

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

**COMMISSION AGENDA**

**Item No.** 5f

**ACTION ITEM**

**Date of Meeting** September 24, 2013

**DATE:** September 16, 2013

**TO:** Tay Yoshitani, Chief Executive Officer

**FROM:** Elizabeth Leavitt, Director, Planning and Environmental  
Bob Duffner, Manager Environmental Programs

**SUBJECT:** Execution of a Consent Decree for remediation of the Lora Lake Apartments Site

**Amount of This Request:** \$0

**Source of Funds:** Airport Development Fund

**Est. State and Local Taxes:** \$0

**Est. Jobs Created:** TBD

**Est. Total Project Cost:** \$18,200,000

**ACTION REQUESTED**

Request Commission authorization for the Chief Executive Officer to: (1) execute the Model Toxics Control Act (MTCA) consent decree for the design and implementation of the environmental remediation for the Lora Lake Apartments Site; and (2) design and prepare construction documents for the environmental remediation at the Lora Lake Parcel.

**SYNOPSIS**

The Lora Lake Apartments site has dioxin contamination in the soil as a result of earlier industrial operations which must be remediated for the Port to be in compliance with state law and for future reuse of the site. The Port acquired the property as part of the Third Runway project to meet Federal Aviation Administration (FAA) flight safety zone regulations. The presence of dioxin was not known at the time of the property acquisition but was identified during subsequent testing. During investigation work it was found that contamination had spread from the Apartment property to the Lora Lake bottom sediments, and an adjacent area of Airport property where dredged sediments from the lake were placed in 1982. The Lora Lake Apartments cleanup site now includes these three parcels.

In order to proceed with the cleanup of the site, the Port must enter into a consent decree with the Washington State Department of Ecology (Ecology). The decree and its exhibits describe in detail the agreement between the Port and Ecology on how and when the site will be remediated. Authorization to execute the consent decree along with the design and preparation of construction documents will allow remediation of the site to occur in 2016 and 2017.

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After authorization and execution of the consent decree a public comment period will be conducted by Ecology. This comment period will likely occur in the fourth quarter of 2013. If public comments result in substantive changes to the consent decree an additional Commission authorization will be requested.

Funding for this work was included in the 2013-2017 Environmental Remediation Liability (ERL) Program, and additional funds will be requested in the 2014-2018 ERL authorization in December 2013.

## **BACKGROUND**

The Lora Lake Apartments, located on the west side of Des Moines Memorial Way in the City of Burien, was the site of a barrel cleaning facility in the 1940s and 1950s, and an auto wrecking yard in the 1950s through the 1980s. Both of these types of industrial uses are known to have had high potential for releasing contaminants to the environment. The Novak Barrel Washing Company ceased to exist sometime in the late 1940s or early 1950s. Burien Auto Wrecking went out of business when the property was purchased by the Mueller Development Company in the mid-1980s for the construction of the apartment complex.

During the construction of the apartment complex in 1986-87, the developer conducted environmental investigations and remediation that were approved by Ecology under standards in place at that time.

By 1999 all residents had vacated the property in anticipation of the construction of the Third Runway and redevelopment for airport and airport-compatible light industrial/commercial use. Due to delays in Third Runway construction, and prior to demolition, the Port sold the property to the King County Housing Authority for a limited period, for residential use. King County sold the property back to the Port in July 2007, at which time the Port demolished a sufficient number of structures to comply with FAA regulations for Airport runway operation. At that time, the Port conducted environmental sampling to define site conditions in support of future property redevelopment. Sample data indicated significant contamination remained at the site. Further investigations confirmed those findings.

In July 2009 the Port and Ecology entered into an agreed order that required the implementation of a remedial investigation/feasibility study, and the development of a draft cleanup action plan. During the remedial investigation of the apartment site, Ecology ordered the Port to collect samples of sediment in the Lora Lake Parcel. The Lora Lake Parcel is located on the east side of Des Moines Memorial Way in the City of SeaTac. Those sediments contained dioxin contamination that could have migrated from the apartment parcel. It was also discovered that sediment had been dredged from the lake in 1982 and placed on Airport property in what is now called the dredge material containment area (DMCA).

The Lora Lake Apartment site is located within the City of Burien's Northeast Redevelopment Area (NERA). The city identified the NERA as an area affected by present and future aviation activities. The city and Port have partnered to prepare a redevelopment strategy for the NERA.

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The redevelopment strategy identified the Lora Lake Apartment site as appropriate for large-scale commercial or industrial uses such as auto dealerships or air cargo logistics.

### **PROJECT JUSTIFICATION AND DETAILS**

The overall goal of the site cleanup is to significantly reduce or eliminate the exposure of ecological and human receptors to soil contamination and thereby reduce or eliminate adverse effects on resources in the project site. In addition, cleanup of the apartment parcel will allow for its beneficial reuse.

#### ***Project Objectives:***

- Perform the remediation work at the site in accordance with the consent decree.
- Manage and perform the work, with project controls and contract systems in place.
- Identify and consider community values and concerns, as part of a formal public participation plan.
- Remediation design and implementation will be carried out in a manner that considers the potential needs of future development on the Lora Lake Apartment Site.

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

Cleanup of the apartment parcel will consist of the removal of approximately 19,000 cubic yards of dioxin-contaminated soil with a concentration greater than 100 parts per trillion (pptr). This soil will be transported to a landfill permitted to accept this type of material. Soil remaining on the site with a concentration less than 100 pptr, but above the cleanup level of 11 pptr will be covered with a barrier to prevent direct contact with people or animals. The cleanup action plan will give the Port the option to relocate and consolidate the soil between 11 pptr and 100 pptr (approximately 30,000 cubic yards) to a nearby, secure portion of the Airport where it will be covered to prevent direct contact with people or animals. This option may improve conditions at the apartment parcel for redevelopment, and is an option the Port can elect to implement should the redevelopment plans indicate it is prudent.

At the Lora Lake Parcel, contaminated sediments will be capped by filling the lake with approximately 38,500 cubic yards of clean fill, and restoring it to a wetland similar to the surrounding area. The fill will be engineered to immobilize the dioxin contained in the lake sediments.

After the Port signs the consent decree a public comment period will be held in October or November 2013 on the remedial investigation/feasibility report, the 2013 consent decree and the cleanup action plan. After the consent decree has been finalized, the Port will begin extensive pre-design sampling in early 2014 with design of the apartment site and lake parcel cleanup completed in mid-2015. The apartment site remediation will be completed during the summer of 2016, with the lake parcel remediation occurring in the summer of 2017.

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### ***Schedule:***

2013, 4<sup>th</sup> Quarter – Public comment period on remedial investigation/feasibility study report and consent decree.

2013, 4<sup>th</sup> Quarter – Final consent decree lodged with the Court.

2014, 1<sup>st</sup> and 2<sup>nd</sup> Quarters – Complete extensive pre-design/confirmation sampling program.

2014, 3<sup>rd</sup> and 4<sup>th</sup> Quarters and 2015 1<sup>st</sup> and 2<sup>nd</sup> Quarters – Prepare remedial design documents, plans and specifications.

2015, 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> Quarters – Advertise construction contract.

2016 – Complete remediation at the Apartments Site and DMCA.

2017– Complete remediation at the Lake Parcel.

## **FINANCIAL IMPLICATIONS**

There is no funding request as part of this authorization since the budget for this requested action will be authorized in the annual ERL program authorization requests. All costs will be accounted for as environmental remediation liabilities and charged to expense in accordance with Port Policy AC-9. The Airport Development Fund will be the funding source.

Total cost for the entire cleanup is estimated at \$18.2 million. The cleanup costs of the Lora Lake Apartments parcel and the Lora Lake parcel will be accounted for differently. The \$4.9 million cleanup at the lake parcel will be accounted for as an operating cost (recognized in 2013) as the property is part of the object-free area within the runway protection zone, and therefore no development is permitted. The Lora Lake Apartments site is not necessary for airfield operations (although a corner is in the controlled action area of the runway protection zone). The Port's intent is to clean up the site in anticipation of sale. The \$13.3 million clean-up costs are being accounted for as non-operating costs (\$11.5 million recognized as non-operating expense in 2012, \$1.8 million recognized as non-operating expense in 2013).

The costs are eligible for Remedial Action Grants from Ecology if and when funds for such grants are available. An application for such a grant has been submitted to Ecology, requesting \$2.5 million for the 2013-15 biennium, and an additional \$7.5 million in the follow biennium.

## **STRATEGIES AND OBJECTIVES**

This project will achieve the strategic objective of accomplishing cleanup of the Port's property, with the intent of returning it to productive use.

Remediation of the Lora Lake Apartments Site will reduce to acceptable levels threats to the environment caused by historical property uses and operations, achieving compliance with regulatory mandates, management of Port liabilities, and support of the local community, all in alignment with the goals and objectives of the Century Agenda and Airport Strategies. Returning the property to productive use benefits both the Airport and the local community.

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Completion of the site remediation, moreover, is directly responsive to the Port's commitment to cooperative Port-City of Burien property redevelopment.

### **TRIPLE BOTTOM LINE**

#### ***Economic Development***

Cleanup of the contaminated site will allow it to be returned to productive use, and support the surrounding re-development plans of the City of Burien.

#### ***Environmental Responsibility***

State and federal laws require elimination of unacceptable levels of environmental risk caused by the presence of contaminants in soil, groundwater, and sediment. Project planning and design efforts are considering and incorporating opportunities for materials reuse, recycling, and/or reduction. Implementation of the cleanup remedy will include significant environmental controls and performance monitoring to ensure public health and safety.

#### ***Community Benefit***

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 returns contaminated land to a more productive state, supporting the City of Burien plans for the NERA redevelopment.

### **ALTERNATIVES AND IMPLICATIONS CONSIDERED**

The following alternatives were considered for accomplishing the work described in the scope of work:

Alternative 1: Do not authorize execution of the consent decree. This alternative would delay remediation of the site and would not protect the environment. In addition, it would not provide for the cleanup necessary for the NERA redevelopment. This alternative could also result in the issuance of a unilateral Ecology enforcement order to perform the work, which would eliminate Port control over the remediation activity and could result in a significant increase in costs. This is not the recommended alternative.

Alternative 2: Authorize execution of the proposed consent decree, but not authorize the start of design and preparation of construction documents. This would cause the Port to be out of compliance with the remediation schedule set forth in the consent decree, and would delay the remediation of the site. It could also trigger a unilateral enforcement order from Ecology. This is not the recommended alternative.

Alternative 3: Authorize execution of the proposed consent decree and the start of design and preparation of construction documents. This alternative would result in compliance with the 2013 Consent Decree and facilitate remediation of the site in 2016 and 2017. This is the most expeditious and cost effective approach. **This is the recommended alternative.**

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## **ATTACHMENTS TO THIS REQUEST**

- Draft MTCA Consent Decree for environmental remediation at the Lora Lake Apartments Site
- PowerPoint presentation.

## **PREVIOUS COMMISSION ACTIONS OR BRIEFINGS**

- December 4, 2012 – The Commission authorized (1) execution of an amendment to the 2009 Agreed Order for additional environmental investigation and remediation planning for the Lora Lake Apartments site; (2) design and preparation of construction documents for environmental remediation at the site; and (3) amendment of the professional services agreement for environmental remediation at the site to \$4.4 million, which was more than 50 percent over the original contract amount.
- December 4, 2012 – The Port Commission authorized 2013 expenditure of \$44,179,000 from Port Environmental Reserve funds, for environmental remediation of the various Port properties for which remediation funds have been reserved. The Lora Lake Apartments Property was included in that authorization request.
- December 6, 2011 – The Port Commission authorized 2012 expenditure of \$56,500,000 from Port Environmental Reserve funds, for environmental remediation of the various Port properties for which remediation funds have been reserved. The Lora Lake Apartments Property was included in that authorization request.
- June 9, 2009 – The Port Commission authorized execution of an agreed order with Ecology, issued under MTCA, for environmental investigation and remediation of the Lora Lake Apartments Site.
- May 5, 2009 – The Port Commission authorized procurement of environmental consulting services to support the Port's implementation of the Lora Lake Apartments Property remediation.