

**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

In the Matter of Remedial Action by:

ROYSTONE ON QUEEN ANNE,  
LLC

CHEVRON ENVIRONMENTAL  
MANAGEMENT COMPANY<sup>1</sup>

AGREED ORDER

No. 16537

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TO: MR. PUI LEUNG  
ROYSTONE ON QUEEN ANNE, LLC  
606 MAYNARD AVENUE SOUTH #251  
SEATTLE, WA 98104

MR. ERIC HETRICK  
CHEVRON ENVIRONMENTAL MANAGEMENT COMPANY  
DOWNSTREAM BUSINESS UNIT  
6001 BOLLINGER CANYON ROAD  
SAN RAMON, CA 94583

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<sup>1</sup> Chevron Environmental Management Company is acting for itself and as attorney-in-fact for Texaco Inc. under this Order. *See* Section VI.F, *infra*.

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## **I. INTRODUCTION**

The mutual objective of the State of Washington, Department of Ecology (Ecology), Roystone on Queen Anne, LLC (Roystone), and Chevron Environmental Management Company (CEMC), a California corporation acting for itself and as attorney-in-fact for Texaco Inc. (Texaco) (collectively the “Parties”) 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 Roystone and CEMC to conduct an interim action to be performed during development construction, to complete a Site Remedial Investigation (RI), Feasibility Study (FS), and prepare a preliminary Draft Cleanup Action Plan (DCAP) for the Site located at 631 Queen Anne Avenue North in Seattle, Washington. 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. Roystone and CEMC agree to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter Roystone’s and CEMC’s responsibility under this Order. Roystone and CEMC 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 Texaco 211577 Monterey. The Site constitutes a facility under RCW 70.105D.020(8). The Site is defined by where a hazardous substance, other than a consumer product in consumer use, has been deposited, stored, disposed of, or placed, or otherwise come to be located. Based upon factors currently known to Ecology, the Site is generally located at 631 Queen Anne Avenue North in Seattle, Washington, 98109, as shown in the Site Location Diagram (Exhibit A).

B. Parties: Refers to the State of Washington Department of Ecology, Roystone, and CEMC.

C. Potentially Liable Persons (PLPs): Refers to Roystone, Texaco, CEMC, and the Estates of William F. Arnold and Erma R. Arnold, as identified by Ecology.

D. Property: Refers to King County parcel number 3879900425, which covers 11,070 square feet.

E. Subject PLPs: Refers to PLPs subject to this Order, Roystone and CEMC.

F. 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.

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

#### V. FINDINGS OF FACT

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

A. Based upon factors currently known to Ecology, the Site is generally located at 631 Queen Anne Avenue North in Seattle, Washington, as shown in the Site Location Diagram (Exhibit A). The Property is located within the Site.

B. Texaco owned and/or operated a gasoline service station at the Property from 1927 until May 1977.

C. William Arnold and Erma Arnold (Arnolds) purchased the Property in 1977. The Arnolds operated the service station until they sold the Property to John Yoo and Young Yoo in 1989. The sale was rescinded in 1993 because of the presence of petroleum hydrocarbon contamination. Roystone acquired the Property in October 2017.

D. From 1927 to 1993, a total of seven generations of underground storage tanks (USTs)/fuel systems/service station/convenience store configurations have existed at the Property, from which, or in relation to which, releases to the environment occurred. In 1993, Ecology ordered the Arnolds to stop selling gasoline and contracted to have the USTs and associated gasoline dispensing equipment removed from the Property. Seven USTs were removed from the Property and one UST was abandoned in place.

E. From 1993 to 2018, a convenience store (Manhattan Express Deli) operated on the Property. The Property is currently occupied by a vacant convenience store building and a paved parking lot.

F. In February 1978, the basement of the southwest-neighboring Monterey Apartment building was noted to have gasoline odors, which were investigated by the Seattle Fire Department. In 1986, Ecology began investigating the source of gasoline odors in the Monterey Apartment building. Environmental investigations revealed that the source of the gasoline odors present in the Monterey Apartment building was the Property. Releases of petroleum hydrocarbons associated with service station operations at the Property have resulted in petroleum hydrocarbons being present in the soil, in soil gas, in indoor air, dissolved in groundwater, and as LNAPL floating on the groundwater.

G. In 1993, Ecology installed and operated a soil vapor extraction (SVE) and groundwater recovery system with a spray aeration vacuum extraction (SAVE) treatment system at the Site. In 1996, the SAVE system was replaced with a catalytic oxidizer, and the SVE system continued operations intermittently until December 1997. In April 2003, CEMC upgraded the SVE system and restarted operations with few interruptions until July 2005. In 2006, CEMC replaced the SVE system with a Dual Phase Extraction system and operated it until April 2008.

H. LNAPL was detected floating on the groundwater surface in several well locations at the Site from 1986 to 2008. An LNAPL sample collected in 1991 indicated the LNAPL consisted of gasoline and diesel. The maximum LNAPL thickness was 2.26 feet, detected in November 1986. LNAPL was not detected in Site wells during the most recent groundwater sampling events, which occurred in 2018 (for the portion of the Site on the Property) and 2013 (for the off-Property areas of the Site).

I. Gasoline, diesel-, and oil range petroleum hydrocarbons, benzene, toluene, ethylbenzene, xylenes (BTEX), and naphthalene have been detected in soil and groundwater samples collected from the Site at concentrations above MTCA cleanup levels. Lead and arsenic have been detected in groundwater samples collected from the Site at concentrations above MTCA cleanup levels. BTEX, and 1,2,4-trimethylbenzene have been detected in sub-slab soil gas samples collected from the Site at concentrations above MTCA cleanup levels. These contaminants are hazardous substances under WAC 173-340-200, and may pose a threat to human health and the environment.

J. From 1991 to 2004, tetrachloroethene (PCE) and trichloroethene (TCE) were detected at concentrations above MTCA cleanup levels in groundwater samples collected in wells located west, southwest, and southeast of the Property. PCE has been detected in sub-slab soil gas samples at concentrations above MTCA cleanup levels southwest of the Property. PCE concentrations in the most recent sub-slab soil gas and indoor air samples collected in 2009 were below the MTCA cleanup levels. Based on direction of groundwater flow to the southwest, these

contaminants are suspected to be from an upgradient source—a former dry cleaners located northeast of the Property, at 14 Roy Street in Seattle, Washington.

## **VI. ECOLOGY DETERMINATIONS**

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

A. Roystone is an “owner or operator” as defined in RCW 70.105D.020(22) of a “facility” as defined in RCW 70.105D.020(8).

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

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

D. Based upon credible evidence, Ecology issued a PLP Notice letter to Roystone dated March 26, 2019, pursuant to RCW 70.105D.040, .020(26), and WAC 173-340-500. By letter dated March 27, 2019, Roystone voluntarily waived its rights to notice and comment and accepted Ecology’s determination that Roystone is a PLP under RCW 70.105D.040. Ecology issued a determination by letter dated April 1, 2019.

E. Based upon credible evidence, Ecology issued a PLP Notice letter to Equiva Services LLC (intended for Texaco Inc.) dated April 27, 1999, pursuant to RCW 70.105D.040, .020(26), and WAC 173-340-500. After providing for notice and opportunity for comment, reviewing comments submitted on August 5, 1999, and concluding that credible evidence supported a finding of potential liability, Ecology issued a determination that Texaco is a PLP under RCW 70.105D.040 by letter dated September 1, 1999.

F. As of the effective date of this Order, Texaco is a corporate subsidiary of the Chevron Corporation (Chevron). CEMC, which is also a subsidiary of Chevron, is a signatory to

this Order both for itself and as attorney-in-fact for Texaco, managing environmental matters on Texaco's behalf. By signing this Order, CEMC voluntarily accepts status as a PLP for the Site. Ecology accepts CEMC as a signatory and Subject PLP under this Order at the request of Texaco and its corporate successor(s) without waiving any statutory authority it may have with respect to Texaco or any corporate successor of Texaco, including enforcement against Texaco and any such successors in the event of noncompliance with this Order.

G. Pursuant to RCW 70.105D.030(1) and .050(1), Ecology may require Subject 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.

H. 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. The Property is planned for a redevelopment in August 2019, and an interim action is proposed in conjunction with the Property redevelopment. Based on these circumstances, Ecology has determined that an interim action is warranted under WAC 173-340-430. Either party may propose an additional interim action under this Order. If the Parties are in agreement concerning the additional interim action, the Parties will follow the process in Section VII.I. If the Parties are not in agreement, Ecology reserves its authority to require additional interim action(s) under a separate order or other enforcement action under RCW 70.105D, or to undertake the interim action(s) itself.



## **VII. WORK TO BE PERFORMED**

Based on the Findings of Fact and Ecology Determinations, it is hereby ordered that Subject PLPs take the following remedial actions at the Site. These remedial actions must be conducted in accordance with WAC 173-340:

A. To effectuate the work to be performed under this Order in the most efficient manner, the Subject PLPs have elected to designate lead roles in performing various aspects of the work required under this Order, with Roystone responsible for tasks relating to the Property and CEMC responsible for tasks involving the remaining off-Property areas of the Site. Therefore, CEMC will be the lead PLP for all deliverables under this Order other than the interim action described in Section VII.B below. However, except with respect to the interim action described in Section VII.B below, the Subject PLPs remain strictly, jointly, and severally liable for the performance of any and all obligations under this Order. In the event the party identified as a lead should fail to timely and properly complete performance of all or any portion of its work, all Subject PLPs must perform that remaining work, if any, regardless of designations in this Order.

B. Roystone will prepare an Interim Action Work Plan (IAWP) in accordance with the schedule and as specified in Task 2 of Exhibit B, Scope of Work, for an interim action planned to occur in conjunction with planned redevelopment of the Property. Ecology will provide public notice and opportunity to comment on the IAWP in accordance with WAC 173-340-600(16). Roystone shall not conduct the interim action until Ecology approves the IAWP. Upon approval by Ecology, the IAWP becomes an integral and enforceable part of this Order, and Roystone is required to conduct the interim action in accordance with the approved IAWP. The objective of the IAWP shall be to remediate the Property so that no further on-Property remedial action is required. Upon completion of the IAWP, Roystone shall submit an Agency Review Draft Interim Action Report. Ecology shall review the Draft Interim Action Report and confirm whether Roystone has complied with the IAWP. No later than 30 days after Ecology's approval of the

Agency Review Draft Interim Action Report, Roystone shall submit to Ecology a Final Interim Action Report.

C. After Roystone's submittal of the Final Interim Action Report, Subject PLPs shall prepare a work plan to update the RI, which will include as an appendix the Final Interim Action Report. In 1990 and 1991, a first phase of RI (Phase I RI) was initiated and performed at the Site by Ecology. The results of the Phase I RI were documented in a Phase I RI Report dated August 1991. CEMC reinitiated RI activities independently in 2002 through 2007 under the Ecology Voluntary Cleanup Program (VCP). The results were documented in a Final RI and Site Summary Report dated August 20, 2007. Groundwater monitoring and additional limited investigation were conducted from 2007 to 2015 by CEMC. The Site was then entered into the VCP by Roystone, which implemented groundwater monitoring and supplemental subsurface investigation. Subject PLPs shall prepare a RI Work Plan based on the prior RI and Site investigation data, and subsequent interim action by Roystone, to gather current Site data to fully characterize the extent of contamination in all environmental media. After approval of the RI Work Plan by Ecology, Subject PLPs shall implement the RI Work Plan and complete the investigation in accordance with the requirement of WAC 173-340-350. Subject PLPs shall conduct an FS according to the requirements of WAC 173-340-350(8); the FS shall include a reasonable number and type of cleanup option alternatives for the cleanup action at the Site following the interim action by Roystone. Subject PLPs shall provide Ecology with an Agency Review Draft RI Report and an Agency Review Draft FS Report. These Reports may be submitted together as an Agency Review Draft RI/FS Report. After Ecology has approved the RI and FS Report as a Public Review Draft document, Subject PLPs will prepare a preliminary DCAP. These deliverables will be prepared in accordance with Exhibit B, Scope of Work, which is incorporated by reference as an enforceable part of this Order.

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

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

F. If Subject PLPs learn of a significant change in conditions at the Site, including but not limited to a statistically significant increase in contaminant and/or chemical concentrations in soil, groundwater, and/or air, Subject PLPs, within seven (7) days of learning of the change in condition, shall notify Ecology in writing of said change and provide Ecology with any reports or records (including laboratory analyses, sampling results) relating to the change in conditions.

G. Subject PLPs shall submit to Ecology written quarterly Progress Reports that describe the actions taken during the previous quarter to implement the requirements of this Order. All Progress Reports shall be submitted by the tenth (10th) day of the month in which they are due after the effective date of this Order. Unless otherwise specified by Ecology, Progress Reports and any other documents submitted pursuant to this Order shall be sent by certified mail, return receipt requested, to Ecology's project coordinator. The Progress Reports shall include the following:

1. A list of on-site activities that have taken place during the quarter to comply with the AO.
2. Detailed description of any deviations from required tasks not otherwise documented in approved work plans or amendment requests.
3. Description of all deviations from the Scope of Work and Schedule (Exhibits B and C) during the current quarter and any planned deviations in the upcoming quarter.
4. For any deviations in schedule, a plan for recovering lost time and maintaining compliance with the schedule.
5. All raw data (including laboratory analyses) received during the previous quarter (if not previously submitted to Ecology), together with a detailed description of the underlying samples collected.

6. A list of deliverables for the upcoming quarter if different from the schedule.

7. Summaries of contacts with representatives of the local community, public interest groups, press, and federal, state, or tribal government.

8. Changes in key personnel.

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

I. If the Parties agree on an additional interim action under Section VI.G, Subject 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 Subject PLPs shall not conduct the additional interim action until Ecology approves the Interim Action Work Plan. Upon approval by Ecology, the Interim Action Work Plan becomes an integral and enforceable part of this Order, and the Subject PLPs are required to conduct the interim action in accordance with the approved Interim Action Work Plan.

J. If Ecology determines that a Subject PLP has failed to make sufficient progress or failed to implement the remedial action, in whole or in part, Ecology may, after notice to Subject PLPs, perform any or all portions of the remedial action or at Ecology's discretion allow the Subject PLPs opportunity to correct. In an emergency, Ecology is not required to provide notice to Subject PLPs, or an opportunity for dispute resolution. Subject PLPs shall reimburse Ecology for the costs of doing such work in accordance with Section VIII.A (Payment of Remedial Action Costs). Ecology reserves the right to enforce requirements of this Order under Section X (Enforcement).

K. Except where necessary to abate an emergency situation or where required by law, the Subject PLPs shall not perform any remedial actions at the Site outside those remedial actions

required by this Order to address the contamination that is the subject of this Order, unless Ecology concurs, in writing, with such additional remedial actions pursuant to Section VIII.J (Amendment of Order). In the event of an emergency, or where actions are taken as required by law, Subject PLPs must notify Ecology in writing of the event and remedial action(s) planned or taken as soon as practical but no later than within twenty-four (24) hours of the discovery of the event.

## **VIII. TERMS AND CONDITIONS**

### **A. Payment of Remedial Action Costs**

Subject 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 approximately \$12,000 in remedial action costs related to this Site as of May 31, 2019. For all Ecology costs incurred, Subject 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:

Jing Song  
Washington Department of Ecology  
Northwest Regional Office  
Toxics Cleanup Program  
3190 160th Avenue SE  
Bellevue, WA 98008  
Telephone: (425) 649-7109  
Fax: (425) 649-7161  
Jing.song@ecy.wa.gov

The project coordinators for Subject PLPs are:

Pui Leung  
Principal  
Vibrant Cities  
606 Maynard Avenue South, #251  
Seattle, WA 98104  
Telephone: (425) 793-9088  
pleung@vibrantcities.com

Eric Hetrick  
Project Manager  
Chevron Environmental Management Company  
Downstream Environmental Management  
6001 Bollinger Canyon Road  
San Ramon, CA 94583  
Telephone: (925) 842-2418  
ehetrick@chevron.com

Each project coordinator shall be responsible for overseeing the implementation of this Order. Ecology's project coordinator will be Ecology's designated representative for the Site. To the maximum extent possible, communications between Ecology and Subject 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, hydrogeologic, or engineering work shall be under the seal of an appropriately licensed professional as required by RCW 18.43 and 18.220.

Subject 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 Subject 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 Subject 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 Subject PLPs. Subject PLPs shall make all reasonable efforts to secure access rights for those

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

Ecology shall maintain the responsibility for public participation at the Site. However, Subject 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 meetings related to remedial action work to be performed at the Site with the interested public and/or local governments. Likewise, Ecology shall notify Subject PLPs prior to the issuance of all press releases and fact sheets related to the Site, and before meetings related to the Site with the interested public and local governments. For all press releases, fact sheets, meetings, and other outreach efforts by Subject PLPs that do not receive prior Ecology approval, Subject 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. Seattle Public Library  
Queen Anne Branch  
400 W. Garfield Street  
Seattle, WA 98119
- b. Ecology's Northwest Regional Office  
3190 160th Avenue SE  
Bellevue, WA 98008

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

#### **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, Subject 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, Subject 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 Subject 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 Subject PLP(s) withholds any requested records based on an assertion of privilege, Subject 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 Subject PLPs elect to invoke dispute resolution Subject 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), Subject 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 Subject 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. Subject PLPs may then request regional management review of the dispute. This request (Formal Dispute Notice) must be submitted in writing to the Northwest Region Toxics Cleanup Section Manager within seven (7) calendar days of receipt of Ecology's Informal Dispute Decision. The Formal Dispute Notice shall include a written statement of dispute setting forth: the nature of the dispute; the disputing Party's position with respect to the dispute; and the information relied upon to support its position.

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

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

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

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

#### **I. Extension of Schedule**

1. Subject PLPs' request for 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 Subject 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 Subject 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 Subject PLPs.

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

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

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

3. Ecology shall act upon any Subject PLPs' written request for extension in a timely fashion. Ecology shall give Subject 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.J (Amendment of Order) when a schedule extension is granted.

4. At Subject PLPs' request, 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 one of the following:

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.K (Endangerment).

#### **J. Amendment of Order**

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

Except as provided in Section VIII.L (Reservation of Rights), substantial changes to the work to be performed shall require formal amendment of this Order. This Order may only be formally amended by the written consent of both Ecology and Subject PLPs. Ecology will provide its written consent to a formal amendment only after public notice and opportunity to comment on the formal amendment.

When requesting a change to the Order, Subject PLPs shall submit a written request to Ecology for approval. Ecology shall indicate its approval or disapproval in writing and in a timely manner after the written request is received. If Ecology determines that the change is substantial, then the Order must be formally amended. Reasons for the disapproval of a proposed change to this Order shall be stated in writing. If Ecology does not agree to a proposed change, the disagreement may be addressed through the dispute resolution procedures described in Section VIII.H (Resolution of Disputes).

**K. Endangerment**

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

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

If Ecology concurs with or orders a work stoppage pursuant to this section, Subject 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.I

(Extension of Schedule) for such period of time as Ecology determines is reasonable under the circumstances.

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

**L. Reservation of Rights**

This Order is not a settlement under RCW 70.105D. Ecology's signature on this Order in no way constitutes a covenant not to sue or a compromise of any of Ecology's rights or authority. Ecology will not, however, bring an action against Subject 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 Subject PLPs regarding remedial actions required by this Order, provided Subject PLPs comply with this Order.

Ecology nevertheless reserves its rights under RCW 70.105D, including the right to require additional or different remedial actions at the Site should it deem such actions necessary to protect human health or 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, Subject PLPs do not admit to any liability for the Site. Although Subject PLPs are committing to conducting the work required by this Order under the terms of this Order, Subject PLPs expressly reserve 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 Subject 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 Subject PLPs' transfer of any interest in all or any portion of the Site, and during the effective period of this Order, Subject 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, Subject PLPs shall notify Ecology of said transfer. Upon transfer of any interest, Subject 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. *Applicable Laws.* All actions carried out by Subject PLPs pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements, including requirements to obtain necessary permits or approvals, 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. Subject PLPs have a continuing obligation to identify additional applicable federal, state, and local requirements which apply to actions carried out pursuant to this Order, and to comply with those requirements. As additional federal, state, and local requirements are identified by Ecology or Subject PLPs, Ecology will document in writing if they are applicable to actions carried out pursuant to this Order, and Subject PLP(s) must implement those requirements.

2. *Relevant and Appropriate Requirements.* All actions carried out by Subject PLPs pursuant to this Order shall be done in accordance with relevant and appropriate requirements identified by Ecology. At this time, no relevant and appropriate requirements have been identified as being applicable to the actions required by this Order. If additional relevant and appropriate requirements are identified by Ecology or Subject PLPs, Ecology will document in writing if they are applicable to actions carried out pursuant to this Order and Subject PLPs must implement those requirements.



3. Pursuant to RCW 70.105D.090(1), Subject PLPs may be 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, Subject PLPs shall comply with the substantive requirements of such permits or approvals. For permits and approvals covered under RCW 70.105D.090(1) that have been issued by local government, the Parties agree that Ecology has the non-exclusive ability under this Order to enforce those local government permits and/or approvals. At this time, no state or local permits or approvals have been identified as being applicable but procedurally exempt under this section

4. Subject 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 Subject 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 Subject PLPs shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, Subject 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 Subject PLPs and on how Subject PLPs must meet those requirements. Ecology shall inform Subject PLPs in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. Subject PLP(s) shall not begin or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination.

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 Subject 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 or approvals.

**O. Indemnification**

Subject 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 Subject PLPs, their officers, employees, agents, or contractors in entering into and implementing this Order. However, Subject 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 Subject PLPs' receipt of written notification from Ecology that Subject PLPs have completed the remedial activity required by this Order, as amended by any modifications, and that Subject 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: \_\_\_\_\_

ROYSTONE ON QUEEN ANNE, LLC

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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

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

Title:  
ROYSTONE ON QUEEN ANNE, LLC  
606 MAYNARD AVENUE SOUTH #251  
SEATTLE, WA 98104

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

CHEVRON ENVIRONMENTAL  
MANAGEMENT COMPANY  
for itself and as Attorney-in-Fact for  
TEXACO INC.

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

Title:  
CHEVRON ENVIRONMENTAL MANAGEMENT COMPANY  
6001 BOLLINGER CANYON ROAD  
SAN RAMON, CA 94583

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

Effective date of this Order: \_\_\_\_\_

ROYSTONE ON QUEEN ANNE, LLC

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

        *R. Ly*        

\_\_\_\_\_

Date:         6-12-2019        

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

Title:         *Manager*          
ROYSTONE ON QUEEN ANNE, LLC  
606 MAYNARD AVENUE SOUTH #251  
SEATTLE, WA 98104

ROBERT W. WARREN  
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\_\_\_\_\_

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

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

Effective date of this Order: \_\_\_\_\_

ROYSTONE ON QUEEN ANNE, LLC

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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

\_\_\_\_\_  
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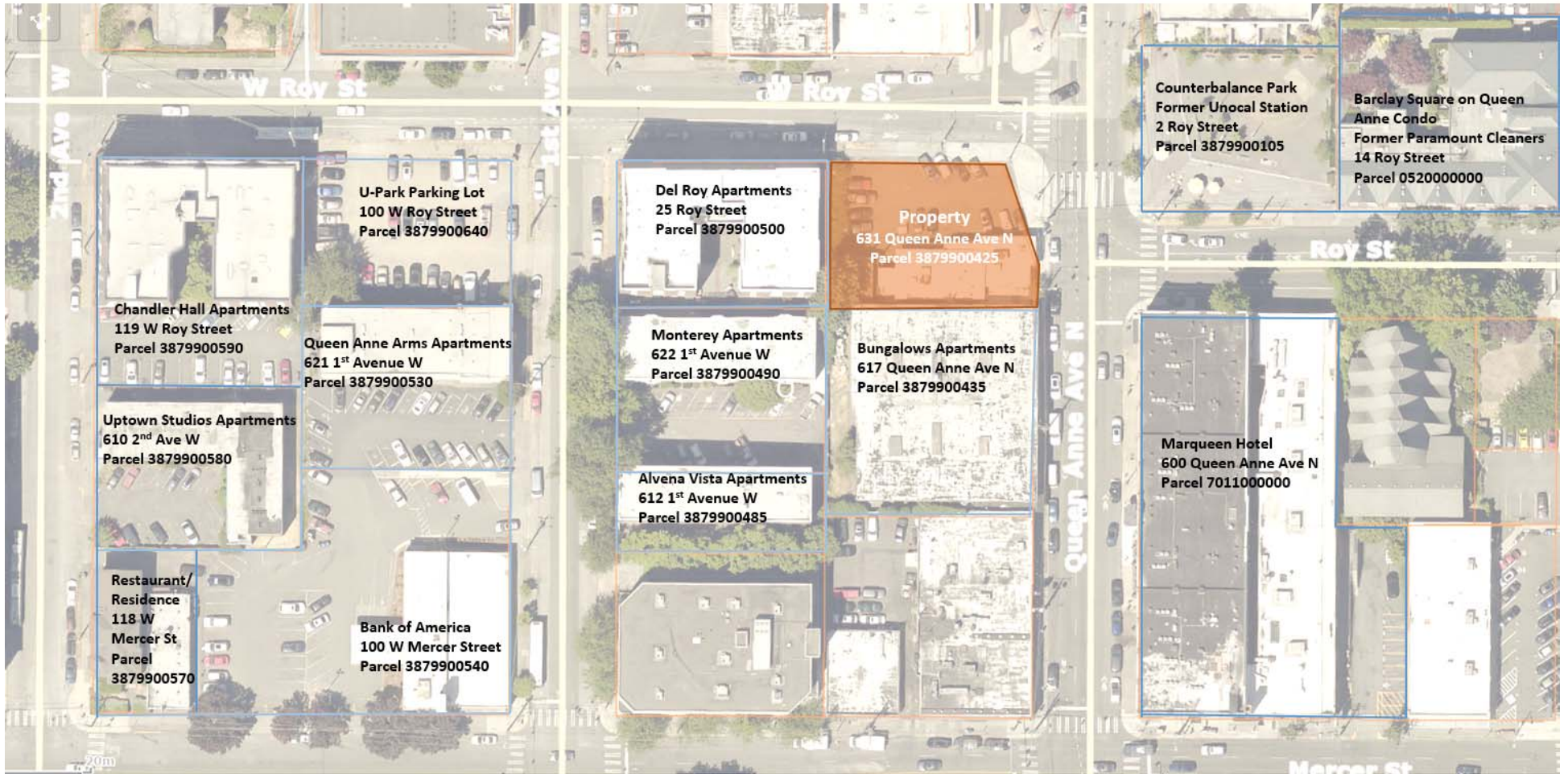
CHEVRON ENVIRONMENTAL  
MANAGEMENT COMPANY  
for itself and as Attorney-in-Fact for  
TEXACO INC.



\_\_\_\_\_  
Date: June 13, 2019

Title: Assistant Secretary  
CHEVRON ENVIRONMENTAL MANAGEMENT COMPANY  
6001 BOLLINGER CANYON ROAD  
SAN RAMON, CA 94583

**EXHIBIT A – Site Vicinity Map**  
**631 Queen Anne Avenue North, Seattle, WA**



**Site Vicinity Map**  
**631 Queen Anne Avenue North, Seattle, WA**



## **EXHIBIT B – SCOPE OF WORK**

### **631 Queen Anne Avenue North, Seattle, WA**

#### **PURPOSE**

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

The Subject PLPs shall coordinate with Ecology throughout the work under this AO, and will keep Ecology informed of any changes, issues, or problems as they develop.

The SOW is divided into eight major tasks as follows:

- Task 1. Implementation of Interim Action Work Plan
- Task 2. RI Work Plan
- Task 3. Additional Interim Action(s), if any
- Task 4. Remedial Investigation
- Task 5. Feasibility Study
- Task 6. SEPA Compliance
- Task 7. Public Participation
- Task 8. Preliminary DCAP
- Task 9. Progress Reports

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

- [Remedial Investigation Report Checklist](#)
- [Feasibility Study Report Checklist](#)
- [Cleanup Action Plan Checklist](#)

The Subject PLPs can download the checklists directly from the following website: <https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Cleanup-process/Cleanup-options/Voluntary-cleanup-program/Reporting-requirements>

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



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

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

The first of these Key Project Meeting will be held prior to commencement of AO negotiations. During the meeting Ecology will establish communication protocols, expectations related to Key Project Documents and the timing and purpose of Key Project Meetings.

#### **TASK 1. IMPLEMENTATION OF INTERIM ACTION WORK PLAN**

Remedial actions implemented prior to completion of the RI/FS, including those that:

- are technically necessary to reduce a threat to human health or the environment by eliminating or substantially reducing one or more pathways for exposure to a hazardous substance;
- correct a problem that may become substantially worse or cost substantially more to address if the remedial action is delayed; or
- are needed to provide for completion of the remedial investigation/feasibility study or design of the cleanup action

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

Based upon available information, interim actions pursuant to WAC 173-340-430 will need to be implemented by Roystone on Queen Anne, LLC (Roystone) to remove contaminated soil and groundwater in conjunction with planned Property redevelopment.

The scope of the interim actions include typical source control or containment elements, including but not limited to:

- Contaminant soil removal
- Contaminant groundwater removal and remediation

- Repair, slip lining, replacement, or closure of stormwater conveyances or other structures such as conduit, vaults, catch basins, etc.
- Removal of underground storage tank, hoists, and other service station underground facilities, if discovered
- Proper abandonment of old wells
- Removal of contaminated building or other structural material
- Construction of additional monitoring wells
- Installation of physical barriers to prevent recontamination of on-Property soil and groundwater
- Installation of a vapor barrier and a vapor intrusion mitigation system
- Vapor intrusion pathway evaluation

Attached to the AO is the Public Review Draft Interim Action Work Plan (IAWP) that is subject to public comment and approved by Ecology as part of the AO. After the public notice and comment period, incorporating Ecology's and the public's comments on the Public Review IAWP, and after Ecology approval, Roystone shall prepare three (3) copies of the Final IAWP and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats. Roystone shall conduct the interim actions in accordance with the approved Final IAWP.

Upon successful completion of the interim actions, Roystone shall submit an Agency Review Draft Interim Action Report as a separate deliverable. Roystone shall prepare two (2) copies of the Agency Review Draft Interim Action Report and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for review and approval. Ecology shall review the Draft Interim Action Report and confirm whether Roystone has complied with the IAWP. After incorporating Ecology's comments on the Agency Review Draft Interim Action Report and after Ecology approval, Roystone shall prepare three (3) copies of the Final Interim Action Report and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology.

## **TASK 2. RI WORK PLAN**

No later than 120 days after the AO is effective, Subject PLPs shall prepare an RI Work Plan (Work Plan).

Two phases of RI activities have been performed at the Site, in 1990 through 1991 by Ecology, and independently in 2002 through 2007 by CEMC. These RI activities and results were documented in a Phase I RI Report dated August 1991, and a Final RI and Site Summary Report dated August 20, 2007, respectively. The RI Work Plan for this AO shall be developed based on the previous RI reports and current data gathered to complete the Site characterization both on and off Property.

The RI Work Plan shall include an overall description and schedule of all RI activities. The Work Plan shall clearly describe the project management strategy for implementing

and reporting on RI activities. The responsibility and authority of all organizations and key personnel involved in conducting the RI will be outlined.

The second Key Project Meeting will be held prior to submittal of the RI Work Plan. The purpose of the RI Planning Meeting is to review requirements for the Work Plan and plan RI field work, discuss the preliminary conceptual site model, and identify project data needs and preliminary plans for on-Property interim action. The RI Work Plan shall be completed for the Site and approved by Ecology prior to the submission of additional IAWPs, if applicable.

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

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

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

The Quality Assurance Project Plan (QAPP) will be prepared in accordance with the Guidance for Preparation of Quality Assurance Project Plans, EPA Region 10, Quality Data Management Program, QA/R-5 and requirements of the EPA Contract Laboratory Program. The QAPP will also follow Ecology's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies (July 2004)<sup>1</sup>. Laboratories must meet

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<sup>1</sup> Found at <https://fortress.wa.gov/ecy/publications/documents/0403030.pdf>

the accreditation standards established in WAC 173-50. Data quality objectives will reflect the criteria or threshold values used for the source control evaluation.

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

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

RI Work Plan tasks and subtasks will include, but are not limited to, soil, groundwater, soil gas, indoor air, seep, and surface water sampling and analysis as necessary to address data gaps identified in the Work Plan. In addition, the following must be included in the Work Plan:

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

The Subject PLPs will provide Ecology with an Agency Review Draft Work Plan. Once Ecology reviews and approves the Work Plan, it will be considered the Final Work Plan. The Work Plan shall not be implemented until approved by Ecology. Once approved by Ecology, the Subject PLPs will implement the Final Work Plan according to the schedule contained in Exhibit C. Ecology expects one iteration between preliminary draft and final drafts of the RI Work Plan, RI Report, FS Report, and DCAP.

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

### **TASK 3. ADDITIONAL INTERIM ACTION(S), IF ANY**

Additional interim actions deemed necessary by the Subject PLPs or Ecology shall be conducted commensurate with this task description.

During the second Key Project Meeting (RI planning and scoping meeting), the results of historic and current investigations and preliminary plans may be discussed for additional interim action(s), if necessary. No later than 60 days after the RI Work Plan has been approved by Ecology, the Subject PLPs will prepare and submit for Ecology approval an Agency Review Draft IAWP with detail commensurate with the work to be performed. The Agency Review Draft IAWP shall include, as appropriate:

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

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

No later than 30 days after receipt of Ecology's comments, the Subject PLPs will incorporate Ecology's required changes into the IAWP and provide Ecology with a Public Review Draft IAWP. After a public notice and comment period for the Public Review Draft IAWP (and SEPA determination), Ecology will approve the IAWP (if appropriate) and the document will be considered Final. Once approved by Ecology, the Subject PLPs will implement the interim action according to the schedule contained in the Final IAWP.

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

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

Action Report and after Ecology approval, The Subject PLPs shall prepare three (3) copies of the Final Interim Action Report and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology.

#### **TASK 4. REMEDIAL INVESTIGATION**

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

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

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

Prior to submittal of the Agency Review Draft RI Report, the third Key Project Meeting will be held. During the RI Pre-Report Check-In, Ecology and the Subject PLPs will review available data and an updated conceptual site model and discuss the content and organization of the Draft RI Report. Ecology expects one iteration between the preliminary draft and final draft of the RI report, the FS report, and the DCAP.

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

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

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

#### **TASK 5. FEASIBILITY STUDY**

The Subject PLPs shall use the information obtained in the RI to prepare an Agency Review Draft FS Report that meets the applicable requirements of WAC 173-340-350(8) according to the approved Work Plan Schedule (Exhibit C). The Agency Review Draft FS Report will evaluate remedial alternatives for site cleanup, consistent with MTCA to ensure protection of human health and the environment by eliminating, reducing, or otherwise controlling risk posed through each exposure pathway and migration route.

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

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

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

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

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

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

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

#### **TASK 6. SEPA COMPLIANCE**

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

#### **TASK 7. PUBLIC PARTICIPATION**

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

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

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

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



**TASK 8. PRELIMINARY DRAFT CLEANUP ACTION PLAN**

Upon Ecology approval of the Public Review Draft RI/FS Report, the fifth Key Project Meeting will be held to discuss the contents of the DCAP and to identify the preferred remedial alternative. The DCAP will address all remedial actions required to be completed subsequent to the on-Property interim action(s).

The Subject PLPs shall prepare an Agency Review preliminary DCAP in accordance with WAC 173-340-380. The Agency Review preliminary DCAP will include a general description of the proposed remedial actions, cleanup standards developed from the RI/FS and rationale regarding their selection, a schedule for implementation, description of any institutional controls proposed, and a summary of applicable local, state, and federal laws pertinent to the proposed cleanup actions.

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

After receiving Ecology's comments on the Agency Review preliminary DCAP, if any, the Subject PLPs shall revise the preliminary DCAP to address Ecology's comments and submit three (3) copies of the Public Review DCAP including one electronic copy each in Word (.doc) and Adobe (.pdf) formats.

**TASK 9. QUARTERLY PROGRESS REPORTS**

The Subject PLPs will submit Progress Reports at a quarterly frequency to Ecology until satisfaction of the AO, in accordance with Section VII.(G) of the AO. In addition, during implementation of the RI field investigations and on-Property interim action(s), the Subject PLPs will provide weekly email status updates to Ecology.

Progress Reports will be submitted to the Ecology project coordinator by the tenth (10<sup>th</sup>) of the month following the reporting period. If this day is a weekend or holiday, Progress Reports will be submitted to Ecology on the next business day.

**EXHIBIT C – SCHEDULE OF DELIVERABLES**  
**631 Queen Anne Avenue North, Seattle, WA**

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

Table 1 - Schedule for Submission of Major Deliverables

Table 2 - Schedule for Roystone's Submission of Interim Action Deliverables



**Table 1****Schedule for Submission of Major Deliverables**

	<b><i>Deliverable</i></b>	<b><i>Due Date<sup>a</sup></i></b>
1.	Agency Review Draft Remedial Investigation (RI) Work Plan	No later than 120 days after the AO <sup>b</sup> effective date
2.	Final Remedial Investigation Work Plan	No later than 45 days after receipt of Ecology comments
3.	Remedial Investigation Field Activities Completed	No later than 180 days after Ecology approval of Final Remedial Investigation Work Plan
4.	Agency Review Draft Remedial Investigation Report	No later than 90 days following receipt of remedial investigation analytical validated data
5.	Public Review Draft Remedial Investigation Report	No later than 45 days after receipt of Ecology comments
6.	Final Remedial Investigation Report	No later than 45 days after receipt of Ecology comments, subsequent to public comment <sup>c</sup>
7.	Agency Review Draft Feasibility Study Report	No later than 90 days following Ecology approval of Public Review Remedial Investigation Report
8.	Public Review Draft Feasibility Study Report	No later than 45 days following Ecology approval of Agency Review Draft Feasibility Study Report
9.	Final Feasibility Study Report	No later than 45 days after receipt of Ecology comments, subsequent to public comment <sup>c</sup>
10.	Agency Review preliminary Draft Cleanup Action Plan (DCAP)	No later than 90 days following approval of Final Feasibility Study
11.	Public Review Draft Cleanup Action Plan	No later than 45 days after receipt of Ecology comments
12.	Quarterly Progress Reports	No later than 10th day of the month following the reporting period

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

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

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

**Table 2**

**Schedule for Roystone's Submission of Interim Action Deliverables**

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

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

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