = 3.** Achieves no permanent reduction in volume of hazardous substances at the Site, but reduces the toxicity and mobility through containment of the contaminated soil under a cap. Not as permanent as the other alternatives.

	Alternative 1 - Excavate Historical Operations Area, Drainage Channel, and Wetland Area	Alternative 2 - Cap Historical Operations Area; Excavate Drainage Channel and Wetland Area	Alternative 3 - Cap Historical Operations Area and Drainage Channel; Excavate Wetland Area	Alternative 4 - Cap Historical Operations Area, Drainage Channel, and Wetland Area
Long-Term Effectiveness (20% weighting factor)	**Score = 9.** Relies on removal and off-site treatment/disposal of contaminated soil.	**Score = 7.** Relies on a combination of on-site containment and removal and off-site treatment/disposal of contaminated soil. Contaminated soil left in place is limited to the historical operations area, allowing easier monitoring and control of conditions that may affect cap performance. Environmental covenants would be implemented to minimize potential contact with contaminated soil left in place. Long-term effectiveness depends on adherance to the environmental covenants and on maintaining integrity of the cap and groundwater protectiveness.	**Score = 6.** Relies on a combination of on-site containment and removal and off-site treatment/disposal of contaminated soil. Environmental covenants would be implemented to minimize potential contact with contaminated soil left in place. Long term effectiveness depends on adherance to the environmental covenants and on maintaining integrity of the cap and groundwater protectiveness.	**Score = 4.** Relies entirely on on-site containment. Environmental covenants would be implemented to minimize potential contact with contaminated soil left in place. Long-term effectiveness depends on adherance to the environmental covenants and on maintaining integrity of the cap and groundwater protectiveness.
Management of Short-Term Risks (10% weighting factor)	**Score = 5.** Greatest disturbance and off-site transport of contaminated soil relative to other alternatives. Excavation in the drainage channel and wetland area would result in significant vegetation removal, but removal of mature trees would not be required.	**Score = 6.** Relatively low short-term risks. Excavation in the drainage channel and wetland area would result in significant vegetation removal, but removal of mature trees would not be required.	**Score = 6.** Similar short-term risks to Alternative 2. Excavation of the drainage channel under Alternative 2 is replaced with capping, which would have marginally less impacts in the short term. Capping of the drainage channel and excavation in the wetland area would result in significant vegetation removal, but removal of mature trees would not be required. Capping of the drainage channel would require diversion of surface water and result in a net loss of wetlands.	**Score = 5.** Least disturbance of contaminated soil relative to other alternatives. Capping of the drainage channel and wetland area would result in significant vegetation removal, but removal of mature trees would not be required. The capping under this alternative would require greater diversion of surface water and result in a greater net loss of wetlands than Alternative 3.
Technical and Administrative Implementability (10% weighting factor)	**Score = 7.** Would require permitting. Moderately difficult to access contamination in drainage channel and wetland area.	**Score = 7.** Would require permitting and administration of environmental covenant. Moderately difficult to access contamination in drainage channel and wetland area.	**Score = 6.** Would require permitting and administration of environmental covenant. Moderately difficult to access contamination in wetland area. Capping of the drainage channel would require wetland mitigation.	**Score = 5.** Would require permitting and administration of environmental covenant. Capping of the drainage channel and wetland area would require wetland mitigation.
Consideration of Public Concerns (10% weighting factor)	**Score = 9.** Removes all Site soil exceeding cleanup levels. The contaminated soil is transported off Site and isolated in a secure landfill.	**Score = 7.** Removes or isolates contaminated soil most likely to impact public (i.e., soil in historical operations area), but about 40 % of the contaminated soil would remain capped on Site after cleanup. Cap monitoring, maintenance, and environmental covenants would be required to prevent contact with the remaining contaminated soil.	**Score = 6.** Removes or isolates contaminated soil most likely to impact public (i.e., soil in historical operations area), but about 50 % of the contaminated soil would remain capped on Site after cleanup. Cap monitoring, maintenance, and environmental covenants would be required to prevent contact with the remaining contaminated soil. In addition, capping of the drainage channel would result in a net loss of wetlands at the Site.	**Score = 5.** Isolates contaminated soil most likely to impact public (i.e., soil in historical operations area), but 100% of the contaminated soil would remain capped on Site after cleanup. Cap monitoring, maintenance, and environmental covenants would be required to prevent contact with the remaining contaminated soil. In addition, capping of the drainage channel and wetland area would result in a net loss of wetlands at the Site.

TABLE 4

SUMMARY OF MTCA EVALUATION OF CLEANUP ACTION ALTERNATIVES

TAXIWAY F SITE

BURLINGTON, WASHINGTON

Alternative Number	Alternative 1	Alternative 2	Alternative 3	Alternative 4
Alternative Ranking Under MTCA				
1. Compliant with MTCA Threshold Criteria?[1]	Yes	Yes	Yes	Yes
2. Restoration Time Frame	~1 year	~1 year	~1 year	~1 year
3. DCA Relative Benefits Ranking				
Protectiveness (30% weighting)	3.0 (raw score = 10)	2.1 (raw score = 7)	1.8 (raw score = 6)	1.5 (raw score = 5)
Permanence (20% weighting)	1.8 (raw score = 9)	1.2 (raw score = 6)	1.0 (raw score = 5)	0.6 (raw score = 3)
Long-Term Effectiveness (20% weighting)	1.8 (raw score = 9)	1.4 (raw score = 7)	1.2 (raw score = 6)	0.8 (raw score = 4)
Management of Short-Term Risks (10% weighting)	0.5 (raw score = 5)	0.6 (raw score = 6)	0.6 (raw score = 6)	0.5 (raw score = 5)
Technical and Administrative Implementability (10% weighting)	0.7 (raw score = 7)	0.7 (raw score = 7)	0.6 (raw score = 6)	0.5 (raw score = 5)
Consideration of Public Concerns (10% weighting)	0.9 (raw score = 9)	0.7 (raw score = 7)	0.6 (raw score = 6)	0.5 (raw score = 5)
Total of Weighted Scores	**8.7**	**6.7**	**5.8**	**4.4**
4. DCA Summary				
Probable Remedy Cost (nearest thousand)[3]	$2,747,000	$2,265,000	$2,122,000	$1,926,000
Costs Disproportionate to Incremental Benefits?	No	No	No	NA[2]
Practicability of Remedy	Practicable	Practicable	Practicable	Practicable
Remedy Permanent to Maximum Extent Practicable?	Yes	No	No	No
Overall Alternative Ranking	**1st**	**2nd**	**3rd**	**4th**

Notes:

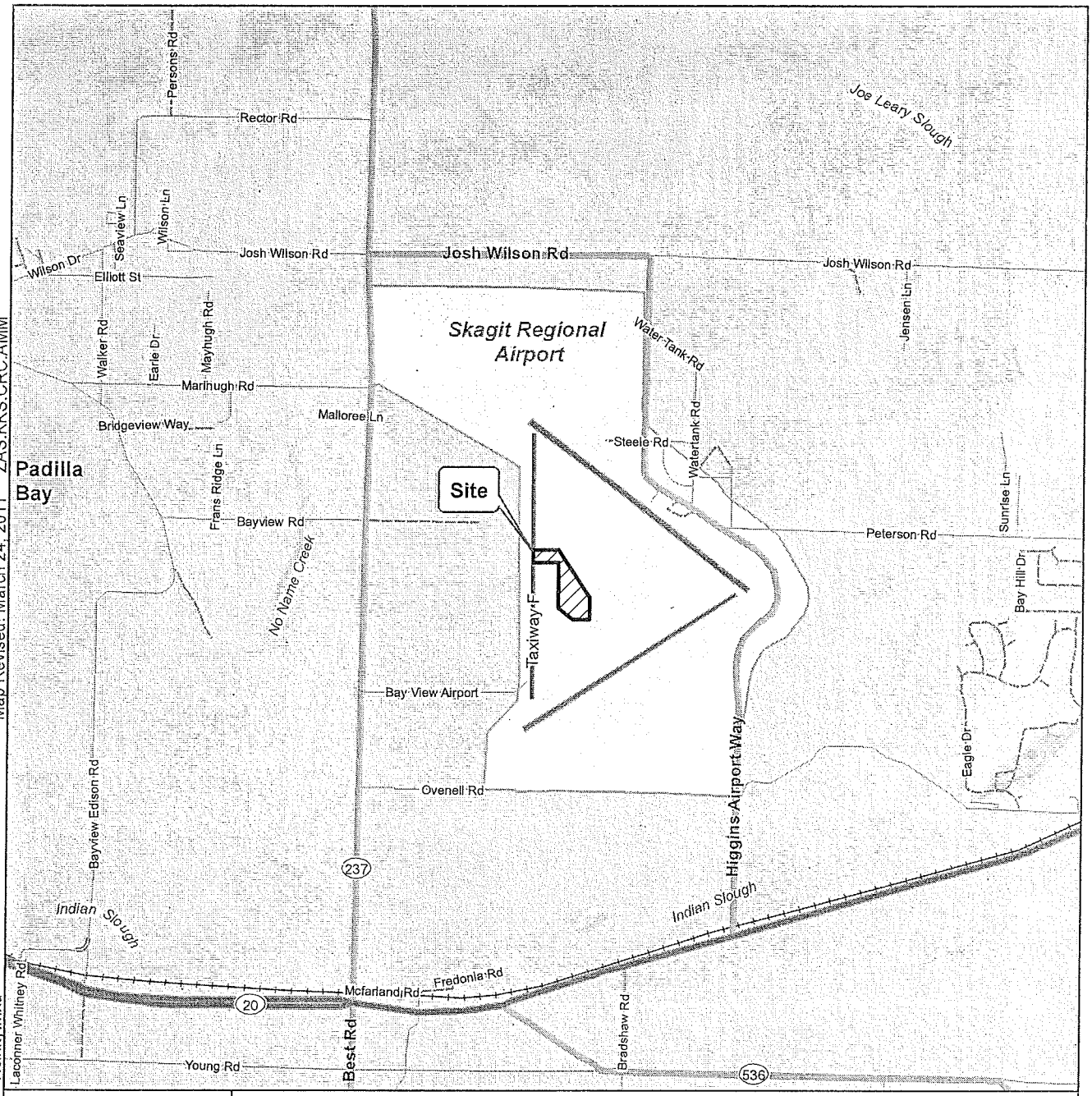
[1] Non-compliant alternatives were not considered in the FS evaluation.

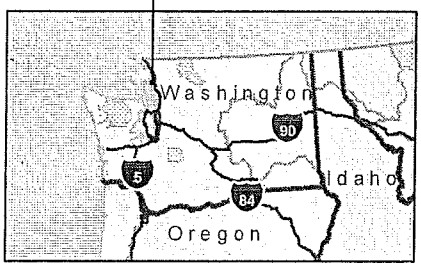
[2] Not applicable since this is the lowest cost alternative.

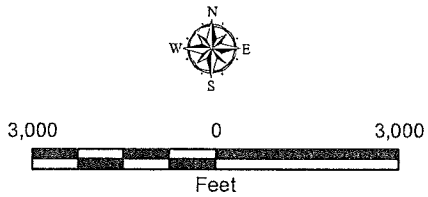
[3] Itemized cost estimates for Alternatives 1 through 4 are provided in Appendix J of the RI/FS report.

MTCA = Model Toxics Control Act

DCA = Disproportionate Cost Analysis







Notes:
1. The locations of all features shown are approximate.
2. This drawing is for information purposes. It is intended to assist in showing features discussed in an attached document. GeoEngineers, Inc. can not guarantee the accuracy and content of electronic files. The master file is stored by GeoEngineers, Inc. and will serve as the official record of this communication.
3. It is unlawful to copy or reproduce all or any part thereof, whether for personal use or resale, without permission.

Data Sources: ESRI Data & Maps, Street Maps 2005

Transverse Mercator, Zone 10 N North, North American Datum 1983
North arrow oriented to grid north

Vicinity Map

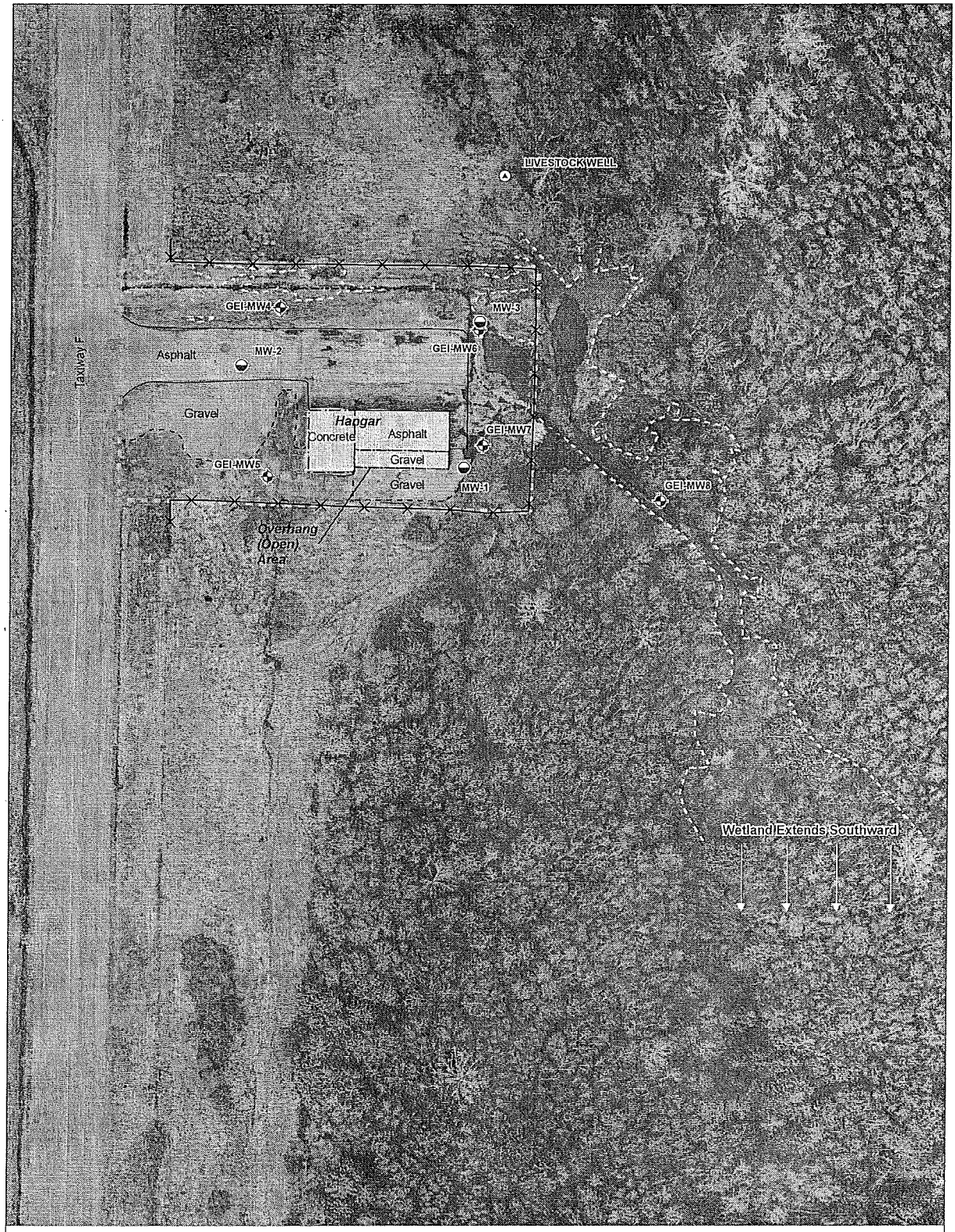
Taxiway F Site
Burlington, Washington

GeoEngineers

Figure 1

Office: SEA Path: P:\536401\GIS\536401302 FIG-1 Vicinity.mxd Map Revised: March 24, 2011 ZAS:KKS:CRC:AMM

Office: SEA Path: tsea\projects\5\5364013\GIS\536401302_FIG-2.mxd Map Revised: August 11, 2010 TCK:KKS:CRC



Shallow Monitoring Well
Deep Monitoring Well
Water Supply Well
Historical Operations Area
Fence Line
Debris Area
Approximate Rainwater Runoff Flow Direction
Approximate Limits of Wetland Areas (Based on Hart Crowser 2007 Survey)

90 0 90
Feet

N W E S

Site Plan

Taxiway F Site
Burlington, Washington

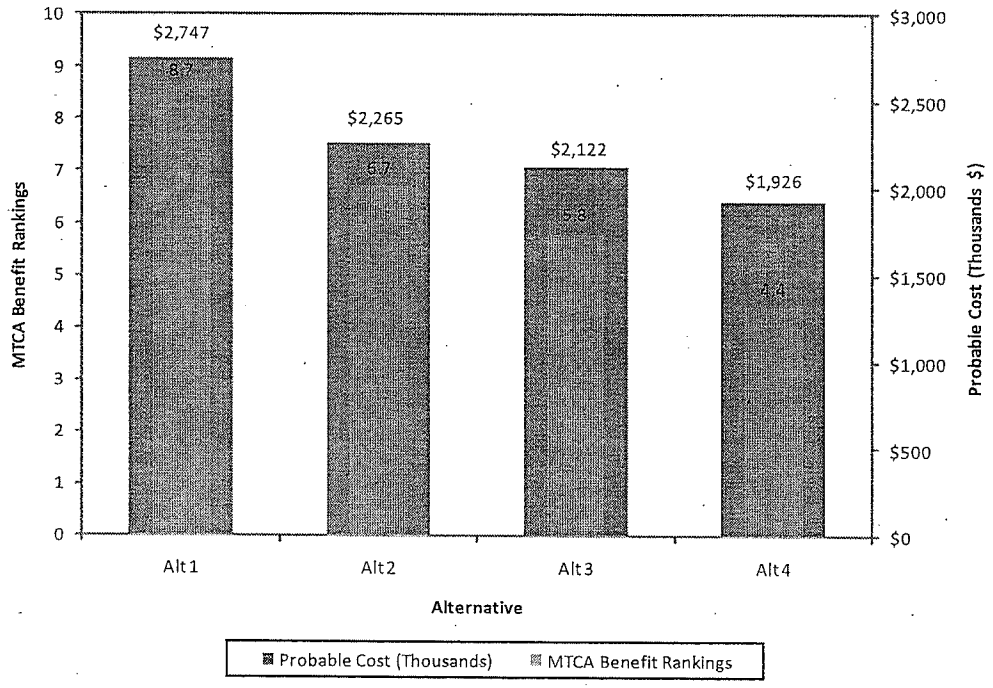
GeoEngineers

Figure 2

Reference: Aerial photo (dated 2004) from Skagit County. Historical Operations Area boundary, fence line, surface water, debris area and wetlands obtained from Hart Crowser (2008b).

Notes:
1. The locations of all features shown are approximate.
2. This drawing is for information purposes. It is intended to assist in showing features discussed in an attached document. GeoEngineers, Inc. cannot guarantee the accuracy and content of electronic files. The master file is stored by GeoEngineers, Inc. and will serve as the official record of this communication.

P:\5\536401\3\02\CAD\536401302 FIG 3.DWG\TAB:LANDSCAPE MODIFIED BY TMICHAUD ON MAR 23, 2011 - 11:26



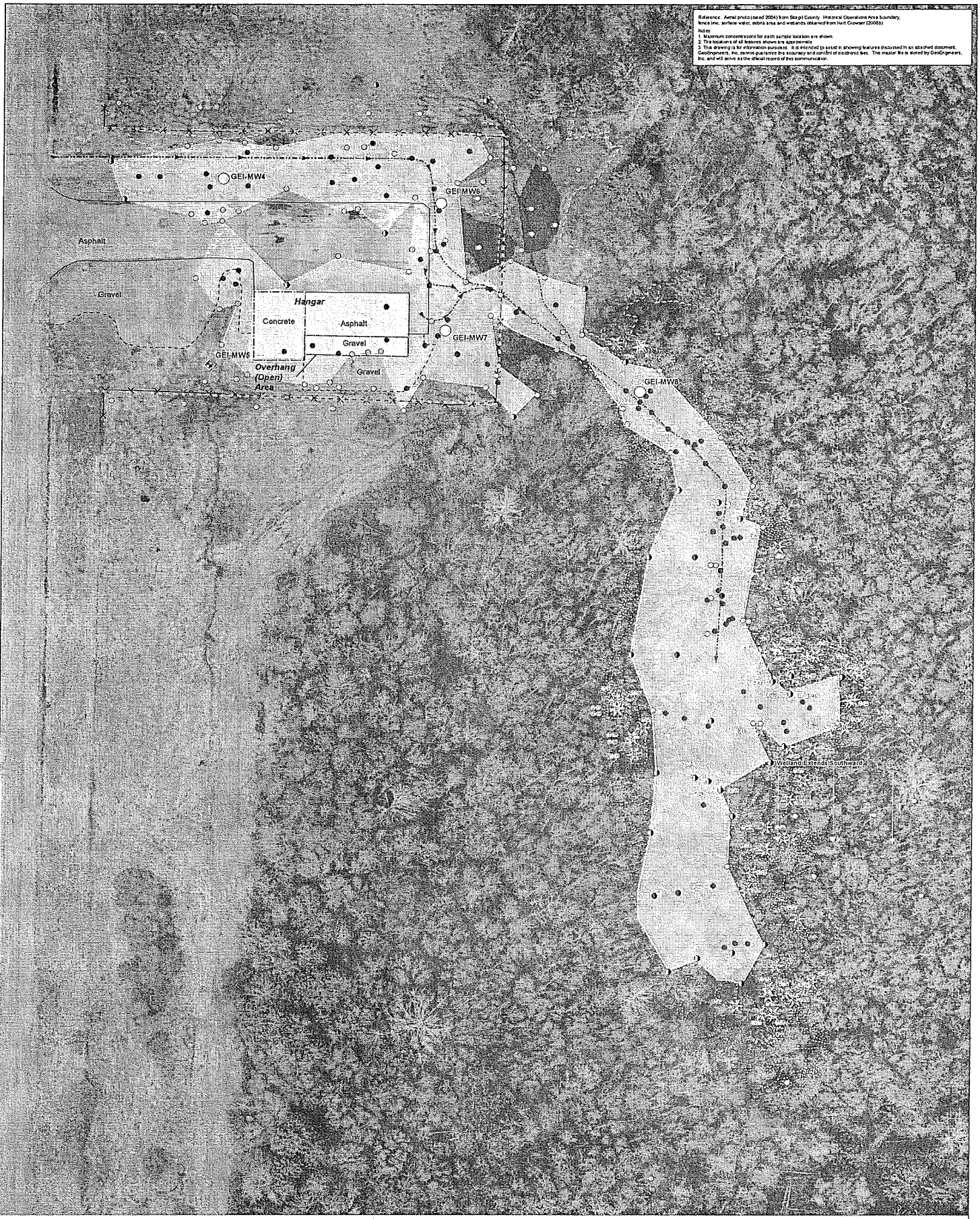
Benefit Summary		Alt 1		Alt 2		Alt 3		Alt 4	
Factor	Weighting	Rank	Value	Rank	Value	Rank	Value	Rank	Value
Protectiveness	0.3	10	3	7	2.1	6	1.8	5	1.5
Permanence	0.2	9	1.8	6	1.2	5	1	3	0.6
Long-Term Effectiveness	0.2	9	1.8	7	1.4	6	1.2	4	0.8
Short-Term Risk	0.1	5	0.5	6	0.6	6	0.6	5	0.5
Implementability	0.1	7	0.7	7	0.7	6	0.6	5	0.5
Public Concerns	0.1	9	0.9	7	0.7	6	0.6	5	0.5
Sum	1	8.7		6.7		5.8		4.4	

Disproportionate Cost Analysis Rankings

Taxiway F Site
Burlington, Washington

GeoEngineers

Figure 3



Map Revised: February 21, 2011 CPF:TOX

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Office: SEA

Existing Data Summary

- No Soil Cleanup Level Exceedance (GEI 2009-2010)
- No Soil Cleanup Level Exceedance (Historical)
- Soil Cleanup Level Exceedance (GEI 2009-2010)
- Soil Cleanup Level Exceedance (Historical)
- Groundwater Cleanup Level Exceedance in Shallow Groundwater (2009 - 2010 Data)
- No Groundwater Cleanup Level Exceedance in Shallow Groundwater (2009 - 2010 Data)
- Estimated Excavation Area
- Historical Operations Area
- Fence Line
- Debris Area
- Approximate Rainwater Runoff Flow Direction
- Approximate Limits of Wetland Areas (Based on Hart Crowser 2007 Survey)
- Mature Cedar/Fir Tree
- Topographic Contour (elevation in feet)

N W E S

50 0 50
Feet

Site Plan Showing Cleanup Action Excavation Areas

Taxiway F Site
Burlington, Washington

GeoEngineers | Figure 4

APPENDIX A
SEPA ENVIRONMENTAL CHECKLIST AND DETERMINATION OF NONSIGNIFICANT ENVIRONMENTAL IMPACTS

ENVIRONMENTAL CHECKLIST

Purpose of Checklist:

The State Environmental Policy Act (SEPA), Chapter 43.21 RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information to help you and the agency identify impacts from your proposal (and to reduce or avoid impacts from the proposal, if it can be done) and to help the agency decide whether an EIS is required.

Instructions for Applicants:

This environmental checklist asks you to describe some basic information about your proposal. Governmental agencies use this checklist to determine whether the environmental impacts of your proposal are significant, requiring the preparation of an EIS. Answer the questions briefly, with the most precise information known, or give the best description you can.

You must answer each question accurately and carefully, to the best of your knowledge. In most cases, you should be able to answer the question from your own observations or project plans without the need to hire experts. If you really do not know the answer, or if a question does not apply to your proposal, write "do not know" or "does not apply". Complete answers to the questions now may avoid unnecessary delays later.

Some questions ask about governmental regulations, such as zoning, shoreline, and landmark designations. Answer these questions if you can. If you have problems, the governmental agencies can assist you.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or to provide additional information reasonably related to determining if there may be significant adverse impact.

Use of checklist for nonproject proposals:

Complete this checklist for nonproject proposals, even though questions may be answered "does not apply." **IN ADDITION**, complete **the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS** (Part D).

For nonproject actions, the references in the checklist to the words "project," "applicant," and "property or site" should be read as "proposal," "proposer," and "affected geographic area," respectively.

A. BACKGROUND

1. Name of proposed project, if applicable:

Taxiway F Site Cleanup, Skagit Regional Airport (Sheet 1 – Vicinity Map)

2. Name of applicant:

Port of Skagit County

3. Address and phone number of applicant and contact person:

Sara Young
Manager of Planning and Environmental Services
Port Administrative Offices
P.O. Box 348
Burlington, WA 98233
(360) 757-0011

4. Date checklist prepared:

February 15, 2011

5. Agency requesting checklist:

Department of Ecology

6. Proposed timing or schedule (including phasing, if applicable):

A cleanup contractor will be selected in approximately Spring 2011, with cleanup beginning as soon as soils are sufficiently dry (approximately August 1, 2011). Work will be conducted during the summer months and is expected to be complete by December 30, 2011.

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.

No

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

EAI (Environmental Associates, Inc.), Soil Sampling and Testing. Skagit Farmers Supply – Port of Skagit Lease Property, Skagit County Airport, Skagit County, WA, Report JN 20250, dated September 19, 2000.

GeoEngineers, Inc., 2011a. "Draft Final Remedial Investigation/Feasibility Study, Taxiway F Site, Skagit Regional Airport, Ecology Agreed Order No. 6158, dated January 10, 2011.

GeoEngineers, Inc., 2011b. "Cleanup Action Plan, Taxiway F Site, Skagit Regional Airport, Burlington, Washington, dated March 16, 2011.

GeoEngineers, Inc. ,2011c, Updated Wetland Restoration Plan, Port of Skagit County, Taxiway F Site, Skagit County, Washington," File No. 05364-013-02, Prepared for Port of Skagit County, dated January 26, 2011.

GeoEngineers, Inc., 2010a, "Environmental Status Summary, Taxiway F Cleanup Site, Skagit Regional Airport, Letter to Port of Skagit County (Sara Young) from Christopher Bailey and John Herzog.

GeoEngineers, Inc., 2010b, "Sampling and Analysis Plan, Supplemental Soil Characterization in Dispersed Wetland Area, Taxiway F Site, Skagit Regional Airport, Ecology Agreed Order No. 6158," dated May 21, 2010.

GeoEngineers, Inc., 2009, "Final Work Plan, Remedial Investigation/Feasibility Study, Taxiway F Site, Skagit Regional Airport, Ecology Agreed Order No. 6158, dated July 31, 2009

GeoEngineers, Inc.,2004, "Report: Supplemental Surface Soil and Water Sampling and Testing January 2004, Former Skagit Farmers Supply Site, Skagit County, WA," File No. 5364-003-03, dated May 5, 2004.

GeoEngineers, Inc., 2001, "Report: Supplemental Soil and Groundwater Sampling, Former Skagit Farmers Supply Site, Skagit County, WA," File No. 5364-003-01-1150, dated July 6, 2001.

Hart Crowser, 2008a, "Wetland Restoration Plan, Port of Skagit County, Farmers Supply/Tronsdale Site, Skagit County, Washington," File No. 12053-18, Prepared for Port of Skagit County, File No. 12053-18, dated June 24, 2008.

Hart Crowser, 2008b, "Focused Remedial Investigation/Feasibility Study Addendum, Skagit Farmers Supply Site, Burlington, Washington," File No. 12053-18, Prepared for Port of Skagit County, dated June 30, 2008.

Hart Crowser, 2008c, "Cleanup Action Plan (CAP), Voluntary Cleanup Action, Skagit Farmers Supply Site, Burlington, Washington," Prepared for Port of Skagit County, File No. 12053-18, dated June 30, 2008.

Hart Crowser, 2008d, "Engineering Design Report, Skagit Farmers Supply Site, Burlington, Washington," Prepared for Port of Skagit County, File No. 12053-18, dated July 24, 2008.

Hart Crowser, 2007, Critical Areas Report – Wetlands. Port of Skagit County Farmers Supply/Tronsdale Site. Skagit County, Washington. Prepared for Port of Skagit County. Hart Crowser Project # 12053-18.

Hart Crowser, 2006, "Focused Remedial Investigation/Feasibility Study, Skagit Farmers Supply Site, Burlington, Washington," Prepared for Port of Skagit County, File No. 12053-18, dated April 24, 2006.

Pentec Environmental, 2005, Skagit Farmers Supply Site Terrestrial Ecological Evaluation and Status Report, Port of Skagit County, Skagit County Washington; Prepared for Port of Skagit County; April 15, 2005.

Washington State Department of Ecology (Ecology), "Agreed Order No. 6158 for Remedial Investigation/Feasibility Study – Taxiway F Site, Skagit Regional Airport, In the Matter of Remedial Action by: Port of Skagit County," dated April 10, 2009.

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

- Clean Water Act, Section 404 Permit, United States Army Corps of Engineers Nationwide Permit (38) Cleanup of Hazardous and Toxic Waste
  - Awaiting Corps re-authorization under Nationwide Permit 38.
- Stormwater Permit, Washington State Department of Ecology
  - Notice of Intent for coverage under the Construction Stormwater General Permit will be filed with Ecology in February or March of 2011.

10. List any government approvals or permits that will be needed for your proposal, if known.

The cleanup action will be conducted under a Consent Decree with Ecology. Consequently, the cleanup action is exempt from the procedural requirements of certain laws and all local permits (WAC 173-340-710[9][a]) but must comply with the substantive requirements of these laws and permits. The exemption from procedural requirements applies to the:

- Washington Clean Air Act (RCW 70.94).
- Solid Waste Management Act (RCW 70.95).
- Hazardous Waste Management Act (RCW 70.105).
- Construction Projects in State Waters (RCW 75.20).
- Water Pollution Control Act (RCW 90.48).
- Shoreline Management Act (RCW 90.58).
- Any laws requiring or authorizing local government permits or approvals.

The exemption is not applicable if Ecology determines that the exemption would result in the loss of approval from a Federal agency that may be necessary for the State to administer any Federal law. The applicable and non-applicable required and exempt permit requirements/approvals are provided in the following sections.

The following permits/approvals are applicable to the cleanup action and do not fall under the procedural exemption of WAC -173-340-710[9][a].

- Clean Water Act, Section 404 Permit, United States Army Corps of Engineers Nationwide Permit (38) Cleanup of Hazardous and Toxic Waste
- Construction Stormwater General Permit, Washington State Department of Ecology
- State Environmental Policy Act, Washington State Department of Ecology

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page.

The Site will be subject to a remedial action as directed by the department of Ecology. Currently the Site is used by the Port for storage of equipment. Remediation will include excavation and disposal of soils at an approved landfill facility. Contamination at the Site was delineated as part of the the Site Remedial Investigation and Feasibility Study – both completed under formal order with Ecology. Site contamination is the result of historical crop dusting operations. The remediation area is approximately 95,886 square feet (2.2 acres). Soils will be removed from the top 6 inches to 2 feet. Following completion of the remediationexcavation the Site will be restored in accordance with the approved Wetland Restoration Plan and project permit. Future site use is expected to be consistent with the current site use.

12. Location of proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographical map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any applications related to this checklist.

The Taxiway F Site is located west of Burlington, WA in the northeast quarter of Section 4, Township 34N and Range 3E (Sheet 1). The site is east of Taxiway F on the western side of the Skagit Regional Airport. The *Former Skagit Farmers Supply Site* (original remediation area) is located within the fenced area of the Taxiway F site.

B. ENVIRONMENTAL ELEMENTS

1. Earth

a. General description of the site (circle/underline one): Flat, rolling, hilly, steep slopes or mountains. Other:

b. What is the steepest slope on the site (approximate percent slope)?

The slope is generally flat (2-3%) and gently slopes to the east.

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any prime farmland.

Shallow soils at the Site consist of approximately 1 to 3 feet of fine to coarse sand and gravel. Clay and silt deposits occur beneath the shallow sandy/gravelly soils to depths of about 50 to 85 feet below ground surface (bgs). During wet weather conditions, perched groundwater has been observed at depths of 2 to 3 feet bgs, near the interface between the shallow sand and gravel horizon and the underlying clay/silt unit. Beneath the clay/silt unit, granular soils consisting of fine to medium sand with varying amounts of silt and gravel are present to the maximum depth explored (115 feet bgs). Unconfined groundwater occurs at a depth of approximately 100 feet bgs in the sandy soils beneath the thick clay/silt unit.

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

None

e. Describe the purpose, type, and approximate quantities of any filling or grading proposed. Indicate source of fill.

The remediation area is approximately 95,886 square feet (2.2 acres) (Sheet 2). Soils will be removed from the top 6 inches to 2 feet for an approximate volume of 3,200 cubic yards.

Vegetation in the drainage channel and wetland areas will be cleared and grubbed. Surface soils at the Site with concentrations of COCs above MTCA cleanup levels, will be excavated to an expected depth of 6 inches to 2 feet. The lateral limits of the excavation are defined by the existing soil sampling data that bound the extent of COCs exceeding cleanup levels. Excavation will be completed to the existing "clean" sampling locations. During excavation activities surface water, stormwater, and groundwater, will be managed as necessary. As described in the Engineering Design Report, data will be collected to verify that the lateral limits of excavation have been reached and verification soil samples will be collected from the bottom of the excavations for laboratory analysis. The planned excavation areas are shown on Sheet 2.

Excavated contaminated soils will be transported off-site for disposal at a permitted facility. The remediation areas will be backfilled with clean, imported fill material, to meet the specifications defined in the Engineering Design Report.

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

The site is flat and remediated areas will be seeded with an erosion control seed mix, so erosion is unlikely to occur.

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

The impervious surfaces for the site will remain the same.

Prior to excavation, a portion of the existing asphalt will be removed from the historical operations area (fenced area) to facilitate removal of the contaminated soil. Any existing asphalt areas that are removed will be replaced after cleanup actions. In addition, it is assumed that some areas/portions of the hangar building (e.g., floor slabs and/or footings) will need to be protected, moved, or demolished during or prior to excavation in the historical operations area and restored following the cleanup action.

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

Minimal erosion could occur as the result of this project. Given the lack of any appreciable slope at the site, the potential for erosion to occur is small. Work will be done during the dry season so that water is not expected to be a significant issue during construction.

The contractor will develop a SWPPP and implement BMPs (e.g., silt fences, wattles, straw bales, and mulch) to control sediment loss at the site. Cleanup construction will occur in the dry season, when soils are dry and the likelihood of rain is low. At a minimum, a silt fence will be installed around the perimeter of the remediation area to contain any runoff in the unlikely event of rain. Based on results of shallow groundwater (5 feet bgs) monitoring conducted at the site during the summer, groundwater is not anticipated to be encountered during cleanup actions (removal and replacement of the top 1-2 feet of soil). Should water be encountered within the excavations, the contractor will be required to maintain a dry excavation within reason. Measures such as trenches and sumps may be installed within the construction area to contain water. Stormwater pumped from the trenches will be rerouted from the excavation area or collected and either removed from the site and disposed of according to permit conditions, treated on-site and released south of the remediation area once compliance with groundwater standards is met, or released to a sewer – if allowable.

2. Air

a. What types of emissions to the air would result from this proposal (i.e. dust, automobile, odors, industrial wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if known.

The project may generate dust and additional diesel emissions during construction as a result of operating construction equipment at the site. The completed project will not generate air emissions.

b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

None known

c. Proposed measures to reduce or control emissions or other impacts to air, if any:

Diesel exhaust will be managed with residential grade mufflers on construction equipment. Dust will be managed with a watering truck, as needed.

3. Water

a. Surface:

1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

A wetland delineation was completed for the site on August 22, 2007 by Hart Crowser, Inc. – Pentec Environmental (Hart Crowser, 2007). Four wetlands were delineated on the site, identified as Wetlands A, B, C, D (see Table 1 below, Sheet 2). The fenced Hangar area contains all of Wetlands B and C and portions of Wetlands A and D. Wetland D extends north of the fenced area and Wetland A extends north, east and south of the fenced area.

TABLE 1. SUMMARY INFORMATION FOR WETLANDS AT THE SITE

Wetland	Cowardin Vegetation Class[1]	Size (square feet)	Wetland Category[2]
Wetland A	Forested & Emergent	95,561	III
Wetland B	Scrub-Shrub	303	IV
Wetland C	Emergent	73	IV
Wetland D	Emergent	3,141	IV
TOTAL		53,478	

Notes:
1 – Cowardin vegetation class assigned based on *Classification of Wetland and Deep Water Habitats of the United States* (Cowardin et al 1979), as reported in the Hart Crowser Critical Areas Report (Hart Crowser, 2007).
2 – Wetland Category based on the Washington State Wetland Rating System for Western Washington (Hruby, 2004), as reported in the Hart Crowser Critical Areas Report (Hart Crowser, 2007).

Cowardin LM, Carter V, Golet FC, and LaRoe ET. 1979. Classification of Wetland and Deep Water Habitats of the United States. Performed for Office of Biological Services, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C.

2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

Yes.
The proposed project will require the excavation and replacement of soils within wetland areas. Approximately 31,464 square feet (0.72 acres) of wetland areas will be temporarily impacted by the proposal (see Table 2 below, Sheet 3). Following remediation, wetland portions of the site will be planted with native wetland vegetation and monitored according to the Updated Wetland Restoration Plan (GeoEngineers, 2011c; Sheet 3).

TABLE 2. PROPOSED WETLAND IMPACTS AND RESTORATION AREAS

Wetland	Cowardin Vegetation Class Impacted	Plant Communities to be Restored	Wetland Impact and Restoration Areas (square feet)
Wetland A	Forested	Tree and shrub	25,519
	Emergent	Grass and emergent	3,897
Wetland B	Scrub-Shrub	Shrub	229
Wetland C	Emergent	Grass and emergent	73
Wetland D	Emergent	Grass and emergent	1,746
TOTAL			31,464

3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of the fill material.

See 3(a)(2) above for estimated square footage impacts to wetlands.

Table 3 below presents estimated volumes of soil to be excavated from Wetlands A, B, C and D as part of cleanup actions. An equal amount of clean fill and topsoil will replace the contaminated soils removed from the site. Finished surface grades and topography will approximately match pre-existing conditions.

TABLE 3. ESTIMATED EXCAVATION VOLUMES IN WETLANDS WITHIN THE REMEDIATION AREA

Wetland	Cowardin Vegetation Class Impacted	Current Proposed Volume of Excavation in Wetlands[1]	
		(cubic feet)	(cubic yards)
Wetland A	Forested	30,623	1,134
	Emergent	4,676	173
Wetland B	Scrub-Shrub	275	10
Wetland C	Emergent	88	3
Wetland D	Emergent	2,095	78
TOTAL		37,757	1,398

Notes:

1. Proposed volume to be excavated within wetlands was calculated assuming an average remedial excavation depth of 1.2 feet (GeoEngineers, 2011a).

4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

No

5) Does the proposal lie within a 100 year floodplain? If so, note location on the site plan.

No

6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

No

b. Ground:

1) Will groundwater be withdrawn, or will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.

Groundwater will not be withdrawn at the site.

During construction, measures such as trenches and sumps may be installed within the construction area to contain stormwater. Stormwater pumped from the trenches will be rerouted from the excavation area or collected and either removed from the site and disposed of according to permit condition, treated on-site and released south of the remediation area once compliance with groundwater standards is met, or released to a sewer – if allowable.

2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals . . .; agricultural; etc.). Describe the general size of the system, the number such systems, the number of houses to be served (if applicable), or the number animals or humans the system(s) are expected to serve.

None

c. Water Runoff (including storm water):

1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities if known). Where will this water flow? Will this water flow into other waters? If so, describe.

Surface water runoff flows onto the former Skagit Farmers Supply Site (fenced area) from the north and leaves the area along the east fence line before flowing into the forested wetland area (Wetland A). A shallow ditch along the north side of the Skagit Farmers Supply Site collects rainwater which eventually flows into Wetland A to the southeast via a shallow drainage channel. During the wet season and heavy rains, shallow ponded water accumulates just east of the hangar building. This area receives flow from one of the hangar roof drains and from the southwest corner of the paved area. The roof drains from the southern side of the hangar discharge to shallow channels that flow across the southern margin of the Site toward the adjacent field. The hangar's western roof drain also discharges to a shallow channel toward the southern margin of the Site. The eastern roof discharges to merge with runoff flowing eastward.

Wetland A drains to the south and eventually to a drainage ditch along Runway 04/22, where it flows east towards Taxiway F. This drainage connects to off site wetlands via culverts under Taxiway F and connects to a network of drainage ditches that flow into Indian Slough, which flows to the west and north into Padilla Bay.

The contractor will develop a SWPPP and implement BMPs (e.g., silt fences, wattles, straw bales, and mulch) to control sediment loss at the site. To the extent possible, cleanup construction will occur in the dry season, when soils

are dry and the likelihood of rain is low. At a minimum, a silt fence will be installed around the perimeter of the remediation area to contain any runoff in the unlikely event of rain. Based on results of shallow groundwater (5 feet bgs) monitoring conducted at the site during the summer, groundwater is not anticipated to be encountered during cleanup actions (removal and replacement of the top 1-2 feet of soil). Should water be encountered within the excavations, the contractor will be required to maintain a dry excavation within reason. Measures such as trenches and sumps may be installed within the construction area to contain water. Stormwater pumped from the trenches will be rerouted from the excavation area or collected and either removed from the site and disposed of according to permit conditions, treated on-site and released south of the remediation area once compliance with groundwater standards is met, or released to a sewer – if allowable.

2) **Could waste material enter ground or surface waters? If so, generally describe.**

No waste materials will be produced from this project. As discussed in Section 3(c)(1), stormwater pumped from the trenches will be rerouted from the excavation area or collected and either removed from the site and disposed of according to permit conditions, treated on-site and released south of the remediation area once compliance with groundwater standards is met, or released to a sewer – if allowable.

d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:

Project will be done in the dry season to the degree possible, and all Best Management Practices will be used.

4. Plants

a. Check/circle/underline types of vegetation found on the site:

- deciduous trees: red alder, big leaf maple, black cottonwood, willow
- evergreen trees: western redcedar
- shrubs: salmonberry, vine maple, Indian plum, swamp gooseberry, hardhack/spirea, red elderberry, Himalayan blackberry
- grasses: reed canarygrass and a variety of native and non-native grasses.
- pasture: non-native grasses
- crop or grain: no
- wet soil plants: soft rush and slough sedge
- water plants: slough sedge
- other types of vegetation: poison-hemlock, sword fern, lady fern, stinging nettle, piggy-back plant, large-leaf avens, trailing blackberry, false lily-of-the-valley

b. What kind and amount of vegetation will be removed or altered?

Forest, shrub, and emergent/grass vegetation will be removed from the cleanup area. Vegetated areas will be restored according to the Updated Wetland Restoration Plan.

c. List threatened or endangered species known to be on or near the site.

None known.

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

Re-vegetation at the site will include installation of native trees (10-foot-on-center) and shrubs (5-foot-on-center) as well as seeding emergent portions of the impact areas with a native grass/emergent seed mixture. Upland buffer areas will be re-seeded with an erosion control seed mix. More details on re-vegetation are provided in the Updated Wetland Restoration Plan (GeoEngineers, 2011c).

5. Animals

a. Circle/underline any birds and animals which have been observed on or near the site or are known to be on or near the site:

birds: redtail hawk, harrier, blue heron, bald eagle, and songbirds
mammals: deer and rodents.
fish: **None.**

b. List any threatened or endangered species known to be on or near the site.

None known.

c. Is the site part of a migration route? If so, explain.

The site is located along the pacific flyway for migrant birds, as is all of coastal Washington State.

d. Proposed measures to preserve or enhance wildlife, if any:

Wetlands serve as important habitat for many species of wildlife. Removal of contaminated soils from within wetlands and replacement with clean topsoil will enhance wildlife habitat. In addition, re-vegetation measures will result in replacement of invasive grasses with native species in emergent habitat areas and replacement of mature conifer trees (western redcedar) will occur at an approximate ratio of 7:1.

6. Energy and Natural Resources

a. What kinds of energy (electrical, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

N/A

b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.

N/A

c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

N/A

7. Environmental Health

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste that could occur as a result of this proposal? If so, describe.

Yes, there is some risk of exposure to toxic chemicals. Site soils contain endosulfans in exceedance of MTCA criteria. Endosulfan, a chlorinated pesticide, is the most commonly detected and widely distributed chemical of concern (COC) in Site soils. Endosulfan exceeded Site-specific cleanup levels in 85 percent of all soil samples that had at least one COC exceeding cleanup levels. Other COCs at the site that exceeded preliminary soil cleanup levels include dieldrin, toxaphene, and dinoseb.

If during cleanup actions soils become excessively dry, there is a risk of workers being exposed to chemicals through inhalation of dust.

Shallow groundwater samples were analyzed for endosulfans, chlordanes, aldrin, dieldrin, heptachlor, heptachlor epoxide, toxaphene, total DDT (4,4'-DDD, 4,4'-DDE and 4,4'-DDT), dinoseb, and MCPA. Of nine shallow groundwater wells (approximately 2 to 8 feet below top of casing) sampled in 2009 and 2010, four wells contained cleanup level exceedances as summarized below:

In the historical operations area (fenced area), groundwater samples from GEI-MW-4, GEI-MW-6, and GEI-MW-7 had positive or tentative exceedances of dieldrin, dinoseb, MCPA, bentazon, heptachlor, and/or heptachlor epoxide.

In the area of the drainage channel connecting the historical operations area to Wetland A, groundwater samples from GEI-MW-8 had positive or tentative exceedances of aldrin, dinoseb, MCPA, 2,4-D, and heptachlor epoxide.

Groundwater will likely not be encountered during cleanup actions (based on monitoring well results during the dry season). Stormwater may accumulate on site if heavy rains occur during construction.

The shallow groundwater at the Site is not used as a drinking source.

1) Describe any emergency services that might be required.

None

2) Propose measures to reduce or control environmental health hazards, if any:

Protection monitoring for human health will be conducted during and other construction activities by ensuring that Site workers are appropriately trained in health and safety. Air monitoring will be performed for respirable dust and action levels may be established based on maximum soil pesticides concentrations and permissible exposure levels (PELs). Health and safety and contingency plans for encouraging hazardous materials will also be available prior to and during Site cleanup activities.

b. Noise

1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

None

2) What types and levels of noise would be created by or associated with the project on a short-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

The project will generate short-term noise during construction due to increased truck traffic and equipment operation. The Site is completely located within the Ports controlled airport area. It is anticipated that construction will occur between the hours of 6:00 am and 7:00 pm daily.

3) Proposed measures to reduce or control noise impacts, if any:

Short-term noise impacts due to construction will be reduced by limiting construction to daylight hours and by requiring mufflers on construction equipment.

8. Land and Shoreline Use

a. What is the current use of the site and adjacent properties?

The site is currently used by the Port for storage of maintenance equipment. The adjacent property is either vacant or used for livestock grazing.

b. Has the site been used for agriculture? If so, describe.

No

c. Describe any structures on the site.

The site contains one existing structure consisting of a 7,800 square foot hangar/storage shed building.

d. Will any structures be demolished? if so, what?

Part if the hangar may need to be demolished to access contaminated soils during cleanup actions.

e. What is the current zoning classification of the site?

Aviation related (AVR)

f. What is the current comprehensive plan designation of the site?

Aviation related (AVR)

g. If applicable, what is the current shoreline master program designation of the site?

N/A

h. Has any part of the site been classified as an "environmentally sensitive" area? If so, specify.

No

i. Approximately how many people would reside or work in the completed project?

None

j. Approximately how many people would the completed project displace?

None

k. Proposed measures to avoid or reduce displacement impacts, if any:

N/A

l. **Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:**

The proposal is consistent with the existing zoning and Airport Master Plan.

9. Housing

a. Approximately how many units would be provided, if any? Indicate whether high, middle or low-income housing.

N/A

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

N/A

c. Proposed measures to reduce or control housing impacts, if any:

N/A

10. Aesthetics

a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

If the hangar or a portion of the hangar is demolished during cleanup actions, it will be re-built but not expanded.

b. What views in the immediate vicinity would be altered or obstructed?

None

c. Proposed measures to reduce or control aesthetic impacts, if any:

N/A

11. Light and Glare

a. What kind of light or glare will the proposal produce? What time of day would it mainly occur?

None

b. Could light or glare from the finished project be a safety hazard or interfere with views?

No

c. **What existing off-site sources of light or glare may affect your proposal?**

None

d. **Proposed measures to reduce or control light and glare impacts, if any:**

None

12. Recreation

a. **What designated and informal recreation opportunities are in the immediate vicinity?**

Bayview State Park, Bayview Bicycle Tour Route, and the Padilla Bay National Estuarine Research Reserve.

b. **Would the proposed project displace any existing recreational uses? If so, describe.**

No

c. **Proposed measures to reduce or control impacts on recreation, including recreational opportunities to be provided by the project or applicant, if any:**

No impacts are anticipated and no measures are proposed.

13. Historic and Cultural Preservation

a. **Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe.**

There are no places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site.

b. **Generally describe any landmarks or evidence of historic, archeological, scientific, or cultural importance known to be on or next to the site? If so, generally describe.**

None

c. **Proposed measures to reduce or control impacts, if any:**

No measures are proposed.

14. Transportation

a. Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show on site plans if any.

None

b. Is the site currently served by public transit? If not, what is the approximate distance to the nearest transit stop?

No

c. How many parking spaces would the completed project have? How many would the project eliminate?

N/A

d. Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private).

No

e. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

No

f. How many vehicular trips per day would be generated by the completed project? If known, indicate when peak volumes would occur.

N/A

g. Proposed measures to reduce or control transportation impacts, if any:

N/A

15. Public Services

a. Would the project result in an increased need for public services (for example: fire protection, police protection, health care, schools, other)? If so, generally describe.

No

b. Proposed measures to reduce or control direct impacts on public services, if any.

N/A

16. Utilities

a. Circle/underline utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other:

b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

None

C. SIGNATURE

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

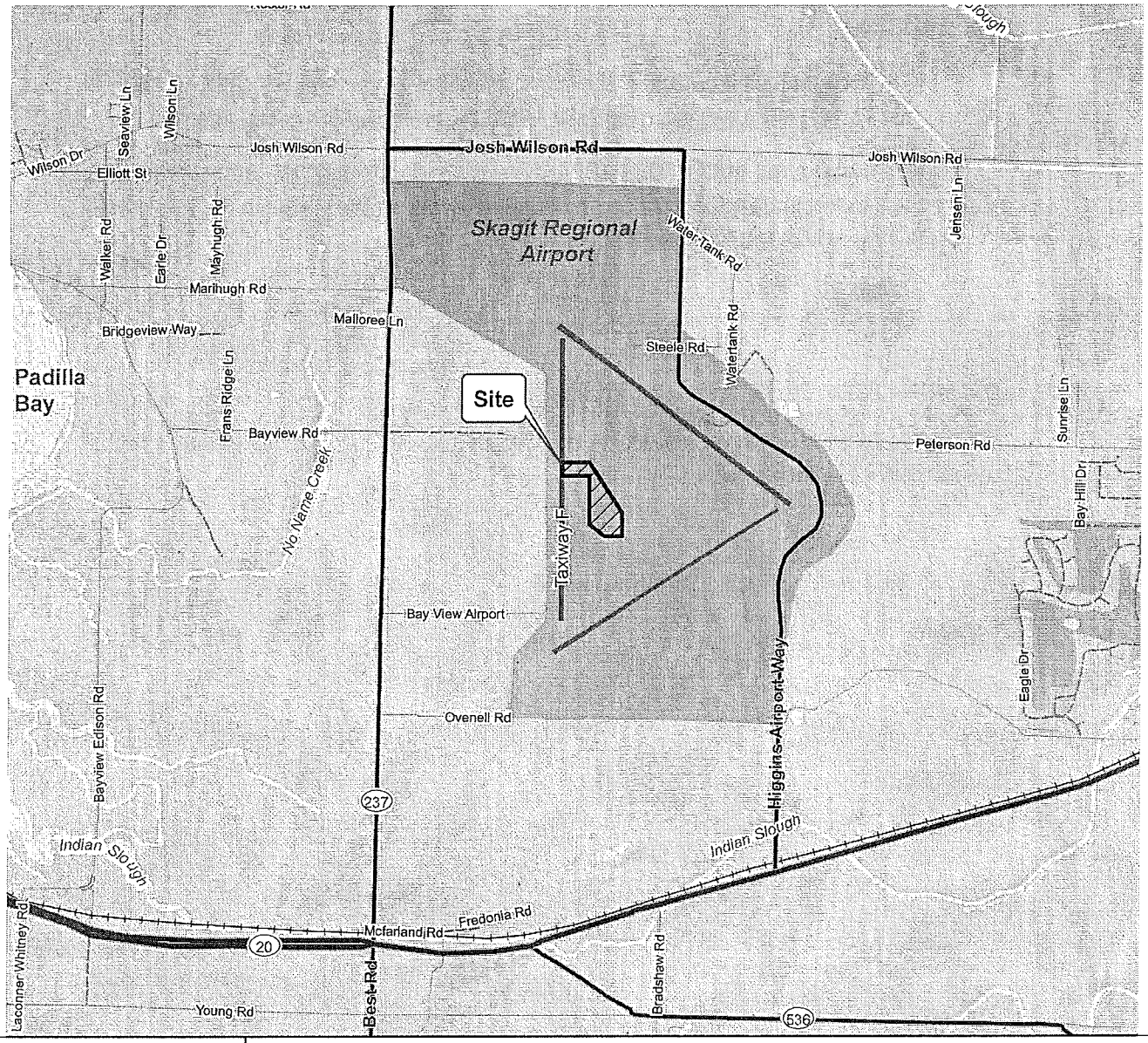
Signature

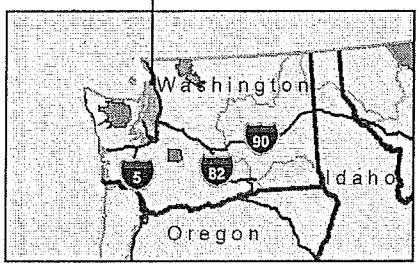
3/16/11

Date Submitted

SEC. 4, T34N, R03E, W.M.

LOG.: 48°28'13.85" NORTH - LAT.: 122°25'46.38" WEST





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REFERENCE: ESRI DATA & MPAS, STREET MAPS 2005

PURPOSE:

REMOVE CONTAMINATED SOIL, PLACE BACKFILL AND RESTORE. REVERIFICATION OF PERMIT (NWS-2008-19-NO)

ADJACENT PROPERTY OWNERS:

1. PORT OF SKAGIT COUNTY

VICINITY MAP

TAXIWAY F SITE
SKAGIT COUNTY, WA

IN: SKAGIT COUNTY
COUNTY OF: SKAGIT
STATE OF: WASHINGTON
APPLICATION BY:
PORT OF SKAGIT COUNTY
SHEET: 1 of 3
DATE: 01/14/11
CREATED BY: GEOENGINEERS, INC.

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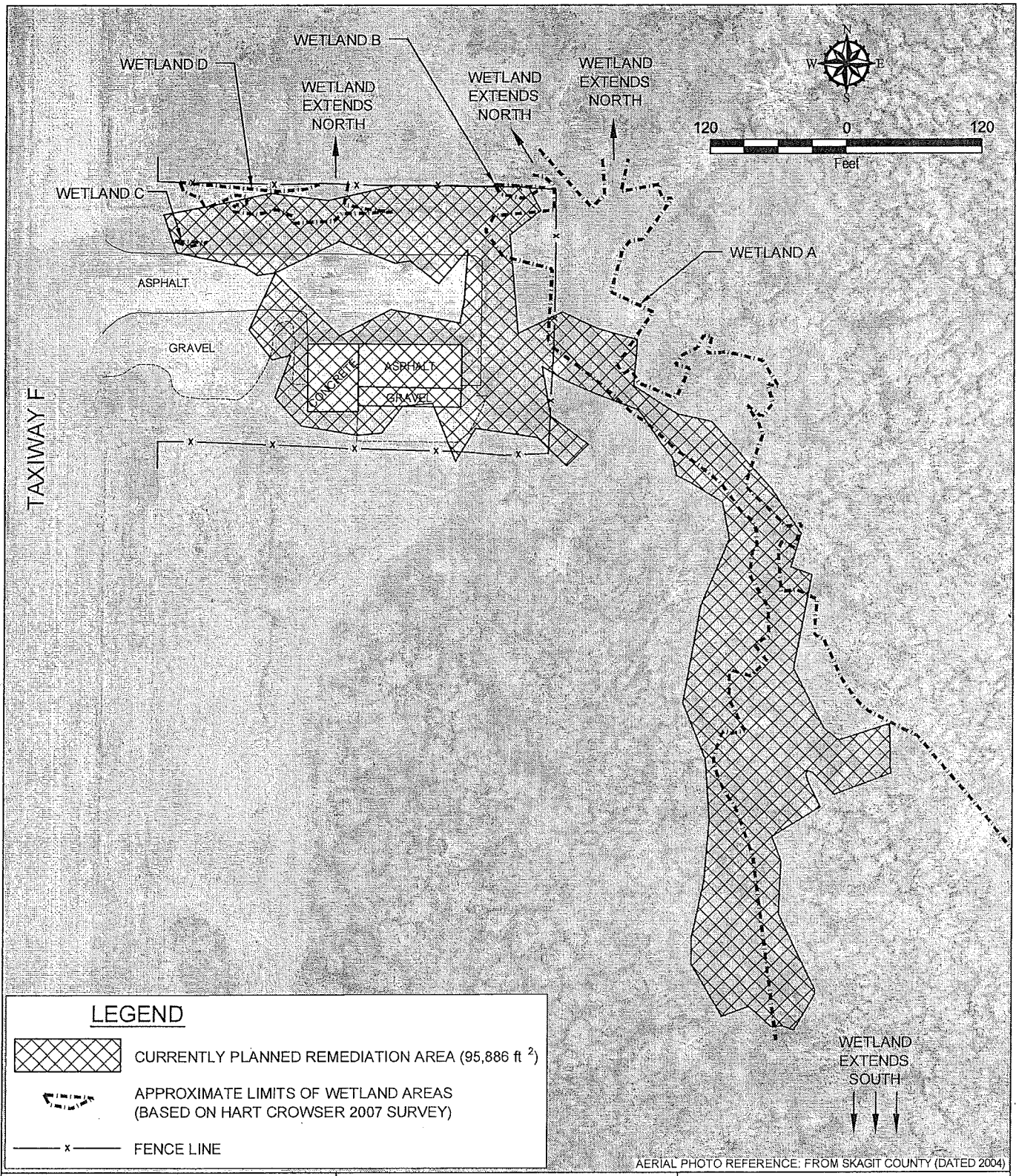
OFFICE:SEA



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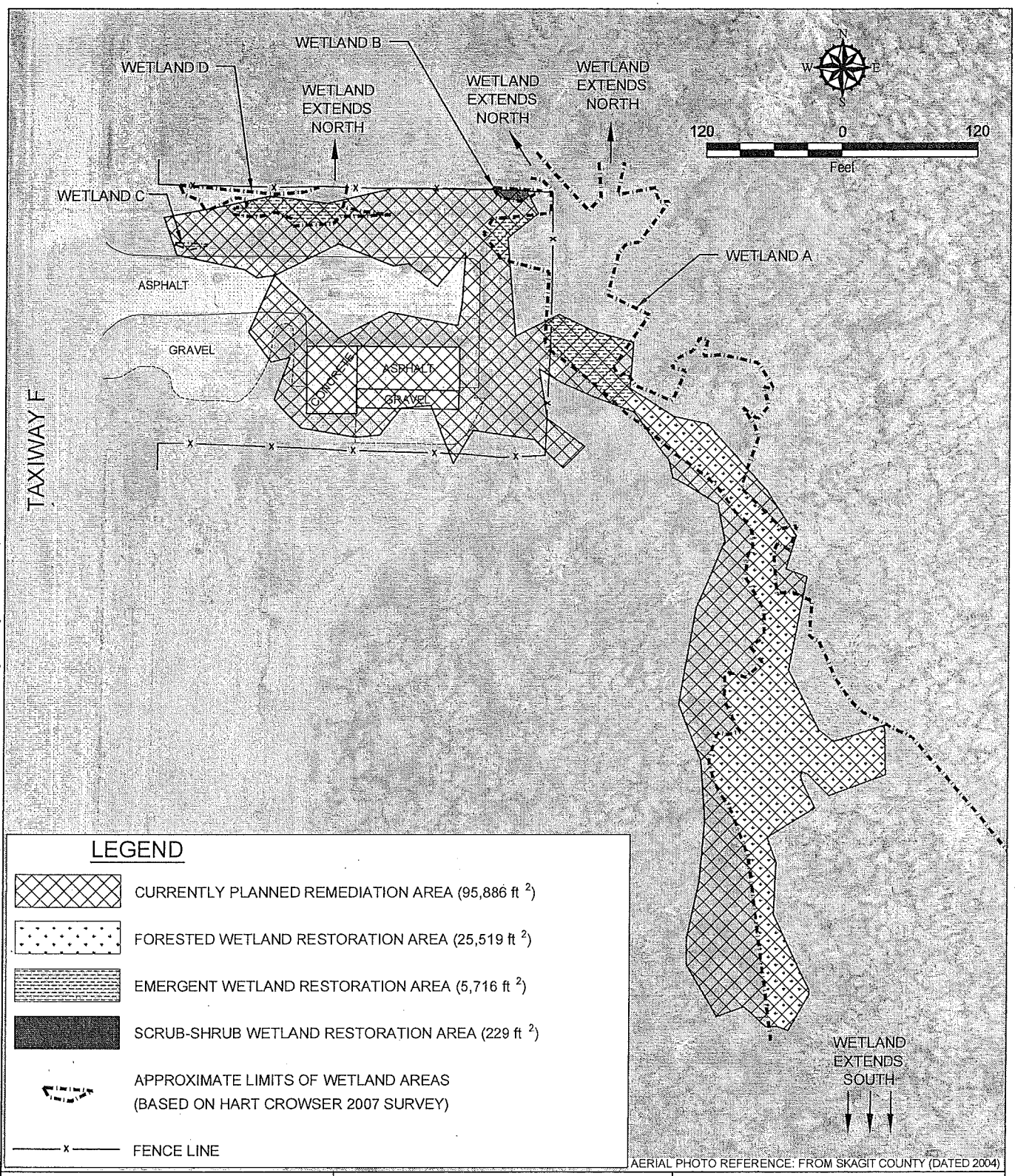
PURPOSE: REMOVE CONTAMINATED SOIL, PLACE BACKFILL AND RESTORE. REVERIFICATION OF PERMIT (NWS-2008-19-NO) ADJACENT PROPERTY OWNERS: 1. PORT OF SKAGIT COUNTY	SITE PLAN REMEDIATION AREA TAXIWAY F SITE SKAGIT COUNTY, WA	IN: SKAGIT COUNTY COUNTY OF: SKAGIT STATE OF: WASHINGTON APPLICATION BY: PORT OF SKAGIT COUNTY SHEET: 2 of 3 DATE: 01/14/11 CREATED BY: GEOENGINEERS, INC.



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OFFICE:SEA

PURPOSE:

REMOVE CONTAMINATED SOIL, PLACE BACKFILL AND RESTORE. REVERIFICATION OF PERMIT (NWS-2008-19-NO)

ADJACENT PROPERTY OWNERS:

1. PORT OF SKAGIT COUNTY

SITE PLAN
WETLAND RESTORATION AREAS

TAXIWAY F SITE
SKAGIT COUNTY, WA

IN: SKAGIT COUNTY
COUNTY OF: SKAGIT
STATE OF: WASHINGTON
APPLICATION BY:
PORT OF SKAGIT COUNTY
SHEET: 3 of 3
DATE: 01/14/11
CREATED BY: GEOENGINEERS, INC.

WAC 197-11-970

DETERMINATION OF NONSIGNIFICANCE
TAXIWAY F CLEANUP AT THE SKAGIT REGIONAL AIRPORT

Description of proposal: The Taxiway F site will be subject to a remedial action as directed by the Department of Ecology. Currently the site is used by the Port of Skagit County for storage of equipment. Remediation will include excavation and disposal of soils at an approved landfill facility. Contamination at the site was delineated as part of the Site Remedial Investigation and Feasibility Study. Site contamination is the result of historical crop dusting operations. The remediation area covers approximately 2.2 acres. Soil will be removed from the top six inches to two feet. Following completion of excavation the Site will be restored in accordance with an approved Wetland Restoration Plan and project permit. Future site use is expected to be consistent with current site use.

Proponent: Port of Skagit County

Location of proposal: Skagit Regional Airport, 15400 Airport Drive, Burlington, WA 98233

Lead agency: Washington State Department of Ecology

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030 (2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

☐ There is no comment period for this DNS.

☐ This DNS is issued after using the optional DNS process in WAC 197-11-355. There is no further comment period on the DNS.

☒ This DNS is issued under WAC 197-11-340(2); the lead agency will not act on this proposal for 14 days from the date below. Comments must be submitted by the end of the public comment period for the Consent Decree implementing this cleanup action.

Responsible official: Robert A. Warren

Position/title: Section Manager, Toxics Cleanup Program, Northwest Regional Office **Phone:** 425-649-7054

Address: 3190 160th Avenue SE, Bellevue, WA 98008

Date: April 7, 2011 **Signature:**

ROBERT W. WARREN
NWRO SECTION MANAGER

APPENDIX B
CLEANUP ALTERNATIVE COST ESTIMATE TABLES

TABLE B-1

COST ESTIMATE - PROPOSED CLEANUP ACTION ALTERNATIVE 1

EXCAVATE HISTORICAL OPERATIONS AREA, DRAINAGE CHANNEL, AND WETLAND AREA

TAXIWAY F SITE

BURLINGTON, WASHINGOTN

ITEM No.	DESCRIPTION	PLAN QUANT	UNIT	UNIT PRICE	AMOUNT (2010$)	NOTE
Mobilization and Site Preparation						
1	Mobilization/Site Controls/Demobilization	1	LS	$5,000.00	$5,000	
	Subtotal				**$5,000**	
Demolition						
2	Asphalt demolition and disposal	11,910	SF	$1.50	$17,900	
3	Clearing and Grubbing	1.43	ACRE	$15,000.00	$21,500	Drainage channel and wetland cap and excavation areas plus a 20% buffer.
4	Protect/demolish hanger building	1	LS	$50,000.00	$50,000	
	Subtotal				**$89,400**	
Soil Removal, Backfill						
5	Excavate Operations Area Soil (0'-1 bgs)	2,391	CY	$12.00	$28,700	Total of all soil excavated. Assume 20% expansion above in-place volume. Cost includes excavation and stockpile. Assume 20% of excavation area requires over-excavation to 2-feet bgs.
6	Excavate Wetland/Stream Area Soil (0'-1 bgs)	2,770	CY	$18.00	$49,900	
7	Contaminated Soil (non-haz) Transport and Disposal at approved off-site facility	7,432	TON	$56.00	$416,200	90% of all soil excavated. Assume 1.6 ton/CY. Cost includes loading and hauling. Quote from WM.
8	Contaminated Soil (Subtitle C) Transport and Disposal at approved off-site facility	826	TON	$266.00	$219,700	10% of all soil excavated. Assume 1.6 ton/CY . Cost includes transport ($66), disposal ($180), and tax ($20). Quote from WM.
9	Purchase, Place and Compact General Backfill Material	2,869	TON	$13.00	$37,300	Use general backfill material for backfilling unpaved (75%) areas in operations area and for backfilling below 1-foot bgs. Assume 1.6 ton/CY.
10	Purchase, Place and Compact Crushed Rock Surface Material	598	CY	$35.00	$20,900	Backfill of excavations in operations areas with existing gravel/pave surface (25%) with crushed rock.
11	Purchase and Place Topsoil	2,770	CY	$28.00	$77,600	Use topsoil for backfilling in wetland area.
	Subtotal				**$850,300**	
Capping						
12	Grading cap area to prepare surface for geotextile		ACRE		$0	
13	Install permeable geotextile layer to separate existing soil from crushed rock surface layer		SY		$0	
14	Placement and compaction of 1-foot crushed rock surface		SY		$0	
15	Install permeable geotextile layer to separate existing soil from topsoil surface layer	0	SY	$2.25	$0	
16	Placementof 1-foot cap layer of topsoil	0	CY	$28.00	$0	
	Subtotal				**$0**	

ITEM No.	DESCRIPTION	PLAN QUANT	UNIT	UNIT PRICE	AMOUNT (2010$)	NOTE
Surface Restoration						
17	Wetland and other Site Vegetation Restoration	1.43	ACRE	$150,000.00	$214,600	Assume the areas cleared and grubbed from Line 3 are restored.
18	Fencing wetland area	0	LF	$10.00	$0	
19	Hydroseeding	0	SF	$0.25	$0	
20	Pavement Restoration	221	Ton	$170.00	$37,500	Restore original pavement demolished for excavation. Assume compacted crushed rock backfill is adequate base course for asphalt. Assume 3-inch course of HMA and 2 tons/CY.
	Subtotal				**$252,100**	
Utility Alteration and Replacement						
21	Remove, Bypass, and/or Replace utilities in project area	1	LS	$5,000.00	$5,000	Assume nominal utilities impacted by excavation in Hangar.
	Subtotal				**$5,000**	
Monitoring						
22	Groundwater Monitoring	1.00	LS	$50,000.00	$50,000	Install four monitoring wells; complete four quarterly monitoring events; prepare quarterly memoranda of results
23	Wetland revegetation monitoring	5.00	Year	$12,000.00	$60,000	Assume 5 years of monitoring.
	Subtotal				**$110,000**	
Site Survey						
24	Post-Construction (As-Built) Surveys	1	LS	$5,000.00	$5,000	
	Subtotal				**$5,000**	
	Contractor Overhead (Based on total of Tasks 1-24)	10.00%	%		$131,680	
	Sales Tax	8.2%	%		$118,775	Sales Tax applied to sum of construction items 1-24 and construction overhead.
	Total Purchase and Installation Cost				**$1,567,255**	
	Construction Management and Field Monitoring	1	LS	$155,000.00	$155,000	
	Confirmation sample and waste characterization analysis	1	LS	$111,000.00	$111,000	Analysis of samples collected in accordance with Ecology guidance for defining limits of excavation. Analyze stockpile samples for waste characterization, including dangerous waste analyses.
Construction Total					**$1,833,255**	
	Contingency (Concept design level)	30.0%	%		$549,977	
Construction Total with Contingency					**$2,383,232**	
	Design and Permitting	1	LS	$161,000.00	$161,000	
	Project Closeout Reporting	1	LS	$60,000.00	$60,000	
	Port Internal Costs	6.0%	%		$142,994	
	OVERALL PROJECT TOTAL COSTS				**$2,747,226**	

TABLE B-2

COST ESTIMATE - PROPOSED CLEANUP ACTION ALTERNATIVE 2

CAP HISTORICAL OPERATIONS AREA, EXCAVATE DRAINAGE CHANNEL AND WETLAND AREA

TAXIWAY F SITE

BURLINGTON, WASHINGTON

ITEM No.	DESCRIPTION	PLAN QUANT	UNIT	UNIT PRICE	AMOUNT (2010$)	NOTE
Mobilization and Site Preparation						
1	Mobilization/Site Controls/Demobilization	1	LS	$5,000.00	$5,000	
	Subtotal				**$5,000**	
Demolition						
2	Asphalt demolition and disposal	17,000	SF	$1.50	$25,500	Approximately A 17,000 square foot area removed to prepare subgrade for cap.
3	Clearing and Grubbing	1.43	ACRE	$15,000.00	$21,500	Drainage channel and wetland cap and excavation areas plus a 20% buffer.
4	Protect/demolish hanger building	1	LS	$50,000.00	$50,000	
	Subtotal				**$97,000**	
Soil Removal, Backfill						
5	Excavate Operations Area Soil (0'-1 bgs)	0	CY	$12.00	$0	Total of all soil excavated. Assume 20% expansion above in-place volume. Cost includes excavation and stockpile. Assume 20% of excavation area requires over-excavation to 2-feet bgs.
6	Excavate Wetland/Stream Area Soil (0'-1 bgs)	2,770	CY	$18.00	$49,900	
7	Contaminated Soil (non-haz) Transport and Disposal at approved off-site facility	3,989	TON	$56.00	$223,400	90% of all soil excavated. Assume 1.6 ton/CY. Cost includes loading and hauling. Quote from WM.
8	Contaminated Soil (Subtitle C) Transport and Disposal at approved off-site facility	443	TON	$266.00	$117,900	10% of all soil excavated. Assume 1.6 ton/CY . Cost includes transport ($66), disposal ($180), and tax ($20). Quote from WM.
9	Purchase, Place and Compact General Backfill Material	0	TON	$13.00	$0	Use general backfill material for backfilling unpaved (75%) areas in operations area and for backfilling below 1-foot bgs. Assume 1.6 ton/CY.
10	Purchase, Place and Compact Crushed Rock Surface Material	0	CY	$35.00	$0	Backfill of excavations in operations areas with existing gravel/pave surface (25%) with crushed rock.
11	Purchase and Place Topsoil	2,770	CY	$28.00	$77,600	Use topsoil for backfilling in wetland area.
	Subtotal				**$468,800**	
Capping						
12	Grading cap area to prepare surface for geotextile	6,703	SY	$2.00	$13,400	
13	Install permeable geotextile layer to separate existing soil from crushed rock surface layer	6,703	SY	$2.25	$15,100	
14	Placement and compaction of 1-foot crushed rock surface	2,234	CY	$35.00	$78,200	
15	Install permeable geotextile layer to separate existing soil from topsoil surface layer	0	SY	$2.25	$0	
16	Placementof 1-foot cap layer of topsoil	0	CY	$28.00	$0	
	Subtotal				**$106,700**	

ITEM No.	DESCRIPTION	PLAN QUANT	UNIT	UNIT PRICE	AMOUNT (2010$)	NOTE
Surface Restoration						
17	Wetland and other Site Vegetation Restoration	1.43	ACRE	$150,000.00	$214,600	Assume the areas cleared and grubbed from Line 3 are restored.
18	Fencing wetland area	0	LF	$10.00	$0	Installation of fencing around wetland area with remaining contamination.
19	Hydroseeding	0	SF	$0.25	$0	Hydroseed drainage channel and/or wetland cap areas
20	Pavement Restoration	315	Ton	$170.00	$53,500	Restore original pavement demolished for excavation. Assume compacted crushed rock backfill is adequate base course for asphalt. Assume 3-inch course of HMA and 2 tons/CY.
	Subtotal				**$268,100**	
Utility Alteration and Replacement						
21	Remove, Bypass, and/or Replace utilities in project area	1	LS	$5,000.00	$5,000	Assume nominal utilities impacted by excavation in Hangar.
	Subtotal				**$5,000**	
Monitoring						
22	Groundwater Monitoring	1.00	LS	$50,000.00	$50,000	Install four monitoring wells; complete four quarterly monitoring events; prepare quarterly memoranda of results
23	Wetland revegetation monitoring	5.00	Year	$12,000.00	$60,000	Assume 5 years of monitoring.
	Subtotal				**$110,000**	
Site Survey						
24	Post-Construction (As-Built) Surveys	1	LS	$5,000.00	$5,000	
	Subtotal				**$5,000**	
	Contractor Overhead (Based on total of Tasks 1-24)	10.00%	%		$106,560	
	Sales Tax	8.2%	%		$96,117	Sales Tax applied to sum of construction items 1-22 and construction overhead.
	Total Purchase and Installation Cost				**$1,268,277**	
	Construction Management and Field Monitoring	1	LS	$155,000.00	$155,000	
	Confirmation sample and waste characterization analysis	1	LS	$60,000.00	$60,000	Analysis of samples collected in accordance with Ecology guidance for defining limits of excavation. Analyze stockpile samples for waste characterization, including dangerous waste analyses.
Construction Total					**$1,483,277**	
	Contingency (Concept design level)	30.0%	%		$444,983	
Construction Total with Contingency					**$1,928,260**	
	Design and Permitting	1	LS	$161,000.00	$161,000	
	Project Closeout Reporting	1	LS	$60,000.00	$60,000	
	Port Internal Costs	6.0%	%		$115,696	
	OVERALL PROJECT TOTAL COSTS				**$2,264,956**	

TABLE B-3

COST ESTIMATE - PROPOSED CLEANUP ACTION ALTERNATIVE 3
CAP HISTORICAL OPERATIONS AREA AND DRAINAGE CHANNEL, EXCAVATE WETLAND AREA
TAXIWAY F SITE
BURLINGTON, WASHINGTON

ITEM No.	DESCRIPTION	PLAN QUANT	UNIT	UNIT PRICE	AMOUNT (2010$)	NOTE
Mobilization and Site Preparation						
1	Mobilization/Site Controls/Demobilization	1	LS	$5,000.00	$5,000	
	Subtotal				**$5,000**	
Demolition						
2	Asphalt demolition and disposal	17,000	SF	$1.50	$25,500	Approximately A 17,000 square foot area removed to prepare subgrade for cap.
3	Clearing and Grubbing	0.95	ACRE	$15,000.00	$14,300	Drainage channel and wetland cap and excavation areas plus a 20% buffer.
4	Protect/demolish hanger building	1	LS	$50,000.00	$50,000	
	Subtotal				**$89,800**	
Soil Removal, Backfill						
7					$0	
5	Excavate Operations Area Soil (0'-1 bgs)	0	CY	$12.00	$0	Total of all soil excavated. Assume 20% expansion above in-place volume. Cost includes excavation and stockpile. Assume 20% of excavation area requires over-excavation to 2-feet bgs.
6	Excavate Wetland Area Soil (0'-1 bgs)	1,678	CY	$18.00	$30,200	
7	Contaminated Soil (non-haz) Transport and Disposal at approved off-site facility	2,416	TON	$56.00	$135,300	90% of all soil excavated. Assume 1.6 ton/CY. Cost includes loading and hauling. Quote from WM.
8	Contaminated Soil (Subtitle C) Transport and Disposal at approved off-site facility	268	TON	$266.00	$71,400	10% of all soil excavated. Assume 1.6 ton/CY. Cost includes transport ($66), disposal ($180), and tax ($20). Quote from WM.
9	Purchase, Place and Compact General Backfill Material	0	TON	$13.00	$0	Use general backfill material for backfilling unpaved (75%) areas in operations area and for backfilling below 1-foot bgs. Assume 1.6 ton/CY.
10	Purchase, Place and Compact Crushed Rock Surface Material	0	CY	$35.00	$0	Backfill of excavations in operations areas with existing gravel/pave surface (25%) with crushed rock.
11	Purchase and Place Topsoil	1,678	CY	$28.00	$47,000	Use topsoil for backfilling in wetland area.
	Subtotal				**$283,900**	
Capping						
12	Grading cap area to prepare surface for geotextile	6,703	SY	$2.00	$13,400	
13	Install permeable geotextile layer to separate existing soil from crushed rock surface layer	6,703	SY	$2.25	$15,100	
14	Placement and compaction of crushed rock 1-foot cap layer	2,234	CY	$35.00	$78,200	
15	Install permeable geotextile layer to separate existing soil from topsoil surface layer	2,359	SY	$2.25	$5,300	
16	Placementof 1-foot cap layer of topsoil	786	CY	$28.00	$22,000	
	Subtotal				**$134,000**	

ITEM No.	DESCRIPTION	PLAN QUANT	UNIT	UNIT PRICE	AMOUNT (2010$)	NOTE
Surface Restoration						
17	Wetland Restoration	2.04	ACRE	$150,000.00	$305,400	Assume areas excavated plus a 20% buffer requires restoration. Assume drainage channel/wetland cap area requires 2 to 1 wetland mitigation.
18	Fencing wetland area	0	LF	$10.00	$0	Installation of fencing around wetland area with remaining contamination.
19	Hydroseeding	25,475	SF	$0.25	$6,400	Hydroseed drainage channel and/or wetland cap areas
20	Pavement Restoration	315	Ton	$170.00	$53,500	Restore original pavement demolished for excavation. Assume compacted crushed rock backfill is adequate base course for asphalt. Assume 3-inch course of HMA and 2 tons/CY.
	Subtotal				**$365,300**	
Utility Alteration and Replacement						
21	Remove, Bypass, and/or Replace utilities in project area	1	LS	$5,000.00	$5,000	Assume nominal utilities impacted by capping by Hangar.
	Subtotal				**$5,000**	
Monitoring						
22	Groundwater Monitoring	1.00	LS	$50,000.00	$50,000	Install four monitoring wells; complete four quarterly monitoring events; prepare quarterly memoranda of results
23	Wetland revegetation monitoring	5.00	Year	$12,000.00	$60,000	Assume 5 years of monitoring.
	Subtotal				**$110,000**	
Site Survey						
24	Post-Construction (As-Built) Surveys	1	LS	$5,000.00	$5,000	
	Subtotal				**$5,000**	
	Contractor Overhead (Based on total of Tasks 1-24)	10.00%	%		$99,800	
	Sales Tax	8.2%	%		$90,020	Sales Tax applied to sum of construction items 1-22 and construction overhead.
	Total Purchase and Installation Cost				**$1,187,820**	
	Construction Management and Field Monitoring	1	LS	$155,000.00	$155,000	
	Confirmation sample and waste characterization analysis	1	LS	$37,000.00	$37,000	Analysis of samples collected in accordance with Ecology guidance for defining limits of excavation. Analyze stockpile samples for waste characterization, including dangerous waste analyses.
Construction Total					**$1,379,820**	
	Contingency (Concept design level)	30.0%	%		$413,946	
Construction Total with Contingency					**$1,793,765**	
	Design and Permitting	1	LS	$161,000.00	$161,000	
	Project Closeout Reporting	1	LS	$60,000.00	$60,000	
	Port Internal Costs	6.0%	%		$107,626	
	OVERALL PROJECT TOTAL COSTS				**$2,122,391**	

TABLE B-4

COST ESTIMATE - PROPOSED CLEANUP ACTION ALTERNATIVE 4
CAP HISTORICAL OPERATIONS AREA, DRAINAGE CHANNEL, AND WETLAND AREA
TAXIWAY F SITE
BURLINGTON, WASHINGTON

ITEM No.	DESCRIPTION	PLAN QUANT	UNIT	UNIT PRICE	AMOUNT (2010$)	NOTE
Mobilization and Site Preparation						
1	Mobilization/Site Controls/Demobilization	1	LS	$5,000.00	$5,000	
	Subtotal				**$5,000**	
Demolition						
2	Asphalt demolition and disposal	17,000	SF	$1.50	$25,500	Approximately A 17,000 square foot area removed to prepare subgrade for cap.
3	Clearing and Grubbing	1.43	ACRE	$15,000.00	$21,500	Drainage channel and wetland cap and excavation areas plus a 20% buffer.
4	Protect/demolish hanger building	1	LS	$50,000.00	$50,000	
	Subtotal				**$97,000**	
Soil Removal, Backfill						
7					$0	
5	Excavate Operations Area Soil (0'-1 bgs)	0	CY	$12.00	$0	Total of all soil excavated. Assume 20% expansion above in-place volume. Cost includes excavation and stockpile. Assume 20% of excavation area requires over-excavation to 2-feet bgs.
6	Excavate Wetland/Stream Area Soil (0'-1 bgs)	0	CY	$18.00	$0	
7	Contaminated Soil (non-haz) Transport and Disposal at approved off-site facility	0	TON	$56.00	$0	90% of all soil excavated. Assume 1.6 ton/CY. Cost includes loading and hauling. Quote from WM.
8	Contaminated Soil (Subtitle C) Transport and Disposal at approved off-site facility	0	TON	$266.00	$0	10% of all soil excavated. Assume 1.6 ton/CY. Cost includes transport ($66), disposal ($180), and tax ($20). Quote from WM.
9	Purchase, Place and Compact General Backfill Material	0	TON	$13.00	$0	Use general backfill material for backfilling unpaved (75%) areas in operations area and for backfilling below 1-foot bgs. Assume 1.6 ton/CY.
10	Purchase, Place and Compact Crushed Rock Surface Material	0	CY	$35.00	$0	Backfill of excavations in operations areas with existing gravel/pave surface (25%) with crushed rock.
11	Purchase and Place Topsoil	0	CY	$28.00	$0	Use topsoil for backfilling in wetland area.
	Subtotal				**$0**	
Capping						
12	Grading operation area to prepare surface for geotextile	6,703	SY	$2.00	$13,400	
13	Install permeable geotextile layer to separate existing soil from crushed rock surface layer	6,703	SY	$2.25	$15,100	
14	Placement and compaction of crushed rock 1-foot cap layer in operation area	2,234	CY	$35.00	$78,200	
15	Install permeable geotextile layer to separate existing soil from topsoil surface layer	5,771	SY	$2.25	$13,000	
16	Placementof 1-foot cap layer of topsoil	1,924	CY	$28.00	$53,900	
	Subtotal				**$173,600**	

ITEM No.	DESCRIPTION	PLAN QUANT	UNIT	UNIT PRICE	AMOUNT (2010$)	NOTE
Surface Restoration						
17	Wetland Restoration	2.86	ACRE	$150,000.00	$429,300	Assume drainage channel/wetland cap area requires 2 to 1 wetland mitigation.
18	Fencing dispersed wetland area	1,280	LF	$10.00	$12,800	Installation of fencing around wetland area with remaining contamination.
19	Hydroseeding	51,942	SF	$0.25	$13,000	Hydroseed drainage channel and/or wetland cap areas
20	Pavement Restoration	315	Ton	$170.00	$53,500	Restore original pavement demolished for excavation. Assume compacted crushed rock backfill is adequate base course for asphalt. Assume 3-inch course of HMA and 2 tons/CY.
	Subtotal				**$508,600**	
Utility Alteration and Replacement						
21	Remove, Bypass, and/or Replace utilities in project area	1	LS	$10,000.00	$10,000	Assume nominal utilities impacted by capping by Hangar.
	Subtotal				$10,000	
Monitoring						
22	Groundwater Monitoring	1.00	LS	$50,000.00	$50,000	Install four monitoring wells; complete four quarterly monitoring events; prepare quarterly memoranda of results
23	Wetland revegetation monitoring	5.00	Year	$12,000.00	$60,000	Assume 5 years of monitoring.
	Subtotal				**$110,000**	
Site Survey						
24	Post-Construction (As-Built) Surveys	1	LS	$5,000.00	$5,000	
	Subtotal				**$5,000**	
	Contractor Overhead (Based on total of Tasks 1-24)	10.00%	%		$90,920	
	Sales Tax	8.2%	%		$82,010	Sales Tax applied to sum of construction items 1-22 and construction overhead.
	Total Purchase and Installation Cost				**$1,082,130**	
	Construction Management and Field Monitoring	1	LS	$155,000.00	$155,000	
Construction Total					**$1,237,130**	
	Contingency (Concept design level)	30.0%	%		$371,139	
Construction Total with Contingency					**$1,608,269**	
	Design and Permitting	1	LS	$161,000.00	$161,000	
	Project Closeout Reporting	1	LS	$60,000.00	$60,000	
	Port Internal Costs	6.0%	%		$96,496	
	OVERALL PROJECT TOTAL COSTS				**$1,925,765**	

EXHIBIT C
PERMITS

EXHIBIT C
PERMITS

Pursuant to RCW 70.105D.090(1), the Port is exempt from the procedural requirements of certain state and local laws requiring or authorizing local government permits or approvals for the remedial actions described in the Decree. However, 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. Ecology has determined that pursuant to RCW 70.105D.090(2), the following permits must be obtained for the remedial actions described in the Decree:

1) U.S. Corps of Engineer's permit issued under §404 of the federal Cleanup Water Act for activities within wetlands present at the Site. This permit has already been issued as Nationwide Permit 38 Reference Number NWS-2008-19 and is attached to this Exhibit C. This authorization includes a determination by the Corps that the authorized work complies with Ecology's Water Quality Certification and the Coastal Zone Management Act requirements for this Nationwide Permit.

2) Coverage under the NPDES Construction Stormwater General Permit and companion order issued by Ecology pursuant to the federal Clean Water Act and RCW 90.48. This permit protects water quality by requiring construction projects that disturb land to follow specific best management practices and have a written plan for pollution prevention from stormwater generated by the project. The companion order provides further protections specific to the Taxiway F cleanup. Provisions of the NPDES Construction Stormwater General Permit can be found at:

http://www.ecy.wa.gov/programs/wq/stormwater/construction/permitdocs/cswgppermit120110.pdf

The NPDES Permit and companion order will be included in the Engineering Design Report. The companion order has had a separate public comment process.

NATIONWIDE PERMIT 38 REFERENCE NUMBER NWS-2008-19

DEPARTMENT OF THE ARMY
SEATTLE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 3755
SEATTLE, WASHINGTON 98124-3755

REPLY TO
ATTENTION OF

JUL 17 2008

RECEIVED
JUL 21 2008
PORT OF SKAGIT COUNTY

Regulatory Branch

Port of Skagit County
Ms. Sara Young
Post office Box 348
Burlington, Washington 98233

Reference: NWS-2008-19-NO
Skagit County, Port of

Dear Ms. Young:

We have reviewed your application to excavate and place fill in wetlands near Burlington, Skagit County, Washington. Based on the information you provided to us, Nationwide Permit 38, *Cleanup of Hazardous and Toxic Waste* (Federal Register, March 12, 2007 Vol. 72, No. 47), authorizes your proposal to clean up contaminated sediments as depicted on the enclosed drawings dated June 2008. In order for this NWP authorization to be valid, you must ensure that the work is performed in accordance with the enclosed *Nationwide Permit 38, Terms and Conditions* and the following special conditions:

a. The permittee must install and maintain sediment and erosion control during construction at the site and until the disturbed soil has been stabilized.

b. The permittee must implement the provisions of the document titled, "*Wetland Restoration Plan, Port of Skagit County Farmer's Supply/Tronsdale Site, Skagit County, Washington,*" dated June 24, 2008 and the addendum (planting plan) dated July 7, 2008 in their entirety.

c. A status reports on the wetland and buffer remediation (restoration), including photos, must be submitted to the Corps, Seattle District, Regulatory Branch, 13 months from the date of permit issuance. All reports must be submitted to the Corps, Seattle District, Regulatory Branch and must prominently display the reference number NWS-2008-19-NO.

The authorized work complies with the Washington State Department of Ecology's (Ecology) Water Quality Certification and the Coastal Zone Management Act requirements for this NWP. No further coordination with Ecology is required for these requirements.

We have reviewed your project pursuant to the requirements of the Endangered Species Act (ESA) and the Magnuson-Stevens Fishery Conservation and Management Act in regards to Essential Fish Habitat (EFH). We have determined that this project complies with the requirements of NWP National General Condition regarding ESA and will not adversely affect EFH.

We have completed an approved jurisdictional determination for your project area which can be found on our website at http://www.nws.usace.army.mil/ click on Regulatory, Regulatory/Permits, Recent Jurisdictional Determinations. If you object to this determination, you may request an administrative appeal under our regulations 33 CFR 331 as described in the enclosed *Appeal Process Fact Sheet* and the *Notification of Administrative Appeal Options and Process and Request for Appeal* form.

Our verification of this NWP authorization is valid for 2 years from the date of this letter unless the NWP is modified, reissued, or revoked prior to that date. If the authorized work has not been completed by that date, please contact us to discuss the status of your authorization. Failure to comply with all terms and conditions of this NWP verification invalidates this authorization and could result in a violation of Section 404 of the Clean Water Act and/or Section 10 of the 1899 Rivers and Harbors Act. Also, you must obtain all State and local permits that apply to this project.

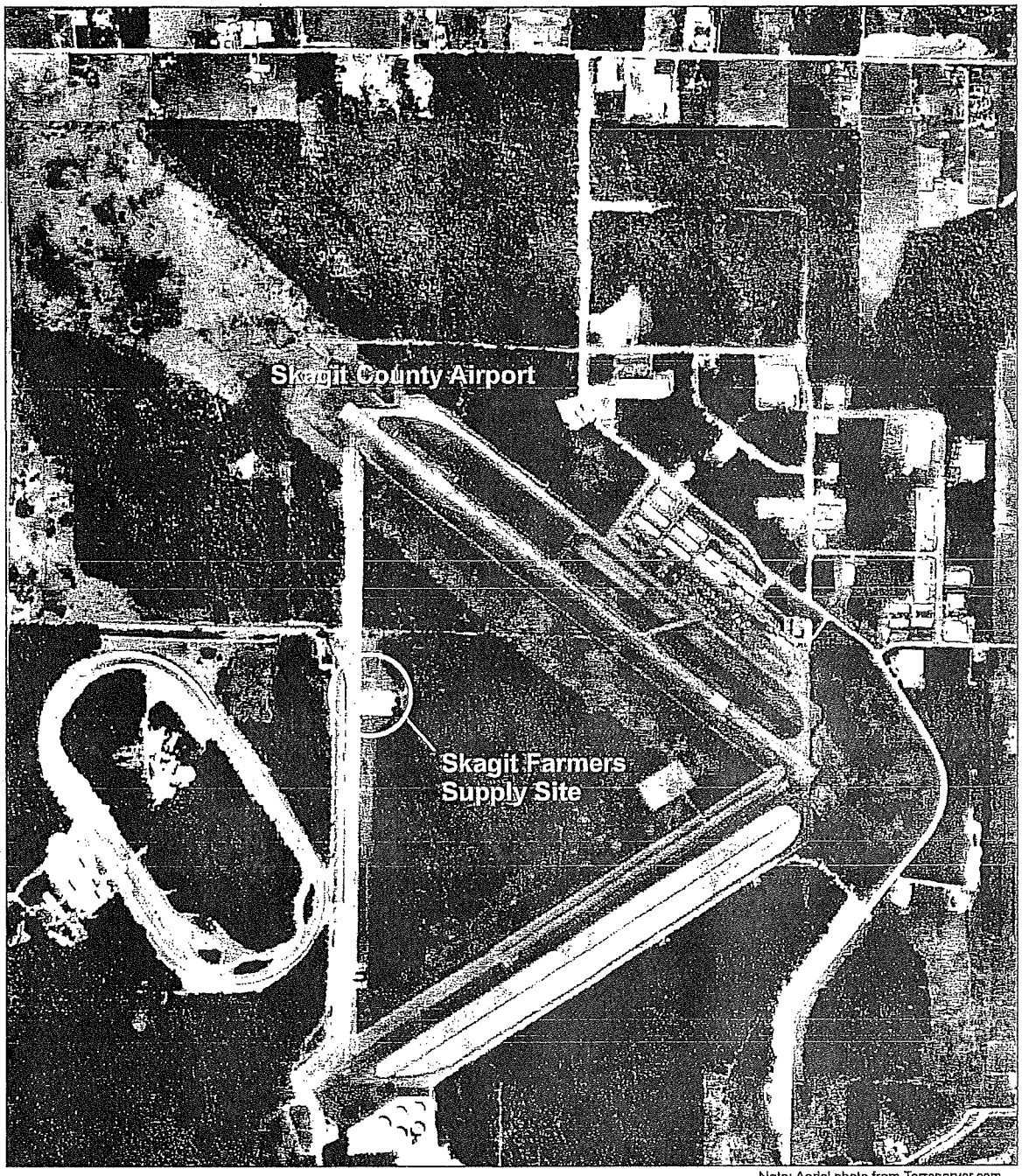
Upon completing the authorized work, you must fill out and return the enclosed *Certificate of Compliance with Department of the Army Permit* form. Thank you for your cooperation during the permit process. We are interested in your experience with our Regulatory Program and encourage you to complete a customer service survey form. This form and information about our program is available on our website.

A copy of this letter with enclosure will be furnished to Celina Abercrombie of Hart Crowser, Inc. at 120 3rd Avenue South, Suite 110, Edmonds, Washington 98020. If you have any questions about this letter, please contact me at (206) 764-6985 or via email at randel.j.perry@usace.army.mil.

Sincerely,

Randel Perry, Project Manager
Regulatory Branch

Enclosures

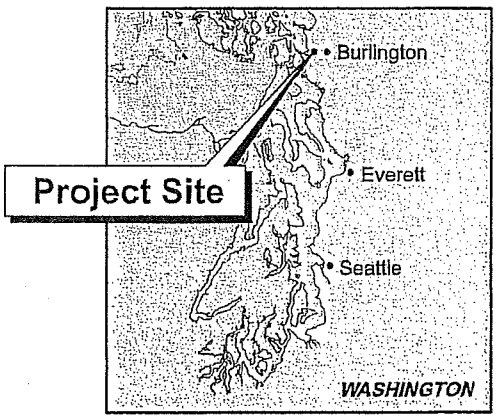


Note: Aerial photo from Terraserver.com

48° 28' 13.88"
122° 25' 46.55"

0 1,400 2,800

Approximate Scale in Feet



Former Skagit Farmers Supply Site
Burlington, Washington

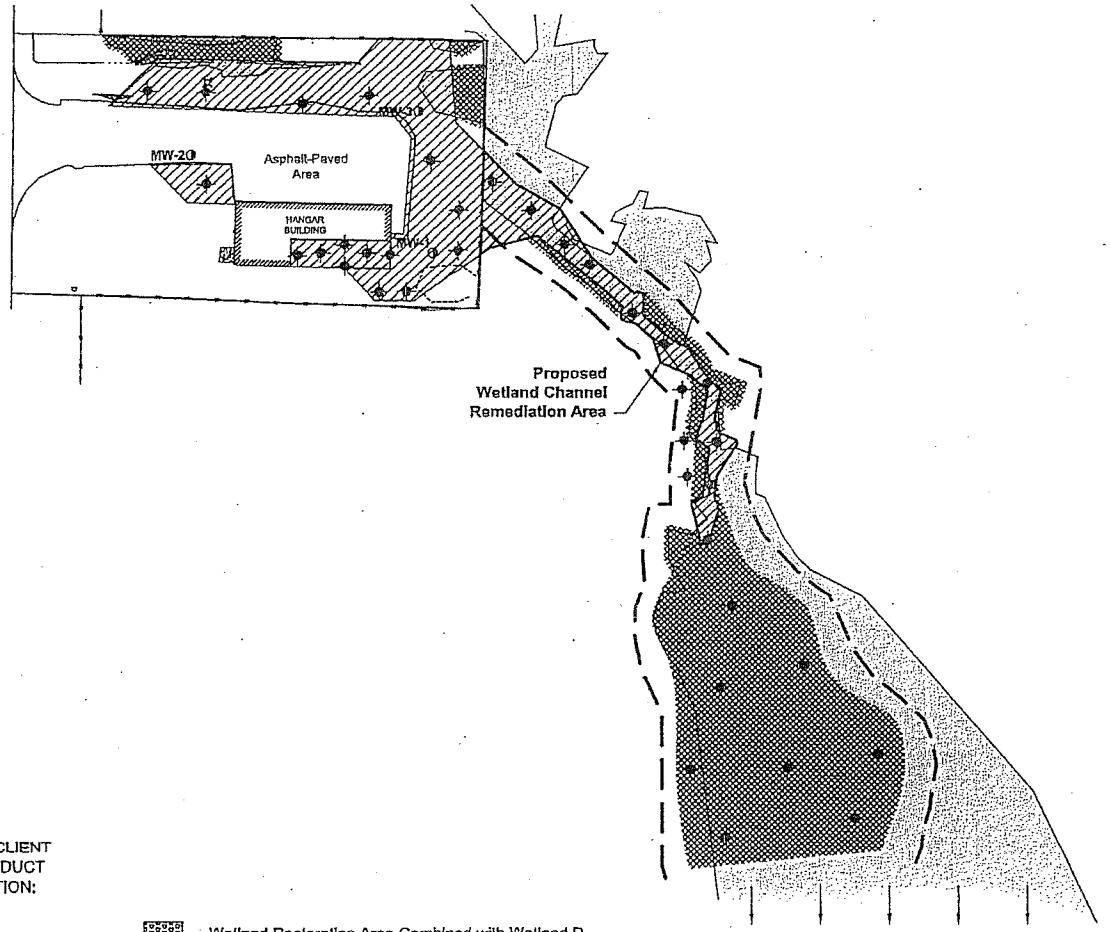
Vicinity Map

12053-18 Corps Ref# NWS-2008-19-NO 6/08

HARTCROWSER

Figure 1 of 2

EAL 06/24/08 1205318-AD.cdr



CONFIDENTIAL: PRIVILEGED ATTORNEY-CLIENT COMMUNICATION ATTORNEY WORK PRODUCT PREPARED IN ANTICIPATION OF LITIGATION: RESTRICTED DISTRIBUTION

MW-10 2004 Groundwater Monitoring Well Location and Number

Proposed Verification Sample Location

Additional Verification Sample Location

Note:

1. Refer to the Wetland Restoration Plan (Hart Crowser 2007) for additional wetland delineation information.
2. Monitoring wells MW-1, MW-2, and MW-3 to be abandoned.

Wetland Restoration Area Combined with Wetland D

Original Planned Remediation Area

Additional Remediation Area

Wetland Area (Based on July 2007 Survey)

Expanded Remediation Area (to improve access and reduce risk)

Remediation Contingency Area

Former Skagit Farmers Supply Site
Burlington, Washington

Facility Remediation Areas and Verification Sample Location Plan

12053-16 NWJ-7008-19-NO 6/08

HARTCROWSER

Figure 2 of 2

EAL 062308 12053-16-073.dwg

US Army Corps
of Engineers
Seattle District

NATIONWIDE PERMIT 38
Terms and Conditions

Effective Date: September 10, 2007

A. Description of Authorized Activities

B. Corps National General Conditions for all NWPs

C. Corps Seattle District Regional General Conditions

D. Corps Regional Specific Conditions for this NWP

E. State 401 Certification General Conditions

F. State 401 Certification Specific Conditions for this NWP

G. EPA 401 Certification General Conditions

H. EPA 401 Certification Specific Conditions for this NWP

I. Spokane Tribe of Indians 401 Certification General Conditions

J. Tribal 401 Certification Specific Conditions for this NWP

K. CZM Consistency Response Specific Conditions for this NWP

L. Additional Limitations on the Use of NWPs

In addition to any special condition that may be required on a case-by-case basis by the District Engineer, the following terms and conditions must be met, as applicable, for a Nationwide Permit 38 authorization to be valid in Washington State.

A. DESCRIPTION OF AUTHORIZED ACTIVITIES

38. Cleanup of Hazardous and Toxic Waste. Specific activities required to effect the containment, stabilization, or removal of hazardous or toxic waste materials that are performed, ordered, or sponsored by a government agency with established legal or regulatory authority. Court ordered remedial action plans or related settlements are also authorized by this NWP. This NWP does not authorize the establishment of new disposal sites or the expansion of existing sites used for the disposal of hazardous or toxic waste.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity. (See general condition 27.) (Sections 10 and 404)

Note: Activities undertaken entirely on a Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) site by authority of CERCLA as approved or required by EPA, are not required to obtain permits under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act.

B. CORPS NATIONAL GENERAL CONDITIONS FOR ALL NWPs

1. Navigation. (a) No activity may cause more than a minimal adverse effect on navigation. (b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States. (c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions.

3. Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. Migratory Bird Breeding Areas. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48.

6. Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

7. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. Management of Water Flows. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. Equipment. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable

date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.

13. Removal of Temporary Fills. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety.

15. Wild and Scenic Rivers. No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).

16. Tribal Rights. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

17. Endangered Species. (a) No activity is authorized under any NWP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed. (b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. (c) Non-federal permittees shall notify the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have "no effect" on listed species or critical habitat, or until Section 7 consultation has been completed. (d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species-specific regional endangered species conditions to the NWPs. (e) Authorization of an activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the U.S. FWS or the NMFS, both lethal and non-lethal "takes" of protected species are in violation of the ESA. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. FWS and NMFS or their World Wide Web pages at *http://www.fws.gov/* and *http://www.noaa.gov/fisheries.html* respectively.

18. Historic Properties. (a) In cases where the district engineer determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied. (b) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. (c) Non-federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may have the potential to cause effects to any historic properties listed, determined to be eligible for listing on, or potentially eligible for listing on the National Register of

Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties which the activity may have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed. (d) The district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR §800.3(a)). If NHPA section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed. (e) Prospective permittees should be aware that section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, explaining the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

19. Designated Critical Resource Waters. Critical resource waters include, NOAA-designated marine sanctuaries, National Estuarine Research Reserves, state natural heritage sites, and outstanding national resource waters or other waters officially designated by a state as having particular environmental or ecological significance and identified by the district engineer after notice and opportunity for public comment. The district engineer may also designate additional critical resource waters after notice and opportunity for comment. (a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, and 50 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters. (b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with general condition 27, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

20. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal: (a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site). (b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal. (c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10 acre and require pre-construction notification, unless the district engineer determines in writing that some other form of mitigation would be more environmentally appropriate and provides a project-specific waiver of this requirement. For wetland losses of 1/10 acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered. (d) For losses of streams or other

open waters that require pre-construction notification, the district engineer may require compensatory mitigation, such as stream restoration, to ensure that the activity results in minimal adverse effects on the aquatic environment. (e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2 acre, it cannot be used to authorize any project resulting in the loss of greater than 1/2 acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NWPs. (f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the establishment, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, riparian areas may be the only compensatory mitigation required. Riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses. (g) Permittees may propose the use of mitigation banks, in-lieu fee arrangements or separate activity-specific compensatory mitigation. In all cases, the mitigation provisions will specify the party responsible for accomplishing and/or complying with the mitigation plan. (h) Where certain functions and services of waters of the United States are permanently adversely affected, such as the conversion of a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse effects of the project to the minimal level.

21. Water Quality. Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA Section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

22. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

23. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

24. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

25. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

"When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated

liabilities associated with compliance with its terms and conditions, have the transferee sign and date below."

(Transferee)

(Date)

26. Compliance Certification. Each permittee who received an NWP verification from the Corps must submit a signed certification regarding the completed work and any required mitigation. The certification form must be forwarded by the Corps with the NWP verification letter and will include: (a) A statement that the authorized work was done in accordance with the NWP authorization, including any general or specific conditions; (b) A statement that any required mitigation was completed in accordance with the permit conditions; and (c) The signature of the permittee certifying the completion of the work and mitigation.

27. Pre-Construction Notification. (a) Timing. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, as a general rule, will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity: (1) Until notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or (2) If 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 17 that listed species or critical habitat might affected or in the vicinity of the project, or to notify the Corps pursuant to general condition 18 that the activity may have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or Section 106 of the National Historic Preservation (see 33 CFR 330.4(g)) is completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee cannot begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) Contents of Pre-Construction Notification: The PCN must be in writing and include the following information: (1) Name, address and telephone numbers of the prospective permittee; (2) Location of the proposed project; (3) A description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. The description should be sufficiently detailed to allow the district engineer to determine that the adverse effects of the project will be minimal and to determine the need for compensatory mitigation. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the project and when provided result in a quicker decision.); (4) The PCN must include a delineation of special aquatic sites and other waters of the United States on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters of the United States, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the United States. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, where appropriate; (5) If the proposed activity will result in the loss of greater than 1/10 acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan. (6) If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, for non-Federal applicants the

PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act; and (7) For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-Federal applicants the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

(c) Form of Pre-Construction Notification: The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is a PCN and must include all of the information required in paragraphs (b)(1) through (7) of this general condition. A letter containing the required information may also be used.

(d) Agency Coordination: (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the project's adverse environmental effects to a minimal level. (2) For all NWP 48 activities requiring pre-construction notification and for other NWP activities requiring pre-construction notification to the district engineer that result in the loss of greater than 1/2-acre of waters of the United States, the district engineer will immediately provide (e.g., via facsimile transmission, overnight mail, or other expeditious manner) a copy of the PCN to the appropriate Federal or state offices (U.S. FWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Office (THPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will then have 10 calendar days from the date the material is transmitted to telephone or fax the district engineer notice that they intend to provide substantive, site-specific comments. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5. (3) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act. (4) Applicants are encouraged to provide the Corps multiple copies of pre-construction notifications to expedite agency coordination. (5) For NWP 48 activities that require reporting, the district engineer will provide a copy of each report within 10 calendar days of receipt to the appropriate regional office of the NMFS.

(e) District Engineer's Decision: In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If the proposed activity requires a PCN and will result in a loss of greater than 1/10 acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for projects with smaller impacts. The district engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed work are minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the district engineer will notify the permittee and include any conditions the district engineer deems necessary. The district engineer must approve any compensatory mitigation proposal before the permittee commences work. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the district engineer to be minimal, the district engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP.

If the district engineer determines that the adverse effects of the proposed work are more than minimal, then the district engineer will notify the applicant either: (1) That the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (2) that the project is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level; or (3) that the project is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period. The authorization will include the necessary conceptual or specific mitigation or a requirement that the applicant submit a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level. When mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan.

28. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

C. Corps Seattle District Regional General Conditions

1. Aquatic Resources Requiring Special Protection. The following restrictions apply to activities in Washington State requiring Department of the Army authorization:

(a) Activities resulting in a loss of waters of the United States in a mature forested wetland, bog, bog-like wetland, aspen-dominated wetland, or alkali wetland are not authorized by NWP, except the following NWPs:

NWP 3 – Maintenance
NWP 20 – Oil Spill Cleanup
NWP 32 – Completed Enforcement Actions
NWP 38 – Cleanup of Hazardous and Toxic Waste
NWP 47 – Pipeline Safety Program Designated Time Sensitive Inspections and Repairs

(b) For activities in or affecting a mature forested wetland, bog, bog-like wetland, wetland in a dunal system along the Washington coast, vernal pool, aspen-dominated wetland, alkali wetland, camas prairie wetland, or marine water with eelgrass beds (except for NWP 48) *and not prohibited by the preceding general regional condition 1.a.*, the permittee must submit a pre-construction notification to the District Engineer in accordance with Nationwide Permit General Condition 27 (Pre-Construction Notification).

2. Access. You must allow representatives of this office to inspect the authorized activity at any time deemed necessary to ensure that the work is being, or has been, accomplished in accordance with the terms and conditions of your permit.

3. Commencement Bay. Activities requiring Department of the Army authorization and located in the Commencement Bay Study Area are not authorized by the following NWPs:

NWP 12 – Utility Line Activities (substations)
NWP 13 – Bank Stabilization
NWP 14 – Linear Transportation Projects
NWP 23 – Approved Categorical Exclusions
NWP 29 – Residential Developments
NWP 39 – Commercial and Institutional Developments
NWP 40 – Agricultural Activities
NWP 41 – Reshaping Existing Drainage Ditches
NWP 42 – Recreational Facilities
NWP 43 – Stormwater Management Facilities

4. Bank Stabilization. All bank stabilization projects require pre-construction notification to the District Engineer in accordance with Nationwide Permit General Condition 27 (Pre-Construction Notification). Each notification must include a planting plan using native riparian plant species unless the applicant demonstrates that a planting plan is

not appropriate or not practicable. Each notification must also include the following information, except as waived by the District Engineer:

(a) Need for the work, including the cause of the erosion and the threat posed to structures, infrastructure, and/or public safety.

(b) Current and expected post-project sediment movement and deposition patterns in and near the project area.

(c) Current and expected post-project habitat conditions, including the presence of fish, wildlife and plant species in the project area.

(d) Demonstration that the proposed project incorporates the least environmentally damaging practicable bank protection methods. These methods include, but are not limited to, the use of bioengineering, biotechnical design, root wads, large woody debris, native plantings, and beach nourishment in certain circumstances. If rock must be used due to site erosion conditions, explain how the bank stabilization structure incorporates elements beneficial to fish.

(e) Assessment of the likely impact of the proposed work on upstream, downstream and cross-stream properties (at a minimum the area assessed should extend from the nearest upstream bend to the nearest downstream bend of the watercourse). Discuss the methodology used for determining effects.

NOTE: Information on designing bank stabilization projects can be found in the Washington Department of Fish and Wildlife's *Integrated Streambank Protection Guidelines* (*http://www.wdfw.wa.gov/hab/ahg/ispgdoc.htm*); King County's *Reconnaissance Assessment of the State of the Nearshore Ecosystem* (*http://dnr.metrokc.gov/wlr/watersheds/puget/nearshore/sonr.htm*); and three technical (white) papers – *Marine and Estuarine Shoreline Modification Issues*, *Ecological Issues in Floodplains and Riparian Corridors*, and *Over-Water Structures: Marine, Freshwater, and Treated Wood Issues* (*http://wdfw.wa.gov/hab/ahg/ahgwhite.htm*).

5. Cultural Resources and Human Burials. Permittees must immediately stop work and notify the District Engineer within 24 hours if, during the course of conducting authorized work, human burials, cultural resources, or historic properties, as identified by the National Historic Preservation Act, are discovered and may be affected by the work. Failure to stop work in the area of discovery until the Corps can comply with the provisions of 33 CFR 325 Appendix C, the National Historic Preservation Act, and other pertinent laws and regulations could result in a violation of state and federal laws. Violators are subject to civil and criminal penalties.

6. Essential Fish Habitat. An activity which may adversely affect essential fish habitat, as identified under the Magnuson-Stevens Fishery Conservation and Management Act (MSA), may not be authorized by NWP until essential fish habitat requirements have been met by the applicant and the Corps. Non-federal permittees shall notify the District Engineer if essential fish habitat may be affected by, or is in the vicinity of, a proposed activity and shall not begin work until notified by the District Engineer that the requirements of the essential fish habitat provisions of the MSA have been satisfied and the activity is authorized. The notification must identify the type(s) of essential fish habitat (i.e., Pacific salmon, groundfish, and/or coastal-pelagic species) managed by a Fishery Management Plan that may be affected. Information about essential fish habitat is available at *http://www.nwr.noaa.gov/*

7. Vegetation Protection and Restoration. Permittees must clearly mark all construction area boundaries before beginning work and minimize the removal of native vegetation in riparian areas and wetlands to the maximum extent practicable. Areas subject to temporary vegetation removal in wetlands or riparian areas during construction shall be replanted with appropriate native species by the end of the first planting season following the disturbance except as waived by the District Engineer.

D. Corps Regional Specific Conditions for this NWP: None

E. State 401 Certification General Conditions

1. For in-water construction activities. Individual 401 review is required under this condition for projects or activities authorized under NWPs that will cause, or be likely to cause or contribute to an exceedence of a State water quality standard (WAC 173-201A) or sediment management standard (WAC 173-204).
State water quality standards can be located on Ecology's website: http://www.ecy.wa.gov/programs/wq/swqs/.

Sediment management standards can be located on Ecology's website:
http://www.ecy.wa.gov/biblio/wac173204.html.
Information is also available by contacting Ecology's Federal Permit staff.

2. Projects or Activities Discharging to Impaired Waters. Individual 401 review is required by this condition for projects or activities authorized under NWPs if the project or activity may result in further exceedences of a specific parameter the waterbody is listed for on the state's list of impaired waterbodies (the 303(d) list).
The current 303(d) listed waterbodies can be identified using search tools available on Ecology's website: *http://www.ecy.wa.gov/programs/wq/303d/2002/2002-index.html* or by contacting Ecology's Federal Permit staff.

3. Notification. For projects or activities that will require individual 401 review, applicants must provide Ecology with the written documentation provided to the Corps (as described in Corps Nationwide Permit General Condition 27, Pre-Construction Notification), including, when applicable:

(a) A description of the project, including site plans, project purpose, direct and indirect adverse environmental effects the project would cause, any other Department of the Army permits used or intended to be used to authorize any part of the proposed project or any related activity.

(b) Delineation of special aquatic sites and other waters of the United States. Wetland delineations must be prepared in accordance with the current method required by the Corps and shall include Ecology's Wetland Rating form. *Note: Forms are available at Ecology's Wetlands website:*
http://www.ecy.wa.gov/programs/sea/wetlands/index.html or by contacting Ecology's Federal Permit staff.

(c) Coastal Zone Management Program "Certification of Consistency" Form if the project is located within a coastal county (Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Mason, Pacific, Pierce, San Juan, Skagit, Snohomish, Thurston, Wahkiakum, and Whatcom counties).
Note: Forms are available at the Army Corps of Engineers website: http://www.nws.usace.army.mil
or by contacting Ecology's Federal Permit staff.

(d) Other applicable requirements of Corps Nationwide Permit General Condition 27, Corps Regional Conditions, or notification conditions of the applicable NWP.

Ecology's review time shall not begin until the applicable documents noted above have been provided to Ecology and Ecology has received a copy of the final Nationwide Permit verification letter from the Corps.

4. Aquatic resources requiring special protection. Certain aquatic resources are unique, difficult-to-replace components of the aquatic environment in Washington State. Activities that would affect these resources must be avoided to the greatest extent possible. Compensating for adverse impacts to high value aquatic resources is typically difficult, prohibitively expensive, and may not be possible in some landscape settings.
Individual 401 review is required for activities in or affecting the following aquatic resources (and not prohibited by Regional Condition 1), except for:

NWP 20 – Oil Spill Cleanup
NWP 32 – Completed Enforcement Actions
NWP 38 – Cleanup of Hazardous Waste
NWP 47 – Pipeline Safety Program Repair

(a) Wetlands with special characteristics (as defined in the Washington State Wetland Rating Systems for western and eastern Washington, Ecology Publication #s04-06-025 and #04-06-015):

- estuarine wetlands
- Natural Heritage wetlands
- Bogs
- old-growth and mature forested wetlands
- wetlands in coastal lagoons
- interdunal wetlands
- vernal pools
- alkali wetlands

(b) Bog-like wetlands, aspen-dominated wetlands, camas prairie wetlands, and marine water with eelgrass beds (except for NWP 48).

(c) Category I wetlands

(d) Category II wetlands with a habitat score >29 points.

5. Mitigation. 401 Certification is based on adequate compensatory mitigation being provided for wetland and other water quality-related impacts of projects or activities authorized under the NWP Program.
Mitigation plans submitted for Ecology review and approval shall be based on the guidance provided in Wetland Mitigation in Washington State, Parts 1 and 2 (Ecology Publication #s06-06-011a and #06-06-011b) and shall, at a minimum, include the following:

(a) A description of the measures taken to avoid and minimize impacts to wetlands and other waters of the U.S.

(b) The nature of the proposed impacts (i.e., acreage of wetlands and functions lost or degraded)

(c) The rationale for the mitigation site that was selected

(d) The goals and objectives of the compensatory mitigation project

(e) How the mitigation project will be accomplished, including proposed performance standards for measuring success and the proposed buffer widths

(f) How it will be maintained and monitored to assess progress towards goals and objectives. Monitoring will generally be required for a minimum of five years. For forested and scrub-shrub wetlands, 10 years of monitoring will often be necessary.

(g) How the compensatory mitigation site will be legally protected for the long-term.

Refer to Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Ecology Publication #06-06-011b) for guidance on developing mitigation plans.
Ecology encourages the use of alternative mitigation approaches, including advance mitigation and other programmatic approaches, such as mitigation banks and programmatic mitigation areas at the local level. If you are interested in proposing use of an alternative mitigation approach, consult with the appropriate Ecology regional staff person. (see *http://www.ecy.wa.gov/programs/sea/wetlands/contacts.htm*)
For information on the state wetland mitigation banking program go to:
http://www.ecy.wa.gov/programs/sea/wetlands/mitigation/banking/index.html

6. Temporary Fills. Individual 401 review is required for any project or activity with temporary fill in wetlands or other waters of the State for more than 90 days, unless the applicant has received written approval from Ecology.

7. Mill Creek Special Area Management Plan. This condition applies to all NWPs within the boundaries described in the Mill Creek Special Area Management Plan (SAMP), King County, Washington, dated April 2000 (SAMP). The boundaries of the SAMP encompass all sub-basins and tributaries drained by Algona Creek, Auburn Creek, Bingaman Creek, Midway Creek, Mill Creek, and Mullen Slough. The area is bounded roughly on the south by 8th Avenue N in Algona and 4th Street NE in Auburn, on the east and north by the Ordinary High Water Mark of the Green River, and on the west by the plateau that parallels Interstate 5 above the Green River valley.

Individual 401 review is required for projects or activities authorized under the NWPs unless:

(a) The project or activity will result in fill-related impacts to only wetlands designated as developable under Alternative #8, as shown on Figure 4-8 of the SAMP.

(b) Compensatory mitigation for such impacts is onsite and/or within the areas designated on Figure 3-3, "Maximum Areas for Restoration by Target Habitat Type," in the SAMP Aquatic Resources Restoration Plan (April 2000).

(c) Mitigation plans comply with the requirements of the SAMP and, in general, with the guidance in the interagency Wetland Mitigation in Washington State (March 2006; Ecology publications #06-06-011a and #06-06-011b). Note: You can download the SAMP and Aquatic Resources Restoration Plan at *http://www.nws.usace.army.mil/PublicMenu/Menu.cfm?sitename=REG&pagename=Mill_Creek_SAMP*.

8. State Certification for PCNs not receiving 45-day response. In the event the U.S. Army Corps of Engineers does not respond to a complete pre-construction notification within 45 days, the applicant must contact Ecology for Individual 401 review.

F. State 401 Certification Specific Conditions for this NWP

Certified, subject to conditions. Individual 401 review is required for projects or activities authorized under this NWP if the project or activity is not authorized though a Model Toxics Control Act (MTCA) order or a Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) order.

G. EPA 401 Certification General Conditions

In order for any NWP authorization to be valid in Washington State, permittees must comply with all applicable 401 Certification general conditions. EPA 401 Certification general conditions apply to all NWP authorizations involving Section 404 activities on Native American Indian Tribal lands (excluding the tribal lands of the Chehalis Tribes, Port Gamble S'Klallum Tribe, Kalispel Tribe, Makah Indian Tribe, Puyallup Tribe, Spokane Tribe, and Tulalip Tribe) and Federal land with exclusive jurisdiction within Washington State.

A. Special Aquatic Sites. Any activities in the following types of wetlands and waters of the U.S. will need to apply for an individual 401 certification: Mature forested wetlands; bogs; bog-like wetlands; wetlands in dunal systems along the Washington coast; vernal pools; aspen-dominated wetlands; alkali wetlands; camas prairie wetlands; salt marshes; or marine water with eelgrass beds.

B. Soil Erosion and Sediment Controls. An individual 401 certification is based on the project or activity meeting established turbidity levels. EPA will be using as guidance the state of Washington's water quality standards [WAC 173-201a] and sediment quality standards [WAC 173-204]. Projects or activities that are expected to exceed these levels or that do exceed these levels will require an individual 401 certification.

C. Compliance with Stormwater Provisions. Individual 401 certification is required for projects or activities not designed in accordance with Ecology's most recent stormwater manual or Ecology approved equivalent manual.

D. Compliance with requirements of the National Pollutant Discharge Elimination System. For projects and activities requiring coverage under an NPDES permit, certification is based on compliance with the requirements of that permit. Projects and activities not in compliance with NPDES requirements will require individual 401 certification.

E. Projects or Activities Discharging to Impaired Waters. Individual 401 certification is required for projects or activities authorized under NWPs if the project will discharge to a waterbody on the list of impaired waterbodies (the 303(d) List) *and* the discharge may result in further exceedence of a specific parameter the waterbody is listed for.

EPA may issue 401 certification for projects or activities that would result in further exceedence or impairment if mitigation is provided that would result in a net decrease in listed contaminants or less impairment in the waterbody. This determination would be made during individual 401 certification review.

F. Notification. For projects requiring individual 401 certification, applicants must provide EPA with the same documentation provided to the Corps (as described in Corps National General Condition 27, Pre-Construction Notification), including, when applicable:

(a) A description of the project, including site plans, project purpose, direct and indirect adverse environmental effects the project would cause, any other U.S. Department of the Army permits used or intended to be used to authorize any part of the proposed project or any related activity.

(b) Delineation of special aquatic sites and other waters of the United States. Wetland delineations must be prepared in accordance with the current method required by the Corps.

(c) A statement describing how the mitigation requirement will be satisfied. A conceptual or detailed mitigation or restoration plan may be submitted.

(d) Other applicable requirements of Corps National General Condition 27, Corps Regional Conditions, or notification conditions of the applicable NWP.

A request for individual 401 review is not complete until EPA receives the applicable documents noted above and EPA has received a copy of the final authorization letter from the Corps providing coverage for a proposed project or activity under the NWP Program.

G. Mitigation. An individual 401 certification is based on adequate compensatory mitigation being provided for wetland and other water quality-related impacts of projects or activities authorized under the NWP Program. Mitigation plans submitted shall be based on the Joint Agency guidance provided in *Wetland Mitigation in Washington State, Parts 1 and 2* (Ecology Publication #06-06-011a and #06-06-011b) and shall, at a minimum, include the following:

1. A description of the measures taken to avoid and minimize impacts to wetlands and other waters of the U.S.
2. The nature of the proposed impacts (i.e., acreage of wetlands and functions lost or degraded).
3. The rationale for the mitigation site that was selected.
4. The goals and objectives of the compensatory mitigation project.
5. How the mitigation project will be accomplished, including proposed performance standards for measuring success and the proposed buffer widths.
6. How it will be maintained and monitored to assess progress towards goals and objectives. Monitoring will generally be required for a minimum of five years. For forested and scrub-shrub wetlands, 10 years of monitoring will often be necessary.
7. How the compensatory mitigation site will be legally protected for the long-term.

H. Temporary Fills. An individual 401 certification is required for any activity where temporary fill will remain in wetlands or other waterbodies for more than 90 days. The 90 day period begins when filling activity starts in the wetland or other waterbody.

H. EPA 401 Certification Specific Conditions for this NWP

Partially denied without prejudice. Individual 401 review is required for projects authorized under this NWP if the project or activities are not part of an EPA ordered cleanup.

I. Spokane Tribe of Indians 401 Certification General Conditions

Specific to the Reservation and the Tribal Water Quality Standards, the applicant must comply with the following when there could be a discharge to waters of the Spokane Indian Reservation:

1. The applicant shall be responsible for achieving compliance with the Spokane Tribal Water Quality Standards.

2. The applicant shall submit copies of applications materials to the Spokane Tribal Water Control Board for review and approval at the same time they are submitted to Army Corps of Engineers and prior to any disturbance activities.

3. The applicant shall comply with all Spokane Tribal Integrated Resource Management Plan (IRMP) guidelines for land use activities and disturbances.

4. The applicant shall allow the Tribal Water Control board and Interdisciplinary Team to inspect the area in question and adopt recommendations made throughout its operation.

5. Monitoring of the discharge shall occur at a level indicated by EPA and the Tribe, are subject to change, and shall be submitted to both entities.

J. Tribal 401 Certification Specific Conditions for this NWP

Denied without prejudice by the Chehalis, Kalispel, Makah, Port Gamble S'Klallum, Puyallup, and Tulalip tribes. Certified subject to general conditions by the Spokane Tribe.

K. CZM Consistency Response Specific Conditions for this NWP

Concur, subject to the following condition:

1. Where individual 401 review is triggered, an individual CZM Consistency Response must be obtained for projects located within the 15 coastal counties. A "Certification of Consistency" form must be submitted in accordance with State General Condition 3 (Notification).

L. ADDITIONAL LIMITATIONS ON THE USE OF NWPs

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.

2. NWPs do not obviate the need to obtain other Federal, state, or local permits, approvals, or authorizations required by law.

3. NWPs do not grant any property rights or exclusive privileges.

4. NWPs do not authorize any injury to the property or rights of others.

5. NWPs do not authorize interference with any existing or proposed Federal project.

US Army Corps
of Engineers ®
Seattle District

Appeal Process Fact Sheet

27 April 2006

Our letter cites a Department of the Army administrative appeal rule for permit decisions and approved jurisdictional determinations that went into effect March 9, 1999. In accordance with this rule, we have included a *Notification of Administrative Appeal Options and Process and Request for Appeal* form of which Section I is the Notification of Appeal Process (NAP) fact sheet and Section II is the Request for Appeal (RFA) form.

If a permit decision was made, you may decline to accept a permit if you object to any of the terms or conditions, ***and*** you believe that these terms or conditions are based on procedural errors; incorrect data; omission of fact; incorrect application of current Federal manual or guidance associated with wetlands; or incorrect application of a law, regulation, or policy that governs our permit program. Once you accept the permit, you waive the right to further appeal unless we later modify the permit.

If you object to this permit decision or jurisdictional determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. As stated previously, enclosed you will find a *Notification of Appeal Options and Process and Request for Appeal* form. If you request to appeal this determination, you must submit a completed RFA form to the Division Engineer at the following address:

Division Engineer
U.S. Army Corps of Engineers, Northwest Division
Karen Kochenbach, Regulatory Program Manager
Post Office Box 2870
Portland, Oregon 97208-2870
Telephone: (503) 808-3888

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by the 60th day. "Day 1" is designated as the date of the NAP form. "Day 60" is designated as the 60th calendar day after the date of the NAP form, with the official counting of calendar days beginning on "Day 1" as designated above. When "Day 60" is a traditional non-working day (e.g., a holiday or a weekend), the 60 day timeframe is extended to the next business day. Our Division Office has 90 days to resolve the appeal with you once your completed and acceptable NAO-RFA form has been received.

It is not necessary to submit an RFA form to the Division office if you do not object to the decision or determination in our letter.

If you have any questions about your options or the appeal process in general, please contact the project manager indicated on the form.

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

JUL 17 2008

Applicant: Port of Skagit County	File Number: NWS-2008-19-NO	Date:
Attached is:		See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
	PERMIT DENIAL	C
x	APPROVED JURISDICTIONAL DETERMINATION	D
	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at http://usace.army.mil/inet/functions/cw/cecwo/reg or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- OBJECT: If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- APPEAL: If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- ACCEPT: You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- APPEAL: If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also, you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:	If you only have questions regarding the appeal process you may also contact:
Randel Perry, Project Manager U.S. Army Corps of Engineers, Seattle District Post Office Box 3755 Seattle, Washington 98124-3755 Telephone: (206) 764-6985	Division Engineer U.S. Army Corps of Engineers, Northwest Division Karen Kochenbach, Regulatory Program Manager Post Office Box 2870 Portland, Oregon 97208-2870 Telephone: (503) 808-3888

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15-day notice of any site investigation, and will have the opportunity to participate in all site investigations.

	Date:	Telephone number:
_____ Signature of appellant or agent.		

US Army Corps
of Engineers ®
Seattle District

CERTIFICATE OF COMPLIANCE WITH DEPARTMENT OF THE ARMY PERMIT

Permit Number: NWS-2008-19-NO

Name of Permittee: Port of Skagit County

Date of Issuance: _____

Upon completion of the activity authorized by this permit, please check the applicable boxes below, sign this certification, and return it to the following address:

Department of the Army
U.S. Army Corps of Engineers
Seattle District, Regulatory Branch
Post Office Box 3755
Seattle, Washington 98125-3755

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with the terms and conditions of your authorization, your project is subject to suspension, modification, or revocation.

☐ The work authorized by the above-referenced permit has been completed in accordance with the terms and conditions of this permit.

☐ The mitigation required (not including monitoring) by the above-referenced permit has been completed in accordance with the terms and conditions of this permit.

_____
Signature of Permittee

DEPARTMENT OF THE ARMY
SEATTLE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 3755
SEATTLE, WASHINGTON 98124-3755

REPLY TO
ATTENTION OF

Regulatory Branch

RECEIVED
JUL 22 2010
PORT OF SKAGIT COUNTY

July 20, 2010

Ms. Sara Young
Port of Skagit County
Post office Box 348
Burlington, Washington 98233

Reference: NWS-2008-19
Skagit County, Port of

Dear Ms. Young:

In your correspondence dated July 15, 2010, you requested a time extension to the referenced Nationwide Permit (NWP) 38 verification issued to you on July 17, 2008. The work authorized by NWP 38 involves excavation and the placement of fill in wetlands to clean up contaminated sediments. The work will occur in wetlands near Burlington, Skagit County, Washington.

We have reviewed your time extension request and verified that NWP 38 authorizes this project under current regulations. In order for this NWP authorization to be valid, you must ensure that the work is performed in accordance with the previously approved plans dated June 2008. You are cautioned that any change in project plans will require that you submit a copy of the revised plans to this office and obtain our approval before you begin work.

This verification is valid until the NWP is modified, reissued, or revoked. All of the existing NWPs are scheduled to be modified, reissued, or revoked on March 18, 2012. It is incumbent upon you to remain informed of changes to the NWPs. We will issue a public notice when the NWPs are reissued. Furthermore, if you commence or are under contract to commence this activity before March 18, 2012, you will have until March 18, 2013 to complete the activity under the present terms and conditions of this NWP.

Failure to comply with all terms and conditions of this NWP verification invalidates this authorization and could result in a violation of Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act of 1899. Also, you must obtain all State and local permits that apply to this project. All other terms and conditions contained in the original NWP verification remain in full force and effect.

If you have any questions about this letter, please contact me at (360) 734-3156 or via email at randel.j.perry@usace.army.mil.

Sincerely,

Randel J. Perry

Randel Perry, Project Manager
Regulatory Branch

DEPARTMENT OF THE ARMY
SEATTLE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 3755
SEATTLE, WASHINGTON 98124-3755

REPLY TO
ATTENTION OF

February 15, 2011

Regulatory Branch

Port of Skagit County
Ms. Sara Young
Post office Box 348
Burlington, Washington 98233

Reference: NWS-2008-19
Skagit County, Port of

Dear Ms. Young:

In correspondence dated January 27, 2011, your agent, Ms. Fiona McNair, requested a modification to the referenced Nationwide Permit (NWP) 38 verification issued to you on July 17, 2008 and re-verified on July 20, 2010. The work authorized by NWP 38 involves excavation and the placement of fill in wetlands to clean up contaminated sediments. The work will occur in wetlands near Burlington, Skagit County, Washington.

We have reviewed your request and verified that NWP 38 authorizes this project under current regulations. In order for this NWP authorization to be valid, you must ensure that the work is performed in accordance with the enclosed approved modified plans dated January 14, 2011 and in accordance with the following modified special conditions "b" and "c":

b. The permittee must implement the provisions of the document titled, "*Updated Wetland Restoration Plan, Port of Skagit County – Taxiway F Site, Skagit County, WA*," dated January 27, 2011 in their entirety.

c. A status reports on the wetland and buffer remediation (restoration), including photos, must be submitted to the Corps, Seattle District, Regulatory Branch, 13 months from the date of this reverification. All reports must be submitted to the Corps, Seattle District, Regulatory Branch and must prominently display the reference number NWS-2008-19.

This verification is valid until the NWP is modified, reissued, or revoked. All of the existing NWPs are scheduled to be modified, reissued, or revoked on March 18, 2012. It is incumbent upon you to remain informed of changes to the NWPs. We will issue a public notice when the NWPs are reissued. Furthermore, if you commence or are under contract to commence this activity before March 18, 2012, you will have until March 18, 2013 to complete the activity under the present terms and conditions of this NWP.

Failure to comply with all terms and conditions of this NWP verification invalidates this authorization and could result in a violation of Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act of 1899. Also, you must obtain all State and local permits that apply to this project. All other terms and conditions contained in the original NWP verification remain in full force and effect.

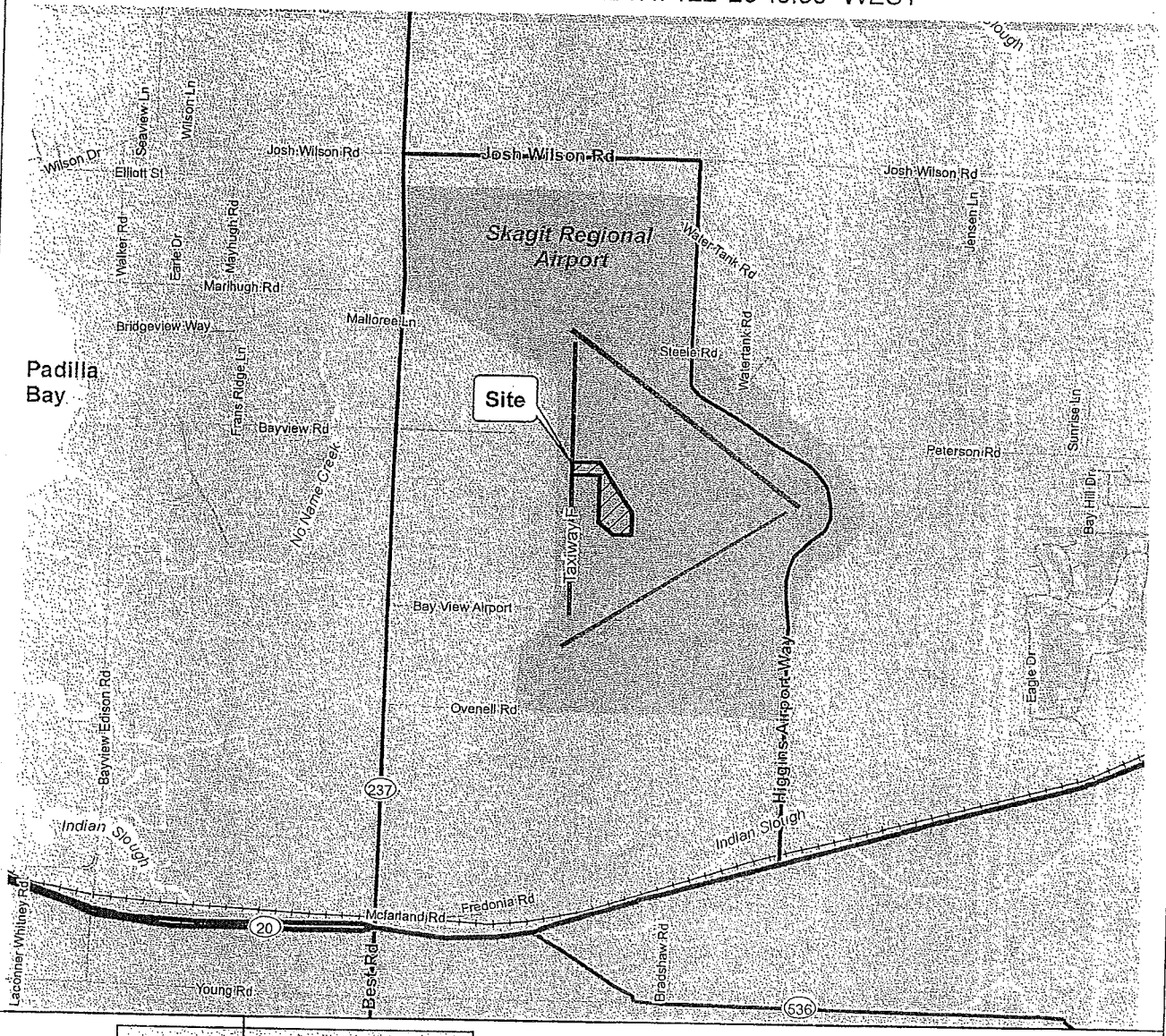
A copy of this correspondence with enclosures will be provided to Ms. Fiona McNair of GeoEngineers, Inc. at 600 Stewart Street, Suite 1700, Seattle, WA 98101. If you have any questions about this letter, please contact me at (360) 734-3156 or via email at randel.j.perry@usace.army.mil.

Sincerely,

Randel Perry, Project Manager
Regulatory Branch

SEC. 4, T34N, R03E, W.M.

LOG.: 48°28'13.85" NORTH - LAT.: 122°25'46.38" WEST



REFERENCE: ESRI DATA & MPAS, STREET MAPS 2005

P:\538401302\CAD\JARPA\538401302 JARPA Figs.dwg\TAB:VM modified by tmichaud on Jan 13, 2011 - 10:18

OFFICE:SEA

PURPOSE:

REMOVE CONTAMINATED SOIL, PLACE BACKFILL AND RESTORE. REVERIFICATION OF PERMIT (NWS-2008-19-~~NC~~)

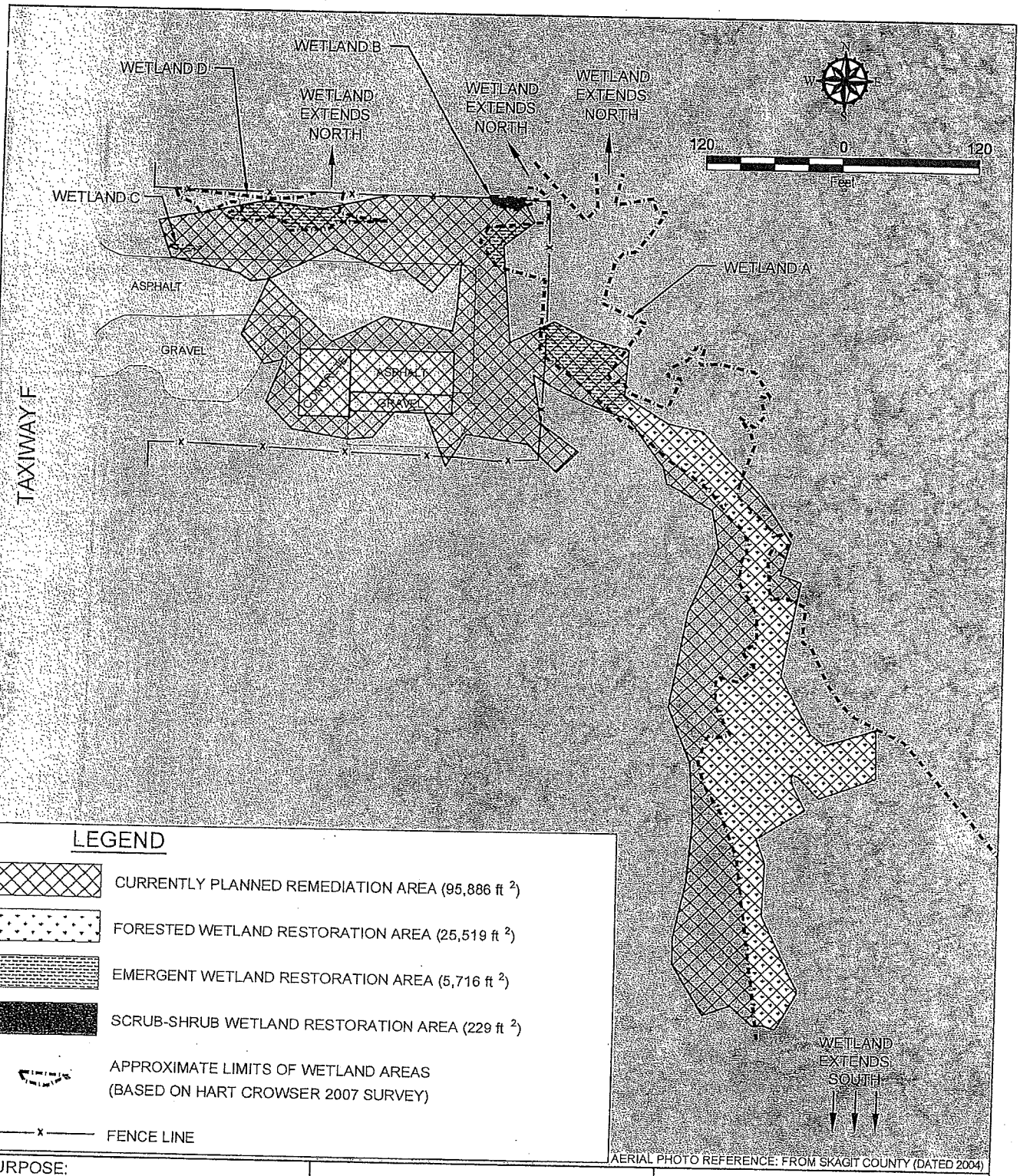
ADJACENT PROPERTY OWNERS:

1. PORT OF SKAGIT COUNTY

VICINITY MAP

TAXIWAY F SITE
SKAGIT COUNTY, WA

IN: SKAGIT COUNTY
COUNTY OF: SKAGIT
STATE OF: WASHINGTON
APPLICATION BY:
PORT OF SKAGIT COUNTY
SHEET: 1 of 2
DATE: 01/14/11
CREATED BY: GEOENGINEERS, INC.



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OFFICE:SEA

PURPOSE:

REMOVE CONTAMINATED SOIL, PLACE BACKFILL AND RESTORE. REVERIFICATION OF PERMIT (NWS-2008-19-~~NO~~)

ADJACENT PROPERTY OWNERS:
1. PORT OF SKAGIT COUNTY

SITE PLAN
WETLAND RESTORATION AREAS

TAXIWAY F SITE
SKAGIT COUNTY, WA

IN: SKAGIT COUNTY
COUNTY OF: SKAGIT
STATE OF: WASHINGTON
APPLICATION BY:
PORT OF SKAGIT COUNTY
SHEET: 3 of 3
DATE: 01/14/11
CREATED BY: GEOENGINEERS, INC.

EXHIBIT D
STATE & LOCAL SUBSTANTIVE REQUIREMENTS

Exhibit D
State & Local Substantive Requirements

Pursuant to RCW 70.105D.090(1), the cleanup action described in the Decree are exempt from the procedural requirements of Chapters 70.94, 70.95, 70.105, 77.55, 90.48, and 90.58 RCW and of any laws requiring or authorizing local government permits or approvals. However, the Port shall comply with the substantive requirements of such permits or approvals. The exempt permits or approvals and the applicable substantive requirements of those permits or approvals, as they are known at the time of entry of this Decree, are as follows:

1) Skagit County Fill and Grade Permit. The substantive requirements of this approval are applicable to the cleanup action required in the Decree because it involves substantial excavation and placement of clean fill. As applied to the cleanup action, the fill and grade permit's substantive requirements generally consist of development of a temporary erosion and sediment control plan and drainage control. Substantive requirements for the *Skagit County Fill and Grade Permit* will be included in the Engineering Design Report and will become integral and enforceable parts of this Decree.

2) Skagit County Critical Areas Review. The substantive requirements of this approval are applicable to the cleanup action required in the Decree because it involves disturbance to jurisdictional wetlands. As applied to the cleanup action, the critical areas review substantive requirements generally consist of minimization of impact to wetlands, replanting and wetland restoration, and post construction restoration monitoring. Substantive requirements for the *Skagit County Critical Areas Review* will be included in the Engineering Design Report and will become integral and enforceable parts of this Decree.