

**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

In the Matter of Remedial Action by:

AGREED ORDER

STONE WAY APARTMENTS LLC

No. DE 19432

CHEVRON ENVIRONMENTAL  
MANAGEMENT COMPANY, as  
Attorney-in-Fact for CHEVRON  
U.S.A. INC.<sup>1</sup>

TO: STONE WAY APARTMENTS LLC  
C/O BELLWETHER HOUSING  
1651 BELLEVUE AVENUE  
SEATTLE, WA 98122

MR. TIMOTHY L. BISHOP  
CHEVRON ENVIRONMENTAL MANAGEMENT COMPANY  
DOWNSTREAM BUSINESS UNIT  
6001 BOLLINGER CANYON ROAD  
SAN RAMON, CA 94583

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

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## **I. INTRODUCTION**

The mutual objective of the State of Washington, Department of Ecology (Ecology) and Stone Way Apartments LLC (Stone Way), and Chevron Environmental Management Company, a California corporation, (CEMC) as attorney-in-fact for Chevron U.S.A. Inc., a Pennsylvania corporation (CUSA), under this Agreed Order (Order) is to enable a cleanup action to be selected for a facility where there has been a release or threatened release of hazardous substances. This Order requires Stone Way and CEMC (collectively, the PLPs) to complete a Site Remedial Investigation (RI) and a Feasibility Study (FS), to conduct an interim action(s), if necessary, and to prepare a preliminary draft Cleanup Action Plan (dCAP) for a facility, generally located at 1215 N. 45th Street in Seattle, Washington, known as Chevron 209335. Ecology believes the actions required by this Order are in the public interest.

## **II. JURISDICTION**

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

## **III. PARTIES BOUND**

This Order shall apply to and be binding upon the parties to this Order, their successors and assignees. The undersigned representative of each party hereby certifies that he or she is fully authorized to enter into this Order and to execute and legally bind such party to comply with this Order. The PLPs agree to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter the responsibility of the PLPs under this Order except as agreed by Ecology in writing. Stone Way and CEMC shall provide a copy of this Order to all agents, contractors, and subcontractors retained to perform work required by this

Order, and shall ensure that all work undertaken by such agents, contractors, and subcontractors complies with this Order.

#### IV. DEFINITIONS

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

A. Site: The Site is generally located at 1215 N. 45th Street, Seattle, WA 98103, and is referred to as Chevron 209335. The Site is defined by the extent of contamination caused by the release of hazardous substances at the Site. Based upon factors currently known to Ecology, the estimated lateral extent of the Site is depicted in the Site Location Diagram (Exhibit A). The Site constitutes a facility under RCW 70A.305.020(8). The Site will be better defined once the RI has been completed and approved by Ecology.

B. Property: The Property is located south of North 45th Street, between Midvale Avenue North and Stone Way North in the Wallingford neighborhood of Seattle. The Property is currently owned by Stone Way and used as a mixed use, low-income residential building. The Property is identified in the property records of King County as Tax Parcels No. 782120-0275-06 and 782120-0255-00. The Property is located within the Site.

C. Parties: Refers to Ecology, Stone Way, and CEMC.

D. Potentially Liable Persons (PLPs): Refers to Stone Way and CEMC.

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. The terms “Agreed Order” or “Order” shall include all exhibits to this Order.

## V. FINDINGS OF FACT

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

A. A gasoline service station operated at the Property from at least 1935. Standard Oil Company (Standard), a corporate predecessor of CUSA, purchased the Property in 1954. Chevron Station No. 209335 operated at the Property until 1969, when the service station building and service garage were removed.

B. Standard sold the Property in 1978 to Seattle Housing Authority (SHA). SHA subsequently sold the Property to Housing Resources Group (HRG) in 2005. HRG immediately conveyed the Property to Stone Way. The Property has since been developed into the Stone Way Apartments, a four-story, mixed-use retail/residential building with an underground parking garage (Apartment Building). The Apartment Building covers the footprint of the former service station.

C. Soil and groundwater sampling performed at the Site in 1999 showed concentrations of gasoline range petroleum hydrocarbons (TPH-g), diesel range petroleum hydrocarbons (TPH-d), and benzene, toluene, ethylbenzene, and xylenes (BTEX) above MTCA Method A cleanup levels. Light non-aqueous phase liquids (LNAPL) were observed in three Site monitoring wells intermittently between 2001 until 2005.

D. An interim action was performed at the Site in 2006 in conjunction with construction of the Apartment Building. The interim action was conducted as an independent remedial action. The interim action consisted of excavation and removal of contaminated and impacted soils, including LNAPL-saturated soils, an evaluation of the potential for contaminated vapors to intrude into the Apartment Building, decommissioning of five existing monitoring wells,

installation of three new monitoring wells under the garage of the Apartment Building (MW-6, MW-7, and MW-8), and installation of two new monitoring wells to the east of the Property across Stone Way North (MW-9 and MW-10).

E. MW-7 is located beneath the former service station pump island. LNAPL were observed in MW-7 intermittently between 2009 and 2016. The most recent groundwater monitoring event was performed on May 17, 2018, and documented 12,000 milligrams/liter (mg/L) diesel, 140,000 mg/L gasoline, 1,200 mg/L ethylbenzene, 8,700 mg/L xylenes, and 78.8 mg/L lead in monitoring well MW-7.

F. The concentrations of diesel, gasoline, ethylbenzene, xylenes, and lead detected in MW-7 exceed MTCA Method A cleanup levels for groundwater applicable to these contaminants. These contaminants are hazardous substances under WAC 173-340-200, and may pose a threat to human health and the environment.

## **VI. ECOLOGY DETERMINATIONS**

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

A. Based upon all factors known to Ecology, CUSA, as a corporate successor to Standard, was an “owner or operator” as defined in RCW 70A.305.020(22) of a “facility” as defined in RCW 70A.305.020(8) at the time of disposal or release of the hazardous substances.

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

C. Based upon credible evidence, Ecology issued a PLP status letter to CUSA dated October 1, 2015, pursuant to RCW 70A.305.040-.020(26), and WAC 173-340-500. As attorney-

in-fact for CUSA and without admitting liability for itself or CUSA, CEMC accepted PLP status on behalf of CUSA and the CUSA predecessors alleged to have either owned or operated the service station at the Site. 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 CEMC is a PLP under RCW 70A.305.040 and notified CEMC of this determination by letter dated May 23, 2017. This voluntary acceptance of PLP status by CEMC does not settle or limit any potential liability CUSA may have to the State of Washington. Ecology reserves its right to issue a final determination to CUSA at a future time.

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

E. Stone Way is an "owner or operator" as defined in RCW 70A.305.020(22) of a "facility" as defined in RCW 70A.305.020(8).

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

G. Based upon credible evidence, Ecology issued a PLP status letter to Stone Way dated February 8, 2017, 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 Stone Way is a PLP under RCW 70A.305.040 and notified Stone Way of this determination by letter dated May 2, 2017.

H. 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.

I. 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, 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.E (Work to be Performed). 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 PLPs take the following remedial actions at the Site. These remedial actions must be conducted in accordance with WAC 173-340 unless specifically provided for herein:

A. The PLPs shall prepare a Work Plan to conduct a RI. After approval of the RI Work Plan by Ecology, the PLPs shall implement the RI Work Plan and complete the RI in accordance



with the requirements of WAC 173-340-350. The PLPs shall conduct a FS according to the requirements of WAC 173-340-350(8); the FS shall include a reasonable number and type of cleanup alternatives for the cleanup action at the Site. The PLPs shall provide Ecology with an Agency Review Draft RI Report and an Agency Review Draft FS Report. These reports may be submitted together as an Agency Review Draft RI/FS Report. After Ecology has approved the draft RI Report and FS Report (either as separate documents or a combined RI/FS Report) as Public Review Drafts, the PLPs will prepare a preliminary dCAP. These deliverables will be prepared in accordance with Exhibit B (Scope of Work), which is incorporated by reference as an enforceable part of this Order.

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

C. The PLPs shall submit to Ecology written quarterly progress reports that describe the actions taken during the previous quarter to implement the requirements of this Order. Progress reports shall be submitted to Ecology until satisfaction of this Order in accordance with Section IX (Satisfaction of Order). Progress reports shall be submitted to the Ecology project coordinator by the fifteenth (15th) of the month following the reporting period. If this day is a weekend or holiday, deliverables will be submitted to Ecology on the next business day. At a minimum, progress reports shall contain the following information regarding the preceding reporting period:

1. A list of on-site activities that have taken place during the quarter.
2. Detailed description of any deviations from required tasks not otherwise documented in project plans or amendment requests.

3. Description of all deviations from the Scope of Work (Exhibit B) and Schedule of Deliverables (Exhibit C) during the current quarter and any planned deviations in the upcoming quarter.

4. For any deviations in schedule, a plan for recovering lost time and maintaining compliance with the schedule.

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

6. Summaries of problems or anticipated problems in meeting the schedule or objectives set forth in the Scope of Work and Work Plan.

7. Summaries of solutions developed and implemented or planned to address any actual or anticipated problems or delays.

8. Changes in key personnel.

9. Summaries of sampling and testing reports and other data reports received by the PLPs to include all raw data (including laboratory analyses) received by the PLPs during the past quarter and an identification of the source of the sample.

10. A description of work planned for the next reporting period.

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

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

E. If the Parties agree to perform an interim action under Section VI.H (Ecology Determinations), the PLPs shall prepare and submit to Ecology an Interim Action Work Plan,

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

F. If Ecology determines that the PLPs have failed to make sufficient progress or failed to implement the remedial action, in whole or in part, Ecology may, after notice to the PLPs, perform any or all portions of the remedial action, or at Ecology's discretion, allow the PLPs the opportunity to correct. The PLPs shall reimburse Ecology for the costs of doing such work in accordance with Section VIII.A (Payment of Remedial Action Costs). Ecology reserves the right to enforce requirements of this Order under Section X (Enforcement).

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

## **VIII. TERMS AND CONDITIONS**

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

The PLPs shall pay to Ecology costs incurred by Ecology pursuant to this Order and consistent with WAC 173-340-550(2). These costs shall include work performed by Ecology or its contractors for, or on, the Site under RCW 70A.305, 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 \$14,090.05 in remedial action costs related to this Site as of June 30, 2020. For all Ecology costs incurred, the PLPs shall pay the required amount within thirty (30) days after 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 after 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 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:

Dale Myers  
Washington Department of Ecology  
Northwest Regional Office  
Toxics Cleanup Program  
3190 160th Avenue SE  
Bellevue, WA 98008  
425-649-4446  
dale.myers@ecy.wa.gov

The project coordinator for the PLPs is:

Mr. Timothy L. Bishop  
Chevron Environmental Management Company  
6001 Bollinger Canyon Road  
San Ramon, CA 94583  
925-842-4508  
TimBishop@chevron.com

Each project coordinator shall be responsible for overseeing the implementation of this Order. Ecology's project coordinator will be Ecology's designated representative for the Site. To the maximum extent possible, communications between Ecology and the PLPs, and all documents, including reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order shall be directed through the project coordinators. The project coordinators may designate, in writing, working level staff contacts for all or portions of the work to be performed pursuant to 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 RCW 18.220.

The PLPs shall notify Ecology in writing of the identity of any engineer(s) and geologist(s), contractor(s) and subcontractor(s), and others to be used in carrying out the terms of this Order, in advance of their involvement at the Site.

D. Access

Ecology or any Ecology authorized representative shall have access to enter and freely move about all property at the Site that the PLPs either own, control, or have access rights to at all reasonable times, subject to applicable landlord/tenant laws, for the purposes of, *inter alia*: inspecting records, operation logs, and contracts related to the work being performed pursuant to this Order; reviewing the PLPs' progress in carrying out the terms of this Order; conducting such tests or collecting such samples as Ecology may deem necessary; using a camera, sound recording, or other documentary type equipment to record work done pursuant to this Order; and verifying the data submitted to Ecology by the PLPs. The PLPs shall make all reasonable efforts to secure access rights for those properties within the Site not owned or controlled by the PLPs where remedial activities or investigations will be performed pursuant to this Order. Ecology or any Ecology authorized representative shall give reasonable notice before entering any property owned or controlled by the PLPs unless an emergency prevents such notice. All persons who access the Site pursuant to this Section shall comply with any applicable health and safety plan(s) and applicable landlord/tenant laws. Ecology employees and their representatives shall not be required to sign any liability release or waiver as a condition of access to property within the Site.

E. Sampling, Data Submittal, and Availability

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

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

Environmental data validation must be performed using Ecology's TCP Data Validation and Sampling Analysis Plan (SAP)/Quality Assurance Project Plan (QAAP) for data validation for all Formal Cleanup Sites (Ecology, September 23, 2016). Data validation shall be performed at Quality Assurance Level 2 (EAP2) with Third Party Data Validation.

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 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, RI/FS 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 with the public and/or local governments related to remedial action work to be performed at the Site. Likewise, Ecology shall notify the PLPs prior to the issuance of all press releases and fact sheets related to the Site, and before meetings with the public and local governments related to the Site. For all press releases, fact sheets, meetings, and other outreach efforts by the PLPs that do not receive prior Ecology approval, the PLPs shall clearly indicate to their 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 an information repository to be located at the following location:

Ecology's Northwest Regional Office  
3190 160th Avenue SE  
Bellevue, WA 98008-5452



At a minimum, copies of all public notices, fact sheets, and documents relating to public comment periods shall be promptly placed in and maintained in the repository.

G. Retention of Records

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

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

H. Resolution of Disputes

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

a. Upon the triggering event (e.g., receipt of Ecology's project coordinator's written decision or an itemized billing statement), the PLPs have fourteen (14) calendar days within which to notify Ecology's project coordinator in writing of the 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 after Ecology receives the Informal Dispute Notice. If the project coordinators cannot resolve the dispute within those fourteen (14) calendar days, then within seven (7) calendar days, Ecology's project coordinator shall issue a written decision (Informal Dispute Decision) stating: the nature of the dispute; the PLPs' position with regard to the dispute; Ecology's position with regard to the dispute; and the extent of resolution reached by informal discussion.

c. The PLPs may then request regional management review of the dispute. This request (Formal Dispute Notice) must be submitted in writing to the Northwest Region Toxics Cleanup Section Manager within seven (7) calendar days after the PLPs receive Ecology's Informal Dispute Decision. The Formal Dispute Notice shall include a written statement setting forth: the nature of the dispute; the PLPs' position with respect to the dispute; and the information relied upon to support their 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 after Ecology receives 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.F (Work to be Performed) or initiating enforcement under Section X (Enforcement).

I. Extension of Schedule

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

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

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

- a. Circumstances beyond the reasonable control and despite the due diligence of the PLPs 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 PLPs.

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

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

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

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

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

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 after 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 PLPs. Ecology will provide its written consent to a formal amendment only after public notice and opportunity to comment on the formal amendment.

When requesting a change to this Order, the 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 this 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 PLPs to cease such activities for such period of time as it deems necessary to abate the danger. The PLPs shall immediately comply with such direction.

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

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

If Ecology concurs with or orders a work stoppage pursuant to this Section, the PLPs' obligations with respect to the ceased activities shall be suspended until Ecology determines the danger is abated, and the time for performance of such activities, as well as the time for any other work dependent upon such activities, shall be extended in accordance with Section VIII.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 PLPs to recover remedial action costs paid to and received by Ecology under this Order. In addition, Ecology will not take enforcement actions against the PLPs regarding remedial actions required by this Order, provided the PLPs comply 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 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 PLPs do not admit to any liability for the Site. Although the PLPs are committing to perform the work required by this Order under its terms, the PLPs expressly reserve all rights available under the 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

During the effective period of this Order, no voluntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Site shall be consummated by the PLPs without provision for continued implementation of all requirements of this Order and implementation of any remedial actions found to be necessary as a result of this Order.

Prior to the PLPs' transfer of any property interest in all or any portion of the Site, and during the effective period of this Order, the PLPs shall provide a copy of this Order to any prospective purchaser, transferee, assignee, or other successor in said interest; and, at least thirty (30) days prior to any transfer, the PLPs shall notify Ecology of said transfer. Upon transfer of any such interest, the PLPs shall notify all transferees of the restrictions on the activities and uses of the property subject to this Order and incorporate any such use restrictions into the transfer documents.

N. Compliance with Applicable Laws

Ecology makes the final determination on whether applicable permit or substantive requirements are "legally applicable" or "relevant and appropriate" under WAC 173-340-710(2).

1. All actions carried out by the PLPs pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements, including requirements to obtain necessary permits 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 PLPs have a continuing obligation to identify additional applicable federal, state, and local requirements which apply to actions carried out pursuant to this Order, and to comply with those requirements. As additional federal, state, and local requirements are identified by Ecology or the PLPs, Ecology will document in writing if they are applicable to actions carried out pursuant to this Order, and the PLPs must implement those requirements.

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

3. Pursuant to RCW 70A.305.090(1), the PLPs may be exempt from the procedural requirements of RCW 70.94, 70.95, 70.105, 77.55, 90.48, and 90.58 and of any laws requiring or authorizing local government permits or approvals. However, the PLPs shall comply with the substantive requirements of such permits or approvals. For permits and approvals covered under RCW 70A.305.090(1) that are issued by local governments, the PLPs 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 PLPs have 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 PLPs determine that additional



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

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 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 PLPs agree to indemnify and save and hold the State of Washington, its employees, and agents harmless from any and all claims or causes of action (1) for death or injuries to persons, or (2) for loss or damage to property, to the extent arising from or on account of acts or omissions of the PLPs, their officers, members, employees, agents, or contractors in entering into and

implementing this Order. However, the PLPs shall not indemnify the State of Washington nor save nor hold its employees and agents harmless from any claims or causes of action to the extent arising out of the negligent acts or omissions of the State of Washington, or the employees or agents of the State, in entering into or implementing this Order.

#### **IX. SATISFACTION OF ORDER**

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

**STONE WAY APARTMENTS LLC**

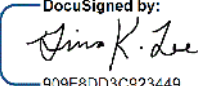
By: Bellwether Housing,  
a Washington nonprofit corporation,  
its Managing Member

\_\_\_\_\_  
CHERYL DEBOISE  
CHIEF OPERATING OFFICER  
433 MINOR AVENUE NORTH  
SEATTLE, WA 98109

**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

\_\_\_\_\_  
ROBERT W. WARREN  
SECTION MANAGER  
TOXICS CLEANUP PROGRAM  
NORTHWEST REGIONAL OFFICE  
3190 160TH AVENUE SE  
BELLEVUE, WA 98008  
TELEPHONE: 425-649-7054

**CHEVRON ENVIRONMENTAL  
MANAGEMENT COMPANY,**  
a California corporation, as Attorney-in-Fact for  
Chevron U.S.A. Inc., a Pennsylvania corporation

DocuSigned by:  
  
909F8DD3C923449...  
Name: Gina K. Lee  
Title: Assistant Secretary  
6001 BOLLINGER CANYON ROAD  
SAN RAMON, CA 94583  
2020-Oct-20 | 4:51 PM PDT

Effective date of this Order: February 2, 2021

**STONE WAY APARTMENTS LLC**

By: Bellwether Housing,  
a Washington nonprofit corporation,  
its Managing Member

*Cheryl DeBoise*

\_\_\_\_\_  
CHERYL DEBOISE  
CHIEF OPERATING OFFICER  
433 MINOR AVENUE NORTH  
SEATTLE, WA 98109

**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

*Robert W. Warren*

\_\_\_\_\_  
ROBERT W. WARREN  
SECTION MANAGER  
TOXICS CLEANUP PROGRAM  
NORTHWEST REGIONAL OFFICE  
3190 160TH AVENUE SE  
BELLEVUE, WA 98008  
TELEPHONE: 425-649-7054

**CHEVRON ENVIRONMENTAL  
MANAGEMENT COMPANY,**  
a California corporation, as Attorney-in-Fact for  
Chevron U.S.A. Inc., a Pennsylvania corporation

\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
6001 BOLLINGER CANYON ROAD  
SAN RAMON, CA 94583

**EXHIBIT A – SITE LOCATION DIAGRAM**  
**Site: Chevron 209335**  
**1215 N 45<sup>th</sup> Street, Seattle, WA**



**EXHIBIT B – SCOPE OF WORK (SOW)**  
**Site: Chevron 209335**  
**1215 N 45<sup>th</sup> Street, Seattle, WA**

**PURPOSE**

The work under this Agreed Order (AO) involves conducting a Remedial Investigation (RI) and Feasibility Study (FS), and preparing a preliminary draft Cleanup Action Plan (dCAP) for the site generally located at 1215 N 45th Street in Seattle, Washington (the Site). The purpose of the RI/FS and preliminary dCAP is to provide sufficient data, analysis, and evaluations to enable the Washington State Department of Ecology (Ecology) to select a final cleanup alternative for the Site. One or more interim actions may also be necessary at the Site.

The Potentially Liable Persons (PLPs) will coordinate with Ecology throughout the work under this AO, and will keep Ecology informed of any changes, issues, or problems as they develop.

The SOW is divided into eight major tasks as follows:

- Task 1. Remedial Investigation Work Plan
- Task 2. Interim Action(s)
- Task 3. Remedial Investigation
- Task 4. Feasibility Study
- Task 5. SEPA Compliance
- Task 6. Public Participation
- Task 7. Preliminary dCAP
- Task 8. Progress Reports

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

- Remedial Investigation Report Checklist
- Feasibility Study Report Checklist
- Cleanup Action Plan Checklist

The PLPs can download the checklists directly from the following website:  
<http://www.ecy.wa.gov/programs/tcp/policies/checklists.html>

**Policy 840 Environmental Information Management System (EIM)**

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

## **Environmental Data Validation**

Environmental data validation must be performed using Ecology's TCP Data Validation and Sampling Analysis Plan (SAP)/Quality Assurance Project Plan (QAPP) for data validation for all Formal Cleanup Sites (Ecology September 23, 2016). Data validation shall be performed at Quality Assurance Level 2 (EAP2) with Third Party Data Validation.

Following Ecology's Lean Process there are five mandatory Key Project Meetings:

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

The first Key Project Meeting was held on February 21, 2019. During that meeting Ecology established communication protocols, expectations related to Key Project Documents and the timing and purpose of Key Project Meetings.

### **TASK 1. REMEDIAL INVESTIGATION WORK PLAN**

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

The second Key Project Meeting will be held prior to submittal of the RI Work Plan. The purpose of the RI planning and scoping meeting is to review requirements for the RI Work Plan and plan RI field work, discuss the preliminary conceptual site model, and identify project data needs, and evaluate the potential for conducting one or more interim actions. The RI Work Plan shall be completed for the Site and approved by Ecology prior to the submission of a work plan for any interim action(s).

The RI Work Plan shall describe general facility information; site history and conditions; including previous operations; past field investigations, including any data collection and

analysis of soils, air, groundwater, surface water, and sediments; a conceptual site model showing contaminants, migration pathways in all environmental media, potential receptors, and screening levels based on the conceptual site model; geology and groundwater system characteristics; past, current, and future land use; identification of natural resources and ecological receptors; hazardous substances and their sources, etc., in compliance with Washington Administrative Code (WAC )173-340-350 and WAC 173-204-560.

As part of the project background, existing environmental data on site soil, groundwater, air, and surface water, and sediments 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 RI 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 RI Work Plan in compliance with WAC 173-340-820 and WAC 173-204-600 for defining the nature and extent of contamination. The PLPs will also submit a copy of the Health and Safety Plan (HASP) for the project.

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

The Quality Assurance Project Plan (QAPP) will be prepared in accordance with the Guidance for Preparation of Quality Assurance Project Plans, EPA Region 10, Quality Data Management Program, QA/R-5 and requirements of the EPA Contract Laboratory Program. The QAPP will also follow Ecology's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies (July 2004)<sup>1</sup>. Laboratories must meet the accreditation standards established in WAC 173-50.

The SAP, including the QAPP, will be submitted to Ecology for review and approval. As with all remedial actions at the Site, remedial actions 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 PLPs or their contractors shall submit all new sampling data generated under this SAP and any other recently collected data to Ecology for entry into the Environmental Information Management System (EIM) in accordance with WAC 173-340-840(5) and Ecology's Toxics Cleanup Program Policy 840: Data Submittal Requirements. Only validated data will be entered into the EIM database within 60 days of submittal.

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<sup>1</sup> Found at <http://www.ecy.wa.gov/biblio/0403030.html>



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

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

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

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

## **TASK 2. INTERIM ACTION(S)**

Remedial actions implemented prior to completion of the RI/FS

- 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;
- that correct a problem that may become substantially worse or cost substantially more to address if the remedial action is delayed; or
- that are needed to provide for completion of the RI/FS or design of the cleanup action

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

Based upon available information, interim action(s) pursuant to WAC 173-340-430 may be needed to expedite removal of free-phase light non-aqueous phase liquids (LNAPL) floating on the groundwater surface at the Site. Any interim actions deemed necessary by

the PLPs or Ecology shall be conducted commensurate with the procedures set forth in this Task 2.

The scope of the interim actions may include, but not be limited to, typical source control or containment elements such as:

- Soil or sediment removal
- Groundwater remediation
- Expedited LNAPL removal
- Vapor mitigation
- Repair, slip lining, replacement, or closure of stormwater conveyances or other structures such as conduit, vaults, catch basins, etc.
- Removal of underground storage tanks and pipes
- Removal of old drain fields or former surface impoundments
- Proper abandonment of old wells
- Removal of contaminated building or other structural material
- Construction of a treatment facility
- Shoreline stabilization such as bulkhead repair, erosion or seepage control, and grading or clearing.

During the second Key Project Meeting (RI planning and scoping meeting) the results of pre-AO investigations will be discussed as well as the necessity and scope of any interim actions. After the RI Work Plan has been approved by Ecology the PLPs may, as appropriate, prepare and submit for Ecology approval an Agency Review Draft Interim Action Work Plan (IAWP) with detail commensurate with the work to be performed. The Agency Review Draft IAWP shall include, as appropriate:

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

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

The PLPs will incorporate Ecology's required changes into the Agency Review Draft IAWP and provide Ecology with a Public Review Draft IAWP. After a public notice and

comment period for the Public Review Draft IAWP (and SEPA determination), Ecology will approve the Public Review Draft IAWP (if appropriate) and it will be considered the Final IAWP. Once approved by Ecology, the PLPs will implement the interim action according to the schedule contained in the Final IAWP.

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

Upon successful completion of the interim action(s), an Agency Review Draft Interim Action Report will be prepared as a separate deliverable. The PLPs shall prepare two (2) copies of the Agency Review Draft Interim Action Report and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for review and approval. After incorporating Ecology's comments on the Agency Review Draft Interim Action Report and after Ecology approval, the PLPs shall prepare three (3) copies of the Final Interim Action Report and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology.

### **TASK 3. REMEDIAL INVESTIGATION**

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

If the data collected through implementation of the RI Work Plan is insufficient to define the full nature and extent of contamination, and to select a cleanup alternative for the Site, an additional phase of investigation shall be conducted to define the extent of contamination.

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

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

Prior to submittal of the Agency Review Draft RI Report, a third Key Project Meeting will be held. During the meeting, Ecology and the PLPs will review available data and an updated conceptual site model and discuss the content and organization of the Agency Review Draft RI Report.

The PLPs shall compile the results of the Site investigation into an Agency Review Draft RI Report. Electronic survey data for monitoring locations, electronic lab data, and GIS maps of contaminant distribution shall be included in the Agency Review Draft RI Report. The Final Interim Action Report (Task 2), if any, will be included as an appendix to the Agency Review Draft RI Report.

The PLPs shall prepare two (2) copies of the Agency Review Draft RI Report and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for review and comment. Ecology expects one iteration between the Agency Review Draft RI Report and the Public Review Draft RI Report.

After incorporating Ecology's comments on the Agency Review Draft RI Report and after Ecology approval, the PLPs shall prepare three (3) copies of a Public Review Draft RI Report and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for distribution and public comment. After the public notice and comment period, and after incorporating any Ecology comments on the Public Review Draft RI Report and after Ecology approval, the PLPs shall prepare three (3) copies of the Final RI Report and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats.

With Ecology's approval, the PLPs may combine the RI Report (Task 3) and FS Report (Task 4) and submit them to Ecology in a combined Agency Review Draft RI/FS Report. The PLPs and Ecology will follow the procedure set forth in this Task 2, including public comment, to convert the Agency Review Draft RI/FS Report into a Public Review Draft RI/FS Report and, ultimately, into a Final RI/FS Report.

#### **TASK 4. FEASIBILITY STUDY**

The PLPs will use the information obtained in the RI to complete the FS consistent with WAC 173-340-350(8) according to the approved schedule of deliverables (Exhibit C).

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

The Agency Review Draft FS Report will provide a detailed analysis of each cleanup alternative according to the applicable requirements of WAC 173-340-350. The cleanup alternatives will take into account any completed interim actions, and will be evaluated for compliance with the applicable requirements of WAC 173-340-360 and

WAC 173-204-560(4), including a detailed evaluation of cleanup alternatives relative to the following criteria:

- Compliance with cleanup standards and applicable laws;
- Protection of human health and the environment;
- Provision for a reasonable restoration time frame;
- Use of permanent solutions to the maximum extent practicable;
- The degree to which recycling, reuse, and waste minimization are employed;
- Short-term effectiveness;
- Long-term effectiveness;
- Net environmental benefit;
- Implementability;
- Provision for compliance monitoring;
- Cost-effectiveness; and
- Prospective community acceptance.

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

The PLPs shall prepare two (2) copies of the Agency Review Draft FS Report and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for review and comment. Ecology expects at least one iteration between the Agency Review Draft FS Report and the Public Review Draft FS Report.

After incorporating Ecology's comments on the Agency Review Draft FS Report and after Ecology approval, the PLPs shall prepare three (3) copies of a Public Review Draft FS Report and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for distribution and public comment. After the public notice and comment period, and after incorporating any Ecology comments on the Public Review Draft FS Report and after Ecology approval, the PLPs shall prepare three (3) copies of the Final FS Report and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats.

#### **TASK 5. SEPA COMPLIANCE**

The PLPs 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 PLPs shall be responsible for the preparation of Draft and Final Environmental Impact Statements. The PLPs shall assist Ecology with coordinating SEPA public involvement requirements with MTCA public involvement requirements whenever possible, such that public comment periods and meetings or hearings, as applicable, can be held concurrently.

**TASK 6. PUBLIC PARTICIPATION**

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

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

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

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

**TASK 7. PRELIMINARY DRAFT CLEANUP ACTION PLAN**

Upon Ecology approval of the Public Review Draft FS Report or Public Review Draft RI/FS Report, as applicable, the fifth Key Project Meeting will be held to discuss the contents of the dCAP and to identify the preferred cleanup alternative. The dCAP will address all remedial actions required to be completed subsequent to any completed interim actions. The PLPs will prepare an Agency Review preliminary dCAP in accordance with WAC 173-340-380. The Agency Review preliminary dCAP will include a general description of the proposed remedial actions, cleanup standards developed from the RI/FS and rationale regarding their selection, a schedule for implementation, description of any institutional controls proposed, and a summary of applicable local, state, and federal laws pertinent to the proposed cleanup action.

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

**TASK 8. PROGRESS REPORTS**

The PLPs will submit Progress Reports at a quarterly frequency to Ecology until satisfaction of the AO, in accordance with Section VII.(C) of the AO. In addition, during implementation of the RI field investigations and any interim action(s), the PLPs will provide email status updates to Ecology on the 1st and 15th of each month. If this day is a weekend or holiday, the email status updates will be submitted to Ecology on the next business day. In a month that a quarterly Progress Report is due, the email status update due on the 15th is not required.

Progress Reports will be submitted to the Ecology project coordinator by the 15<sup>th</sup> of the month following the reporting period. If this day is a weekend or holiday, Progress Reports will be submitted to Ecology on the next business day. At a minimum, Progress Reports will contain the following information regarding the preceding reporting period:

- A description of the actions which have been taken to comply with the AO;
- Summaries of sampling and testing reports and other data reports received by the PLPs;
- Summaries of deviations from approved work plans;
- Summaries of contacts with representatives of the local community, public interest groups, press, and federal, state, or tribal governments;
- Summaries of problems or anticipated problems in meeting the schedule or objectives set forth in the SOW or RI Work Plan;
- Summaries of solutions developed and implemented or planned to address any actual or anticipated problems or delays;
- Changes in key personnel; and
- A description of work planned for the next reporting period.

## **EXHIBIT C – SCHEDULE OF DELIVERABLES (SOD)**

**Site: Chevron 209335  
1215 N 45<sup>th</sup> Street, Seattle, WA**

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

Table 1 - Schedule for Submission of Major Deliverables When RI Report and FS Report are Separate

Table 2 - Schedule for Submission of Major Deliverables When RI Report and FS Report are Combined

Table 3 - Schedule for Submission of Interim Action Deliverables (applicable if an interim action is proposed)



**Table 1**

**Schedule for Submission of Major Deliverables  
When RI Report and FS Report are Separate**

	<i>Deliverable</i>	<i>Due Date<sup>a</sup></i>
1.	Agency Review Draft Remedial Investigation (RI) Work Plan	No later than 90 days after the AO <sup>b</sup> effective date
2.	Final RI Work Plan	45 days after receipt of Ecology comments on Agency Review Draft RI Work Plan
3.	RI field investigations completed	12 months after Ecology approval of Final RI Work Plan
4.	RI validated data uploaded to EIM	60 days after RI field investigations completed
5.	Agency Review Draft RI Report	90 days after receipt of RI validated data
6.	Public Review Draft RI Report	45 days after receipt of Ecology comments on Agency Review Draft RI Report
7.	Final RI Report	45 days after receipt of Ecology comments on Public Review Draft RI Report, subsequent to public comment
8.	Agency Review Draft Feasibility Study (FS) Report	90 days after Ecology approval of Final RI Report
9.	Public Review Draft FS Report	45 days after Ecology approval of Agency Review Draft FS Report
10.	Final FS Report	45 days after receipt of Ecology comments on Public Review Draft FS Report, subsequent to public comment
11.	Agency Review preliminary draft Cleanup Action Plan (dCAP)	90 days after Ecology approval of Final FS Report

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

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

**Table 2**

**Schedule for Submission of Major Deliverables  
When RI Report and FS Report are Combined**

	<i>Deliverable</i>	<i>Due Date<sup>a</sup></i>
1.	Agency Review Draft Remedial Investigation (RI) Work Plan	No later than 90 days after the AO <sup>b</sup> effective date
2.	Final RI Work Plan	45 days after receipt of Ecology comments on Agency Review Draft RI Work Plan
3.	RI field investigations completed	12 months after Ecology approval of Final RI Work Plan
4.	RI validated data uploaded to EIM	60 days after RI field investigations completed
5.	Agency Review Draft RI/FS Report	120 days after receipt of RI validated data
6.	Public Review Draft RI/FS Report	45 days after receipt of Ecology comments on Agency Review Draft RI/FS Report
7.	Final RI/FS Report	45 days after receipt of Ecology comments on Public Review Draft RI/FS Report, subsequent to public comment
8.	Agency Review preliminary draft Cleanup Action Plan (dCAP)	90 days after Ecology approval of Final RI/FS Report

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

**Table 3**

**Schedule for Submission of Interim Action Deliverables  
If an Interim Action is Deemed Necessary**

	<i><b>Deliverable</b></i>	<i><b>Due Date<sup>a</sup></b></i>
1.	Agency Review Draft Interim Action Work Plan (IAWP)	No later than 60 days after Ecology approves the Final RI Work Plan, if an interim action is deemed necessary.
2.	Public Review Draft IAWP and SEPA Checklist for the interim action	30 days after receipt of Ecology comments on Agency Review Draft IAWP
3.	Final IAWP	45 days after receipt of Ecology comments on Public Review Draft IAWP, subsequent to public comment
4.	Implement Final IAWP	Initiated no later than 45 days after Ecology approval of Final IAWP
5.	Agency Review Draft Interim Action Report	In accordance with the schedule in the Final IAWP
6.	Final Interim Action Report	45 days after Ecology approval of the Agency Review Draft Interim Action Report

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