

**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

In the Matter of Remedial Action by:

City of Shelton

For:

Shelton C Street Landfill

Facility Site No. 1186

Cleanup Site No. 2295

AGREED ORDER

No. DE 12929

TO: City of Shelton
Attn: Mr. Dave O’Leary
525 W. Cota St
Shelton, WA 98584

TABLE OF CONTENTS

I.	INTRODUCTION	2
II.	JURISDICTION	2
III.	PARTIES BOUND	2
IV.	DEFINITIONS	2
V.	FINDINGS OF FACT	3
VI.	ECOLOGY DETERMINATIONS	5
VII.	WORK TO BE PERFORMED	6
VIII.	TERMS AND CONDITIONS	12
	A. Remedial Action Costs	12
	B. Designated Project Coordinators	12
	C. Performance	13
	D. Access	14
	E. Sampling, Data Submittal, and Availability	14
	F. Public Participation	15
	G. Retention of Records	16
	H. Resolution of Disputes	17
	I. Extension of Schedule	18
	J. Amendment of Order	19
	K. Endangerment	20
	L. Reservation of Rights	21
	M. Transfer of Interest in Property	21
	N. Compliance with Applicable Laws	22
	O. Indemnification	23
IX.	SATISFACTION OF ORDER	23
X.	ENFORCEMENT	23

EXHIBIT A Site Diagram

I. INTRODUCTION

The mutual objective of the State of Washington, Department of Ecology (Ecology) and the City of Shelton (City) under this Agreed Order (Order) is to provide for remedial action at a facility where there has been a release or threatened release of hazardous substances. This Order requires the City to perform a remedial investigation and feasibility study (RI and FS), and submit a draft cleanup action plan to Ecology for the Shelton C Street Landfill Site. Ecology believes the actions required by this Order are in the public interest.

II. JURISDICTION

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

III. PARTIES BOUND

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

IV. DEFINITIONS

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

A. Site: The Site is referred to as the Shelton C Street Landfill and is generally located on a 16.7-acre parcel at the southwest intersection of West C Street and US Highway 101 in Shelton, WA. The Site is defined by the extent of contamination caused by the release of hazardous substances at the Site. Based upon factors currently known to Ecology, the Site is

generally described in the Site Diagram (Exhibit A). The Site constitutes a facility under RCW 70.105D.020(8).

B. Parties: Refers to the State of Washington, Department of Ecology and the City of Shelton.

C. Potentially Liable Person (PLP): Refers to the City of Shelton.

D. Agreed Order or Order: Refers to this Order and each of the exhibits to this Order.

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

V. FINDINGS OF FACT

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

A. The 16.7-acre property, known as the C Street Landfill, is located in Mason County and consists of the entirety of Mason County tax parcel 42024-21-60430. The property is located near the west terminus of West C Street, just west of US Highway 101 in Shelton, WA. The property is currently owned by the City of Shelton. The delineation of the Site is yet to be determined in both the vertical and horizontal dimensions.

B. Originally in private ownership, the property was mined in the past for sand and gravel.

C. The property was acquired by the City in 1928 for use as a municipal landfill. Landfill operations occurred between 1928 and 1974 and collected municipal waste from the City of Shelton and surrounding area. The City continued limited dumping of road sweepings, pruning debris, and sludge after 1974 as described below.

D. Occasional open burning of garbage occurred throughout the operating period of the landfill between 1928 and 1974.

E. In the mid-1950s, the City constructed an incinerator on the property to reduce waste volume. Ash generated from the incinerator was deposited in the main pit of the landfill. In the mid-1960s, the incinerator was demolished.

F. In October 1972, the first state solid waste regulation was promulgated as Chapter 173-301 WAC, with requirements including daily cover, access restrictions, and vector control for landfills. Landfill inspections at the time documented infractions of these new requirements.

G. Between 1931 and 1934, the landfill received by-products from the former Rayonier pulp mill (operating prior to 1937 as Rainier Pulp & Paper) located in Shelton.

H. Between 1931 and 1974, the landfill received solid waste from the Rayonier Research Laboratory as well as demolition debris from decommissioning of the Rayonier pulp mill. The Port of Shelton also operated an Imhoff tank (a chamber used for the reception and processing of sewage) and used the Site to deposit sludge over the same time period.

I. Between 1951 and 1981, the landfill was used for dumping of sludge from the City of Shelton Pine Street wastewater treatment plant and the wastewater treatment plant on Fairmount Avenue. Between July 1979 and November 1981, approximately 4.5 million gallons of high solids wastewater was disposed, forming a shallow, half-acre lagoon. During this time, Mason County Health Department (MCHD) issued a specified waste permit allowing the placement of dredged material from Oakland Bay in the City landfill. MCHD expressed concerns for the wastewater ponding that included potential infiltration, vector control, and public access for reasons of possible groundwater impact, and lack of vector prevention measures and access restrictions. In December 1981, MCHD decided that the sludge disposal operations created an emergency situation requiring immediate cessation of the practice. Future sludge disposal was directed to a permitted facility and access to the sludge lagoon on Site was restricted. The City's Department of Community Development informed MCHD that granular material from the Site would be used to cover the sludge lagoon. It is unknown if this action was performed or to what degree of cover was placed.

J. The Simpson Timber Company (STC) long operated a wood-burning, boiler power plant at the Shelton mill site on Oakland Bay. Stack air emission controls were first imposed in 1976 and the light, fly-ash fraction was collected in baghouses. This waste was then mixed with

water and slurried to the City's wastewater treatment plant where the material typically settled out with other solids as treatment sludge. This waste stream containing STC ash was collected and disposed in the landfill between 1976 and 1981.

K. Between 1984 and 1986, the Environmental Protection Agency (EPA) conducted a National Dioxin Study to determine the extent of dioxin contamination in the United States and possible associated risks to human health and the environment. STC volunteered its wood-fired boiler power plant as part of the study. The principal congener of concern, 2,3,7,8-tetrachlorodibenzodioxin (TCDD), was found to range from non-detect to 4.2 parts per billion (ppb) in baghouse ash. Additional study work in Mason County included ash disposal areas. Ten samples of wastewater treatment sludge containing STC ash were taken from the sludge disposal area in the landfill. These were composited and found TCDD at a concentration of 0.17 ppb. However, using toxic equivalency factors summed for combined dioxin/furan congeners produced a total concentration of 3.1 ppb.

L. In 1987, the City retained the environmental consulting firm Brown and Caldwell to provide guidance and alternatives for closure of the landfill. Brown and Caldwell produced a draft report specifying Site correction and landfill closure recommendations that evaluated Site access controls, soil cover improvements over the waste disposal areas, and the need for groundwater monitoring. The recommendations did not include cap and cover permeability specifications as the firm did not believe groundwater monitoring was necessary at the time. Additional Site background details and information on the proposed closure options can be found in the draft report titled "Correction and Closure Plan: Shelton Landfill Disposal Facility, Administrative Draft; Brown and Caldwell, January 1988."

VI. ECOLOGY DETERMINATIONS

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

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

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

C. Based upon credible evidence, Ecology issued a PLP status letter to the City dated December 9, 2014, pursuant to RCW 70.105D.040, .020(26), and WAC 173-340-500. By letter dated January 8, 2015, the City voluntarily waived its rights to notice and comment and accepted Ecology’s determination that the City is a PLP under RCW 70.105D.040.

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

E. Under WAC 173-340-430, an interim action is a remedial action that is technically necessary to reduce a threat to human health or the environment by eliminating or substantially reducing one or more pathways for exposure to a hazardous substance, that corrects a problem that may become substantially worse or cost substantially more to address if the remedial action is delayed, or that is needed to provide for completion of a site hazard assessment, remedial investigation/feasibility study, or design of a cleanup action plan. Either party may propose an interim action under this Order. If the Parties are in agreement concerning the interim action, the Parties will follow the process in Section VII.M. If the Parties are not in agreement, Ecology reserves its authority to require interim action(s) under a separate order or other enforcement action under RCW 70.105D, or to undertake the interim action itself.

VII. WORK TO BE PERFORMED

Based on the Findings of Fact and Ecology Determinations, it is hereby ordered that the City take the following remedial actions at the Site and that these actions be conducted in accordance with WAC 173-340 unless otherwise specifically provided for herein:

A. Chemicals of Potential Concern and Screening Levels Technical Memorandum.

The City shall prepare and submit to Ecology for review and approval a technical memorandum describing the chemicals of potential concern at the Site and proposed screening levels (Site SLs) that will be used to evaluate the chemicals of potential concern during the RI and FS. The City may consult with Ecology prior to writing the technical memorandum to discuss appropriate Site SLs and potential chemicals to be included. Submit the draft technical memorandum to Ecology within 45 days from the effective date of this Agreed Order. Submit the final technical memorandum within 30 days of receiving Ecology's comments on the draft technical memorandum.

B. RI Work Plan. The City shall prepare and submit to Ecology for review and approval a work plan to implement a Remedial Investigation (RI) under WAC 173-340-350. Submit the draft RI work plan to Ecology within 90 days from receipt of Ecology's comments on the draft Chemicals of Potential Concern and Screening Levels Technical Memorandum. Submit the final RI work plan incorporating Ecology's comments within 30 days of receiving Ecology's comments on the draft plan. Once approved by Ecology, the RI work plan shall become an integral and enforceable part of this Order. The City may consult with Ecology prior to writing the RI Work Plan, to discuss scope of the work and outline for the work plan. At a minimum, the RI work plan shall include the items listed below.

1. Preliminary conceptual site model.
2. Summary of existing chemical and hydrogeological data relevant to delineating the extent of contamination at the Site, and identification of remaining data gaps regarding the nature and extent of contamination.
3. Provisions for sufficient research and field investigations to delineate the nature and extent of contamination related to releases at this Site, to enable selection of cleanup standards, and to enable identification and evaluation of cleanup alternatives.
4. An evaluation of potential data needs for conducting the FS, and planned methods to obtain the needed data.

5. A Site Safety and Health Plan conforming to the requirements of WAC 173-340-810.
6. A section including the elements of a Sampling and Analysis Plan per the requirements of WAC 173-340-820. This shall include quality assurance/quality control measures necessary to ensure environmental data is complete, representative, accurate, and comparable to regulatory standards.

C. RI Field Work. The City shall perform a remedial investigation that meets the requirements of 173-340-350 and implements the approved work plan. Begin remedial investigation field work within 30 days of receiving Ecology's approval of the final RI Work Plan.

D. Laboratory and field screening results. The City shall submit laboratory and field screening results from the remedial investigation field work to Ecology. Submit laboratory results to the Ecology project manager within 15 days following PLP's receipt of data from the laboratory(ies). Submit field screening results to the Ecology project manager within 15 days of performing field screening.

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

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

G. Draft RI Report. The City shall prepare and submit to Ecology for review and approval a Draft RI Report documenting the findings of the RI that meets the requirements of

WAC 173-340-350. The City may consult with Ecology prior to writing the Draft RI Report, to discuss the report outline. The Draft RI Report shall incorporate relevant data from previous reports and studies, and those data shall be incorporated into the maps and tables of the RI Report along with the data from the RI field work. After making revisions based on Ecology's comments on an initial Draft RI report, the City shall submit a final Draft RI report. The final Draft RI report will be subjected to public notice and opportunity to comment before final approval by Ecology, in accordance with WAC 173-340-600(13)(c). Submit the initial Draft RI Report to Ecology no longer than 180 days from completion of field work. Submit the final Draft RI report that incorporates Ecology's comments within 60 days of receiving Ecology's comments on the initial Draft RI report.

H. Draft FS. The City shall prepare and submit to Ecology for review and approval a Draft Feasibility Study (FS) that meets the requirements of WAC 173-340-350(8). The City may consult with Ecology prior to writing the Draft FS to discuss the report outline and scope of alternatives to be considered. After making revisions based on Ecology's comments on an initial Draft FS, the City shall submit a final Draft FS. The final Draft FS will be subjected to public notice and opportunity to comment before final approval by Ecology, in accordance with WAC 173-340-600(13)(c). Submit the initial Draft FS to Ecology no longer than 120 days after Ecology approval of the Draft RI. Submit the final Draft FS report that incorporates Ecology's comments within 60 days of receiving Ecology's comments on the initial Draft FS.

I. Draft Cleanup Action Plan. After Ecology approval of the final Draft RI and FS reports, the City shall prepare and submit to Ecology for review a Draft Cleanup Action Plan (Draft CAP) that meets the requirements in WAC 173-340-380. The City may consult with Ecology prior to writing the Draft CAP to discuss the report outline and proposed contents. After making revisions based on Ecology's comments on an initial Draft CAP, the City shall submit a revised Draft CAP. Ecology will issue a final Draft CAP for public notice and opportunity to comment in accordance with WAC 173-340-600(14) (a) and (b). Implementation of a final CAP will be addressed by a separate legal agreement. Submit the initial Draft CAP no longer than 90 days from

Ecology's approval of the final Draft FS. Submit a revised Draft CAP that incorporates Ecology's comments within 30 days of receiving Ecology's comments on the initial Draft CAP.

J. Progress reports and communications with Ecology. The City shall provide monthly written progress reports to Ecology that provide a synopsis of the previous month's activities, initial findings and observations in the field, status of reports or other deliverables, and expected activities for the upcoming month. The City shall meet in person or over the telephone with Ecology at major project junctures, as specified in the tasks of this section, to review expectations and requirements, proposed contents of reports, overall project schedule, new developments, or unexpected results that could result in the need for modifications to the work.

K. If, at any time after the first exchange of comments on drafts, Ecology determines that insufficient progress is being made in the preparation of any of the deliverables required by this section, Ecology may complete and issue the final deliverable.

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

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

N. If Ecology determines that the City has failed to make sufficient progress or failed to implement the remedial action, in whole or in part, Ecology may, after notice to the City, perform any or all portions of the remedial action or at Ecology's discretion allow the City opportunity to correct. The City shall reimburse Ecology for the costs of doing such work in

accordance with Section VIII.A (Remedial Action Costs). Ecology reserves the right to enforce requirements of this Order under Section X (Enforcement).

O. Except where necessary to abate an emergency situation, the City shall not perform any remedial actions at the Site outside those remedial actions required by this Order, unless Ecology concurs, in writing, with such additional remedial actions.

P. Summary of Schedule

Task	Item	Schedule
A	Draft Chemicals of Concern and Screening Levels Technical Memorandum	45 days from the effective date of Agreed Order
A	Final Chemicals of Concern and Screening Levels Technical Memorandum	30 days from receiving Ecology comments on the draft technical memorandum
B	Draft RI Work Plan	90 days from receiving Ecology comments on the draft technical memorandum
B	Final RI Work Plan	30 days from receiving Ecology comments on the draft
C	Begin RI Field Work	30 days from Ecology approval of Final RI Work Plan
D	Submit Laboratory Results	15 days from PLPs receipt of laboratory data
D	Submit Field Screening Results	15 days from conducting field screening
E	RI Data Memorandum and Data Spreadsheets	45 days from PLPs receipt of laboratory data
F	Electronic Data Submittal to EIM	30 days from completion of data validation
G	Initial Draft RI Report	180 days from completion of field work
G	Final Draft RI Report	60 days from receiving Ecology comments on the draft
H	Initial Draft FS	120 days from Ecology approval of RI report.
H	Final Draft FS	60 days from receiving Ecology comments on the draft
I	Initial Draft CAP	120 days from Ecology approval of FS.
I	Revised Draft CAP	30 days from receiving Ecology comments on the draft
J	Progress Reports	Monthly
J	Meetings	Prior to development of each deliverable report; after field investigation events; upon availability of validated laboratory data; prior to determining alternatives to evaluate in the RI/FS report.

VIII. TERMS AND CONDITIONS

A. Remedial Action Costs

The City shall pay to Ecology costs incurred by Ecology pursuant to this Order and consistent with WAC 173-340-550(2). These costs shall include work performed by Ecology or its contractors for, or on, the Site under RCW 70.105D, including remedial actions and Order preparation, negotiation, oversight, and administration. These costs shall include work performed both prior to and subsequent to the issuance of this Order. Ecology's costs shall include costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2). Ecology has accumulated \$3,533.59 in remedial action costs related to this Site as of June 30, 2015. Payment for this amount shall be submitted within thirty (30) days of the effective date of this Order. For all costs incurred subsequent to June 30, 2015, the City shall pay the required amount within thirty (30) days of receiving from Ecology an itemized statement of costs that includes a summary of costs incurred, an identification of involved staff, and the amount of time spent by involved staff members on the project. A general statement of work performed will be provided upon request. Itemized statements shall be prepared quarterly. Pursuant to WAC 173-340-550(4), failure to pay Ecology's costs within ninety (90) days of receipt of the itemized statement of costs will result in interest charges at the rate of twelve percent (12%) per annum, compounded monthly.

In addition to other available relief, pursuant to RCW 19.16.500, Ecology may utilize a collection agency and/or, pursuant to RCW 70.105D.055, file a lien against real property subject to the remedial actions to recover unreimbursed remedial action costs.

B. Designated Project Coordinators

The project coordinator for Ecology is:

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

The project coordinator for the City is:

Gregory Clark, P.E., Public Works Director
525 W. Cota St
Shelton, WA 98584
Telephone: 360-432-5131

Each project coordinator shall be responsible for overseeing the implementation of this Order. Ecology's project coordinator will be Ecology's designated representative for the Site. To the maximum extent possible, communications between Ecology and the City, and all documents, including reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order shall be directed through the project coordinators. The project coordinators may designate, in writing, working level staff contacts for all or portions of the implementation of the work to be performed required by this Order.

Any party may change its respective project coordinator. Written notification shall be given to the other party at least ten (10) calendar days prior to the change.

C. Performance

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

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

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

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

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

D. Access

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

E. Sampling, Data Submittal, and Availability

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

If requested by Ecology, the City shall allow Ecology and/or its authorized representative to take split or duplicate samples of any samples collected by the City pursuant to implementation of this Order. The City shall notify Ecology seven (7) days in advance of any sample collection or work activity at the Site. Ecology shall, upon request, allow the City and/or its authorized representative to take split or duplicate samples of any samples collected by Ecology pursuant to the implementation of this Order, provided that doing so does not interfere with Ecology's sampling. Without limitation on Ecology's rights under Section VIII.D (Access), Ecology shall notify the City prior to any sample collection activity unless an emergency prevents such notice.

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

F. Public Participation

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

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

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

2. Notify Ecology's project coordinator prior to the preparation of all press releases and fact sheets, and before major meetings with the interested public and local governments. Likewise, Ecology shall notify the City 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 City that do not receive prior Ecology approval, the City shall clearly indicate to its audience that the press release, fact sheet, meeting, or other outreach effort was not sponsored or endorsed by Ecology.

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

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

- a. Shelton Timberland Library
710 W Alder Street
Shelton, WA 98501
(360) 426-1362
- b. Shelton Civic Center
Public Works Department
525 W. Cota St.
Shelton, WA 98584
(360) 426-9731
- c. Ecology's Southwest Regional Office
300 Desmond Drive SE
Lacey, WA 98503
(360) 407-6300

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

G. Retention of Records

During the pendency of this Order, and for ten (10) years from the date of completion of work performed pursuant to this Order, the City shall preserve all records, reports, documents, and underlying data in its possession relevant to the implementation of this Order and shall insert a similar record retention requirement into all contracts with project contractors and subcontractors. Upon request of Ecology, the City shall make all records available to Ecology and allow access for review within a reasonable time.

Nothing in this Order is intended to waive any right the City may have under applicable law to limit disclosure of documents protected by the attorney work-product privilege and/or the attorney-client privilege. If the City withholds any requested records based on an assertion of privilege, the City shall provide Ecology with a privilege log specifying the records withheld and the applicable privilege. No Site-related data collected pursuant to this Order shall be considered privileged.

H. Resolution of Disputes

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

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

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

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

d. The Section Manager shall conduct a review of the dispute and shall issue a written decision regarding the dispute (“Decision on Dispute”) within thirty (30) calendar days of receipt of the Formal Dispute Notice. The Decision on Dispute shall be Ecology’s final decision on the disputed matter.

2. The Parties agree to only utilize the dispute resolution process in good faith and agree to expedite, to the extent possible, the dispute resolution process whenever it is used.

3. Implementation of these dispute resolution procedures shall not provide a basis for delay of any activities required in this Order, unless Ecology agrees in writing to a schedule extension.

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

I. Extension of Schedule

1. An extension of schedule shall be granted only when a request for an extension is submitted in a timely fashion, generally at least thirty (30) days prior to expiration of the deadline for which the extension is requested, and good cause exists for granting the extension. All extensions shall be requested in writing. The request shall specify:

- a. The deadline that is sought to be extended;
- b. The length of the extension sought;
- c. The reason(s) for the extension; and
- d. Any related deadline or schedule that would be affected if the extension were granted.

2. The burden shall be on the City to demonstrate to the satisfaction of Ecology that the request for such extension has been submitted in a timely fashion and that good cause exists for granting the extension. Good cause may include, but may not be limited to:

- a. Circumstances beyond the reasonable control and despite the due diligence of the City 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 City;
- b. Acts of God, including fire, flood, blizzard, extreme temperatures, storm, or other unavoidable casualty; or
- c. Endangerment as described in Section VIII.K (Endangerment).

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

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

4. An extension shall only be granted for such period of time as Ecology determines is reasonable under the circumstances. Ecology may grant schedule extensions exceeding ninety (90) days only as a result of:

- a. Delays in the issuance of a necessary permit which was applied for in a timely manner;
- b. Other circumstances deemed exceptional or extraordinary by Ecology; or
- c. Endangerment as described in Section VIII.K (Endangerment).

J. Amendment of Order

The project coordinators may verbally agree to minor changes to the work to be performed without formally amending this Order. Minor changes will be documented in writing by Ecology within seven (7) days of verbal agreement.

Except as provided in Section VIII.L (Reservation of Rights), substantial changes to the work to be performed shall require formal amendment of this Order. This Order may only be

formally amended by the written consent of both Ecology and the City. The City shall submit a written request for amendment to Ecology for approval. Ecology shall indicate its approval or disapproval in writing and in a timely manner after the written request for amendment is received. If the amendment to this Order represents a substantial change, Ecology will provide public notice and opportunity to comment. Reasons for the disapproval of a proposed amendment to this Order shall be stated in writing. If Ecology does not agree to a proposed amendment, the disagreement may be addressed through the dispute resolution procedures described in Section VIII.H (Resolution of Disputes).

K. Endangerment

In the event Ecology determines that any activity being performed at the Site under this Order is creating or has the potential to create a danger to human health or the environment on or surrounding the Site, Ecology may direct the City to cease such activities for such period of time as it deems necessary to abate the danger. The City shall immediately comply with such direction.

In the event the City determines that any activity being performed at the Site under this Order is creating or has the potential to create a danger to human health or the environment, the City may cease such activities. The City 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 City shall provide Ecology with documentation of the basis for the determination or cessation of such activities. If Ecology disagrees with the City's cessation of activities, it may direct the City to resume such activities.

If Ecology concurs with or orders a work stoppage pursuant to this section, the City's obligations with respect to the ceased activities shall be suspended until Ecology determines the danger is abated, and the time for performance of such activities, as well as the time for any other work dependent upon such activities, shall be extended in accordance with Section VIII.I (Extension of Schedule) for such period of time as Ecology determines is reasonable under the circumstances.

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

L. Reservation of Rights

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

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

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

M. Transfer of Interest in Property

No voluntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Site shall be consummated by the City without provision for continued implementation of all requirements of this Order and implementation of any remedial actions found to be necessary as a result of this Order.

Prior to the City's transfer of any interest in all or any portion of the Site, and during the effective period of this Order, the City shall provide a copy of this Order to any prospective purchaser, lessee, transferee, assignee, or other successor in said interest; and, at least thirty (30)

days prior to any transfer, the City shall notify Ecology of said transfer. Upon transfer of any interest, the City shall notify all transferees of the restrictions on the activities and uses of the property under this Order and incorporate any such use restrictions into the transfer documents.

N. Compliance with Applicable Laws

1. All actions carried out by the City pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements, including requirements to obtain necessary permits, except as provided in RCW 70.105D.090. At this time, no federal, state, or local requirements have been identified as being applicable to the actions required by this Order.

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

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

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

O. Indemnification

The City agrees to indemnify and save and hold the State of Washington, its employees, and agents harmless from any and all claims or causes of action (1) for death or injuries to persons, or (2) for loss or damage to property, to the extent arising from or on account of acts or omissions of the City, its officers, employees, agents, or contractors in entering into and implementing this Order. However, the City shall not indemnify the State of Washington nor save nor hold its employees and agents harmless from any claims or causes of action to the extent arising out of the negligent acts or omissions of the State of Washington, or the employees or agents of the State, in entering into or implementing this Order.

IX. SATISFACTION OF ORDER

The provisions of this Order shall be deemed satisfied upon the City's receipt of written notification from Ecology that the City has completed the remedial activity required by this Order, as amended by any modifications, and that the City has complied with all other provisions of this Agreed Order.

X. ENFORCEMENT

Pursuant to RCW 70.105D.050, this Order may be enforced as follows:

- A. The Attorney General may bring an action to enforce this Order in a state or federal court.
- B. The Attorney General may seek, by filing an action, if necessary, to recover amounts spent by Ecology for investigative and remedial actions and orders related to the Site.

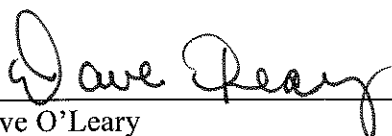
C. A liable party who refuses, without sufficient cause, to comply with any term of this Order will be liable for:

1. Up to three (3) times the amount of any costs incurred by the State of Washington as a result of its refusal to comply.
2. Civil penalties of up to twenty-five thousand dollars (\$25,000) per day for each day it refuses to comply.

D. This Order is not appealable to the Washington Pollution Control Hearings Board. This Order may be reviewed only as provided under RCW 70.105D.060.

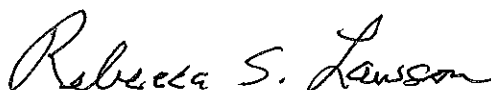
Effective date of this Order: 9/30/2016

CITY OF SHELTON

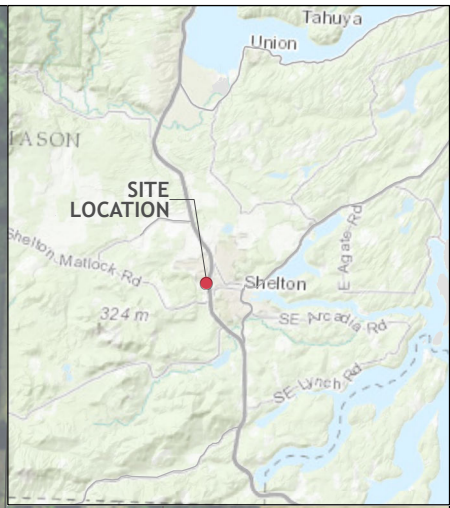
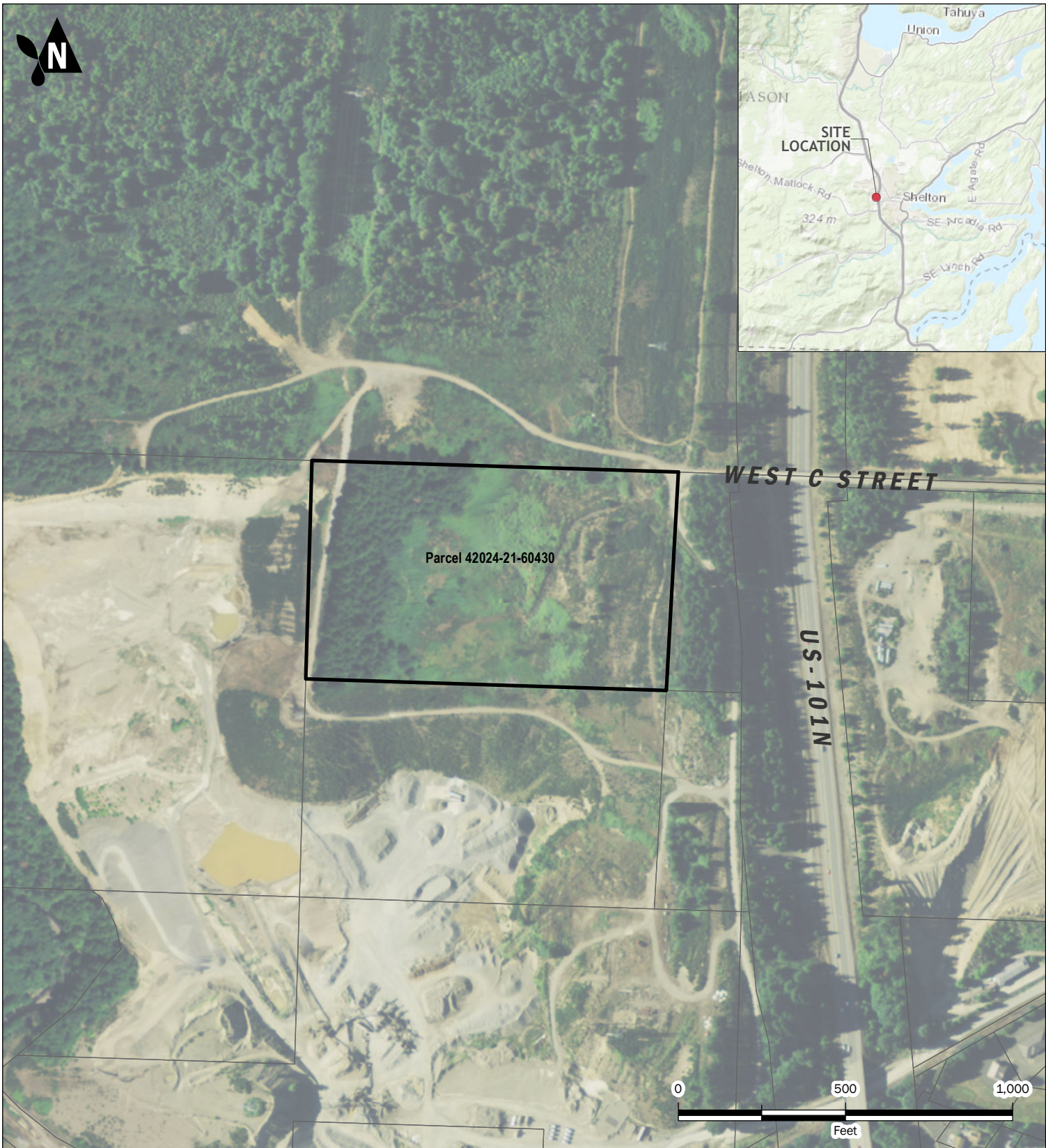


Dave O'Leary
City Administrator
City of Shelton
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STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY



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






-  Site Parcel
-  Mason County Parcel

Exhibit A, Site Diagram
Shelton C-Street Landfill
 Mason County, Washington



	OCT-2015	BY: CEB / EAC	FIGURE NO. 1
	PROJECT NO. 150074	REVISED BY: RAP	

Basemap Layer Credits || Sources: Esri, HERE, DeLorme, TomTom, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, MapmyIndia, © OpenStreetMap contributors, and the GIS User Community
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GIS Path: I:\Projects_8\Shelton C-Street Landfill\Behavioral Exhibit\SiteDiagram.mxd | Coordinate System: NAD 1983 StatePlane Washington North FIPS 4601 Feet | Date Saved: 10/12/2015 | User: mpepin | Print Date: 10/12/2015