



**AGENDA MEMORANDUM**

**Item No.**

6e

**ACTION ITEM**

**Date of Meeting**

December 10, 2019

**DATE:** November 13, 2019

**TO:** Stephen P. Metruck, Executive Director

**FROM:** Sandra Kilroy, Director Maritime Environment & Sustainability  
Kathy Bahnick, Manager, Remediation Programs  
Joanna Florer, Sr. Environmental Program Manager

**SUBJECT:** Terminal 91 – Sediment Remedial Investigation

**Total estimated project cost:**

\$1,000,000

**ACTION REQUESTED**

Request Commission authorization for the Executive Director to (1) execute an Agreed Order with the Washington State Department of Ecology to complete a sediment Remedial Investigation at the port's Terminal 91 property; (2) procure and execute a project-specific contract to complete the scope of work required by the Ecology Agreed Order and future amendments; and (3) execute a Corrective Action Permit Renewal application as required by Ecology and EPA for the T-91 facility.

**EXECUTIVE SUMMARY**

Terminal 91 (T-91) is located in an industrial area in the Interbay neighborhood of Seattle. The two piers located at Terminal 91 were built by the port soon after its establishment in 1911. In 1941 the U.S. Navy took ownership, consolidating multiple parcels into T-91 as it exists today. The port reacquired the facility in the 1970s. A former tank farm located at the terminal was used as a dangerous waste treatment and storage facility under a Resource Conservation and Recovery Act (RCRA) permit from the 1970s until 1995.

The permit was issued to Burlington Environmental, Inc (later as Philip Services Corporation) as the operator of the facility and the port as the facility owner. Philip Services Corporation declared bankruptcy in 2003 and the permit was later issue to just the port. After closure in 2003, the permit transitioned to a corrective action permit which was implemented under an Ecology cleanup order. The above-ground portion of the tank farm was demolished by the port in 2005.

Since 1991, the port has been working with Ecology to address the tank farm contamination. On April 10, 2012, Ecology and the port entered into an Agreed Order (No. DE 8938) which obligated the port to implement the tank farm affected area cleanup. The tank farm cleanup has been completed except for the long-term compliance monitoring. The 2012 Order also

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applies to the port-owned submerged lands (i.e., sediment area) adjacent to T-91 (Submerged Lands), but it defers action with respect to any contamination identified in the Submerged Lands for up to ten years (that is, no later than 2022).

The Order states that Ecology would re-evaluate the necessity and practicability of remediation in the Submerged lands. When maintenance dredging was proposed in a limited area of the sediments, Ecology requested the port to perform a preliminary sediment investigation and sediment maintenance work under an Order amendment.

The preliminary sediment investigation was completed in 2018 and based on the findings, Ecology has requested the port conduct a Remedial Investigation (RI) of the sediments under a new Agreed Order. This RI will identify the nature and extent of chemical contamination in the sediments. This information along with the RI performed by the Army Corps of Engineers in 2013 to identify the nature and extent of discarded military munitions explosive hazard and risk associated with munitions constituents will be used to identify cleanup approaches for the sediment site in a future feasibility study. Furthermore, the RI could help identify other PLPs and aid in future cost recovery actions. The Agreed Order will likely be amended in the future to require additional work such as a feasibility study and/or draft cleanup action plan.

The existing corrective action permit that requires this work, expires in 2020 and must be renewed, which requires a new permit renewal application.

To conduct the RI, the port will procure an environmental consulting firm to perform the work using the public procurement process. The procurement will be for the Remedial Investigation, as well as for the potential future work that may be required (i.e., feasibility study and/or draft cleanup action plan). The port's Diversity in Contracting Department is recommending a 10% aspirational goal for women and minority business enterprises (WMBE) attainment.

No funding is requested. Funding for this work was included in the 2020 – 2024 Environmental Remediation Liability (ERL) Program.

### **JUSTIFICATION**

The port's participation supports the Century Agenda goal of being the greenest port and reinforces our commitment of being a responsible steward of community resources and the environment. The Ecology Agreed Order is a binding agreement to perform site environmental investigation work by the port. The work by the port required of the Order will include direct costs for consulting and laboratory fees in excess of \$500,000. Therefore, signing the Ecology order requires Commission authorization.

### **DETAILS**

The Scope of Work detailed in Ecology's Order requires that the port perform an RI for the submerged lands (i.e., sediment area) of the project site. Although not anticipated, the order

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also provides for any Interim Actions (i.e., hot spot removal or emergency response) should they be necessary. The RI will include the collection and chemical analysis of sediment samples. The RI will determine the origin, nature, distribution/fate and transport, and extent of contamination exceeding the Sediment Management Standards (WAC 173-204), and other regulatory requirements. The RI must provide data and information to define the nature and extent of contamination sufficiently to perform a feasibility study and select a cleanup action. The Agreed Order will likely be amended in the future to require additional work such as a feasibility study and/or draft cleanup action plan.

***Scope of Work***

The Order’s Scope of Work is expected to be performed by a professional consulting firm hired by the port. As detailed in Exhibit B of the Order, Scope of Work, which divided into the following major tasks:

- (1) Task 1 – Remedial Investigation Work Plan
- (2) Task 2 – Remedial Investigation (field sample collection, lab analysis, data evaluation)
- (3) Task 3 – Interim Action(s), if required

In anticipation of future order amendments, the consultant scope will also include the possibility of performing a follow-on feasibility study and draft cleanup action plan. If this additional scope is not needed, the consultant will not be tasked with performing that additional work.

***Schedule***

The draft schedule of the required work associated with the Ecology Order is as follows:

<i>Activity</i>	
Commission authorization to sign Ecology order	Q4 – 2019
Execute contract with consultant	Q2 - 2020
Prepare an RI Work Plan	Q4 – 2020
Perform the RI field work	Q2/Q3 - 2021
Final RI Report	Q2 - 2022

***Cost Breakdown***

Remedial Investigation	\$400,000
Feasibility Study and draft Clean-up Action Plan (if needed)	\$500,000
Port Management	\$100,000
<b>Total</b>	<b>\$1,000,000</b>

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**ALTERNATIVES AND IMPLICATIONS CONSIDERED**

**Alternative 1 – Do Not Authorize Signature of the Ecology Order**

Cost Implications: Not signing the Order would likely result in the issuance of an enforcement order by Ecology, or Ecology could elect to perform this work itself (i.e., contract the work to its support consultant). This would increase the port estimated costs by 1.5 to 2 times.

Pros:

- (1) None.

Cons:

- (1) Increased legal and staff time and efforts to respond to an enforcement order and provide ancillary support to Ecology to carry out the order (gain access to the site, etc.).
- (2) The ultimate costs of the work will be much higher if Ecology performs the work itself.
- (3) Not performing this work could tarnish the port’s reputation with Ecology and the community as having a commitment to public health and being a steward of community resources and the environment.

*This is not the recommended alternative.*

**Alternative 2 – Authorize the Signing of the Ecology Order and future amendments and procure and execute a project specific consultant contract**

Cost Implications: \$1M, depending on the findings during the work.

Pros:

- (1) Complies with the order and furthers the port’s collaborative working relationship with Ecology.
- (2) Takes the next step leading to the T-91’s cleanup and long-term protection of human health and the environment beyond T-91.
- (3) Demonstrates the port’s value of being a responsible steward of community resources and the environment.
- (4) Could potentially identify other responsible parties to share in the cleanup costs

Cons:

- (1) Costs of approximately \$1 million by the port to complete the Order’s Statement of Work and future amendments

*This is the recommended alternative.*

**FINANCIAL IMPLICATIONS**

There is no funding request as part of this authorization. Funding for the associated scope of work and costs is included in the annual Environmental Remedial Liability (ERL) authorization. Certain costs may also be eligible for insurance reimbursement.

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**Cost Estimate/Authorization Summary**

This Request

Total Project

<b>COST ESTIMATE</b>		
RI	\$400,000	Not Applicable
FS and draft Cleanup Plan (if needed)	\$500,000	
Port Management	\$100,000	
<b>AUTHORIZATION</b>	Not Applicable	Not Applicable
Previous authorizations (by ERL)		
Current request for authorization		
Total authorizations, including this request		
Remaining amount to be authorized	\$0	\$0

**ATTACHMENTS TO THIS REQUEST**

- (1) State of Washington Department of Ecology Agreed Order
- (2) Terminal 91 Tank Farm RCRA Permit Renewal Application

**PREVIOUS COMMISSION ACTIONS OR BRIEFINGS**

November 19, 2019 – The Commission authorized spending environmental remediation liabilities funds for 2020 in the amount of \$28,730,000 and a five-year plan of \$123,312,000 for Environmental Remediation Liability Program for 2020-2024 of which an amount estimated not to exceed \$30,000,000 will be obligated during 2020 to be spent in future years.

November 13, 2018 – The Commission authorized spending environmental remediation liabilities funds for 2019 in the amount of \$17,025,000 and a five-year plan of \$88,800,000 for Environmental Remediation Liability Program for 2019-2023 of which an amount estimated not to exceed \$30,000,000 will be obligated during 2019 to be spent in future years.

December 8, 2015 - Commission authorized the Chief Executive Officer to execute Agreed the Amendment to Order No. DE 8938 with the Washington State Department of Ecology to perform a historical review and sampling of the T-91 sediments and to perform the sediment regrading project.

September 10, 2013 – Commission authorized maintenance dredging at Terminal 5 and Terminal 91 for the combined total of \$4,800,000.

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.