



1 Decree), which includes upland property upland and adjacent in-water areas located generally  
2 at 1016 14th Street west of West Marine View Drive, Everett.

### 3 **FIRST AMENDMENT TO CONSENT DECREE**

4 Based on the foregoing, the Parties to the Consent Decree stipulate and agree that the  
5 Consent Decree, including all Exhibits attached thereto, shall be further amended, pursuant to  
6 the provisions of Section XV of the Consent Decree. This amendment does not attempt to  
7 recite all of the provisions of the Consent Decree. Provisions of the Consent Decree not  
8 specifically changed in this amendment remain in full force and effect. The amendment to the  
9 Consent Decree is as follows:

#### 10 **VI. WORK TO BE PERFORMED**

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

14 C. Based on the information discovered in the implementation of the Cleanup  
15 Action Plan (CAP) and follow-up Engineering Design effort Ecology determined that it was  
16 not feasible to remove of all contaminated sediment from the entire contaminated area where  
17 sediment concentrations exceed the Sediment Management Standards cleanup levels. Based  
18 on this determination, the CAP is hereby amended. The PLPs shall perform all tasks set forth  
19 in the Amended CAP (Exhibit B) and implement the Amended CAP in accordance with the  
20 Amended CAP's schedule, including the following for the In-Water Area:

- 21 1. One or more environmental covenants (WAC 173-340-440(9)) or similar  
22 institutional controls will be required for the In-Water Area at the Site where  
23 contaminants at concentrations above cleanup levels or wood waste/debris were  
left behind at the conclusion of the cleanup action.
- 24 2. Long-term monitoring is required to take place in the In-Water Area of the Site  
25 where contaminants at concentrations above cleanup levels or historical debris  
26 were left behind at the conclusion of the cleanup action. Long-term monitoring  
will take place at the 5-year review point under a scope agreed upon by Ecology  
and the Port to verify that the containment caps remain intact.

**XX. LAND USE RESTRICTIONS**

The Port shall cause to be recorded a Restrictive Covenant (Exhibit D) for the In-Water Area of the Site with the office of the Snohomish County Auditor within thirty (30) days of the entry of the First Amendment to Consent Decree with the Snohomish County Superior Court. The Restrictive Covenant shall restrict future uses of the In-Water Area of the Site. The Port shall provide Ecology with a copy of the recorded Restrictive Covenant within thirty (30) days of the recording date.

**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

**ROBERT W. FERGUSON,  
ATTORNEY GENERAL**

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\_\_\_\_\_  
John A. Level, WSBA No. 20439  
Assistant Attorney General  
(360) 586-6753

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**THE PORT OF EVERETT**

**ESY, INC.**

\_\_\_\_\_  
LES REARDANZ  
Chief Administrative Officer  
Port of Everett  
(425) 259-3164

\_\_\_\_\_  
NICK EITEL  
President  
ESY, Inc.

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ENTERED this \_\_\_\_ day of \_\_\_\_\_ 2016.

\_\_\_\_\_  
JUDGE /COMMISSIONER  
Snohomish County Superior Court