

**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

In the Matter of Remedial Action by:

South Park Marina, LP; the Port of Seattle; and  
the City of Seattle

AGREED ORDER

No. DE \_\_\_\_\_

TO: Mr. Guy Crow, Agent  
South Park Marina Limited Partnership  
8604 Dallas Ave. S  
Seattle, WA 98101

Mr. Stephen P. Metruck  
Executive Director  
Port of Seattle  
P.O. Box 1209  
Seattle, WA 98121-1209

Jenny A. Durkan  
Mayor  
City of Seattle  
600 4<sup>th</sup> Ave., Floor 7  
Seattle, WA 98104

**TABLE OF CONTENTS**

I.	INTRODUCTION.....	3
II.	JURISDICTION.....	3
III.	PARTIES BOUND .....	3
IV.	DEFINITIONS .....	3
V.	FINDINGS OF FACT .....	4
VI.	ECOLOGY DETERMINATIONS.....	7
VII.	WORK TO BE PERFORMED .....	9
VIII.	TERMS AND CONDITIONS.....	11
	A. Payment of Remedial Action Costs .....	111
	B. Designated Project Coordinators .....	122
	C. Performance .....	13
	D. Access .....	133
	E. Sampling, Data Submittal, and Availability .....	14
	F. Public Participation.....	15
	G. Retention of Records.....	16
	H. Resolution of Disputes .....	166
	I. Extension of Schedule.....	18
	J. Amendment of Order .....	19

K.	Endangerment .....	20
L.	Reservation of Rights.....	20
M.	Transfer of Interest in Property.....	21
N.	Compliance with Applicable Laws .....	21
O.	Indemnification .....	23
IX.	SATISFACTION OF ORDER.....	23
X.	ENFORCEMENT .....	24
	EXHIBIT A                      Site Location Diagram	
	EXHIBIT B                      Scope of Work and Schedule	

## **I. INTRODUCTION**

The mutual objective of the State of Washington, Department of Ecology (Ecology), South Park Marina, Limited Partnership (SPM), the Port of Seattle (Port), and the City of Seattle (City) under this Agreed Order (Order) is to provide for remedial action at a facility where there has been a release or threatened release of hazardous substances. This Order requires SPM, the Port, and the City to complete a Remedial Investigation (RI) for the Site. The intent is to complete the RI in 18 months pursuant to the Schedule in Exhibit B. The Parties anticipate that this Order will be amended in the future to include additional tasks, including conducting a Feasibility Study and a preliminary Draft Cleanup Action Plan. Ecology believes the actions required by this Order are in the public interest.

## **II. JURISDICTION**

This Agreed Order is issued pursuant to the Model Toxics Control Act (MTCA), RCW 70.105D.050(1).

## **III. PARTIES BOUND**

This Order shall apply to and be binding upon the Parties to this Order, their successors and assigns. The undersigned representative of each party hereby certifies that he or she is fully authorized to enter into this Order and to execute and legally bind such party to comply with this Order. SPM, the Port, and the City agree to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter SPM, the Port, or the City's responsibility under this Order. SPM, the Port, and the City shall each provide a copy of this Order to all agents, contractors, and subcontractors retained to perform work required by this Order, and shall ensure that all work undertaken by such agents, contractors, and subcontractors complies with this Order.

## **IV. DEFINITIONS**

Unless otherwise specified herein, the definitions set forth in RCW 70.105D, WAC 173-204, and WAC 173-340 shall control the meanings of the terms in this Order.

A. Site: The Site is referred to as the South Park Marina Site. The Site constitutes a facility under RCW 70.105D.020(8). The Site is defined by where a hazardous substance, other than a consumer product in consumer use, has been deposited, stored, disposed of, or placed, or otherwise come to be located. Based upon factors currently known to Ecology, the Site is generally located at 8604/8544 Dallas Avenue South in Seattle, Washington as shown in the Site Location Diagram (Exhibit A).

B. Parties: Refers to the State of Washington, Department of Ecology, SPM, the Port, and the City.

C. Potentially Liable Persons (PLPs): Refers to SPM, the Port, and the City.

D. 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.

E. South Park Marina Property: Refers to King County parcel numbers 2185600070, 2185600025, and 0001600001, comprising 8604 Dallas Avenue South, Seattle, WA 98108.

F. A&B Barrel Parcel: Refers to a historical parcel that is currently the southeast portion of King County parcel number 0001600001.

## V. FINDINGS OF FACT

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

A. Based upon factors currently known to Ecology, the Site is generally located at 8604 Dallas Avenue, Seattle, WA on the west bank of the Lower Duwamish Waterway in the South Park area of Seattle. The Facility Site ID is 44653368 and the Facility Site name is South Park Marina. The Site has also been known as the Willard S. Crow Site and the A&B Barrel Parcel has been known as the A&B Barrel Co. Site.

B. Uses of the South Park Marina Property, located within the Site, have been identified as far back as the 1930s. Aerial photos from the 1930s show a service station, residential buildings, and modifications to the bank of the river. In 1946, the A&B Barrel Parcel was purchased by John R. Angle and R.W. Butz. From 1946 to 1960, the A&B Barrel Company (also

referred to in some documents as A&B Barrell), a drum reconditioning operation, occupied and operated on the A&B Barrel Parcel. Between the mid-1950s and 1960, operations included a waste disposal pond. Oils, grease, and sodium hydroxide were reportedly discharged to the pond. In September 1960, a large fire took place in which barrels, a large wood and aluminum structure, and nearby utility poles were burned. Wood fires are known to create and release dioxins. In 1961, the A&B Barrel Parcel was vacated, a building removed, and the pond filled with soil. After the area was regraded, SPM began occupying the property in 1970 and used the property for boat repair and maintenance facilities, upland boat storage, boat haul-out services, a boat-launch ramp, and moorage slips in the LDW. The South Park Marina Property is currently owned by SPM, which operates a commercial marina on the property.

C. In 1959, the A&B Barrel Parcel was purchased in fee simple by the Commercial Waterway District #1 of King County (CWD) and leased back to A&B Barrel. In August 1963, the Port passed a resolution accepting the CWD's assets, liabilities, and functions and soon thereafter the CWD was dissolved and its assets transferred to the Port. In 1978 the Port sold the A&B Barrel Parcel to the Gary Merlino Construction Company. In 1980, Gary Merlino Construction sold the A&B Barrel Parcel to Willard and Rose Marie Crow. In 1993, the Crows quitclaimed the parcel to SPM, an entity they formed for the purpose of owning and operating South Park Marina. SPM has owned the parcel from 1993 to the present.

D. On January 14, 2014, the Port and the City conducted a remedial action to address the adjacent Malarkey Asphalt/Terminal 117 (T117) property and excavated along the shoreline, close to the boundary of the South Park Marina Property, which resulted in the exposure of contaminated soil and groundwater and the release of an oily sheen into the Lower Duwamish Waterway from the South Park Marina Property.

E. Studies have shown PCB contamination located within the City's Dallas Avenue South right-of-way (ROW). The City conducted removal actions in the Streets and Yards adjacent to the Malarkey Asphalt/T117 property under a United States Environmental Protection Agency (USEPA) Order for an Early Action Area (EAA) Non-Time-Critical Removal Action (NTCRA)

under the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (T117 EAA NTCRA) between 2012 and 2017 to remove PCB contamination from Adjacent Streets and Residential Yards, as defined in the T117 EAA NTCRA. The remediation of certain streets adjacent to T117 and the South Park Marina Property has been completed as required under the T117 EAA NTCRA. PCB contamination is also located within the South Park Marina Property. Stormwater runoff from the Dallas Avenue South ROW has historically been poorly controlled but is currently addressed as a result of USEPA's T117 EAA NTCRA remediation. As a result of the remediation work, any street runoff that historically may have drained from the Dallas Avenue South ROW then onto and across the South Park Marina Property has been routed into the City drainage system and no longer flows onto and across the South Park Marina Property.

F. The Port and the City conducted cleanup of the Malarkey Asphalt/T117 property under the T117 EAA NTCRA between 2012 and 2017. EPA approval of the Completion Reports for this work was received in November 2013 (Yards); November 2017 (Adjacent Streets); and July 2018 (Uplands and Sediments). Contaminants of concern at the Malarkey Asphalt/T117 site include, but are not limited to: PCBs and dioxins/furans.

G. In 2008 Ecology issued a report prepared by SAIC, Inc. titled *South Park Marina Seattle, Washington Additional Site Characterization Activities Data Report Final*. This report summarizes sampling and testing of soil, groundwater, river bank soil, and intertidal sediment in the general area of A&B Barrel Company operations. Soil samples from the former A&B Barrel Company's pond area at depths of 1.5 to 7.5 feet below ground surface contained concentrations of gasoline and diesel range organics; benzene, ethylbenzene, toluene, and xylenes (BTEX); PCBs; dichlorodiphenyltrichloroethane (DDT); methylene chloride; tetrachloroethene (PCE); trichloroethene (TCE); cadmium; chromium; lead; and mercury at concentrations above the MTCA Method A cleanup levels. Aldrin, dieldrin, and vinyl chloride were detected at concentrations above the MTCA Method B cleanup levels in the former pond area. Soil samples collected in 2007 from outside the former pond area (but within the presumed footprint of former

A&B Barrel Company operations) contained arsenic and chromium at concentrations above the MTCA Method A cleanup level. Groundwater samples collected from three monitoring wells at the Site in 2007 contained concentrations of dieldrin above the MTCA Method B cleanup level, and arsenic above the MTCA Method A cleanup level. Intertidal sediment samples were collected in March 2008.

H. In 2009, Ecology issued a technical memo, prepared by SAIC, entitled *South Park Marina Sediment Recontamination Assessment*. The memo was prepared to evaluate the potential pathways for site identified contaminants of concern (COCs) to reach the Lower Duwamish Waterway. The memo evaluated two probable recontamination pathways, including groundwater leaching of soil contaminants and erosional input of contaminated soil or sediment. The conclusions stated that, “although surface sediments collected at SPM [South Park Marina Site] were found to be in exceedance of [Sediment Management Standards] criteria for total PCBs (SAIC 2008a), SPM-sourced COCs may not have been responsible for this contamination, nor are SPM-sourced COCs expected to cause additional future exceedances.”

## **VI. ECOLOGY DETERMINATIONS**

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

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

B. Based upon all factors known to Ecology, a “release” or “threatened release” of “hazardous substance(s)” as defined in RCW 70.105D.020(32) and (13), respectively, has occurred at property currently owned by SPM which is part of the “facility”.

C. Based upon credible evidence, Ecology issued a PLP status letter to SPM dated February 10, 2016 pursuant to RCW 70.105D.040, .020(26), and WAC 173-340-500. After providing for notice and opportunity for comment, reviewing any comments submitted, and concluding that credible evidence supported a finding of potential liability, Ecology issued a

determination that SPM is a PLP under RCW 70.105D.040 and notified SPM of this determination by letter dated April 1, 2016.

D. The CWD was an “owner or operator” as defined in RCW 70.105D.020(22) of a “facility” as defined in RCW 70.105D.020(8) at the time of a release. The Port has assumed responsibility for the liabilities of the CWD.

E. Based upon all factors known to Ecology, a “release” or “threatened release” of “hazardous substance(s)” as defined in RCW 70.105D.020(32) and (13), respectively, has occurred at the “facility” while the CWD was an “owner or operator”.

F. Based upon credible evidence, Ecology issued a PLP status letter to the Port dated May 9, 2016 pursuant to RCW 70.105D.040, .020(26), and WAC 173-340-500. After providing for notice and opportunity for comment, reviewing any comments submitted, and concluding that credible evidence supported a finding of potential liability, Ecology issued a determination that the Port is a PLP under RCW 70.105D.040 and notified the Port of this determination by letter dated November 3, 2016.

G. The City is a current “owner or operator” of the right-of-way adjacent to the South Park Marina, and such right-of-way is a “facility” as defined in RCW 70.105D.020(8). The City was also an “arranger” who owned or possessed a hazardous substance and who by contract, agreement, or otherwise arranged for disposal or treatment of the hazardous substance as defined in RCW 70.105D.020(8).

H. Based upon all factors known to Ecology, a “release” or “threatened release” of “hazardous substance(s)” as defined in RCW 70.105D.020(32) and (13), respectively, has occurred at property currently owned by the City which is part of the “facility.”

I. Based upon credible evidence, Ecology issued a PLP status letter to the City dated June 7, 2016 pursuant to RCW 70.105D.040, .020(26), and WAC 173-340-500. After providing for notice and opportunity for comment, reviewing any comments submitted, and concluding that credible evidence supported a finding of potential liability, Ecology issued a determination that



the City is a PLP under RCW 70.105D.040 and notified the City of this determination by letter dated October 10, 2016.

J. Pursuant to RCW 70.105D.030(1) and .050(1), Ecology may require PLPs to investigate or conduct other remedial actions with respect to any release or threatened release of hazardous substances, whenever it believes such action to be in the public interest. Based on the foregoing facts, Ecology believes the remedial actions required by this Order are in the public interest.

K. 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. Either 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. 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 70.105D, 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 and 173-204:

A. The PLPs will conduct a Remedial Investigation in accordance with the Scope of Work and Schedule (Exhibit B) and all other requirements of this Order.

B. If PLPs learn of a significant change in conditions at the Site, including but not limited to a statistically significant increase in contaminant and/or chemical concentrations in soil, groundwater, air or sediments, the PLPs, within seven (7) days of learning of the change in

condition, shall notify Ecology in writing of said change and provide Ecology with any reports or records (including laboratory analyses, sampling results) relating to the change in conditions.

C. Unless otherwise specified by Ecology, PLPs shall submit to Ecology written monthly Progress Reports that describe the actions taken during the previous month to implement the requirements of this Order. All Progress Reports shall be submitted by the fifteenth (15th) day of the month in which they are due after the effective date of this Order. Unless otherwise specified by Ecology, Progress Reports and any other documents submitted pursuant to this Order shall be sent by certified mail, return receipt requested, to Ecology's project coordinator. The Progress Reports shall include the following:

1. A list of on-site activities that have taken place during the month, and a list of activities planned for the next reporting period.
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 and Schedule (Exhibit B) during the current month and any planned deviations in the upcoming month.
4. For any deviations in schedule, a plan for recovering lost time and maintaining compliance with the schedule.
5. All validated data (including laboratory analyses) received during the previous month (if not previously submitted to Ecology), together with a detailed description of the underlying samples collected.
6. A list of deliverables for the upcoming month 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 and Schedule (Exhibit B) shall, upon Ecology's approval, become integral and enforceable parts of this Order.

E. If the Parties agree on an interim action under Section VI.K, 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 PLPs are required to 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 an opportunity to correct. In an emergency, Ecology is not required to provide notice to PLPs, or an opportunity for dispute resolution. The PLPs shall reimburse Ecology for the costs of doing such work in accordance with Section VIII.A (Remedial Action Costs). Ecology reserves the right to enforce requirements of this Order under Section X (Enforcement).

G. Except where necessary to abate an emergency situation or where required by law, the PLPs shall not perform any remedial actions at the Site outside those remedial actions required by this Order to address the contamination that is the subject of this Order, unless Ecology concurs, in writing, with such additional remedial actions pursuant to Section VIII.J (Amendment of Order). In the event of an emergency, or where actions are taken as required by law, the PLPs must notify Ecology in writing of the event and remedial action(s) planned or taken as soon as practical but no later than within twenty-four (24) hours of the discovery of the event.

## **VIII. TERMS AND CONDITIONS**

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

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 70.105D, including remedial actions and Order preparation, negotiation, oversight, and administration. These costs shall include work performed both prior to and subsequent to the issuance of this Order. Ecology's costs shall include costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2). Ecology

has accumulated \$68,163.42 in remedial action costs related to this Site as of as of July 31, 2018. For all Ecology costs incurred, the PLPs shall pay the required amount within thirty (30) days of receiving from Ecology an itemized statement of costs that includes a summary of costs incurred, an identification of involved staff, a general statement of work performed, and the amount of time spent by involved staff members on the project. Itemized statements shall be prepared quarterly. Pursuant to WAC 173-340-550(4), failure to pay Ecology's costs within ninety (90) days of receipt of the itemized statement of costs will result in interest charges at the rate of twelve percent (12%) per annum, compounded monthly.

In addition to other available relief, pursuant to RCW 19.16.500, Ecology may utilize a collection agency and/or, pursuant to RCW 70.105D.055, file a lien against real property subject to the remedial actions to recover unreimbursed remedial action costs.

**B. Designated Project Coordinators**

The project coordinator for Ecology is:

Mark Adams  
Washington Department of Ecology  
Northwest Regional Office  
Toxics Cleanup Program  
3190 160<sup>th</sup> Avenue SE  
Bellevue, WA 98008  
Telephone: (425) 649-7107  
mada461@ecy.wa.gov

The interim project coordinator (final project coordinator will be substituted when a common consultant is retained) for the PLPs is:

Allison Crowley  
PO Box 34023  
Seattle, WA 98124-4023  
206-684-3167  
Allison.crowley@seattle.gov

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 implementation of the work to be performed required by this Order.

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

**C. Performance**

All geologic and hydrogeologic work performed pursuant to this Order shall be under the supervision and direction of a geologist or hydrogeologist licensed by the State of Washington or under the direct supervision of an engineer registered by the State of Washington, except as otherwise provided for by RCW 18.43 and 18.220.

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

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

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

The 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 a PLP 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 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 a PLP where remedial activities or investigations will be performed pursuant to this Order. If the PLPs are unable to obtain access to property none of them owns with reasonable efforts, Ecology will take reasonable steps to assist the PLPs in securing the necessary access. Ecology or any Ecology authorized representative shall give reasonable notice before entering any Site property owned or controlled by a PLP 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 PLPs shall make the results of all sampling, laboratory reports, and/or test results generated by it or on its behalf available to Ecology. Pursuant to WAC 173-340-840(5), all sampling data shall be submitted to Ecology in both printed and electronic formats in accordance with Section VII (Work to be Performed), Ecology's Toxics Cleanup Program Policy 840 (Data Submittal Requirements), and/or any subsequent procedures specified by Ecology for data submittal.

If requested by Ecology, the PLPs shall allow Ecology and/or its authorized representative to take split or duplicate samples of any samples collected by a PLP 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 a PLP 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 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**

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 and remedial investigation 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. Ecology shall notify the PLPs prior to the issuance of all press releases and fact sheets related to the Site, and before meetings related to the Site with the interested public and local governments. For all press releases, fact sheets, meetings, and other outreach efforts by the PLPs that do not receive prior Ecology approval, the PLPs shall clearly indicate to its audience that the press release, fact sheet, meeting, or other outreach effort was not sponsored or endorsed by Ecology.

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

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

- a. Seattle Public Library – South Park Branch  
8604 Eighth Ave S. at South Cloverdale St  
Seattle, WA 98108

- b. Ecology's Northwest Regional Office  
3190 160<sup>th</sup> Avenue SE  
Bellevue, WA 98008

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

#### **G. Retention of Records**

During the pendency of this Order, and for ten (10) years from the date of completion of work performed pursuant to this Order, the 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 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 a PLP withholds any requested records based on an assertion of privilege, that PLP 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 a PLP elects to invoke dispute resolution, that PLP 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 PLP has fourteen (14) calendar days within which to notify Ecology's project coordinator in writing of its dispute (Informal Dispute Notice).



b. The Parties' project coordinators shall then confer in an effort to resolve the dispute informally. The parties shall informally confer for up to fourteen (14) calendar days from receipt of the Informal Dispute Notice. If the project coordinators cannot resolve the dispute within those 14 calendar days, then within seven (7) calendar days Ecology's project coordinator shall issue a written decision (Informal Dispute Decision) stating: the nature of the dispute; the PLP's position with regards to the dispute; Ecology's position with regards to the dispute; and the extent of resolution reached by informal discussion.

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

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

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

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

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

**I. Extension of Schedule**

1. The 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) labor strikes or 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 the PLPs' written request 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 one of the following:

- a. Delays in the issuance of a necessary permit which was applied for in a timely manner.
- b. Other circumstances deemed exceptional or extraordinary by Ecology.
- c. Endangerment as described in Section VIII.K (Endangerment).

**J. Amendment of Order**

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

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

When requesting a change to the Order, 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 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).

The Parties anticipate that this Order will be formally amended in the future to include conducting a Feasibility Study and a preliminary Draft Cleanup Action Plan as additional tasks. This amendment may be initiated by Ecology or any of the PLPs and will require public notice and opportunity to comment prior to formal amendment.

**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 70.105D. Ecology's signature on this Order in no way constitutes a covenant not to sue or a compromise of any of Ecology's rights or authority. Ecology will not, however, bring an action against the PLPs to recover remedial action costs paid to and received by Ecology under this Order. In addition, Ecology will not take additional enforcement actions against the PLPs regarding remedial actions required by this Order, provided the PLPs comply with this Order.

Ecology nevertheless reserves its rights under RCW 70.105D, including the right to require additional or different remedial actions at the Site should it deem such actions necessary to protect human health or the environment, and to issue orders requiring such remedial actions. Ecology also reserves all rights regarding the injury to, destruction of, or loss of natural resources resulting from the release or threatened release of hazardous substances at the Site.

By entering into this Order, the PLPs do not admit to any liability for the Site. Although the PLPs are committing to conducting the work required by this Order under the terms of this Order, the PLPs expressly reserve all rights available under law, including but not limited to the right to seek cost recovery or contribution against third parties, and the right to assert any defenses to liability in the event of enforcement.

**M. Transfer of Interest in Property**

No voluntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Site shall be consummated by 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 a PLP's transfer of any interest in all or any portion of the Site, and during the effective period of this Order, that PLP 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, that PLP shall notify Ecology of said transfer. Upon transfer of any interest, that PLP 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 PLPs pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements, including requirements to obtain necessary permits or approvals, except as provided in RCW 70.105D.090. At this time, no federal, state, or local requirements have been identified as being applicable to the actions required by this Order. 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. *Relevant and Appropriate Requirements.* 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 70.105D.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 70.105D.090(1) that have been issued by local government, the Parties agree that Ecology has the non-exclusive ability under this Order to enforce those local government permits and/or approvals. At this time, no state or local permits or approvals have been identified as being applicable but procedurally exempt under this section.

4. The PLPs have a continuing obligation to determine whether additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order. In the event either Ecology or the PLPs determine that additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order, it shall promptly notify the other party of its determination. Ecology shall determine whether Ecology or 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 70.105D.090(2), in the event Ecology determines that the exemption from complying with the procedural requirements of the laws referenced in RCW 70.105D.090(1) would result in the loss of approval from a federal agency that is necessary for the state to administer any federal law, the exemption shall not apply and the PLPs shall comply with both the procedural and substantive requirements of the laws referenced in RCW 70.105D.090(1), including any requirements to obtain permits or approvals.

**O. Indemnification**

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, 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 activity required by this Order, as amended by any modifications, and that the PLPs have complied with all other provisions of this Agreed Order.

**X. ENFORCEMENT**

Pursuant to RCW 70.105D.050, this Order may be enforced as follows:

A. The Attorney General may bring an action to enforce this Order in a state or federal court.

B. The Attorney General may seek, by filing an action, if necessary, to recover amounts spent by Ecology for investigative and remedial actions and orders related to the Site.

C. A liable party who refuses, without sufficient cause, to comply with any term of this Order will be liable for:

1. Up to three (3) times the amount of any costs incurred by the State of Washington as a result of its refusal to comply.

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

D. This Order is not appealable to the Washington Pollution Control Hearings Board.

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

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

**South Park Marina LP**

\_\_\_\_\_  
Guy Crow  
c/o South Park Marina  
8604 Dallas Ave. S  
Seattle, WA 98108

**Port of Seattle**

\_\_\_\_\_  
Stephen P. Metruck  
Executive Director  
Port of Seattle  
P.O. Box 1209  
Seattle, WA 98121-1209

**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

\_\_\_\_\_  
Robert Warren  
Section Manager  
Toxics Cleanup Program  
Northwest Regional Office

**City of Seattle**

\_\_\_\_\_  
Jenny A. Durkan  
Mayor  
City of Seattle  
600 4<sup>th</sup> Ave., Floor 7  
Seattle, WA 98104





**EXHIBIT B –  
SCOPE OF WORK (SOW) and SCHEDULE  
SOUTH PARK MARINA**

**PURPOSE**

The work under this Agreed Order (AO) involves conducting a Remedial Investigation (RI) for the Site. The AO also provides for Interim Action(s), should they be necessary. The purpose of the RI is to provide sufficient data, analysis, and evaluations to enable selection of a cleanup alternative in a feasibility study (FS) for the Site. A final cleanup action will be chosen by Ecology and established in a Cleanup Action Plan. The Parties anticipate that this SOW and Schedule will be amended in the future to include conducting a Feasibility Study and a preliminary Draft Cleanup Action Plan as additional tasks.

The PLPs shall coordinate with Ecology throughout the RI, and shall keep Ecology informed of changes to project plans, and of issues and problems as they develop.

The SOW is divided into four major tasks as follows:

- Task 1. Remedial Investigation Work Plan
- Task 2. Remedial Investigation
- Task 2a. Source Control Review Memorandum
- Task 3. Interim Action(s) (if required)

**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 RI Work Plan shall phase the RI work so that the initial focus is on Lower Duwamish Waterway source control investigations relevant to the South Park Marina. The responsibility and authority of all organizations and key personnel involved in conducting the RI will be outlined.

A Key Project Meeting will be held prior to commencing work on drafting the RI Work Plan - the Remedial Investigation Planning Meeting. The purpose of this 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 possible interim actions.

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 preliminary conceptual site model showing

origin, source and distribution of contaminants, migration pathways in all environmental media, and potential receptors; geology and groundwater system characteristics; past, current, and future land use; identification of natural resources and ecological receptors; hazardous substances and their sources, etc., in compliance with WAC 173-340-350 and WAC 173-204-560.

As part of the project background, existing environmental data on site soil, groundwater, surface water, stormwater, catch basin solids, 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 will identify the proposed number and location of all environmental samples and methods, including soil borings, groundwater monitoring wells, soil, groundwater, stormwater, seep, catch basin and sediment samples, 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 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> and Sediment Sampling and Analysis Plan Appendix (February 2008).<sup>2</sup> Laboratories must meet the accreditation standards established in WAC 173-50. Data quality objectives will reflect the criteria or threshold values used for the source control evaluation. In the event that these Guidance documents conflict, the PLPs will consult with Ecology.

The SAP, including the QAPP, will be submitted to Ecology for review and approval. As with all environmental work at the site, work may not begin without written approval from Ecology. The plan shall provide three (3) days notice to Ecology prior to beginning sampling. Ecology may obtain split samples.

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

---

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

<sup>2</sup> Found at <http://www.ecy.wa.gov/biblio/qapp.html>

RI Work Plan tasks and subtasks will include, but are not limited to, the following:

- Sampling and analysis of soil, groundwater, and seeps;
- Sampling and analysis of stormwater and catch basin solids to determine whether the stormwater system is a source of contamination to sediments;
- Evaluate the potential to contaminate or re-contaminate sediments, including analysis of the following pathways:
  - Direct discharges
  - Stormwater discharges
  - Overland flow
  - Groundwater discharges and seeps
  - Soil erosion
  - Site operations
  - Spills, dumping, leaks, housekeeping, and management practices

The PLPs will provide Ecology with an Agency Review Draft RI Work Plan. Once Ecology reviews and approves the 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 in this Exhibit.

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. REMEDIAL INVESTIGATION**

The PLPs shall conduct an RI that meets the requirements of WAC 173-340-350(7) and WAC 173-204-560 according to the RI Work Plan as approved by Ecology. The RI will determine the origin, nature, distribution/fate and transport, and extent of contamination exceeding preliminary Model Toxics Control Act (MTCA) cleanup levels, and other regulatory requirements. The RI must provide data and information to define the nature and extent of contamination sufficiently to select a cleanup action.

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

The PLPs shall provide laboratory analysis data 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 Key Project Meeting will be held - the Remedial Investigation Pre-Report Check-In. In this meeting, Ecology and the PLPs will review

available data and an updated conceptual site model and discuss the content and organization of the Draft RI Report.

The PLPs shall compile the results of the RI into an 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.

After incorporating Ecology's comments on the Agency Review Draft RI Report, 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. Electronic survey data for monitoring locations, electronic lab data, and GIS maps of contaminant distribution shall also be provided for both the Agency Review Draft RI Report and Public Review Draft RI Report either in the report or as attachments. The RI Report will not be considered Final until after a public review and comment period.

If the data collected during this investigation is insufficient to select a cleanup action, an additional phase(s) of investigation shall be conducted to provide the needed information.

#### **TASK 2a. SOURCE CONTROL REVIEW MEMORANDUM**

The PLPs shall prepare a Source Control Review Memorandum to summarize RI data as it applies to the potential pathways of hazardous substances from this Site to the Lower Duwamish Waterway according to the schedule contained in this Exhibit. Achieving this purpose requires an investigation of three key pathways at the Site:

- Soil leaching to ground water discharging to the Lower Duwamish Waterway through sediment;
- Contaminated soils entering the storm drain system and discharging to the Lower Duwamish Waterway; and
- Erosion of contaminated soil and transport to the Lower Duwamish Waterway via overland flow or bank sloughing.

The memorandum will also discuss the need (if any) for interim action(s) to address the pathway(s) (if any) of hazardous substances from the Site to the Lower Duwamish Waterway.

The PLPs shall prepare two (2) copies of the Agency Review Draft Source Control Review Memorandum 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 Source Control Review Memorandum and after Ecology approval, the PLPs shall prepare three (3) copies of the Final Source Control Review Memorandum and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology.

If Ecology determines that interim action(s) are warranted at the Site, the Parties will follow the process detailed in Task 3 and the Agreed Order.

### **TASK 3. INTERIM ACTION(S) (if required)**

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

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

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

As detailed in the AO, if agreed to by the Parties and approved by Ecology, the PLPs will implement an interim action. Based upon information in the Agency Review Draft RI Report, interim action(s) may be needed to expedite control of releases to sediments or other environmental media pursuant to WAC 173-340-430.

Implementation of an interim action shall not forestall or delay completion of the RI per the Schedule.

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

- Soil removal
- Groundwater remediation
- 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.

If an interim action is to be performed, the PLPs will 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 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 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 a public notice and comment period for the Public Review Draft IAWP (and SEPA determination), Ecology will approve the IAWP (if appropriate) and the document will be considered Final. 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. Once approved by Ecology, the PLPs will implement the interim action according with the approved schedule.

Upon successful completion of the work, 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.

## SCHEDULE

The schedule for completing the work described in the Agreed Order and the Scope of Work is presented below. If the date for submission of any item or notification required by this Schedule 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.

	<b><i>Task or Deliverable</i></b>	<b><i>Due Date<sup>a</sup></i></b>
1.	<b>Agency Review Draft RI Work Plan issued</b>	60 days after the PLPs' retention of a joint consultant, but no more than 180 days after the AO <sup>b</sup> effective date
2.	<b>Final Remedial Investigation Work Plan issued</b>	45 days after receipt of Ecology comments – document is considered final upon Ecology's written approval
3.	Field work for RI begins	30 days after Ecology's approval of RI Work Plan
4.	<b>Agency Review Draft Source Control Review Memorandum issued</b>	90 days after receipt of data from the analytical laboratory for the source control investigation field work identified in the RI Work Plan. The 90 days includes time to validate the data.
5.	<b>Final Source Control Review Memorandum issued</b>	30 days after receipt of Ecology comments
6.	Remedial Investigation field investigations completed <sup>c</sup>	180 days after Ecology's approval of the Final RI Work Plan
7.	<b>Agency Review Draft RI Report issued</b>	90 days following completion of RI field investigations
8.	<b>Public Review Draft RI Report issued</b>	30 days after receipt of Ecology comments on the Agency Review Draft RI Report. If additional iterations of the draft document are deemed necessary by Ecology, each iteration will be due 30 days after receipt of Ecology comments.



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

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

<sup>c</sup> Completed means the field requirements of the RI Work Plan have been satisfied.