

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

In the Matter of Remedial Action by:

FH BROOKLYN, LLC

CHEVRON ENVIRONMENTAL  
MANAGEMENT COMPANY,

AGREED ORDER

No. 13815

TO: FH BROOKLYN, LLC  
2251 LINDA FLORA DRIVE  
LOS ANGELES, CA 90077

CHEVRON ENVIRONMENTAL MANAGEMENT COMPANY  
MARKETING BUSINESS UNIT  
ATT: MR. MARK HORNE  
6001 BOLLINGER CANYON ROAD, ROOM C2050  
SAN RAMON, CA 94583

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## **I. INTRODUCTION**

The mutual objective of the State of Washington, Department of Ecology (Ecology) and FH Brooklyn, LLC (FH Brooklyn) and Chevron Environmental Management Company (Chevron) (collectively the "Parties") under this Agreed Order (Order) is to enable a cleanup action to be selected for a facility where there has been a release or threatened release of hazardous substances. This Order requires FH Brooklyn and Chevron to conduct an interim action to be performed during development and construction, to complete a Site Remedial Investigation (RI), Feasibility Study (FS), and prepare a preliminary draft Cleanup Action Plan (dCAP) for the Site located at 4700 Brooklyn Avenue NE in Seattle, Washington. Ecology believes the actions required by this Order are in the public interest.

## **II. JURISDICTION**

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

## **III. PARTIES BOUND**

This 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. FH Brooklyn and Chevron agree to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter FH Brooklyn's and Chevron's responsibility under this Order. FH Brooklyn and Chevron 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 generally located 4700 Brooklyn Avenue NE in Seattle, WA 98105. 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 more particularly described in the Site Diagram (Exhibit A). The Site constitutes a facility under RCW 70.105D.020(8). The Site will be better defined once the Site remedial investigation has been completed and approved by Ecology.

B. Parties: Refers to the State of Washington, Department of Ecology, FH Brooklyn, and Chevron.

C. Potentially Liable Persons (PLPs): Refers to FH Brooklyn and Chevron.

D. Agreed Order or Order (AO): Refers to this Order and each of the exhibits to this Order. All exhibits are integral and enforceable parts of this Order. The terms "Agreed Order" or "Order" shall include all exhibits to this Order.

E. Light Non-Aqueous Phase Liquids (LNAPL): A hazardous substance that is present in the soil, bedrock, groundwater or surface water as a liquid not dissolved in water. An LNAPL is one of a group of organic substances that are relatively insoluble in water and are less dense than water. LNAPLs, such as oil, tend to spread across the surface of the water table and form a layer on top of the water table.

#### V. FINDINGS OF FACT

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



A. The Site is generally located between Brooklyn Avenue NE and University Avenue NE immediately north of Northeast 47th Street in Seattle, Washington. King County parcel number 8816400985 (Parcel 8816400985), which covers 0.38 acres, is located within the Site. Parcel 8816400985 comprises Lots 16 thru 19, Block 7, University Heights Addition.

B. From May 1946, Chevron, or related entities, owned the entire property now referred to as Parcel 8816400985. Chevron sold Parcel 8816400985 in October 2003. Parcel 8816400985 was acquired by FH Brooklyn in August 2015.

C. Since 1969, a total of four generations of fuel systems/service station/convenience store configurations have existed at the Site. The Site is currently occupied by a Chevron gasoline service station and convenience store. The current fuel system consists of two double-wall 12,000-gallon gasoline underground storage tanks (USTs) and one double-wall 12,000-gallon diesel UST situated in the southwestern portion of the Site. Four dispenser islands are located on the west-central portion of the Site. The system was installed in 1991, and upgraded to comply with regulatory requirements in 1998.

D. Service station operations have resulted in the release of product to the subsurface, impacting soil and groundwater. Chevron has conducted independent investigation and cleanup activities beginning in 1990, including groundwater monitoring, limited soil removal (during station rebuilds), and operation of an air sparge/soil vapor extraction (AS/SVE) system.

E. In 1987, two underground storage tanks were removed from the property. In 1990, three underground storage tanks and dispenser islands were removed and three new

underground storage tanks and two dispenser islands were installed. Chevron reported to Ecology that a release had occurred at the site and removed approximately 450 cubic yards of petroleum contaminated soil during the renovation.

F. Environmental investigations at the Site revealed light non-aqueous phase liquid (LNAPL) floating on the groundwater surface in several well locations at the Site. LNAPL was measured up to 1.54 feet in June 2014. These contaminants are hazardous substances under WAC 173-340-200 and are found as LNAPL which require cleanup using normally accepted engineering practices under WAC 173-340-360(2)(c)(ii)(A) if they cannot be reliably contained.

G. Diesel-, gasoline-, and oil range hydrocarbons, benzene, toluene, ethylbenzene, and xylenes have been detected in soil and groundwater samples collected from the Site at concentrations above MTCA cleanup levels. Lead and methyl tertiary butyl ether (MTBE) had been detected in groundwater samples collected from the Site at concentrations above MTCA cleanup levels. The PLPs report that recent concentrations of MTBE in groundwater have been below MTCA cleanup levels. These contaminants are hazardous substances under WAC 173-340-200, and may pose a threat to human health and the environment.

H. In 2016, cis-dichloroethene and vinyl chloride were detected in groundwater samples collected in wells located at the southwest corner of the Site at concentrations above MTCA cleanup levels. Based on limited ground water information, the inferred direction of groundwater flow is to the southeast. The PLPs currently suspect these contaminants are from an off-Site source – a former dry cleaners located at the southwest corner of Brooklyn Avenue and Northeast 47th Street.

## VI. ECOLOGY DETERMINATIONS

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

A. FH Brooklyn 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. Chevron was an “owner or operator” as defined in RCW 70.105D.020(22) of the “facility” as defined in RCW 70.105D.020(8) at the time of disposal or release of the hazardous substances.

C. 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.

D. Based upon credible evidence, Ecology issued a PLP Notice letter to FH Brooklyn dated April 26, 2016, pursuant to RCW 70.105D.040, .020(26), and WAC 173-340-500. After providing for notice and opportunity for comment, reviewing any comments submitted, and concluding that credible evidence supported a finding of potential liability, Ecology issued a determination that FH Brooklyn is a PLP under RCW 70.105D.040 and notified FH Brooklyn of this determination by letter dated August 30, 2016.

E. Based upon credible evidence, Ecology issued a PLP Notice letter to Chevron dated April 26, 2016, pursuant to RCW 70.105D.040, .020(26), and WAC 173-340-500. After providing for notice and opportunity for comment, reviewing any comments submitted, and concluding that credible evidence supported a finding of potential liability, Ecology issued a determination by letter dated August 30, 2016.

F. 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.

G. 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. Based on the circumstances, Ecology has determined that an interim action is permissible and warranted under WAC 173-340-430.

Either party may propose an additional interim action under this Order. If the Parties are in agreement concerning the additional interim action, the Parties will follow the process in Section VII.E. If the Parties are not in agreement, Ecology reserves its authority to require additional 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 PLPs 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. The PLPs shall prepare a Work Plan to conduct a Remedial Investigation (RI). After approval of the RI work plan by Ecology, the PLPs shall implement the RI work plan and complete the investigation in accordance with the requirements of WAC 173-340-350. The PLPs shall conduct a Feasibility Study (FS) according to the requirements of WAC 173-340-350(8); the FS shall include a reasonable number and type of cleanup options alternatives for the cleanup action at the Site. The PLPs shall provide Ecology with an Agency Review Draft RI Report and an Agency Review Draft FS Report. These Reports may be submitted together as an Agency Review Draft RI/FS Report. After Ecology has approved the RI and FS Report as a Public Review Draft document, the PLPs will prepare a preliminary DCAP. These deliverables will be prepared in accordance with Exhibit B, "Scope of Work", which is incorporated by reference as an enforceable part of this Order.

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

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

D. The PLPs shall submit Quarterly Progress Reports. Progress reports shall be submitted to Ecology until satisfaction of the AO in accordance with Section IX of the AO. Progress Reports shall be submitted to the Ecology project coordinator by the (fifteenth) 15th of the month following the reporting period. If this day is a weekend or holiday, deliverables will be submitted to Ecology on the next business day. At a minimum,



progress reports shall contain the following information regarding the preceding reporting period:

1. A description of the actions which have been taken to comply with the AO.
2. Summaries of sampling and testing reports and other data reports received by the PLPs.
3. Summaries of deviations from approved work plans.
4. Summaries of contacts with representatives of the local community, public interest groups, press, and federal, state, or tribal governments.
5. Summaries of problems or anticipated problems in meeting the schedule or objectives set forth in the SOW and Work Plan.
6. Summaries of solutions developed and implemented or planned to address any actual or anticipated problems or delays.
7. Changes in key personnel.
8. A description of work planned for the next reporting period.

E. The PLPs will prepare an Interim Action Work Plan in accordance with the schedule and as specified in Task 3 of Exhibit B, Scope of Work. Ecology will provide public notice and opportunity to comment on the Interim Action Work Plan in accordance with WAC 173-340-600(16). The PLPs 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 PLPs are

required to conduct the interim action in accordance with the approved Interim Action Work Plan.

F. If the Parties agree on an additional interim action under Section VI.G, the PLPs shall prepare and submit to Ecology an Interim Action Work Plan, including a scope of work and schedule, by the date determined by Ecology. Ecology will provide public notice and opportunity to comment on the Interim Action Work Plan in accordance with WAC 173-340-600(16). The PLP shall not conduct the additional 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 PLPs are required to conduct the interim action in accordance with the approved Interim Action Work Plan.

G. If Ecology determines that the PLPs have failed to make sufficient progress or failed to implement the remedial action required by this Order, in whole or in part, Ecology may, after notice to the PLPs, perform any or all portions of the remedial action or at Ecology's discretion allow the PLPs opportunity to correct. The PLPs shall reimburse Ecology for the costs of doing such work in accordance with Section VIII.A (Remedial Action Costs).

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

## **VIII. TERMS AND CONDITIONS**

### **A. Remedial Action Costs**

The PLPs 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 one thousand one hundred eighty-three dollars and thirty-two cents (\$1,183.32) in remedial action costs related to this Site as of June 30, 2016. Payment for this amount shall be submitted within ninety (90) days of the effective date of this Order. For all costs incurred subsequent to June 30, 2016, the PLPs shall pay the required amount within ninety (90) 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 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. Implementation of Remedial Action**

If Ecology determines that the PLPs have failed without good cause to implement the remedial action, in whole or in part, Ecology may, after notice to the PLPs, perform any or all portions of the remedial action required by this Order that remain incomplete. If Ecology performs all or portions of the remedial action because of the PLPs' failure to comply with its obligations under this Order, the PLPs shall reimburse Ecology for the

costs of doing such work in accordance with Section VIII.A (Remedial Action Costs), provided that the PLPs are not obligated under this section to reimburse Ecology for costs incurred for work inconsistent with or beyond the scope of this Order.

Except where necessary to abate an emergency situation, the PLPs 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.

**C. Designated Project Coordinators**

The project coordinator for Ecology is:

Dale Myers  
Washington Department of Ecology  
Northwest Regional Office  
Toxics Cleanup Program  
3190 160th Avenue SE  
Bellevue, WA 98008  
Telephone: (425) 649-4446  
Fax: (425) 649-7161  
damy461@ecy.wa.gov

The project coordinators for PLPs are:

Doug Hillman  
Principal Hydrogeologist  
Aspect Consulting LLC  
401 Second Ave S Suite 201  
Seattle, WA 98104  
(206) 838-5833  
dhillman@aspectconsulting.com

Mark Horne  
Project Manager  
Chevron Environmental Management Company  
Marketing Business Unit  
6001 Bollinger Canyon Road, Room C2050  
San Ramon, CA 94583  
(925) 842-0973  
markhorne@chevron.com



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 PLPs, 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.

**D. 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 18.220 and 18.43.

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 18.220 and 18.43.

The PLPs 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.

**E. Access**

Ecology or any Ecology authorized representative shall have access to enter and freely move about all property at the Site that the PLPs 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 PLPs' 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 PLPs. The PLPs shall make all reasonable efforts to secure access rights for those properties within the Site not owned or controlled by the PLPs 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 PLPs 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.

**F. Sampling, Data Submittal, and Availability**

With respect to the implementation of this Order, the PLPs 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 PLPs shall allow Ecology and/or its authorized representative to take split or duplicate samples of any samples collected by the PLPs pursuant to implementation of this Order. The PLPs shall notify Ecology seven (7) days in advance of any sample collection or work activity at the Site. Ecology shall, upon request, allow the PLPs and/or their authorized representative to take split or duplicate samples of any samples collected by Ecology pursuant to the implementation of this Order, provided that doing so does not interfere with Ecology's sampling. Without limitation on Ecology's rights under Section VIII.E (Access), Ecology shall notify the PLPs 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.

**G. 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 PLPs.

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

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

2. Notify Ecology's project coordinator prior to the preparation of all press releases and fact sheets, and before major meetings with the interested public and local governments. Likewise, Ecology shall notify the PLPs 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 PLPs that do not receive prior Ecology approval, the PLPs 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. The PLPs shall have the right to participate in public meetings, as members of the public, even if not requested to do so by Ecology.

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

- a. University Public Library  
5009 Roosevelt Way NE  
Seattle, WA 98105  
Phone: (206) 684-4063
  
- b. Ecology's Northwest Regional Office  
3190 160th Avenue SE  
Bellevue, WA 98008

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 Northwest Regional Office in Bellevue, Washington.

**H. 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 PLPs 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 PLPs 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 PLPs 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 PLPs withhold any requested records based on an assertion of privilege, the PLPs 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.



## I. Resolution of Disputes

1. In the event that PLPs elect to invoke dispute resolution PLPs 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), PLPs 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 fourteen (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 PLP's position with regards to the dispute; Ecology's position with regards to the dispute; and the extent of resolution reached by informal discussion.

c. PLPs may then request regional management review of the dispute. This request (Formal Dispute Notice) must be submitted in writing to the Northwest 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 endeavor to issue a written decision regarding the dispute (Decision on Dispute)



within thirty (30) calendar days of receipt of the Formal Dispute Notice. The Decision on Dispute shall be Ecology's final decision on the disputed matter.

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

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

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

**J. 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 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 PLPs 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 PLPs 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 PLPs;

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

c. Endangerment as described in Section VIII.L  
(Endangerment).

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

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

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

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

b. Other circumstances deemed exceptional or extraordinary by Ecology; or

c. Endangerment as described in Section VIII.L (Endangerment).

**K. Amendment of Order**

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

Except as provided in Section VIII.M (Reservation of Rights), substantial changes to the work to be performed shall require formal amendment of this Order. This Order may only be formally amended by the written consent of both Ecology and the PLPs. The PLPs shall submit a written request for amendment to Ecology for approval. Ecology shall indicate its approval or disapproval in writing and in a timely manner after the written request for amendment is received. If the amendment to this Order represents a substantial change, Ecology will provide public notice and opportunity to comment. Reasons for the disapproval of a proposed amendment to this Order shall be stated in writing. If Ecology does not agree to a proposed amendment, the disagreement may be addressed through the dispute resolution procedures described in Section VIII.I (Resolution of Disputes).

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

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

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

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

**M. 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 PLPs 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 PLPs regarding remedial actions required by this Order, provided the PLPs comply 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 PLPs do not admit to any liability for the Site. Although the PLPs are committing to conducting the work required by this Order under the terms of this Order, the PLPs 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.

**N. 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 PLPs 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 PLPs' transfer of any interest in all or any portion of the Site, and during the effective period of this Order, the PLPs shall provide a copy of this Order to any prospective purchaser, lessee, transferee, assignee, or other successor in said interest; and, at least 30 days prior to any transfer, the PLPs shall notify Ecology of said transfer. Upon transfer of any interest, the PLPs shall notify all transferees of the restrictions on the activities and uses of the property under this Order and through the appropriate transfer mechanism, assure that any activities and uses inconsistent with this Order are prohibited.

**O. Compliance with Applicable Laws**

1. All actions carried out by the PLPs 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 PLPs are exempt from the procedural requirements of RCW Chapters 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 PLPs 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 PLPs have 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 PLPs 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 PLPs shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, the PLPs 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 PLPs and on how the PLPs must meet those requirements. Ecology shall inform the PLPs in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. The PLPs 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 PLPs 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.

**P. Indemnification**

The PLPs agree 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 PLPs, its officers, employees, agents, or contractors in entering into and implementing this Order. However, the PLPs 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 PLPs' receipt of written notification from Ecology that the PLPs have completed the remedial activity required by this Order, as amended by any modifications, and that the PLPs have complied with all other provisions of this Order.

#### **X. ENFORCEMENT**

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

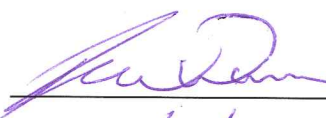
- A. The Attorney General may bring an action to enforce this Order in a state or federal court.
- B. The Attorney General may seek, by filing an action, if necessary, to recover amounts spent by Ecology for investigative and remedial actions and orders related to the Site.
- C. A liable party who refuses, without sufficient cause, to comply with any term of this Order will be liable for:
  1. Up to three 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: 1/11/17

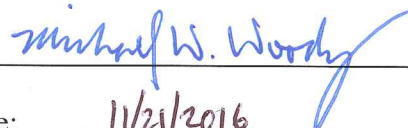
**FH BROOKLYN, LLC**

**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

\_\_\_\_\_  
Date: \_\_\_\_\_  
FH BROOKLYN, LLC

  
\_\_\_\_\_  
Date: 1/11/17  
ROBERT W. WARREN  
SECTION MANAGER  
TOXICS CLEANUP PROGRAM  
NORTHWEST REGIONAL OFFICE  
3190 160<sup>th</sup> AVENUE SE  
BELLEVUE, WA 98008  
TELEPHONE: (425) 649-7054

**CHEVRON ENVIRONMENTAL  
MANAGEMENT COMPANY**  
for itself and as Attorney-in-Fact for  
Chevron U.S.A. Inc.

  
\_\_\_\_\_  
Date: 11/21/2016  
Title: Assistant Secretary  
6101 BOLLINGER CANYON ROAD  
SAN RAMON, CA 94583



RECEIVED

NOV 29 2016

DEPT OF ECOLOGY  
TCP - NWRO

Effective date of this Order: 1/11/17

**FH BROOKLYN, LLC**

**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

*E. [Signature]*, *Managing Member  
of Manager*

*[Signature]*

Date: 11/15/16  
FH BROOKLYN, LLC

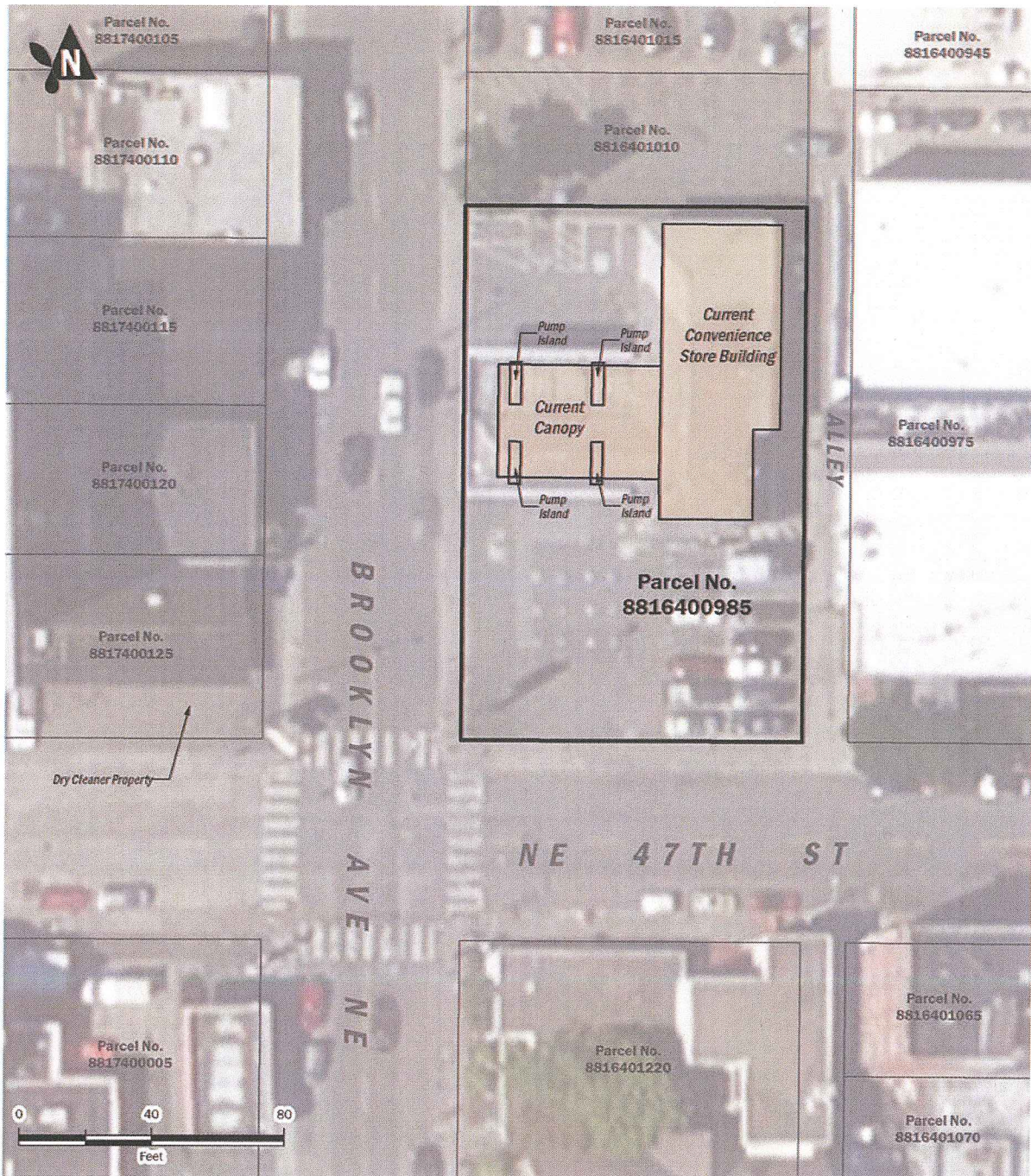
Date: 1/11/17  
ROBERT W. WARREN  
SECTION MANAGER  
TOXICS CLEANUP PROGRAM  
NORTHWEST REGIONAL OFFICE  
3190 160<sup>th</sup> AVENUE SE  
BELLEVUE, WA 98008  
TELEPHONE: (425) 649-7054

**CHEVRON ENVIRONMENTAL  
MANAGEMENT COMPANY**  
for itself and as Attorney-in-Fact for  
Chevron U.S.A. Inc.

\_\_\_\_\_  
Date: \_\_\_\_\_  
Title: \_\_\_\_\_  
6101 BOLLINGER CANYON ROAD  
SAN RAMON, CA 94583

**EXHIBIT A – Site Vicinity Map**  
**4700 Brooklyn Avenue NE, Seattle, WA**  
**Parcel No.: 8816400985**





**Site Vicinity Map**  
**4700 Brooklyn Avenue NE, Seattle, WA**  
**Parcel No.: 8816400985**



## **EXHIBIT B – SCOPE OF WORK (SOW)** **4700 Brooklyn Avenue NE, Seattle, WA**

### **PURPOSE**

The work under this Agreed Order (AO) involves conducting a Remedial Investigation and Feasibility Study (RI/FS), including interim action(s), and preparing a preliminary Draft Cleanup Action Plan (DCAP) for the property located at 4700 Brooklyn Avenue Northeast in Seattle, Washington (the Site). The purpose of the RI/FS and preliminary DCAP is to provide sufficient data, analysis, and evaluations to enable the Washington State Department of Ecology (Ecology) to select a final cleanup alternative for the Site.

The Potentially Liable Parties (PLPs) will coordinate with Ecology throughout the work under this AO, and will keep Ecology informed of any changes, issues, or problems as they develop.

The SOW is divided into eight major tasks as follows:

- Task 1. RI Work Plan
- Task 2. Interim Action(s)
- Task 3. Remedial Investigation
- Task 4. Feasibility Study
- Task 5. SEPA Compliance
- Task 6. Public Participation
- Task 7. Preliminary DCAP
- Task 8. Progress Reports

To assist with preparation of these documents, Ecology's Toxics Cleanup Program (TCP) has developed checklists, which the PLPs shall use for the following remedial action reports and plans.

- Remedial Investigation Report Checklist
- Feasibility Study Report Checklist
- Cleanup Action Plan Checklist

The PLPs can download the checklist directly from the following website:  
<http://www.ecy.wa.gov/programs/tcp/policies/checklists.html>

### Policy 840 Environmental Information Management System (EIM)

Ecology has updated Policy 840 related to data submittal requirements for TCP sites. Policy 840 requires environmental monitoring data collected at TCP sites as part of site investigations and cleanups to be submitted into EIM at the time of submittal for Ecology review of any report containing this data.



Following Ecology's Lean Process there are five mandatory meetings:

1. Kickoff meeting held prior to commencement of AO negotiations with the principal contacts for PLPs and Ecology.
2. RI planning and scoping meeting with Ecology Cleanup Project manager and PLP consultants.
3. RI pre-report meeting occurs after the completion of RI field activities and prior to writing the RI Report; this will ensure the report can be reviewed and approved by Ecology after one review cycle.
4. FS planning meeting to discuss overall approach and contents of the FS to ensure the report can be reviewed and approved by Ecology after one review cycle. If appropriate, this meeting may be combined with the RI pre-report check-in.
5. DCAP planning meeting held prior to writing the Preliminary Draft Cleanup Action Plan to discuss the contents of the Draft CAP and to identify the preferred Remedial Alternative.

The first Key Project Meeting was held on September 15, 2016. During that meeting Ecology established communication protocols, expectations related to Key Project Documents and the timing and purpose of Key Project Meetings.

#### **TASK 1. RI WORK PLAN**

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

The second Key Project Meeting will be held prior to submittal of the RI Work Plan. The purpose of the Remedial Investigation Planning Meeting is to review requirements for the Work Plan and plan Remedial Investigation field work, discuss the preliminary Conceptual Site Model, and identify project data needs and preliminary plans for on-property interim action. The RI Work Plan shall be completed for the Site and approved by Ecology prior to the submission of Interim Action Work Plans.

The RI Work Plan shall describe general facility information; site history and conditions; including previous operations; past field investigations, including any data collection and analysis of soils, air, groundwater, surface water, and sediments; a conceptual site model showing contaminants, migration pathways in all environmental media, potential receptors, and screening levels based on the conceptual site model; geology and groundwater system characteristics; past, current, and future land use; identification of natural resources and ecological receptors; hazardous substances and their sources, etc., in compliance with Washington Administrative Code (WAC )173-340-350 and WAC 173-204-560.

As part of the project background, existing environmental data on site soil, groundwater, surface water, and sediments will be compiled and evaluated for data gaps. The data gaps will be used as the basis for conducting additional site investigations, if necessary. The Work Plan will also identify specific data collection procedures in a Sampling and Analysis Plan (SAP) and Quality Assurance Project Plan (QAPP) as part of the Work Plan in compliance with WAC 173-340-820 and WAC 173-204-600 for defining the nature and extent of contamination. The PLPs will also submit a copy of the Health and Safety Plan (HASP) for the project.

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

The Quality Assurance Project Plan (QAPP) will be prepared in accordance with the Guidance for Preparation of Quality Assurance Project Plans, EPA Region 10, Quality Data Management Program, QA/R-5 and requirements of the EPA Contract Laboratory Program. The QAPP will also follow Ecology's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies (July 2004)<sup>1</sup>. Laboratories must meet the accreditation standards established in WAC 173-50. Data quality objectives will reflect the criteria or threshold values used for the source control evaluation.

The SAP, including the QAPP, will be submitted to Ecology for review and approval. As with all environmental work at the Site, work may not begin without written approval from Ecology. The plan shall provide seven (7) days notice to Ecology prior to beginning sampling. Ecology may obtain split samples.

The PLPs or their contractors shall submit all new sampling data generated under this SAP and any other recently collected data to Ecology for entry into the Environmental Information Management System (EIM) in accordance with WAC 173-340-840(5) and Ecology's Toxics Cleanup Program Policy 840: Data Submittal Requirements. Only validated data will be entered into the EIM database within 30 days of submittal.

RI tasks and subtasks will include, but is not limited to soil, ground water, seep, surface water, sediment, and catch basin sampling and stormwater analysis, as necessary to address data gaps identified in the Work Plan. In addition, the following must be included in the Work Plan:

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<sup>1</sup> Found at <http://www.ecy.wa.gov/biblio/0403030.html>



- Develop a preliminary conceptual site model for the Site including evaluation of all potential pathways and potential receptors that may exist for contaminants of concern at the Site.
- Define the nature and extent of contamination based on screening levels protective of all receptors at and downgradient of the Site.

The PLPs will provide Ecology with an Agency Review Draft Work Plan. Once Ecology reviews and approves the Work Plan, it will be considered the Final Work Plan. The Work Plan shall not be implemented until approved by Ecology. Once approved by Ecology,

the PLPs will implement the Final Work Plan according to the schedule contained in Exhibit C. Ecology expects one iteration between preliminary draft and final draft of RI Work Plan, Remedial Investigation, Feasibility Study, and draft Cleanup Action Plan.

The PLPs shall prepare two (2) copies of the Agency Review Draft RI Work Plan and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for review and comment. After incorporating Ecology's comments on the Agency Review Draft Work Plan and after Ecology approval, the PLPs shall prepare three (3) copies of the Final Work Plan and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology.

## **TASK 2. INTERIM ACTION(S)**

Remedial actions implemented prior to completion of the RI/FS

- that are 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 correct a problem that may become substantially worse or cost substantially more to address if the remedial action is delayed; or
- that are needed to provide for completion of the remedial investigation/feasibility study or design of the cleanup action

will be considered interim actions, will be implemented in accordance with WAC 173-340-430 and the AO, and will be designed in a manner that will not foreclose reasonable alternatives for any final cleanup action that may be required.

Based upon available information, interim action(s) pursuant to WAC 173-340-430 are needed to expedite removal of free-phase light non-aqueous phase liquids (LNAPL) floating on the ground water surface at the Site. Additional interim actions deemed necessary by the PLPs or Ecology shall be conducted commensurate with this task description.

The scope of the interim actions may include, but not be limited to, typical source control or containment elements such as:

- Soil or sediment removal
- Groundwater remediation
- Expedited LNAPL removal
- Repair, slip lining, replacement, or closure of stormwater conveyances or other structures such as conduit, vaults, catch basins, etc.
- Removal of underground storage tanks and pipes
- Removal of old drain fields or former surface impoundments
- Proper abandonment of old wells
- Removal of contaminated building or other structural material
- Construction of a treatment facility
- Shoreline stabilization such as bulkhead repair, erosion or seepage control, and grading or clearing.

During the second Key Project Meeting (RI planning and scoping meeting) the results of pre-AO investigations and preliminary plans may be discussed for on-property interim action. Once the RI Work Plan has been approved by Ecology the PLPs will prepare and submit for Ecology approval an Agency Review Draft Interim Action Work Plan (IAWP) with detail commensurate with the work to be performed. The Agency Review Draft IAWP shall include, as appropriate:

- Description of the interim action including its purpose, general requirements, and relationship to the (final) cleanup action (to the extent known);
- Summary of relevant RI/FS information, including at a minimum existing site conditions and alternative interim actions considered;
- Information regarding design and construction requirements, including a proposed schedule and personnel roles and responsibilities;
- Compliance Monitoring Plan;
- SAP/QAPP;
- Permits required.

The PLPs will also submit a copy of the Health and Safety Plan for the project. The PLPs will be responsible for complying with the State Environmental Policy Act (SEPA) Rules including preparing and submitting an environmental checklist for the interim action, and will assist Ecology with presentations at any additional meetings or hearings that might be necessary for SEPA compliance or as part of the Public Participation Plan.

The PLPs will incorporate Ecology's required changes into the IAWP and provide Ecology with a Public Review Draft IAWP. After a public notice and comment period for the Public Review Draft IAWP (and SEPA determination), Ecology will approve the IAWP (if appropriate) and the document will be considered Final. Once approved by Ecology, The PLPs will implement the interim action according to the schedule contained in the Final IAWP.



The PLPs shall prepare two (2) copies of the Agency Review Draft Interim Action Work Plan and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for review. The PLPs shall incorporate Ecology's comments and then prepare two (2) copies of the Public Review Draft Interim Action Work Plan and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology. After the public notice and comment period, incorporating Ecology's and the public's comments on the Public Review Draft Interim Action Work Plan, and after Ecology approval, The PLPs shall prepare three (3) copies of the Final Interim Action Work Plan submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats.

Upon successful completion of the work, an Agency Review Draft Interim Action Report will be prepared as a separate deliverable. The PLPs shall prepare two (2) copies of the Agency Review Draft Interim Action Report and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for review and approval. After incorporating Ecology's comments on the Agency Review Draft Interim Action Report and after Ecology approval, The PLPs shall prepare three (3) copies of the Final Interim Action Report and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology.

### **TASK 3. REMEDIAL INVESTIGATION**

The PLPs will conduct an RI that meets the requirements of WAC 173-340-350(7) and WAC 173-204-560 according to the Work Plan approved by Ecology (Task 2). The RI will determine the nature and extent of contamination exceeding preliminary Model Toxics Control Act (MTCA) cleanup levels, and any other regulatory requirements. The RI will provide sufficient data and information to define the nature and extent of contamination. The Final IACR (Task 1) will be included as an appendix to the RI Report.

Field sampling and analysis will be completed in general accordance with the SAP and QAPP. Deviation(s) from the approved SAP and QAPP must be communicated to Ecology immediately and documented as required by Ecology.

The PLPs shall provide interim data reports and updates to Ecology as new site data and information become available. Laboratory analysis data shall also be provided in electronic format when it has been validated. Raw laboratory data will be provided to Ecology upon request.

Prior to submittal of the Agency Review Draft RI Report, a third Key Project Meeting will be held. During the Remedial Investigation Pre-Report Check-In, Ecology and the PLPs will review available data and an updated conceptual site model and discuss the content and organization of the Draft RI Report. Ecology expects one iteration between preliminary draft and final draft of Remedial Investigation, Feasibility Study, and draft Cleanup Action Plan.

The PLPs shall compile the results of the Site investigation into an Agency Review Draft RI Report. The PLPs shall prepare two (2) copies of the Agency Review Draft RI Report and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for review and comment.

After incorporating Ecology's comments on the Agency Review Draft RI Report, The PLPs shall prepare three (3) copies of a Public Review Draft RI Report and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for distribution and public comment. Electronic survey data for monitoring locations, electronic lab data, and GIS maps of contaminant distribution shall also be provided for both the Agency Review Draft RI Report and Public Review Draft RI Reports. The RI Report will not be considered Final until after a public review and comment period. The Agency Review Draft RI Report and/or Public Review Draft RI Reports may be submitted in conjunction with the Agency Review Draft FS Report and/or Public Review Draft FS Reports, discussed in Task 4 below.

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

#### **TASK 4. FEASIBILITY STUDY**

The PLPs will use the information obtained in the RI to complete the Feasibility Study consistent with WAC 173-340-350(8) according to the approved Work Plan Schedule (Exhibit C).

Prior to beginning the FS, a fourth Key Project Meeting will be held to review applicable or relevant and appropriate requirements (ARARs), potential remedial alternatives, and points of compliance. If appropriate this Key Project Meeting may be held in conjunction with the RI Pre-Report Planning Key Project Meeting.

The Agency Review Draft FS Report will provide a detailed analysis of each remedial alternative according to the applicable requirements of WAC 173-340-350. The remedial alternatives will take into account the completed on-property interim action, and will be evaluated for compliance with the applicable requirements of WAC 173-340-360 and WAC 173-204-560(4), including a detailed evaluation of remedial alternatives relative to the following criteria:

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



- Implementability;
- Provision for Compliance Monitoring;
- Cost-Effectiveness; and
- Prospective Community Acceptance.

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

The PLPs shall prepare two (2) copies of an Agency Review Draft FS Report and submit them, including one electronic copy in Word (.doc) and Adobe (.pdf) formats, to Ecology for review and comment.

After incorporating Ecology's comments on the Agency Review Draft FS Report, the PLPs will prepare three (3) copies of a Public Review Draft FS Report and submit them, along with one electronic copy in Word (.doc) and Adobe (.pdf) formats, to Ecology for distribution and public comment.

The FS Report will not be considered final until after the public review and comment period. After that period, the PLPs will incorporate Ecology's and the public's comments on the Public Review Draft FS Report and, after Ecology approval, will prepare three (3) copies of the Final FS Report and submit them along with one electronic copy in Word (.doc) and Adobe (.pdf) formats.

#### **TASK 5. SEPA COMPLIANCE**

The PLPs shall be responsible for complying with the State Environmental Policy Act (SEPA) Rules including preparing and submitting an environmental checklist. If the result of the threshold determination is a determination of significance (DS), The PLPs shall be responsible for the preparation of Draft and Final Environmental Impact Statements. The PLPs shall assist Ecology with coordinating SEPA public involvement requirements with MTCA public involvement requirements whenever possible, such that public comment periods and meetings or hearings, as applicable, can be held concurrently.

#### **TASK 6. PUBLIC PARTICIPATION**

The PLPs shall assist Ecology to prepare a draft Public Participation Plan that complies with the provisions of WAC 173-340-600(9).

The PLPs shall support Ecology in presenting the Public Review Draft RI/FS and SEPA evaluations at public meetings or hearings. The PLPs will assist Ecology with presentations at any additional meetings or hearings that might be necessary for SEPA compliance or as part of the Public Participation Plan.

After the public comment periods are completed, at Ecology's request, the PLPs shall prepare a Draft Responsiveness Summary that addresses public comments and if necessary, prepare a second Public Review Draft RI/FS Report that addresses public comments. The PLPs shall prepare two (2) copies of the Draft Responsiveness Summary and if necessary, second Public Review Draft RI/FS Report and submit them to Ecology for review and approval, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology.

After incorporating Ecology's comments and after Ecology approval, the PLPs shall prepare three (3) copies of the Final Responsiveness Summary after public comments are incorporated and submit them to Ecology for distribution, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats.

#### **TASK 7. PRELIMINARY DRAFT CLEANUP ACTION PLAN**

Upon Ecology approval of the Public Review Draft RI/FS Report, the fifth Key Project Meeting will be held to discuss the contents of the Draft Cleanup Action Plan (DCAP) and to identify the preferred remedial alternative. The DCAP will address all remedial actions required to be completed subsequent to the on-property interim action(s). The PLPs will prepare an Agency Review preliminary DCAP in accordance with WAC 173-340-380. The Agency Review preliminary DCAP will include a general description of the proposed remedial actions, cleanup standards developed from the RI/FS study and rationale regarding their selection, a schedule for implementation, description of any institutional controls proposed, and a summary of applicable local, state, and federal laws pertinent to the proposed cleanup actions.

The PLPs will prepare two (2) copies of the Agency Review preliminary DCAP and submit them, along with one electronic copy in Word (.doc) and Adobe (.pdf) formats, for Ecology review.

#### **TASK 8. PROGRESS REPORTS**

The PLPs will submit Progress Reports at a quarterly frequency to Ecology until satisfaction of the AO, in accordance with Section VII.(D) of the AO. In addition, during implementation of the RI field investigations and on-property interim action(s), the PLPs will provide email status updates to Ecology on the 1st and 15th of each month. If this day is a weekend or holiday, the email status updates will be submitted to Ecology on the next business day. In a month that a quarterly Progress Report is due, the email status update due on the 15th is not required.

Progress Reports will be submitted to the Ecology project coordinator by the 15<sup>th</sup> of the month following the reporting period. If this day is a weekend or holiday, Progress Reports will be submitted to Ecology on the next business day. At a minimum, Progress Reports will contain the following information regarding the preceding reporting period:

- A description of the actions which have been taken to comply with the AO;



- Summaries of sampling and testing reports and other data reports received by the PLPs;
- Summaries of deviations from approved Work Plans;
- Summaries of contacts with representatives of the local community, public interest groups, press, and federal, state, or tribal governments;
- Summaries of problems or anticipated problems in meeting the schedule or objectives set forth in the SOW and Work Plan;
- Summaries of solutions developed and implemented or planned to address any actual or anticipated problems or delays;
- Changes in key personnel; and
- A description of work planned for the next reporting period.

**EXHIBIT C – SCHEDULE OF DELIVERABLES (SOD)**  
**4700 Brooklyn Avenue NE, Seattle, WA**

The schedule for notifications to Ecology or submission of major deliverables to Ecology for this Schedule of Deliverables (SOD) is described below. If the date for submission of any item or notification required by this SOD occurs on a weekend, state or federal holiday, the date for submission of that item or notification is extended to the next business day following the weekend or holiday. Where a deliverable due date is triggered by Ecology notification, comments or approval, the starting date for the period shown is the date Chevron and FH Brooklyn LLC received such notification, comments or approval by certified mail, return receipt requested, unless otherwise noted below. Where triggered by Ecology receipt of a deliverable, the starting date for the period shown is the date Ecology receives the deliverable by certified mail, return receipt requested, or the date of Ecology signature on a hand-delivery form.

Table 1 - Schedule for Submission of Major Deliverables

Table 2 - Schedule for Submission of Interim Action Deliverables

**Table 1**

**Schedule for Submission of Major Deliverables**

	<i><b>Deliverable</b></i>	<i><b>Due Date<sup>a</sup></b></i>
1.	Agency Review Draft Remedial Investigation (RI) Work Plan	No later than 90 days after the AO <sup>b</sup> effective date
2.	Final Remedial Investigation Work Plan	30 days after receipt of Ecology comments
3.	Remedial Investigation Field Investigations Completed	180 days after Final Remedial Investigation Work Plan
4.	Agency Review Draft Remedial Investigation Report	90 days following receipt of remedial investigation validated data
5.	Public Review Draft Remedial Investigation Report	30 days after receipt of Ecology comments
6.	Final Remedial Investigation Report	30 days after receipt of Ecology comments, subsequent to public comment <sup>c</sup>
7.	Agency Review Draft Feasibility Study Report	90 days following Ecology approval of Public Review Remedial Investigation Report
8.	Public Review Draft Feasibility Study Report	30 days following Ecology approval of Agency Review Draft Feasibility Study Report
9.	Final Feasibility Study Report	30 days after receipt of Ecology comments, subsequent to public comment <sup>c</sup>
10.	Agency Review preliminary Draft Cleanup Action Plan (DCAP)	90 days following approval of Final Feasibility Study
11.	Public Review Draft Cleanup Action Plan	Ecology document, subsequent to public comment

<sup>a</sup> Due dates shown are for initial draft and final deliverables. This schedule assumes only a single revised document will be submitted following receipt of comments from Ecology. Documents become final only upon approval by Ecology.

<sup>b</sup> AO (Agreed Order) is effective upon signature by both Ecology and PLPs.

<sup>c</sup> These public comment periods can be combined.

**Table 2**

**Schedule for Submission of Interim Action Deliverables**

	<i><b>Deliverable</b></i>	<i><b>Due Date<sup>a</sup></b></i>
1.	Agency Review Draft Interim Action Work Plan (IAWP)	No later than 60 days after Ecology approval of the Remedial Investigation Work Plan
2.	Public Review Draft Interim Action Work Plan and SEPA Checklist for the interim action	30 days after receipt of Ecology comments
3.	Final Interim Action Work Plan	30 days after public notice and comment period closes
4.	Implement Final Interim Action Work Plan	Initiated no later than 30 days following Ecology approval of Final Interim Action Work Plan, subsequent to public comment.
5.	Agency Review Draft Interim Action Report	In accordance with the schedule in the Interim Action Work Plan.
6.	Final Interim Action Report	30 days after Ecology's approval of the Agency Review Draft Interim Action Report

<sup>a</sup> Due dates shown are for initial draft and final deliverables. This schedule assumes only a single revised document will be submitted following receipt of comments from Ecology. Documents become final only upon approval by Ecology.

<sup>b</sup> AO (Agreed Order) is effective upon signature by both Ecology and PLPs.

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