STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

In the Matter of Remedial Action by:	AGREED ORDER for
Everett Shipyard, Inc. and The Port of Everett	**Remedial Investigation/Feasibility Study and Draft Cleanup Action Plan – Everett Shipyard Inc Site** No. DE **5271**

TO: Port of Everett
Attention: Jerry W. Heller, Chief Administrative Officer
2911 Bond Street
Everett, WA 98206

Everett Shipyard, Inc.
Attention: Nick Eitel, CEO
1016 14th Street
Everett, Washington 98201

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I. INTRODUCTION

The mutual objective of the State of Washington, Department of Ecology (Ecology), the Port of Everett (the Port), and Everett Shipyard, Inc. (Everett Shipyard) 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 Port and Everett Shipyard to conduct a Remedial Investigation and Feasibility Study per WAC 173-340-350 and develop a draft Cleanup Action Plan per WAC 173-340-350 through 173-340-380 addressing both upland and in-water (i.e., adjacent marine sediment) contamination for the Site. Ecology believes the actions required by this Order are in the public interest.

II. JURISDICTION

This Agreed Order is issued pursuant to the authority of 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 the Order. The Port and Everett Shipyard agree to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter the Port's or Everett Shipyard's responsibility under this Order. The Port and Everett Shipyard 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 Chapter 70.105D RCW and Chapter 173-340 WAC shall control the meanings of the terms used in this Order.

A. Site: The Site (or Facility) is referred to as Everett Shipyard (the Site) and is generally located at 1016 14th Street west of West Marine View Drive, Everett, Washington (the northwest ¼ of Section 18, Township 29 North, Range 5 East). The Site is owned by the Port

and includes approximately five acres of upland and adjacent in-water areas. Everett Shipyard has a current leasehold on the Site and operates on Parcel Number 29051800208311, identified from the Snohomish County Assessor's Office. The Site is defined by the extent of contamination caused by the release of hazardous substances at the Site and is not limited by property boundaries. The Site includes areas where hazardous substances have been deposited, stored, disposed of, placed, or otherwise come to be located. Based upon factors currently known to Ecology, the Site is more particularly described in **Exhibit A** to this Order, which includes a general site location map and a detailed site diagram. Based on the results of previous investigations (see Item **F** in Section V - Findings of Fact), the Site includes both upland and in-water areas (i.e., adjacent marine sediment) as defined below. The Site constitutes a Facility under RCW 70.105D.020(5).

B. Parties: Refers to the State of Washington, Department of Ecology, the Port of Everett, and Everett Shipyard.

C. Potentially Liable Persons (PLPs): Refers to the Port of Everett and Everett Shipyard, Inc.

D. Agreed Order or Order: Refers to this Order and each of the exhibits and attachments to the Order. All exhibits and attachments are integral parts of this Order. In addition, **Exhibits A** through **D** are integral and enforceable parts of this Order. The terms "Agreed Order" or "Order" shall include all exhibits and attachments to the Order.

E. Upland Area: Refers to areas of the Site that fall outside the In-Water Area, as generally depicted in **Exhibit A**.

F. In-Water Area: Refers to the intertidal (areas exposed to air at low tide) and subtidal (areas always covered by water) parts of the Site associated with adjacent marine waters, generally located on the western portion of the Site, as generally depicted in **Exhibit A**.

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 located west of Marine View Drive and adjacent to the North Marina, Everett, Washington. The address of the Site is 1016 14th Street, Everett, Washington (Parcel Number 29051800208311). The Site location is generally depicted in the diagrams attached to this Agreed Order as **Exhibit A**. The Site is listed on the Department of Ecology's Hazardous Sites List as "Everett Shipyard Inc" with the Facility Site ID #2794. The Site currently includes both paved and unpaved areas, and consists of a number of buildings (including the main fabrication building, a wood shop, and two buildings formerly occupied by Everett Engineering), a marine railway, uncovered work areas, and a portion of the marina. Some of the features shown on historic Sanborn Maps from 1950 and 1957 include the presence of a boat repair area, joiner shop, boat staging yard, a marine railway, paint shop, and machine shop.

B. The Port is the current property owner of a "facility", as defined in RCW 70.105D.020(5). The facility is generally depicted in **Exhibit A** and is located in the northwest ¼ of Section 18, Township 29 North, Range 5 East.

C. Everett Shipyard is an operator, as defined in RCW 70.105D.020(17), of a "facility" at the Site.

D. Shipyard operations began at the Facility in 1947, when Carl and Astrid Anderson began business as "Fisherman's Boat Shop" under a lease from the Port. In 1959 the Andersons assigned their lease and sold the shipyard operation to Richard Eitel, who continued to do business as "Fisherman's Boat Shop." A new 30 year lease commenced in 1977 between the Port and Fisherman's Boat Shop, Inc., which had previously been incorporated. In 2001 Fisherman's Boat Shop, Inc. changed its name to Everett Shipyard, Inc. The shipyard, whether operated by the Andersons and Eitels as Fisherman's Boat Shop, or the later corporation as Fisherman's Boat Shop Inc./Everett Shipyard, Inc., has operated at the Site since 1947 under a continuous series of multi-year leases with the Port that concluded in 2007. Everett Shipyard, Inc. currently operates at the site on a month-to-month lease holdover status with the Port.

E. Since its founding as Fishermen's Boat Shop in 1947, Everett Shipyard has been cleaning, sandblasting, welding, and repairing marine vessels. Currently, the facility conducts repair work on marine vessels up to 110 feet long. The repair work involves tank evacuations,

equipment disassembly, sandblasting, woodwork and metalwork, painting, and mechanical repairs.

F. Ecology has inspected and/or taken samples at the Site several times over the last twenty years. Sampling conducted by Ecology in 1987 revealed copper, lead, and zinc contamination resulting from sand blast grit waste at the east of the wood shop area. In April 1992, Ecology conducted inspections of the facility and found significant environmental issues at the Site. The Ecology inspection report is attached hereto as **Attachment A**.

G. Between 2003 and 2007, the Port and Everett shipyard performed several independent environmental investigations at the Site. Those investigations and sample results documented the presence of hazardous substances at the Site in various media including soil, storm drain sediment, and marine sediments. Compounds identified in these investigations as exceeding published MTCA cleanup levels and/or Sediment Management Standards (SMS) for Puget Sound Marine sediments (WAC chapter 173-204) include petroleum hydrocarbons, metals, organotins, polycyclic aromatic hydrocarbons (PAHs), and phthalates. A summary of previous investigation of the Site is included in **Attachment B** to this Order. Ecology has received copies of all reports and sampling results from these independent investigations (copies of these reports are available for inspection at the Department of Ecology Headquarters Office in Olympia, Washington).

VI. ECOLOGY DETERMINATIONS

A. The Port of Everett is an "owner" as defined in RCW 70.105D.020(17) of a “facility” as defined in RCW 70.105D.020(5). Everett Shipyard is an “operator” as defined in RCW 70.105D.020(17) of a “facility” as defined in RCW 70.105D.020(5).

B. Based upon all factors known to Ecology, a “release” or “threatened release” of “hazardous substance(s)” as defined in RCW 70.105D.020(25) and RCW 70.105D.020(10), respectively, has occurred at the Site.

C. Based upon credible evidence, Ecology issued PLP status letters to the Port of Everett and Everett Shipyard dated October 12, 2007, pursuant to RCW 70.105D.040, RCW 70.105D.020(21), 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 the Port and Everett Shipyard are PLPs under RCW 70.105D.040 and notified the PLPs of this determination by letters dated November 7, 2007 and November 13, 2007, respectively.

D. Pursuant to RCW 70.105D.030(1) and RCW 70.105D.050(1), Ecology may require the 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. The previous remedial actions described in Section V. G. are incorporated as part of this Order. However, actual Ecology grant funding for costs incurred during the remedial actions described in Section V. G. is subject to the approval of Ecology's Remedial Action Grant Program and is contingent upon the availability of funds through legislative appropriation and allotment, and such other conditions not reasonably foreseeable by the Department rendering performance impossible. Further, reimbursement for specific project tasks under a grant agreement with Ecology is contingent upon the determination by Ecology's Toxic Cleanup Program that the work performed complies with applicable standards and is consistent with the remedial action required under this Order.

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, as more fully described in the Scope of Work & Schedule attached to this Order as **Exhibit B**, and that these actions be conducted in accordance with Chapters 173-340 and 173-204 WAC unless otherwise specifically provided for herein:

A. The PLPs shall conduct the remedial actions fully described in **Exhibit B** to this Order. Generally, the PLPs shall prepare a work plan for a remedial investigation/feasibility study, perform a remedial investigation/feasibility study, prepare a remedial investigation/feasibility report, and develop a draft cleanup action plan for the Site.

B. The PLPs shall perform the remedial actions required by this Order according to the work schedule set forth in **Exhibit B**.

C. 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 under the Scope of Work & Schedule (**Exhibit B**), Ecology may complete and issue the final deliverable.

VIII. TERMS AND CONDITIONS OF ORDER

A. Public Notices

RCW 70.105D.030(2)(a) requires that at a minimum, this Order be subject to concurrent public notice. Ecology shall be responsible for providing such public notice and reserves the right to modify or withdraw any provisions of this Order should public comment disclose facts or considerations that indicate to Ecology that the Order is inadequate or improper in any respect.

B. 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 Chapter 70.105D RCW, 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. 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 description 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. Pursuant to Chapter 70.105D.055 RCW, Ecology also has authority to recover unreimbursed remedial action costs by filing a lien against real property subject to the remedial action.

C. 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 that remain incomplete. If Ecology performs all or portions of the remedial action because of the PLPs' failure to comply with their obligations under this Order, the PLPs shall reimburse Ecology for the costs of doing such work in accordance with Section VIII.B (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.

D. Designated Project Coordinators

The project coordinator for Ecology is:

Hun Seak Park
Toxics Cleanup Program
PO Box 47600, Olympia, WA 98504
Phone: 360-407-7089
E-Mail: hpar461@ecy.wa.gov

The project coordinator for the Port of Everett is:

Lawrence Beard
Landau Associates
130 2nd South, Edmonds, WA 98020
Phone: 425-778-0907
E-mail: LBeard@landauinc.com

The project coordinator for Everett Shipyard, Inc. is:

James H. Flynn, RG
URS Corp
1501 4th Avenue, Suite 1400
Seattle, WA 98101-1616
(206) 438-2700
E-mail:james_flynn@urscorp.com

The project coordinator(s) shall be responsible for overseeing the implementation of this Order. The Ecology 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 coordinator(s). 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.

Ecology and the PLPs may change their respective project coordinators. Written notification shall be given to other party at least ten (10) days prior to the change.

E. Performance

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

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

All construction work performed pursuant to this 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 in the State of Washington, except as otherwise provided for by RCW 18.43.130.

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

The 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.

F. Access

Ecology or any Ecology-authorized representative shall have the full authority to enter and freely move about all property at the Site that the PLPs either own or control, and have

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 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 paragraph shall comply with the approved health and safety plan, if any. Ecology employees and their representative shall not be required to sign any release or waiver as a condition of site property access.

G. 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. Attached as **Exhibit C** is Ecology Policy 840, Data submittal Requirements.

If requested by Ecology, the PLPs shall allow split or duplicate samples to be taken by Ecology and/or its authorized representative of any samples collected by the PLPs pursuant to implementation of this Order. The PLPs shall notify Ecology seven (7) days in advance of collecting samples or work activity at the Site pursuant to this Order. However, Ecology may waive this notification requirement and accept samples when they were collected during construction projects or other circumstances where sampling was prudent or necessary but unplanned. 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.F (Access) of this Order, 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 Chapter 173-50 WAC for the specific analyses to be conducted, unless otherwise approved in writing by Ecology.

H. Public Participation

A Public Participation Plan (see WAC 173-340-600) that is required for this Site, has been developed and is included as **Exhibit D**. 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, 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, draft cleanup action plan, 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.

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

a. Everett Public Library
2702 Hoyt Ave
Everett, WA 98201

b. Department of Ecology
Toxics Cleanup Program
Headquarters Office
300 Desmond Drive SE
Olympia, Washington 98504-7600

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

I. 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. Upon request of Ecology, the PLPs shall make all records available to Ecology and allow access for review within a reasonable time.

J. Resolution of Disputes

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

a. Upon receipt of the Ecology project coordinator's decision or the itemized billing statement, the PLPs have fourteen (14) days within which to notify Ecology's project coordinator of its objection to the decision or itemized statement.

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

c. The PLPs may then request regional management review of the decision. This request shall be submitted in writing to the Headquarters Land and Aquatic Lands Cleanup Section Manager within seven (7) days of receipt of Ecology's project coordinator's written decision.

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

2. The Parties agree to 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.

K. 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.

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 includes, 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, earthquake, storm, or other unavoidable casualty.

c. Endangerment as described in Section VIII.M (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 in a timely fashion of any extensions granted pursuant to the 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.L (Amendment of Order) when a schedule extension is granted.

4. An extension shall be granted only 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.

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

L. 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 fourteen (14) days of verbal agreement.

Except as provided in Section VIII.N (Reservation of Rights), substantial changes to the work to be performed shall require formal amendment of this Order. This Order may be formally amended only 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 the Order represents a substantial change, Ecology will provide additional 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.J (Resolution of Disputes) of this Order.

M. Endangerment

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

N. Reservation of Rights

This Order is not a settlement under Chapter 70.105D RCW. Ecology's signature on this Order in no way constitutes a covenant not to sue or a compromise of any Ecology 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 Chapter 70.105D RCW, 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.

O. 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 thirty (30) days prior to any transfer, the PLPs shall notify Ecology of said transfer. Upon transfer of any

interest, the PLPs shall restrict uses and activities to those consistent with this Order and notify all transferees of the restrictions on the use of the property.

P. 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 Chapters 70.94, 70.95, 70.105, 77.55, 90.48, and 90.58 RCW and of any laws requiring or authorizing local government permits or approvals. However, the 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 determine 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.

Ecology shall ensure that notice and opportunity for comment is provided to the public and appropriate agencies prior to establishing the substantive requirements under this section.

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.

Q. Land use Restrictions

In the event that a restrictive covenant or other land use restriction will be required under WAC 173-340-440(4), the PLPs shall record a Restrictive Covenant with the office of the Snohomish County Auditor within ten (10) days of the completion of the remedial action. The Restrictive Covenant shall restrict future uses of the Site. The PLPs shall provide Ecology with a copy of the recorded Restrictive Covenant within thirty (30) days of the recording date.

R. 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 for death or injuries to persons or for loss or damage to property to the extent arising from or on account of acts or omissions of the 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 Agreed Order.

X. ENFORCEMENT

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

1. The Attorney General may bring an action to enforce this Order in a state or federal court.

2. The Attorney General may seek, by filing an action, if necessary, to recover amounts spent by Ecology for remedial actions and orders related to the Site.

3. In the event the PLPs refuse without sufficient cause, to comply with any term of this Order, the PLPs will be liable for:

   a. Up to three (3) times the amount of any costs incurred by the State of Washington as a result of its refusal to comply.

   b. Civil penalties of up to $25,000 per day for each day it refuses to comply.

4. 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: _____

THE PORT OF EVERETT

_____

Jerry W. Heller
Chief Administrative Officer
The Port of Everett
2911 Bond Street
Everett, Washington 98206
(425) 259-3164

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

_____

Tim L. Nord, Manager
Land and Aquatic Lands Cleanup Section
Toxics Cleanup Program
Headquarters Office
300 Desmond Drive Southeast
Lacey, Washington 98503

EVERETT SHIPYARD, INC.

_____

Nick Eitel
CEO
Everett Shipyard, Inc.
1016 14th Street
Everett, Washington 98201

Order, as amended by any modifications, and that the PLPs have complied with all other provisions of this Agreed Order.

X. ENFORCEMENT

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

1. The Attorney General may bring an action to enforce this Order in a state or federal court.

2. The Attorney General may seek, by filing an action, if necessary, to recover amounts spent by Ecology for remedial actions and orders related to the Site.

3. In the event the PLPs refuse without sufficient cause, to comply with any term of this Order, the PLPs will be liable for:

   a. Up to three (3) times the amount of any costs incurred by the State of Washington as a result of its refusal to comply.

   b. Civil penalties of up to $25,000 per day for each day it refuses to comply.

4. 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: April 2, 2008

THE PORT OF EVERETT

Jerry W. Heller
Chief Administrative Officer
The Port of Everett
2911 Bond Street
Everett, Washington 98206
(425) 259-3164

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Tim L. Nord, Manager
Land and Aquatic Lands Cleanup Section
Toxics Cleanup Program
Headquarters Office
300 Desmond Drive Southeast
Lacey, Washington 98503

EVERETT SHIPYARD, INC.

Nick Eitel
CEO
Everett Shipyard, Inc.
1016 14th Street
Everett, Washington 98201

Order, as amended by any modifications, and that the PLPs have complied with all other provisions of this Agreed Order.

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   a. Up to three (3) times the amount of any costs incurred by the State of Washington as a result of its refusal to comply.

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Effective date of this Order: April 2, 2008

THE PORT OF EVERETT

Jerry W. Heller
Chief Administrative Officer 3/5/08
The Port of Everett
2911 Bond Street
Everett, Washington 98206
(425) 259-3164

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Tim L. Nord, Manager
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300 Desmond Drive Southeast
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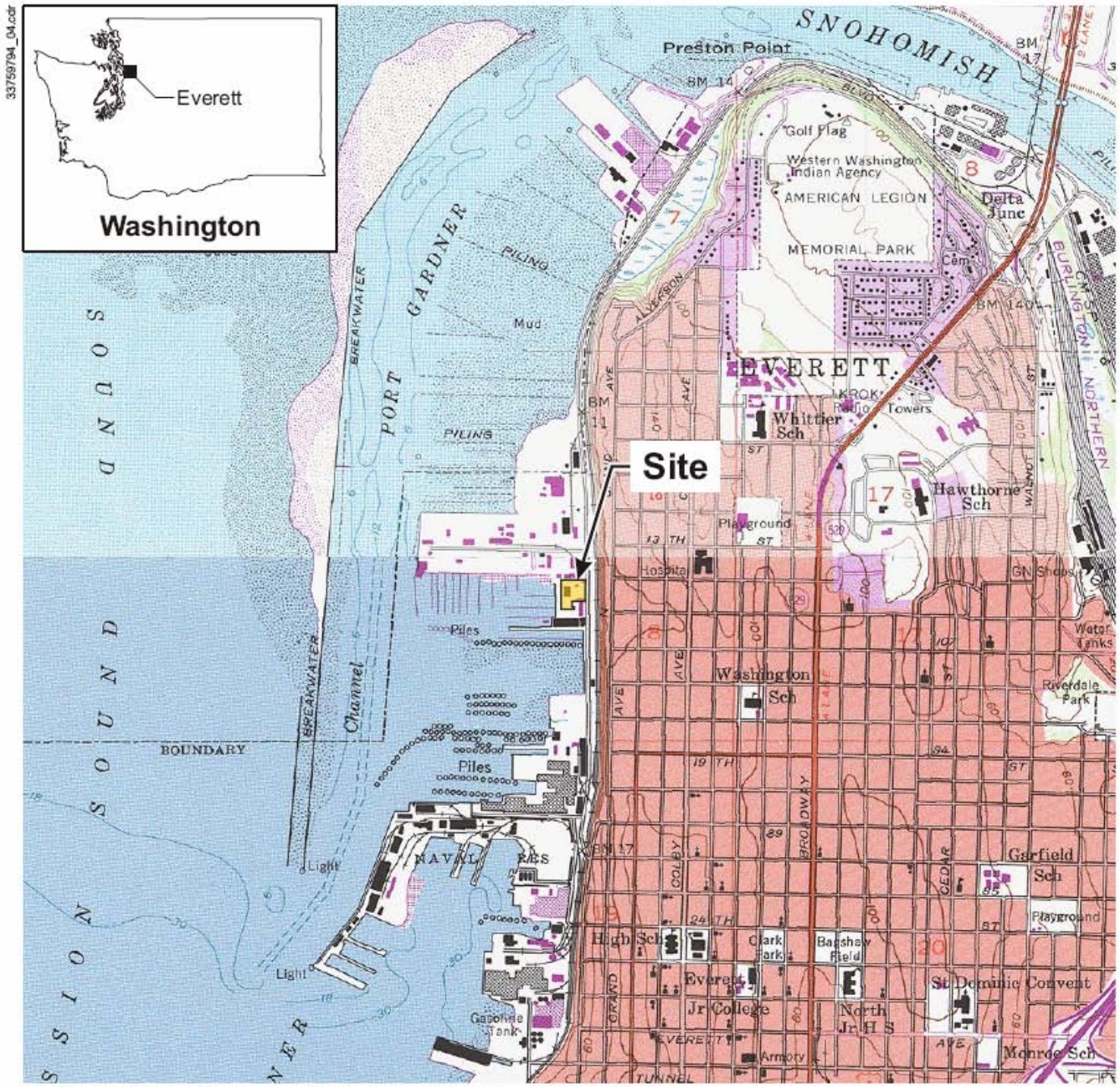
Nick Eitel
CEO
Everett Shipyard, Inc.
1016 14th Street
Everett, Washington 98201

EXHIBIT A:

SITE LOCATION MAP, DIAGRAMS,

AND SITE/PROPERTY LOCATION INFORMATION

Source: Supplemental Site Characterization And Cleanup Action Plan, Everett Shipyard, 1016 14th Street Everett, Washington. Prepared by URS for Everett Shipyard. October 9, 2007



SOURCE: 7.5-minute USGS topographic quadrangles, Marysville and Everett, Washington

NT

0 0.5 1.0

Scale in Miles

Figure 1

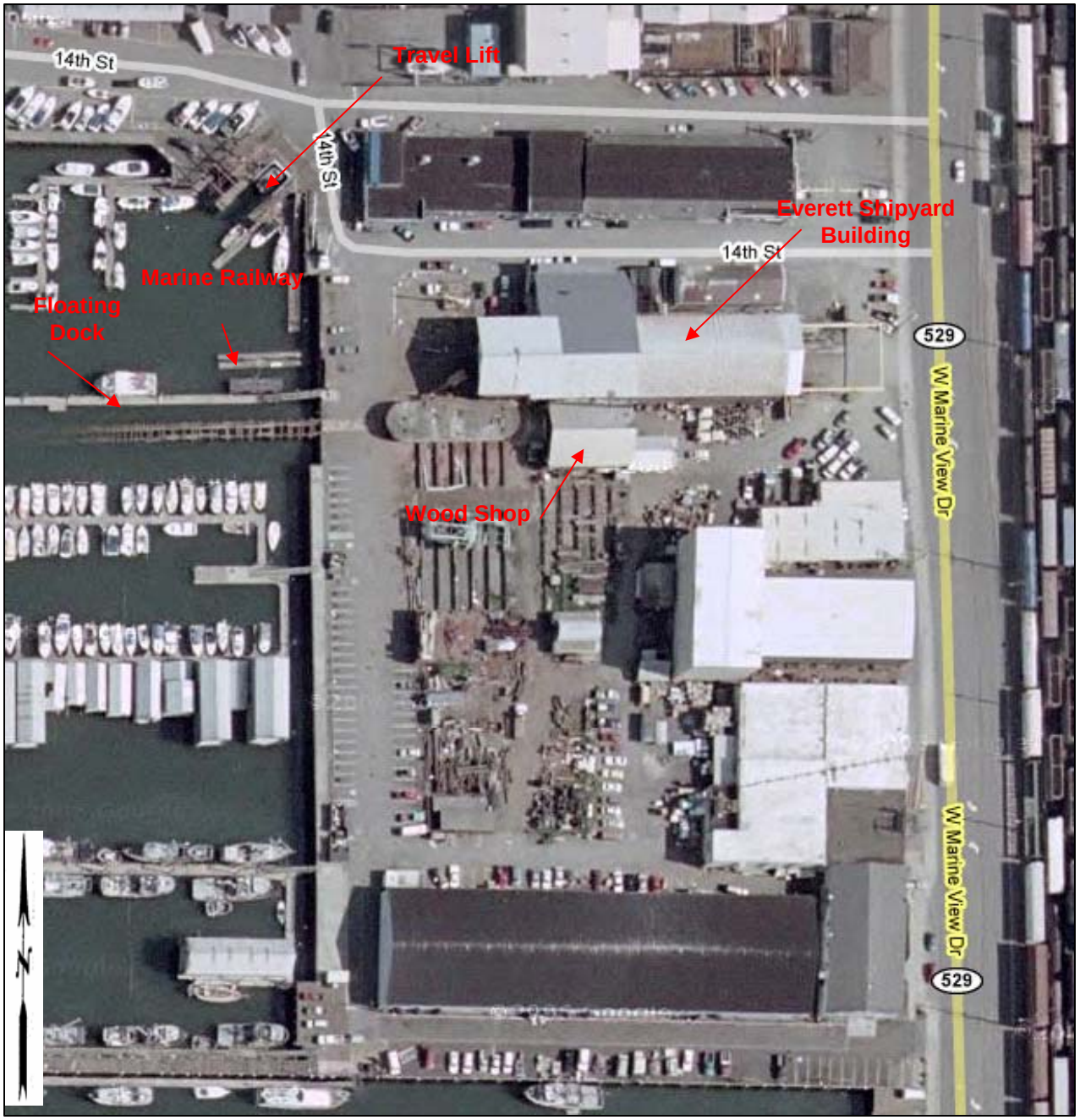
Site Location Map

Job No. 33759794

URS

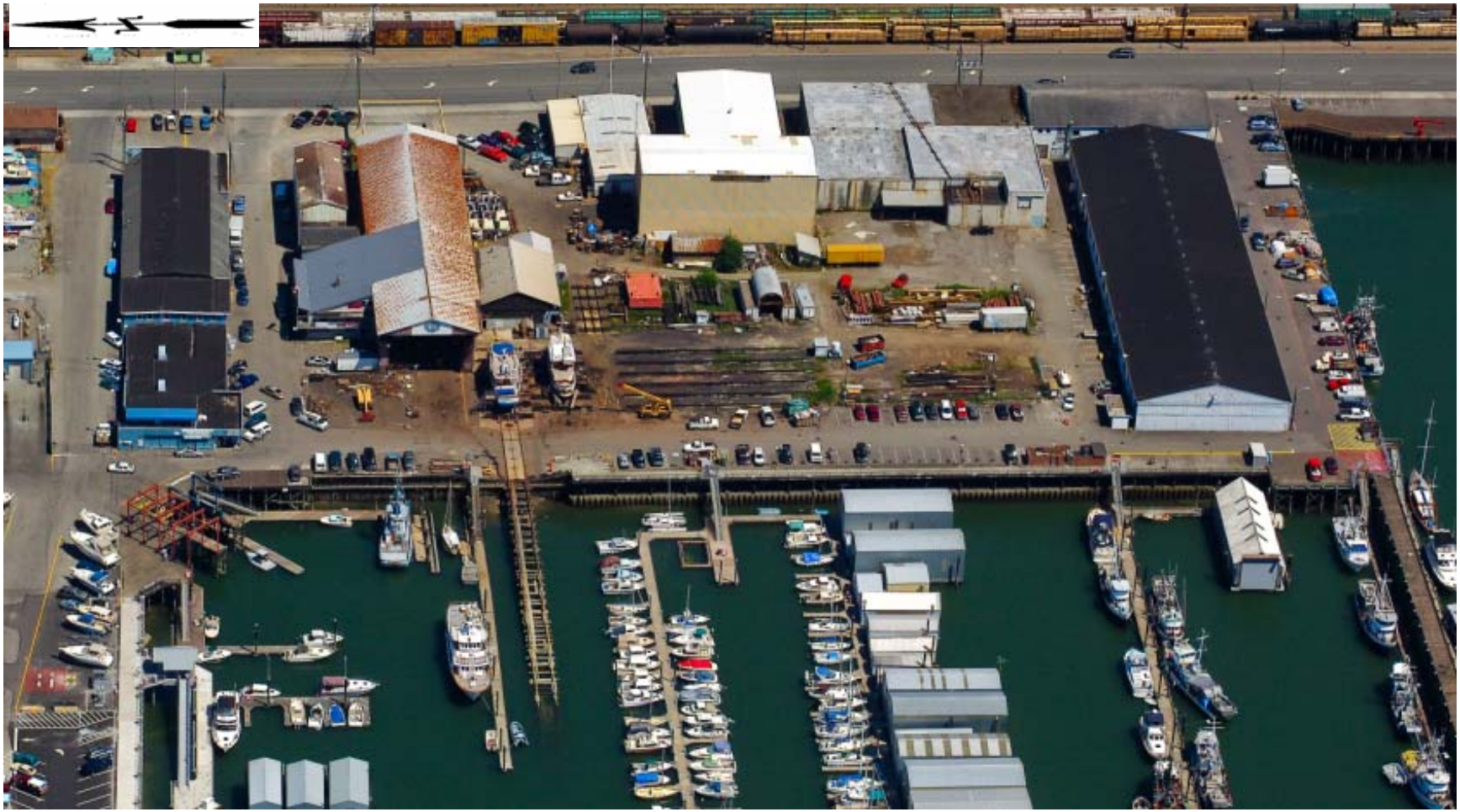
Everett Shipyard
Port of Everett, Washington

2007 Aerial Photograph:
Everett Shipyard Site



1. Locations of site features will need to be independently confirmed using historical records.
2. Photo source - http://maps.google.com.
3. Site limit is to be determined in the RI/FS.

2006 Aerial Photograph:
Everett Shipyard Site



1. Locations of site features will need to be independently confirmed using historical records.
2. Photo source –Ecology Shorelands & Environmental Assistance Program; taken 2006.
3. Site limit is to be determined in the RI/FS.

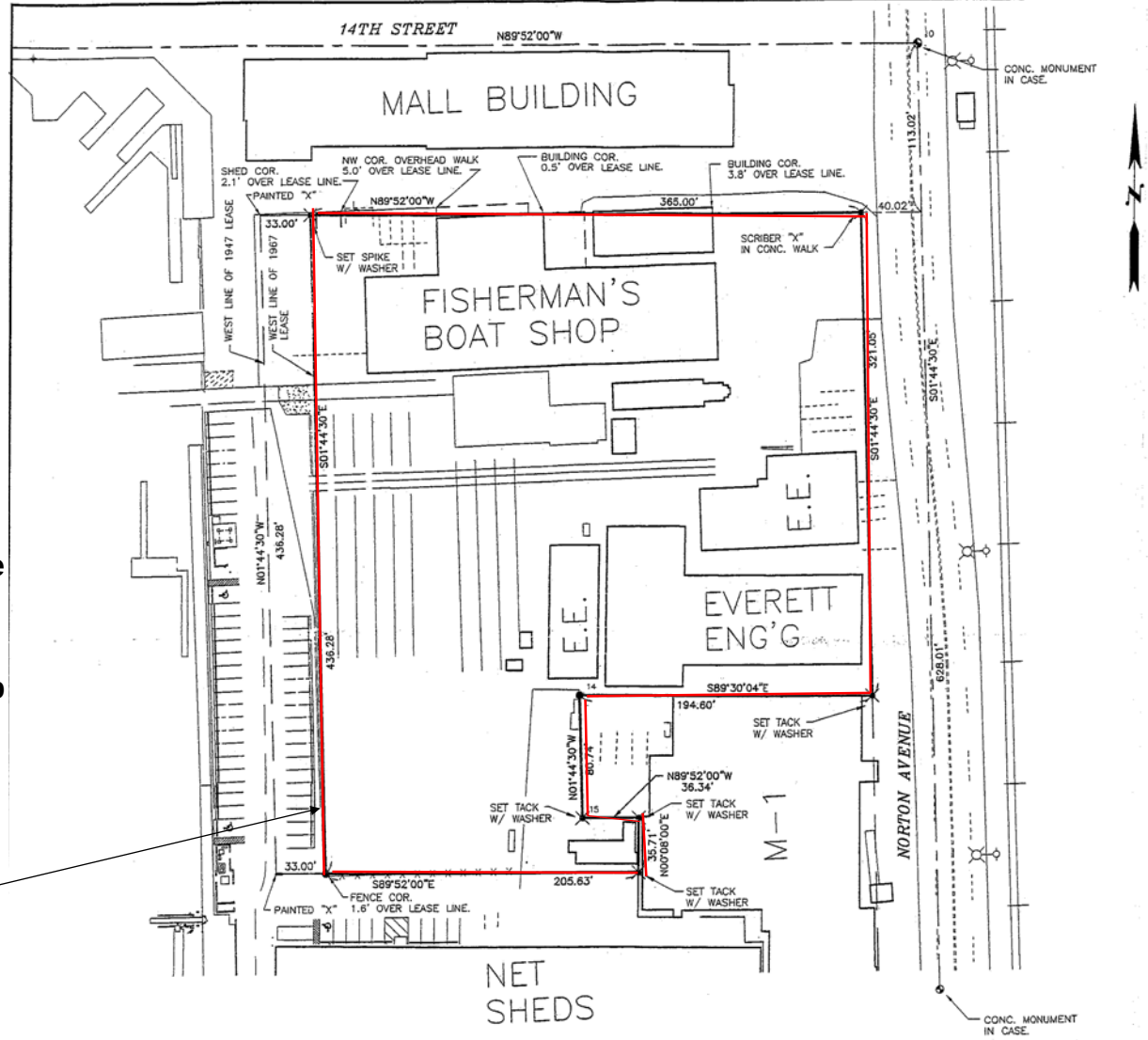
Everett Shipyard (formerly Fisherman's Boat Shop) Lease Description

Record of Survey for the Port of Everett

Portions of Section 18, and Tidelands Township 29 N, Range 5 E

Map Drawn: Dec. 1996

Approximate Lease Boundary



SCALE IN FEET
50 0 50 100

BASIS OF BEARINGS: ASSUMED
METHOD OF SURVEY: FIELD TRAVERSE
METHOD OF ADJUSTMENT: LEAST SQUARES
INSTRUMENTATION: 1.5" TOTAL STATION

LEGEND
- SET 5/8" REBAR W/CAP "R.M. 7892"
- EXISTING MONUMENT AS DESCRIBED

PROPOSED LEASE DESCRIPTION

THAT PORTION OF SECTION 18, T. 29 N., R. 5 E., W.M., AND THE TIDELANDS FRONTING THEREON DESCRIBED AS FOLLOWS:
COMMENCING AT THE MONUMENT AT THE INTERSECTION OF 14TH STREET AND NORTON AVENUE;
THENCE S 01°44'30"E ALONG THE CENTERLINE OF NORTON AVENUE 113.02 FEET;
THENCE N 89°52'00"W PARALLEL WITH THE CENTERLINE OF SAID 14TH STREET 40.02 FEET TO THE POINT OF BEGINNING OF THE PARCEL TO BE DESCRIBED;
THENCE N 89°52'00"W 365.00 FEET;
THENCE S 01°44'30"E 436.28 FEET;
THENCE S 89°52'00"E 205.63 FEET;
THENCE N 00°08'00"E 35.71 FEET;
THENCE N 89°52'00"W 36.34 FEET;
THENCE N 01°44'30"W 80.74 FEET;
THENCE S 89°30'04"E 194.60 FEET;
THENCE N 01°44'30"E 321.05 FEET TO THE POINT OF BEGINNING.

SITUATE IN THE COUNTY OF SNOHOMISH, STATE OF WASHINGTON.

NOTES:

BUILDINGS AND SURFACE FEATURES SHOWN HEREON ARE BASE ON FIELD LOCATIONS AND AERIAL PHOTOGRAPHY DATED 1990.

PRINTED
MAY 31 2001
REID MIDDLETON

RECORDING CERTIFICATE A.F.NO.

FILED FOR RECORD BY ROBERT L. STEVENSON THIS _____DAY OF _____ 1995 A.D., AT _____ MINUTES PAST_____O;CLOCK_____M., AND RECORDED IN VOLUME _____OF SURVEYS ON PAGE_____RECORDS OF SNOHOMISH COUNTY, WASHINGTON.

COUNTY AUDITOR

DEPUTY AUDITOR

SURVEYORS CERTIFICATE

THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE SURVEY RECORDING ACT, AT THE REQUEST OF THE PORT OF EVERETT. THIS _____DAY OF _____1996.

REGISTERED LAND SURVEYOR

L.S. NO. 7892

ROBERT L. STEVENSON STATE OF WASHINGTON 7892 REGISTERED PROFESSIONAL LAND SURVEYOR EXPIRES 11/11/97

RECORD OF SURVEY FOR

PORT OF EVERETT

PORTIONS OF SEC. 18, AND TIDELANDS T. 29 N., R. 5 E., W.M.
CITY OF EVERETT, SNOHOMISH COUNTY, WASHINGTON

REID MIDDLETON
19031 33rd Ave. W., Suite 301
Lynnwood, WA 98036-6638
206-775-3434

FIELD BOOK NO.	DATE OF FIELD SURVEY
209XX/76	11-8-96

DRAWN BY	DATE DRAWN	CHECKED BY	DATE CHECKED	SCALE	FILE NO.
ETH	DEC., 1996	RLS	DEC., 1996	1"=50'	22-96-034

SHEET 1 OF 1

POE 130067

Snohomish County Washington Online Government Information & Services

*** R E A L * Property Information**

County Home | Assessor Home | Treasurer Home | Information on which Department to contact

Please view Disclaimer | **If you have questions, comments or suggestions, please Contact Us.**

Date/Time:10/10/2007 10:53:07 AM | Answers to Frequently Asked Questions about Parcel Data (opens as new window)

Return to Property Information Entry page

Parcel Number **29051800208311** Prev Parcel Reference

View Map of this parcel (opens as new window)

Legal Description of Parcel Number 29051800208311:

Section 18 Township 29 Range 05 Quarter SE ~ BLDGS ONLY ~ OFFICE BLDG LEASED BY "FISHERMANS BOAT SHOP" FR PORT OF EVERETT & MACHINE SHOP/BOAT REPAIR ALSO "SUB-LEASED BY EVERETT ENGINEERING" FR PORT OF EVERETT ~ LOC ON PAR NO 29051800208300 **PROPOSED BSP FOR DIV 2 OF PORT OF EVERETT N MARINA, PART 12 OF 15 PARTS

Snohomish County Washington Online Government Information & Services

* R E A L * Property Information

County Home Assessor Home Treasurer Home Information on which Department to contact

Please view Disclaimer **If you have questions, comments or suggestions, please Contact Us.**

Date/Time:10/10/2007 10:53:07 AM Answers to Frequently Asked Questions about Parcel Data (opens as new window)

Return to Property Information Entry page

Parcel Number **29051800208311** Prev Parcel Reference

View Map of this parcel (opens as new window)

General Information

Taxpayer Name || Address (contact the Treasurer if you have questions)

EVERETT PORT OF || PO BOX 538 - - - EVERETT, WA 98206

If the above mailing address is incorrect and you want to make a change, see the information on Name and Address Changes

Owner Name || Address (contact the Assessor if you have questions)

EVERETT PORT OF || PO BOX 538 - - - EVERETT, WA 98206

If the above name and address is incorrect due to a recent sale, please see the information on Name and Address Changes After a Sale

Street (Situs) Address (contact the Assessor if you have questions)

1016 14TH ST - - - EVERETT, WA 98201-1686

Parcel Legal Description

Section 18 Township 29 Range 05 Quarter SE ~ BLDGS ONLY ~ OFFICE BLDG LEASED BY "FISHERMANS BOAT SHOP" FR PORT OF EVERETT & MACHINE SHOP/BOAT REPAIR ALSO "SUB-LEASED BY EVERETT ENGINEERING" FR PORT OF EVERETT ~ LOC ON PAR NO 29051800208300 **PROPOSED BSP FOR DIV 2 OF PORT OF EVERETT N MARINA, PART 12 OF 15 PARTS

Go to top of page

Treasurer's Tax Information

Taxes **For answers to questions about Taxes, please contact the** Treasurer's office (opens as new window)

2007 Taxes for this parcel $5,717.20

(Taxes may include Surface Water Management and/or State Forest Fire Patrol fees. LID charges, if any, are not included.) To obtain a duplicate tax statement, either download our Tax Statement Request form or call 425-388-3366 to request it by phone.

Go to top of page

Assessor's Property Data

Characteristics and Value Data below are for 2007 tax year.

Please contact the Treasurer's office **for answers to questions about Taxes** (opens as new window)

For questions ONLY about property characteristics or property values (NOT taxes), please contact the Assessor's Office

Property Values

Values do not reflect adjustments made due to an exemption, such as a senior or disabled persons exemption.
Reductions for exemptions are made on the property tax bill.

Tax Year	**2007**	Market Land	**$0**	Market Improvement	**$538,000**	Market Total	**$538,000**
Tax Year	**2008**	Market Land	**$0**	Market Improvement	**$538,000**	Market Total	**$538,000**

Go to top of page

Valuation and Property Tax History

View History (opens as new window)

Go to top of page

Property Characteristics

Tax Code Area (TCA) **00010** View Taxing Districts for this Parcel (opens as new window)

Use Code **559 Other Retail Trade-Auto, Marine, Aircraft NEC**

Size Basis **ACRE** Size **0.00** (Size may include undivided interest in common tracts and road parcels)

Go to top of page

Property Structures

Type	Yr.Built	Structure Description
Commercial	**1940**	**FISHERMENS BOAT SHOP** View Structure Data (opens as new window)
Commercial	**1980**	**EVERETT ENGINEERING BLDG 7** View Structure Data (opens as new window)
Commercial	**1969**	**FISHERMENS BOAT CRANE SHED 8** View Structure Data (opens as new window)
Commercial	**1969**	**EVERETT ENG MACH SHOP** View Structure Data (opens as new window)
Commercial	**1979**	**FISHERMENS BOAT EQPT BLDG 9** View Structure Data (opens as new window)

Go to top of page

Property Sales since 7/31/1999

Explanation of Sales Information (opens as new window)

Sales data is based solely upon excise affidavits processed by the Assessor.

No sales for this parcel have been recorded since 7/31/1999

Go to top of page

Property Maps Township/Range/Section/Quarter, links to maps

Neighborhood **5306000** Explanation of Neighborhood Code (opens as new window)

Township **29** Range **05** Section **18** Quarter **NW** Find parcel maps for this Township/Range/Section

View Map of this parcel (opens as new window)

EXHIBIT B:

SCOPE OF WORK AND SCHEDULE

EXHIBIT B:

SCOPE OF WORK AND SCHEDULE

Pursuant to the Agreed Order to which this Scope of Work & Schedule is attached, the PLPs shall take the following remedial actions at the Site. These actions shall be conducted in accordance with Chapters 173-340 and 173-204 WAC unless otherwise specifically provided for herein:

A. The PLPs shall conduct the remedial actions described below:

- Prepare a **Work Plan for Remedial Investigation/Feasibility Study** (**RI/FS Work Plan**) – The RI/FS Work Plan will describe project management; data collection and analysis to address both potential upland and in-water (i.e., adjacent marine sediment) contamination; and remedial alternatives evaluation activities that will be considered. A site-specific health and safety plan will also be included in the draft RI/FS Work Plan, meeting the requirements of WAC 173-340-600 and -810 respectively, describing the process for public involvement and worker safety during the project. The PLPs shall submit the RI/FS Work Plan to Ecology for review and approval.
- Conduct a field **Remedial Investigation and Feasibility Study** (**RI/FS**) – The PLPs shall conduct field data collection (Remedial Investigation) as described in the approved RI/FS Work Plan. The PLPs shall conduct Feasibility Study based on the results of the field Remedial Investigation.
- Prepare a draft **Remedial Investigation/Feasibility Study Report** (**RI/FS Report**) – The draft RI/FS Report will be combined as a single document and will present the following:
    - Conclusions of the RI activities including delineation of the extent and magnitude of contamination associated with all media of concern at the Site.
    - A conceptual site model detailing the identified contaminant migration pathways and all potential receptors.
    - The FS portion of the report will present and evaluate cleanup action alternatives to address the identified contamination at the Site. Based on the evaluation of alternatives (WAC 173 340-350[8]), the FS will identify a

- Develop a draft **Cleanup Action Plan (CAP)** – Upon Ecology approval of the final RI/FS Study Report, the PLPs shall develop a draft CAP in accordance with WAC 173-340-380 that provides a proposed cleanup action alternative to address contamination at all impacted media in both upland and in-water areas (i.e., adjacent marine sediment) based on the results of RI/FS. The draft CAP shall include a general description of the proposed cleanup action alternative; 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.

1. Preparation of A Work Plan for Remedial Investigation/Feasibility Study

The PLPs shall develop an **RI/FS Work Plan** (including draft, draft final, and final versions) that includes a scope of work to delineate and quantify (i.e., identify the levels of contamination) the potential contaminants in all media (i.e., soil, groundwater, surface water, and adjacent marine sediments) and any toxic effects or other deleterious substances in marine sediment. The work plan shall also address the proper handling of all wastes generated from the site during RI/FS (e.g., soil cuttings, groundwater development and purge water, excess sediment sample material, free-product, etc.). Note that all draft and final documents for Ecology review may be submitted in redline strike-out format (preferably in Microsoft® WORD format) to facilitate the review. The RI/FS Work Plan shall be conducted meeting the requirements of WAC 173-350 and should include the elements listed below:

a. Development of a site-specific Health and Safety Plan (HSP) and a Sampling and Analysis Plan (SAP) for both upland and adjacent marine sediments – This section should also include quality assurance/quality control requirements that should be included in the RI/FS Work Plan. The SAP should be based on the type, quality, and quantity of data necessary to support selection of a cleanup action. The SAP should provide the details on numbers

and locations of samples for each media and the analytical requirements. These plans shall conform to the requirements specified in WAC 173-340-810 and 173-340-820, respectively.

Additional sediment sampling is also required under the SMS to fully investigate the extent and magnitude of marine sediment contamination released at the Site. A **separate** sediment SAP (i.e., separate from the upland SAP) must be submitted to Ecology for review and approval before any sampling is conducted. In addition, any sampling of the marine sediments must be done in accordance with the SMS and the *Sediment Sampling and Analysis Plan Appendix*[1], Ecology Publication No. 03-03-043.

b. Investigation of Site Background and Setting – This section will include detailed descriptions of the following:

1) The property and site operational/industrial history (including current and previous ownership).

2) All previous investigations and past remedial actions if any. Note that any prior remedial actions are considered to be interim and not a final cleanup action.

3) Historical sources and releases of contamination (include a review of historical photos and Sanborn Maps).

4) Current site conditions (including descriptions of surface features, geology, soil and the vadose zone, surfacewater hydrology, hydrogeology, and meteorology).

5) Current and future land and water use (including descriptions of human populations).

6) The terrestrial/aquatic ecological setting including a description of ecological receptors and potentially threatened/endangered species.

[1] See URL: http://www.ecy.wa.gov/biblio/0309043.html

c. Evaluation of Existing Data – The existing analytical data, including data points impacted by prior interim remedial actions (if any), should be plotted (as accurately as possible) on both historical and current aerial photographs using geo-referencing techniques. Review the sample locations with respect to identified sources and areas where suspected releases (e.g., outfalls, storm water drains, spills, dumping, leaks, etc.) have occurred. All of the existing analytical data collected at the Site should be evaluated in terms of data usability (analytical methods used to evaluate the effectiveness of a cleanup action shall comply with the requirements in WAC 173-340-830) and be screened against the most protective preliminary cleanup levels identified under an unrestricted land use scenario. Both non-detect and detected data should be included in the screening. Identify sampling points containing exceedances on a map, and also discuss the adequateness of the reporting limits (i.e., Method Detection and Practical Quantitation Limits) in terms of achieving the preliminary cleanup levels for the Site. Chemicals exceeding the preliminary cleanup levels should be identified as indicator hazardous substances for the Site.

d. Development of Preliminary Conceptual Site Model (CSM) – The CSM should describe release mechanisms from the potential primary sources of hazardous substances to secondary and tertiary sources, the exposure media and routes, and the potential human and ecological receptors. The CSM should reflect both current conditions and potential future development in assessing exposure pathways.

e. Establishment of Preliminary Cleanup Levels applicable and identification of any and all applicable state and federal laws under WAC 173-340-710 – Based on the CSM, identify likely cleanup levels {e.g., levels established under MTCA [see WAC 173-340-700 through 173-340-760] and SMS [see WAC 173-204] for Puget Sound Marine sediments, and applicable state and federal laws} under a residential (unrestricted) land use scenario. Note that the cleanup levels must consider all applicable pathways including direct contact (including ingestion and inhalation), cross-media transfer pathways (i.e.,

leaching to groundwater, groundwater migration to surface water/adjacent marine sediments, and vapor intrusion pathway, etc.), and exposure to terrestrial and/or aquatic ecological and human receptors. Identify all necessary permits and approvals to allow the remedial works.

f. Schedule and Reporting – This section should contain the schedule and reporting requirements for the RI/FS project as defined in this Order.

2. Conduct A Field Remedial Investigation and Feasibility Study

The PLPs shall conduct the field RI as described in the approved RI/FS Work Plan and FS based on the results of the RI.

a. Field Remedial Investigation Approach – The PLPs shall conduct a field RI based on the background information gathered, past interim remedial actions at the Site if any, and the evaluation of existing data for the Site. The RI approach should be consistent with WAC 173-340-350. Identify the overall and general concept for conducting the RI at the Site. The PLPs shall conduct a thorough Site characterization work to fill in any data gaps (e.g., characterization of ground water contamination, etc.) identified in the RI work plan and new data gaps identified during the course of field RI activities.

The RI field investigation will be designed to identify the full extent and magnitude of contaminants and toxic effects in upland and in-water areas. Media evaluated will include residual waste (e.g., free product, sludge), soil, groundwater, adjacent marine sediment, and surface water. The PLPs shall provide Ecology with the results of the investigation so that a determination can be made with regard to whether additional investigation is required to define the full nature and extent of contamination. The information provided to Ecology should describe the analytical results of the field activities including the identification of indicator hazardous substances, the affected media, preliminary cleanup levels, the extent of contamination (plotted on maps), and any data gaps that need to be filled to define the nature and extent of contamination and toxic effects. Additional field investigation (if necessary based on initial results) will be conducted to further define the nature and

extent of contamination and toxic effects based on findings during the initial investigation.

b. Feasibility Study Approach – The PLPs shall conduct a FS to develop and evaluate remedial alternatives for cleanup of the Site. The FS approach should be consistent with WAC 173-340-350 and should consist of the following sections:

    1) Establishment of Cleanup Levels, Points of Compliance, and Remediation Levels – Unless otherwise specified under this Order, cleanup levels and points of compliance should be established for each hazardous substance in each medium and for each exposure pathway. The PLPs may also consider establishing potential remediation levels as defined per WAC 173-340-355.

    2) Identification of Applicable or Relevant and Appropriate Requirements – The Feasibility Study should include additional information or analyses to comply with the State Environmental Policy Act (SEPA) or other applicable laws to make a threshold determination per WAC 197-11-335(1) or to integrate the RI/FS with an environmental impact statement per WAC 197-11-262.

    3) Delineation of Media Requiring Remedial Action

    4) Development of Remedial Action Objectives – Remedial Action Objectives should provide general descriptions of what the Site cleanup is designed to accomplish, which is media-specific. Remedial action objectives are established on the basis of extent and magnitude of the contamination, the resources that are currently and potentially threatened, and the potential for human and ecological (both terrestrial and aquatic) exposures at the Site. Clearly define a basis and rationale for Remedial Action Objectives for each media at the Site.

    5) Screening of Cleanup Action Alternatives – A reasonable number and type of cleanup action alternatives should be evaluated, taking into

account the characteristics and complexity of the Site, including current site conditions and physical constraints. Evaluation of cleanup action alternatives and the selection of preferred cleanup alternative must meet the requirements of WAC 173-340-360.

6) Evaluate opportunities to perform remedial actions in a fashion that coincidentally enhances habitat. Elements of the remedial action will be evaluated for restoration opportunities in consultation with Ecology as plans for cleanup are developed[2].

7) References

3. Prepare a Draft Remedial Investigation/Feasibility Study Report

A draft, draft final, and final RI/FS report that meets the requirements of WAC 173-340-350 shall be prepared that presents the results of RI and that provides information regarding the full extent and magnitude of soil, groundwater, surface water, and adjacent marine sediment contamination and toxic effects and provides potential and preferred cleanup action alternatives for the cleanup of the contamination present at the Site.

4. Develop A Draft Cleanup Action Plan

Upon the approval of the final RI/FS report, the PLPs shall prepare a draft and draft final CAP in accordance with WAC 173-340-380 and 173-204-580 that provides a proposed cleanup action to address the contamination present at the Site. The draft CAP shall include a general description of the proposed cleanup actions along with following sections:

a. A general description of the proposed cleanup action and rationale for selection including results of any remedial technology pilot studies if necessary.

b. A summary of other cleanup action alternatives evaluated in the RI/FS.

[2] The Site is being overseen by Ecology and work is being done in an expedited manner under the Governor's Puget Sound Initiative. The Initiative focuses on cleaning up contamination as well as restoring Puget Sound. Ecology recognizes that many cleanups can be designed and implemented in a manner that improves habitat values and provides for shoreline restoration in conjunction with remedial actions. However, because of current and future land use, it is unlikely that meaningful habitat restoration opportunities exist at the site. Therefore evaluation of restoration opportunities will not constitute a significant part of the RI/FS process at this Site.

c. A summary of applicable local, state, and federal laws pertinent to the proposed cleanup actions.

d. Cleanup standards and rationale regarding their selection for each hazardous substance and for each medium of concern at the Site based on the results of the RI/FS.

e. Descriptions of any institutional/engineering controls if proposed.

f. A schedule for implementation of field construction work.

B. The PLPs shall perform the actions required by this Order according to the following schedule:

1. Remedial Investigation/Feasibility Study Work Plan Submittal

a. Draft RI/FS Work Plan – The draft RI/FS Work Plan shall be due 75 calendar days after finalization of this Order. The draft Work Plan will then undergo a 30-day review period by Ecology.

b. Draft Final RI/FS Work Plan – The draft final RI/FS Work Plan shall address comments/suggestions submitted by Ecology on the draft RI/FS work plan. The draft final RI/FS work plan shall be due 20 days after Ecology provides its comments on the draft work plan. This draft final will then undergo a 20-day review period by Ecology.

c. Final RI/FS Work Plan – The final RI/FS Work Plan shall address comments/suggestions submitted by Ecology on the draft final RI/FS work plan. The final RI/FS work plan shall be due 20 days after Ecology provides its comments on the draft final work plan.

2. Field Remedial Investigation and Feasibility Study

a. Field Remedial Investigation/Feasibility Study – RI field activities shall be commenced within 30 days of submittal of the final RI/FS work plan to Ecology.. The field RI results should be provided to Ecology 30 calendar days after the validation of all RI/FS analytical data.

b. Additional field RI activities (if needed) – These additional field RI activities are to adequately delineate the extent and magnitude of contamination at the Site. The scope, schedule and submittal requirements for additional field RI activities shall be developed by the PLPs, and shall be submitted to Ecology for final review and concurrence. –

3. Remedial Investigation/Feasibility Study Report Submittal

a. 1st draft RI/FS Report – The first draft RI/FS report shall be due to Ecology 120 calendar days after receipt of all analytical data collected during the RI/FS. This draft will then undergo a 30-day review period by Ecology.

b. 2nd draft RI/FS Report – The second draft RI/FS report shall be due to Ecology 60 calendar days after receipt of Ecology comments on the 1st draft RI/FS report. This draft will then undergo a 30-day review period by Ecology.

c. Draft final RI/FS Report – The draft final RI/FS report shall be due 15 days after receipt of Ecology comments on the 2nd draft RI/FS report. This draft final RI/FS report will then go to a 30-day public comment period.

d. Final RI/FS Report – The final RI/FS report shall be submitted to Ecology 30 days following Ecology's completion of the responsiveness summary to public comment on the draft final RI/FS report.

e. Environmental Data Submittals – All sampling data (including all historic data described in Attachment A of this Agreed Order) shall be submitted to Ecology in both printed and electronic formats in accordance with Ecology's Toxics Cleanup Program Policy 840 (Data Submittal Requirements) and/or any subsequent procedures specified by Ecology for data submittal. Policy 840 is presented in Exhibit C of this Agreed order. Data shall be supplied to Ecology in electronic format (i.e., EIM and SEDQUAL) 30 days following the completion of the Draft Final RI/FS Report.

4. Cleanup Action Plan Submittal

a. Draft CAP – The draft CAP shall be submitted to Ecology 30 days after finalization of the draft final RI/FS Report. This draft CAP will then undergo a 30-day review period by Ecology.

b. Draft Final CAP – The draft final CAP shall address comments/suggestions submitted by Ecology on the draft CAP. This draft final shall be due 15 days after submittal of Ecology comments of the draft CAP.

EXHIBIT C:

ECOLOGY POLICY 840 –

DATA SUBMITTAL REQUIREMENTS

Resource Contact: Policy and Technical Support Staff *Effective:* *August 1, 2005*
References: *WAC 173-340-840(5)* *Revised:* *September 9, 2005*
http://www.ecy.wa.gov/eim/
http://www.ecy.wa.gov/programs/tcp/smu/sedqualfirst.htm
http://www.ecy.wa.gov/biblio/0309043.html
Replaces: *Procedure 840*

Policy 840: Data Submittal Requirements

Purpose: Contaminated site investigations and cleanups generate a large volume of environmental monitoring data that need to be properly managed to facilitate regulatory decisions and access to this data by site owners, consultants, and the general public. The purpose of this policy is to describe the requirements for submitting environmental monitoring data generated/collected during the investigation and cleanup of contaminated sites under the Model Toxics Control Act (MTCA) and the Sediment Management Standards.

Application: This policy applies to Ecology staff, potentially liable parties, prospective purchasers, state and local agencies, and Ecology contractors that investigate or manage the cleanup of contaminated sites.

1. Unless Otherwise Specified by Ecology, all Environmental Monitoring Data Generated during Contaminated Site Investigations and Cleanups shall be Required to be Submitted to Ecology in both a Written and Electronic Format.

Environmental monitoring data include biological, chemical, physical, and radiological data generated during site investigations and cleanups under the Model Toxics Control Act Cleanup Regulation (WAC 173-340) and the Sediment Management Standards (WAC 173-204).

Data generated/collected during site investigations and cleanups conducted under an order, agreed order or consent decree, permit, grant, loan, contract, interagency agreement, memorandum of understanding or during an independent remedial action, are considered environmental monitoring data under this policy.

Data generated/collected for non site-specific studies, site hazard assessments that result in no further action and initial site investigations are not considered environmental monitoring data under this policy.

2. Orders, Agreed Orders, Consent Decrees, or Permits Issued After the Effective Date of this Policy Shall Include a Condition that Site-Specific Data be Submitted in Compliance with this Policy.

Reports on such work that do not include documentation that the data have been submitted in compliance with this policy shall be deemed incomplete and a notice of such provided to the

submitter. These reports generally should not be reviewed until that information is provided. The assistant attorney general assigned to the site should be consulted in these situations.

3. Reports on Independent Remedial Actions Submitted for Review After October 1, 2005, Under Ecology's Voluntary Cleanup Program Shall Not be Reviewed Until the Data Have Been Submitted in Compliance with this Policy.

Such reports shall be deemed incomplete, and a notice to this effect provided to the submitter.

4. Grants, Contracts, Interagency Agreements or Memoranda of Understanding Issued After the Effective Date of this Policy Shall Include a Condition that Site-Specific Data be Submitted in Compliance with this Policy.

Reports on such work shall not be accepted as complete until the data have been submitted in compliance with this policy. If a payment or transfer of funds is involved in the transaction, the relevant payment or transfer shall be withheld until this requirement has been met.

Example language to include in these documents is attached in Appendix A.

5. Data Generated During Upland Investigations and Cleanups Shall be Submitted Electronically Using Ecology's Environmental Information Management System (EIM).

EIM is Ecology's main database for environmental monitoring data. Proper submission of data through this system meets the requirement of submitting such data in an electronic format. Electronic data shall be submitted to Ecology simultaneously with the accompanying printed report.

Additional information on EIM, including instructions for data submittal, can be found on Ecology's EIM web site at http://www.ecy.wa.gov/eim/. TCP's EIM Coordinator also is available for technical assistance to site managers and consultants using EIM.

6. Data Submitted Electronically Using EIM Shall be Checked by the Toxics Cleanup Program's EIM Coordinator Prior to Loading the Data into EIM.

Normally, notice that data have been submitted through EIM will come to TCP's EIM Coordinator. Upon receipt of such a notice the EIM Coordinator should notify the site manager. Similarly, if the Ecology site manager receives a notice of an EIM submittal, they should notify TCP's EIM Coordinator. Upon receipt of the data, TCP's EIM Coordinator reviews the submittal for quality control and officially loads the data into the system.

7. Data Generated During Sediment Investigations and Cleanups shall be Submitted Electronically Using Ecology's Sediment Quality Information System (SEDQUAL).

SEDQUAL is Ecology's data management system for sediment-related data. Proper submission of data through this system meets the requirement of submitting such data in an electronic format. Electronic data shall be submitted to Ecology simultaneously with the accompanying printed report.

8. Sediment Sampling Data Shall be Submitted to Ecology Using the SEDQUAL Data Entry Templates.

At a minimum, the following SEDQUAL data entry templates must be completed:

1. **Reference & Bibliography:** Describes lab reports and publications that relate to the data being entered;
2. **Survey:** Sample number;
3. **Station:** Specifies geographic location of the sediment sample. Sample latitude/longitude coordinates must be entered using the North American Datum of 1983 in U.S. Survey feet (NAD 83, U.S. feet);
4. **Sample:** Describes sample characteristics such as depth; and
5. **Sediment Chemistry:** Reports chemical concentration data in dry weight units.

The following additional templates must also be completed where these measurements/observations have been made:

1. **Bioassay:** Bioassay test results;
2. **Bioassay Control:** Bioassay control test results;
3. **Benthic Infauna:** Species abundance & diversity;
4. **Tissue:** Describes the organism collected;
5. **Bioaccumulation:** Reports tissue chemical concentrations; and
6. **Histopathology:** Reports tissue pathology such as tumors or lesions.

9. Electronic Data Formats Shall be Verified to be Compatible with SEDQUAL Prior to Submittal.

Because SEDQUAL uses ASCII protocol and comma delimited text files, data format verification shall be conducted prior to submittal to Ecology. Data shall be verified by downloading the SEDQUAL database, importing the data into the database, correcting errors, and then exporting the corrected templates.

For additional information on sediment sampling and analysis plan requirements, see Ecology publication 03-09-043 "Sediment Sampling and Analysis Plan Appendix", April, 2003. A copy of this document can be obtained from Ecology's publication office or downloaded from the following web site: http://www.ecy.wa.gov/biblio/0309043.html
Additional information on SEDQUAL can be found at:
http://www.ecy.wa.gov/programs/tcp/smu/sedqualfirst.htm. TCP's SEDQUAL Coordinator is also available for technical assistance to site managers and consultants using SEDQUAL.

10. Sediment Sampling Data Shall Also be Submitted to Ecology in a Printed Report.

Printed reports shall present the data in both dry weight and total organic carbon normalized units in data tables that compare the results to applicable state regulatory criteria.

11. Data Submitted Electronically Using SEDQUAL Shall be Checked by the Toxics Cleanup Program's SEDQUAL Coordinator Prior to Loading the Data into SEDQUAL.

Normally, SEDQUAL data submittals will come to TCP's SEDQUAL Coordinator. Upon receipt of a submittal, the Coordinator should notify the site manager. Similarly, if the Ecology site manager receives a SEDQUAL submittal, they should notify TCP's SEDQUAL Coordinator. Upon receipt of the data, TCP's SEDQUAL Coordinator reviews the submittal for quality control and officially loads the data into the system.

Approved

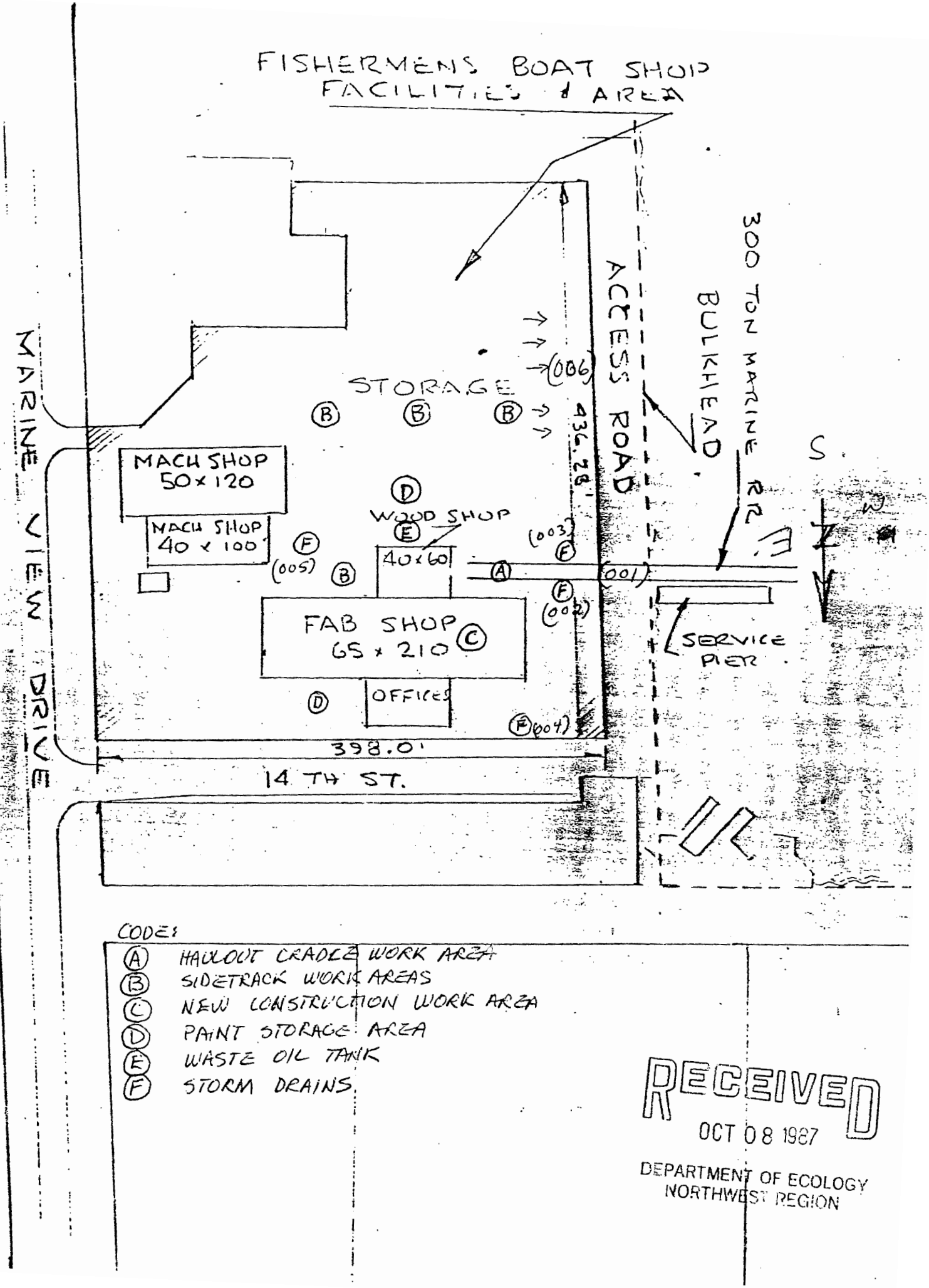
James J. Pendowski, Program Manager
Toxics Cleanup Program

Policy Disclaimer: This policy is intended solely for the guidance of Ecology staff. It is not intended, and cannot be relied on, to create rights, substantive or procedural, enforceable by any party in litigation with the state of Washington. Ecology may act at variance with this policy depending on site-specific circumstances, or modify or withdraw this policy at any time.

APPENDIX A: MODEL GRANT AND PERMIT CONDITION

The following condition is to be inserted in permits, grants, loans, contracts, interagency agreements, memorandum of understandings where site-specific environmental monitoring data is expected to be generated:

All sampling data shall be submitted to Ecology in both printed and electronic formats in accordance with WAC 173-340-840(5) and Ecology Toxics Cleanup Program Policy 840: Data Submittal Requirements. Electronic submittal of data is not required for site hazard assessments that result in no further action and initial site investigations. (FOR GRANTS & CONTRACTS ADD: Failure to properly submit sampling data will result in Ecology withholding payment and could jeopardize future grant funding.)



STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

Northwest Regional Office, 3190 - 160th Ave S.E. • Bellevue, Washington 98008-5452 • (206) 649-7000

DEPARTMENT OF ECOLOGY
EVERETT HARBOR ACTION TEAM
INSPECTION REPORT

TO: Dan Cargill, Files
DATE OF VISIT: 4/23/92, 5/5/92
FACILITY #: N/A

INSPECTOR: Rick Huey
PERMIT NUMBER: N/A
PERMIT EXPIRES: N/A

TYPE OF INSPECTION

___ PERMIT APPLICATION	___ COMPLAINT	___ ANNOUNCED
___ PERMIT COMPLIANCE	___ ENFORCEMENT	_X_ UNANNOUNCED
___ PERMIT CANCELLATION	_X_ SOURCE CONTROL	

FACILITY: Fishermen's Boat Shop
ADDRESS: 1016 14th Street
CITY: Everett 98201
COUNTY: Snohomish
TELEPHONE: (206) 259-0137

PERSON CONTACTED: Beverly King, Terry Kissinger, Tom Young
TYPE OF FACILITY: Shipyard
RECEIVING WATER: Snohomish River
TYPE OF TREATMENT SYSTEM: None
COMPLIES WITH PERMIT CONDITIONS? NPDES permit application received, not yet processed

DESCRIPTION:

On Thursday April 23, 1992 I conducted an inspection of Fishermen's Boat Shop. I was accompanied by David Hohmann of Ecology Solid and Hazardous Waste, Mike Papa of Everett Public Works Surface Water, and Gene Bennett of Everett Public Works Industrial Pretreatment.

We entered the facility at approximately 1015 hours, and introduced ourselves to Office Manager Beverly King. We informed her that we wanted to do an environmental compliance inspection of the facility. She told us that we needed to talk with Tom Young, who would not return until 1300 hours, and asked us to come back then. I agreed that we would return at 1300 hours.

The inspection team then proceeded to walk the perimeter of the facility property to make observations. As we were walking on the south perimeter, Beverly King approached us with a man she introduced as Yard Crew Foreman Tom Kissinger. They said that they would do their best to answer our questions, but Tom Young would have more knowledge than they would.

Mr. Kissinger told us that the facility had been a shipyard since the early 1940's, and that the current owner, Richard Eitel, had owned the facility since 1959. He said that the property is leased from the Port of Everett, and that the facility does mostly repair work, on vessels up to 125 feet long. Mr. Kissinger said that the facility is a union shop employing carpenters, shipwrights and painters, and that they do most of their own work, though some subcontractors are used. He said that Frontwater Services handles all waste, including the flushing of drums, and Kleencare handles all maintenance oil.

Mr. Kissinger told us that sandblasting is usually done in the shop, though some is done outside. Sandblasting is often contracted out, because it is difficult and time consuming to tarp a job properly to contain all spent grit and dust. He said that no hazardous waste from the ships is stored on site.

We then proceeded to the storage yard (photo 1), which is located at the south perimeter of the facility property (see attached map). The storage yard is unpaved and fenced. Mr. Kissinger told us that the yard was fenced 6 months ago to prevent people from dumping on their property.

He said that the State Ferry "Elwha" project had just been completed, and that all of the work materials and equipment had been moved into the storage yard. He said that the Navy wanted the pier back where the Elwha project had taken place, and that Fishermen's no longer had a deep water port. Mr. Kissinger said that the facility was proposing to use the pier at the Mukilteo tank farm for future dockside work.

In the storage yard I observed a battery stored in the open (photo 2), and what appeared to be spent sandblast grit deposited on the soil (photo 3). The battery was in deteriorating condition and its casing was stained, as was the pallet on which it was resting. I also observed sandblast grit in several other areas in the yard, and a number of barrels in the yard, exposed to the weather and without containment. Some of the barrels were partially full, and not all were marked (photos 4-6). None of

the barrels had dangerous waste labeling although most of the drums had waste inside. One barrel was marked as 'paint thinner', another as 'creosote'.

I informed Mr. Kissinger that many of the materials and barrels in the yard were not properly stored, and that a covered, bermed area would be needed for barrels containing material. He told me that they were in the process of fixing their storage problems.

He told me that all new jobs the facility accepts must be properly contained to avoid contamination and cleaned up, and that these conditions are part of the contract for jobs. He said that an independent cleanup had taken place at the facility in the late 1980's as a result of sampling by Ecology. The cleanup had taken place in the area east of the Wood Shop (see attached map).

Mr. Kissinger told us that all vehicle repair work is contracted off-site, and that no truck washing occurs at the facility. He also said that they use only standard marine paints for hulls. During a follow-up conversation with Tom Young on 6/11/92, Mr. Young said that their bottom paint contains copper in the form of cuprous oxide.

We then proceeded north along the waterfront side of the facility. Approximately 15 yards north of the storage yard I observed a storm drain (photo 7). The drain was surrounded by dirt and sand blast grit, and there appeared to be dirt, sand blast grit and small debris in the drain (photo 8). This storm drain appears to intercept another drain near the marine railway, which flows directly into the harbor.

Just east of the drain are the facility ship skids. These are wooden ties on bare soil, and are used to move ships away from the marine railway. Vegetable oil is used to grease the skids so the ships can be pushed sideways.

On either side of the marine railway I observed a storm drain (photos 9-10). In the north railway drain I observed what appeared to be a white liquid sitting in the drain. We walked west to the edge of the pier, and observed that the storm drain outfalls are located on each side of the marine railway. The south railway drain outfall was flowing at a low rate.

We then followed the railway east to the shop building, where I observed a storm drain in the corner where the haul-out machinery building and the fabrication shop meet (photos 11). There was a hose from the fabrication shop leading to the storm drain. Water

was flowing from the end of the hose. A white liquid was also present in this drain (photo 12). Inside of the fabrication shop I observed a sink that drained through the hose, leading to the storm drain. Mr. Kissinger said that the sink is for hand washing only, and that it is a temporary setup while their bathroom is being remodeled.

I told Mr. Kissinger that this was an illegal discharge, and asked him how long it had been in use. He said two weeks, and the bathroom would be done in another two weeks. I told him that I was concerned that more harmful substances than soap might be dumped down the sink and flow into the harbor, and I encouraged him to finish the remodeling quickly. During a follow-up phone conversation with Tom Young on 6/11/92, he said that the sink hook-up to the stormdrain had been removed on 5/8/92, three days after our second inspection.

We then proceeded to the enclosed paint shed in front of the carpentry shop. I observed that paint thinner and bottom paint were stored in the shed. There was a paint roller and pan upside down next to the paint shed, and there where stains on the ground around it. Inside the shed, what appeared to be a tub of diesel or thinner was open to the air.

Next we proceeded to the Boat/Maintenance Shed where I observed storage for waste antifreeze and oil, and new 30 weight oil and hydraulic oil (photo 13-14). The oil and antifreeze drums and waste oil buckets were stored indoors, but some of the buckets had no lids. The drums and buckets were not bermed. I also observed stains on the concrete floor.

In response to a question, Mr. Kissinger said that solvents were not used much, and that kind of work was usually subcontracted out to auto shops. He said that when solvents are used at the facility, it is usually diesel. In the northeast corner of the shed I observed a tank containing solvent (photos 15-16). Mr. Kissinger said that it was diesel, and that it hadn't been used in a long time. David Hohmann told him that this was dangerous waste and that it would have to be sent to a T.S.D. soon.

At the west end of the shop I observed a can marked 'oily rags' (photo 17). Mr. Kissinger said that all oily rags are put in the dumpster. David Hohmann told him that this was illegal if the rags were hazardous waste.

We then proceeded to the northeast outside corner of the shed, where I observed a diesel storage tank that was tarped and had secondary containment.

We finished this phase of the inspection at approximately 1130 hours, and agreed to return at 1330 hours to speak with Tom Young who was on the Kitsap peninsula. When we came back, Mr. Young had not returned. The next day I contacted Mr. Young by phone and arranged for the second phase of the inspection to occur May 5, 1992.

May 5, 1992

On May 5, 1992 at approximately 1000 hours the second phase of the inspection was conducted. I was accompanied by David Hohmann of Ecology Solid and Hazardous Waste and Gene Bennett of Everett Public Works Industrial Pretreatment.

We entered the facility office and introduced ourselves to Mr. Tom Young, who is the yard foreman working on environmental issues. We explained the purpose of our visit, and I informed Mr. Young that the facility would be receiving a Site Hazard Assessment within the next 6 weeks.

In response to a question, Mr. Young said that all storm drain sumps on the site are cleaned out approximately once a year, and that there are no oil/water separators on any of the drains. He also said that the temporary sink hookup now discharging to the storm drain was still in use, but that it should be dismantled within the next two weeks.

He told us that the facility was one of John Wylie's (Metro) test sites for a recirculating hydroblast system for larger vessels, and that the system was only partially successful.

We then proceeded to the area south of the marine railway where the skids are located. Mr. Young said that the facility is trying to get the area between the skids paved over incrementally as the occasion permits.

Next we went to the area east of the wood shop where an independent cleanup occurred in 1988-89. This cleanup resulted from sampling done by Ecology in 1987 showing copper, lead and zinc contamination resulting from sandblasting waste. Mr. Young said that sand blast grit and some soil was removed from this area, which has since been paved (photo 18). He also said that sandblast grit was removed from between the skids next to the marine railway. In the paved area east of the wood shop I observed a storm drain. Mr. Young said that he believed the drain flowed to one of the outfalls on either side of the marine railway.

South of the wood shop I observed an area where sand blasting and painting was occurring in an enclosed booth (photo 19). Mr. Young said that the job was subcontracted to Custom Coatings, and that the booth was temporary. He said that Custom Coatings is their primary subcontractor for such jobs, and he thought that they took care of all their job-related hazardous waste.

West of the booth I observed sand blast grit on bare soil (photo 20). I told Mr. Young that I was concerned about this type of practice, and that it would have to be changed. He said that they are working to improve their practices.

We then proceeded to the northeast corner of the storage yard, where I observed an open bag of sand blast grit, and grit on bare soil (photo 21).

I also observed three barrels and two buckets stored between the Wood Storage Shop (not the Wood Shop). One was unmarked and empty, another was marked motor oil and was empty, and the third was marked isocyanate, and was partially full of liquid (photos 22-23). The bung on this barrel was open (photo 24). Mr. Young said that he did not know that the barrels were there. He thanked us for calling them to his attention, and said he would get them taken care of by Frontwater Services.

We then walked through the storage yard where David Hohmann found several small industrial batteries sitting on the ground in deteriorating condition. D. Hohmann put these batteries in a plastic bag and gave them to Mr. Young for disposal. Sand blast grit was observed in the yard (photo 25).

In the southwest corner of the yard I observed where the power sheds from the Elwha ferry project were stored. Inside the sheds were transformers (photo 26).

Further north, near what Mr. Kissinger described as an unused waste oil tank (photo 27) during the 4/23 phase of the inspection, I observed another bag of sandblast grit stored in the open.

At approximately 1135 hours I thanked Mr. Young and left for another appointment. David Hohmann and Gene Bennett stayed to observe the temporary sand blast/paint operation. I returned at 1300 hours to pick up D. Hohmann.

Rick Huey
Everett Harbor Action Team

RH:rh
Attachment: map, photo log

cc: Dave Nazy, Ecology TCP
David Hohmann, Ecology Solid and Hazardous Waste
Gene Bennett, Everett Industrial Pretreatment
Mike Papa, Everett Surface Water

STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

Northwest Regional Office, 3190 - 160th Ave S.E. • Bellevue, Washington 98008-5452 • (206) 649-7000

July 10, 1992

TO: DW Files-

FROM: J. David Hohmann, HW Inspector

SUBJECT: WAD 988469706-- Fishermen's Boat Shop, (Everett, Snohomish Co.) Dangerous Waste Compliance Inspection, 4/23/92 and 5/5/92.

(Reference: Inspection Report by Rick Huey, Ecology TCP- UBAT)

A joint inspection was conducted at the subject facility with Rick Huey. His referenced report describes much of our activity. This memo summarizes the Dangerous Waste Regulatory Compliance findings of the inspection.

A. Background

Fishermen's Boat Shop (FBS) is the largest shipyard in Everett, located in the north part of Everett Harbor. Shipyards have been at this location since the 1940's. FBS had been at this address since 1959, but only notified Ecology of dangerous waste activities in June, 1990. Then in August, 1990 it requested its ID number be withdrawn, stating the notified waste had been a "one time only" generation. In May, 1991 a letter from FBS stated that the waste notified for was asbestos waste and was sent to a solid waste landfill, without a manifest. The 1990 Form 4 had no dangerous waste reported as generated that year. When we arrived for the inspection, we found FBS to be a large quantity generator. They were using their old ID number and did not remember having withdrawn it.

B. Site Tour

The first day we walked through the facility with Beverly King, the office manager, and Terry Kissinger, the yard crew foreman. A site map is attached to this report. We began at the scrap storage yard. Then we walked along the waterfront and observed some storm drains. We looked at a paint storage shed and then went into the Fabrication Building. Finally we walked around it to the Boat/Maintenance Shed and looked at an accumulation area.

The second day we returned and walked through various areas with Tom Young, the yard superintendent. In addition to areas seen previously, we walked around the yard behind the Wood Storage Shop.

Storage Yard

The storage yard had poor housekeeping and was not organized (Photos 1 through 4, and Photos 14 through 21). Debris and solid waste was scattered around, mixed with usable materials. A number of barrels were laying on the ground and on pallets.

A lead-acid battery in deteriorating condition was on a pallet on the ground (Photos 2 and 3). A stain on the battery and the pallet may have come from a leak or spill of its contents (Photo 3).

Sandblast grit is periodically generated from the cleaning of boats and equipment on the skids and in other areas. FBS has attempted to make subcontractors responsible for the management of this waste as part of the contract for the blasting and painting. The main contractor for this type of work when we were there was Custom Coatings, Inc., owned and operated by Roy Smalley (telephone #255-5375). Custom Coatings takes some of the waste away, but it does not have a State/EPA generator ID number. We told Tom Young that FBS is responsible for the waste generated as a result of subcontractor work on their site, and that FBS would probably need to report it on their annual reports too.

We saw spent sandblast grit spilled and deposited on the ground in a number of places in and around the storage yard and outdoor work areas (Photos 4 through 8). It seemed to be a historic problem that FBS has not yet taken control of. FBS cleaned up one area two years ago at Ecology's request to deal with some identified copper, lead, and zinc contamination, but much more cleanup may be required. The spent blast grit may or may not qualify as dangerous waste; we did not see evidence of any testing. Gray drums of the spent blasting grit were not labeled as dangerous waste (Photos 7, 9, and 10). The containers most recently generated were only closed by a plastic sheet wrapped with duct tape.

1990?

Custom Coatings was painting some metal pieces in a temporary enclosure near the wood shop (Photo 11). A 5-gallon waste paint thinner accumulation bucket was not labeled as dangerous waste (Photo 12). The worker we talked to said sandblast grit was collected and re-used until it was dusty, and then put in barrels (Photo 9). He said Roy Smalley (the boss) took care of the dangerous waste after a job was finished.

In the storage yard, several containers of paint thinner, paint waste, rust preventer, bilge waters and creosote, were lacking DW labels (Photos #13-14). A creosote drum in the yard had a spill on its top and was uncovered (Photo #15). Some old drums were open, unlabeled and partially full of unidentified substances (Photos 16 through 21). Tom Young said FBS had not been aware that some drums were out behind the wood storage shed (Photos 16 and 20). One open drum was labeled as isocyanate (Photos 19 and 20).

Frontwater Services, Inc. (FWS), a registered transporter, had acted as FBS's primary environmental service contractor since the founding of FWS about 5 years ago, Tom Young said. FWS had sampled and was trying to profile some of the waste in the storage yard during our first visit (Photo 13). They had transported that waste off site (under straight bill of lading) by the time we returned. We received copies of all paperwork and manifests for FWS services, but there were few manifests.

A large fraction of the waste described on FWS shipping papers was identified for DOT purposes as petroleum oil solution. Mr. Young said FWS takes spent diesel fuel that FBS uses as paint thinner. They also pump and rinse various drums that FBS wants to get rid of as scrap metal. Sometimes bilge waters on boats that come in are put in the drums. FWS shipping papers also specified that some regulated wastes such as sludge, thinner, paint, "float stuff," "hot oil", paint thinners, paint solids, paint, xylene, and MEK were taken away, but FBS had no manifests for them. Mr. Young said Peter Hoffman (president of FWS) would fill out any necessary manifest paperwork after the driver got back to their transfer facility with a load, and FWS would send any required copies back to FBS for signature, etc. For example, see the attached two copies of manifest #92104. The shipment was sent on a tanker truck, and the quantity had been revised by Peter Hoffman of FWS, from 700 gallons to 400 gallons. No records were found for any FWS shipments in January-March 1992, but they made 5 pickups in April.

Boat/Maintenance Shed

FBS said Clean Care, Inc. was their waste transporter for used antifreeze, used oil, and used oil filters. Those were accumulated inside the Boat/Maintenance Shed in drums and buckets (Photos 22 and 23). The antifreeze drum had no DW label or accumulation start date (Photo 22). We did not see any manifests for Clean Care pickups.

An out-of-service parts cleaning tank containing several gallons of spent solvent was also in the Boat/Maintenance Shed (Photos 24 and 25). Some buckets next to it may have contained more solvent waste and lacked waste labeling. We told FWS that spent solvent would have to be disposed as DW.

A special container was marked for accumulating oily rags in the Boat/Maintenance Shed (Photo 26). Later we photographed some products which are used with rags and might make the rags designate as hazardous when discarded (Photo 32). The rag container was full of garbage (Photo #26), and both rags and garbage together were disposed of as solid waste. We told FWS that this was probably unacceptable and recommended finding a laundry to take their rags.

Housekeeping practices seemed to be poor with respect to the use of paint and solvents. We found two cans of paint with brushes in them which were unattended and may have been abandoned (Photos #27 and 28). One of them was only a few feet from the edge of the dock (Photo #28). A used pan of roll-on paint had been inverted over a piece of wood and had spilled paint onto the ground (Photo #29). A tub holding several gallons of diesel (used as thinner) was open to the air in the paint storage shed.

No documents other than the manifests and bills of lading discussed above were reviewed during the inspection.

FBS said that they had generated hazardous waste while working on the Elwha ferry for the D.O.T. which had been at another dock in Everett. A generator ID number belonging to the D.O.T. was used for those manifests, they said.

C. Special Considerations

Two wooden boxes labeled, "Safety Suggestions," had been abandoned in the storage yard (Photo #31). When we remarked about this, Beverly King and Tom Kissinger said that they thought the boxes just weren't too popular with the employees.

From at least April 23 to May 5th, the facility was discharging sink water to the storm sewer and the Harbor, without a permit, in violation of water quality regulations (Photo #33). Rick Huey will be following up on that and related issues.

D. Summary of Violations

1. WAC 173-303-060 Notification.

FBS was using a withdrawn State/EPA Identification number. They had incorrectly notified as a one-time-only generator. They had not taken responsibility for assuring that waste generated on site by subcontractors was being properly disposed.

2. WAC 173-303-070 Designation of Dangerous Waste.

FBS must take responsibility for the accurate designation of its solid waste. It was apparent that the various subcontractors and service providers (Custom Coatings, Frontwater Services, and Clean Care) were not adequately designating and managing the wastes generated on site.

3. WAC 173-303-180 Manifest.

FBS was not manifesting some of their generated dangerous wastes. The disposal methods and disposal locations for those wastes were therefore unknown. The wastes were placed in the solid waste dumpster (contaminated rags); or taken away by Clean Care (used antifreeze); by Frontwater Services (paint thinner, paint waste, sludge, hot oil, MEK, Xylene, and oily water); or by Custom Coatings (sandblast grit, and paint wastes). Some waste FBS sent to Frontwater Services was being retroactively manifested. FBS must assure the proper handling and disposal of all its dangerous waste by sending them to a permitted facility, under a manifest.

4. WAC 173-303-145 Spills and Discharges into the Environment.

We saw piles of waste sandblast grit on the ground, and an open bag of the grit. There was an extensive occurrence of grit on the ground, including evidence of recent spills.

Paint containers were not being managed carefully after use and we saw abandoned cans with brushes, paint stains on the ground under an inverted used paint pan, and a questionable green stain next to the storm sewer grate by the Fabrication Building. A battery in the storage yard was stained, indicating acid had leaked. A creosote dispenser had spilled residues that mixed with rainwater on the top and sides of the drum. Spills were not reported and cleaned up.

5. WAC 173-303-200 Accumulating Dangerous Waste On-Site.

Containers of dangerous waste were open and exposed to the weather, and were kept in areas without roofs and without secondary containment. No dangerous waste labels were being used on any of the containers. Risk labels and accumulation start dates were also missing. The contents of many containers could not be identified. Weekly inspections (or their logs) were not being done for the areas where waste was being accumulated.

We did not see evidence of FBS complying with the other requirements for large quantity generators that are referenced in this section (WAC 173-303-330 through -360: personnel training, contingency plan and emergency procedures, and general inspections).

JDH:tm

List of Attachments

Everett Harbor Action Team Inspection Report
Inspection Photographs - 33 mounted plates
Ecology Generator Inspection Checklist
Ecology NWRO Facility Safety Checklist
LDR Inspection Checklist

Materials photocopied during the inspection:
Manifests and shipping papers from Frontwater Services.

From Ecology Headquarters:
Form 2, 06/27/90 (first notification).
Form 2, 08/02/90 (withdrawal of ID #).

cc: Rick Huey
Gene Bennett
D. Lundstrom

ATTACHMENT A:

1992 ECOLOGY INSPECTION REPORT

ATTACHMENT B:

SUMMARY OF PREVIOUS SITE INVESTIGATIONS

ATTACHMENT B:

Summary of Previous Site Investigations

A. 2003 and 2004 Site Investigations by the Port

In 2003 and 2004, Landau Associates, on behalf of the Port conducted two investigations to determine whether historical and current industrial site activities may have resulted in threatened or actual releases of hazardous substances to Site media (e.g., soil, ground water, adjacent marine sediment, and surface water) and whether any cleanup needs to occur at the Site. These investigations were limited in scope and were not intended to fully define the extent and magnitude of contamination at the Site. As part of the investigations, Landau Associates collected soil, ground water, storm drain sediment, and adjacent marine sediment samples from the Site. The Port's investigations revealed that the Site's soil and the storm drain sediment were contaminated with metals (including arsenic, cadmium, copper, lead, mercury, and zinc) and organotins (including bulk tributyl tin [TBT]) that exceeded the applicable published MTCA Method-A (unrestricted land use or industrial properties) and MTCA Method-B cleanup levels. Diesel- and oil-range petroleum hydrocarbons were also detected in soil samples throughout the Site. Important items of note related to concentrations of contaminants in soil and storm drain sediment include the following:

- The toxicity characteristic leaching procedure (TCLP) result for lead in one soil sample was above the state dangerous waste (WAC 173-303) characteristics criteria.
- Sand blast grit, fine debris, and paint chips were observed in surface soil at the Site.
- The highest concentrations of metals and bulk TBT were found to be in samples from catch basins in storm water discharge lines that discharge near the marine railway.

Landau Associates' sampling results of adjacent marine sediments from the eastern marine sediment area also revealed elevated concentrations of metals (arsenic, cadmium, copper, lead, mercury, and zinc) and organotins (bulk TBT), polycyclic aromatic hydrocarbons (PAHs;

fluoranthene and chrysene), and phthalates (butyl benzyl phthalate and bis[2-Ethylexyl]phthalate). Maximum detected concentrations of these hazardous substances exceed either Sediment Quality Standards (SQS) and/or Cleanup Screening Levels (CSLs) identified in the Sediment Management Standards (WAC chapter 173-204). The full extent and magnitude of contamination at the Site was not defined during the investigations conducted in 2003 and 2004.

B. 2007 Supplemental Site Characterization Work by Everett Shipyard

In 2007, URS, on behalf of Everett Shipyard, performed a supplemental site Investigation at the Site. URS collected a total 32 shallow vadose zone soil samples to assess the extent and magnitude of diesel- and motor-oil range petroleum hydrocarbons and metals. The area investigated was limited to the west-central, and the southwestern portions within Everett Shipyard's leasehold. Highly elevated concentrations of petroleum hydrocarbons found in an area adjacent to the southern boundary of the leasehold and in area between the leasehold line and the shoreline. It was also noted that strong petroleum hydrocarbon odors and staining were observed at various depths in eight soil borings throughout the Site. In addition to petroleum hydrocarbon exceedances, soil concentrations of metals including arsenic, cadmium, copper, lead, mercury, and zinc also exceeded either applicable MTCA Method-A or and/or Method-B Cleanup Levels.

EXHIBIT D:

PUBLIC PARTICIPATION PLAN

Site Cleanup

EVERETT SHIPYARD SITE

1016 14th Street
Everett, Washington

DRAFT PUBLIC PARTICIPATION PLAN

Prepared by:
Washington State Department of Ecology

WASHINGTON STATE
DEPARTMENT OF
ECOLOGY

March 2008

This plan is for you!

This public participation plan is prepared for the Everett Shipyard site cleanup as part of the requirements of the Model Toxics Control Act (MTCA). The plan provides information about MTCA cleanup actions and requirements for public involvement, and identifies how Ecology, the Port of Everett, and Everett Shipyard will support public involvement throughout the cleanup. The plan is intended to encourage coordinated and effective public involvement tailored to the community's needs at Everett Shipyard.

For additional copies of this document, please contact:

Washington State Department of Ecology
Sandra Caldwell, Public Involvement Specialist
Toxics Cleanup Program
PO Box 47600
Olympia, WA 98504-7600
(360) 407-7209
Email: saca461@ecy.wa.gov

If you need this publication in an alternate format, please call the Toxics Cleanup Program at (360) 407-7170. Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call (877) 833-6341 (TTY).

Table of Contents

1.0: Introduction and Overview of the Public Participation Plan

This Public Participation Plan explains how you can become involved in improving the health of your community. It describes public participation opportunities that will be conducted during cleanup of a site on the Everett waterfront – the Everett Shipyard site. Everett Shipyard is located at 1016 14th Street, in Everett, Washington. These opportunities are part of a cooperative agreement between the Washington State Department of Ecology (Ecology), the Port of Everett (Port) and Everett Shipyard, Inc. (Everett Shipyard). The current agreement, called an Agreed Order, is a legal document in which the Port, Everett Shipyard, and Ecology agree to decide on cleanup actions for the Everett Shipyard site. These cleanup actions and the public participation process that helps guide them, are established in Washington's Model Toxics Control Act (MTCA).[1]

Under MTCA, Ecology is responsible to provide timely information and meaningful chances for the public to learn about and comment on important cleanup decisions before they are made. The goals of the public participation process are:

- To promote understanding of the cleanup process so that the public has the necessary information to participate.
- To encourage involvement through a variety of public participation opportunities.

This Public Participation Plan provides a framework for open dialogue about the cleanup among community members, Ecology, cleanup site owners, and other interested parties. It outlines basic MTCA requirements for community involvement activities that will help ensure that this exchange of information takes place during the investigation and cleanup, which include:

- Notifying the public about available reports and studies about the site.
- Notifying the public about review and comment opportunities during specific phases of the cleanup investigation.
- Providing appropriate public participation opportunities such as fact sheets to learn about cleanup documents, and if community interest exists, holding meetings to solicit input and identify community concerns.
- Considering public comments received during public comment periods.

[1] The Model Toxics Control Act (MTCA) is the contaminated site cleanup law for the State of Washington. The full text of the law can be found in Revised Code of Washington (RCW), Chapter 70.105D. The legal requirements and criteria for public notice and participation during MTCA cleanup investigations can be found in Washington Administrative Code (WAC), Section 173-340-600.

In addition to these basic requirements, the plan may include additional site-specific activities to meet the needs of your community. Based upon the type of the proposed cleanup action, the level of public concern, and the risks posed by the site, Ecology may decide that additional public involvement opportunities are appropriate.

These opportunities form the basis for the public participation process. The intent of this plan is to:

- Provide complete and current information to all interested parties.
- Let you know when there are opportunities to provide input.
- Listen to concerns.
- Address those concerns.

Part of the Puget Sound Initiative

Everett Shipyard is one of a number of sites in the Everett area and is part of a larger cleanup effort called the Puget Sound Initiative (PSI). Governor Chris Gregoire and the Washington State Legislature authorized the PSI as a regional approach to protect and restore Puget Sound. The PSI includes cleaning up 50-60 contaminated sites within one-half mile of the Sound. These sites are grouped in several bays around the Sound for "baywide" cleanup efforts. As other sites in the Everett baywide area move forward into investigation and cleanup, information about them will be provided to the community as well as to interested people and groups.

Roles and Responsibilities

Ecology will lead public involvement activities, with support from the Port and Everett Shipyard. Ecology maintains overall responsibility and approval authority for the activities outlined in this plan. The Port and Everett Shipyard are responsible for cleanup at this site. Ecology will oversee all cleanup activities, and ensure that contamination on this site is cleaned up to concentrations that are established in state regulations and that protect human health and the environment.

Organization of this Public Participation Plan

The sections that follow in this plan provide:

- Section 2: Background information about the Everett Shipyard site.
- Section 3: An overview of the local community that this plan is intended to engage.
- Section 4: Public involvement opportunities in this cleanup.

This Public Participation Plan addresses current conditions at the site, but it is intended to be a dynamic working document that will be reviewed at each phase of the cleanup, and updated as needed. Ecology, the Port, and Everett Shipyard urge the public to become involved in the cleanup process.

2.0: Site Background

Site Description and Location

The Everett Shipyard site is located at 1016 14th Street in Everett, Snohomish County, Washington. It is located west of Marine View Drive and adjacent to the Port's North Marina (see Figure 1). The site is rectangular in shape, and about five acres in size. It is bounded by 14th Street to the north, Everett Marina to the south, Burlington Northern Railroad and West Marine View Drive to the east, and Port Gardner Bay to the west. The site is located in the vicinity of the North Marina, just south of where the Snohomish River flows into Port Gardner Bay.

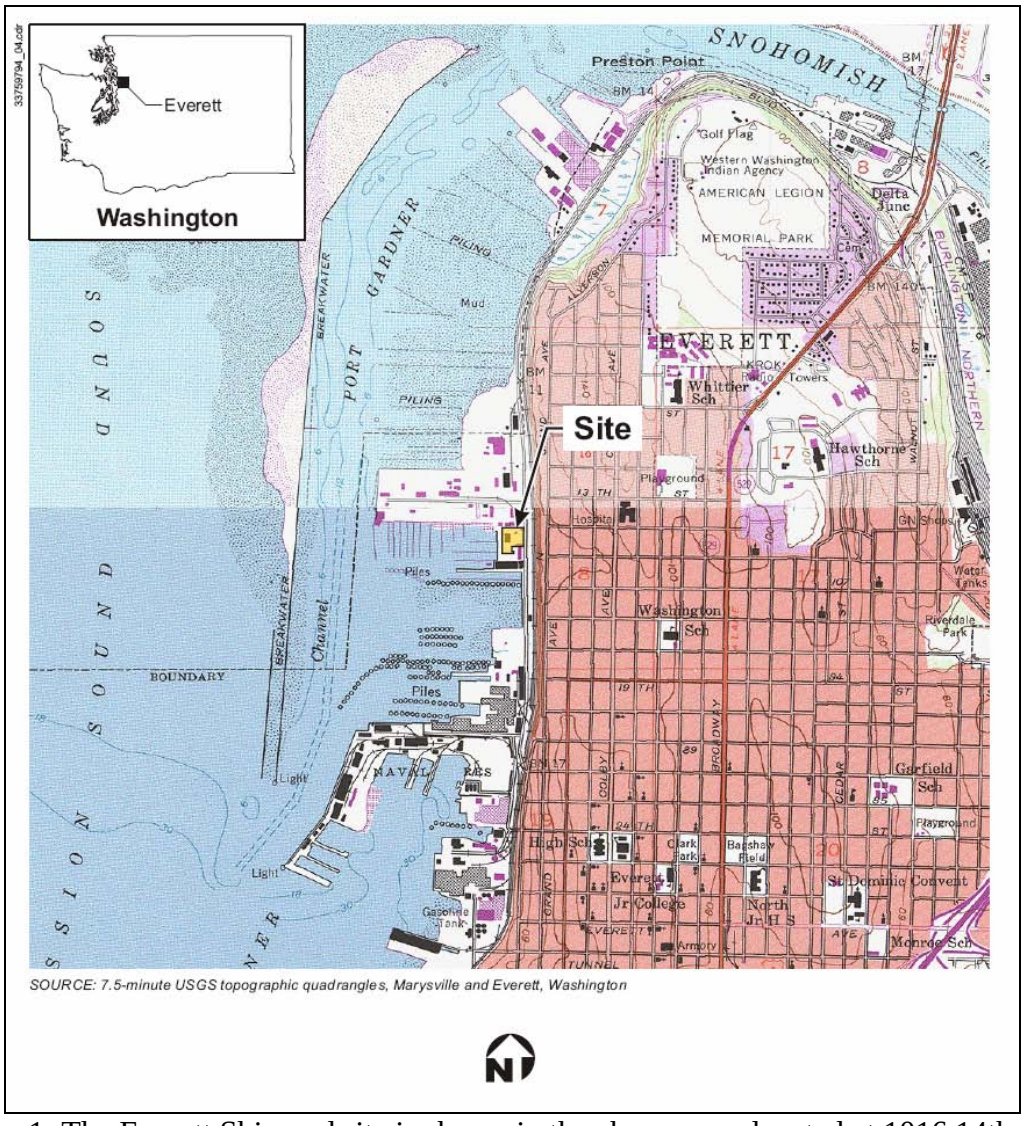


Figure 1: The Everett Shipyard site is shown in the above map, located at 1016 14th Street, in Everett, WA. Prepared by URS for Everett Shipyard, Inc.

The City of Everett Comprehensive Plan land use map[1] indicates that the site is zoned waterfront commercial. Zoning to the east includes residential single-family homes. Zoning to the west includes aquatic and open space (Jetty Island). The site is not located within the Everett Smelter area of historic arsenic contamination. The site is within the Shoreline Overlay Zone with an urban maritime designation.[2]

General Site History and Contaminants

Since its founding as Fishermen's Boat Shop in 1947, the Everett Shipyard site has been used for cleaning, sandblasting, welding, and repairing marine vessels. Currently, the facility conducts repair work on marine vessels up to 110 feet long. The repair work involves tank evacuations, equipment disassembly, sandblasting, woodwork and metalwork, painting, and mechanical repairs.

Chemicals used on this site include paint thinner, paint, rust preventer, creosote, anti-biofouling agents, xylene, methyl ethyl ketone, and diesel, and heavy-oil petroleum products.

Site investigations by Ecology in 1992, the Port in 2003 and 2004, and Everett Shipyard in 2007 found the following contaminants in the site's soil and storm drain sediment at concentrations above MTCA cleanup levels:

- Metals (arsenic, cadmium, copper, lead, mercury, zinc)
- Wood preservatives or organotins (including bulk tributyl tin [TBT])
- Diesel and heavy-oil range petroleum hydrocarbons

The following contaminants have also been found in adjacent marine sediments at concentrations above state standards:

- Metals (arsenic, cadmium, copper, lead, mercury, zinc)
- Organotins
- Polycyclic aromatic hydrocarbons (PAHs)
- Phthalates

Further investigation will be done to fully characterize the contamination at the Everett Shipyard site.

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[1] Planning and Community Development, City of Everett, WA http://www.everettwa.org/Get_PDF.aspx?pdfID=339 (Accessed November 5, 2007)
[2] Shoreline Master Plan, Shoreline Environmental Designations, City of Everett, WA http://www.everettwa.org/Get_PDF.aspx?PDFID=408 (Accessed November 5, 2007)

The Cleanup Process

Washington State's cleanup process and key opportunities for you to provide input are outlined in Figure 2. The general cleanup process includes the following steps:

- Remedial investigation (RI) - investigates the site for types, locations, and amounts of contaminants.
- Feasibility study (FS) - identifies cleanup options for those contaminants.
- Draft Cleanup action plan (CAP) – selects the preferred cleanup option and explains how cleanup will be conducted.

Each of these steps will be documented in reports and plans that will be available for public review. Public comment periods of at least 30 calendar days are usually conducted for the following documents:

- Draft RI report
- Draft FS report
- Draft CAP

These cleanup steps and documents are described in greater detail in the following subsections.

Interim Actions

Interim actions may be conducted during the cleanup if required by Ecology. An interim action partially addresses the cleanup of a site, and may be required if:

- It is technically necessary to reduce a significant threat to human health or the environment.
- It corrects a problem that may become substantially worse or cost substantially more to fix if delayed.
- It is needed to complete another cleanup activity, such as design of a cleanup plan.

Interim actions are not currently anticipated on the Everett Shipyard site under this Agreed Order.

Remedial Investigation/Feasibility Study Report

Everett Shipyard and the Port have agreed to conduct an RI on the site. The RI determines which contaminants are on the site, where they are located, and whether there is a significant threat to human health or the environment. The draft RI report provides baseline data about environmental conditions that will be used to develop cleanup options. The feasibility study (FS) and report then identify and evaluate cleanup options, in preparation for the next step in the process.

The RI and FS processes typically include several phases:

- Scoping
- Site characterization
- Development and screening of cleanup alternatives
- Treatability investigations (if necessary to support decisions)
- Detailed analysis

The RI and FS reports are expected to be combined into a draft Everett Shipyard RI/FS report. The draft report is anticipated to be completed in late spring 2009 and will be made available for public review and comment. Comments will be considered as the draft cleanup action plan (CAP) is prepared.

Cleanup Action Plan

Everett Shipyard, the Port, and Ecology have agreed to develop a CAP for the site. After public comment on the draft RI/FS report, a preferred cleanup alternative will be selected. The draft CAP explains the cleanup standards that will be applied at the site, selects the preferred cleanup alternative(s), and outlines the work to be performed during the actual site remediation. The CAP may also evaluate the completeness and effectiveness of any interim actions that were performed on the site. The draft CAP will be available for public review and comment. Once public comments are reviewed and any changes are made, Ecology provides final approval and site cleanup can begin. Upland cleanup is anticipated to be completed in late 2010, and sediment cleanup is anticipated to be completed in 2011.

3.0: Community Profile

Community Profile

Everett is Snohomish County's largest city and the sixth largest city in the State of Washington. The current population of Everett is approximately 98,000[1] situated within 47.7 square miles. Located on Port Gardner Bay, Everett hosts the West Coast's second largest marina, U.S. Navy Homeport Naval Station Everett, and The Boeing Company's assembly plant. The city's 2006 labor workforce was more than 80,000, predominantly employed in technology, aerospace, and service-based industries.[2]

Key Community Concerns

An important part of the Public Participation Plan is to identify key community concerns for each cleanup site. The Everett Shipyard site is industrial, but is located near a residential area. The proximity of the community to the site is likely to raise questions about how daily life and the future of the community may be affected during and after cleanup of the site.

Many factors are likely to contribute to community questions, such as the amount of contamination, how the contamination will be cleaned up, or future use of the site. Community concerns often change over time, as new information is learned and questions are answered. Identifying site-specific community concerns at each stage of the cleanup process will be helpful to ensure that they are adequately addressed. On-going key community concerns will be identified for the Everett Shipyard site through public comments and other opportunities as outlined in Section 4.

[1] US Census Bureau, City & Towns Estimates Data for July 1, 2006. http://www.census.gov/popest/estimates.php (Accessed September 12, 2007)
[2] City of Everett. http://www.everettwa.org/default.aspx?ID=314 (Accessed September 12, 2007)

4.0: Public Participation Opportunities

Ecology, the Port, and Everett Shipyard invite you to share your comments and participate in the cleanup in your community. As we work to meet our goals, we will evaluate whether this public participation process is successful. This section describes the public participation opportunities for this site.

Measuring Success

We want this public participation process to succeed. Success can be measured, at least in part, in the following ways:

- Number of written comments submitted that reflect understanding of the cleanup process and the site.
- Direct "in-person" feedback about the site cleanup or public participation processes, if public meetings are held.
- Periodic updates to this plan to reflect community concerns and responses.

If we are successful, this process will increase:

- Community awareness about plans for cleanup and opportunities for public involvement.
- Public participation throughout the cleanup.
- Community understanding regarding how their input will be considered in the decision-making process.

Activities and Information Sources

Ecology Contacts

Ecology is the lead contact for questions about the cleanup in your community. The Ecology staff identified in this section are familiar with the cleanup process and activities at the site. For more information about public involvement or about technical aspects of the cleanup, please contact the persons listed below.

For technical questions:

Hun Seak Park
Ecology Project Coordinator
WA State Dept. of Ecology
Toxics Cleanup Program
P.O. Box 47600
Olympia, WA 98504-7600
Phone: 360-407-7189
E-mail: hpar461@ecy.wa.gov

For public involvement questions or comments:

Sandra Caldwell
Public Involvement Specialist
WA State Dept. of Ecology
Toxics Cleanup Program
P.O. Box 47600
Olympia, WA 98504-7600
Phone: (360) 407-7209
E-mail: saca461@ecy.wa.gov

Ecology's Webpage

Ecology has created a webpage to provide convenient access to information. Documents such as the Agreed Order, draft reports, and cleanup plans, are posted as they are issued during the investigation and cleanup process. Visitors to the webpage can find out about public comment periods and meetings; download, print, and read information; and submit comments via e-mail. The webpage also provides links to detailed information about the MTCA cleanup process. The Everett Shipyard site webpage is available at the following address: http://www.ecy.wa.gov/programs/tcp/sites/everett_shipyard/ev_ship_hp.htm.

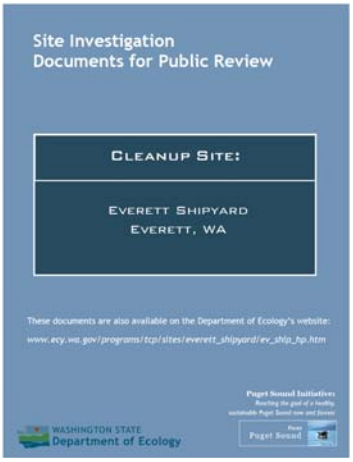
Information Centers/Document Repositories

Another comprehensive source of information about the Everett Shipyard site is the information center, or document repository. Two repositories provide access to the complete list of site-related documents. All Everett Shipyard investigation and cleanup activity reports will be kept in print at those two locations and will be available for your review. They can be requested on compact disk (CD) as well. Document repositories are updated before public comment periods to include the relevant documents for review. Documents remain at the repositories throughout the investigation and cleanup. For the Everett Shipyard site, the document repositories and their hours are:

Everett Public Library

- 2702 Hoyt Ave.
  Everett, WA 98201
  Phone: (425) 257-8010
  Hours: Mon.-Wed. 10 a.m.-9 p.m., Thurs.-Sat. 10 a.m.-6 p.m., Sun. 1-5 p.m.

- **WA Department of Ecology Headquarters**
  300 Desmond Dr. SE
  Lacey, WA 98503
  By appointment. Please contact Carol Dorn at (360) 407-7224 or cesg461@ecy.wa.gov.



Look for Puget Sound Initiative document covers such as illustrated here.

Public Comment Periods

Public comment periods provide opportunities for you to review and comment on major documents, such as the Agreed Order, draft Public Participation Plan, draft RI/FS report, and draft CAP. The typical public comment period is 30 calendar days.

Notice of Public Comment Periods

Notices for each public comment period will be provided by local newspaper and by mail. These notices indicate the timeframe and subject of the comment period, and explain how you can submit your comments. For the Everett Shipyard site, newspaper notices will be posted in The Daily Herald.

Notices are also sent by regular mail to the local community and interested parties. Typically, the community includes all residential and business addresses within one-quarter mile of the site, as well as potentially interested parties such as public health entities, environmental groups, and business associations.

Fact Sheets

One common format for public comment notification is the fact sheet. Like the newspaper notice, fact sheets explain the timeframe and purpose of the comment period, but also provide background and a summary of the document under review. A fact sheet that explains the Agreed Order and this Public Participation Plan (included as Attachment A) has been prepared for the Everett Shipyard site. Future fact sheets will be prepared at key milestones in the cleanup process.

MTCA Site Register

Ecology produces an electronic newsletter called the MTCA Site Register. This semi-monthly publication provides updates of the cleanup activities occurring throughout the state, including public meeting dates, public comment periods, and cleanup-related reports. Individuals who would like to receive the MTCA Site Register can sign up three ways:

- Call (360) 407-6069
- Send an email request to ltho461@ecy.wa.gov
- Register on-line at http://www.ecy.wa.gov/programs/tcp/pub_inv/pub_inv2.html

Mailing Lists

Ecology maintains both an e-mail and regular mail distribution list throughout the cleanup process. The list is created from carrier route delineations for addresses within one-quarter mile of the site, potentially interested parties, public meeting sign-in sheets, and requests made in person or by regular mail or e-email. You may request to be on the mailing list by contacting Ecology's public involvement staff person listed earlier in this section.

Optional Public Meetings

A public meeting will be held during a comment period if requested by ten or more people, or if Ecology decides it would be useful. Public meetings provide additional opportunities to learn about the investigation or cleanup, and to enhance informed comment. If you are interested in a public meeting about the Everett Shipyard site, please contact the Ecology staff listed earlier in this section.

Submitting Comments

You may submit comments by regular mail or e-mail during public comment periods to the Ecology Project Manager and technical staff person listed earlier in this section.

Response to Comments

Ecology will review all comments submitted during public comment periods, and will modify documents as necessary. You will receive notice by regular mail or e-mail that Ecology has received your comments, along with an explanation about how the comments were addressed.

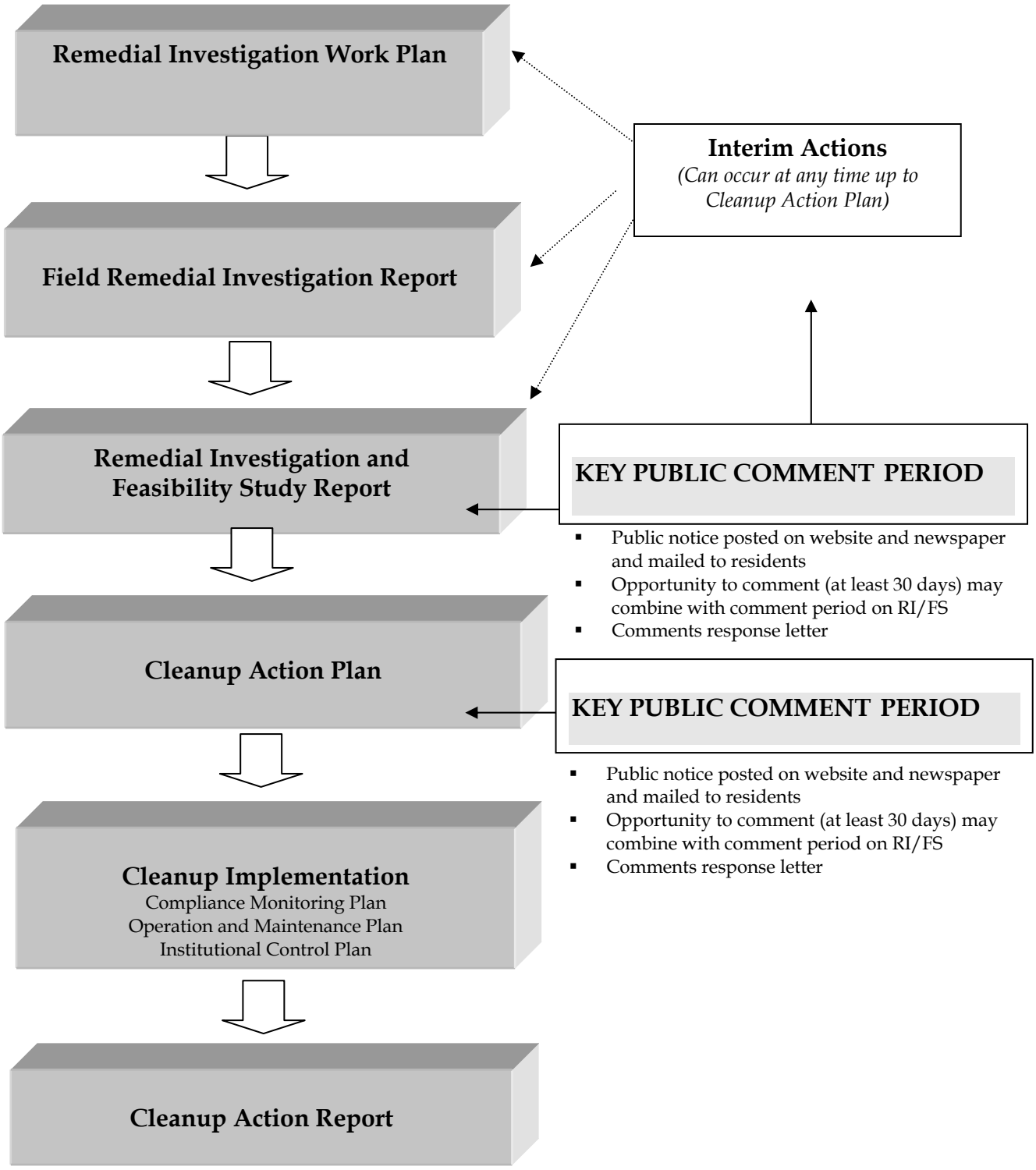
Other

Ecology, the Port, and Everett Shipyard are committed to the public participation process and will consider additional means for delivering information and receiving comments, including combining public comment periods for other actions (such as those associated with the State Environmental Policy Act).

Public Participation Grants

You may be eligible to apply for a Public Participation Grant from Ecology to provide additional public participation activities. Those additional activities will not reduce the scope of the activities defined by this plan. Activities conducted under this plan would coordinate with the additional activities defined under the grant.

Figure 2: Washington State Cleanup Process



Glossary

Cleanup: The implementation of a cleanup action or interim action.

Cleanup Action: Any remedial action except interim actions, taken at a site to eliminate, render less toxic, stabilize, contain, immobilize, isolate, treat, destroy, or remove a hazardous substance that complies with MTCA cleanup requirements, including but not limited to: compliance with cleanup standards; utilizing permanent solutions to the maximum extent practicable; and including adequate monitoring to ensure the effectiveness of the cleanup action.

Cleanup Action Plan: A document that selects the cleanup action and specifies cleanup standards and other requirements for a particular site. The cleanup action plan, which follows the remedial investigation/feasibility study report, is subject to a public comment period. After completion of a comment period on the cleanup action plan, Ecology finalizes the cleanup action plan.

Cleanup Level: The concentration (or amount) of a hazardous substance in soil, water, air, or sediment that protects human health and the environment under specified exposure conditions. Cleanup levels are part of a uniform standard established in state regulations, such as MTCA.

Cleanup Process: The process for identifying, investigating, and cleaning up hazardous waste sites.

Contaminant: Any hazardous substance that does not occur naturally or occurs at greater than natural background levels.

Feasibility Study: Provides identification and analysis of site cleanup alternatives and is usually completed within a year. Evaluates sufficient site information to enable the selection of a cleanup action. The entire Remedial Investigation/Feasibility Study process takes about two years and is followed by the cleanup action plan.

Hazardous Site List: A list of ranked sites that require further remedial action. These sites are published in the Site Register.

Interim Action: Any remedial action that partially addresses the cleanup of a site. It is an 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 at a facility; an action that corrects a problem that may become substantially worse or cost substantially more to address if the action is delayed; an action needed to provide for completion of a site hazard assessment, state remedial investigation/feasibility study, or design of a cleanup action.

Model Toxics Control Act: Refers to Chapter 70.105D RCW. Voters approved it in November 1988. The implementing regulation is found in Chapter 173-340 WAC.

Public Notice: At a minimum, adequate notice mailed to all persons who have made a timely request of Ecology and to persons residing in the potentially affected vicinity of the proposed action; mailed to appropriate news media; published in the local (city or county) newspaper of largest circulation; and the opportunity for interested persons to comment.

Public Participation Plan: A plan prepared under the authority of WAC 173-340-600 to encourage coordinated and effective public involvement tailored to the public's needs at a particular site.

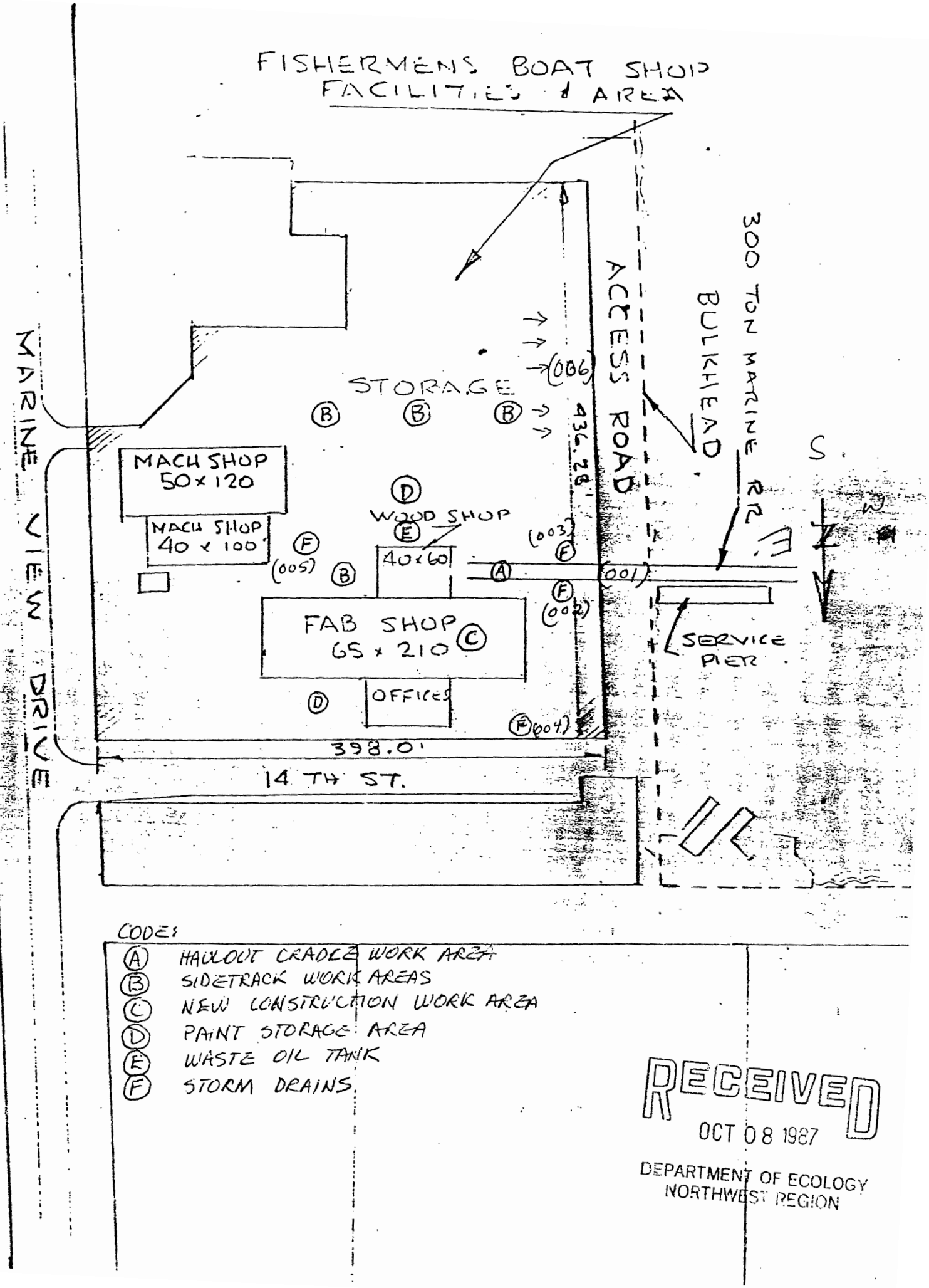
Release: Any intentional or unintentional entry of any hazardous substance into the environment, including, but not limited to, the abandonment or disposal of containers of hazardous substances.

Remedial Action: Any action or expenditure consistent with MTCA to identify, eliminate, or minimize any threat posed by hazardous substances to human health or the environment, including any investigative and monitoring activities of any release or threatened release of a hazardous substance, and any health assessments or health effects studies conducted in order to determine the risk or potential risk to human health.

Remedial Investigation: Any remedial action that provides information on the extent and magnitude of contamination at a site. This usually takes 12 to 18 months and is followed by the feasibility study. The purpose of the Remedial Investigation/Feasibility Study is to collect and develop sufficient site information to enable the selection of a cleanup action.

ATTACHMENT A:

1992 ECOLOGY INSPECTION REPORT



STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

Northwest Regional Office, 3190 - 160th Ave S.E. • Bellevue, Washington 98008-5452 • (206) 649-7000

DEPARTMENT OF ECOLOGY
EVERETT HARBOR ACTION TEAM
INSPECTION REPORT

TO: Dan Cargill, Files
DATE OF VISIT: 4/23/92, 5/5/92
FACILITY #: N/A

INSPECTOR: Rick Huey
PERMIT NUMBER: N/A
PERMIT EXPIRES: N/A

TYPE OF INSPECTION

___ PERMIT APPLICATION	___ COMPLAINT	___ ANNOUNCED
___ PERMIT COMPLIANCE	___ ENFORCEMENT	_X_ UNANNOUNCED
___ PERMIT CANCELLATION	_X_ SOURCE CONTROL	

FACILITY: Fishermen's Boat Shop
ADDRESS: 1016 14th Street
CITY: Everett 98201
COUNTY: Snohomish
TELEPHONE: (206) 259-0137

PERSON CONTACTED: Beverly King, Terry Kissinger, Tom Young
TYPE OF FACILITY: Shipyard
RECEIVING WATER: Snohomish River
TYPE OF TREATMENT SYSTEM: None
COMPLIES WITH PERMIT CONDITIONS? NPDES permit application received, not yet processed

DESCRIPTION:

On Thursday April 23, 1992 I conducted an inspection of Fishermen's Boat Shop. I was accompanied by David Hohmann of Ecology Solid and Hazardous Waste, Mike Papa of Everett Public Works Surface Water, and Gene Bennett of Everett Public Works Industrial Pretreatment.

We entered the facility at approximately 1015 hours, and introduced ourselves to Office Manager Beverly King. We informed her that we wanted to do an environmental compliance inspection of the facility. She told us that we needed to talk with Tom Young, who would not return until 1300 hours, and asked us to come back then. I agreed that we would return at 1300 hours.

The inspection team then proceeded to walk the perimeter of the facility property to make observations. As we were walking on the south perimeter, Beverly King approached us with a man she introduced as Yard Crew Foreman Tom Kissinger. They said that they would do their best to answer our questions, but Tom Young would have more knowledge than they would.

Mr. Kissinger told us that the facility had been a shipyard since the early 1940's, and that the current owner, Richard Eitel, had owned the facility since 1959. He said that the property is leased from the Port of Everett, and that the facility does mostly repair work, on vessels up to 125 feet long. Mr. Kissinger said that the facility is a union shop employing carpenters, shipwrights and painters, and that they do most of their own work, though some subcontractors are used. He said that Frontwater Services handles all waste, including the flushing of drums, and Kleencare handles all maintenance oil.

Mr. Kissinger told us that sandblasting is usually done in the shop, though some is done outside. Sandblasting is often contracted out, because it is difficult and time consuming to tarp a job properly to contain all spent grit and dust. He said that no hazardous waste from the ships is stored on site.

We then proceeded to the storage yard (photo 1), which is located at the south perimeter of the facility property (see attached map). The storage yard is unpaved and fenced. Mr. Kissinger told us that the yard was fenced 6 months ago to prevent people from dumping on their property.

He said that the State Ferry "Elwha" project had just been completed, and that all of the work materials and equipment had been moved into the storage yard. He said that the Navy wanted the pier back where the Elwha project had taken place, and that Fishermen's no longer had a deep water port. Mr. Kissinger said that the facility was proposing to use the pier at the Mukilteo tank farm for future dockside work.

In the storage yard I observed a battery stored in the open (photo 2), and what appeared to be spent sandblast grit deposited on the soil (photo 3). The battery was in deteriorating condition and its casing was stained, as was the pallet on which it was resting. I also observed sandblast grit in several other areas in the yard, and a number of barrels in the yard, exposed to the weather and without containment. Some of the barrels were partially full, and not all were marked (photos 4-6). None of

the barrels had dangerous waste labeling although most of the drums had waste inside. One barrel was marked as 'paint thinner', another as 'creosote'.

I informed Mr. Kissinger that many of the materials and barrels in the yard were not properly stored, and that a covered, bermed area would be needed for barrels containing material. He told me that they were in the process of fixing their storage problems.

He told me that all new jobs the facility accepts must be properly contained to avoid contamination and cleaned up, and that these conditions are part of the contract for jobs. He said that an independent cleanup had taken place at the facility in the late 1980's as a result of sampling by Ecology. The cleanup had taken place in the area east of the Wood Shop (see attached map).

Mr. Kissinger told us that all vehicle repair work is contracted off-site, and that no truck washing occurs at the facility. He also said that they use only standard marine paints for hulls. During a follow-up conversation with Tom Young on 6/11/92, Mr. Young said that their bottom paint contains copper in the form of cuprous oxide.

We then proceeded north along the waterfront side of the facility. Approximately 15 yards north of the storage yard I observed a storm drain (photo 7). The drain was surrounded by dirt and sand blast grit, and there appeared to be dirt, sand blast grit and small debris in the drain (photo 8). This storm drain appears to intercept another drain near the marine railway, which flows directly into the harbor.

Just east of the drain are the facility ship skids. These are wooden ties on bare soil, and are used to move ships away from the marine railway. Vegetable oil is used to grease the skids so the ships can be pushed sideways.

On either side of the marine railway I observed a storm drain (photos 9-10). In the north railway drain I observed what appeared to be a white liquid sitting in the drain. We walked west to the edge of the pier, and observed that the storm drain outfalls are located on each side of the marine railway. The south railway drain outfall was flowing at a low rate.

We then followed the railway east to the shop building, where I observed a storm drain in the corner where the haul-out machinery building and the fabrication shop meet (photos 11). There was a hose from the fabrication shop leading to the storm drain. Water

was flowing from the end of the hose. A white liquid was also present in this drain (photo 12). Inside of the fabrication shop I observed a sink that drained through the hose, leading to the storm drain. Mr. Kissinger said that the sink is for hand washing only, and that it is a temporary setup while their bathroom is being remodeled.

I told Mr. Kissinger that this was an illegal discharge, and asked him how long it had been in use. He said two weeks, and the bathroom would be done in another two weeks. I told him that I was concerned that more harmful substances than soap might be dumped down the sink and flow into the harbor, and I encouraged him to finish the remodeling quickly. During a follow-up phone conversation with Tom Young on 6/11/92, he said that the sink hook-up to the stormdrain had been removed on 5/8/92, three days after our second inspection.

We then proceeded to the enclosed paint shed in front of the carpentry shop. I observed that paint thinner and bottom paint were stored in the shed. There was a paint roller and pan upside down next to the paint shed, and there where stains on the ground around it. Inside the shed, what appeared to be a tub of diesel or thinner was open to the air.

Next we proceeded to the Boat/Maintenance Shed where I observed storage for waste antifreeze and oil, and new 30 weight oil and hydraulic oil (photo 13-14). The oil and antifreeze drums and waste oil buckets were stored indoors, but some of the buckets had no lids. The drums and buckets were not bermed. I also observed stains on the concrete floor.

In response to a question, Mr. Kissinger said that solvents were not used much, and that kind of work was usually subcontracted out to auto shops. He said that when solvents are used at the facility, it is usually diesel. In the northeast corner of the shed I observed a tank containing solvent (photos 15-16). Mr. Kissinger said that it was diesel, and that it hadn't been used in a long time. David Hohmann told him that this was dangerous waste and that it would have to be sent to a T.S.D. soon.

At the west end of the shop I observed a can marked 'oily rags' (photo 17). Mr. Kissinger said that all oily rags are put in the dumpster. David Hohmann told him that this was illegal if the rags were hazardous waste.

We then proceeded to the northeast outside corner of the shed, where I observed a diesel storage tank that was tarped and had secondary containment.

We finished this phase of the inspection at approximately 1130 hours, and agreed to return at 1330 hours to speak with Tom Young who was on the Kitsap peninsula. When we came back, Mr. Young had not returned. The next day I contacted Mr. Young by phone and arranged for the second phase of the inspection to occur May 5, 1992.

May 5, 1992

On May 5, 1992 at approximately 1000 hours the second phase of the inspection was conducted. I was accompanied by David Hohmann of Ecology Solid and Hazardous Waste and Gene Bennett of Everett Public Works Industrial Pretreatment.

We entered the facility office and introduced ourselves to Mr. Tom Young, who is the yard foreman working on environmental issues. We explained the purpose of our visit, and I informed Mr. Young that the facility would be receiving a Site Hazard Assessment within the next 6 weeks.

In response to a question, Mr. Young said that all storm drain sumps on the site are cleaned out approximately once a year, and that there are no oil/water separators on any of the drains. He also said that the temporary sink hookup now discharging to the storm drain was still in use, but that it should be dismantled within the next two weeks.

He told us that the facility was one of John Wylie's (Metro) test sites for a recirculating hydroblast system for larger vessels, and that the system was only partially successful.

We then proceeded to the area south of the marine railway where the skids are located. Mr. Young said that the facility is trying to get the area between the skids paved over incrementally as the occasion permits.

Next we went to the area east of the wood shop where an independent cleanup occurred in 1988-89. This cleanup resulted from sampling done by Ecology in 1987 showing copper, lead and zinc contamination resulting from sandblasting waste. Mr. Young said that sand blast grit and some soil was removed from this area, which has since been paved (photo 18). He also said that sandblast grit was removed from between the skids next to the marine railway. In the paved area east of the wood shop I observed a storm drain. Mr. Young said that he believed the drain flowed to one of the outfalls on either side of the marine railway.

South of the wood shop I observed an area where sand blasting and painting was occurring in an enclosed booth (photo 19). Mr. Young said that the job was subcontracted to Custom Coatings, and that the booth was temporary. He said that Custom Coatings is their primary subcontractor for such jobs, and he thought that they took care of all their job-related hazardous waste.

West of the booth I observed sand blast grit on bare soil (photo 20). I told Mr. Young that I was concerned about this type of practice, and that it would have to be changed. He said that they are working to improve their practices.

We then proceeded to the northeast corner of the storage yard, where I observed an open bag of sand blast grit, and grit on bare soil (photo 21).

I also observed three barrels and two buckets stored between the Wood Storage Shop (not the Wood Shop). One was unmarked and empty, another was marked motor oil and was empty, and the third was marked isocyanate, and was partially full of liquid (photos 22-23). The bung on this barrel was open (photo 24). Mr. Young said that he did not know that the barrels were there. He thanked us for calling them to his attention, and said he would get them taken care of by Frontwater Services.

We then walked through the storage yard where David Hohmann found several small industrial batteries sitting on the ground in deteriorating condition. D. Hohmann put these batteries in a plastic bag and gave them to Mr. Young for disposal. Sand blast grit was observed in the yard (photo 25).

In the southwest corner of the yard I observed where the power sheds from the Elwha ferry project were stored. Inside the sheds were transformers (photo 26).

Further north, near what Mr. Kissinger described as an unused waste oil tank (photo 27) during the 4/23 phase of the inspection, I observed another bag of sandblast grit stored in the open.

At approximately 1135 hours I thanked Mr. Young and left for another appointment. David Hohmann and Gene Bennett stayed to observe the temporary sand blast/paint operation. I returned at 1300 hours to pick up D. Hohmann.

Rick Huey
Everett Harbor Action Team

RH:rh
Attachment: map, photo log

cc: Dave Nazy, Ecology TCP
David Hohmann, Ecology Solid and Hazardous Waste
Gene Bennett, Everett Industrial Pretreatment
Mike Papa, Everett Surface Water

STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

Northwest Regional Office, 3190 - 160th Ave S.E. • Bellevue, Washington 98008-5452 • (206) 649-7000

July 10, 1992

TO: DW Files-

FROM: J. David Hohmann, HW Inspector

SUBJECT: WAD 988469706-- Fishermen's Boat Shop, (Everett, Snohomish Co.) Dangerous Waste Compliance Inspection, 4/23/92 and 5/5/92.

(Reference: Inspection Report by Rick Huey, Ecology TCP- UBAT)

A joint inspection was conducted at the subject facility with Rick Huey. His referenced report describes much of our activity. This memo summarizes the Dangerous Waste Regulatory Compliance findings of the inspection.

A. Background

Fishermen's Boat Shop (FBS) is the largest shipyard in Everett, located in the north part of Everett Harbor. Shipyards have been at this location since the 1940's. FBS had been at this address since 1959, but only notified Ecology of dangerous waste activities in June, 1990. Then in August, 1990 it requested its ID number be withdrawn, stating the notified waste had been a "one time only" generation. In May, 1991 a letter from FBS stated that the waste notified for was asbestos waste and was sent to a solid waste landfill, without a manifest. The 1990 Form 4 had no dangerous waste reported as generated that year. When we arrived for the inspection, we found FBS to be a large quantity generator. They were using their old ID number and did not remember having withdrawn it.

B. Site Tour

The first day we walked through the facility with Beverly King, the office manager, and Terry Kissinger, the yard crew foreman. A site map is attached to this report. We began at the scrap storage yard. Then we walked along the waterfront and observed some storm drains. We looked at a paint storage shed and then went into the Fabrication Building. Finally we walked around it to the Boat/Maintenance Shed and looked at an accumulation area.

The second day we returned and walked through various areas with Tom Young, the yard superintendent. In addition to areas seen previously, we walked around the yard behind the Wood Storage Shop.

Storage Yard

The storage yard had poor housekeeping and was not organized (Photos 1 through 4, and Photos 14 through 21). Debris and solid waste was scattered around, mixed with usable materials. A number of barrels were laying on the ground and on pallets.

A lead-acid battery in deteriorating condition was on a pallet on the ground (Photos 2 and 3). A stain on the battery and the pallet may have come from a leak or spill of its contents (Photo 3).

Sandblast grit is periodically generated from the cleaning of boats and equipment on the skids and in other areas. FBS has attempted to make subcontractors responsible for the management of this waste as part of the contract for the blasting and painting. The main contractor for this type of work when we were there was Custom Coatings, Inc., owned and operated by Roy Smalley (telephone #255-5375). Custom Coatings takes some of the waste away, but it does not have a State/EPA generator ID number. We told Tom Young that FBS is responsible for the waste generated as a result of subcontractor work on their site, and that FBS would probably need to report it on their annual reports too.

We saw spent sandblast grit spilled and deposited on the ground in a number of places in and around the storage yard and outdoor work areas (Photos 4 through 8). It seemed to be a historic problem that FBS has not yet taken control of. FBS cleaned up one area two years ago at Ecology's request to deal with some identified copper, lead, and zinc contamination, but much more cleanup may be required. The spent blast grit may or may not qualify as dangerous waste; we did not see evidence of any testing. Gray drums of the spent blasting grit were not labeled as dangerous waste (Photos 7, 9, and 10). The containers most recently generated were only closed by a plastic sheet wrapped with duct tape.

1990?

Custom Coatings was painting some metal pieces in a temporary enclosure near the wood shop (Photo 11). A 5-gallon waste paint thinner accumulation bucket was not labeled as dangerous waste (Photo 12). The worker we talked to said sandblast grit was collected and re-used until it was dusty, and then put in barrels (Photo 9). He said Roy Smalley (the boss) took care of the dangerous waste after a job was finished.

In the storage yard, several containers of paint thinner, paint waste, rust preventer, bilge waters and creosote, were lacking DW labels (Photos #13-14). A creosote drum in the yard had a spill on its top and was uncovered (Photo #15). Some old drums were open, unlabeled and partially full of unidentified substances (Photos 16 through 21). Tom Young said FBS had not been aware that some drums were out behind the wood storage shed (Photos 16 and 20). One open drum was labeled as isocyanate (Photos 19 and 20).

Frontwater Services, Inc. (FWS), a registered transporter, had acted as FBS's primary environmental service contractor since the founding of FWS about 5 years ago, Tom Young said. FWS had sampled and was trying to profile some of the waste in the storage yard during our first visit (Photo 13). They had transported that waste off site (under straight bill of lading) by the time we returned. We received copies of all paperwork and manifests for FWS services, but there were few manifests.

A large fraction of the waste described on FWS shipping papers was identified for DOT purposes as petroleum oil solution. Mr. Young said FWS takes spent diesel fuel that FBS uses as paint thinner. They also pump and rinse various drums that FBS wants to get rid of as scrap metal. Sometimes bilge waters on boats that come in are put in the drums. FWS shipping papers also specified that some regulated wastes such as sludge, thinner, paint, "float stuff," "hot oil", paint thinners, paint solids, paint, xylene, and MEK were taken away, but FBS had no manifests for them. Mr. Young said Peter Hoffman (president of FWS) would fill out any necessary manifest paperwork after the driver got back to their transfer facility with a load, and FWS would send any required copies back to FBS for signature, etc. For example, see the attached two copies of manifest #92104. The shipment was sent on a tanker truck, and the quantity had been revised by Peter Hoffman of FWS, from 700 gallons to 400 gallons. No records were found for any FWS shipments in January-March 1992, but they made 5 pickups in April.

Boat/Maintenance Shed

FBS said Clean Care, Inc. was their waste transporter for used antifreeze, used oil, and used oil filters. Those were accumulated inside the Boat/Maintenance Shed in drums and buckets (Photos 22 and 23). The antifreeze drum had no DW label or accumulation start date (Photo 22). We did not see any manifests for Clean Care pickups.

An out-of-service parts cleaning tank containing several gallons of spent solvent was also in the Boat/Maintenance Shed (Photos 24 and 25). Some buckets next to it may have contained more solvent waste and lacked waste labeling. We told FWS that spent solvent would have to be disposed as DW.

A special container was marked for accumulating oily rags in the Boat/Maintenance Shed (Photo 26). Later we photographed some products which are used with rags and might make the rags designate as hazardous when discarded (Photo 32). The rag container was full of garbage (Photo #26), and both rags and garbage together were disposed of as solid waste. We told FWS that this was probably unacceptable and recommended finding a laundry to take their rags.

Housekeeping practices seemed to be poor with respect to the use of paint and solvents. We found two cans of paint with brushes in them which were unattended and may have been abandoned (Photos #27 and 28). One of them was only a few feet from the edge of the dock (Photo #28). A used pan of roll-on paint had been inverted over a piece of wood and had spilled paint onto the ground (Photo #29). A tub holding several gallons of diesel (used as thinner) was open to the air in the paint storage shed.

No documents other than the manifests and bills of lading discussed above were reviewed during the inspection.

FBS said that they had generated hazardous waste while working on the Elwha ferry for the D.O.T. which had been at another dock in Everett. A generator ID number belonging to the D.O.T. was used for those manifests, they said.

C. Special Considerations

Two wooden boxes labeled, "Safety Suggestions," had been abandoned in the storage yard (Photo #31). When we remarked about this, Beverly King and Tom Kissinger said that they thought the boxes just weren't too popular with the employees.

From at least April 23 to May 5th, the facility was discharging sink water to the storm sewer and the Harbor, without a permit, in violation of water quality regulations (Photo #33). Rick Huey will be following up on that and related issues.

D. Summary of Violations

1. WAC 173-303-060 Notification.

FBS was using a withdrawn State/EPA Identification number. They had incorrectly notified as a one-time-only generator. They had not taken responsibility for assuring that waste generated on site by subcontractors was being properly disposed.

2. WAC 173-303-070 Designation of Dangerous Waste.

FBS must take responsibility for the accurate designation of its solid waste. It was apparent that the various subcontractors and service providers (Custom Coatings, Frontwater Services, and Clean Care) were not adequately designating and managing the wastes generated on site.

3. WAC 173-303-180 Manifest.

FBS was not manifesting some of their generated dangerous wastes. The disposal methods and disposal locations for those wastes were therefore unknown. The wastes were placed in the solid waste dumpster (contaminated rags); or taken away by Clean Care (used antifreeze); by Frontwater Services (paint thinner, paint waste, sludge, hot oil, MEK, Xylene, and oily water); or by Custom Coatings (sandblast grit, and paint wastes). Some waste FBS sent to Frontwater Services was being retroactively manifested. FBS must assure the proper handling and disposal of all its dangerous waste by sending them to a permitted facility, under a manifest.

4. WAC 173-303-145 Spills and Discharges into the Environment.

We saw piles of waste sandblast grit on the ground, and an open bag of the grit. There was an extensive occurrence of grit on the ground, including evidence of recent spills.

Paint containers were not being managed carefully after use and we saw abandoned cans with brushes, paint stains on the ground under an inverted used paint pan, and a questionable green stain next to the storm sewer grate by the Fabrication Building. A battery in the storage yard was stained, indicating acid had leaked. A creosote dispenser had spilled residues that mixed with rainwater on the top and sides of the drum. Spills were not reported and cleaned up.

5. WAC 173-303-200 Accumulating Dangerous Waste On-Site.

Containers of dangerous waste were open and exposed to the weather, and were kept in areas without roofs and without secondary containment. No dangerous waste labels were being used on any of the containers. Risk labels and accumulation start dates were also missing. The contents of many containers could not be identified. Weekly inspections (or their logs) were not being done for the areas where waste was being accumulated.

We did not see evidence of FBS complying with the other requirements for large quantity generators that are referenced in this section (WAC 173-303-330 through -360: personnel training, contingency plan and emergency procedures, and general inspections).

JDH:tm

List of Attachments

Everett Harbor Action Team Inspection Report
Inspection Photographs - 33 mounted plates
Ecology Generator Inspection Checklist
Ecology NWRO Facility Safety Checklist
LDR Inspection Checklist

Materials photocopied during the inspection:
Manifests and shipping papers from Frontwater Services.

From Ecology Headquarters:
Form 2, 06/27/90 (first notification).
Form 2, 08/02/90 (withdrawal of ID #).

cc: Rick Huey
Gene Bennett
D. Lundstrom

ATTACHMENT B:

SUMMARY OF PREVIOUS SITE INVESTIGATIONS

ATTACHMENT B:

SUMMARY OF PREVIOUS SITE INVESTIGATIONS

ATTACHMENT B:

Summary of Previous Site Investigations

A. 2003 and 2004 Site Investigations by the Port

In 2003 and 2004, Landau Associates, on behalf of the Port conducted two investigations to determine whether historical and current industrial site activities may have resulted in threatened or actual releases of hazardous substances to Site media (e.g., soil, ground water, adjacent marine sediment, and surface water) and whether any cleanup needs to occur at the Site. These investigations were limited in scope and were not intended to fully define the extent and magnitude of contamination at the Site. As part of the investigations, Landau Associates collected soil, ground water, storm drain sediment, and adjacent marine sediment samples from the Site. The Port's investigations revealed that the Site's soil and the storm drain sediment were contaminated with metals (including arsenic, cadmium, copper, lead, mercury, and zinc) and organotins (including bulk tributyl tin [TBT]) that exceeded the applicable published MTCA Method-A (unrestricted land use or industrial properties) and MTCA Method-B cleanup levels. Diesel- and oil-range petroleum hydrocarbons were also detected in soil samples throughout the Site. Important items of note related to concentrations of contaminants in soil and storm drain sediment include the following:

- The toxicity characteristic leaching procedure (TCLP) result for lead in one soil sample was above the state dangerous waste (WAC 173-303) characteristics criteria.
- Sand blast grit, fine debris, and paint chips were observed in surface soil at the Site.
- The highest concentrations of metals and bulk TBT were found to be in samples from catch basins in storm water discharge lines that discharge near the marine railway.

Landau Associates' sampling results of adjacent marine sediments from the eastern marine sediment area also revealed elevated concentrations of metals (arsenic, cadmium, copper, lead, mercury, and zinc) and organotins (bulk TBT), polycyclic aromatic hydrocarbons (PAHs;

fluoranthene and chrysene), and phthalates (butyl benzyl phthalate and bis[2-Ethylexyl]phthalate). Maximum detected concentrations of these hazardous substances exceed either Sediment Quality Standards (SQS) and/or Cleanup Screening Levels (CSLs) identified in the Sediment Management Standards (WAC chapter 173-204). The full extent and magnitude of contamination at the Site was not defined during the investigations conducted in 2003 and 2004.

B. 2007 Supplemental Site Characterization Work by Everett Shipyard

In 2007, URS, on behalf of Everett Shipyard, performed a supplemental site Investigation at the Site. URS collected a total 32 shallow vadose zone soil samples to assess the extent and magnitude of diesel- and motor-oil range petroleum hydrocarbons and metals. The area investigated was limited to the west-central, and the southwestern portions within Everett Shipyard's leasehold. Highly elevated concentrations of petroleum hydrocarbons found in an area adjacent to the southern boundary of the leasehold and in area between the leasehold line and the shoreline. It was also noted that strong petroleum hydrocarbon odors and staining were observed at various depths in eight soil borings throughout the Site. In addition to petroleum hydrocarbon exceedances, soil concentrations of metals including arsenic, cadmium, copper, lead, mercury, and zinc also exceeded either applicable MTCA Method-A or and/or Method-B Cleanup Levels.