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COMMISSION

AGENDA MEMORANDUM Item No. 10d

ACTION ITEM Date of Meeting November 29, 2022

DATE: November 1, 2022

TO: Stephen P. Metruck, Executive Director

FROM: Sarah Ogier, Director, Maritime Environment & Sustainability

Sarah Cox, Director, Aviation Environment & Sustainability

Kathy Bahnick, Sr. Mgr., Environmental Programs, Maritime Env. & Sustainability

Megan King Sr. Environmental Program Mgr., Aviation Environment & Sustainability

SUBJECT: 2023 – 2027 Environmental Remediation Liability Program

Amount of this request: \$11,000,000

ACTION REQUESTED

Request Commission authorization for the Executive Director to (1) spend environmental remediation funds for 2023 in the amount of \$11,000,000 and (2) approve a five-year spending plan for \$103,000,000 for the environmental remediation liability program for 2023-2027, of which an estimated not-to-exceed amount of \$30,000,000 will be obligated during 2023 to be spent in future years.

EXECUTIVE SUMMARY

As a major industrial and commercial landowner, the Port has significant environmental cleanup liabilities due to historical contamination of its properties. The \$11,000,000 requested spending authorization for 2023 will allow continuation of ongoing environmental investigations, testing, analysis, design, cleanup, and monitoring for active sites and as well as initiation of similar activities for new sites as noted below. The spending authorization and five-year plan will allow the Port to enter into contracts for work spanning multiple years. Prior to actual spending of these future obligated funds, Commission budget approval will be needed, likely through future annual Environmental Remediation Liability (ERL) authorizations. The approval of the five-year plan provides greater visibility regarding our projected upcoming environmental liability spending.

Environmental remediation projects identify and address threats to human health and the environment caused by contamination resulting from historical industrial operations on properties acquired by the Port and/or, prior Port or Port tenant operations. The results of these efforts, as well as the attendant compliance with regulatory mandates, management of Port

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liabilities, and support of the local community, align with the goals and objectives of the Century Agenda, Long Range Plan, and Maritime, Aviation, Economic Development Division and Storm Water Utility Business Plans.

JUSTIFICATION

Consistent with past practices, the duration of the authorization continues to be an annual spending authorization. Since 2011, the authorization requests have also provided a rolling fiveyear spending plan to reflect the level of resources expected to be required over the next five years. Executing contract obligations for a longer duration minimizes the need to rework all contract amendments and service directives that are aligned with the end-of-year authorization. It also provides greater visibility regarding anticipated future environmental liability costs.

The environmental investigation and remediation actions described below are generally required under federal and/or state law; exceptions are noted. Remedial actions continue to focus on the cost-effective study, analysis, and implementation of cleanup actions; coordination with capital planning, design, and construction; and negotiation with agencies, tenants, or other Potentially Responsible Parties (PRPs) that are liable for contamination, and insurance companies.

(1) Perform remediation work at the various sites in accordance with the various state or federal requirements.

(2) Manage and perform the work, with project controls and contract systems in place.

(3) Identify and consider community values and concerns as part of the various public participation plans.

(4) Perform remediation investigations, designs and implementations that will be carried out

in a manner that considers current and potential future uses of the sites.
(5) Perform initial investigations and scoping work to identify future actions.
(6) Maximize cost recovery.

Diversity in Contracting

Procurement for consultants to support this work is covered under separate Commission actions. Diversity in contracting will be included in any future procurement. Procurements started in 2020 have included a minimum of 15 - 20% WMBE utilization commitment.

DETAILS

Maritime, Economic Development and NWSA Homeport Sites/Projects

Lower Duwamish Waterway Superfund Site – The Lower Duwamish Waterway (LDW) is a federal Superfund site under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and a state-listed cleanup site under the Washington's Model Toxics Control Act (MTCA). The Lower Duwamish Waterway Group (LDWG), consisting of the Port, the City of Seattle, King County and Boeing completed a Remedial Investigation and Feasibility Study (RI/FS)

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of the LDW under a 2000 Administrative Order on Consent (AOC) with the U.S. Environmental Protection Agency (EPA) and the Washington State Department of Ecology (Ecology). In November 2014, after seeking concurrence from Ecology, EPA issued the Record of Decision for the LDW Site. LDWG also began a carbon amendment pilot study at the end of 2014, which was completed in 2020. In 2016, LDWG completed a Fisher Study identifying who is using the river for fishing to aid EPA in development of appropriate institutional controls during and after cleanup. LDWG also began performing pre-design activities in 2016, including a baseline monitoring program and a waterway user study. The pre-design work was completed in 2020. The LDWG parties signed an AOC amendment in 2018 to begin cleanup design work of the upper third of the river. The design work began in mid-2019 and is expected to be complete by the end of 2023. The LDWG parties signed another AOC amendment in 2021 to begin design work on the middle third of the river. Consultant procurement was completed and the consultant is working on development of predesign sampling plans. The Port shares costs with the other LDWG parties on a preliminary basis for the current work being performed on this site. In addition to the inwater investigations, the Port is monitoring, tracking, and working on source control aimed at reducing recontamination after the in-water cleanup is performed. Ecology is the lead agency for source control work.

EPA has signaled that it will be beginning (in late October or early November) negotiation of a consent decree with PRPs to provide for completion of remedial design for the downstream third of the LDW site as well as site-wide implementation of EPA's selected remedy. It is currently unclear which PRPs will agree to implement the work called for in the consent decree, and unclear if the Port will be among them. However, the Port's liability for the LDW site does include liability for some portion of the costs to perform the remaining work. The Port's share of liability for past and future LDW site response costs is currently unknown, as is the total dollar amount of those costs (based on uncertainty with respect to the extent of future costs).

Terminal 117 Sediments, Bank and Uplands – As part of the LDW Superfund Site effort, the Port's Terminal 117 (T-117) in South Park was identified as an Early Action Area (EAA). This work was performed by the Port with a cost sharing agreement with the City. EPA issued an Action Memorandum in 2010 that included the EPA-selected cleanup plan. The Port with funding assistance from the City of Seattle, completed the T-117 upland soil and sediment cleanup in 2014 and constructed the final stormwater controls at the site. The Port continues to perform long-term monitoring and maintenance to verify the continued performance of the cleanup. This site is located in what is now part of the restoration habitat site and public access site called Duwamish People's Park.

South Park Marina – As part of the effort to control sources of contamination to the LDW, Ecology has identified potential source sites that could require early cleanup action. One such site is South Park Marina, which is adjacent to and north of Terminal 117. Ecology has identified the Port as a Potentially Liable Person (PLP) for the cleanup of this site under MTCA, along with the City of Seattle and South Park Marina. In March 2019, the three parties signed an Agreed Order to perform a Remedial Investigation. The City, South Park Marina, and the Port are equally

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sharing the costs to perform the investigation on an interim basis (subject to later reallocation of costs) and the City is managing the consultant on behalf of the three parties. The consultant procurement is complete, and the consultant is implementing the approved investigation workplans, including the collection and analysis of soil and groundwater samples.

Terminal 108 – Ecology has identified Terminal 108 as a potential source control site on the LDW. In 2006 and 2007, at Ecology's request, the Port investigated groundwater at the site and determined that the groundwater is not a source of contaminants to the LDW. However, additional upland contamination was discovered on the site, resulting in additional investigation requirements. In 2017, Ecology requested that EPA handle oversight of the Terminal 108 site due to limited resources at Ecology as well as the federal government's historical involvement at the site. The Port signed an order with EPA to prepare a preliminary assessment (PA) and data gaps analysis for the site, which was completed in early 2019. Following the PA, EPA issued Potential Responsible Party (PRP) notices to seven entities, including the Port, the City of Seattle, and King County. Three of the PRPs (Port, City and County) entered into an order with EPA in early 2020 to perform an Engineering Evaluation/Cost Analysis (similar to a remedial investigation/feasibility study). The joint consultant has been hired and is conducting soil and groundwater sampling and analysis in accordance with the approved work plans for site investigation.

Terminal 115 Plant 1 Site – The Port, along with Boeing, has been named by Ecology as a PLP under MTCA at the Terminal 115 Plant 1 site, which includes the location of the former Boeing Plant 1 facility. Boeing and the Port entered into an Ecology MTCA order in 2020 to perform a remedial investigation and feasibility study (RI/FS). The joint consultant has been hired and is developing the required work plans for site investigation.

Terminal 115 North – In 2009, Ecology identified the Port as a PLP under MTCA for Terminal 115 North, located adjacent and to the south of Glacier Bay, one of the high priority sediment cleanup areas within the LDW Superfund Site. The Port entered into an order with Ecology in 2010. Since then, the fieldwork for the remedial investigation has been completed and the Port submitted a final draft Remedial Investigation Report to Ecology in the summer of 2020. Once the Port receives final comments from Ecology and addresses them, the Port will begin work on the feasibility study.

Terminal 5 Ecology State Cleanup Sites – In the past, as part of the Terminal 5 Southwest Harbor redevelopment, the Port completed remediation at four sites under consent decrees with Ecology. Current obligations related to those cleanups include on-going cap inspection and maintenance of the cap areas. As part of the T-5 Southwest Harbor redevelopment, the Port purchased the old West Seattle Landfill and installed an environmental cap and a methane collection system. These systems require long-term operation and maintenance, inspection, and reporting, which are continuing. The Port is currently evaluating the potential of converting the active methane collection system to a passive system. During recent T-5 construction activities soil was identified within the original footprint of Terminal 5 outside the Southwest Harbor redevelopment footprint warranting additional investigation and cleanup. Targeted cleanup was

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performed in 2021 in an area that is no longer accessible following construction for new crane rails. Additional investigation is required to determine if additional cleanup activities are needed.

Terminal 5 Pacific Sound Resources (PSR) Superfund Site – This site was cleaned up under an order with EPA as part of the Terminal 5 Southwest Harbor redevelopment project. Ongoing obligations include continuing to perform required cap inspection and cap maintenance, product recovery activities, and monitoring EPA activities related to the groundwater and the offshore sediments. The Port completed significant cap maintenance activities consisting of major pavement repairs and reapplication of pavement seal coat in the summer of 2021.

Lockheed West - As part of the Southwest Harbor Redevelopment Project, the Port purchased aquatic and upland property on the north end of the current Terminal 5 from Lockheed Martin. The upland portion of the property is part of the Terminal 5 Ecology State Cleanup Site described above. The adjacent submerged portion is a Superfund cleanup site known as the Lockheed West Seattle Site, and includes submerged land owned by the Port and submerged land owned by the State of Washington and managed on the State's behalf by the Washington Department of Natural Resources. Under its purchase and sale agreement with the Port, Lockheed is obligated to investigate and cleanup the sediment within the site. On August 28, 2013, EPA issued the record of decision for the site. Lockheed Martin is the sole PRP responsible to perform the

cleanup work. The Cleanup fieldwork was completed in March 2020. The Port still reviews the actions of Lockheed Martin on Port property.

Harbor Island Superfund Site Soil and Groundwater Operable Unit – Cleanup of this Superfund site was performed under a Consent Decree with EPA, and the PRP group consultant is performing long-term groundwater monitoring under a PRP agreement. Long-term cap maintenance and inspections are ongoing as required under EPA's Record of Decision. Terminal 18 is located within this Superfund site.

Harbor Island Superfund Site East Waterway Sediments Operable Unit – In 2006, the Port signed an order with EPA to conduct a final Supplemental Remedial Investigation and Feasibility Study (SRI/FS), and also signed a Memorandum of Agreement with the City of Seattle and King County to share costs and cooperate in the SRI/FS process. The PRPs have conducted the SRI/FS tasks identified in the EPA order and subsequent work plans. EPA approved the final RI in January 2014 and the final FS in June 2019. The PRPs continue to respond to requests for additional information from EPA for developing the Proposed Plan for cleanup, which is expected to be published in 2023.

Harbor Island Superfund Site West Waterway Operable Unit – The West Waterway Operable Unit of the Harbor Island Superfund Site is a sediment area between Harbor Island and Terminal 5. In 2003, EPA issued a "No Action" Record of Decision for this operable unit, concluding that no active remediation was necessary in order to address any risks to human health or the environment due to releases of hazardous substances. As a component of its standard review process for the evaluation of past Superfund remedy decisions, which occurs at five-year

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intervals, EPA has requested additional sediment sampling within this operable unit. EPA has signaled that additional investigation (and potentially, remedial action) may ultimately be required.

Terminal 25 – This site is adjacent to and partially in the East Waterway Sediments site listed above. In 2022, the Port signed an order with EPA to conduct an Environmental Evaluation/Cost Analysis (EE/CA) which is a streamlined version of an RI/FS. A cleanup, if required will be coordinated with the creation of a habitat site. The site has been identified as a potential habitat restoration site in the Port's proposed multi-site habitat mitigation bank program. The habitat mitigation bank program is a revenue-generating program that restores marginal properties for the purposes of creating 'mitigation credits' that can be reserved, sold, or serve as a component of a future settlement agreement to resolve claims related to Natural Resource Damages (NRD) under CERCLA. Design and permitting authorization were approved under a separate Commission action but funding is approved through the annual ERL authorization.

Terminal 30 Cleanup – Terminal 30 is a former Chevron bulk petroleum product storage site that is being remediated under MTCA. Since the 1990s, the Port has removed significant amounts of free petroleum product from the site's groundwater and conducted an extensive groundwater monitoring program. The required public comment period for the draft consent decree and cleanup action plan was completed and the Port signed a final consent decree in early 2017. Implementation (cleanup construction) was performed in 2019. The Port is currently operating the air sparging system, collecting product and performing long-term monitoring of the site groundwater. System operation and maintenance is expected to occur for 10 years or less.

Terminal 10 Lockheed – Lockheed Martin previously performed the upland and sediment cleanup required at this Superfund site. The Port has a continuing obligation to maintain the upland cap and the habitat restoration area, manage any contaminated soil and groundwater encountered or removed during redevelopment or maintenance activities, and protect Lockheed's groundwater monitoring wells. Under the Terminal 10 Uplands capital project, the Port completed stormwater drainage and upland cap improvements in early 2012. As a condition of EPA approval, the Port initiated long-term stormwater solids sampling after the capital project. Terminals 103/104/105/107 – These sites have been identified by Ecology as having source control data gaps related to the Lower Duwamish Waterway Superfund Site and will likely require future investigation and possibly remediation.

Terminal 106 (West and Warehouse parcels) – These sites have been identified by Ecology as having source control data gaps related to the Lower Duwamish Waterway Superfund Site and will likely require future investigation and possibly remediation. In 2020 the Port and Trammel Crow signed a 60-year ground lease to develop a new, two-story warehouse building on the T-106 Warehouse property. The developer has agreed to perform all necessary environmental

cleanup and management requirements as part of the development.

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Natural Resource Damages (NRD) Habitat Restoration – The Port's Superfund liability for LDW and Harbor Island sediments sites includes injury to natural resources from contamination. The Port is negotiating with the Elliott Bay Trustee Council for settlement of this liability.

Terminal 91 Cleanup – Investigation and cleanup of this site is being administered by Ecology under a State Dangerous Waste Permit and a MTCA order. The bulk of the upland cleanup work was completed in mid-2015 and long-term groundwater monitoring and maintenance has begun. Investigation and cleanup of discrete units is ongoing as they are discovered. In 2016, pursuant to an amendment to the order the Port regraded a small in water shoal along the east side of Pier 91 with oversight by Ecology. Ecology also required the Port to begin a preliminary investigation into the site sediments, which was completed in 2018. The site is particularly complicated due to the existence of discarded military munitions (DMM) from the Navy's use of the site during the World War II era. The Port and Ecology have negotiated a MTCA order to conduct a remedial investigation of the sediments, which was signed in early 2020. We are currently performing the investigation and completing the remedial investigation report. The next step is to perform a feasibility study which will identify possible cleanup options for the sediments. Staff will be coming back to Commission in 2023 to ask for authorization to sign an order amendment to perform the feasibility study.

Fishermen's Terminal – The Port has removed some contaminated soils in the uplands, capped a portion of the uplands, and has performed some investigation of groundwater monitoring at and near the Fishing Vessel Owners (FVO) tenant site. It is anticipated in 2022 or 2023 the FT Marine Innovation Center (MInC) will begin construction and have some limited environmental cleanup activities.

Aviation Sites/Projects

Aircraft Fuel Farms and Fueling Systems – Five underground aircraft fueling systems were constructed and operated by individual airlines beginning in the early 1960s. As of January 2007, each of these systems has been decommissioned. Appropriate environmental cleanup has been achieved for three of the systems and is in progress for two others. Remediation of an area impacted by operations of the former United Airlines and Continental Airlines fuel farms is complete as of 2017, and decommissioning of the remediation system is planned for late 2022-early 2023. The Port is a member of the PLP group for this multiple-source site.

Lora Lake Apartments – In 2009, the Port and Ecology executed a MTCA order that required the Port to conduct a remedial investigation and feasibility study (RI/FS) for the cleanup of the Lora Lake Apartments Property. Remediation of the former Lora Lake Apartments and the former Lora Lake sites was completed between 2017-2019. A minimum of 5 years of post-remediation monitoring work is required by the site Consent Decree. Monitoring has been conducted at the former Lora Lake Apartments site since 2018 (5 years), and at the former Lora Lake site since

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2020 (3 years). Annual monitoring consists of ensuring cover integrity, and groundwater quality monitoring. Environmental covenants were recorded with King County in January 2022 for the parcels where contaminated soil remains beneath engineered covers. The covenants require maintaining the integrity of the covers, and restrict extraction of groundwater. The soil cover constructed at the Lora Lake Apartments parcel was designed as a temporary cover. The future redeveloped surface of the property will provide the final cover. Redevelopment of the property is expected to occur in the 2024 – 2026 timeframe.

Risks

The Port has initiated voluntary evaluation and investigation of soil and groundwater conditions at SEA associated with historical use of aqueous film-forming foam, known to contain per- and polyfluoroalkyl substances (PFAS). PFAS are not at this time regulated in soil or groundwater, and cleanup level regulation development is in process at both the state and federal level. PFAS remediation is not at this time included in ERL. As regulation development progresses, it is expected that ERL will apply, but given the current lack of information on cleanup levels, the

nature and extent of contamination at SEA, and the timing or degree of cleanup actions, ERL forecasting for PFAS cannot currently be estimated.

Schedule

Schedules are outlined in the various legal agreements for individual sites.

ALTERNATIVES AND IMPLICATIONS CONSIDERED

Alternative 1 – Do not complete the work.

Pros:

(1) Could save money in the short-term, until the regulator decided to enforce the already signed agreements.

Cons:

(1) Could result in the regulators, including Department of Ecology or the U.S. Environmental Protection Agency, taking enforcement action that could lead to them implementing the work. In this case, the Port would be liable for three times the costs incurred by the regulator.

(2) The Port would lose the opportunity to employ the flexibility contained in the controlling regulations, to define and direct the work, and to manage costs.

(3) Would not comply with Port's obligations to remediate the sites.

(4) Would not honor our cost sharing agreements for multiple sites.

(5) Would delay work previously agreed to under existing regulatory orders or under voluntary programs.

(6) Would erode trust between the Port, regulators, and the public, and may affect other projects and other agencies.

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This is not the recommended alternative.

Alternative 2 – Complete the work using Port staff only. Port staff is already heavily involved in project direction, legal analysis, and project management, and will continue to perform these services. The nature and extent of the technical and legal work required to complete this work is substantial and would require a large number of additional staff with additional expertise in a number of highly technical specialty areas.

Pros:

(1) Provides the opportunity to employ what flexibility is contained in the controlling regulations with respect to current and future uses of Port property under the agreements.

(2) Provides trained workforce with specific technical expertise.

(3) Provides consistent reporting and documentation.

(4) Allows for technical development of Port staff.

(5) Keeps in-house historical knowledge of Port-owned sites.

Cons:

(1) May not be able to meet the work schedules required by the orders using just staff.

(2) Servicing peak seasonal demand would require hiring additional full-time employees resulting in un-utilized labor through much of the year.

(3) Would require purchase of substantial amount of specialized sampling equipment.

(4) Would still require some contracting for tasks staff would not be able to perform such as laboratory analysis that are required to be certified by the state.

(5) Many of the sites are joint sites with multiple partners who may not agree to the Port performing the work.

This is not the recommended alternative.

Alternative 3 – Complete the work using a combination of Port staff and outside consultants and contractors that maximizes the ability for the Port to direct cleanup efforts and maximize the effectiveness of staff.

Pros:

(1) Meets our commitments under existing orders and cost sharing agreements.

(2) Provides the opportunity to employ what flexibility is contained in the controlling regulations with respect to current and future uses of Port property under the agreements.

(3) Provides contracted and Port work force that can increase or decrease service level of effort as needed.

(4) Provides trained workforce with specific technical expertise.

(5) Provides consistent reporting and documentation.

- (6) Allows for technical development of Port staff.
(7) Keeps in-house historical knowledge of Port-owned sites.

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[Link]

[http://collab.portseattle.org/sites/SEP_GASB49/PROFormPortfolio/PRO%20Form%20Portfolio/2014/Q02/Batch04%2020140818/2015%20Auth/_02_Master%20CF%20Ledger%2020140815%20\(newpvt\).xlsx](http://collab.portseattle.org/sites/SEP_GASB49/PROFormPortfolio/PRO%20Form%20Portfolio/2014/Q02/Batch04%2020140818/2015%20Auth/_02_Master%20CF%20Ledger%2020140815%20(newpvt).xlsx)

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Cons:

- (1) Requires staff time
(2) Port fronts some of the upfront costs for legacy contamination on our properties until future cost recovery occurs.

This is the recommended alternative.

FINANCIAL IMPLICATIONS

The following table summarizes 2022 through 2026 forecasted spending for environmental remediation projects. Forecasted spending reflects projects described in the Scope of Work.

Five-Year Spending Plan

\$s in Thousands 2023 2024 2025 2026 2027 2023-2027

Project Spending

10,500 9,100 22,500 19,600 40,900 102,600

Cash from 3rd

Parties* (2,200) (1,500) (1,400) - - (5,100)

Net Port Share

8,300 7,600 21,100 19,600 40,900 97,500

*Note: Forecasted amounts do not include estimates of possible recoveries from other parties or insurance.

Budget/Authorization Summary of Past and Current Year

\$s in Thousands Spent Budget Recovery

2017 - 2021 56,000 116,000 (57,000)

2022 thru 9/30/2022 7,700 32,800 (1,200)

*Note: The ERL Budget is an annual budget authorization and does not carry over to future years.

Recovery includes money from prior years. The difference between budgeted and spending for 2021 is due to COVID-19 delays, delays in regulatory negotiations or delay in agency review of deliverables, carrying the contract for other partners where we pay the upfront costs and are later reimbursed by our cost sharing partners, and recognition that the year is not complete.

Recovery sources include insurance, settlements, grants and PRP cost sharing.

Annual Budget Status and Source of Funds

Airport – Airport Development Fund

Maritime, Economic Development, and homeport liabilities on Northwest Seaport Alliance managed property – Tax Levy

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Financial Analysis and Summary

Environmental cleanup projects have multiple funding sources: (1) Maritime and Economic Development non-operating projects are funded by the Port's Tax Levy; (2) Maritime and Economic Development operating projects are funded by the General Fund; (3) Airport projects are funded by the Airport Development Fund. In addition, there are supplementary outside sources of funding, including the following:

- Contributions from third parties (payment from cost-sharing or contribution agreements with other liable parties, where the Port functions as a funding conduit for the other liable parties and the Port holds contracts on behalf of these other liable parties).
- Settlements with other liable parties.
- Insurance recoveries from both the Port's insurers and other liable parties' insurers; and
- Department of Ecology grants.

ADDITIONAL BACKGROUND

The Port has identified a number of contaminated sites on Maritime, Economic Development,

homeport liabilities on Northwest Seaport Alliance (NWSA) and Aviation properties that must be investigated and remediated in compliance with federal and state environmental laws and regulations. In some cases, the Port has been designated by the federal government as a "Potentially Responsible Person" (PRP), and/or by the state government as a "Potentially Liable Party" (PLP) for the investigation and cleanup of properties owned by the Port or where the Port may have contributed to site contamination.

Although the Port may not ultimately bear all or even most of the liability for the contamination, under federal and state law, the Port is presumptively liable as the property owner, and it is often practically and financially beneficial for the Port to take initial responsibility to manage and pay for the cleanup, and seek proportional recovery of its costs from other liable parties.

In many cases, the Port has successfully recovered and/or will seek recovery from other responsible parties for Port-incurred investigation and cleanup costs. The Port's insurers have funded some of these cost recovery efforts and, as such, some of the costs recovered are subject to reimbursement. The Port also has been successful in receiving Model Toxics Control Act (MTCA) grant funds to pay part of the cleanup costs. The Port's goals are to cost-effectively complete this environmentally responsible work and to maximize work accomplished by or paid for by other liable parties responsible for the conditions encountered (or others, such as insurance companies, who represent them).

To manage such environmental expenditures, the Port also encourages, coordinates with, and oversees the investigation and cleanup of sites by other responsible parties, to assure that legal requirements are met and that Port liabilities are minimized. Regardless of whether the Port conducts the investigation and remediation directly or oversees the proper performance of that work by other responsible parties, the Port provides a valuable public benefit by acting as a catalyst in expediting appropriate environmental management of these sites.

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Accounting rules require that the Port "book" or establish a liability on its balance sheet for environmental remediation when the Port's obligation meets specified definitions of certainty, and the liability amount can be reasonably estimated. When an environmental remediation liability is booked, an expense is also recorded in the current period for the future expenditures. The Port develops its environmental remediation liability forecasts in compliance with Government Accounting Standards Board (GASB) Statement No. 49 "Accounting and Financial Reporting for Pollution Remediation Obligations."

Environmental liability expenditures are authorized in one of two ways:

1. If the environmental costs are incurred during, or incidental to, a construction project, the Commission authorization occurs as part of the authorization for the overall construction project. Examples of this include asbestos removal, off-site soil disposal during construction, or upland dredge material disposal.
2. If the environmental cost is not associated with a capital construction project or maintenance (including asbestos and lead), but is a stand-alone pollution remediation project, the expenditure is authorized through annual action.

Since 1993, the Commission has approved annual environmental expenditures. In addition, Commission authorization is obtained prior to entering legal commitments for investigation or cleanup actions, such as an Agreed Order, Administrative Order on Consent (AOC), or Administrative Settlement Agreement and Order on Consent (ASAOC) (collectively referred to as "Orders"). Under the Orders, the Port is required to pay agency oversight costs. Further, to the extent required by the General Delegation of Authority, Central Procurement Office contract actions in support of approved environmental projects may require additional Commission authorization.

Since 1993, the Port has booked liabilities to recognize these obligations. While Port environmental cleanup projects typically span several years, more complex projects have been active for over 15 years or more.

ATTACHMENTS TO THIS REQUEST

- (1) Map of ERL Sites Aviation
- (2) Map of ERL Sites North Properties Maritime, Economic Development
- (3) Map of ERL Sites South Properties Maritime, Economic Development and NWSA

PREVIOUS COMMISSION ACTIONS OR BRIEFINGS

January 21, 2022 – The Commission approved (1) executing an Administrative Order on Consent (AOC) with the U.S. Environmental Protection Agency (EPA); and (2) authorized

completion of design and permitting for the Terminal 25 South Restoration Program Cleanup

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(106176) and Habitat Restoration (105562) projects in the amount of \$10,000,000 of a total preliminary estimated Environmental Remediation Liability (ERL) program cost of \$75,000,000. No funding is requested at this time to perform this work as it is included in the annual ERL authorization and 5-year plan.

November 9, 2021 – The Commission approved the 2022 (1) spend environmental remediation funds for 2022 in the amount of \$16,000,000 and (2) approve a five-year spending plan for \$114,000,000 for the environmental remediation liability program for 2022-2026, of which an amount estimated not to exceed \$30,000,000 will be obligated during 2022 to be spent in future years.

November 10, 2020 – The Commission approved the 2021 (1) spend environmental remediation funds for 2021 in the amount of \$33,100,000 and (2) approve a five-year spending plan for \$106,220,000 for the environmental remediation liability program for 2021-2025, of which an amount estimated not to exceed \$30,000,000 will be obligated during 2021 to be spent in future years.

June 9, 2020 - The Commission approved (1) Signing and execution of an Order with the Washington State Department of Ecology (Ecology) to complete a Remedial Investigation and Feasibility Study (RI/FS) at the Port's Terminal 115 property, (2) Sign a Potential Liable Party (PLP) Cost Sharing Agreement between the Port and The Boeing Company (Boeing) to share the costs and perform the scope of work required by Ecology's Order and (3) Procure and execute a project-specific, professional contract with an environmental consulting firm in the amount of \$3,000,000 to complete the scope of work (RI/FS) required by the Ecology Agreed Order.

May 12, 2020 – The Commission approved (1) Signing and execution of an EPA Administrative Settlement Agreement and Order on Consent (Order) requiring the Port of Seattle to perform an Engineering Evaluation and Cost Analysis (EE/CA) at Terminal 108, (2) Signing a Potential Responsible Party (PRP) Cost Sharing Agreement between the Port of Seattle, City of Seattle, and King County to share the costs to perform the scope of work required by EPA's Order including EPA oversight costs; and, (3) Procuring and executing a joint, project-specific, professional environmental consulting contract to prepare the EPA EE/CA in the amount of \$3,000,000. If needed, execute future Amendments which exceed \$300k to this contract to address scope items and changes required by EPA under the Order.

January 25, 2020 - Commission approved to advertise and execute a construction contract for the Terminal 5 Pacific Sound Resources Superfund Cap Maintenance project with a total project cost of \$1,935,000. There is no funding requested; construction will utilize approved environmental remediation and liability funding

January 7, 2020 - Commission approved (1) executing an Agreed Order with the Washington State Department of Ecology to complete a sediment Remedial Investigation at the port's Terminal 91 property; (2) procuring and executing a project-specific contract to complete

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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.

November 19, 2019 - The Commission approved the 2020 (1) spend environmental remediation funds for 2020 in the amount of \$28,730,000 and (2) approve a five-year spending plan for \$123,312,000 for the 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.

February 26, 2019 - Commission approved (1) signing an order with the Washington State Department of Ecology (Ecology) to complete a Remedial Investigation (RI) at the South Park Marina (adjacent to the Port's Terminal 117 in the south Seattle neighborhood of South Park); and (2) signing a Potential Liable Party (PLP) Cost Sharing Agreement between the Port, South Park Marina owners, and the City of Seattle to share the costs for the performance of the scope of work required by Ecology's order and agency oversight costs. There is no funding requested for this authorization.

November 13, 2018 – the Commission approved the 2019 (1) spend environmental remediation liabilities funds for 2018 in the amount of \$17,025,000; (2) approving a five-year spending plan of \$116,026,000 for the Environmental Remediation Liability (ERL) Program for 2019 to 2023 of which an amount estimated not to exceed \$30,000,000 will be obligated during 2019 to be spent in future years.

June 12, 2018 - Commission approved: (1) execution of a Fourth Amendment to the Administrative Order on Consent with the U.S. Environmental Protection Agency for the Lower Duwamish Waterway Superfund Site; and (2) execution of a Sixth Amendment to the Lower Duwamish Waterway Group Memorandum of Agreement to contract for and perform cleanup design of the upper third of the waterway. The estimated cost is approximately \$15,000,000, split equally between the four parties.

March 27, 2018 - Commission approved signing 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.

November 6, 2017 – the Commission approved the 2018 (1) spend environmental remediation liabilities funds for 2018 in the amount of \$19,800,000; (2) approving a five-year spending plan of \$88,800,000 for the Environmental Remediation Liability (ERL) Program for 2018 to 2022 of which an amount estimated not to exceed \$30,000,000 will be obligated during 2018 to be spent in future years.

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November 8, 2016 – the Commission approved the 2017 (1) spend environmental remediation liabilities funds for 2017 in the amount of \$17,700,000; (2) approving a five-year spending plan of \$85,800,000 for the Environmental Remediation Liability (ERL) Program for 2017 to 2021 of which an amount estimated not to exceed \$33,600,000 will be obligated during 2017 to be spent in future years.

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