



**COMMISSION
AGENDA MEMORANDUM**

Item No. 8a

ACTION ITEM

Date of Meeting March 27, 2018

DATE: February 15, 2018
TO: Stephen Metruck, Executive Director
FROM: Kathy Bahnick, Senior Manager, Remediation Programs
Roy Kuroiwa, Senior Environmental Program Manager
SUBJECT: Terminal 108 Preliminary Assessment and Site Investigation

Amount of this request: \$0
Total estimated project cost: \$300,000

ACTION REQUESTED

Request Commission authorization for the Executive Director to sign an EPA Administrative Settlement Agreement and Order on Consent requiring the Port of Seattle to perform a Preliminary Assessment and Site Investigation at Terminal 108. Funding for this work was included in the 2018 – 2022 annual Environmental Remediation Liability (ERL) Program authorization.

EXECUTIVE SUMMARY

Terminal 108 (T-108) has been identified as a potential upland source control site for the Lower Duwamish Waterway Superfund Site due to its adjacency to the river and the past uses at the site. Source control is the process of identifying sources of contamination, then stopping or reducing them before they reach the Lower Duwamish Waterway.

Historically, the T-108 site was a municipal sewage treatment plant between 1938 and 1969, first owned and operated by the City then later by Metro/King County. In 1975, the U.S. Army Corps of Engineers negotiated an agreement with Chiyoda, the property owner at that time, to dispose of dredge spoils containing PCBs at T-108. The dredge spoils came from Slip 1, about 2,400 feet upstream of T-108, where a General Service Administration contractor had dropped a transformer containing 265 gallons of concentrated PCB fluid.

The Port purchased the property in 1984. As the current owner, the Port has performed site investigations in coordination with the Department of Ecology (Ecology) to study and address possible source control issues. More recently, Ecology asked the U.S. Environmental Protection Agency (EPA) to take the lead on this site due to the federal government's role in contributing to suspected contamination at the site. Subsequently, EPA requested that the Port perform a Preliminary Assessment and Site Investigation (PA-SI). The Port negotiated with EPA to reach

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agreement on a final Administrative Settlement Agreement and Order on Consent Order, (EPA Order) (attached). A PA-SI is similar to a property Phase I Environmental Site Assessment (document search to develop site history of ownership and operations, including potential environmental impacts and releases) and a data gaps investigation. Today, most of the terminal is used by our tenant as an off-dock facility for storage and maintenance of empty cargo containers.

Funding for this work was included in the 2016-2020 Environmental Remediation Liability (ERL) Program. Accordingly, additional funding is not requested at this time.

JUSTIFICATION

The EPA Order is a binding agreement to perform work by the Port, therefore the signing of the EPA Order requires Commission authorization. The project will formally initiate the process of determining upland site cleanup or control efforts at T-108 necessary to meet EPA and Ecology’s source control requirements as related to the larger Lower Duwamish Waterway Superfund Site. The project will also help EPA and Ecology identify other possible responsible parties, in addition to the Port, for source control, site assessment, and cleanup if required.

DETAILS

The Statement of Work detailed in the Order requires that the Port perform a PA-SI. These work tasks are routine site assessment efforts and are used to determine: a) what is the source, nature and extent of the release; b) is there an imminent threat to human health or the environment; c) who are possible responsible parties for the release; and, finally, d) if a removal action is necessary.

Scope of Work

As presented in the Statement of Work attached to the Order, the Port will perform the following tasks:

1. Preliminary Assessment Report
 - a. Research site history, including prior environmental investigation, ownership and operations.
 - b. Evaluate all existing environmental data to determine current site conditions.
 - c. Identification of data gaps, if any.

2. Site Investigation Report (if data gaps are identified)
 - a. Investigation Work Plan
 - b. Perform site investigation activities, which may include soil and groundwater sampling.

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Schedule

The schedule of the required work is based on the Statement of Work in the Settlement Agreement. The total time to complete this work is approximately 6 months.

| <i>Activity</i> | <i>Estimated Schedule</i> |
|-----------------------------------|---------------------------|
| Commission authorization of Order | Q1 – 2018 |
| Perform Preliminary Assessment | Q2 – 2018 |
| Perform Site Investigation | Q4 – 2018 |

Cost Breakdown

Estimated Total
Project

| | |
|---------------------------------|-----------|
| Preliminary Assessment | \$125,000 |
| Site Investigation | \$150,000 |
| Project Management and Controls | \$25,000 |

ALTERNATIVES AND IMPLICATIONS CONSIDERED

Alternative 1 – Do Not Authorize Signature of the Order

Cost Implications: Not signing the Order may result in the issuance of an enforcement order by EPA, or EPA may elect to perform this work itself. This would result in the EPA recovering the cost of the work from the Port, increasing the Port’s estimated costs by 1.5 to 3 times, roughly \$500,000 to \$1 million (from \$300,000).

Pros:

- (1) May delay the Port’s spending by a year or more while EPA prepares the enforcement order.
- (2) May delay the work and costs while EPA has to contract and perform the work itself, then compels the Port to reimburse EPA for the costs.

Cons:

- (1) Increased legal and staff time and efforts to respond to an enforcement order and provide ancillary support to the EPA to carry out the enforcement order (gain access to the site, etc.)
- (2) The ultimate costs of the work will be much higher if EPA elects to perform the work itself.
- (3) Not performing this work could tarnish the Port’s reputation with EPA 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.

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Alternative 2 – Authorize the Signing of the Order and begin the required Statement of Work

Cost Implications: Likely \$300,000 but may increase to \$500,000, depending on the findings during the work.

Pros:

- (1) Complies with the Order and furthers the Port’s collaborative working relationship with EPA.
- (2) Takes the next step leading to Terminal 108’s cleanup and long-term protection of human health and the environment.
- (3) Will likely lead to the identification of other responsible parties for past releases.
- (4) Demonstrates the Port’s value of being responsible stewards of community resources and the environment.

Cons:

- (1) Costs of approximately \$300,000 by the Port to complete the Order’s Statement of Work.

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. Cost recovery from former owners or operators at the terminal has not yet been pursued, but may be pursued in the future.

Cost Estimate/Authorization Summary

| | Capital | Expense | Total |
|--|---------|-----------|-----------|
| COST ESTIMATE | | | |
| Original estimate | \$0 | \$300,000 | \$300,000 |
| AUTHORIZATION | | | |
| Previous authorizations (by ERL) | 0 | \$300,000 | \$300,000 |
| Current request for authorization | 0 | 0 | 0 |
| Total authorizations, including this request | 0 | 0 | 0 |
| Remaining amount to be authorized | \$0 | \$0 | \$0 |

ATTACHMENTS TO THIS REQUEST

- (1) Administrative Settlement Agreement and Order on Consent for Removal Action Preliminary Assessment and Site Investigation (T-108, Lower Duwamish Waterway Superfund Site, Seattle, WA)

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PREVIOUS COMMISSION ACTIONS OR BRIEFINGS

November 6, 2017 – The Commission authorized spending environmental remediation liabilities funds for 2018 in the amount of \$19,800,000 and a five-year plan of \$88,800,000 for Environmental Remediation Liability Program for 2018-2022 of which an amount estimated not to exceed \$30,000,000 will be obligated during 2018 to be spent in future years.

May 9, 2016 – The Commission authorized execution of an Inter-Agency Agreement (IAA) with the Washington State Department of Ecology for a 100% grant-funded project (bank stabilization) at T-108.