

**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

In the Matter of Remedial Action by:

The Port of Everett

SECOND AMENDMENT TO AGREED
ORDER

No. DE 5490

TO: Port of Everett
Attention: Lisa Lefebber
1205 Craftsman Way, Suite 200
Everett, WA 98201

EXHIBIT

EXHIBIT A Second Amended Schedule

I. INTRODUCTION

Agreed Order No. DE 5490 (2008 Order) entered into by the State of Washington, Department of Ecology (Ecology) and Port of Everett (the Port) on October 3, 2008 requires the Port to conduct a Remedial Investigation and Feasibility Study (RI/FS) per WAC 173-340-350 and develop a draft Cleanup Action Plan per WAC 173-340-350 through 173-340-380 addressing both potential upland and in-water (i.e., adjacent marine sediment) contamination for the Site. In January 2013, Ecology and the Port amended the 2008 Order (First Amendment). The First Amendment required the Port to perform an interim action to remove contaminated soil stockpiles from the Site and transport and dispose of the soil at an off-site approved landfill.

Pursuant to Section VIII.L of the 2008 Order, Ecology and the Port hereby stipulate to a second amendment of the 2008 Order. By this amendment to the Order, the Port will perform an interim remedial action at a facility where there has been a release or threatened release of hazardous substances.

This amendment does not attempt to recite all of the provisions of the Order. Provisions of the Order not specifically changed in this amendment remain in full force and effect.

VI. ECOLOGY DETERMINATIONS

F. 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, RI/FS study or design of a cleanup action. The Site's shoreline is overgrown with invasive plant species, has scattered remnants of historical industrial activities, and has an over-steepened shoreline embankment made of quarry spalls, wood debris, and dilapidated creosote-treated bulkheads. The features described above degrade habitat and pose a risk of future releases of hazardous substances in the marine area. 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.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

D. The Port shall prepare and submit to Ecology an Interim Action Work Plan, including a scope of work pursuant to the schedules set forth in Exhibit A. 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.

Scope of Interim Action: In general, the interim action work will involve shoreline cleanup and restoration, and soil cleanup. The work at the Site's shoreline will include removing invasive plant species, industrial debris, creosote-treated wood structures, and wood waste. Following this

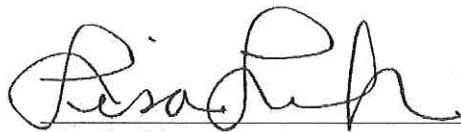
removal activity, the Port will restore significant portions of the shoreline by:

- excavating and backfilling the shoreline with habitat-friendly and geotechnically suitable material,
- relocating, consolidating, and expanding some existing wetlands,
- planting a variety of native plant species, and
- installing habitat-friendly, large woody features.

The soil cleanup will focus on a low area along the southern site boundary, where stormwater runoff and groundwater potentially drain to the southern portion of the shoreline. The Port will clean and restore this low area, to prevent re-contamination.

Effective date of this Order: 2/4/2020

THE PORT OF EVERETT



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**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**



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EXHIBIT A

SCHEDULE

Schedule for Agreed Order No. DE 5490 is amended to add the following provisions:

To achieve timely environmental restoration in support of the State's goals for restoring Puget Sound, the Department of Ecology is requesting that this project be delivered by the end of the 2020/2021 in-water work window, if federal permits allow.

Work Element	Delivery Dates
Submit Draft Interim Action Work Plan (IAWP) to Ecology	Commence upon the effective date of this amendment.
Submit Final IAWP to Ecology	Within 4 weeks of receipt of Ecology's comments on draft IAWP
Submit Draft Engineering Design Report (EDR) to Ecology	Commence upon Ecology's Approval of IAWP, or another date mutually agreed to by Ecology and the PLP.
Submit Final EDR to Ecology	Within 4 weeks of receipt of Ecology's comments on draft EDR.
Bidding and Contracting	Commencing within 2 weeks of Ecology approval of the EDR and obtaining any required permits or meeting permit substantive requirements, and contracting with the successful bidder within 45 days of issuing the request for bids.
Construction	Issuance of Contractor notice to proceed within 15 days of bid award, and completion of construction within 180 days of notice to proceed, or other timeline as mutually agreed to by Ecology and the PLPs.