

**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

In the Matter of Remedial Action by:

Port of Skagit County

AGREED ORDER

No. DE 16309

TO: Port of Skagit County
Patricia Botsford-Martin, Executive Director
15400 Airport Drive
Burlington, WA 98233

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I. INTRODUCTION

The mutual objective of the State of Washington, Department of Ecology (Ecology) and Port of Skagit County (the Port) under this Agreed Order (Order) is to provide for remedial action at a facility where there has been a release or threatened release of hazardous substances. This Order requires the Port to conduct a Remedial Investigation and Feasibility Study (RI/FS) per WAC 173-340-350 and WAC 173-204-560, and to develop a draft Cleanup Action Plan (DCAP) per WAC 173-340-350 through 173-340-380 and WAC 173-204-560 through and 173-204-580, addressing contamination at the Site. This Order also requires the Port to perform an interim remedial action at a facility where there has been a release or threatened release of hazardous substances. 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 Port agrees to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter the Port's responsibility under this Order. The Port 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 the former Northern State Multi Service Center Site. 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 the Sedro-Woolley Innovation for Tomorrow Center (SWIFT Center), 2070 Northern State Road in Sedro-Woolley, Washington (the Property) as shown in the Site Location Diagram (Exhibit A).

- B. Parties: Refers to Ecology and the Port.
- C. Potentially Liable Persons (PLP(s)): Refers to the Port.
- D. Agreed Order or Order: Refers to this Order and each of the exhibits to this Order.
- E. Property: Generally 2070 Northern State Road, Sedro-Woolley, Washington.

All exhibits are integral and enforceable parts of this Order.

V. FINDINGS OF FACT

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

A. Based upon factors currently known to Ecology, the Site is generally located at 2070 Northern State Road in Sedro-Woolley, Washington as shown in the Site Location Diagram (Exhibit A).

B. The Property is currently owned and managed by the Port.

C. The Property was developed by the State of Washington in 1909 and operated as the Northern State Hospital, a treatment and residence facility and hospital for people with mental illness until its closure in 1973. The Property was used as a treatment and residence facility for people with mental illness, and included on-site patient and staff housing, a powerhouse, maintenance shops, a laundry, and a fueling station. After the facility's closure, the treatment and residential campus was transferred from the Washington State Department of Social and Health Services to the General Services Administration, which later became the Department of Enterprise Services. On July 1, 2018, the Property was transferred from Department of Enterprise Services to the Port.

D. The Port is currently lessor for multiple leases at the Property. The U.S. Department of Labor leases a portion of the Site for a Job Corps Center serving up to 300 youth residents. The North Sound Behavioral Health Organization leases a building on the Property and contracts with Telecare Corporation to operate a 16-bed mental health evaluation and treatment facility in the building. Pioneer Human Services operates a chemical dependency evaluation and treatment facility serving up to 141 persons in a leased building on the Property. The Washington State Department of Natural Resources leases space for office and storage, as does the Pacific Northwest Trail Association. Sedron Technologies has a land lease to construct new manufacturing buildings in the southern portion of the Property. Finally, Frontier Communications of the Northwest leases land for a small building that houses telecommunications equipment.

E. Over the years, several buildings have been demolished and, based on interviews with maintenance staff, the debris from some of those buildings has been buried and/or disposed of on the Site. Many of the remaining buildings and structures associated with the former facility, as well as the campus landscape, are listed on the National Registry of Historic Places.

F. Between 2014 and 2018, the Port conducted site characterization studies at the Property. These studies were conducted as independent actions with informal review by the Department of Ecology. The Washington State Pollution Liability Insurance Agency (PLIA) has also conducted a site assessment related to an underground storage tank release on the Property and is, through a PLIA-led grant agreement with the Port, conducting remediation of the petroleum-related constituents.

G. The following subsurface investigations, completed at the Property between 2014 and 2018, identified contamination to soil, groundwater, and/or soil vapor within seven areas of concern (AOCs) and identified the potential for contamination at a number of locations with underground storage tanks (USTs).

1. 2014 Focused Site Assessment by Maul Foster & Alongi, Inc.;

2. 2015 Preliminary Remedial Investigation and Feasibility Study by Maul Foster & Alongi, Inc.;
3. 2017 Preliminary Planning Assessment by Sound Earth Strategies (conducted under PLIA authority);
4. 2018 Phase I Environmental Site Assessment by Maul Foster & Alongi, Inc.; and
5. 2018 Phase II Environmental Site Assessment by Maul Foster & Alongi, Inc.

H. The investigations listed in Paragraph G indicated that sources of contamination are likely associated with releases of hazardous substances that took place during historical operations at the Site. Specifically, the investigations found the following:

1. AOC 1: Former Laundry Building – Chlorinated volatile organic compounds (cVOCs), including tetrachloroethene (PCE), trichloroethene (TCE), cis-1,2-dichloroethene (cis-1,2-DCE), were detected in soil and/or groundwater north and east of the former laundry building above Model Toxics Control Act (MTCA) Method A cleanup levels (CULs). PCE was detected in soil vapor collected from beneath the former laundry building foundation, but was below applicable screening levels. Historical use of chlorinated solvents in historic dry-cleaning operations was identified as a potential source of cVOC impacts in the former laundry building AOC.
2. AOC 2: Power House Building – Heavy oil-range organics (ORO) and carcinogenic polycyclic aromatic hydrocarbons (cPAHs) were detected above MTCA Method A CULs in shallow soil north and northeast of the Power House. Historical fill material containing coal/asphalt debris appears to be a source of the ORO and cPAH impacts to shallow soil.
3. AOC 3: Lead in Soil - Elevated concentrations of lead were identified in shallow soil immediately adjacent to historical buildings on the Property associated with historical lead paint applications. Elevated detections of lead impacts surrounding

historical buildings appear to be localized in both vertical and lateral extent, with concentrations decreasing with depth and distance from the historical buildings.

4. AOC 4: Arsenic in Soil – Elevated concentrations of arsenic in soil have been identified in a few localized areas at the Property. There appears to be several potential sources for elevated arsenic concentrations in soil that may be present at the Site, including naturally occurring arsenic, historical pesticide use, and arsenic-containing wood-treatment chemicals associated with wood used in building construction and/or in building demolition debris.
5. AOC 5: Property-Wide Metals in Soil – Concentrations of arsenic, barium, chromium, copper, lead, selenium, and zinc have been detected at concentrations above area-wide background values and criteria protective of ecological receptors. Site-specific ecological screening levels were developed for the Site. Following the completion of an incremental sampling effort across the Property, three areas were identified as having exceedances of at least one metal above site-specific ecological screening levels in the northeastern portion of the Property.
6. AOC 6: Maintenance Building – Benzene, toluene, ethylbenzene, total xylenes, and gasoline-range organics were identified in soil and groundwater adjacent to the maintenance building at concentrations above MTCA Method A CULs. Impacts related to these elevated petroleum-related constituents are likely associated with a release from a former gasoline underground storage tank and appear to be localized. As discussed in Paragraphs F and G above, remediation of this AOC is being conducted by the Washington State Pollution Liability Insurance Agency.
7. AOC 7: Lead and Arsenic in Groundwater - Total and dissolved arsenic and lead were detected in samples from reconnaissance groundwater borings and monitoring wells, installed across the northeastern portion of the Property at concentrations above MTCA Method A CULs and surface water applicable or relevant and appropriate requirements.

8. USTs: USTs containing (or formerly containing) petroleum fuels were identified at a number of locations across the Property. Soil and groundwater contamination are commonly associated with USTs.

VI. ECOLOGY DETERMINATIONS

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

A. The Port is an “owner or operator” as defined in RCW 70.105D.020 (22) of a “facility” as defined in RCW 70.105D.020(8). Specifically, the Port is the current owner of the Property containing all or a portion of the Site where there has been a release of hazardous substances to the environment.

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 Port dated January 16, 2019, pursuant to RCW 70.105D.040, .020(26), and WAC 173-340-500. After providing for notice and opportunity for comment, reviewing any comments submitted, and concluding that credible evidence supported a finding of potential liability, Ecology issued a determination that the Port is a PLP under RCW 70.105D.040 and notified the Port of this determination by letter dated February 25, 2019.

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. Interim actions are proposed to be conducted in AOC 1 and AOC 4 to expedite elimination of the exposure risks associated with the Site. Both AOC 1 and AOC 4 have the potential to expose students at the Cascade Job Corps to risk from hazardous substances, and the work at AOC 1 would correct a problem that would likely cost substantially more to address at a later date. Based on these circumstances, Ecology has determined that the interim actions at AOC 1 and AOC 4 are 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.D. 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 the Port take the following remedial actions at the Site. These remedial actions must be conducted in accordance with WAC 173-340:

A. The Port will complete a Remedial Investigation/Feasibility Study (RI/FS) and submit an Ecology Review preliminary draft Cleanup Action Plan for the Site in accordance with the schedule and terms of the Scope of Work and Schedule, Exhibit B, and all other requirements of this Order.

B. The Port shall prepare and submit to Ecology an Interim Action Work Plan, including a scope of work and schedule, in accordance with the schedule and terms of the Scope of Work and Schedule, Exhibit B. The Port 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 Port is required to conduct the interim action in accordance with the approved Interim Action Work Plan.

C. Progress Reports: The Port shall provide quarterly written progress reports via email to Ecology. The Progress Reports shall provide a synopsis of the previous quarter's activities, description of completed field work and findings and observations from site investigations, deviations from project plans, deviations from the Scope of Work and Schedule, status of reports and other deliverables, and expected activities for the upcoming quarter. The Port shall provide data validated during the reporting period as requested by Ecology. The contents of and submission schedule for progress reports made be modified if approved jointly by Ecology and the Port.

D. If the Port learns 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, surface water, air, and/or sediments, the Port, 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.

E. All plans or other deliverables submitted by the Port for Ecology's review and approval under this Agreed Order shall, upon Ecology's approval, become integral and enforceable parts of this Order.

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

G. Except where necessary to abate an emergency situation or where required by law, the Port 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, the Port 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

The Port 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 \$1,207.65 in remedial action costs related to this Site as of December 31, 2018. For all Ecology costs incurred, the Port 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:

Mark Adams
Department of Ecology, Northwest Regional Office
3190 160th Avenue SE
Bellevue, WA 98008-5452
(425) 649-7107
Mark.adams@ecy.wa.gov

The project coordinator for the Port is:

Heather Rogerson, Planning and Environmental Manager
15400 Airport Drive
Burlington, WA 98233
(360) 757-0011
heather@portofskagit.com

Each project coordinator shall be responsible for overseeing the implementation of this Order. Ecology's project coordinator will be Ecology's designated representative for the Site. To the maximum extent possible, communications between Ecology and the Port, 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.

The Port 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 Port either owns, controls, or has access rights to at all reasonable times for the purposes of, *inter alia*: inspecting records, operation logs, and contracts related to the work being performed pursuant to this Order; reviewing the Port's 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 Port. The Port shall make all reasonable efforts to secure access rights for those properties within the Site not owned or controlled by the Port 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 Port 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 Port 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 Exhibit B, Scope of Work and Schedule , 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 Port shall allow Ecology and/or its authorized representative to take split or duplicate samples of any samples collected by the Port pursuant to implementation of this Order. The Port shall notify Ecology seven (7) days in advance of any sample collection or work activity at the Site. Ecology shall, upon request, allow the Port 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 the Port 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

Ecology shall maintain the responsibility for public participation at the Site. However, the Port 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 the Port 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 the Port that do not receive prior Ecology approval, the Port 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. Central Skagit Sedro-Woolley Library
802 Ball Street
Sedro-Woolley, WA 98284
- b. Ecology's Northwest Regional Office
3190 160th Ave SE
Bellevue, WA 98008-5452
(425) 649-7190
- c. Ecology's Bellingham Field Office
913 Squalicum Way, Unit 101
Bellingham, WA 98225
(360)255-4400

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, the Port 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 Port 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 Port 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 Port withholds any requested records based on an assertion of privilege, the Port 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 Port elects to invoke dispute resolution the Port 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 Port has fourteen (14) calendar days within which to notify Ecology's project coordinator in writing of its dispute (Informal Dispute Notice).

b. The Parties' project coordinators shall then confer in an effort to resolve the dispute informally. The parties shall informally confer for up to fourteen (14) calendar days from receipt of the Informal Dispute Notice. If the project coordinators cannot resolve the dispute within those 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 Port's position with regards to the dispute; Ecology's position with regards to the dispute; and the extent of resolution reached by informal discussion.

c. The Port 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. The Port's 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 the Port 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 Port including delays caused by unrelated third parties or Ecology, such as (but not limited to) delays by Ecology in reviewing, approving, or modifying documents submitted by the Port.

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 the Port.

3. Ecology shall act upon any Port written request for extension in a timely fashion. Ecology shall give the Port 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 Port's 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 the Port. 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, the Port 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 the Port to cease such activities for such period of time as it deems necessary to abate the danger. The Port shall immediately comply with such direction.

In the event the Port 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, the Port may cease such activities. The Port 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 Port shall provide Ecology with documentation of the

basis for the determination or cessation of such activities. If Ecology disagrees with the Port's cessation of activities, it may direct the Port to resume such activities.

If Ecology concurs with or orders a work stoppage pursuant to this section, the Port's 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 the Port 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 Port regarding remedial actions required by this Order, provided the Port 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 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, the Port does not admit to any liability for the Site. Although the Port is committing to conducting the work required by this Order under the terms of this Order, the Port 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 Port 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 Port's transfer of any interest in all or any portion of the Site, and during the effective period of this Order, the Port 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 Port shall notify Ecology of said transfer. Upon transfer of any interest, the Port 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 the Port 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. The permits or specific federal, state, or local requirements that the agency has determined are applicable and that are known at the time of the execution of this Order have been identified in Exhibit C. The Port has 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 the Port, Ecology will document in writing if they are applicable to actions carried out pursuant to this Order, and the Port must implement those requirements.

2. *Relevant and Appropriate Requirements.* All actions carried out by the Port pursuant to this Order shall be done in accordance with relevant and appropriate requirements identified by Ecology. The relevant and appropriate requirements that Ecology has determined apply have been identified in Exhibit D. If additional relevant and appropriate requirements are

identified by Ecology or the Port, Ecology will document in writing if they are applicable to actions carried out pursuant to this Order and the Port must implement those requirements.

3. Pursuant to RCW 70.105D.090(1), the Port 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, the Port shall comply with the substantive requirements of such permits or approvals. The exempt permits or approvals and the applicable substantive requirements of those permits or approvals, as they are known at the time of the execution of this Order, have been identified in Exhibit C.

4. The Port has 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 Port 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 Port shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, the Port 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 Port and on how the Port must meet those requirements. Ecology shall inform the Port in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. The Port 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 the Port 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

The Port agrees to indemnify and save and hold Ecology, 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 Port, its officers, employees, agents, or contractors in entering into and implementing this Order. However, the Port shall not indemnify Ecology 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 Ecology, or the employees or agents of Ecology, in entering into or implementing this Order.

IX. SATISFACTION OF ORDER

The provisions of this Order shall be deemed satisfied upon the Port's receipt of written notification from Ecology that the Port has completed the remedial activity required by this Order, as amended by any modifications, and that the Port has 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.

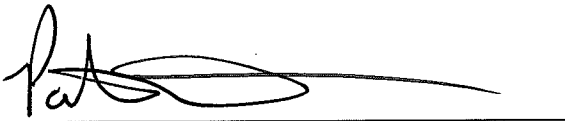
2. Civil penalties of up to twenty-five thousand dollars (\$25,000) per day for each day it refuses to comply.

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: 7/16/19

PORT OF SKAGIT COUNTY

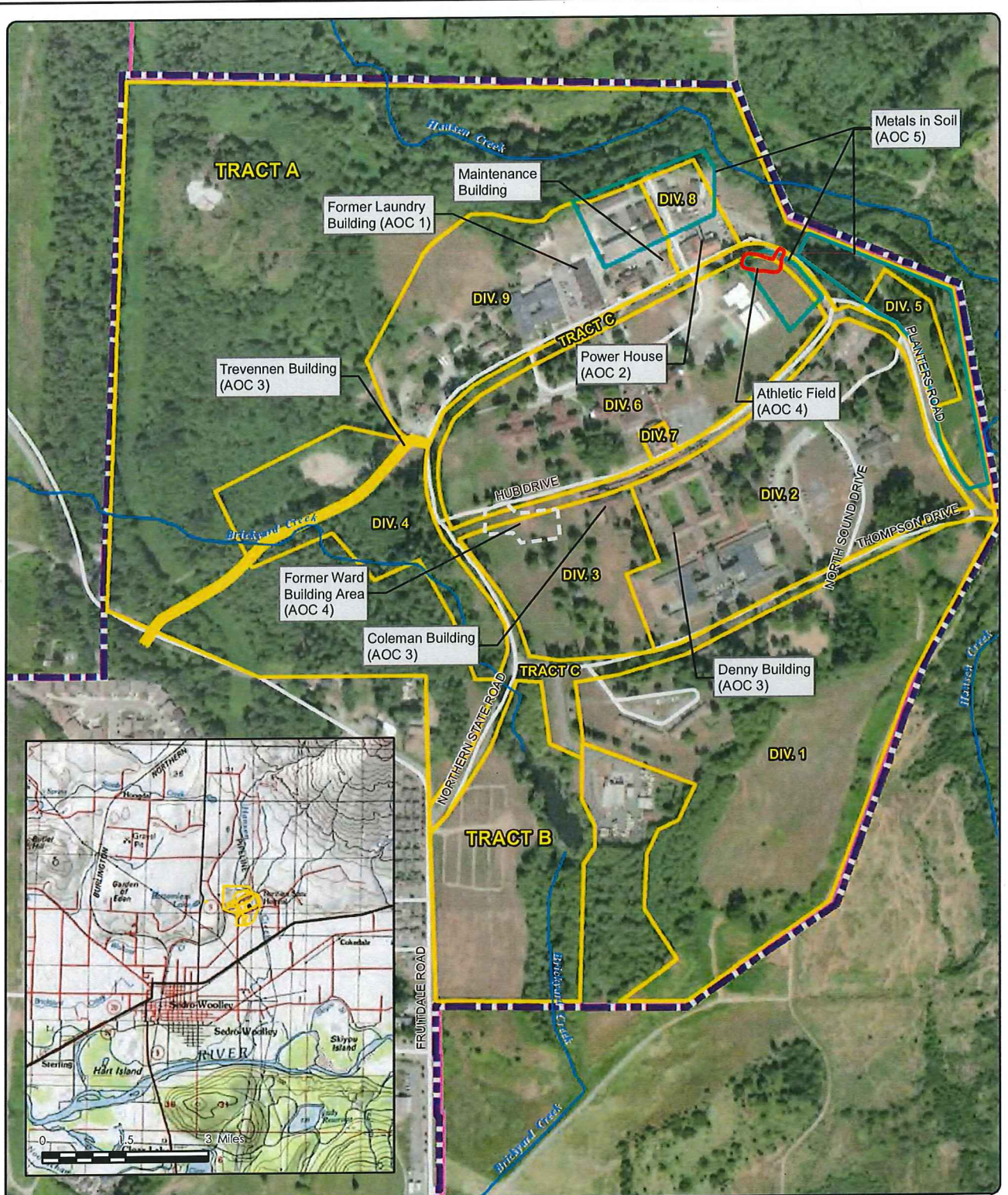


Patricia Botsford-Martin
Executive Director
Port of Skagit County
(360) 757-0011

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY



Robert Warren
Section Manager
Toxics Cleanup Program
Northwest Regional Office
(425)-649-7054



Source: Aerial photograph obtained from Esri ArcGIS Online; parcels, roads, and stream datasets obtained from Skagitit County; city limits dataset obtained from the City of Sedro-Woolley.

Note:
AOC = area of concern.






- | | |
|---|--|
|  Property Parcel and Parcel Number |  Northern State Recreational Area |
|  Sedro-Woolley City Limits (Post Annexation) |  Road |
| |  Stream |

Exhibit A
Site Location Diagram
Former Northern State Hospital
Port of Skagitit County
Sedro-Woolley, Washington

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This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the suitability of the information.

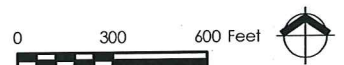


EXHIBIT B SCOPE OF WORK AND SCHEDULE

SCOPE OF WORK

PURPOSE

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

The Port of Skagit County (the Port) shall coordinate with Ecology throughout the development of the Interim Actions, RI/FS and preliminary DCAP and shall keep Ecology informed of changes to any Work Plan or other project plans, and of any issues or problems as they develop.

The Scope of Work (SOW) is divided into seven major tasks as follows:

- Task 1. RI Work Plan
- Task 2. Remedial Investigation
- Task 3. Interim Actions
- Task 4. Feasibility Study
- Task 5. SEPA Compliance
- Task 6. Public Participation
- Task 7. DCAP

TASK 1. RI WORK PLAN

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

A Key Project Meeting will be held prior to submittal of the RI Work Plan. The purpose of the Remedial Investigation Planning Meeting is to review requirements for the Work Plan and plan Remedial Investigation field work, discuss the preliminary Conceptual Site Model, and identify project data needs and possible interim actions.

The 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, and groundwater; a conceptual site model showing contaminants, migration pathways in all environmental media, and potential receptors; 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 WAC 173-340-350 and WAC 173-204-560.

As part of the project background, existing environmental data on site soil, groundwater, and 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 Port 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, air samples, 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).¹ Laboratories must meet the accreditation standards established in WAC 173-50. Data quality objectives will reflect the criteria or threshold values used for the data 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 Port 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 the following:

- Sampling and analysis of soil, groundwater, and air

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

The Port 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 Port will implement the Final Work Plan according to the schedule contained in this Exhibit.

The Port shall prepare two (2) paper copies of the Agency Review Draft RI Work Plan and submit them, plus 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 Port shall prepare two (2) paper copies of the Final Work Plan and submit them, plus one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology.

TASK 2. REMEDIAL INVESTIGATION

The Port shall conduct an RI that meets the requirements of WAC 173-340-350(7) according to the Work Plan as approved by Ecology. The RI will characterize the nature and extent of contamination exceeding preliminary Model Toxics Control Act (MTCA) cleanup levels (screening levels) and other regulatory requirements. The RI must provide sufficient data and information to select a cleanup action.

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.

Prior to submittal of the Agency Review Draft RI Report, a Key Project Meeting will be held – Remedial Investigation Pre-Report Check-In. During this meeting, Ecology and the Port will review available data and an updated conceptual site model and discuss the content and organization of the Draft RI Report.

The Port shall compile the results of the Site investigation into an Agency Review Draft RI Report. The Port shall prepare two (2) paper copies of the Agency Review Draft RI Report and submit them, plus 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 Port shall prepare three (3) paper copies of a Public Review Draft RI Report and submit them, plus one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for distribution and public comment. Electronic survey data for monitoring locations and electronic lab data shall also be provided for both the Agency Review Draft RI Report and Public Review Draft RI Reports either in the report or as attachments.

The Port will incorporate changes in the RI Report requested by Ecology after the public review and comment period, and will then prepare a Final RI Report after review and approval by Ecology. The Port shall prepare two (2) paper copies of the Final RI Report and submit them, plus one electronic copy each in Word (.doc) and Adobe (.pdf)

formats, to Ecology.

TASK 3. INTERIM ACTIONS

Remedial actions completed prior to implementation of the full remedy, 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.

As detailed in the AO and described in more detail below, the Port will implement interim actions for AOCs 1 and 4. Specifically, interim action(s) are needed to expedite control of releases to indoor air, direct contact with contaminated soils and other environmental media pursuant to WAC 173-340-430. Sufficient characterization of AOCs 1 and 4 have been completed to support design and implementation of interim actions.

The scope of the interim actions will include the following:

Area of Concern (AOC) 1: Former Laundry Building. Concentrations of tetrachloroethene (PCE), trichloroethene (TCE), and cis-1,2-dichloroethene (cis-1,2-DCE), were detected in soil and/or groundwater north and east of the former laundry building above MTCA Method A cleanup levels (CULs). PCE was detected in soil vapor collected from beneath the former laundry building foundation at a concentration above the air cleanup level, but below the applicable screening level. Soil and groundwater impacts appear localized as there were no detections of PCE or TCE identified at the upgradient or downgradient sample locations. However, the soil and groundwater impacts may extend below the existing building.

One of the Port's tenants has near-term plans to remodel the former laundry building for use as a classroom space for teenagers and young adults. An interim remedial action is needed to mitigate risk of indoor air exposure of workers and building occupants.

The proposed interim action includes the following:

- Placement of a retrofitted vapor barrier to provide immediate protection from intrusion of soil vapor into the building.
- An indoor air sampling program to evaluate the performance of the system.
- Implementation of an in situ bioremediation program to reduce the solvent concentrations in the soil and groundwater.
- Groundwater sampling as part of a monitored natural attenuation (MNA) program

for the AOC along with an environmental covenant restricting use of groundwater.

The proposed retrofitted vapor barrier is a product by Land Science, called Retro-Coat™. Retro-coat will provide long-term assurance that the vapor intrusion risk has been mitigated, while avoiding the need to alter the building's foundation, thus reducing overall costs. Retro-Coat will be applied to the existing floor (and wall surface if needed). The retrofit membrane is a material that is spray applied directly to the concrete slab with the goal of sealing all gaps (cracks and concrete joints). Once the material is applied, new interior surfacing can be installed over the membrane. The retrofit membrane would be applied across the entire concrete slab. By sealing all gaps in the slab, the material prevents soil vapor from intruding into the building. Applying the vapor barrier in coordination with renovation of the building allows the remedial action to be conducted in a more expedited and cost-effective manner than would otherwise be possible.

Implementation of amendment injections directly into the ground around the building footprint (in the vicinity of GP8) is expected to reduce concentrations of solvents in soil and groundwater. A combination of amendments could be designed to enhance degradation of chlorinated ethenes through biotic and abiotic processes. This program would be designed to utilize anaerobic biodegradation of the existing chlorinated compounds through the enhanced reductive dechlorination (ERD) process. ERD is the primary anaerobic biological process by which problematic chlorinated solvents such as PCE, TCE, cis-1,2-DCE and vinyl chloride in groundwater are biologically transformed into less harmful end products such as ethene.

AOC 4: Arsenic in Soil. Arsenic-impacted shallow soil was found near the former Ward Building and athletic field areas. These impacts pose risk of direct soil contact exposure to users of the Site. This risk can be mitigated by implementation of an interim action prior to completion of the final RI and feasibility study (FS). The interim action would include excavating impacted soils at the two locations and disposal at an off-site permitted landfill.

The impacted surface soils in the former Ward Building area and athletic field would be removed and disposed of off site, eliminating the direct-contact exposure risk. The excavation will be approximately an average excavation depth of 1 foot, over an area roughly 28,500 square feet. This would remove approximately 1,800 tons of impacted material. Confirmation soil samples during excavation would be collected to ensure that arsenic impacts above MTCA Method A CULs are removed. The excavated areas will be backfilled with clean soil and restored to match existing conditions.

The Port will prepare and submit for Ecology approval a Draft Interim Action Work Plan (IAWP) with detail commensurate with the work to be performed. The 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 site information, including at a minimum existing site conditions;
- Information regarding design and construction requirements, including a proposed schedule and personnel roles and responsibilities;

- Compliance Monitoring Plan;
- SAP/QAPP
- Permits required.

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

The Port shall prepare two (2) paper copies of the Draft Interim Action Work Plan and submit them, plus one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for review. The Port shall incorporate Ecology's comments and then prepare two (2) paper copies of the Final Interim Action Work Plan and submit them, plus one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology.

Once approved by Ecology, the Port will implement the interim action according with the approved schedule.

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

TASK 4. FEASIBILITY STUDY

The Port shall use the information obtained in the RI and Interim Actions to prepare an Agency Review Draft FS that meets the applicable requirements of WAC 173-340-350(8) according to the Schedule in this exhibit. The Agency Review Draft FS will evaluate remedial alternatives for site cleanup, consistent with MTCA requirements 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, a Key Project Meeting will be held to review ARARs, potential remedial alternatives and establish points of compliance.

The Agency Review Draft FS will provide a detailed analysis of each remedial alternative according to the applicable requirements of WAC 173-340-350, MTCA Remedial Investigation and Feasibility Study. The remedial alternatives will be evaluated for compliance with the applicable requirements of WAC 173-340-360, Selection of Cleanup Actions, including a detailed evaluation of remedial alternatives relative to the following criteria:

- Compliance with Cleanup Standards and Applicable Laws
- Protection of Human Health
- Protection of 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
- 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 Port shall prepare two (2) paper copies of the Agency Review Draft FS and submit them, plus one electronic copy in Word (.doc) and Adobe (.pdf) formats, to Ecology for review. After addressing Ecology's comments on the Agency Review Draft FS, the Port shall prepare three (3) paper copies of the Public Review Draft FS and submit them, plus one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for distribution and public comment. After incorporating Ecology's comments on the Public Review Draft FS following public review and after Ecology approval, the Port shall prepare two (2) paper copies of the Final FS and submit them, plus one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology.

TASK 5. SEPA COMPLIANCE

The Port shall be responsible for complying with the State Environmental Policy Act (SEPA) Rules including preparing and submitting an environmental checklist. If the result of the threshold determination is a determination of significance (DS), the Port shall be responsible for the preparation of Draft and final environmental impact statements. The Port 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 can be held concurrently.

TASK 6. PUBLIC PARTICIPATION

The Port shall support Ecology in presenting the Public Review Draft RI Report and the Public Review Draft FS Reports and SEPA evaluations at one public meeting or hearing. The Port 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.

TASK 7. PRELIMINARY DRAFT CLEANUP ACTION PLAN

Upon Ecology approval of the Public Review Draft Remedial Investigation Report and Public Review Draft Feasibility Study, a Key Project Meeting will be held regarding the Cleanup Action Plan. The Cleanup Action Plan Meeting will be used to review plans for developing the Agency Review preliminary Draft Cleanup Action Plan (DCAP).

The Port shall prepare an Agency Review preliminary DCAP in accordance with WAC 173-340-380 that provides a proposed remedial action to address the contamination present on the Site. The preliminary DCAP shall 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 Port will submit an Agency Review preliminary DCAP for Ecology's review and approval. The Agency Review preliminary DCAP will include, but not be limited to, the information listed under WAC 173-340-380. The Port shall prepare two (2) paper copies of the Agency Review preliminary DCAP and submit them, plus one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for review and approval.

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

SCHEDULE OF DELIVERABLES

The schedule for deliverables described in the Agreed Order and the Scope of Work is presented on the following page. If the date for submission of any item or notification required by this Schedule of Deliverables 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 the Port 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.

Task	Description	Due Date
VII. A.1	RI Work Plan(s)	<p>Submit Draft Work Plans within 90 days of effective date of the Agreed Order.</p> <p>Submit Final Work Plans within 45 days of receipt of comments from Ecology.</p> <p>Complete field work within 90 days of approval of Final Work Plans.</p>
VII. A.2.	<p>AOC1 and AOC4 Interim Action Work Plan(s)</p> <p>Other Interim Actions</p>	<p>Submit Draft Work Plan(s) within 90 days of effective date of the Agreed Order for AOCs 1 and 4.</p> <p>Submit Draft Plan(s) and Final Work Plan(s) for AOCs 1 and 4, each within 45 days of receipt of comments from Ecology.</p> <p>The schedule for other Interim Actions to be established by agreement between the Port and Ecology.</p>
VII. A.3.	<p>Interim Action Completion Report for AOC1</p> <p>Interim Action Completion Report for AOC4</p> <p>Other Interim Action</p>	<p>Submit Draft Interim Action Completion Reports for each AOC or other Interim Actions within 90 days of completing construction/excavation work.</p> <p>Submit Final Interim Action Reports for each AOC or other Interim Action within 45 days of receipt of comments from Ecology.</p>

	Reports	
VII. A.3	EIM Data Submittal	Submit within 45 days from completion of data validation.
VII. A.4	Remedial Investigation Report	Submit Draft RI Report within 90 days of receiving final laboratory data. Submit Public Review Draft RI Report and Final RI Report, each within 45 days of receipt of comments from Ecology.
VII. A.5	Feasibility Study Report	Submit Draft FS Report within 90 days of completing Public Review Final RI Report. Submit Public Review Draft FS Report and Final FS Report, each within 45 days of receipt of comments from Ecology.
VII. B.1	Agency Review Preliminary Draft Cleanup Action Plan	Submit within 120 days of Ecology approval of the Final Feasibility Study Report.
VII. B.2	Revised Agency Review Preliminary Draft Cleanup Action Plan	Submit within 90 days of receiving Ecology's comments on the Agency Review preliminary DCAP.
VII. C.	Progress Reports	Submit within 30 days of the end of the prior quarter.

EXHIBIT C

Applicable Laws

The permits or specific federal, state, or local requirements that Ecology has determined are applicable and that are known at the time of the execution of this Agreed Order include the following:

- Washington State
 - Underground Injection Control Well Registration
 - Construction Stormwater Permit
- Local
 - Grading Permit (procedurally exempt)
 - SEPA Review

EXHIBIT D

All Relevant and Appropriate Requirements

The relevant and appropriate requirements that Ecology has determined apply to this Site include the following:

- Federal and state surface water quality standards