

**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

In the Matter of Remedial Action by:

**General Metals of Tacoma,
Occidental Chemical Corporation, and
Burlington Environmental LLC** at the
Taylor Way and Alexander Avenue Fill Area
(TWAAFA) Site

AGREED ORDER

No. DE 14260

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TABLE OF CONTENTS

I.	INTRODUCTION.....	2
II.	JURISDICTION.....	2
III.	PARTIES BOUND.....	3
IV.	DEFINITIONS	3
V.	FINDINGS OF FACT	5
VI.	ECOLOGY DETERMINATIONS.....	13
VII.	WORK TO BE PERFORMED	16
VIII.	TERMS AND CONDITIONS.....	20
	A. Payment of Remedial Action Costs	20
	B. Designated Project Coordinators	21
	C. Performance	21
	D. Access	22
	E. Sampling, Data Submittal, and Availability	23
	F. Public Participation.....	24
	G. Retention of Records.....	25
	H. Resolution of Disputes.....	26

I.	Extension of Schedule.....	27
J.	Amendment of Order	28
K.	Endangerment	29
L.	Reservation of Rights.....	30
M.	Transfer of Interest in Property.....	30
N.	Compliance with Applicable Laws	31
O.	Indemnification	33
IX.	SATISFACTION OF ORDER.....	33
X.	ENFORCEMENT	33
	EXHIBIT A	Site Location Diagram
	EXHIBIT B	Data Gap Work Plan
	EXHIBIT C	Parcel Ownership, Activities, and Releases Table
	EXHIBIT D	Schedule of Work and Deliverables

I. INTRODUCTION

The mutual objective of the State of Washington, Department of Ecology (Ecology) and General Metals of Tacoma, Occidental Chemical Corporation, and Burlington Environmental LLC (collectively, the AO PLPs) under this Agreed Order (Order) is to provide for remedial action at the Taylor Way and Alexander Avenue Fill Area (TWAAFA) facility (Site) (see Exhibit A, Location Diagram) where there has been a release or threatened release of hazardous substances. Specifically, this Agreed Order requires the AO PLPs to implement a Data Gap Work Plan and implement a Groundwater Monitoring Plan (Exhibit B), prepare and submit a Remedial Investigation and Feasibility Study (RI/FS) report, and prepare and submit a draft Cleanup Action Plan (dCAP). Ecology believes the actions required by this Order are in the public interest.

Simultaneous with the issuance of this Order, Ecology is issuing an Enforcement Order No. DE 19410 to the Port of Tacoma pursuant to WAC 173-340-540. The Enforcement Order requires the Port of Tacoma to conduct the same remedial actions required by this Order.

II. JURISDICTION

This Agreed Order is issued pursuant to the Model Toxics Control Act (MTCA), RCW 70A.305.050(1).

III. PARTIES BOUND

This Agreed Order (Order) shall apply to and be binding upon the Parties (individually, a Party) 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 AO PLPs agree to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter any of the AO PLPs' responsibility under this Order. The AO PLPs shall provide a copy of this Order to all agents, contractors, and subcontractors retained to perform work required by this Order and shall ensure that all work undertaken by such agents, contractors, and subcontractors complies with this Order.

IV. DEFINITIONS

Unless otherwise specified herein, the definitions set forth in RCW 70A.305 and WAC 173-340 shall control the meanings of the terms in this Order.

A. Site: The Site is referred to as the Taylor Way and Alexander Avenue Fill Area (TWAAFA). The Site constitutes a "facility" under RCW 70A.305.020(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 in the vicinity of the 1500 Block of Taylor Way East in Tacoma, Washington, as shown in the in the Location Diagram (Exhibit A).

As of the effective date of this Order, the Site has not been fully characterized, but is known to include the following properties:

1. Pierce County Assessor's Parcel Numbers (APNs) 0321352066, 0321352054, and 0321352050 (CleanCare Parcels);
2. Portions of APNs 0321352043, 0321352044, 0321352053, 0321352062, 0321263003, and 0321263024 (BE Tacoma Parcels); and

3. Portions of (Port Parcels): APNs 0321356008, 0321267005, and 0321355007 (Former ProLogis Property), APN 0321352063 (Potter Property), and APNs 0321263045 and 0321352064 (Hylebos Marsh).

B. Potentially Liable Persons (PLPs): Refers to any person(s) whom the State of Washington, Department of Ecology (Ecology) finds, based on credible evidence, to be liable under RCW 70A.305.040. As of the effective date of this Order, Ecology has identified and designated by notice letters the following parties as PLPs for the Site: David E.G. Bromley; Donald Oline; the Port of Tacoma (Port); General Metals of Tacoma (General Metals); Occidental Chemical Corporation (Occidental); Burlington Environmental LLC (BE) (formerly known as Chemical Processors, Inc. (Chempro), PSC and Stericycle) now an indirect wholly owned subsidiary of Clean Earth Environmental Solutions, Inc. (Clean Earth); and Potter Property, LLC (Potter). Ecology may continue to identify and designate additional parties as PLPs for the Site based upon credible evidence.

C. AO PLPs: Refers collectively to the PLPs that are Parties to this Order: General Metals; Occidental; and BE.

D. Parties: Refers to Ecology and the AO PLPs.

E. 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.

F. Enforcement Order: Refers to Enforcement Order No. 19410 issued to the Port of Tacoma.

G. Agency Review Draft: Designation for a document that is submitted to Ecology for the first time.

H. Public Review Draft: Designation for a document that has been reviewed by Ecology and approved as ready for public comment.

I. Final: Designation for a document after public comment and Ecology approval.

V. FINDINGS OF FACT

Ecology makes the following findings of fact, without any express or implied admissions of such facts by any PLP or the AO PLPs. The history and description of parcel ownership, activities, and releases are further summarized in the table shown in Exhibit C.

All Site Parcels

A. The Site is generally located in the vicinity of 1500 Block of Taylor Way East in Tacoma, Washington, as shown in the in the Location Diagram (Exhibit A).

B. Prior to the 1930s, the area consisted of tidal marsh/tide flats of the Puyallup River Delta. Dredging of the Blair and Hylebos Waterways and filling the intervening land (including the Site) with dredge spoils likely occurred at least once during each decade from the 1930s through the 1970s. By the late 1960s, the Site and surrounding area had been partially filled with dredge spoils from nearby waterways, resulting in a freshwater marsh 5 to 6 feet above the former saltwater marsh.

C. During the late 1960s to early 1980s, Donald Oline owned and operated an unpermitted landfill at the Site (Landfill). Materials discarded and used as fill at the Landfill included lime solvent sludge, byproducts of auto scrapping (auto fluff), wood waste, and other lime wastes.

D. Lime solvent sludge was transported to the Landfill from the Hooker Chemical Company¹ operations. Those lime solvent sludges were contaminated with trichloroethylene (TCE), tetrachloroethylene (PCE), and vinyl chloride.

E. Other lime wastes disposed at the Site were generated by the Domtar operations generated at a building located on Alexander Avenue in Tacoma.

F. Auto fluff was transported to the Landfill from the General Metals operations. Elevated concentrations of arsenic, cadmium, chromium, copper, lead, zinc, petroleum hydrocarbons, and polychlorinated biphenyls (PCBs) have been detected in auto fluff samples from the Site.

¹ The Hooker Chemical Company later became Occidental.

CleanCare Parcels

G. In June 1974, Poligen, Inc., a division of Lilyblad Petroleum (Poligen/Lilyblad), leased the northwestern parcel (APN 0321352066) from Donald and Alba Oline. In 1975, Poligen/Lilyblad constructed a small tank farm on this parcel consisting of two tanks.

H. In 1981 and 1982, the Solidus Corporation, which owned Poligen/Lilyblad and later became Northwest Processing, purchased the northwestern parcel (APN 0321352066) and the adjacent parcels to the east and southeast (APNs 0321352054 and 0321352050) from Donald and Alba Oline.

I. On May 4, 1982, pursuant to Section 3010 of the Resource Conservation and Recovery Act (RCRA), Northwest Processing notified the U.S. Environmental Protection Agency (EPA) that it was an owner/operator of a hazardous waste treatment and storage facility.

J. In May 1987, Northwest Processing notified Ecology that it was initiating operation as a used oil marketer.

K. In February 1992, the EPA granted interim status to Northwest Processing to operate as a Treatment, Storage, and Disposal (TSD) facility under RCRA (EPA ID no. WAD 980738512). At the same time, the EPA entered into a federal consent order with Northwest Processing for the investigation and cleanup of the property as a corrective action under Section 3008(h) of RCRA.

L. In March 1992, Northwest Processing merged with CleanCare Corporation (CleanCare). CleanCare's operations included storage and transfer of hazardous and dangerous wastes including paint wastes; solvent and antifreeze recycling; household hazardous waste management; and used oil blending and storage. Numerous spills and tank leaks of petroleum, solvents, and other volatile and semi-volatile organic compounds occurred during CleanCare's operations.

M. In October 1998, CleanCare was acquired by Bromley-Marr ECOS Inc., a Canadian Corporation (Bromley-Marr).

N. In July 1999, Ecology issued an Order and Penalty to David Bromley and the CleanCare Corporation for numerous violations of state hazardous waste regulations related to the CleanCare operations. These violations included three instances of failure to notify Ecology of dangerous waste spills and discharges and two instances of failure to mitigate and control spills or non-permitted discharges into the environment. At the same time, Ecology issued Enforcement Orders to David Bromley and the CleanCare Corporation for violations of water quality and oil spill statutes and regulations.

O. In November 1999, Bromley-Marr abandoned the CleanCare property. Ecology asked EPA to remove the hazardous waste inventory and control exposure to surface contamination. Costs for this Emergency Response action conducted by the EPA under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) exceeded \$4.5 million dollars.

P. In December 2002, Ecology terminated RCRA interim status for the CleanCare TSD facility.

BE Tacoma Parcels

Q. In 1961, Donald Oline purchased a property commonly referred to as “Parcel A” (APN 0321352053). From 1970 to 1981, Oline leased “Parcel A” to a series of companies that operated a waste oil storage and recycling business on the property: Aero Oil Company of Tacoma and Acology Oil Company (1970–1973); Puget Sound Industrial Petroleum (1973–1974); Chemical Processors, Inc. (Chempro) (1974–1981).

R. Various fill materials are known to have been placed on “Parcel A” between 1969 and 1975, including dredge spoils, lime wastes, spent lime catalyst from tetrachloroethylene and trichloroethylene production, auto fluff, and gravel. In addition, an oil holding pond was constructed in 1970 and reportedly filled with auto fluff around 1975.

S. By 1976, Chempro had acquired the PSIP oil reclaiming operations and the lease for Parcel A. In 1980, Chempro notified the EPA that it was conducting dangerous waste

management activities on “Parcel A.” The EPA granted interim status to Chempro to operate as a TSD facility under RCRA (EPA ID no. WAD 020257945).

T. In 1981, Donald Oline sold “Parcel A” (APN 0321352053) to the Solidus Corporation, which later became Northwest Processing. Chempro continued to lease “Parcel A” from Northwest Processing through 1986.

U. In 1982, Chempro purchased and expanded its operations onto the remainder of the “BE Tacoma Parcels” (APNs 0321352043, 0321352044, 0321352062, 0321263003, and 0321263024). In 1992, BE purchased “Parcel A” (APN 0321352053) from Northwest Processing.

V. Beginning in late 1986, Chempro was involved in a series of corporate mergers and acquisitions and ultimately became Burlington Environmental LLC (BE).

W. On April 23, 1999, Ecology and the EPA issued a final dangerous waste management permit for the BE Tacoma facility, effective May 23, 1999.

X. On March 13, 2012, Ecology issued a renewed dangerous waste permit for the BE Tacoma facility, effective March 22, 2012.

Y. In April 2014, BE and the BE Parcels were acquired by Stericycle Environmental Solutions, Inc.

Z. On April 21, 2016, BE conducted a soil vapor investigation within the footprint of a proposed Lab Pack Building on parcels APN 0321263003 and APN 0321352044. The investigation concluded that benzene (and possibly other VOCs) in soil vapor could potentially exceed the MTCA air cleanup levels and that the observed maximum methane concentration of 75 percent could result in a fire or explosion hazard in the new building if soil vapor mitigation measures are not considered in the design of the new building. In April 2020, BE and Stericycle Environmental Solutions, Inc. were acquired by Clean Earth, Inc. and, Stericycle Environmental Solutions, Inc. became Clean Earth Environmental Solutions, Inc.. BE and Clean Earth have indicated that for the purposes of this Agreed Order, the entity to be named is Burlington Environmental, LLC.

Port Parcels

- AA. Former ProLogis Property (APNs 0321267005, 0321356008, and 0321355007):
1. This property was first developed by Mutual Fir Column Company and/or Buffelen Lumber and Manufacturing in the 1920s for lumber milling and planing. This use continued until 1975, when the property was leased to Lindal Cedar Homes for manufactured home construction. However, most of APN 0321267005 and the southern portion of APNs 0321356008 and 0321355007 remained as wetlands/marsh until they were filled during the 1970s.
 2. AOL Express, a trucking company, operated at the property from August 1983 until 1992. Other warehouse operators included Gateway Consolidators (1984) and APR Freight Forwarders and Carr-Gottstein Foods, also known as JB Gottstein (1987-2000).
 3. In 1990, total petroleum hydrocarbons – gasoline range (TPH-G) soil and groundwater contamination from a leaking underground storage tank (UST) was discovered. This contamination was cleaned up on behalf of AOL Express, and in June 2000, Ecology issued a No Further Action determination for the UST TPH-G release.
 4. In 1989, ProLogis purchased the property. By 2000, ProLogis had subdivided the property into the current parcel divisions and demolished the former lumber operation and warehouse buildings. Sometime after 2000, ProLogis constructed a stormwater detention pond on APNs 0321356008 and 0321355007.
 5. In January 2005, ProLogis entered into Ecology Agreed Order DE 04TCPST-1160 to perform a remedial investigation (RI) and feasibility study (FS).
 - a. As part of the RI, ProLogis investigated potential releases of hazardous substances that may have been caused by industrial and/or fill activities historically conducted on the ProLogis Property or on adjoining properties. Sampling results showed that the following contaminants of concern are

present within the Interim Action Area in concentrations that exceed MTCA cleanup standards: TPH, SVOCs, and metals.

- b. The ProLogis FS recommended capping the contaminated soils with pavement or buildings in conjunction with Site redevelopment as the preferred remedy. This preferred remedy was designed to address the primary pathway of concern (groundwater to marine surface water) by eliminating or reducing the leaching of fill soils and subsequently reducing recharge of the fill aquifer in order to maintain and/or improve groundwater quality.
 - c. In December 2005, Ecology received the final RI/FS report and confirmed that the scope of work associated with Agreed Order DE 04TCPSR-1160 was completed.
6. The Port purchased the Former ProLogis Property in 2007. The property was vacant until 2015, when the Port used it for temporary storage of new automobiles.
 7. In November 2016, the Port entered into a lease agreement with real estate developer Avenue 55, LLC (Avenue 55) for the purpose of redeveloping the Former ProLogis Property.
 8. In July 2017, the Port entered into Agreed Order DE 13921 to conduct an interim action in conjunction with Avenue 55's redevelopment of the Former ProLogis Property. The interim action consists of capping contaminated soil with asphalt pavement and/or warehouse buildings constructed during property redevelopment; abandonment of groundwater monitoring wells within the Interim Action Area; performance of a methane hazard assessment to evaluate the potential hazard to new buildings and structures at the site as a result of methane vapors; soil gas sampling; contingent design, installation, and testing of a methane and/or soil gas mitigation system (Vapor Mitigation System); contaminated soil handling and disposal; groundwater handling and disposal; stormwater management; clean fill stockpile management; and health and safety monitoring.

BB. Former Potter Property (APN 0321352063, located at 1801 Alexander Avenue):

1. This parcel was predominantly wetlands/marsh land until 1958, when the first two buildings were constructed in the northern portion of the parcel. An additional building was constructed in 1972. The exact dates of filling and grading at the property are unknown, but boring logs confirm that auto fluff and lime wastes were present.
2. In the 1960s, Educators Furniture and Supply and/or Educators Manufacturing Company operated at the parcel. Since the 1970s, various light manufacturing and truck trailer and container repair uses have occurred on the parcel.
3. In November 2000, BE constructed a 104-foot long trench on the parcel to recover light non-aqueous phase liquid (LNAPL) petroleum hydrocarbon contamination on the groundwater surface. This contamination originated from a historic waste oil pond on the adjacent BE Tacoma facility.
4. In 2008, the Port purchased the parcel from Potter.

CC. Hylebos Marsh (APNs 0321263045 and 0321352064):

These parcels comprise a wetlands/marsh and other undeveloped land that the Port purchased from the City of Tacoma in 2008. Historical observations indicate the parcels were used for periodic dumping and filling from approximately 1946 until at least 1991. Lime waste was observed in 1991 in surficial materials in the eastern portion of this area, and auto fluff is suspected to be locally present based on observations of rubber material in a 1991 boring log. A 1967 aerial photo shows a heavily used road running NE-SW across the parcels from Alexander Avenue, which was likely used for transporting lime waste and other fill materials to the Oline Landfill areas.

Site Investigations and Reports

DD. Remedial investigation activities have been performed for portions of the Site by BE (formerly known as Philip Services Corporation or PSC, and Stericycle), ProLogis, and Tacoma Pierce County Health Department (TPCHD). These investigations are documented in the following reports:

1. Philip Services Corporation, *Final Comprehensive RI Report, Philip Services Corporation Tacoma Facility*, January 21, 2005.
2. Floyd Snider, *ProLogis Taylor Way Property, Remedial Investigation, October 3, 2006*.
3. Tacoma Pierce County Health Department, *Site Hazard Assessment Report*, February 2002.
4. CRETE Consulting Inc., *Hylebos Marsh Property—Soil and Groundwater Data Report*, March 27, 2020 (*Ecology is currently reviewing this report as of April 30, 2020*).

EE. Additional relevant information is contained within the following documents:

1. Ecology and EPA, *Don Oline Landfill, CleanCare PLP Search Documentation, Volumes I and II*, October 12, 2001.
2. SAIC, Inc., *RCRA Facility Assessment PR/VSI Report, Chemical Processors, Inc., Northwest Processing, Inc., Sol-Pro, Inc., and Chemical Processors, Parcel A*, February 1990.
3. PTI Environmental Services, *Chempro Tacoma Facility, Potentially Liable Party Search*, December 1989.
4. GeoEngineers, *Data Summary and Conceptual Site Model, Taylor Way and Alexander Avenue Fill Site, Prepared for the Port of Tacoma*, July 1, 2008.
5. Amec Foster Wheeler, *Revised Soil Vapor Sampling, Stericycle Tacoma Facility, Tacoma, Washington*, July 26, 2016.

6. Woodward-Clyde, *Tacoma Cogeneration Project Phase 2 Site Assessment*, May 1991.

FF. The above information establishes that the Site's soil and/or groundwater are contaminated with total petroleum hydrocarbons (TPH), volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), polychlorinated biphenyls (PCBs), pesticides, and metals at concentrations that exceed MTCA cleanup standards. In addition, the Site's indoor air may contain concentrations of one or more VOCs that exceed cleanup levels, and methane concentrations represent a potential fire and/or explosion hazard for buildings and subsurface structures at the Site.

VI. ECOLOGY DETERMINATIONS

Ecology makes the following determinations, without any express or implied admissions of such determinations (and underlying facts) by the AO PLPs or any individual PLP (reserving all rights, defenses, claims, and positions regarding these matters).

A. Based upon all factors known to Ecology, a "release" or "threatened release" of "hazardous substance(s)" as defined in RCW 70A.305.020(32) and (13), respectively, has occurred at the Site.

B. Based upon credible evidence, Ecology issued a PLP status letter to David Bromley, the current and/or former President and Chief Executive Officer of Bromley-Marr, dated June 11, 2004, pursuant to RCW 70A.305.040, .020(26), and WAC 173-340-500. By letter dated July 27, 2004, Mr. Bromley voluntarily waived his rights to notice and comment and accepted Ecology's determination that he is a PLP under RCW 70A.305.040.

C. Based upon credible evidence, Ecology issued a PLP status letter to Occidental dated September 23, 2005, pursuant to RCW 70A.305.040, .020(26), and WAC 173-340-500. By letter dated November 17, 2005, Occidental voluntarily waived its rights to notice and comment and accepted Ecology's determination that Occidental is a PLP under RCW 70A.305.040.

D. Based upon credible evidence, Ecology issued a PLP status letter to General Metals dated September 23, 2005, pursuant to RCW 70A.305.040, .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 General Metals is a PLP under RCW 70A.305.040 and notified General Metals of this determination by letter dated November 19, 2007..

E. Based upon credible evidence, Ecology issued a PLP status letter to Donald Oline dated September 23, 2005, pursuant to RCW 70A.305.040, .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 Mr. Oline is a PLP under RCW 70A.305.040 and notified Mr. Oline of this determination by letter dated November 19, 2007. Mr. Oline passed away on February 22, 2012. Ecology issued a PLP status letter to the Oline Estate dated October 20, 2016. After providing for notice and opportunity for comment, and reviewing any comments submitted, by letter dated January 17, 2017, Ecology decided to defer making a final determination that the Oline Estate is a PLP for a release of hazardous substances at the Site.

F. Based upon credible evidence, Ecology issued a PLP status letter to the parent company of BE, Philip Services Corporation, dated October 5, 2006, pursuant to RCW 70A.305.040, .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 PSC is a PLP under RCW 70A.305.040 and notified PSC of this determination by letter dated November 19, 2007.

G. Based upon credible evidence, Ecology issued a PLP status letter to Potter Property LLC dated October 6, 2006, pursuant to RCW 70A.305.040, .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 Potter is a PLP under RCW 70A.305.040 and notified Potter of this determination by letter dated November 19, 2007.

H. Based upon credible evidence, Ecology issued a PLP status letter to the Port of Tacoma dated August 8, 2007, pursuant to RCW 70A.305.040, .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 70A.305.040 and notified the Port of this determination by letter dated November 19, 2007.

I. Based upon credible evidence, Ecology issued a PLP status letter to Stericycle Environmental Solutions Inc. dated October 6, 2016, pursuant to RCW 70A.305.040, .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 due to its acquisition of BE, Ecology issued a determination that Stericycle is a PLP under RCW 70A.305.040 and notified Stericycle of this determination by letter dated November 22, 2016.

J. Although Pierce County owns the CleanCare Parcels, the county is not a PLP pursuant to RCW 70A.305.020(22)(b)(i) because it is a unit of local government and acquired ownership of the parcels involuntarily as a result of tax delinquency.

K. Pursuant to RCW 70A.305.030(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.

L. 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. Any Party may propose an

interim action under this Order. If the Parties are in agreement concerning the interim action, the Parties will follow the process in Section VII.G. If the Parties are not in agreement, Ecology reserves its authority to require interim action(s) under a separate order or other enforcement action under RCW 70A.305, or to undertake the interim action itself.

VII. WORK TO BE PERFORMED

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

A. Historical Review and Data Gap Work Plan

The AO PLPs and the Port of Tacoma (EO PLP) have reviewed and compiled all relevant information about the Site contained in the prior remedial investigations and reports identified in Sections V.DD-V.FF, as well as any documentation about the associated facilities provided by Ecology to the AO PLPs. Based on that review and compilation, the AO PLPs prepared a plan to investigate and address all gaps in the available data. The Data Gap Work Plan (Exhibit B) shall be implemented according to the schedule set forth in Exhibit D. The objective of the Data Gap Work Plan is to complete a Remedial Investigation (RI) for the Site that meets the requirements contained in Chapters 173-340-350 and 173-340-360 WAC.

All sampling shall be done in accordance with the sampling and analysis plan (SAP) and the site-specific health and safety plan (HASP) included in the Data Gap Work Plan, and with Section VIII.E (Sampling, Data Submittal, and Availability) of this Order.

B. Groundwater Monitoring, Well Installation/Repair, and Surveying

The Groundwater Monitoring Plan (contained as an appendix within Exhibit B) shall be implemented according to the schedule set forth in Exhibits B and D.

In 2013, Ecology adopted NAVD88 as the agency's official vertical datum. Since then, Ecology's Environmental Information Management System (EIM) database has been modified to accept only NAVD88 referenced elevations, which in turn are used to calculate groundwater level elevations and depths below land surface from user input groundwater levels. Therefore, all new

and existing groundwater monitoring wells shall be surveyed to the NAVD88 vertical datum and all new groundwater monitoring and remedial investigation reports shall present only NAVD88 referenced elevations.

Groundwater monitoring reports shall be submitted according to the schedule set forth in Exhibit D.

C. Remedial Investigation/Feasibility Study (RI/FS) Report

According to the schedule set forth in Exhibit D, the AO PLPs will prepare and submit to Ecology for review and written approval an Agency Review Draft RI/FS Report (Report) that provides information fully documenting the nature and extent of contamination at the Site and otherwise meets the requirements of WAC 173-340-350. The Report shall present the results of the Data Gap Work Plan and summarize remedial investigation work previously performed at the Site by others (for example PSC, Floyd/Snider, and TPCHD). The Report shall describe the vertical and lateral distribution of contaminants in soil, soil vapor, and groundwater. The Report shall also use ASTM E2993-16, *Standard Guide for Evaluating Potential Hazard as a Result of Methane in the Vadose Zone*, to evaluate the potential hazard to new and existing buildings and structures at the site as a result of methane. Additionally, the Report shall include an analysis of potential remedial alternatives and recommendations regarding a preferred remedial action to be implemented.

Within ninety (90) calendar days of receipt of Ecology's written comments on the Report, the AO PLPs shall submit a Public Review Draft Report to Ecology for review and written approval. The Public Review Draft Report will become the Final Report following public comment and upon Ecology's written approval as follows:

1. Following public comment on the Public Review Draft Report, Ecology will notify the AO PLPs of any substantive changes that are required as a result of public comment.
2. If only minor, non-substantive changes need to be made following public comment, the AO PLPs shall submit the Final Report to Ecology for review and written

approval within thirty (30) days of receiving Ecology's written comments on the Public Review Draft Report.

3. In the event substantive changes to the Final Report are necessary following public comment, the AO PLPs shall submit the Final Report to Ecology for review and written approval within sixty (60) days of receiving Ecology's written comments on the Public Review Draft Report.
4. The revised Final Report will then become final upon Ecology's written approval.

D. Draft Cleanup Action Plan

According to the schedule set forth in Exhibit D, the AO PLPs shall prepare a preliminary draft Cleanup Action Plan (dCAP) in accordance with WAC 173-340-380, which shall detail the proposed cleanup action for addressing the contamination present on the Site, and shall address the requirements for developing a cleanup action in WAC 173-340-350 through -390, including Ecology's expectations for cleanup alternatives in WAC 173-340-370. The dCAP shall include a general description of the proposed cleanup action, cleanup standards from the RI/FS Report and a rationale regarding their selection, a proposed schedule for implementation, description of any institutional controls proposed, and a summary of federal, state, and local laws that are applicable to the proposed cleanup action.

E. If the AO PLPs 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 or groundwater, the AO 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 and sampling results) relating to the change in conditions.

F. Pursuant to WAC 173-340-840(5) and Ecology's Toxics Cleanup Program Policy 840 (Data Submittal Requirements), all data previously collected from investigations at the Site after August 1, 2005 shall be submitted to Ecology in electronic format. For additional information regarding electronic format requirements, see the website <http://www.ecy.wa.gov/eim>. Data

submittal requirements also apply to data collected during the RI/FS investigation and subsequent monitoring conducted under this Order (see Section VIII.E).

G. Exhibit B (Data Gap Work Plan) and Exhibit D (Schedule of Work and Deliverables) are integral and enforceable parts of this Order. All other plans or other deliverables submitted by the AO PLPs for Ecology's review and written approval under Exhibit D (Schedule of Work and Deliverables) shall, upon Ecology's written approval, become integral and enforceable parts of this Order.

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

I. If Ecology determines that the AO PLPs has failed to make sufficient progress or failed to implement the remedial action, in whole or in part, Ecology may, after thirty (30) days written advance notice to the AO PLPs, perform any or all portions of the remedial action or at Ecology's discretion allow the AO PLPs the opportunity to correct. In an emergency, Ecology is not required to provide notice to the AO PLPs, or an opportunity for dispute resolution. The AO PLPs shall reimburse Ecology for the costs of doing such work in accordance with Section VII.A (Remedial Action Costs). Ecology reserves the right to enforce requirements of this Order under Section X (Enforcement).

J. Except where necessary to abate an emergency situation or where required by law, the AO 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

concur, 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 AO PLPs must notify Ecology in writing of the event and the 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 AO 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 70A.305, including remedial actions and Order preparation, negotiation, oversight, and administration. These costs shall include work performed to issue this Order in draft form on October 31, 2016, as well as to finalize and implement this Order. These costs shall include Ecology's costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2). This will include Ecology's accumulated costs of \$84,952.05 in remedial costs associated with the Taylor Way and Alexander Ave Fill area as of December 31, 2019.

For Ecology costs incurred pursuant to this Order, AO PLPs (and the Port of Tacoma as required by Enforcement Order DE 19410) shall pay the amount of \$84,952.05 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. 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, Ecology has accumulated approximately \$352,302.05 in past remedial costs associated with this Site. Ecology is not seeking cost recovery at this time and will defer making a decision regarding payment of the remaining amount of \$352,302.05 until the negotiation of the next formal agreement for the Site.

In addition to other available relief, pursuant to RCW 19.16.500, Ecology may utilize a collection agency and/or, pursuant to RCW 70A.305.060, 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:

Steve Teel
Toxics Cleanup Program
Southwest Regional Office
P.O. Box 47775
Olympia, WA 98504-7775
(360) 407-6247

The project coordinator for the AO PLPs is:

Tasya Gray
Dalton, Olmsted & Fuglevand
1001 SW Klickitat Way, Suite 200B
Seattle, Washington 98134
Office: 206-502-1120
Cell: 206-375-0211

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

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

C. Performance

All geologic and hydrogeologic work performed pursuant to this Order shall be under the supervision and direction of a geologist or hydrogeologist licensed by the State of Washington or

under the direct supervision of an engineer registered by the State of Washington, except as otherwise provided for by RCW 18.43 and 18.220.

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

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

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

The AO 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

For activities conducted under this Order, Ecology or any Ecology authorized representative shall have access to enter and freely move about all property at the Site that any member of the AO PLPs 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 AO PLP'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 AO PLPs. Pursuant to Enforcement Order No. 19410 issued to the Port of Tacoma, the Port shall make all reasonable efforts to work with the AO PLPs and their representatives to allow access to properties owned by the Port of Tacoma where remedial activities or investigations will be performed pursuant to this Order. The AO PLPs shall make all reasonable efforts to secure access rights for those other

properties within the Site not owned or controlled by any member of the AO 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 a member of the AO PLPs unless an emergency prevents such notice. All persons who access the Site pursuant to this section shall comply with any applicable health and safety plan(s). Ecology employees and their representatives shall not be required to sign any liability release or waiver as a condition of Site property access.

E. Sampling, Data Submittal, and Availability

With respect to the implementation of this Order, the AO PLPs shall make the results of all sampling, laboratory reports, and/or test results generated by it or on its behalf pursuant to this Order 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. As a courtesy, preliminary data shall also be informally provided to Ecology via email as soon as it becomes available (prior to validation).

If requested by Ecology, the AO PLPs shall allow Ecology and/or its authorized representative to take split or duplicate samples of any samples collected by the AO PLPs pursuant to implementation of this Order. The AO PLPs shall notify Ecology seven (7) days in advance of any sample collection or work activity at the Site. Ecology shall, upon request, allow the AO 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 the AO PLPs prior to any sample collection activity unless an emergency prevents such notice.

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

F. Public Participation

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

Ecology shall maintain the responsibility for public participation at the Site. However, the AO 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 the AO 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/or local governments. For all press releases, fact sheets, meetings, and other outreach efforts by the AO PLPs that do not receive prior Ecology approval, the AO PLPs shall clearly indicate to its audience that the press release, fact sheet, meeting, or other outreach effort was not sponsored or endorsed by Ecology.

3. When requested by Ecology, participate in public presentations on the progress of the remedial action at the Site. Participation may be through attendance at public meetings to assist in answering questions or as a presenter.

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

- a. Tacoma Public Library
1102 Tacoma Avenue South
Tacoma, WA 98402
(253) 292-2001
- b. Ecology's Southwest Regional Office
300 Desmond Drive
Lacey, WA 98503
(360) 407-6045
- c. Citizens for a Healthy Bay
535 Dock Street, Suite 213
Tacoma, WA 98402
(253) 383-2429

At a minimum, copies of all public notices, fact sheets, and documents relating to public comment periods shall be promptly placed in these repositories. A copy of all documents related to this Site shall be maintained in the repository at Ecology's Southwest Regional Office in Lacey, Washington except for archived records which have been transferred to State Archives in Olympia, 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 AO PLPs shall preserve all records, reports, documents, and underlying data in its possession relevant to the implementation of this Order and shall insert a similar record retention requirement into all contracts with project contractors and subcontractors. Upon request of Ecology, the AO PLPs shall make all records available to Ecology and allow access for review within a reasonable time.

Nothing in this Order is intended to waive any right the AO PLPs (or a Party) may have under applicable law to limit disclosure of documents protected by the attorney work-product

privilege and/or the attorney-client privilege (including the joint defense-common interest privilege). If the AO PLPs (or a Party) withholds any requested records based on an assertion of privilege, the AO PLPs (or Party) 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 AO PLPs elects to invoke dispute resolution, the AO PLPs must utilize the procedure set forth below.

a. Upon the triggering event (receipt of Ecology's project coordinator's written decision or an itemized billing statement), the AO PLPs has thirty (30) 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 AO PLPs' position with regards to the dispute; Ecology's position with regards to the dispute; and the extent of resolution reached by informal discussion.

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

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

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

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

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

I. Extension of Schedule

1. The AO 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; and
- d. Any related deadline or schedule that would be affected if the extension were granted.

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

a. Circumstances beyond the reasonable control and despite the due diligence of the AO PLPs including delays caused by unrelated third parties or Ecology, such as (but not limited to) delays by Ecology in reviewing, approving, or modifying documents submitted by the AO PLPs;

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

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 AO PLPs.

3. Ecology shall act upon any written request for extension in a timely fashion. Ecology shall give the AO 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. 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; or

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 AO PLPs. Ecology will provide its 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 AO 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 the AO PLPs to cease such activities for such period of time as it deems necessary to abate the danger. The AO PLPs shall immediately comply with such direction.

In the event the AO PLPs 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 AO PLPs may cease such activities. The AO PLPs shall notify Ecology's project coordinator as soon as possible, but no later than twenty-four (24) hours after making such determination or ceasing such activities. Upon Ecology's direction, the AO PLPs shall provide Ecology with documentation of the basis for the determination or cessation of such activities. If Ecology disagrees with the AO PLP's cessation of activities, it may direct the AO PLPs to resume such activities.

If Ecology concurs with or orders a work stoppage pursuant to this section, the AO 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 70A.305. 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 AO PLPs (or a Party) 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 AO PLPs (or a Party) regarding remedial actions required by this Order, provided the AO PLPs complies with this Order.

Ecology nevertheless reserves its rights under RCW 70A.305, including the right to require additional or different remedial actions at the Site should it deem such actions necessary to protect human health and the environment, and to issue orders requiring such remedial actions. Ecology also reserves all rights regarding the injury to, destruction of, or loss of natural resources resulting from the release or threatened release of hazardous substances at the Site.

By entering into this Order, the AO PLPs (or a Party) does not admit to any liability for the Site. Although the AO PLPs is committing to conducting the work required by this Order under the terms of this Order, the AO PLPs (and each Party) 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 AO PLPs (or a Party) 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 AO PLPs' (or a Party's) transfer of any interest in all or any portion of the Site, and during the effective period of this Order, the AO PLPs (or Party) 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 AO PLPs (or Party) shall notify Ecology of said transfer. Upon transfer of any interest, the AO PLPs (or Party) 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 AO 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 70A.305.090. At this time, no federal, state, or local requirements have been identified as being applicable to the actions required by this Order. The AO PLPs 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, Ecology will document in writing if they are applicable to actions carried out pursuant to this Order and the AO PLPs must implement those requirements.

2. *Relevant and Appropriate Requirements.* All actions carried out by the AO 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, Ecology will document in writing if they are applicable to actions carried out pursuant to this Order and the AO PLPs must implement those requirements.

3. Pursuant to RCW 70A.305.090(1), the AO PLPs may be exempt from the procedural requirements of RCW 70A.15, 70A.205, 70A.300, 77.55, 90.48, and 90.58 and of any laws requiring or authorizing local government permits or approvals. However, the AO PLPs shall comply with the substantive requirements of such permits or approvals. For permits and approvals

covered under RCW 70A.305.090(1) which 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. The AO PLPs has a continuing obligation to determine whether additional permits or approvals addressed in RCW 70A.305.090(1) would otherwise be required for the remedial action under this Order. In the event either Ecology or the AO PLPs determines that additional permits or approvals addressed in RCW 70A.305.090(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 AO PLPs shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, the AO PLPs shall promptly consult with the appropriate state and/or local agencies and provide Ecology with written documentation from those agencies of the substantive requirements those agencies believe are applicable to the remedial action. Ecology shall make the final determination on the additional substantive requirements that must be met by the AO PLPs and on how the AO PLPs must meet those requirements. Ecology shall inform the AO PLPs in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. The AO PLPs shall not begin or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination.

Pursuant to RCW 70A.305.090(2), in the event Ecology determines that the exemption from complying with the procedural requirements of the laws referenced in RCW 70A.305.090(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 AO PLPs shall comply with both the procedural and substantive requirements of the laws referenced in RCW 70A.305.090(1), including any requirements to obtain permits or approvals.

O. Indemnification

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

IX. SATISFACTION OF ORDER

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

X. ENFORCEMENT

Pursuant to RCW 70A.305.050, 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 70A.305.070.


Effective date of this Order: December 4, 2020

GENERAL METALS OF TACOMA




Michael Henderson
President
1902 Marine View Drive
Tacoma, WA 98422

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

 FOR

Rebecca S. Lawson, P.E., LHG
Section Manager
Toxic Cleanup Program
Southwest Regional Office
(360) 407-6257

OCCIDENTAL CHEMICAL CORPORATION



Mike Anderson
Vice President, Occidental Chemical Corporation
5 Greenway Plaza, Suite 110
Houston, Texas 77046-0521

BURLINGTON ENVIRONMENTAL LLC

David Stanton, President
Burlington Environmental LLC
1701 East Alexander Avenue
Tacoma WA 98421

D. This Order is not appealable to the Washington Pollution Control Hearings Board.
This Order may be reviewed only as provided under RCW 70A.305.070.

Effective date of this Order: _____

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1902 Marine View Drive
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STATE OF WASHINGTON
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Rebecca S. Lawson, P.E., LHG
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Mike Anderson
Vice President, Occidental Chemical Corporation
5 Greenway Plaza, Suite 110
Houston, Texas 77046-0521

BURLINGTON ENVIRONMENTAL LLC



David Stanton, President
Burlington Environmental LLC
1701 East Alexander Avenue
Tacoma WA 98421

EXHIBIT A

SITE LOCATION DIAGRAM

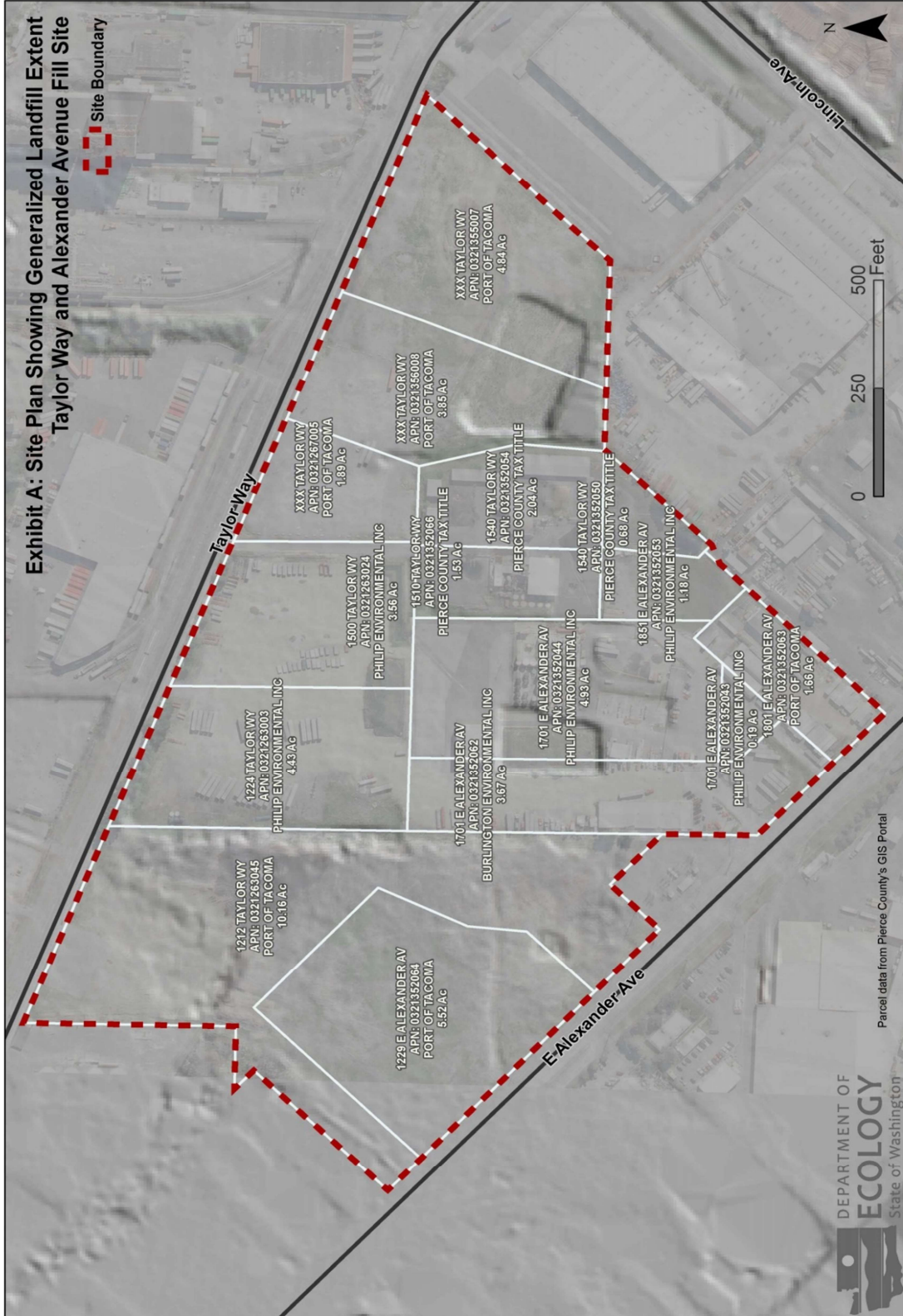


EXHIBIT B
DATA GAP WORK PLAN

Available at: <https://apps.ecology.wa.gov/gsp/CleanupSiteDocuments.aspx?csid=4692>

EXHIBIT C

SUMMARY TABLE:

**TAYLOR WAY AND ALEXANDER AVENUE FILL AREA SITE
PARCEL OWNERSHIP, ACTIVITIES, AND RELEASES**

EXHIBIT C. TAYLOR WAY AND ALEXANDER AVENUE FILL AREA PARCEL OWNERSHIP, ACTIVITIES, AND RELEASES.

Owner/Operator	Parcels (APNs)	Dates of Ownership or Operation	Activities	Releases	References
CleanCare Parcels					
Solidus/Clean Tech/CleanCare	0321352050	~1982-1999	Chemical and petroleum recycling	Lime-solvent sludge and dredge fill are present beneath this parcel. Improper handling and storage during CleanCare's operation resulted in a number of spills and leaks, with subsequent contamination of soils, stormwater, and groundwater. Ecology inspection reports for the facility noted lack of proper containment, leaking drums and tanks, and spills. Spills also occurred due to vandalism from metal thieves after CleanCare ceased operations in 1999. Petroleum contamination is present in soil and groundwater.	Dames & Moore (1982), EPA (1979), GeoEngineers (2008), Hart Crowser (1986), Landau (2006), Pierce County title records, PSC (2005), PTI (1989), SAIC (1990), TPCHD (2002, 2003), U.S. District Court documents.
Pierce County (tax title foreclosure)		2009-present	Abandoned industrial facility. No active use.		
Don Oline (owner)	0321352066 (Formerly 0321352052, 0321352802)	1969-1981	Filling of wetlands with waste materials. Oline operated an unpermitted landfill on this parcel during his ownership.	From 1961 to 1981, lime wastes, auto fluff, and Occidental lime-solvent sludges were disposed of on this parcel. Improper handling and storage during CleanCare's operation resulted in a number of spills and leaks, with subsequent contamination of soils, stormwater, and groundwater. Ecology inspection reports for the facility noted lack of proper containment, leaking drums and tanks, and spills. Spills also occurred due to vandalism from metal thieves after CleanCare ceased operations in 1999. Metals, petroleum hydrocarbons, chlorinated VOCs contamination is present in soil and groundwater. PCBs contamination is present in soil.	
Solidus Poligen Lilyblad Northwest Processing CleanCare		1981-1999	Tank farm constructed in 1975. Chemical and petroleum recycling beginning in the late 1970s to 1999.		
Pierce County (tax title foreclosure)		2009-present	Abandoned industrial facility. No active use.		
Mutual Fir Column Company	0321352054	1923 to ~1970-71	Lumber milling and planing.	In the 1950s, Mutual Fir Column Company discharged methylmercuric phosphate waste from their sump into a shallow bog near their plant. This bog is thought to have been located on what is now the PSC/Burlington facility. Wood waste and lime-solvent sludge are mapped as extending beneath this parcel. In April 2000, CleanCare Corporation pleaded guilty to two felony counts of violating the Clean Water Act. Improper handling and storage during CleanCare's operation resulted in a number of spills and leaks, with subsequent contamination of soils, stormwater, and groundwater. Ecology inspection reports for the facility noted lack of proper containment, leaking drums and tanks, and spills. Spills also occurred due to vandalism from metal thieves after CleanCare ceased operations in 1999. Metals, petroleum hydrocarbons, chlorinated VOCs contamination is present in soil and groundwater. PCBs contamination is present in soil.	
Lindal Cedar Homes		~1970-71 to 1982	Manufacturing of precut homes, cabins, and other buildings.		
Solidus Corporation		1982-1994	Storing, processing and recycling waste oil, waste antifreeze, used solvents, and other petroleum and hazardous substances.		
CleanTech, Inc.		1994-1995			
CleanCare Corporation		1995-1999			
Pierce County (tax title foreclosure)		2009-present	Abandoned industrial facility. No active use.		

EXHIBIT C. TAYLOR WAY AND ALEXANDER AVENUE FILL AREA PARCEL OWNERSHIP, ACTIVITIES, AND RELEASES.

Owner/Operator	Parcels (APNs)	Dates of Ownership or Operation	Activities	Releases	References
PSC Parcels					
Pierce County	0321352043	1926-1942	Unknown	Lime wastes and petroleum contamination are present in soils beneath this parcel. Light non-aqueous phase Liquid (LNAPL) petroleum hydrocarbons are also present in groundwater	PTI (1989), PSC (2005)
Port of Tacoma		1942-1962	Unknown		
Educators Manufacturing Company		1962-1969	Unknown		
Don and Alba Oline (owner)		1969-1980	Filling of wetlands with waste materials. Oline operated an unpermitted landfill on this parcel during his ownership.		
D. Gordon and Virginia Potter, Wallace and Edna Clark, and Emmerson and Lillian Potter (lessees)		1976-1980			
D. Gordon and Virginia Potter, Wallace and Edna Clark, and Emmerson and Lillian Potter (owners)		1980-1982	Unknown		
ChemPro/Burlington Environmental		1982-present	Waste oil handling and storage; chemical waste recycling		
Don and Alba Oline (owner)	0321352044	1965-1980	Filling of wetlands with waste materials. Oline operated an unpermitted landfill on this parcel during his ownership.	Wood wastes, General Metals auto fluff, Domtar Industries lime wastes, and Occidental lime-solvent sludge were disposed on this parcel while the Olines owned it. Soil constituents above screening levels include metals, petroleum hydrocarbons, chlorinated volatile organic compounds (VOCs), and polychlorinated biphenyls (PCBs). Groundwater constituents above screening levels include petroleum hydrocarbons, metals, and chlorinated VOCs.	PTI (1989), EPA 1979, PSC (2005), GeoEngineers (2008), SAIC (1990)
D. Gordon and Virginia Potter, Wallace and Edna Clark, and Emmerson and Lillian Potter (lessees)		1976-1980			
D. Gordon and Virginia Potter, Wallace and Edna Clark, and Emmerson and Lillian Potter (owners)		1980-1982	Unknown		
ChemPro/Burlington Environmental		1982-present	Waste oil handling and storage; chemical waste recycling		
Don Oline (owner)	0321352053 (Note: this parcel is shown as Area 1 on Hart Crowser (1986) Figure 1 and is also referred to as 'Parcel A' in historical documents).	1969-1981	Filling of wetlands with waste materials. Oline operated an unpermitted landfill on this parcel during his ownership.	Oline sequentially filled in wetland areas on the parcel and then leased filled-in areas to others. Between 1969 and 1975, dredge spoils, lime wastes, solvent lime waste, auto fluff, and gravel were deposited on the parcel. An oil holding pond was constructed in 1970 and was filled-in with General Metals auto fluff around 1975. "Considerable" amounts of oil dumped to the ground surface. Spills and leaks from the ChemPro chemical processing unit (predominantly chromic or nitric acid) occurred between 1978-81. Other materials that may also be spilled/leaked at the facility include cyanide sludges, solvent still bottoms, electroplating waste acids, phenols, chelating agents, and paint sludges. Ecology inspection reports from 1983 note other spills and releases. Soil constituents above screening levels include metals, petroleum hydrocarbons, and chlorinated VOCs. Groundwater constituents above screening levels include petroleum hydrocarbons, metals, and chlorinated VOCs.	PTI (1989), Hart Crowser (1986), SAIC (1990), PSC (2005), GeoEngineers (2008)
Solidus Corporation (owner)		1981-1992	Waste oil handling and storage; chemical waste recycling		
ChemPro/Philip Environmental Inc. (owner)		1992-present			
Lessees:					
Aero Oil (Acology Oil)		1970-1973	Oil storage/refining and waste oil recycling		
Puget Sound Industrial Petroleum		1973-1974			
ChemPro of Oregon		1974-1975	Waste oil handling and storage; chemical waste recycling		
ChemPro		1975-1986			
Poligen/Northwest Processing (easement only)	1977				

EXHIBIT C. TAYLOR WAY AND ALEXANDER AVENUE FILL AREA PARCEL OWNERSHIP, ACTIVITIES, AND RELEASES.

Owner/Operator	Parcels (APNs)	Dates of Ownership or Operation	Activities	Releases	References
Don and Alba Oline (owner)	0321352062 (Formerly 0321352002, 0321352041, and 0321356004)	1965-1980	Filling of wetlands with waste materials. Oline operated an unpermitted landfill on this parcel during his ownership.	Lime waste and/or lime-solvent sludge, auto fluff, and wood waste fill are present beneath this parcel. Soil constituents above screening levels include metals, petroleum hydrocarbons, and PCBs.	PTI (1989), PSC (2005), Floyd/Snider (2007a), GeoEngineers (2008).
D. Gordon and Virginia Potter, Wallace and Edna Clark, and Emmerson and Lillian Potter (lessees)		1980-1982	Unknown		
ChemPro/Burlington Environmental Inc.		1982-present	Waste oil handling and storage; chemical waste recycling, various light manufacturing uses and truck trailer and container repair.		
Various wood manufacturing (including Simpson, Mutual Fir Column Company, Shaffer Box Company, and Kanaskat Lumber and Shingle Company)	0321263003, 0321263024	1920s to mid-1940s	Storage of various materials.	Lime waste fill is present beneath the southern portion of these parcels. Auto fluff fill is present beneath much of these parcels. Wood waste fill is present throughout almost the entire portion of the these parcels. Soil constituents above screening levels include metals, petroleum hydrocarbons, and PCBs.	PSC (2005), Floyd/Snider (2007a).
Tacoma Powdered Metals		late 1940s	1940s to 1980s: aerial photos and historical topographic maps show various grading, filling, and excavation activities. Some of the filling activities occurred during the Oline's ownership. The property was also used for storage of various materials. For example, the 1950 Sanborn Fire Insurance Map shows a large hog fuel pile in the NW corner of the property.		
Buffelen Manufacturing Company		1950s			
Educators Manufacturing Company		1960s			
Don and Alba Oline		1969-1975			
D. Gordon and Virginia Potter, Wallace and Edna Clark, and Emmerson and Lillian Potter (owners)		1975-1982?	Storage and repair of truck trailers and/or containers.		
Freeway Containers (current operator)		mid-1980s to present	See above.		
ChemPro/Philip Environmental Inc. (owner)	1982-present				

EXHIBIT C. TAYLOR WAY AND ALEXANDER AVENUE FILL AREA PARCEL OWNERSHIP, ACTIVITIES, AND RELEASES.

Owner/Operator	Parcels (APNs)	Dates of Ownership or Operation	Activities	Releases	References
Port of Tacoma Parcels					
Mutual Fir Column Company and/or Buffelen Lumber & Manufacturing	0321356008, 0321267005, 0321355007	Mid-late 1920s to 1974	Lumber milling and planing. Lindal Cedar Homes leased portions of the property for manufactured homes construction from 1975-1983. Brazier Lumber also leased a portion of the parcels from 1984-85.	Originally, the area comprising the parcels consisted of undisturbed tideflats. Filling of the Tacoma Tideflats began in the 1920s. By 1936, the northeastern portion of these parcels was developed with several manufacturing buildings, one of which was physically connected to the larger Buffelen facility (located across Taylor Way), via an elevated conveyor structure. The southern portion of the parcels remained undeveloped tidal marsh until the late 1960s when the last remnant of the original tidal marsh was replaced by a large ponded area as a consequence of filling adjacent properties and isolation of the marsh waters. By 1974, the pond had been filled as it was no longer visible in historical aerial photos from this period. Materials encountered in test pits during the ProLogis Remedial Investigation included wood debris, lumber fragments, plastic, bricks, rubber hoses, scrap metal, glass, construction debris, and auto parts. Lime waste was also confirmed in two areas. Results from soil samples confirm that petroleum hydrocarbons, metals, semi-volatile organic compounds (SVOCs), and metals exceed screening levels at selected locations. In groundwater, SVOCs and metals exceeded screening levels.	PSC (2005), Floyd Snider (2006, 2007b)
AOL Express		1982-1989	Warehousing.		
ProLogis Development Services		1989-2007			
Port of Tacoma		2007-present	Demolished former lumber facility. Subdivided parcels. Planning for future development. Temporary storage of new cars (2015-16).		
Educators Furniture and Supply Educators Manufacturing Company	0321352063	1963-71	The parcel was predominantly marsh lands up until the late 1950s. Initial development occurred in 1958 when the first two buildings were constructed in the northern portion of the parcel. Based on the presence of lime waste and auto fluff and aerial photo review, this parcel was included in the Don Oline unpermitted landfill.	Auto fluff and/or lime waste were observed in borings GP-31 and GP-17. Metals and petroleum hydrocarbons exceed MTCA soil screening levels in selected sampling locations. LNAPL petroleum hydrocarbons are also present in groundwater.	PSC (2005), Floyd Snider (2007c)
Protective Packaging		1973-75	1973 to present: various light manufacturing uses and truck trailer and container repair.		
Burns International Security		1976-79			
Unico Industrial Services		1977-86			
North Coast Custom Boat Makers		1987-89			
Vacant		1990-95			
Handan Container Services		1996-present			
Potter Property LLC (owner)		?-2008			
Port of Tacoma (owner)		2008-present			
City of Tacoma	0321263045, 0321352064	?-2008		Wetlands/marsh area that was historically used for periodic dumping and landfilling from 1946 until at least 1991.	The eastern portion of this area is included on maps showing the extent of Don Oline landfill lime waste, auto fluff, and wood waste. A 1967 aerial photo shows a heavily used road running NE-SW across the parcels from Alexander Avenue that was apparently used for dumping lime waste.
Port of Tacoma		2008-present	Vacant industrial land.		

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GeoEngineers. 2008. *Data Summary and Conceptual Site Model, Taylor Way and Alexander Avenue Fill Site*, prepared for the Port of Tacoma, July 1.

Hart Crowser & Associates. 1986. *Preliminary Assessment, Past Practices in the Vicinity of the Poligen Facility, Port of Tacoma, Washington*, May 1; in: PTI (1989).

Landau Associates. 2006. *Phase I Environmental Site Assessment, CleanCare Property, Tacoma, Washington*, May 18.

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SAIC, Inc. 1990. *RCRA Facility Assessment PR/VSI Report, Chemical Processors, Inc., Northwest Processing, Inc., Sol-Pro, Inc., and Chemical Processors, Parcel A*, February.

Tacoma-Pierce County Health Department (TPCHD). 2002. *Source Protection Programs/Site Hazard Assessment - CleanCare Corporation*, February 26.

TPCHD. 2003. *Memorandum Re: CleanCare*, June 30.

EXHIBIT C. TAYLOR WAY AND ALEXANDER AVENUE FILL AREA PARCEL OWNERSHIP, ACTIVITIES, AND RELEASES.

Owner/Operator	Parcels (APNs)	Dates of Ownership or Operation	Activities	Releases	References
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U.S. Environmental Protection Agency (EPA), Region X. 1979. *Inspection Report from the Hooker Chemical Inspection, July 19, in: Don Oline Landfill, CleanCare PLP Search Documentation, Volume I.*

Woodward-Clyde. 1991. *Tacoma Cogeneration Project Phase 2 Site Assessment.* May.

EXHIBIT D

SCHEDULE OF WORK AND DELIVERABLES

Deliverable/Task	Schedule
<u>Data Gap Work Plan Implementation</u>	Begins within 30 days of the effective date of this Order.
<u>Groundwater Monitoring Plan Implementation</u>	Begins within 30 days of the effective date of this Order.
<u>Initial Reporting Tasks Field Inspection</u>	Completed within 30 days of the effective date of this Order.
<u>Initial Reporting Tasks:</u> <ol style="list-style-type: none"> 1. Aboveground Site Conditions memorandum 2. Existing Groundwater Monitoring Network Evaluation and Recommendations memorandum 3. Soil Vapor Intrusion Status and Recommendations memorandum 	Tasks 1 and 2 shall be submitted to Ecology within 30 days of the initial reporting tasks field inspection. Task 3 shall be submitted within 60 days of the initial field tasks field inspection. Ecology's comments shall be incorporated, and a revised plan/memo shall be submitted to Ecology within 30 days of the date of Ecology's comment letter.
<u>Soil and Groundwater Data Report</u>	Submitted to Ecology within 60 days of receipt of validated data.
<u>Submittal of data from previous investigations (August 1, 2005 to the effective date of this Order) to Ecology's Environmental Information Management System (EIM)</u>	Submitted to Ecology within 1 year of the effective date of this Order.
<u>Data Gap Work Plan, Stage 2 Field Tasks</u>	See schedule provided in the Existing Groundwater Monitoring Network Evaluation memorandum and/or the Soil and Groundwater Data Report
<u>Data Gap Work Plan, Stage 2 Reporting Tasks:</u> <ol style="list-style-type: none"> 1. <u>Groundwater Monitoring Network Revision Summary memorandum</u> 2. <u>Revised Groundwater Monitoring Plan</u> 	Task 1 shall be submitted to Ecology within 30 days after Stage 2 field tasks are completed. Task 2 shall be submitted to Ecology within 60 days after Stage 2 field tasks are completed.

<u>Indoor Air Assessment Protocol</u>	Submitted to Ecology within 60 days following the submittal of the <u>Groundwater Monitoring Network Revision Summary memorandum to Ecology</u> .
<u>Submittal of data collected under this Order in electronic format to EIM</u>	Submitted to Ecology within 30 days of receipt of validated sample results and no later than 120 days from the date of sampling.
<u>Agency Review Draft RI/FS Report</u>	Submitted to Ecology within 120 days of completion of field activities or within 90 days of receipt of laboratory data
<u>Public Review Draft RI/FS Report</u>	Submitted to Ecology as provided in Section VII(C) of this Order.
<u>Preliminary Draft Cleanup Action Plan</u>	Submitted for Ecology review within 90 days of Ecology's acceptance of the Public Review Draft RI/FS Report. Ecology's comments shall be incorporated, and revised plan shall be submitted to Ecology within 30 days of the date of Ecology's comment letter on the plan.
<u>Installation of Additional Groundwater Monitoring Wells and Well Decommissioning</u>	Begins within 45 days of AO PLP's receipt of a written request by Ecology.
<u>Groundwater Monitoring Reports</u>	Submitted to Ecology following each groundwater monitoring event, within 30 days of receipt of validated groundwater sample results and no later than 90 days from the date of sampling.