



**COMMISSION
AGENDA MEMORANDUM**

Item No. 8f

ACTION ITEM

Date of Meeting February 26, 2019

DATE: January 25, 2019 **(Corrected March 7, 2019)**
TO: Stephen P. Metruck, Executive Director
FROM: Sandra Kilroy, Director Maritime Environment and Sustainability
Kathy Bahnick, Senior Manager, Remediation Programs
Roy Kuroiwa, Senior Environmental Program Manager
SUBJECT: South Park Marina – Ecology Order and Cost Sharing Agreement

Amount of this request: \$0
Total estimated project cost: \$ 1,000,000

ACTION REQUESTED

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

EXECUTIVE SUMMARY

The South Park Marina (SPM) site is adjacent to the Port’s Terminal 117 property. The property is known to have contamination (e.g., metals, PCBs, and petroleum) in soil and groundwater. Ecology is requiring three parties – South Park Marina, the Port, and the City of Seattle to jointly investigate the extent and nature of contamination at the site.

The Port, marina, and City are identified as potentially liable parties (PLPs) due to ownership, operation, or responsibility for release of contaminants during periods between the 1940s and today. The three PLP parties will share responsibility to perform the requirements of the Ecology Order. Funding for this work was included in the port’s 2019-2023 Environmental Remediation Liability (ERL) Program.

The draft Ecology order and project fact sheet were available for Public Comment between 12/10/18 and 1/23/19. In November 2018, the three PLPs presented the project to the South Park Neighborhood Association and they indicated they are ‘on board’ with the planned work.

We also engaged with the Duwamish Valley Environmental Justice Pilot partners about the project. No public comments or concerns have been received.

JUSTIFICATION

The Port's participation supports the Century Agenda goal of being the greenest Port, and reinforces our commitment of being a responsible steward of community resources and the environment. It also supports the emerging strategic focus on social equity by moving the cleanup forward for a site located in the environmental justice community of South Park. The Ecology Order is a binding agreement to perform site environmental investigation work by the Port (and Marina owner and the City). The work required by the order will include direct costs for consulting and laboratory fees in excess of \$300,000. Therefore, signing the Ecology order requires Commission authorization. The project will formally initiate the process of determining upland site cleanup or source control efforts at the marina to meet EPA and Ecology's source control requirements as related to the larger Lower Duwamish Waterway Superfund Site. The project will also help identify who (Port, City, or Marina) has responsibility for the follow-on work and will help determine the relative shares of cleanup liability.

DETAILS

The Port has been identified as a Potentially Liable Party (PLP) at the SPM site because the Port owned a small, upland parcel within the SPM property between 1959 and 1970. On that parcel, the A&B Barrel Company operated as a drum reconditioning business between 1946 and 1961. The City is a PLP based on its connection to PCB disposal and track-out from the adjacent Terminal 117 property. South Park Marina is a PLP based on its ownership and operation of the marina. South Park Marina has operated at this location since the 1950s.

The City of Seattle will procure the environmental consulting firm to perform the work using their public procurement process and will hold the contract with the consultant. All invoicing and payables will be handled by the City, and the appropriate portion reimbursed by the South Park Marina and the Port.

The Statement of Work (SOW) detailed in Ecology's order requires that the PLPs perform a Remedial Investigation (RI) for the project site. Although not anticipated, the order also provides for any Interim Actions (i.e., hot spot removal or emergency response) should they be necessary. The RI will include the collection and chemical analysis of soil, groundwater, and stormwater samples to develop an environmental conceptual site model (CSM). The CSM will enable Ecology and the PLPs to develop an appropriate plan for cleanup of the site and assign responsibility for the cleanup. The order may be amended in the future to require additional work by one or more of the PLPs.

Scope of Work

The order’s SOW will be performed by a professional consulting firm hired jointly by the three PLPs (Port, City, and Marina). As detailed in Exhibit B of the AO, the SOW is divided into four major tasks:

- (1) Task 1 – Remedial Investigation Work Plan
- (2) Task 2 – Remedial Investigation (field sample collection and lab analysis)
- (3) Task 2a – Source Control Review Memorandum
- (4) Task 3 – Interim Action(s), if required

Schedule

The schedule of the required work associated with the Ecology order is as follows:

Activity

Commission authorization to sign PLP Agreement and Ecology order	Q1 - 2019
Prepare an RI Work Plan	Q3 - 2019
Perform the RI field work	Q1/Q2 - 2020
Source Control Memo	Q2 - 2020
Final RI Report	Q4 - 2020

Cost Breakdown

Port Portion of
consultant costs plus
staff costs

Remedial Investigation	\$700,000
Port Management and Agency Fees	\$300,000
Total	\$1,000,000

ALTERNATIVES AND IMPLICATIONS CONSIDERED

Alternative 1 – Do Not Authorize Signature of the Ecology Order

Cost Implications: Ecology has advised that not signing the order would likely result in the issuance of an enforcement order by Ecology, or Ecology could elect to perform this work itself (i.e., contract the work to its support consultant). This would increase the Port estimated costs by 1.5 to 2 times.

Pros:

- (1) May delay the Port’s spending by a year or more while Ecology prepares an enforcement order.
- (2) May delay the work and costs while Ecology has to contract and perform the work itself, then compels the Port to reimburse Ecology for its 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 order (gain access to the site, etc.)
- (2) The ultimate costs of the work will be much higher if Ecology performs the work itself.
- (3) Not performing this work could tarnish the Port's reputation with Ecology and the community as having a commitment to public health and being a steward of community resources and the environment.

This is not the recommended alternative.

Alternative 2 – Authorize the Signing of the Ecology Order PLP (Partner's) Agreement and begin the required Scope of Work immediately

Cost Implications: Port's portion of the work is estimated at \$1,000,000, depending on the findings during the work.

Pros:

- (1) Complies with the order and furthers the Port's collaborative working relationship with Ecology and the South Park community.
- (2) Takes the next step leading to the marina's cleanup and long-term protection of human health and the environment.
- (3) Demonstrates the Port's value of being a responsible steward of community resources and the environment.

Cons:

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

This is the recommended alternative.

FINANCIAL IMPLICATIONS

There is no funding request as part of this authorization. Funding for the associated scope of work and costs is included in the Port's annual Environmental Remedial Liability (ERL) authorization. Certain costs may also be eligible for insurance reimbursement. The three PLP parties will share responsibility to perform the requirements of the Ecology Order and each will initially contribute an equal amount, or 33%, toward the costs of the scope of work. Final allocation of costs will be determined after more is known about the site.

ATTACHMENTS TO THIS REQUEST

- (1) Draft Washington State Department of Ecology Agreed Order including Exhibit A – Site Location Diagram and Exhibit B – Statement of Work and Schedule
- (2) Draft PLP Cost Sharing Agreement between the Port of Seattle, City of Seattle, and South Park Marina

PREVIOUS COMMISSION ACTIONS OR BRIEFINGS

November 13, 2018 – The Commission authorized (1) the Executive Director to spend environmental remediation funds for 2019 in the amount of \$17,025,000 and (2) approved a five-year spending plan for \$116,026,000 for the environmental remediation liability (ERL) program for 2019-2023, of which an amount estimated not to exceed \$30,000,000 will be obligated during 2019 to be spent in future years.