

**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

In the Matter of Remedial Action by:

The Port of Seattle

FIRST AMENDMENT TO AGREED ORDER

No. DE 24768

TO: Mr. Stephen P. Metruck
Executive Director
Port of Seattle
P.O. Box 1209
Seattle, WA 98121-1209

EXHIBIT

EXHIBIT A Amended Scope of Work and Schedule

I. INTRODUCTION

The State of Washington, Department of Ecology (Ecology) and the Port of Seattle (Port) entered into Agreed Order No. DE 6184 (2020 Order) on January 31, 2020. The 2020 Order requires the Port to conduct a Remedial Investigation (RI) per WAC 173-340-350 and WAC 173-204-550 of the Submerged Lands Area of the Terminal 91 Facility (Facility). Pursuant to Section VIII.J of the 2020 Order, Ecology and the Port hereby stipulate to an Amendment to the 2020 Order.

By this First Amendment, the Port will conduct a Feasibility Study per WAC 173-340-350 and WAC 173-204-560 and develop a draft Cleanup Action Plan (DCAP) per WAC 173-340-350 through 173-340-380 and WAC 173-204-560 through and 173-204-580, addressing contamination in the Submerged Lands Area at the Facility. This Amendment does not attempt to recite all of the provisions of the 2020 Order. Provisions of the 2020 Order not specifically changed in this Amendment remain in full force and effect.

VII. WORK TO BE PERFORMED

J. The Port will complete a Feasibility Study (FS) and a preliminary draft Cleanup Action Plan (DCAP) for the Submerged Lands Area of the Facility per WAC 173-340-350 and WAC 173-204-560 in accordance with the schedule and terms set forth in the Amended Scope of

Work and Schedule, Exhibit A, and all other requirements of this First Amendment to the 2020 Order. The following naming conventions shall be used for applicable documents: Agency Review Draft (designation for the first time Ecology receives a document); Public Review Draft (designates a document ready for public comment); Final (designation for a document after public comment and/or after Ecology approval); and the preliminary DCAP (designation for the Port's version of the DCAP). Ecology is responsible for preparation of the Cleanup Action Plan (CAP); however, with Ecology concurrence, the Port may prepare the DCAP for final approval by Ecology in accordance with WAC 173-304-350 through 173-340-390 and WAC 173-204.

Effective date of this Order: _____

PORT OF SEATTLE

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

STEPHEN P. METRUCK
Executive Director
206-787-3000

RAMAN IYER
Section Manager
Hazardous Waste and Toxics Reduction
Program
Northwest Regional Office
(425) 417-5453.

EXHIBIT A –SCOPE OF WORK (SOW) and SCHEDULE**Terminal 91 – Submerged Lands****PURPOSE**

The work under Agreed Order Amendment 1 No. DE 24768 (AO) requires the Port of Seattle (Port) to develop a Feasibility Study (FS) and preliminary draft Cleanup Action Plan (dCAP) for the Submerged Lands Area (SLA). The purpose of the FS is to evaluate a cleanup alternative for the SLA. A final cleanup action will be chosen by State of Washington, Department of Ecology (Ecology), which will be detailed in a Model Toxics Control Act (MTCA) Cleanup Action Plan.

The Port shall coordinate with Ecology throughout the FS and shall keep Ecology informed of changes to project plans, and of issues and problems as they develop.

The SOW is divided into six major tasks as follows:

- Task 4. Feasibility Study Work Plan
- Task 5. Field Investigation Data Report
- Task 6. Feasibility Study
- Task 7. SEPA Compliance
- Task 8. Public Participation
- Task 9. Preliminary Draft Cleanup Action Plan

TASK 4. FEASIBILITY STUDY WORK PLAN

The Port shall prepare a Feasibility Study (FS) Work Plan (FS Work Plan). The FS Work Plan shall include an overall description and schedule of all FS activities. The FS Work Plan shall clearly describe the project management strategy for implementing and reporting on FS activities. The responsibility and authority of all organizations and key personnel involved in conducting the FS will be outlined.

A Key Project Meeting will be held prior to commencing work on drafting the FS Work Plan - the Feasibility Study Planning Meeting. The purpose of this meeting is to review requirements for the FS Work Plan and plan FS field work, discuss the preliminary Conceptual Site Model, and identify other project data needs.

The FS Work Plan shall summarize key elements from the RI, in compliance with the Sediment Cleanup User's Manual II (SCUM II) –Guidance for Implementing the Cleanup Provisions of the Sediment Management Standards, WAC 173-204, WAC 173-340-350, and WAC 173-204-560. As part of the project background, existing environmental data on site sediments presented in the RI will be evaluated for data gaps, including but not limited to, metals, polycyclic aromatic hydrocarbons (PAHs), semi volatile organic compounds (SVOCs), polychlorinated biphenyls (PCBs), discarded military munitions (DMMs), munitions debris (MD), and munitions constituents (MCs). The data gaps will be used as the basis for conducting additional site investigations, if necessary.

The FS Work Plan will also identify specific data collection procedures in a Sampling and Analysis Plan (SAP) and Quality Assurance Project Plan (QAPP) as part of the FS Work Plan in compliance with WAC 173-204, and WAC 173-340-820 for defining the nature and extent

of contamination. The Port will also submit a copy of the Health and Safety Plan (HASP) for the project.

The SAP will identify the proposed number and location of all sediment samples, methods, and depths, and will include a QAPP. The SAP will describe the sampling objectives, the rationale for the sampling approach (based upon the identified data gaps), and plans for data use, and shall provide a detailed description of sampling tasks. The SAP shall describe specifications for sample identifiers; sampling equipment; the type, number, and location of samples to be collected; the analyses to be performed; descriptions of sampling equipment and methods to be used; sample documentation; sample containers, collection and handling; data and records management; and schedule.

The QAPP will be prepared in accordance with the Guidance for Preparation of Quality Assurance Project Plans, EPA Region 10, Quality Data Management Program, QA/R-5 and requirements of the EPA Contract Laboratory Program. The QAPP will also follow Ecology's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies (July 2004 – revised July 2016)¹ and the SCUM II.² Laboratories must meet the accreditation standards established in WAC 173-50. In the event that these Guidance documents conflict, the Port will consult with Ecology.

The SAP, including the QAPP, will be submitted to Ecology for review and approval. As with all environmental work at the site, work may not begin without written approval from Ecology. The plan shall provide seven (7) days' notice to Ecology prior to beginning sampling. Ecology may obtain split samples.

The Port will provide Ecology with an Agency Review Draft FS Work Plan. Once Ecology reviews and approves the FS Work Plan, it will be considered the Final FS Work Plan. The FS Work Plan shall not be implemented until approved by Ecology. Once approved by Ecology, the Port will implement the Final FS Work Plan according to the Schedule in this Exhibit.

The Port shall prepare two (2) copies of the Agency Review Draft FS Work Plan and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for review and comment. After the resolution of Ecology's comments on the Agency Review Draft FS Work Plan and after Ecology approval, the Port shall prepare three (3) copies of the Final FS Work Plan and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology.

TASK 5. T91 FIELD INVESTIGATION DATA REPORT

The Port shall conduct field sampling and analysis in general accordance with the SAP and QAPP. Deviation(s) from the approved SAP and QAPP must be communicated by the Port to Ecology promptly and documented as required by Ecology.

The Port shall prepare the T91 FS Field Investigation Data Report that describes the results of all field sampling and analysis. The Port shall provide laboratory analysis data in electronic format when it has been validated. Raw laboratory data will be provided to Ecology upon request.

¹ Found at <https://fortress.wa.gov/ecy/publications/summarypages/0403030.html>

² Found at <https://fortress.wa.gov/ecy/publications/documents/1209057.pdf>

The Port or their contractors shall submit all new validated sampling data to Ecology's Environmental Information Management System (EIM) in accordance with WAC 173-340-840(5) and Ecology's Toxics Cleanup Program Policy 840: Data Submittal Requirements. Validated data will be entered into the EIM database within 30 days of receipt by the Port or their contractors.

The Port shall prepare two (2) copies of the T91 FS Field Investigation Data Report and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for review and comment. Electronic survey data for monitoring locations, electronic lab data, and GIS maps of contaminant distribution shall also be provided either in the report or as attachments. If the data collected during this investigation is insufficient to select a cleanup action, the Port shall conduct an additional phase(s) of investigation to provide the needed information.

TASK 6. FEASIBILITY STUDY

Information obtained in the RI will be used to complete the FS consistent with WAC 173-340-350(8) according to the Schedule. Prior to beginning the FS, a Key Project Meeting will be held to review applicable or relevant and appropriate requirements (ARARs) and potential remedial alternatives. Ecology comments on the Field Investigation Data Report will be incorporated into the FS.

The Agency Review Draft FS Report will provide a detailed analysis of each remedial alternative according to the applicable requirements of WAC 173-340-350. The remedial alternatives will take into account the results of any interim action, and will be evaluated for compliance with the applicable requirements of WAC 173-340-360 and WAC 173-204-570. Surrogate regional background values will be incorporated into the FS to support selection of cleanup levels and evaluation of remedial alternatives. The remedial alternative that is judged to best satisfy the evaluation criteria will be identified and justified in the FS.

Two (2) copies of an Agency Review Draft FS will be submitted to Ecology for review and comment, along with one electronic copy in Word (.docx) and Adobe (.pdf) formats.

After incorporating Ecology's comments on the Agency Review Draft FS Report, three (3) copies of a Public Review Draft FS Report will be submitted to Ecology for distribution and public comment, along with one electronic copy in Word (.docx) and Adobe (.pdf) formats.

The FS Report will not be considered final until after the public review and comment period. After that period, Ecology's and the public's comments will be incorporated into the Public Review Draft FS Report. After Ecology approval, three (3) copies of the Final FS Report will be prepared and submitted to Ecology along with one electronic copy in Word (.docx) and Adobe (.pdf) formats.

TASK 7. SEPA COMPLIANCE

A draft and final environmental checklist will be prepared and submitted. If the result of the threshold determination is a determination of significance (DS), an agency review draft and draft-final Environmental Impact Statements will be prepared. Assistance will be provided to Ecology with coordinating SEPA public involvement requirements with MTCA public involvement requirements whenever practicable, such that public comment periods and meetings or hearings, as applicable, can be held concurrently.

TASK 8. PUBLIC PARTICIPATION

If public meeting(s) or hearing(s) are requested, the Port shall support Ecology in presenting the Investigation(s) results, Public Review Draft FS Report, and dCAP at a public meeting or hearing. The Port also will assist Ecology with presentations at any additional meetings or hearings that may be necessary for MTCA compliance, or as part of the Public Participation Plan.

TASK 9. PRELIMINARY DRAFT CLEANUP ACTION PLAN

Upon Ecology approval of the Public Review Draft FS Report, a Key Project Meeting will be held to discuss the contents of the dCAP and to identify the preferred remedial alternative. An Agency Review preliminary dCAP will be prepared in accordance with WAC 173-340-380. The Agency Review preliminary dCAP will include a general description of the proposed remedial actions, an inadvertent discovery plan, cleanup standards developed from the RI/FS and rationale regarding their selection, a schedule for implementation, description of any institutional controls proposed, and a summary of applicable local, state, and federal laws pertinent to the proposed cleanup actions. Two (2) copies of the Agency Review preliminary dCAP will be prepared and submitted to Ecology, along with one electronic copy in Word (.docx) and Adobe (.pdf) formats, for Ecology review.

SCHEDULE

The schedule for completing the work described in the Agreed Order and the Scope of Work is presented below. If the date for submission of any item or notification required by this Schedule occurs on a weekend, state or federal holiday, the date for submission of that item or notification is extended to the next business day following the weekend or holiday. Where a deliverable due date is triggered by Ecology notification, comments or approval, the starting date for the period shown is the date the Port received such notification, comments or approval by certified mail, return receipt requested, unless otherwise noted below. Where triggered by Ecology receipt of a deliverable, the starting date for the period shown is the date Ecology receives the deliverable by certified mail, return receipt requested, or the date of Ecology signature on a hand-delivery form.

	<i>Task or Deliverable</i>	<i>Due Date^a</i>
4.	Agency Review Draft FS Work Plan issued	90 days after approval of Port/Contractor Service Directive
4.	Final FS Work Plan issued	45 days after receipt of Ecology comments – document is considered final upon Ecology’s written approval
5.	Field work for FS begins	30 days after Ecology’s approval of FS Work Plan
5.	FS field investigations completed^b	150 days after Ecology’s approval of the Final FS Work Plan
5.	T91 FS Field Investigation Data Report	60 days following completion of FS field investigations
6.	Agency Review Draft FS Report issued	90 days following submittal of T91 FS Field Investigation Data Report
6.	Public Review Draft FS Report issued	30 days after receipt of Ecology comments on the Agency Review Draft FS Report. If additional iterations of the draft document are deemed necessary by Ecology, each iteration will be due 30 days after receipt of Ecology comments.
9.	Agency Review preliminary Draft Cleanup Action Plan (DCAP)	90 days following approval of Feasibility Study

^a Due dates shown are for initial draft and final deliverables. This schedule assumes only a single revised document will be submitted following receipt of comments from Ecology. Documents become final only upon approval by Ecology.

^b Completed means the field requirements of the FS Work Plan have been satisfied.