

**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

In the Matter of Remedial Action by:  
  
Snohomish County, Washington

AGREED ORDER  
  
No. DE 21781

TO: Snohomish County  
Attention: Airport Director  
3220 100th St SW, Suite A  
Everett, WA 98204-1303

**TABLE OF CONTENTS**

I.	INTRODUCTION.....	2
II.	JURISDICTION.....	2
III.	PARTIES BOUND .....	2
IV.	DEFINITIONS .....	2
V.	FINDINGS OF FACT .....	3
VI.	ECOLOGY DETERMINATIONS.....	7
VII.	WORK TO BE PERFORMED .....	8
VIII.	TERMS AND CONDITIONS.....	11
	A. Payment of Remedial Action Costs .....	11
	B. Designated Project Coordinators .....	11
	C. Performance .....	12
	D. Access .....	13
	E. Sampling, Data Submittal, and Availability .....	13
	F. Public Participation .....	14
	G. Retention of Records.....	15
	H. Resolution of Disputes .....	16
	I. Extension of Schedule.....	17
	J. Amendment of Order .....	18
	K. Endangerment .....	19
	L. Reservation of Rights.....	20
	M. Transfer of Interest in Property.....	20
	N. Compliance with Applicable Laws.....	21
	O. Indemnification .....	22
IX.	SATISFACTION OF ORDER.....	23
X.	ENFORCEMENT .....	23

EXHIBIT A	Site Location Diagram
EXHIBIT B	Scope of Work and Schedule

## **I. INTRODUCTION**

The mutual objective of the State of Washington, Department of Ecology (Ecology) and Snohomish County (County) under this Agreed Order (Order) is to provide for remedial action at a facility where there has been a release or threatened release of hazardous substances. This Order requires the County to conduct certain work more specifically outlined in the attached Scope of Work and incorporated herein. Ecology believes the actions required by this Order are in the public interest.

## **II. JURISDICTION**

This Agreed Order is issued pursuant to the Model Toxics Control Act (MTCA), RCW 70A.305.050(1).

## **III. PARTIES BOUND**

This Agreed Order shall apply to and be binding upon the Parties to this Order, their successors and assigns. The undersigned representative of each party hereby certifies that he or she is fully authorized to enter into this Order and to execute and legally bind such party to comply with this Order. The County agrees to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter the County's responsibility under this Order. The County shall provide a copy of this Order to all agents, contractors, and subcontractors retained to perform work required by this Order, and shall ensure that all work undertaken by such agents, contractors, and subcontractors complies with this Order.

## **IV. DEFINITIONS**

Unless otherwise specified herein, the definitions set forth in RCW 70A.305 and WAC 173-340 shall control the meanings of the terms in this Order.

A. Site: The Site is referred to as TECT Aerospace Everett. The Site constitutes a facility under RCW 70A.305.020(8). The Site is defined by where a hazardous substance, other than a consumer product in consumer use, has been deposited, stored, disposed of, or placed, or otherwise come to be located. Based upon factors currently known to Ecology, the Site is generally

located at, and in the immediate vicinity of, 2933 109th Street SW, Everett, Washington 98204, as shown in the Site Location Diagram (Exhibit A).

- B. Parties: Refers to the State of Washington, Department of Ecology and the County.
- C. Potentially Liable Person (PLP): Refers to the County.
- D. Agreed Order or Order: Refers to this Order and each of the exhibits to this Order.

All exhibits are integral and enforceable parts of this Order.

## V. FINDINGS OF FACT

Ecology makes the following findings of fact, without any express or implied admissions of such facts by the County:

A. Based upon factors currently known to Ecology, the Site is generally located at, and in the immediate vicinity of 2933 109th Street SW, Everett, Washington 98204, as shown in the Site Location Diagram (Exhibit A). The Site occupies the eastern portions of Snohomish County land parcel number 28042200400100 and a small portion at the southeast corner of land parcel number 28042200100100 and includes building parcels 28042200400101 (C-19), 28042200400102 (C-23 and C-23 Annex), and 28042200400105 (C-22). The Site consists of a series of existing and former buildings located at Snohomish County Airport (Airport; a.k.a. Paine Field) that have historical uses associated primarily with the aerospace manufacturing industry, and includes contaminated soil and groundwater located beneath and around the existing and former buildings. The Site is located on land owned by the County. Building C-19 is owned by Giddens Living Trust Agreement with the underlying land owned by and leased from the County. The Site boundary has not been fully delineated and may extend beyond the boundaries shown in Exhibit A. The Site is listed on Ecology's Confirmed and Suspected Contaminated Sites List (CSCSL) as TECT Aerospace Everett with Facility Site ID No. 17392 and Cleanup Site ID No. 12071.

B. The Airport was constructed beginning in 1936. The area around the Site was first developed by the US Army Air Corps, which leased the airport from the County beginning in 1940 and then acquired the airport in 1941 for use as an Army airfield named Paine Field. All or portions

of Buildings C-20, C-21, C-22, and C-23 were constructed during this period. Identified uses of the Site by the Army included a reclamation yard, barracks, and warehousing. The County regained ownership of the airport in 1948.

C. The County began leasing the area around the Site to various aerospace manufacturing companies beginning in the 1950s. Building C-27 was constructed during this period and Building C-29 was added later; both of these buildings have since been removed. A fuel farm that included numerous underground fuel storage tanks occupied the north end of the Site; the fuel farm is no longer in use. Some of the tanks have been decommissioned by removal and some of the tanks remain in place. Buildings C-20, C-21, C-22, and C-23 were gradually expanded through the late 1980s. The adjacent Building C-19 was constructed around 1979 and the Building C-23 Annex (C-23 Annex) was constructed in 1986. The use of the Site and Site buildings for aerospace manufacturing continued until 2019 when primary Site use shifted to non-manufacturing activities.

D. The Site has undergone numerous environmental investigations focusing on subsurface soil, groundwater, and soil gas since the early 1990s, beginning with a Phase I environmental site assessment (ESA) conducted by Landau Associates, Inc. (Landau) in 1993. The Phase I ESA included findings from Buildings C-19 through C-23 and noted a structure that was used for chemical and parts storage near the northwest corner of Building C-23, which is now known to be the former Building C-29. After completion of the Phase I ESA, the County began investigating potential areas of environmental concern.

E. In 1994, two test pits were dug below the base of a former vapor degreaser pit and sump in the southern corner of Building C-19. Chlorinated solvents associated with the operation of the degreaser including trichloroethene (TCE), 1,1,1 trichloroethane (1,1,1-TCA), and 1,1-dichloroethane (1,1-DCA) were found in soil and/or groundwater at concentrations above Model Toxics Control Act (MTCA) Method A or B cleanup levels (CULs) in effect at the time. Subsequent investigations conducted by the Building C-19 owner and the County in the 1990s and early to mid-2000s further delineated soil and groundwater contamination in the immediate

vicinity of the vapor degreaser pit at concentrations above MTCA CULs. Immediately south of Building C-19, elevated concentrations of TCE were found in groundwater samples collected from a perched, discontinuous shallow groundwater zone that is underlain by a semi-pervious glacial till layer. In 2000, deep aquifer sampling was conducted below the glacial till at approximately 133 feet below ground surface, and results indicated that chlorinated volatile organic compounds (VOCs) had migrated to the deep aquifer.

F. In 1996, Building C-29, which was formerly used for chemical storage, was demolished by the County. During demolition, the County discovered greenish-yellow tinted water at the foundation of the building. A water sample was collected from the impacted area, and analytical results prompted additional investigative sampling within and around the Building C-29 footprint. Analysis of soil and groundwater samples indicated that TCE was present at concentrations exceeding MTCA CULs in soil and groundwater; cis 1,2 dichloroethene and vinyl chloride were detected in soil and groundwater at concentrations above MTCA Method B CULs. Total chromium was detected at a concentration above the MTCA Method A CUL in one soil sample collected from within the building footprint, and total chromium in groundwater exceeded MTCA Method B CULs.

G. The Building C-19 owner conducted investigations of shallow soil and groundwater beneath the interior floor of Building C-19 from 2005 to 2007 to evaluate potential subsurface impacts resulting from releases of cutting oils from manufacturing operations within the building. Diesel- and heavy oil-range petroleum hydrocarbons were detected at concentrations above the MTCA Method A CUL in shallow soil beneath the southern and central sections of Building C-19. Additional soil sampling in 2010 found CUL exceedances in the northern section of Building C-19. The building lessee conducted a remedial excavation of the contaminated soil in the early 2010s.

H. A 2017 Phase II ESA of Buildings C-20, C-21, C-22, and C-23 identified petroleum hydrocarbons and TCE in soil at concentrations greater than the MTCA Method A CULs. Two of the 21 soil samples collected contained heavy oil-range petroleum hydrocarbons at concentrations

greater than the MTCA Method A CUL, and four of 17 soil samples had TCE at concentrations greater than the MTCA Method A CUL. Soil gas samples were collected from 25 locations in and around Buildings C-20, C-21, C-22, and C-23 for analysis for VOCs. VOCs were detected in samples from 21 of 25 locations at concentrations greater than the MTCA Method B shallow soil gas screening level and in samples from 15 of 25 locations throughout the sampling area at concentrations greater than the Method C shallow soil gas screening level. The highest concentrations of VOCs were detected in samples collected from below the slab and outside the southwest corner of Building C-22 and from beneath the north end of Building C-23 (the Annex).

I. In response to the Phase II ESA soil gas sampling results, the County in 2017 investigated indoor air quality at Building C-23, the only building within the C-20, C-21, C-22, and C-23 complex that was occupied at that time. TCE was detected in indoor air samples; however, none of the detected concentrations exceeded either the chronic or acute screening criteria for industrial properties (MTCA Method C). The data indicated that vapor intrusion is likely occurring, but that contaminant concentrations in indoor air were, on average, less than the screening criteria. The data also indicated that contaminant concentrations in indoor air may at least partially be impacted by contaminants present in ambient air because TCE was also detected in ambient air samples.

J. Between November 2018 and December 2019, a series of remedial investigations were conducted by Landau on behalf of the County to evaluate the nature and extent of contamination present in soil, shallow soil gas, and both perched and deep aquifer groundwater across the Site. Shallow soil and groundwater sampling results indicated that petroleum hydrocarbons were present below the Building C-20, -21, -22 complex, and Building C-23 at concentrations exceeding MTCA CULs. The former fuel farm area at the north end of the Site was also investigated, and results indicated that petroleum-contaminated perched groundwater was present to the west, south, and southwest, beyond the current and former underground storage tank locations. During the 2018-2019 investigation activities, Landau observed shallow stained soil with strong solvent-like odors north of former Building C-27 and west of the fuel farm area. Soil

and groundwater samples collected from this area were analyzed for VOCs, and results confirmed that concentrations of solvents, such as tetrachloroethene (PCE), TCE, and vinyl chloride were above the MTCA CULs. VOCs were also present in shallow soil and perched groundwater at concentrations exceeding MTCA CULs below and around the southern and eastern portions of Building C-19, across the Building C-20, -21, -22 complex and C-23 Annex, and throughout the former fuel farm and former Building C-27 areas. VOCs were generally not found in shallow soil samples collected from below the primary Building C-23. Deep aquifer well sampling results indicate that VOCs are present to a depth of 147 feet below ground surface south and north of Building C-19 and below the former fuel farm, and north of the former Building C-27 areas.

K. In September 2021, Landau conducted an indoor air evaluation at Building C-19, the only occupied building within the Site at the time. Indoor air, sub slab soil gas, and ambient air samples were collected as part of the evaluation to determine if VOC vapors were intruding into the building to the extent that they would pose a health risk to workers in the building. The results of the investigation indicated that VOC concentrations in indoor air were below the MTCA Method C industrial CULs for indoor air and the short-term action level for TCE.

## **VI. ECOLOGY DETERMINATIONS**

Ecology makes the following determinations, without any express or implied admissions of such determinations (and underlying facts) by the County.

A. The County is an “owner or operator” as defined in RCW 70A.305.020(22) of a “facility” as defined in RCW 70A.305.020(8).

B. Based upon all factors known to Ecology, a “release” or “threatened release” of “hazardous substance(s)” as defined in RCW 70A.305.020(32) and (13), respectively, has occurred at the Site.

C. Based upon credible evidence, Ecology issued a PLP status letter to the County dated March 9, 2021, pursuant to RCW 70A.305.040, .020(26), and WAC 173-340-500. By letter dated March 30, 2021, the County voluntarily waived its rights to notice and comment and accepted Ecology’s determination that the County is a PLP under RCW 70A.305.040. After

providing for notice and opportunity for comment, reviewing any comments submitted, and concluding that credible evidence supported a finding of potential liability, Ecology issued a determination that the County is a PLP under RCW 70A.305.040 and notified the County of this determination by letter dated March 17, 2022.

D. Pursuant to RCW 70A.305.030(1) and .050(1), Ecology may require PLPs to investigate or conduct other remedial actions with respect to any release or threatened release of hazardous substances, whenever it believes such action to be in the public interest. Based on the foregoing facts, Ecology believes the remedial actions required by this Order are in the public interest.

E. Under WAC 173-340-430, an interim action is a remedial action that is technically necessary to reduce a threat to human health or the environment by eliminating or substantially reducing one or more pathways for exposure to a hazardous substance, that corrects a problem that may become substantially worse or cost substantially more to address if the remedial action is delayed, or that is needed to provide for completion of a site hazard assessment, remedial investigation/feasibility study, or design of a cleanup action plan. Either party may propose an interim action under this Order. If the Parties are in agreement concerning the interim action, the Parties will follow the process in Section VII.D. If the Parties are not in agreement, Ecology reserves its authority to require interim action(s) under a separate order or other enforcement action under RCW 70A.305, or to undertake the interim action itself.

## **VII. WORK TO BE PERFORMED**

Based on the Findings of Fact and Ecology Determinations, it is hereby ordered that the County take the following remedial actions at the Site:

A. The County will prepare a work plan for a Remedial Investigation and Feasibility Study (RI and FS), conduct an RI and a subsequent FS, prepare separate RI and FS reports, and will submit a preliminary draft Cleanup Action Plan (DCAP) for the Site in accordance with the schedule and terms of the Scope of Work and Schedule (Exhibit B) and all other requirements of this 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 draft Cleanup Action Plan (designation for the County's version of the DCAP).

B. If the County learns of a significant change in conditions at the Site, the County, within seven (7) days of learning of the change in condition, shall notify Ecology in writing of said change and provide Ecology with any reports or records (including laboratory analyses, sampling results) relating to the change in conditions.

C. The County shall submit to Ecology written quarterly Progress Reports that describe the actions taken during the previous quarter to implement the requirements of this Order. All Progress Reports shall be submitted by the twenty-fifth (25th) day of the month in which they are due after the effective date of this Order. The Progress Reports shall include the following:

1. A list of on-site activities that have taken place during the quarter.
2. Detailed description of any deviations from required tasks not otherwise documented in project plans or amendment requests.
3. Description of all deviations from the Scope of Work and Schedule (Exhibit B) during the current quarter and any planned deviations in the upcoming quarter.
4. For any deviations in schedule, a plan for recovering lost time and maintaining compliance with the schedule.
5. All raw data (including laboratory analyses) received during the previous quarter (if not previously submitted to Ecology), together with a detailed description of the underlying samples collected.
6. A list of deliverables for the upcoming quarter.

D. All plans or other deliverables submitted by the County for Ecology's review and approval under the Scope of Work and Schedule (Exhibit B) shall, upon Ecology's approval, become integral and enforceable parts of this Order.

E. If the Parties agree on an interim action under Section VI.E, the County shall prepare and submit to Ecology an Interim Action Work Plan, including a scope of work and schedule, by the date determined by Ecology. Ecology will provide public notice and opportunity to comment on the Interim Action Work Plan in accordance with WAC 173-340-600(16). The County shall not conduct the interim action until Ecology approves the Interim Action Work Plan. Upon approval by Ecology, the Interim Action Work Plan becomes an integral and enforceable part of this Order, and the County is required to conduct the interim action in accordance with the approved Interim Action Work Plan.

F. If Ecology determines that the County has failed to make sufficient progress or failed to implement the remedial action, in whole or in part, Ecology may, after notice to the County, perform any or all portions of the remedial action or at Ecology's discretion allow the County opportunity to correct. In an emergency, Ecology is not required to provide notice to the County, or an opportunity for dispute resolution. The County shall reimburse Ecology for the costs of doing such work in accordance with Section VIII.A (Remedial Action Costs). Ecology reserves the right to enforce requirements of this Order under Section X (Enforcement).

G. Except where necessary to abate an emergency situation or where required by law, the County shall not perform any remedial actions at the Site outside those remedial actions required by this Order to address the contamination that is the subject of this Order, unless Ecology concurs, in writing, with such additional remedial actions pursuant to Section VIII.J. (Amendment of Order). In the event of an emergency, or where actions are taken as required by law, the County must notify Ecology in writing of the event and remedial action(s) planned or taken as soon as practical but no later than within twenty-four (24) hours of the discovery of the event.

H. Ecology hereby incorporates into this Order the previous remedial actions described in Section V, Findings of Fact. Reimbursement for specific project tasks under a grant agreement with Ecology is contingent upon a determination by Ecology's Toxics Cleanup Program that the retroactive costs are eligible under WAC 173-332A-320(6), the work performed complies with the substantive requirements of WAC 173-340, and the work is consistent with the remedial

actions required under this Order. The costs associated with Ecology's determination on the past independent remedial actions described in Section V, Findings of Fact, are recoverable under this Order.

## VIII. TERMS AND CONDITIONS

### A. Payment of Remedial Action Costs

The County shall pay to Ecology costs incurred by Ecology pursuant to this Order and consistent with WAC 173-340-550(2). These costs shall include work performed by Ecology or its contractors for, or on, the Site under RCW 70A.305, including remedial actions and Order preparation, negotiation, oversight, and administration. These costs shall include work performed both prior to and subsequent to the issuance of this Order. Ecology's costs shall include costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2). For all Ecology costs incurred, the County shall pay the required amount within forty-five (45) days of receiving from Ecology an itemized statement of costs that includes a summary of costs incurred, an identification of involved staff, and the amount of time spent by involved staff members on the project, including a description of the tasks performed by staff members charging time under this Order. A general statement of work performed will be provided upon request. Itemized statements shall be prepared quarterly. Ecology will provide copies of invoices for all contractor and vendor costs included in an itemized statement. Pursuant to WAC 173-340-550(4), failure to pay Ecology's costs within ninety (90) days of receipt of the itemized statement of costs will result in interest charges at the rate of twelve percent (12%) per annum, compounded monthly.

In addition to other available relief, pursuant to RCW 19.16.500, Ecology may utilize a collection agency and/or, pursuant to RCW 70A.305.060, file a lien against real property subject to the remedial actions to recover unreimbursed remedial action costs.

### B. Designated Project Coordinators

The project coordinator for Ecology is:

David Unruh, LG  
PO Box 330316  
Shoreline, WA 98133-9716

206-459-6287  
david.unruh@ecy.wa.gov

The project coordinator for the County is:

Andrew C. Rardin, CM  
3220 100th St SW, Suite A  
Everett, WA 98204-1303  
425-388-5155  
andrew.rardin@snoco.org

Each project coordinator shall be responsible for overseeing the implementation of this Order. Ecology's project coordinator will be Ecology's designated representative for the Site. To the maximum extent possible, communications between Ecology and the County, and all documents, including reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order shall be directed through the project coordinators. The project coordinators may designate, in writing, working level staff contacts for all or portions of the implementation of the work to be performed required by this Order.

Any party may change its respective project coordinator. Written notification shall be given to the other party at least ten (10) calendar days prior to the change.

### **C. Performance**

All geologic and hydrogeologic work performed pursuant to this Order shall be under the supervision and direction of a geologist or hydrogeologist licensed by the State of Washington or under the direct supervision of an engineer registered by the State of Washington, except as otherwise provided for by RCW 18.43 and 18.220.

All engineering work performed pursuant to this Order shall be under the direct supervision of a professional engineer registered by the State of Washington, except as otherwise provided for by RCW 18.43.130.

All construction work performed pursuant to this Order shall be under the direct supervision of a professional engineer or a qualified technician under the direct supervision of a professional engineer. The professional engineer must be registered by the State of Washington, except as otherwise provided for by RCW 18.43.130.

Any documents submitted containing geologic, hydrogeologic, or engineering work shall be under the seal of an appropriately licensed professional as required by RCW 18.43 and 18.220.

The County shall notify Ecology in writing of the identity of any engineer(s) and geologist(s), contractor(s) and subcontractor(s), and others to be used in carrying out the terms of this Order, in advance of their involvement at the Site.

**D. Access**

Ecology or any Ecology authorized representative shall have access to enter and freely move about all property at the Site that the County either owns, controls, or has access rights to at all reasonable times for the purposes of, *inter alia*: inspecting records, operation logs, and contracts related to the work being performed pursuant to this Order; reviewing the County's progress in carrying out the terms of this Order; conducting such tests or collecting such samples as Ecology may deem necessary; using a camera, sound recording, or other documentary type equipment to record work done pursuant to this Order; and verifying the data submitted to Ecology by the County. The County shall make all reasonable efforts to secure access rights for those properties within the Site not owned or controlled by the County where remedial activities or investigations will be performed pursuant to this Order. Ecology or any Ecology authorized representative shall give reasonable notice before entering any Site property owned or controlled by the County unless an emergency prevents such notice. All persons who access the Site pursuant to this section shall comply with any applicable health and safety plan(s). Ecology employees and their representatives shall not be required to sign any liability release or waiver as a condition of Site property access.

**E. Sampling, Data Submittal, and Availability**

With respect to the implementation of this Order, the County shall make the results of all sampling, laboratory reports, and/or test results generated by it or on its behalf available to Ecology. Pursuant to WAC 173-340-840(5), all sampling data shall be submitted to Ecology in electronic format in accordance with Section VII (Work to be Performed), Ecology's Toxics Cleanup Program Policy 840 (Data Submittal Requirements), and/or any subsequent procedures specified by Ecology for data submittal.

If requested by Ecology, the County shall allow Ecology and/or its authorized representative to take split or duplicate samples of any samples collected by the County pursuant to implementation of this Order. The County shall notify Ecology seven (7) days in advance of any sample collection or work activity at the Site. Ecology shall, upon request, allow the County and/or its authorized representative to take split or duplicate samples of any samples collected by Ecology pursuant to the implementation of this Order, provided that doing so does not interfere with Ecology's sampling. Without limitation on Ecology's rights under Section VIII.E (Access), Ecology shall notify the County prior to any sample collection activity unless an emergency prevents such notice.

In accordance with WAC 173-340-830(2)(a), all hazardous substance analyses shall be conducted by a laboratory accredited under WAC 173-50 for the specific analyses to be conducted, unless otherwise approved by Ecology.

**F. Public Participation**

Ecology shall maintain the responsibility for public participation at the Site. However, the County shall cooperate with Ecology, and shall:

1. If agreed to by Ecology, develop appropriate mailing lists and prepare drafts of public notices and fact sheets at important stages of the remedial action, such as the submission of work plans, remedial investigation/feasibility study reports, cleanup action plans, and engineering design reports. As appropriate, Ecology will edit, finalize, and distribute such fact sheets and prepare and distribute public notices of Ecology's presentations and meetings.

2. Notify Ecology's project coordinator prior to the preparation of all press releases and fact sheets, and before meetings related to remedial action work to be performed at the Site with the interested public and/or local governments. Likewise, Ecology shall notify the County prior to the issuance of all press releases and fact sheets related to the Site, and before meetings related to the Site with the interested public and local governments. For all press releases, fact sheets, meetings, and other outreach efforts

by the County that do not receive prior Ecology approval, the County shall clearly indicate to its audience that the press release, fact sheet, meeting, or other outreach effort was not sponsored or endorsed by Ecology.

3. When requested by Ecology, participate in public presentations on the progress of the remedial action at the Site. Participation may be through attendance at public meetings to assist in answering questions or as a presenter.

4. When requested by Ecology, arrange and/or continue information repositories to be located at the following locations:

- a. Everett Public Library  
2702 Hoyt Ave  
Everett, WA 98201
- b. Ecology's Northwest Regional Office  
15700 Dayton Ave. N.  
Shoreline, WA 98133

At a minimum, copies of all public notices, fact sheets, and documents relating to public comment periods shall be promptly placed in these repositories. A copy of all documents related to this Site shall be maintained in the repository at Ecology's Northwest Regional Office in Shoreline, Washington.

**G: Retention of Records**

During the pendency of this Order, and for ten (10) years from the date of completion of work performed pursuant to this Order, the County shall preserve all records, reports, documents, and underlying data in its possession relevant to the implementation of this Order and shall insert a similar record retention requirement into all contracts with project contractors and subcontractors. Upon request of Ecology, the County shall make all records available to Ecology and allow access for review within a reasonable time.

Nothing in this Order is intended to waive any right the County may have under applicable law to limit disclosure of documents protected by the attorney work-product privilege, the attorney-client privilege, and/or any other applicable privilege under Washington law. If the County withholds any requested records based on an assertion of privilege, the County shall

provide Ecology with a privilege log specifying the records withheld and the applicable privilege. No Site-related data collected pursuant to this Order shall be considered privileged.

#### **H. Resolution of Disputes**

1. In the event that the County elects to invoke dispute resolution the County must utilize the procedure set forth below.

a. Upon the triggering event (receipt of Ecology's project coordinator's written decision or an itemized billing statement), the County has calendar days within which to notify Ecology's project coordinator in writing of its dispute (Informal Dispute Notice).

b. The Parties' project coordinators shall then confer in an effort to resolve the dispute informally. The parties shall informally confer for up to calendar days from receipt of the Informal Dispute Notice. If the project coordinators cannot resolve the dispute within those 30 calendar days, then within fourteen (14) calendar days Ecology's project coordinator shall issue a written decision (Informal Dispute Decision) stating: the nature of the dispute; the County's position with regards to the dispute; Ecology's position with regards to the dispute; and the extent of resolution reached by informal discussion.

c. The County may then request regional management review of the dispute. This request (Formal Dispute Notice) must be submitted in writing to the Northwest Region Toxics Cleanup Section Manager within calendar days of receipt of Ecology's Informal Dispute Decision. The Formal Dispute Notice shall include a written statement of dispute setting forth: the nature of the dispute; the disputing Party's position with respect to the dispute; and the information relied upon to support its position.

d. The Section Manager shall conduct a review of the dispute and shall issue a written decision regarding the dispute (Decision on Dispute) within calendar days of receipt of the Formal Dispute Notice. The Decision on Dispute shall be Ecology's final decision on the disputed matter.



2. The Parties agree to only utilize the dispute resolution process in good faith and agree to expedite, to the extent possible, the dispute resolution process whenever it is used.

3. Implementation of these dispute resolution procedures shall not provide a basis for delay of any activities required in this Order, unless Ecology agrees in writing to a schedule extension.

4. In case of a dispute, failure to either proceed with the work required by this Order or timely invoke dispute resolution may result in Ecology's determination that insufficient progress is being made in preparation of a deliverable, and may result in Ecology undertaking the work under Section VII.G (Work to be Performed) or initiating enforcement under Section X (Enforcement).

#### **I. Extension of Schedule**

1. The County's request for an extension of schedule shall be granted only when a request for an extension is submitted in a timely fashion, generally at least seven (7) days prior to expiration of the deadline for which the extension is requested, and good cause exists for granting the extension. All extensions shall be requested in writing. The request shall specify:

- a. The deadline that is sought to be extended.
- b. The length of the extension sought.
- c. The reason(s) for the extension.
- d. Any related deadline or schedule that would be affected if the extension were granted.

2. The burden shall be on the County to demonstrate to the satisfaction of Ecology that the request for such extension has been submitted in a timely fashion and that good cause exists for granting the extension. Good cause may include, but may not be limited to:

- a. Circumstances beyond the reasonable control and despite the due diligence of the County including delays caused by unrelated third parties or Ecology, such as (but not limited to) delays by Ecology in reviewing, approving, or modifying documents submitted by the County.

- b. Acts of God, including fire, flood, blizzard, extreme temperatures, storm, or other unavoidable casualty.
- c. Endangerment as described in Section VIII.K (Endangerment).

However, neither increased costs of performance of the terms of this Order nor changed economic circumstances shall be considered circumstances beyond the reasonable control of the County.

3. Ecology shall act upon the County's written request for extension in a timely fashion. Ecology shall give the County written notification of any extensions granted pursuant to this Order. A requested extension shall not be effective until approved by Ecology. Unless the extension is a substantial change, it shall not be necessary to amend this Order pursuant to Section VIII.J (Amendment of Order) when a schedule extension is granted.

4. At the County's request, an extension shall only be granted for such period of time as Ecology determines is reasonable under the circumstances. Ecology may grant schedule extensions exceeding ninety (90) days only as a result of one of the following:

- a. Delays in the issuance of a necessary permit which was applied for in a timely manner.
- b. Other circumstances deemed exceptional or extraordinary by Ecology.
- c. Endangerment as described in Section VIII.K (Endangerment).

**J. Amendment of Order**

The project coordinators may verbally agree to minor changes to the work to be performed without formally amending this Order. Minor changes will be documented in writing by Ecology within seven (7) days of verbal agreement.

Except as provided in Section VIII.L (Reservation of Rights), substantial changes to the work to be performed shall require formal amendment of this Order. This Order may only be formally amended by the written consent of both Ecology and the County. Ecology will provide its written consent to a formal amendment only after public notice and opportunity to comment on the formal amendment.

When requesting a change to the Order, the County shall submit a written request to Ecology for approval. Ecology shall indicate its approval or disapproval in writing and in a timely manner after the written request is received. If Ecology determines that the change is substantial, then the Order must be formally amended. Reasons for the disapproval of a proposed change to this Order shall be stated in writing. If Ecology does not agree to a proposed change, the disagreement may be addressed through the dispute resolution procedures described in Section VIII.H (Resolution of Disputes).

**K. Endangerment**

In the event Ecology determines that any activity being performed at the Site under this Order is creating or has the potential to create a danger to human health or the environment on or surrounding the Site, Ecology may direct the County to cease such activities for such period of time as it deems necessary to abate the danger. The County shall immediately comply with such direction.

In the event the County determines that any activity being performed at the Site under this Order is creating or has the potential to create a danger to human health or the environment, the County may cease such activities. The County shall notify Ecology's project coordinator as soon as possible, but no later than twenty-four (24) hours after making such determination or ceasing such activities. Upon Ecology's direction, the County shall provide Ecology with documentation of the basis for the determination or cessation of such activities. If Ecology disagrees with the County's cessation of activities, it may direct the County to resume such activities.

If Ecology concurs with or orders a work stoppage pursuant to this section, the County's obligations with respect to the ceased activities shall be suspended until Ecology determines the danger is abated, and the time for performance of such activities, as well as the time for any other work dependent upon such activities, shall be extended in accordance with Section VIII.I (Extension of Schedule) for such period of time as Ecology determines is reasonable under the circumstances.

Nothing in this Order shall limit the authority of Ecology, its employees, agents, or contractors to take or require appropriate action in the event of an emergency.

**L. Reservation of Rights**

This Order is not a settlement under RCW 70A.305. Ecology's signature on this Order in no way constitutes a covenant not to sue or a compromise of any of Ecology's rights or authority. Ecology will not, however, bring an action against the County to recover remedial action costs paid to and received by Ecology under this Order. In addition, Ecology will not take additional enforcement actions against the County regarding remedial actions required by this Order, provided the County complies with this Order.

Ecology nevertheless reserves its rights under RCW 70A.305, including the right to require additional or different remedial actions at the Site should it deem such actions necessary to protect human health or the environment, and to issue orders requiring such remedial actions. Ecology also reserves all rights regarding the injury to, destruction of, or loss of natural resources resulting from the release or threatened release of hazardous substances at the Site.

By entering into this Order, the County does not admit to any liability for the Site. Although the County is committing to conducting the work required by this Order under the terms of this Order, the County expressly reserves all rights available under law, including but not limited to the right to seek cost recovery or contribution against third parties, and the right to assert any defenses to liability in the event of enforcement.

**M. Transfer of Interest in Property**

No voluntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Site shall be consummated by the County without provision for continued implementation of all requirements of this Order and implementation of any remedial actions found to be necessary as a result of this Order.

Prior to the County's transfer of any interest in all or any portion of the Site, and during the effective period of this Order, the County shall provide a copy of this Order to any prospective purchaser, lessee, transferee, assignee, or other successor in said interest; and, at least thirty (30)

days prior to any transfer, the County shall notify Ecology of said transfer. Upon transfer of any interest, the County shall notify all transferees of the restrictions on the activities and uses of the property under this Order and incorporate any such use restrictions into the transfer documents.

**N. Compliance with Applicable Laws**

1. *Applicable Laws.* All actions carried out by the County pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements, including requirements to obtain necessary permits or approvals, except as provided in RCW 70A.305.090. At this time, no federal, state, or local requirements have been identified as being applicable to the actions required by this Order. The County has a continuing obligation to identify additional applicable federal, state, and local requirements which apply to actions carried out pursuant to this Order, and to comply with those requirements. As additional federal, state, and local requirements are identified by Ecology or the County, Ecology will document in writing if they are applicable to actions carried out pursuant to this Order, and the County must implement those requirements.

2. *Relevant and Appropriate Requirements.* All actions carried out by the County pursuant to this Order shall be done in accordance with relevant and appropriate requirements identified by Ecology. At this time, no relevant and appropriate requirements have been identified as being applicable to the actions required by this Order. If additional relevant and appropriate requirements are identified by Ecology or the County, Ecology will document in writing if they are applicable to actions carried out pursuant to this Order and the County must implement those requirements.

3. Pursuant to RCW 70A.305.090(1), the County is exempt from the procedural requirements of RCW 70A.15, 70A.205, 70A.300, 77.55, 90.48, and 90.58 and of any laws requiring or authorizing local government permits or approvals. However, the County shall comply with the substantive requirements of such permits or approvals. For permits and approvals covered under RCW 70A.305.090(1) that have been issued by local government, the Parties agree that Ecology has the non-exclusive ability under this Order to enforce those local government permits

and/or approvals. At this time, no state or local permits or approvals have been identified as being applicable but procedurally exempt under this section.

4. The County has a continuing obligation to determine whether additional permits or approvals addressed in RCW 70A.305.090(1) would otherwise be required for the remedial action under this Order. In the event either Ecology or the County determines that additional permits or approvals addressed in RCW 70A.305.090(1) would otherwise be required for the remedial action under this Order, it shall promptly notify the other party of its determination. Ecology shall determine whether Ecology or the County shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, the County shall promptly consult with the appropriate state and/or local agencies and provide Ecology with written documentation from those agencies of the substantive requirements those agencies believe are applicable to the remedial action. Ecology shall make the final determination on the additional substantive requirements that must be met by the County and on how the County must meet those requirements. Ecology shall inform the County in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. The County shall not begin or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination.

Pursuant to RCW 70A.305.090(2), in the event Ecology determines that the exemption from complying with the procedural requirements of the laws referenced in RCW 70A.305.090(1) would result in the loss of approval from a federal agency that is necessary for the state to administer any federal law, the exemption shall not apply and the County shall comply with both the procedural and substantive requirements of the laws referenced in RCW 70A.305.090(1), including any requirements to obtain permits or approvals.

**O. Indemnification**

To the extent permitted by law, the County agrees to indemnify and save and hold the State of Washington, its employees, and agents harmless from any and all claims or causes of action (1) for death or injuries to persons, or (2) for loss or damage to property, to the extent caused by

acts or omissions of the County, its officers, officials, employees, agents, or contractors in entering into and implementing this Order. However, the County shall not indemnify the State of Washington nor save nor hold its employees and agents harmless from any claims or causes of action to the extent arising out of the negligent acts or omissions of the State of Washington, or the employees or agents of the State, in entering into or implementing this Order.

#### **IX. SATISFACTION OF ORDER**

The provisions of this Order shall be deemed satisfied upon the County's receipt of written notification from Ecology that the County has completed the remedial activity required by this Order, as amended by any modifications, and that the County has complied with all other provisions of this Agreed Order.

#### **X. ENFORCEMENT**

Pursuant to RCW 70A.305.050, this Order may be enforced as follows:

- A. The Attorney General may bring an action to enforce this Order in a state or federal court.
- B. The Attorney General may seek, by filing an action, if necessary, to recover amounts spent by Ecology for investigative and remedial actions and orders related to the Site.
- C. A liable party who refuses, without sufficient cause, to comply with any term of this Order will be liable for:
  1. Up to three (3) times the amount of any costs incurred by the State of Washington as a result of its refusal to comply.
  2. Civil penalties of up to twenty-five thousand dollars (\$25,000) per day for each day it refuses to comply.
- D. This Order is not appealable to the Washington Pollution Control Hearings Board.

This Order may be reviewed only as provided under RCW 70A.305.070.

//

//

//

Effective date of this Order: August 30, 2023

SNOHOMISH COUNTY, WASHINGTON

**Boungjaktha,  
Neepaporn**

Digitally signed by Boungjaktha,  
Neepaporn  
Date: 2023.08.23 15:11:55  
-07'00'

Dave Somers  
Snohomish County Executive  
3000 Rockefeller Avenue M/S 407  
Everett, WA 98201  
425-388-3050

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

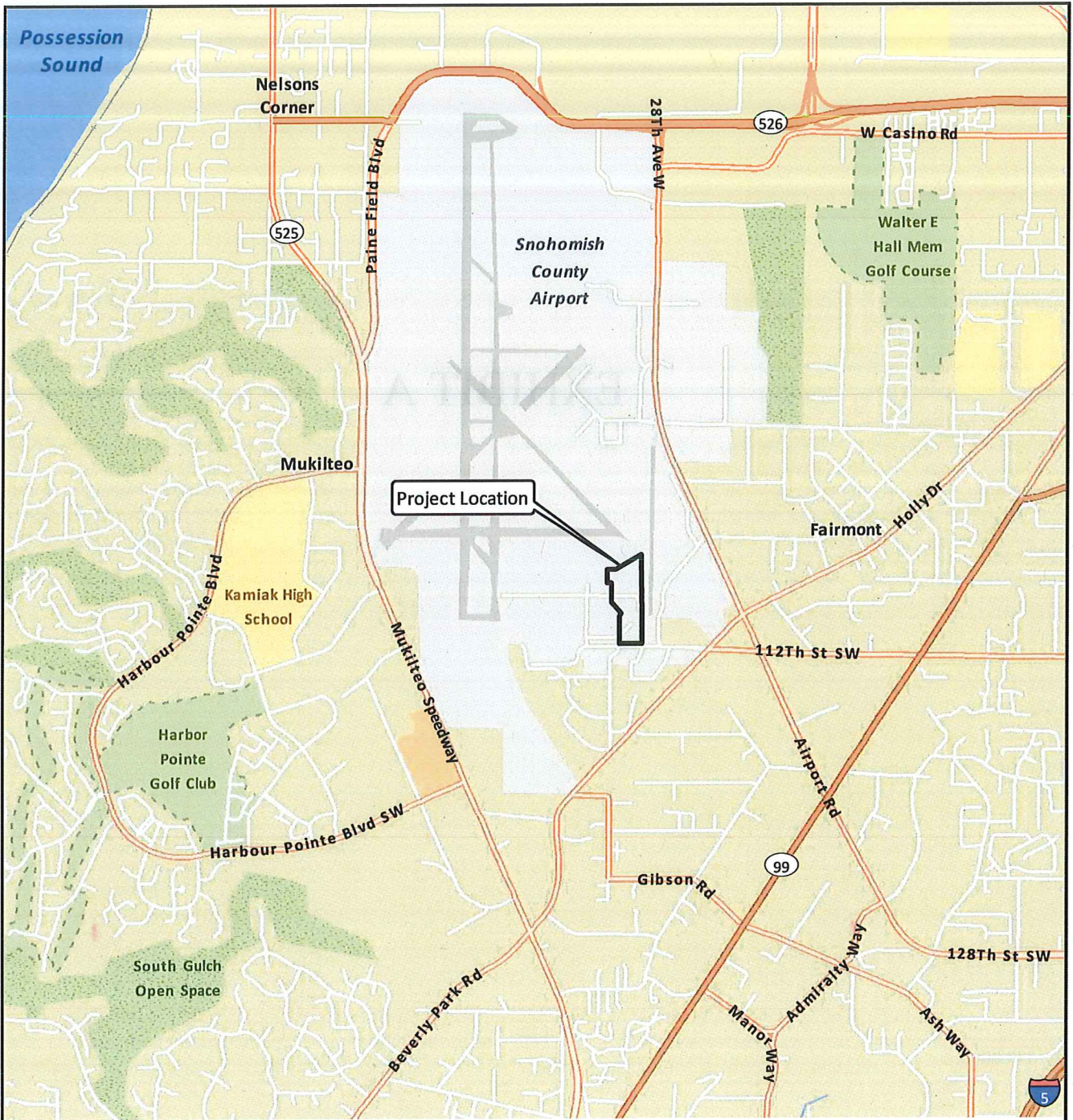
*Kimberly Wooten*

Kimberly Wooten  
Section Manager  
Toxics Cleanup Program  
Northwest Region Office  
425-324-1658

<p><b>COUNCIL USE ONLY</b></p> <p>Approved <u>8/23/2023</u></p> <p>ECAF # <u>2023-0693</u></p> <p>MOT/ORD <u>Motion 23-312</u></p>
--

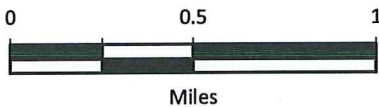


# EXHIBIT A



G:\Projects\222\057\01\0\013\RI Work Plan\F01VicMap.mxd 9/6/2018

**DRAFT**



Data Source: Esri 2012



TECT Aerospace  
Everett, Washington

Vicinity Map

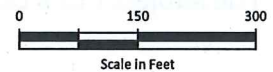
Figure  
**1**





**Legend**  
 [Black outline] Approximate Site Boundary

**Note**  
 1. Black and white reproduction of this color original may reduce its effectiveness and lead to incorrect interpretation.



Data Sources: AGI 1999; Landau Associates 2006; Esri World Imagery.

## EXHIBIT B SCOPE OF WORK AND SCHEDULE

### SCOPE OF WORK

#### PURPOSE

The work under this Agreed Order (AO) involves conducting a Remedial Investigation (RI) and Feasibility Study (FS), conducting interim actions if required or agreed to by the Washington State Department of Ecology (Ecology), and developing a preliminary draft Cleanup Action Plan (DCAP). The purpose of the RI, FS, and preliminary DCAP is to provide sufficient data, analysis, and evaluations to enable Ecology to select a cleanup alternative for the Site.

Snohomish County (County) shall coordinate with Ecology throughout the development of the RI, FS, and preliminary DCAP and shall keep Ecology informed of changes to any work plans or other plans, and of any issues or problems as they develop.

The Scope of Work (SOW) is divided into eight major tasks:

- Task 1: Agreed Order Remedial Investigation/Feasibility Study Work Plan
- Task 2: Remedial Investigation Field Work and Report
- Task 3: Interim Action(s) (if required)
- Task 4: Feasibility Study Report(s)
- Task 5: State Environmental Policy Act (SEPA) Compliance
- Task 6: Public Participation
- Task 7: Preliminary Draft Cleanup Action Plan.
- Task 8: Progress Reports

To assist with preparation of these documents, Ecology's Toxics Cleanup Program (TCP) has developed checklists, which the Subject PLPs shall use for the following remedial action reports and plans.

- Remedial Investigation Report Checklist
- Feasibility Study Report Checklist
- Cleanup Action Report Checklist

The subject PLPs can download the checklists directly from the following website:



<https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Voluntary-Cleanup-Program/Working-with-VCP>

Policy 840 Environmental Information Management System (EIM): Ecology has updated Policy 840 related to data submittal requirements for TCP sites as part of site investigations and cleanups to be submitted into EIM at the time of submittal for Ecology review of any report containing this data.

### **TASK 1: AGREED ORDER REMEDIAL INVESTIGATION/ FEASIBILITY STUDY WORK PLAN**

The County shall prepare the AO RI/FS Work Plan. The work plan will be titled AO (for agreed order) RI/FS Work Plan to differentiate the work plan from a previously prepared RI work plan (and associated work plan addenda) that was used to implement Site investigation activities from 2018 to 2022 as an independent action.

Two phases of RI activities have been performed at the Site, from 2018 to 2019, completed independently by the County. These RI activities and results were documented in an Interim Remedial Investigation Data Report dated December 31, 2019. Numerous other independent site investigations were completed at the Site prior to the 2018 and 2019 RI activities and are documented in various reports dating back to the early 1990s (see Section V, Findings of Fact of this AO). The AO RI/FS Work Plan shall be developed based on the previous RI and site investigation reports and current data gathered to complete Site characterization on and off the Property.

A Key Project Meeting will be held prior to submittal of the AO RI/FS Work Plan. The purpose of the RI Planning Meeting is to review requirements for the Work Plan and plan RI field work, discuss the preliminary conceptual site model, and identify project data needs and preliminary plans for on-Property interim action. The AO RI/FS Work Plan shall be completed for the Site and approved by Ecology prior to the submission of an Interim Action Work Plan (IAWP), if applicable.

The AO RI/FS Work Plan shall include an overall description and schedule of RI activities and will be designed to comply with requirements of the Model Toxics Control Act (MTCA) cleanup regulation (Remedial Investigation and Feasibility Study) promulgated in Chapter 173-340-350 of the Washington Administrative Code (WAC). The AO RI/FS Work Plan shall clearly describe the project management strategy for implementing and reporting on RI activities. The responsibility and authority of all organizations and key personnel involved in conducting the RI will be outlined. The main body of the AO RI/FS Work Plan shall include the following major

sections:

- Introduction providing the overall objectives of the RI and FS and an overview of the planned investigation
- Site description and background describing current Site features, current and future land use, current and future groundwater use, and Site history
- Previous investigations and cleanup actions at the Site including a summary of investigation results or reference to previous summaries of investigation results
- Preliminary conceptual Site model including a description of Site geology, hydrogeology, potential contaminants of concern and sources, and contaminant migration pathways and potential receptors
- Screening levels to evaluate RI data
- Planned remedial investigation by investigation area including the specific data gaps, RI objectives, and planned investigation activities for each investigation area. The data gaps will be used as the basis for conducting additional Site investigations.
- Planned terrestrial ecological evaluation activities
- Feasibility Study describing the major steps to complete an FS for the Site including identification of Applicable or Relevant and Appropriate Requirements (ARARs), delineation of media requiring remedial action, development of remedial action objectives, screening of cleanup alternatives, evaluation of cleanup alternatives, disproportionate cost analysis procedures, and recommendation of remedial action alternatives
- Reporting
- RI and FS activities schedule.

The AO RI/FS Work Plan will also identify specific data collection procedures in a Sampling and Analysis Plan (SAP) and a Quality Assurance Project Plan (QAPP) prepared in accordance with WAC 173-340-820 and WAC 173-204-600 for defining the nature and extent of contamination. The SAP and QAPP will be prepared as appendices to the AO RI/FS Work Plan. The County will also submit a Health and Safety Plan (HASP) and Inadvertent Discovery Plan (IDP) for the project.

The SAP will identify methods to be used for well/boring installation, soil, groundwater, soil gas, and air sample collection, and other data collection and field activities (e.g., groundwater elevation measurements, well development). The SAP will also address field screening; sample identification; sample containers,

preservation, and holding times; sample documentation; equipment decontamination; and residuals/investigation-derived waste management.

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 (Ecology 2016).<sup>1</sup> The QAPP will specify that laboratories must meet the accreditation standards established in Chapter 173-50 WAC.

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

The County or its contractors shall submit all new sampling data generated under this AO RI/FS Work Plan to Ecology for entry into 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. Only validated data will be entered into the EIM database within 30 days of submittal.

The County shall provide Ecology with an Agency Review Draft AO RI/FS Work Plan in both Word (.docx) and Adobe (.pdf) formats. Once Ecology reviews and approves the AO RI/FS Work Plan, it will be considered the Final AO RI/FS Work Plan and the County will provide the Final AO RI/FS Work Plan to Ecology in Adobe (.pdf) format. Once approved by Ecology, the County will implement the Final AO RI/FS Work Plan according to the schedule contained in this Exhibit.

## **TASK 2: REMEDIAL INVESTIGATION**

The County shall conduct a RI that meets the requirements of WAC 173-340-350(7) and WAC 173-204-560 according to the Final AO RI/FS Work Plan approved by Ecology (Task 1). The RI will determine the nature and extent of contamination exceeding preliminary MTCA screening levels and other regulatory requirements. The RI must provide sufficient data and information to define the nature and extent of contamination and to enable the selection of a cleanup action under WAC 173-340-360 through 173-340-390. The Final AO RI/FS Work Plan will be included as an appendix

---

<sup>1</sup> Ecology. 2016. Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies. Publication No. 04-03-030. Washington State Department of Ecology. Revised December. <https://fortress.wa.gov/ecy/publications/summarypages/0403030.html>.

to the RI Report.

Field sampling and analysis will be completed in general accordance with the SAP and QAPP. Deviation(s) from the approved SAP and QAPP must be communicated to Ecology immediately and documented as required by Ecology.

The County shall communicate interim data reports and updates to Ecology as new Site data and information become available. Laboratory analysis data shall also be provided in electronic format when they have been validated. Raw laboratory data will be provided to Ecology upon request.

Prior to submittal of the Agency Review Draft RI Report, a Key Project Meeting will be held. During this meeting, Ecology and the County will review available data and an updated conceptual site model and discuss the content and organization of the Draft RI Report. Ecology expects one iteration between preliminary draft and final draft of the Remedial Investigation, Feasibility Study, and draft Cleanup Action Plan.

The County shall compile the results of the Site investigation into an Agency Review Draft RI Report. The County shall submit the draft report in Word (.docx) and Adobe (.pdf) formats, to Ecology for review. The County shall incorporate Ecology's comments and then prepare two (2) hard copies of the Pub Review Draft RI Report along with one electronic copy in Word (.docx) and Adobe (.pdf) formats, to Ecology for distribution and public comment. Electronic survey data for monitoring locations, electronic lab data, and GIS maps of contaminant distribution shall also be provided for both the Agency Review Draft RI Report and Public Review Draft RI Reports. The RI Report will not be considered Final until after a public review and comment period. The Agency Review Draft RI Report and/or Public Review Draft FS Report may be submitted in conjunction with the Agency Review Draft FS Report and/or Public Review Draft FS Reports, discussed in Task 4 below.

If the data collected during this investigation is insufficient to define the full nature and extent of contamination, and to select a cleanup action plan, an additional phase of investigation shall be conducted to define the extent of contamination.

### **TASK 3: INTERIM ACTIONS (if required)**

Interim actions deemed necessary by the County or Ecology shall be conducted commensurate with this task description.

Remedial actions implemented prior to completion of the FS, including those that:

- are technically necessary to reduce a threat to human health or the environment



by eliminating or substantially reducing one or more pathways for exposure to a hazardous substance;

- correct a problem that may become substantially worse or cost substantially more to address if the remedial action is delayed; or
- are needed to provide for completion of the RI or design of the cleanup action

will be considered interim actions, will be implemented in accordance with WAC 173-340-430 and the AO, and will be designed in a manner that will not foreclose reasonable alternatives for any final cleanup action that may be required.

As detailed in the AO, if required by Ecology, or if proposed by the County and approved by Ecology, the County will implement an interim action. Based upon information obtained during the RI, interim action(s) may be needed to expedite control of releases to environmental media pursuant to WAC 173-340-430.

The scope of the interim actions may include, but not be limited to, typical source control or containment elements such as:

- Soil or sediment removal
- Groundwater remediation
- Repair, slip lining, replacement, or closure of stormwater conveyances or other structures such as conduits, vaults, catch basins, etc.
- Decommissioning of underground storage tanks and pipes
- Removal of old drain fields or former surface impoundments
- Proper decommissioning of old or unused wells
- Removal of contaminated building or other structural material
- Construction of a treatment facility.

During the Key Project Meeting described in Task 1, the results of historical and current investigations and preliminary plans may be discussed for additional interim action(s), if necessary. If an interim action is to be performed, the County will prepare and submit for Ecology's approval an Agency Review Draft Interim Action Work Plan (IAWP) with detail commensurate with the work to be performed. The Agency Review Draft IAWP shall include, as appropriate:

- Description of the interim action including its purpose, general requirements, and relationship to the (final) cleanup action (to the extent known)
- Summary of relevant RI information, including at a minimum existing Site

conditions and alternative interim actions considered

- Information regarding design and construction requirements, including a proposed schedule and personnel roles and responsibilities
- Compliance Monitoring Plan
- SAP/QAPP
- Permits required

The County will also submit a copy of the HASP for the proposed interim action. The County will be responsible for complying with the SEPA rules including preparing and submitting an environmental checklist for the interim action, and will assist Ecology with presentations at any additional meetings or hearings that might be necessary for SEPA compliance or as part of the Public Participation Plan.

The County shall submit an Agency Review Draft IAWP in Word (.docx) and Adobe (.pdf) formats, to Ecology for review. The County shall address Ecology's comments and then prepare two (2) hard copies of the Public Review Draft IAWP along with one electronic copy each in Word (.docx) and Adobe (.pdf) formats, to Ecology for distribution and public comment. After a public notice and comment period for the Public Review Draft IAWP (and SEPA determination), Ecology will approve the IAWP (if appropriate) and the document will be considered Final. The County shall submit the Final IAWP in Adobe (.pdf) format. Once approved by Ecology, the County will implement the interim action according to the approved schedule.

Upon successful completion of the work, an Agency Review Draft Interim Action Report will be prepared as a separate deliverable. The County shall submit an Agency Review Draft Interim Action Report in Word (.docx) and Adobe (.pdf) formats, to Ecology for review and approval. After addressing Ecology's comments on the Agency Review Draft Interim Action Report and after Ecology's approval, the County shall submit the Final Interim Action Report in Adobe (.pdf) format, to Ecology.

#### **TASK 4: FEASIBILITY STUDY REPORT**

The County shall use the information obtained in the RI to prepare an Agency Review Draft FS report that meets the applicable requirements of WAC 173-340-350 according to the schedule in this exhibit. The Agency Review Draft FS report will summarize the extent of media exceeding the screening levels based on the results of the RI and evaluate remedial alternatives for Site cleanup, consistent with MTCA requirements, to protect human health and the environment by eliminating, reducing, or otherwise controlling risks posed through identified exposure pathways and migration routes.

Prior to beginning the FS report, a Key Project Meeting will be held with project stakeholders to review the results of the RI, the updated conceptual Site model, ARARs, potential remedial alternatives, establish points of compliance and preliminary cleanup levels for impacted media. If appropriate, this Key Project Meeting may be held in conjunction with the RI Pre-Report Planning Key Project Meeting.

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 be evaluated for compliance with the applicable requirements of WAC 173-340-360, Selection of Cleanup Actions, including a detailed evaluation of remedial alternatives relative to the following criteria:

- Compliance with Cleanup Standards and Applicable Laws
- Protection of Human Health
- Protection of the Environment
- Provision for a Reasonable Restoration Time Frame
- Use of Permanent Solutions to the Maximum Extent Practicable
- The Degree to which Recycling, Reuse, and Waste Minimization are Employed
- Short-Term Effectiveness
- Long-Term Effectiveness
- Net Environmental Benefit
- Implementability
- Provision for Compliance Monitoring
- Cost-Effectiveness
- Prospective Community Acceptance.

The remedial alternative that is judged to best satisfy the evaluation criteria will be identified and presented as the recommended remedial alternative in the Agency Review Draft FS report.

The County shall prepare the Agency Review Draft FS report and submit it electronically in Word (.docx) and Adobe (.pdf) formats to Ecology for review. After addressing Ecology's comments on the Agency Review Draft FS report, the County shall prepare two (2) printed copies of the Public Review Draft FS report and submit them to Ecology for distribution and public comment. One electronic Word (.docx)

and one electronic Adobe (.pdf) formatted file of the report will also be submitted to Ecology. As discussed in Task 2 above, this public comment period may be combined with the comment period for the draft RI report if appropriate. The FS report will not be considered Final until after a public review and comment period. The FS public comment may be combined with the DCAP pursuant to WAC 173-340-600(13)(c).

After the public comment period, the County will incorporate Ecology's and the public's comments on the Public Review Draft FS Report and, after Ecology approval, will submit the Final FS report in Adobe (.pdf) format.

#### **TASK 5: SEPA COMPLIANCE**

The County shall be responsible for complying with the SEPA rules including preparing and submitting an environmental checklist. If the result of the threshold determination is a determination of significance (DS), the County shall be responsible for the preparation of draft and final environmental impact statements. The County shall assist Ecology with coordinating SEPA public involvement requirements with MTCA public involvement requirements whenever possible, such that public comment periods and meetings or hearings can be held concurrently.

#### **TASK 6: PUBLIC PARTICIPATION**

The County shall assist Ecology to prepare a draft Public Participation Plan that complies with the provisions of WAC 173-340-600(9).

The County shall support Ecology in presenting the Public Review Draft RI and FS report, Cleanup Action Plan, and SEPA evaluations at one public meeting or hearing. The County will assist Ecology with presentations at any additional meetings or hearings that might be necessary for SEPA compliance or as part of the Public Participation Plan.

After the public comments periods are completed, at Ecology's request, the County shall prepare a Draft Responsiveness Summary that addresses public comments and if necessary, prepare a second Public Review Draft RI and/or FS Report that addresses public comments. The County shall prepare two (2) copies of the Draft Responsiveness Summary, and if necessary, a second Public Review Draft RI and/or FS Report and submit them to Ecology for review and approval, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology.

After incorporating Ecology's comments and after Ecology approval, the County shall prepare two (2) copies of the Final Responsiveness Summary after public comments are incorporated and submit them to Ecology for distribution, including one electronic

copy each in Word (.doc) and Adobe (.pdf) formats.

### **TASK 7: PRELIMINARY DRAFT CLEANUP ACTION PLAN**

Upon Ecology's approval of the Public Review Draft FS report, a Key Project Meeting with project stakeholders will be held regarding the preliminary Draft Cleanup Action Plan (DCAP). The meeting will be used to review plans for developing the Agency Review preliminary DCAP.

The County shall prepare an Agency Review preliminary DCAP in accordance with WAC 173-340-380 that provides a proposed remedial action to address the contamination present at the Site. The preliminary DCAP shall include a general description of the proposed remedial actions, cleanup standards developed from the 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.

The County will submit an Agency Review preliminary DCAP for Ecology's review and approval. The County shall prepare the Agency Review preliminary DCAP and submit it electronically in Word (.docx) and Adobe (.pdf) formats, to Ecology.

After receiving Ecology's comments on the Agency Review preliminary DCAP, the County shall revise the DCAP to address Ecology's comments and submit two (2) printed copies of the Public Review DCAP to Ecology. One electronic Word (.docx) and one electronic Adobe (.pdf) formatted file of the document will also be submitted to Ecology. The DCAP will not be considered final until Ecology's approval after a public review and comment period.

### **Task 8: Progress Reports**

The County will submit Progress Reports at a quarterly frequency to Ecology until satisfaction of the AO, in accordance with section VII.(C) of the AO. In addition, during implementation of the RI field investigations and any interim action(s), the County will provide weekly email status updates to Ecology.

Progress Reports will be submitted to the Ecology project coordinator by the twenty-fifth (25<sup>th</sup>) day of the month following the reporting period. If this day is a weekend or holiday, Progress Reports will be submitted to Ecology on the next business day.

## SCHEDULE OF DELIVERABLES

The schedule for deliverables described in the AO and the Scope of Work is presented below. If the date for submission of any item or notification required by this Schedule of Deliverables occurs on a weekend, or 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 County received such notification, comments, or approval, 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.

<b>Deliverables</b>	<b>Completion Times</b>
Progress Reports	Submitted quarterly on the 25 <sup>th</sup> of the month following the end of the quarter beginning after the effective date of the AO
Agency Review Draft RI Work Plan	120 calendar days following the effective date of the AO
Final RI Work Plan	45 calendar days following receipt of Ecology's final comments on the Agency Review Draft RI Work Plan
Completion of RI Field Work	365 calendar days following Ecology's approval of the Final RI Work Plan
Agency Review Draft RI Report	180 calendar days following completion of RI field work
Public Review Draft RI Report	45 calendar days following receipt of Ecology's final comments on the Agency Review Draft RI Report
Final RI Report	No later than 45 days after receipt of Ecology comments, subsequent to public comment
Agency Review Draft FS Report	Within 90 calendar days following Ecology approval of Public Review RI Report
Public Review Draft FS Report	45 calendar days following receipt of Ecology's final comments on the Agency Review Draft FS Report

Final FS Report	45 calendar days after receipt of Ecology comments, subsequent to public comment
Agency Review Preliminary DCAP	Within 90 calendar days following Ecology's approval of the Final FS Report
Public Review DCAP	45 calendar days following receipt of Ecology's final comments on the Agency Review DCAP
Final DCAP	45 calendar days after the receipt of Ecology comments, subsequent to public comment