

**PORT OF SEATTLE**  
**MEMORANDUM**

**COMMISSION AGENDA**  
**ACTION ITEM**

**Item No.** 5c  
**Date of Meeting** August 6, 2013

**DATE:** July 29 2013  
**TO:** Tay Yoshitani, Chief Executive Officer  
**FROM:** Kathy Bahnick, Manager, Seaport Environmental Programs  
Fred Chou, Capital Project Manager  
**SUBJECT:** Terminal 91 Cleanup

<b>Amount of This Request:</b>	\$0	<b>Source of Funds:</b>	Tax Levy
<b>Estimated Total Cleanup Cost:</b>	\$19,859,000		(Environmental Remediation Liability [ERL] Non Ops)
<b>Total Contract and Self- performed Cost:</b>	\$5,976,000		
<b>Est. State and Local Taxes</b>	\$519,000	<b>Est. Jobs Created:</b>	65

**ACTION REQUESTED**

Request Commission authorization for the Chief Executive Officer to advertise and execute a major construction contract, and to self-perform using Port crews, to implement the cleanup action at Terminal 91, as required under Agreed Order No. DE 8938 entered into with the Department of Ecology and dated April 10, 2012.

**SYNOPSIS**

Terminal 91 (T-91) is located in an industrial area in the Interbay neighborhood of Seattle. The two Smith Cove piers were built by the Port soon after its establishment in 1911. Various oil companies and other businesses operated on the T-91 site from 1926 until 1941, when the U.S. Navy took possession, consolidating multiple parcels into T-91 as it exists today. The Port acquired the facility in the 1970s. The former tank farm was leased to Philip Services Corporation and its predecessors for use as a dangerous waste treatment and storage facility under a Resource Conservation and Recovery Act (RCRA) permit from that time until 1995. The tank farm was also operated by various marine fuel-marketing companies until 2003. The above-ground portion of the tank farm was demolished by the Port in 2005.

Releases associated with the tank farm operations resulted in contaminated soils and groundwater at T-91. Since 1991, the Port has been working with the Department of Ecology (Ecology) on the investigation, assessment and development of corrective/cleanup action to address the problems. On April 10, 2012, Ecology and the Port entered into an Agreed Order

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(No. DE 8938) which obligated the Port to implement a final Cleanup Action Plan (CAP) that included performance of certain cleanup actions, completion of compliance monitoring (through 2044), and the requirement to continue to investigate and manage any additional contamination at the T-91 facility, including any newly identified contamination discovered during implementation of the CAP. The cleanup will restore the site to accommodate a range of future uses compatible with current industrial zoning.

With the design of the CAP cleanup work complete, the project is ready to move into the cleanup/construction implementation phase. Due to the nature of work and construction timing needs, the majority of construction work would be performed through a major construction contract. In advance of the major construction contract, Port crews would complete cleanup work at the historic pipeline release on Pier 91, and replace an electrical substation currently located on the former tank farm site.

This project was included in the Port's 2013 Environmental Remediation Liability (ERL) spending authorization and five-year plan approved by the Commission on December 4, 2012.

### **BACKGROUND**

The T-91 site is regulated under both an RCRA permit and a Model Toxics Control Act (MTCA) Agreed Order. The RCRA permit remains in place because a portion of the site (the tank farm) was formerly permitted to operate as an RCRA-regulated dangerous waste treatment and storage facility. Both the former RCRA facility, and the surrounding piers and terminal, are now being cleaned up under the MTCA program. The Port, as the property owner, is required to hold the RCRA permit until cleanup ("corrective action") is completed. The permit imposes corrective action by incorporating a separate agreed order issued under the MTCA.

The Port of Seattle entered into the first MTCA agreed order for this site in 1998 (the "1998 Agreed Order"). Philips Services Corporation (PSC) and Pacific Northern Oil Corporation (PNO), as former operators of the tank farm, also signed the 1998 Agreed Order. Both PSC and PNO subsequently went out of business, leaving the Port as the sole responsible party on the 1998 Agreed Order. Under the 1998 Agreed Order, the Port was required to prepare a Remedial Investigation and Feasibility Study, and to develop a CAP.

The 1998 Agreed Order was replaced by a new agreed order in 2010. The 2010 Agreed Order continued the requirement to complete the Feasibility Study and develop the draft CAP. It also extended the geographic definition of the site beyond the tank farm to encompass the entire Terminal 91 property owned by the Port (including submerged lands). Ecology required this change to satisfy a RCRA permit requirement that corrective action must include all contiguous property under the permit-holder's ownership.

Environmental investigations at the T-91 site have been ongoing since the early 1980s and continue to the present time. The primary area of contamination at the site is the tank farm and associated operations. Chemicals of concern found in groundwater and soils near the tank farm site include total petroleum hydrocarbons (including floating product on the groundwater),

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volatile organic compounds, semi-volatile organic compounds, polychlorinated biphenyls, and metals. The cleanup activities are designed to address direct contact with site soil, indoor air quality due to vapor intrusion, and impact to aquatic receptors, i.e., fish or invertebrates.

The Ecology-selected cleanup approach was identified in the December 15, 2010, final CAP. The CAP consists of measures designed to prevent migration of contaminants to Elliott Bay and to prevent direct contact with contaminants. These measures include installation of a containment barrier wall at the tank farm, installation of product recovery trenches, installation of an asphalt cover to the tank farm area, and removal of subsurface structures. The CAP also includes excavation to address contamination from a historic pipeline release on Pier 91, and decommissioning of old fuel pipelines. In addition, long-term operation and monitoring of the installed systems and compliance monitoring are included.

On April 10, 2012, the Port and Ecology entered into an Agreed Order, under which the Port agreed to implement the work identified in the CAP. The 2012 Agreed Order also requires investigation and cleanup of discrete units in the upland area not included in the final CAP, and placement of a restrictive covenant on the property. The restrictive covenant will limit exposure to hazardous substances by regulating land uses on the property and providing notice to future users as to the presence of hazardous substances. The restrictive covenant will include notification requirements, restrict ground water usage, and require future land use to be consistent with current land use. The Agreed Order defers action on marine sediments in the vicinity of T-91 to a later date.

With the design of the cleanup work complete, the project is ready to move into the cleanup/construction implementation phase. Due to the nature of work and construction timing needs, the work at the former tank farm area (the majority of construction work) would be performed through a major construction contract during the drier weather. Port crews would complete cleanup work related to the historic pipeline release on Pier 91 immediately after the conclusion of the 2013 cruise season, and replace an electrical substation ahead of the major construction contract.

## **PROJECT JUSTIFICATION AND DETAILS**

The Port is required to complete cleanup/implementation of the selected cleanup action of T-91 in accordance with the 2012 Agreed Order. The purpose of the cleanup is to significantly reduce or eliminate the exposure of ecological and human receptors to soil contamination, ground water, and sediment, thereby significantly reducing or eliminating adverse effects on resources in the project site. Subsequently, the cleanup will restore the site to a range of future site uses compatible with current industrial zoning. Additional cleanup may be required if site zoning is changed.

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### ***Project Objectives***

- Perform the required cleanup construction and operation and maintenance activities required by the 2012 Agreed Order.
- Manage and perform the work in accordance with local, state, and federal cleanup laws and regulations, with project controls and contract systems in place.
- Deliver project in a quality, cost efficient manner and within schedule as approved by Ecology.
- Maximize cost recovery opportunities.
- Identify and consider community values and concerns and minimize construction impacts to the community.

### ***Scope of Work***

Remaining key project components include:

- Construction: Excavation and off-site disposal of contaminated soils and ground water. Subsurface structure removal, installation of containment barrier wall and enhanced fuel product recovery system in the former tank farm area; clean and decommission of underground fuel pipelines remaining at the site; installation of asphalt concrete pavement cover and general paving; and installation of new utilities, including a replacement substation and stormwater collection and water quality treatment system.
- Documentation and Reporting.
- Community Outreach and Monitoring.

### ***Schedule***

1. This Action: Obtain authorization to advertise and execute a major construction contract and allow Port Crews to perform work.
2. Historic fuel line release area cleanup and substation replacement by Port crews 4Q 2013 – 1Q 2014. Main Tank Farm Area Cleanup by a major work contract 1Q 2014 – 4Q 2014.
3. Ongoing: Continued investigations into the non-tank-farm portions of the site; recovery of petroleum product from groundwater; and groundwater monitoring if required.
4. 2015 – 2044 following tank farm area cleanup: Perform long-term compliance monitoring, product recovery, and inspection and maintenance of cleanup components.

## **FINANCIAL IMPLICATIONS**

### **Terminal 91 Cleanup-up Lifecycle Project Estimate and Sources of Funding**

Previous Amounts Spent on Cleanup (1998, 2010 and part of 2012 Agreed Order)	\$ 9,790,000
Cost Estimated Associated with the remaining work (2012 Agreed Order includes \$5,976,000 for Major Construction and Self-Performed Costs )	\$10,069,000
Estimated Total Project Costs	<u>\$19,859,000</u>

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Estimated/Actual Sources of Funding:	
Past Amount Recovered (Settlement, Insurance, Grant) <sup>1</sup>	\$4,648,000
Committed Future Grant Funding <sup>2</sup>	\$1,597,000
Port of Seattle <sup>3</sup>	\$13,614,000
Total Sources of Funding <sup>4</sup>	<u>\$19,859,000</u>

*Note 1: Amount already received. Staff will continue to seek additional recovery from insurance companies and other responsible parties.*

*Note 2: Grant money committed but not yet received.*

*Note 3: Remaining Port obligations if no other grants are received or funds obtained from insurance or other responsible parties.*

*Note 4: Cost estimate for the Agreed Order includes the major construction contract, soft costs, additional investigation, compliance monitoring and long-term operations and monitoring costs. Staff is actively seeking additional grant funding and additional recovery to help offset these costs. This cost estimate does not include costs for the marine sediment portion of the site.*

### **Cost Estimate Associated with the CAP work**

The actual cost for the cleanup design and implementation, including compliance monitoring, is expected to vary, depending on actual site conditions, labor and material costs at the time of construction, and any changed conditions or requirements established by the oversight agency (Ecology). However, based on the CAP, the current estimated costs for the cleanup and long term compliance monitoring and maintenance work is approximately \$10,069,000.

### **Source of Funds**

The costs to implement the cleanup design and implementation, including compliance monitoring, were included in the Commission's 2013 Environmental Remediation Liability (ERL) spending authorization and five-year plan, approved on December 4, 2012. The ERL cost estimates were also included in the 2013 plan of finance. Additional costs may be incurred if continuing investigations identify any new areas requiring cleanup. Any additional cleanup costs that may be required as the project moves forward will be recorded as a liability and a non-operating expense in accordance with Port Policy AC-9, Environmental Remediation Liability. These amounts will be reported annually to the Commission via routine environmental remediation liability reports and spending authorization requests.

The Port's tax levy will pay the costs for the environmental cleanup project that are not ultimately covered by cost sharing agreements, settlements, insurance, or other cost recovery sources. In addition, Port staff is pursuing additional grant funding from Ecology for the design and construction work.

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### ***Potential Net Costs to the Port***

The cost summary table above presents a breakdown of all the paid, committed, and/or anticipated total known costs and recoveries associated with the T-91 cleanup, including both prior and future design and cleanup activities. As shown, the total (start to finish) Port cost is expected to be approximately \$19,859,000. Money received to date from insurance, settlement and grants plus grant funds committed but not yet spent are approximately \$6,245,000. Therefore, the potential net cost to the Port to complete the T-91 cleanup work is expected to be up to approximately \$13,614,000. Staff is actively seeking additional grant funding and additional recoveries to help offset this cost. This estimated cost does not include additional cleanup if required for new discrete units not yet discovered or ERL costs for the marine sediments.

### ***Lifecycle Cost and Savings***

Cleanup design efforts have considered and incorporated materials reuse, recycling, and reduction. To minimize maintenance needs and power consumption, and to allow flexibility of future expansion, design features, such as installation of a passive underground product recovery system, have been incorporated in the design. In addition, staff is looking at ways to efficiently support future redevelopment by looking into the feasibility of installing spare conduits and expandable switch gears during the substation replacement.

## **STRATEGIES AND OBJECTIVES**

In support of the Century Agenda strategy to be the greenest port in North America, this project will accomplish environmental cleanup of the Port's property, while assuring that other responsible parties are paying their fair share.

## **TRIPLE BOTTOM LINE**

State and federal laws require elimination of unacceptable levels of environmental risk caused by the presence of contaminants in soil, groundwater, and sediment. From the perspective of the surrounding communities and the customers that we serve, the Port's participation in site remediation is the hallmark of responsible environmental stewardship. Cleanup also returns contaminated land to a more productive use. Regarding small business participation, the Office of Social Responsibility (OSR) will provide analysis and recommend or require Small Contractors and Suppliers (SCS) participation in accordance with the Port's small business policy (Resolution No. 3618).

## **ALTERNATIVES AND IMPLICATIONS CONSIDERED**

**Alternative 1)** – Implement the CAP construction work required under the 2012 Agreed Order and perform all the work through a major work contract. This alternative results in risk of unforeseen conditions in the Pier 91 historic fuel line area work because of the adjacent pre-Navy era subsurface bulkheads. The work must be performed during non-cruise season (October through March) due to its location. This is not the recommended alternative.

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**Alternative 2)** – Do not implement cleanup work at Terminal 91. If the Port does not implement the required work under the 2012 Agreed Order, Ecology would impose the requirement through a unilateral enforcement order issued under the MTCA (and incorporated into the RCRA permit). This is not the recommended alternative.

**Alternative 3)** – Implement the CAP construction work required under the 2012 Agreed Order and enter into a major works contract while performing some portions of the work by Port crews. The Pier 91 historic fuel line area work component has significant risk of unforeseen conditions because of the adjacent pre-Navy era subsurface bulkheads and must be performed during non-cruise season (October through March) due to its location. Use of Port crews to do this work prior to a major construction contractor will mitigate risk to the Port. Proceeding with the cleanup work ensures compliance and continued cooperation with Ecology and would allow productive use of the cleaned up areas in the future. **This is the recommended alternative.**

### **ATTACHMENTS TO THIS REQUEST**

Agreed Order No. DE 8938 with the Washington State Department of Ecology.

### **PREVIOUS COMMISSION ACTIONS OR BRIEFINGS**

- May 4, 2010 – Commission authorized the Chief Executive Officer to execute the 2010 agreed order with the Washington State Department of Ecology.
- March 27, 2012 – Commission authorized the Chief Executive Officer to execute Agreed Order No. DE 8938 with the Washington State Department of Ecology on the implementation of a Cleanup Action Plan and to address contamination in the Upland area of Terminal 91.
- December 4, 2012 – Commission authorized \$44,179,000 spending in 2013 for Environmental Remediation Liabilities.