



**COMMISSION  
AGENDA MEMORANDUM**

**Item No.** 8e

**ACTION ITEM**

**Date of Meeting** June 11, 2024

**DATE:** May 22, 2024

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

**FROM:** Sarah Ogier, Director Maritime Environment and Sustainability  
Kathy Bahnick, Senior Manager, Remediation Programs  
Roy Kuroiwa, Senior Environmental Program Manager and Port RDR

**SUBJECT:** Terminal 115 Plant 1 Ecology Agreed Order Cleanup Site

<b>Amount of this request:</b>	\$2,000,000
<b>Total estimated project cost:</b>	\$5,500,000
<b>Total requested project cost:</b>	\$5,500,000
<b>Source of Funds:</b>	ERL Non Ops

**ACTION REQUESTED**

Request Commission authorization for the Executive Director to increase the overall project cost by \$2,000,000 to \$5,500,000 to account for increased planning costs and need for significantly increasing field investigation efforts; and to amend an existing Maritime Environmental Site Management Support Services IDIQ contract with Floyd Snider Inc in the amount of \$2,000,000 for a new not to exceed total of \$4,000,000, and extend the contract by 2 years to complete the remaining work.

**EXECUTIVE SUMMARY**

An overall project cost authorization increase is requested because the costs to prepare the investigation work plan were much greater than what was originally planned and budgeted, and the approved work plan requires a field investigation that is considerably larger (e.g., double the soil borings and groundwater wells) than was originally anticipated.

The Department is also seeking Commission authorization to amend an existing contract with a \$2,000,000 contract value increase and a 2-year date extension to perform the remaining work. Staff proposes to use the firm Floyd Snider, Inc. (FSI) to complete the Agreed Order Project SOW (Attachment 2), as described above. Floyd Snider is under an existing IDIQ contract (P-00320547 for \$2,000,000, with a balance of \$1,000,000) for environmental site management and remediation support.

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The Port is currently working on early analysis for cleanup of the Terminal 115 site. This 100-acre terminal has a long history of industrial uses (Attachment 3). Today, the terminal supports a cold-storage facility for seafood and a container yard.

The Agreed Order requires the Port and Boeing, both signatories to the state order for this site, to perform an environmental assessment and prepare a cleanup plan for the Port's T-115 property on the Lower Duwamish Waterway (LDW). The state Agreed Order requires the Port and Boeing to complete a specific scope of work (SOW, Attachment 2) within a specified schedule or possibly incur stipulated penalties or charges for self-performance by the state. The current consultant firm has completed the first phase of the SOW (e.g., field investigation work plan). The remaining SOW tasks include implementing the field investigation, preparing the findings report (Remedial Investigation or RI report) and a cleanup alternatives plan (Feasibility Study or FS), and finally a Cleanup Action Plan (CAP). Attachment 3 is a community outreach and information handout and describes the overall project.

### **JUSTIFICATION**

This state Agreed Order cleanup project covers the Port's 100-acre Terminal 115 along the LDW, and is the location of Boeing's historic Plant 1 and the red barn. The project requires multiple phases of work (e.g., Work Plan, RI, FS, dCAP) for Ecology to determine if a cleanup on the property is necessary to protect human health (workers and Port personnel) or the environment (source control to the Lower Duwamish River) and if cleanup is required, the Port must also identify what cleanup approaches could be used for this site. Given the enormous size of the property, its manufacturing and industrial history, and state stipulated SOW and schedule, the Port and Boeing are aware that this work will likely result in some level of site cleanup and must be performed by an experienced and technically qualified firm.

Ecology approved the field investigation Work Plan (prepared by another firm) in February which triggers a deadline to complete the field investigation work within 18 months (August 2025). At the conclusion of preparing the work plan by one firm, the Port and Boeing have agreed to the need to secure a new firm for completion of the remaining work. Boeing and the Port have recommended completing the remaining phases of work with a new firm, Floyd Snider, using an existing Port IDIQ. Floyd Snider's extensive and related experience is expected to result in a successful outcome of completing the state required work in an efficient manner, cost effectively and within the stipulated schedule and deadlines.

Floyd Snider or FSI has abundant cleanup experience with the EPA and Ecology along the LDW, and is familiar with this Agreed Order Project. FSI has provided a preliminary SOW and budget for the remaining work, which falls well within the new project budget request. FSI as the prime consultant allows them to manage and direct all contracted services, including drilling and laboratory services. With their participation, the overall projected project WMBE utilization would be well above 60% by the end of the project.

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***Diversity in Contracting***

The current firm’s contract commitment for WMBE participation is 16%. Changing to FSI (a WMBE firm) as the new prime consultant will likely result in a 60% utilization by the end of the project.

**DETAILS**

The SOW detailed in the state Agreed Order requires that the Port and Boeing perform the work necessary to evaluate the underlying (e.g., soil and groundwater) environmental conditions of the T-115 property and determine if a cleanup is necessary to protect human health and the environment. This work is used to determine: a) what is the source, nature and extent of the contamination; b) is there an imminent threat to human health or the environment; c) are there sources of contamination to the river; d) is cleanup necessary: and if cleanup is necessary what cleanup approaches could be used. These state ordered projects are considerably more difficult because the site is adjacent to the LDW, a federal Superfund site, habitat for pacific salmon and tribal fishing grounds, and home to Environmental Justice communities of South Park and Georgetown. It is important that the prime environmental consultant is experienced and effective in these projects.

***Scope of Work***

The state’s Agreed Order SOW is expected to be performed by a professional consulting firm hired by the Port (and Boeing pays their share of costs, which is 50%). As detailed in Exhibit B of the Agreed Order, the SOW is divided into four major tasks:

- Task 1 – Remedial Investigation (RI) Work Plan (*completed by others*)
- Task 2 – Remedial Investigation sampling and reporting
- Task 3 – Interim Action(s), if required
- Task 4 – Feasibility Study (FS) and SEPA compliance
- Task 5 – draft Cleanup Action Plan (dCAP)
- Task 6 – Public Participation

***Schedule***

The schedule of the required SOW as presented in the Ecology Agreed Order is as follows:

***Activity***

Commission authorization to sign Ecology Agreed Order ( <i>completed</i> )	Q2-2020
Task 1 – RI Work Plan ( <i>completed</i> )	Q1-2024
Amend the FSI IDIQ contract value and issue an SD to perform the work	Q2-2024
Task 2 – Perform the RI Sampling and Report	Deadline Q3-2025

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Tasks 4 and 5 – Prepare an FS and dCAP	2025-2026
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**Cost Breakdown**

**Total Estimated Project Costs**

RI Work Plan ( <i>completed</i> )	\$950,000
Task 2 – RI Sampling and Report	2,000,000
Task 3 – Interim Actions	\$0
Task 4 – Feasibility Study or FS and SEPA compliance	\$300,000
Task 5 – Draft Cleanup Action Plan or dCAP	\$300,000
Project Management and Controls	\$500,000
Task 6 – Public Participation	\$150,000
Contingency (30%)	<u>\$1,300,000</u>
<b>Total Project Costs:</b>	<b>\$5,500,000</b>

**ALTERNATIVES AND IMPLICATIONS CONSIDERED**

**Alternative 1** –Do Not Authorize the Increase in Total Project Costs or Amend an Existing IDIQ to complete the Ecology required SOW. Only complete a subset of the project tasks with the limited current budget.

Cost Implications: Not continuing with the Ecology Order SOW may result in the issuance of an enforcement order by Ecology, or Ecology may elect to perform the work themselves. This would result in the State recovering the cost of the work from the Port and Boeing, increasing the estimated costs by 1.5 to 3 times, roughly \$7 to \$13 million (from \$4,500,000).

Pros:

- (1) May delay the Port’s spending by a year or more while Ecology prepares the enforcement order.
- (2) May delay the work and costs while Ecology contracts and performs the work themselves, then compels the Port to reimburse Ecology for the costs.

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 enforcement order (gain access to the site, etc.)
- (2) The ultimate costs of the work will be much higher if Ecology elects to perform the work. Total project cost estimated to be approximately \$7 -13 million.
- (3) Not performing this work could tarnish the Port’s reputation with Ecology and the community where the Port is recognized 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 Increase in Total Project Costs and Amend Existing IDIQ contract P-00320547 to complete the Ecology required SOW.

Cost Implications: Expected final, total project cost of \$5,500,000, which includes a 30% contingency to account for additional work due to changing site conditions or requirements by Ecology.

Cost Implications:

Pros:

- (1) Provides adequate budget to complete the project scope of work.
- (2) Complies with the Agreed Order and furthers the Port’s collaborative working relationship with Ecology.
- (3) Takes the next step leading to Terminal 115’s cleanup and long-term protection of human health and the environment.
- (4) Completing the full scope of work will provide thorough information about the site and likely help in the identification of other responsible parties for past releases besides Boeing.
- (5) Demonstrates the Port’s value of being responsible stewards of community resources and the environment.

Cons:

- (1) Additional, increased costs of approximately \$2,000,000 to complete the Agreed Order’s Statement of Work. Total project cost estimated at approximately \$5,500,000.

***This is the recommended alternative.***

**FINANCIAL IMPLICATIONS**

There is no funding request as part of this authorization. Funding for the associated scope of work is from the Tax Levy and costs are included in the annual Environmental Remedial Liability (ERL) authorization. Further, all of the project costs except Port staff costs will be shared equally by Boeing. The Port also has an Ecology grant to reimburse us for half of our costs. Certain costs may also be eligible for insurance reimbursement. Cost recovery from other, former owners or operators at the terminal may be pursued in the future.

***Cost Estimate/Authorization Summary***

	Capital	Expense	Total
<b>COST ESTIMATE</b>			
Original estimate	\$0	\$3,500,000	\$4,500,000
<b>AUTHORIZATION</b>			
Previous authorizations	0	\$3,500,000	\$3,500,000
Current request for authorization	0	\$2,000,000	\$2,000,000
Total authorizations, including this request	0	\$5,500,000	\$5,500,000
Remaining amount to be authorized	\$0	\$0	\$0

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**ATTACHMENTS TO THIS REQUEST**

- (1) Site map of Port's Terminal 115 (and former Boeing Plant 1)
- (2) T115 Plant 1 Ecology Agreed Order (SOW only)
- (3) T115 Plant 1 Community Outreach handout
- (4)

**PREVIOUS COMMISSION ACTIONS OR BRIEFINGS**

October 30, 2023 – The Commission authorized 2024 – 2028 Cleanup and Investigation of Historical Contamination referred to as the Environmental Remediation Liability (ERL) Program, which also included spending ERL funds for 2024.

June 9, 2020– The Commission authorized (a) the signing of an Ecology Agreed Order for the T115 Plant 1 Ecology Agreed Order, and (b) the signing of Cost Sharing Agreement with Boeing, and (c) procurement of a \$3M contract with an environmental consulting firm to perform this work.