

**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

In the Matter of Remedial Action by:

William C. Swensen,
Christine Edmonds,
Susan Miller,
Cindy Bradley, and
The Estate of William B. Swensen

AGREED ORDER

No. DE 14016

TO: Kimberly Seely, on behalf of current property owners
Coastline Law Group PLLC
4015 Ruston Way, Suite 200
Tacoma, WA 98402

TABLE OF CONTENTS

I.	INTRODUCTION.....	3
II.	JURISDICTION.....	3
III.	PARTIES BOUND.....	3
IV.	DEFINITIONS.....	3
V.	FINDINGS OF FACT.....	4
VI.	ECOLOGY DETERMINATIONS.....	8
VII.	WORK TO BE PERFORMED.....	9
VIII.	TERMS AND CONDITIONS.....	13
	A. Remedial Action Costs.....	13
	B. Designated Project Coordinators.....	14
	C. Performance.....	15
	D. Access.....	15
	E. Sampling, Data Submittal, and Availability.....	16
	F. Public Participation.....	17

G.	Retention of Records.....	18
H.	Resolution of Disputes.....	18
I.	Extension of Schedule.....	20
J.	Amendment of Order	21
K.	Endangerment	22
L.	Reservation of Rights.....	22
M.	Transfer of Interest in Property.....	23
N.	Compliance with Applicable Laws.....	23
O.	Indemnification	25
IX.	SATISFACTION OF ORDER.....	25
X.	ENFORCEMENT	25
	EXHIBIT A Site Diagram	
	EXHIBIT B Schedule	

I. INTRODUCTION

The mutual objective of the State of Washington, Department of Ecology (Ecology) and potentially liable persons (PLPs) William C. Swenson, Christine Edmonds, Susan Miller, Cindy Bradley, and the Estate of William B. Swensen 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 PLPs to conduct a remedial investigation of the release of hazardous substances at the facility, prepare a feasibility study to evaluate cleanup options for the release, and to develop a draft cleanup action plan describing the selected cleanup action. Ecology believes the actions required by this Order are in the public interest.

II. JURISDICTION

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

III. PARTIES BOUND

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

IV. DEFINITIONS

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

A. Site: The Site is referred to as West Coast Door and is generally located at 3120 S Pine Street and 3102 S Pine Street (formerly adjoined as 3133 South Cedar Street) in Tacoma, WA. The Site is defined by the extent of contamination caused by the release of hazardous

substances at the Site. Based upon factors currently known to Ecology, the Site is generally described in the Site Diagram (Exhibit A). The Site constitutes a facility under RCW 70.105D.020(8).

B. Parties: Refers to the State of Washington, Department of Ecology and the current owners of the properties: William C. Swensen, Susan Miller, Cindy Bradley, Christine Edmonds, and the Estate of William B. Swensen.

C. Potentially Liable Person (PLP or collectively, PLPs): Refers to the current owners of the properties located at 3120 South Pine Street and 3102 South Pine Street in Tacoma, WA. The parcels were created as part of a boundary line revision several years ago. A chain of title for the parent parcel of the two properties (3133 South Cedar Street), Pierce County Assessor-Treasurer records, and estate documentation indicates the current owners of the properties include: The Estate of William B. Swensen, William C. Swensen, Susan Miller, Cindy Bradley, and Christine Edmonds (as a living trust).

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

E. Agency Review Draft: Refers to Ecology’s first review draft of a deliverable that must be issued for public review and comment.

F. Public Review Draft: Refers to a revision of a deliverable where the PLP addresses and incorporates the comments made by Ecology on the Agency Review Draft, and proposes the deliverable be issued for public review and comment. The deliverable is first subject to Ecology’s determination that the document is ready for public review.

V. FINDINGS OF FACT

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

A. The West Coast Door property, located at 3120 South Pine Street and 3102 South Pine Street in Tacoma, Washington, comprises two irregularly-shaped parcels of land

encompassing 10.43 acres. They are currently owned equally by siblings Cindy Bradley, William C. Swensen, Christine Edmonds, Susan Miller, and the Estate of William B. Swensen.

B. The property is currently zoned for industrial use and its western portion is occupied by adjoining north and south warehouse buildings of approximately 89,000 and 108,000 square feet, respectively.

C. The subject property was the former location of the Buffelen Pipe and Creosote Company/American Wood Pipe Company, which operated from the early 1900s to the mid-1930s. Manufacturing operations during this time included log storage, drying kilns, and a creosoting retort area located in the southwestern portion of the current south warehouse footprint. The creosote retort treated wooden pipes with coal tar compounds to yield durable watertight pipes. This practice was discontinued in the mid-1930's after wood pipe manufacturing ceased.

D. Subsequently, in the mid-1930's, Monarch Door and Manufacturing Company commenced manufacturing wooden doors on the property. West Coast Door, Inc. purchased the subject property in 1954 and continued door manufacturing operations. In approximately 1970, William B. Swensen acquired West Coast Door, Inc. out of bankruptcy proceedings and continued door manufacturing operations. West Coast Door manufacturing operations included cutting, sanding and gluing of wood-veneered fiberboard core doors. Door manufacturing operations continued in both the north and south portions of the current warehouse building constructed during the mid-1980s.

E. Door manufacturing operations eventually reduced in magnitude and ceased altogether in 2005, and the property was converted to warehouse use. Goodwill is currently the operating tenant using the warehouse, and has leased the entire property.

F. Upon the death of William B. Swensen on August, 27, 2006, his four children inherited his interest in the property. The PLPs are listed above, individually and as heirs of the Estate of William B. Swensen, and are current owners of the property.

G. In 2006, Goodwill Industries considered purchasing the subject property. As part of its due diligence, Environmental Associates Inc. (EAI) performed a limited soil and

groundwater investigation. EAI advanced four soil borings (SP1 through SP4), installed monitoring well (MW-4)¹ south of the warehouse in the inferred downgradient direction from the former creosoting retorts, and sampled groundwater in MW-1 and MW-4. EAI identified preliminary Site contaminants of concern (COCs) as PAHs resulting from creosoting operations during historical pipe manufacturing. Soil and groundwater samples were analyzed for PAHs including carcinogenic polycyclic aromatic hydrocarbons (cPAHs). All soils samples had cPAH concentrations greater than Method A soil cleanup levels for industrial properties. Additionally, two soil samples had naphthalene concentrations greater than Method A soil cleanup levels for unrestricted land use. In groundwater samples PAHs were detected at concentrations below Method A cleanup levels for groundwater, while cPAHs were not detected.

H. EAI returned to the Site later in 2006 to advance five additional soil borings (SP5 through SP9) outside of the warehouse to the south and west and two additional monitoring wells (MW-5 and MW-6) to the southwest in the inferred down and cross-gradient directions of the former creosoting retort. EAI also collected six shallow soil samples (SS-1 through SS-6, approximately 1 foot deep) to the east of the warehouse. Investigation results confirmed the presence of a groundwater plume impacted by creosote related compounds. Naphthalene was identified as the primary contaminant of concern.

I. In 2008, on behalf of the property owners, Pacific Crest Environmental (Pacific Crest) completed a soil and groundwater investigation to define the extent of soil and groundwater impacted by PAHs. Pacific Crest advanced five soil borings (SB-1 through SB-5) to the north, south, east and west of the former creosoting retort area and installed three monitoring wells. Pacific Crest returned to the Site in 2009 to advance six additional soil borings (SB-6 through SB-11) within the Sound Transit right-of-way to the south.

J. Late in 2009, Floyd Snider reviewed all existing data and identified additional data gaps that needed to be filled to fully define the nature and extent of contamination for purposes of

¹ MW-1 through MW-3 were installed as part of a 1992 Phase II in the northern portion of the property.

the conceptual site model, assessment of cleanup alternatives, and selection of a preferred remedy. The site was then enrolled in Ecology's Voluntary Cleanup Program (VCP).

K. In 2010, to assess potential westward migration of naphthalene in groundwater, Floyd|Snider installed three monitoring wells to the northwest of MW-5 and MW-6 where elevated naphthalene concentrations had been reported in previous investigations but had not been adequately bounded.

L. In 2011, Floyd|Snider collected reconnaissance groundwater samples and also resampled selected monitoring wells to better define the limits of the naphthalene plume. Indoor air samples were collected to assess the potential for soil vapor migration into the warehouse structure.

M. In 2012, additional reconnaissance groundwater samples were advanced adjacent to and beneath a downgradient warehouse located on adjacent property (Shea Property). The investigation indicates the western horizontal extent of the naphthalene plume in groundwater is located on the Shea Property.

N. In 2012, a Draft Remedial Investigation/Feasibility Study Report (RI/FS), dated July 9, 2012, was prepared for Ecology review. After review, Ecology requested one year of quarterly groundwater monitoring from a subset of Site monitoring wells to confirm that naphthalene concentrations are stable within a reasonable range of seasonal fluctuations.

O. The additional data were collected and presented in an updated Draft RI/FS, dated January 7, 2014, which concluded that as a result of past wood pipe manufacturing, creosote was released to Site soils. Releases appear to have occurred near or under the approximate footprint of the creosoting retort area. The creosote footprint is currently below the southern portion of the warehouse. Releases of creosoting compounds likely originated as surface spills which saturated soils. The creosote material contains both cPAH and naphthalene components at concentrations significantly exceeding MTCA Method A Industrial cleanup levels. These compounds, which sink in the groundwater column, migrated downward through the unpaved, permeable ground surface and factory floors until reaching a low-permeability layer at approximately 40 feet below ground

surface. In addition, these compounds, primarily naphthalene, moved through groundwater onto the adjacent Shea and Nyssen (property north of Shea) properties.

P. The Site was terminated from the VCP on October 15, 2015 due to inactivity. On June 17, 2016, Ecology issued a final determination that the current property owners are PLPs for a release of hazardous substances as the West Coast Door Site.

VI. ECOLOGY DETERMINATIONS

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

A. The Estate of William B. Swensen, William C. Swensen, Susan Miller, Cindy Bradley, and Christine Edmonds are “owners or operators” as defined in RCW 70.105D.020(22) of a “facility” as defined in RCW 70.105D.020(8).

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

C. Based upon credible evidence, Ecology issued a PLP status letter to the PLPs dated June 27, 2016, pursuant to RCW 70.105D.040, .020(26), and WAC 173-340-500. By letter dated June 3, 2016, the PLPs voluntarily waived their rights to notice and comment and accepted Ecology’s determination that they are a PLP under RCW 70.105D.040.

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

E. Under WAC 173-340-430, an interim action is a remedial action that is technically necessary to reduce a threat to human health or the environment by eliminating or substantially reducing one or more pathways for exposure to a hazardous substance, that corrects a problem that may become substantially worse or cost substantially more to address if the remedial action is

delayed, or that is needed to provide for completion of a site hazard assessment, remedial investigation/feasibility study, or design of a cleanup action plan. Either party may propose an interim action under this Order. If the Parties are in agreement concerning the interim action, the Parties will follow the process in Section VII.E. If the Parties are not in agreement, Ecology reserves its authority to require interim action(s) under a separate order or other enforcement action under RCW 70.105D, or to undertake the interim action itself.

VII. WORK TO BE PERFORMED

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

1. Draft Remedial Investigation Work Plan

- a. *Scope of Work:* Several remedial investigations have taken place since the Site was entered into the VCP in 2007. A Draft RI/FS, dated January 7, 2014, was submitted to Ecology, summarizing the investigative work to date and evaluating several cleanup actions. Ecology will prepare comments regarding the adequacy of the January 7, 2014 Draft RI/FS once the Order becomes effective. Ecology's comments shall be addressed in a Draft Remedial Investigation Work Plan (Work Plan). Per WAC 173-340-350(7)(c)(iv), the Work Plan must include a Sampling and Analysis Plan (SAP) and a Health and Safety Plan (HSP) to be updated as the remedial actions progress. The SAP should also include procedures for a Quality Assurance Project Plan (QAPP).
- b. *Schedule:* Ecology will endeavor to provide a response letter to the January 7, 2014 Draft RI/FS Report within 60 calendar days of the Order becoming effective. The Draft Work Plan shall be submitted to Ecology within 90 calendar days of receiving Ecology's comments on the January 7, 2014 Draft RI/FS.

2. Final Remedial Investigation Work Plan

- a. *Scope of Work:* Prepare and submit the Final Work Plan after reviewing and addressing Ecology's comments on the Draft Work Plan.
- b. *Schedule:* The Final Work Plan shall be submitted to Ecology for review and approval within 60 calendar days of receiving Ecology's comments on the Draft Work Plan.

3. Agency Review Draft Remedial Investigation and Feasibility Study Report

- a. *Scope of Work:* Per WAC 173-340-350, a remedial investigation must be conducted to collect, develop, and evaluate sufficient information to fully characterize the nature and extent of contamination at the Site. Once the Site is fully characterized, a feasibility study must be conducted to develop and evaluate cleanup action alternatives to enable a cleanup action to be selected for the Site. The remedial investigation and feasibility study will be documented in an Agency Review Draft RI/FS Report and submitted to Ecology for review and approval.
- b. *Schedule:* The Agency Review Draft RI/FS Report shall be submitted to Ecology for review and approval within 90 calendar days following receipt of the final validated reports from the laboratories. If Ecology's comments on the Agency Review Draft RI/FS Report indicate additional work is needed before the Draft RI/FS Report is ready for public review, a supplemental Remedial Investigation Work Plan will be developed to address any data gaps noted by Ecology (returning to Item 1 in Section VII. Work to be Performed).

4. Public Review Draft Remedial Investigation and Feasibility Study Report

- a. *Scope of Work:* The PLPs shall revise the Agency Review Draft RI/FS incorporating Ecology's comments. The PLPs shall submit the revised document as the Public Review Draft RI/FS for Ecology's review and

approval, and for Ecology's determination that the document is ready for public review.

- b. *Schedule:* The public review Draft RI/FS shall be submitted to Ecology for review and approval within 60 calendar days after receiving Ecology's written comments on the agency review Draft RI/FS.

5. Preliminary Draft Cleanup Action Plan

- a. *Scope of Work:* Per WAC 173-340-380, a Draft Cleanup Action Plan (DCAP) will be developed to summarize the cleanup action selected for the Site through evaluation of the feasibility study. The PLP will prepare a preliminary DCAP for Ecology's review and approval. Preparation of the Final DCAP is not a part of this Order. Ecology intends to draft the Final DCAP and issue for public comment. Ecology will then issue a Final Cleanup Action Plan (CAP) to be implemented in a subsequent administrative order (e.g., agreed order, enforcement order, or consent decree).
- b. *Schedule:* The preliminary DCAP shall be submitted to Ecology for review and approval within 90 calendar days following Ecology's approval of the public review Draft RI/FS.

6. Final Remedial Investigation and Feasibility Study Report

- a. *Scope of Work:* The PLPs shall revise the Public Review Draft RI/FS incorporating public comments deemed necessary by Ecology. The PLPs shall submit the revised document as the Final RI/FS for Ecology's review and approval.
- b. *Schedule:* The Final RI/FS shall be submitted to Ecology for review and approval within 30 calendar days following receipt of revisions Ecology deems necessary after the public review period concludes (see Item 8 in Section VII. Work to be Performed).

7. Quarterly Progress Reports

- a. During performance of this Order, the PLP shall submit quarterly progress reports to Ecology. Email submittals are sufficient. Progress reports shall discuss all work required under this Order. The progress shall include the following information regarding the preceding reporting period:
 - i. A description of the actions which have been taken to comply with the Agreed Order;
 - ii. Summaries of sampling and testing reports and all other data reports received by the PLPs;
 - iii. Summaries of deviation from the approved work plans and an explanation of the PLPs' position on whether the deviations constitute minor or substantial changes to the work, in accordance with Section VIII.L (Amendment of Order);
 - iv. Summaries of problems or anticipated problems in meeting the schedule or objectives set forth in the Work to Be Performed and Work Plans;
 - v. Summaries of solutions developed and implemented or planned to address any actual or anticipated problems or delays;
 - vi. Changes in key personnel; and
 - vii. A description of work planned for the next reporting period.

8. Ecology will endeavor to provide review and comment on draft reports and work plans within 45 calendar days of receipt. After the scope of work summarized in this Agreed Order is satisfied, it is anticipated that a second administrative order will be initiated to implement the Final CAP. Ecology anticipates issuing the Public Review Draft RI/FS, the DCAP, and the administrative order to implement the Final CAP during a single public comment period.

9. The PLPs shall submit all data collected for the RI/FS in both printed (as part of the report) and an electronic form capable of being transferred into Ecology's Environmental

Information Management system (EIM) as provided in WAC 173-340-840(5). For all reports submitted to Ecology for review and approval, associated environmental sampling data must be entered into EIM at the time of report submittal to Ecology.

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

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

12. If Ecology determines that the PLPs have failed to make sufficient progress or failed 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 or at Ecology's discretion allow the PLPs opportunity to correct. The PLPs shall reimburse Ecology for the costs of doing such work in accordance with Section VII.A (Remedial Action Costs). Ecology reserves the right to enforce requirements of this Order under Section X (Enforcement).

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

VIII. TERMS AND CONDITIONS

A. Remedial Action Costs

The PLPs shall pay to Ecology costs incurred by Ecology pursuant to this Order and consistent with WAC 173-340-550(2). These costs shall include work performed by Ecology or

its contractors for, or on, the Site under RCW 70.105D, including remedial actions and Order preparation, negotiation, oversight, and administration. These costs shall include work performed both prior to and subsequent to the issuance of this Order. Ecology's costs shall include costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2). Ecology has accumulated \$4,727.57 in remedial action costs related to this Site as of December 31, 2016. Payment for this amount shall be submitted within thirty (30) days of the effective date of this Order. For all costs incurred subsequent to December 31, 2016, the PLPs shall pay the required amount within thirty (30) days of receiving from Ecology an itemized statement of costs that includes a summary of costs incurred, an identification of involved staff, and the amount of time spent by involved staff members on the project. A general statement of work performed will be provided upon request. Itemized statements shall be prepared quarterly. Pursuant to WAC 173-340-550(4), failure to pay Ecology's costs within ninety (90) days of receipt of the itemized statement of costs will result in interest charges at the rate of twelve percent (12%) per annum, compounded monthly.

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

B. Designated Project Coordinators

The project coordinator for Ecology is:

Matthew Morris
PO Box 47775
Olympia, WA 98504-7775
(360) 407-7529

The project coordinator for the PLPs is:

Kimberly Seely, Coastline Law Group PLLC
4015 Ruston Way, Suite 200
Tacoma, WA 98402
(253) 203-6820

Each project coordinator shall be responsible for overseeing the implementation of this Order. Ecology's project coordinator will be Ecology's designated representative for the Site. To

the maximum extent possible, communications between Ecology and the PLPs, and all documents, including reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order shall be directed through the project coordinators. The project coordinators may designate, in writing, working level staff contacts for all or portions of the implementation of the work to be performed required by this Order.

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

C. Performance

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

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

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

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

The 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.

D. Access

Ecology or any Ecology authorized representative shall have access to enter and freely move about all property at the Site that the PLPs either own, control, or 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 owned or controlled by the PLPs where remedial activities or investigations will be performed pursuant to this Order. Ecology or any Ecology authorized representative shall give reasonable notice before entering any Site property owned or controlled by the PLPs unless an emergency prevents such notice. All persons who access the Site pursuant to this section shall comply with any applicable health and safety plan(s). Ecology employees and their representatives shall not be required to sign any liability release or waiver as a condition of Site property access.

E. Sampling, Data Submittal, and Availability

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

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

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

F. Public Participation

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

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

1. If agreed to by Ecology, develop appropriate mailing lists and prepare drafts of public notices and fact sheets at important stages of the remedial action, such as the submission of work plans, remedial investigation/feasibility study reports, cleanup action plans, and engineering design reports. As appropriate, Ecology will edit, finalize, and distribute such fact sheets and prepare and distribute public notices of Ecology's presentations and meetings.
2. Notify Ecology's project coordinator prior to the preparation of all press releases and fact sheets, and before major meetings with the interested public and local governments. Likewise, Ecology shall notify the PLPs prior to the issuance of all press releases and fact sheets, and before major meetings with the interested public and local governments. For all press releases, fact sheets, meetings, and other outreach efforts by the PLPs that do not receive prior Ecology approval, the PLPs shall clearly indicate to its audience that the press release, fact sheet, meeting, or other outreach effort was not sponsored or endorsed by Ecology.
3. When requested by Ecology, participate in public presentations on the progress of the remedial action at the Site. Participation may be through attendance at public meetings to assist in answering questions or as a presenter.

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

- a. Tacoma Public Library
1102 Tacoma Avenue S
Tacoma, WA 98402
- b. Ecology's Southwest Regional Office
300 Desmond Drive
Lacey, WA 98503

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

G. Retention of Records

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

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

H. Resolution of Disputes

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

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

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

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

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

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

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

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

I. Extension of Schedule

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

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

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

- a. Circumstances beyond the reasonable control and despite the due diligence of the PLPs include delays caused by unrelated third parties or Ecology, such as (but not limited to) delays by Ecology in reviewing, approving, or modifying documents submitted by the PLPs;
- b. Acts of God, including fire, flood, blizzard, extreme temperatures, storm, or other unavoidable casualty; or
- c. Endangerment as described in Section VIII.L (Endangerment).

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

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

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

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

J. Amendment of Order

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

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

K. Endangerment

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

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

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

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

L. Reservation of Rights

This Order is not a settlement under RCW 70.105D. Ecology's signature on this Order in no way constitutes a covenant not to sue or a compromise of any of Ecology's rights or authority. Ecology will not, however, bring an action against the 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 complies with this Order.

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

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

M. Transfer of Interest in Property

No voluntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Site shall be consummated by the 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 notify all transferees of the restrictions on the activities and uses of the property under this Order and incorporate any such use restrictions into the transfer documents.

N. Compliance with Applicable Laws

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

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

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

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

O. Indemnification

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

IX. SATISFACTION OF ORDER

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

X. ENFORCEMENT

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

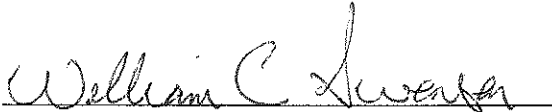
- A. The Attorney General may bring an action to enforce this Order in a state or federal court.
- B. The Attorney General may seek, by filing an action, if necessary, to recover amounts spent by Ecology for investigative and remedial actions and orders related to the Site.
- C. A liable party who refuses, without sufficient cause, to comply with any term of this Order will be liable for:
 - 1. Up to three (3) times the amount of any costs incurred by the State of Washington as a result of its refusal to comply.
 - 2. Civil penalties of up to twenty-five thousand dollars (\$25,000) per day for each day it refuses to comply.

D. This Order is not appealable to the Washington Pollution Control Hearings Board.

This Order may be reviewed only as provided under RCW 70.105D.060.

Effective date of this Order: 4/11/17

WILLIAM C. SWENSEN



William C. Swensen, Owner
C/O Kimberly Seely

CHRISTINE EDMONDS

Christine Edmonds, Owner
C/O Kimberly Seely

SUSAN MILLER


Susan Miller, Owner
C/O Kimberly Seely

CINDY BRADLEY

Cindy Bradley, Owner
C/O Kimberly Seely

Kimberly Seely
Coastline Law Group PLLC
4015 Ruston Way, Suite 200
Tacoma, WA 98402
(253) 203-6226

**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**



Rebecca S. Lawson, P.E., LHG
Section Manager
Toxics Cleanup Program
Southwest Regional Office
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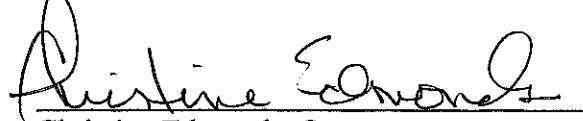
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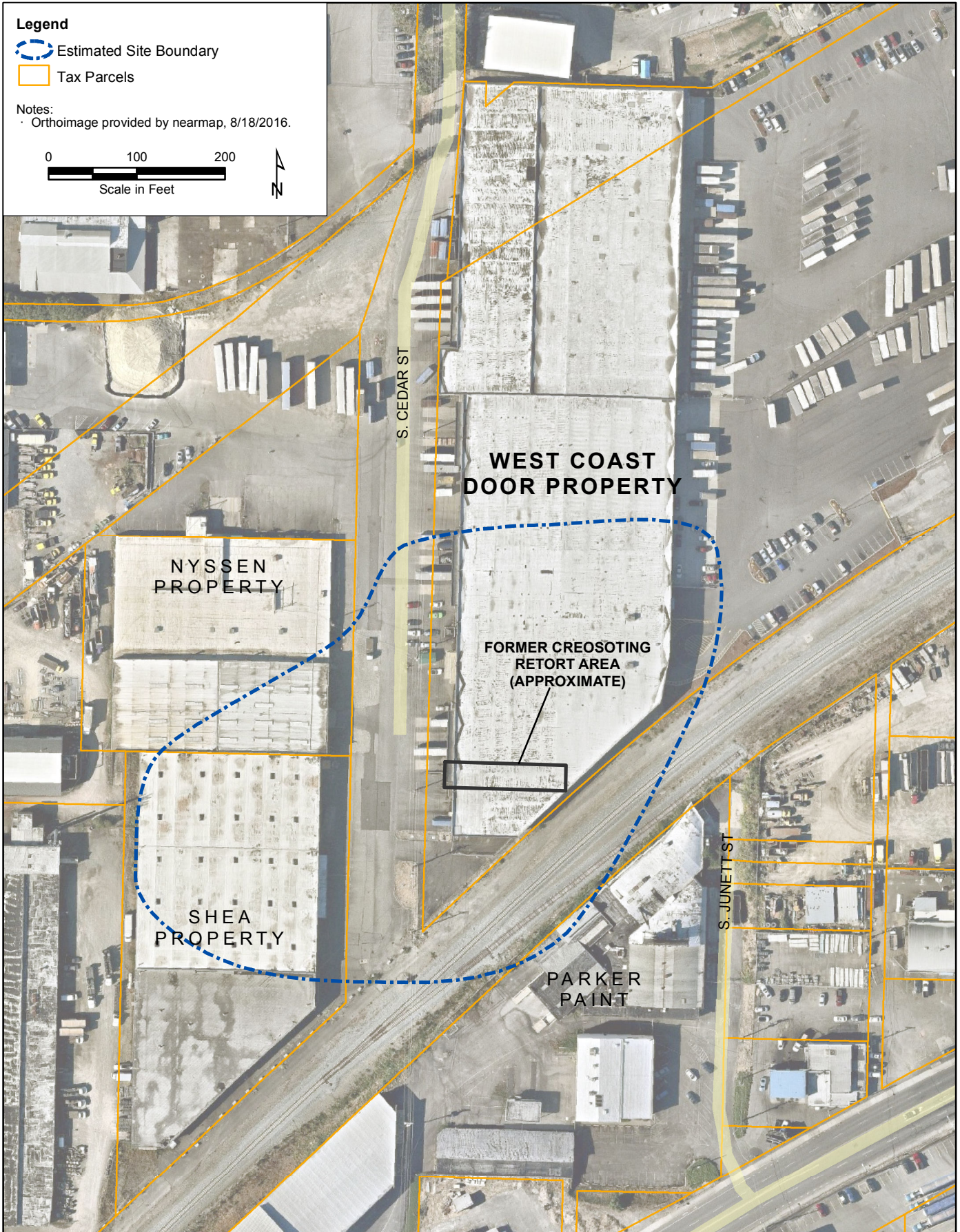
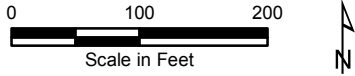
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Legend

-  Estimated Site Boundary
-  Tax Parcels

Notes:
· Orthoimage provided by nearmap, 8/18/2016.



**West Coast Door
Tacoma, Washington**

**Exhibit A
Site Diagram**

Exhibit B
West Coast Door Schedule
Agreed Order No. DE 14016

AO Section	Task	Ecology Task	PLP Deliverable⁴	Task Schedule^{1,2}	Anticipated Completion Date³
V.II	1	Response Letter - January 7, 2014 Draft RI/FS Report		Ecology will endeavor to provide the letter within 60 calendar days of the AO becoming effective	<i>June 2017</i>
V.II	1		Draft Remedial Investigation Work Plan	Submit 90 calendar days after receipt of Ecology's response letter regarding the January 7, 2014 Draft RI/FS Report	<i>September 2017</i>
V.II	1	Review and Comment		Ecology will endeavor to review and approve the document within 45 calendar days of receipt	<i>October 2017</i>
V.II	2		Final Remedial Investigation Work Plan	Submit 60 calendar days after receipt of Ecology's response to the Draft Remedial Investigation Work Plan	<i>December 2017</i>
V.II	2		Field Work	As scheduled in the Final Remedial Investigation Work Plan	<i>Winter 2017</i>
V.II	3		Agency Review Draft RI/FS Report	Submit 90 calendar days after completion of field work and receipt of final analytical results	<i>June 2018</i>
V.II	3	Review and Comment		Ecology will endeavor to review and approve the agency review draft RI/FS Report within 45 calendar days of receipt	<i>July 2018</i>
V.II	4		Public Review Draft RI/FS Report⁵	Submit 60 calendar days after receiving Ecology's written comments on the agency review Draft RI/FS Report	<i>September 2018</i>
V.II	4	Review and Comment		Ecology will endeavor to review and approve the public review draft RI/FS Report within 45 calendar days of receipt	<i>November 2018</i>
V.II	5		Preliminary DCAP	Submit 90 calendar days after the public review Draft RI/FS Report is submitted	<i>Quarter 1, 2019</i>
V.II	6		Final RI/FS Report	Submit 30 calendar days after Ecology provides revisions necessary based on public comment	<i>Quarter 1, 2019</i>
V.II	6	Review and Comment		Ecology will endeavor to review and approve the Final RI/FS Report within 45 calendar days of receipt	<i>Quarter 1, 2019</i>
V.II	7		AO Quarterly Reports	Submit first report beginning 90 calendar days following the effective date of the AO and continue through the AO's duration	<i>Quarterly beginning Quarter 3, 2017</i>

Notes:

- (1) Following the submittal of each deliverable, with the exception of quarterly reports and EIM submittals, the PLP and Ecology will endeavor to meet within 14 calendar days to discuss the contents of the deliverable. Following Ecology's submittal of comments or revisions necessary on a deliverable, the PLPs and Ecology will endeavor to meet within 14 calendar days to discuss the comments or revisions.
- (2) Ecology review periods are presented as goals. Ecology will endeavor to meet the Task Schedule noted above.
- (3) The Anticipated Completion Dates noted above are subject to change based on the data collection timeframe during field work. In addition, unanticipated factors may result in modified schedules. These modifications will be mutually agreed upon by Ecology and the PLPs, and documented in writing.
- (4) For all reports submitted to Ecology for review and approval, associated environmental sampling data must be entered into EIM at the time of report submittal to Ecology.
- (5) Public review draft documents become public review drafts once Ecology determines the document may be issued for public review. Multiple agency review drafts may be necessary before Ecology determines the document is ready for public comment.

Abbreviations:

AO Agreed Order
DCAP Draft Cleanup Action Plan
Ecology Washington State Department of Ecology
EIM Environmental Information Management
PLP Potentially Liable Person
RI/FS Remedial Investigation/Feasibility Study