



**COMMISSION
AGENDA MEMORANDUM**

Item No. 8g

ACTION ITEM

Date of Meeting February 26, 2019

DATE: February 19, 2019 **(Corrected March 7, 2019)**
TO: Stephen P. Metruck, Executive Director
FROM: Kathy Bahnick, Manager, Remediation Programs
Roy Kuroiwa, Sr. Environmental Program Manager
Catherine Chu, Capital Project Manager
SUBJECT: Terminal 30 Former Chevron Site Cleanup

Estimated contract awards: Up to \$2,000,000
Total estimated project cost: \$4,100,000

ACTION REQUESTED

Request Commission authorization for the Port to advertise and execute construction contract for the Terminal 30 (T-30) Environmental Cleanup Project for estimated contract award up to \$2,000,000. There is no funding request associated with this authorization.

EXECUTIVE SUMMARY

On March 8, 2016, the Port Commission authorized staff to execute a Consent Decree with the Washington State Department of Ecology (Ecology) for the design and implementation of T-30 Cleanup project and to execute consultant services contracts for the design phase of this project. The Consent Decree has been in effect since July 2017 and the Port has completed the design and received Ecology's approval to proceed with construction. This request is for the Commission to authorize the Port to proceed with construction advertising and construction contract execution. Funding for this work was included in the 2019-2023 Environmental Remediation Liability (ERL) Program.

T-30 was purchased in 1985 from Chevron and has subsurface soil and groundwater petroleum contamination because of Chevron's past use. The Port has been under an Ecology Agreed Order since 1991, during which time several investigations and interim actions (hot spot soil removals and product recovery) were completed. However, some contamination is still present at the site.

The project will have minimal impact to the surrounding area and the project team has been working with the Northwest Seaport Alliance and T-30 Customer SSSA closely to minimize construction impacts to business operations.

JUSTIFICATION

One of the Port’s Century Agenda strategic objectives is to be the greenest, and most energy efficient port in North America. This project is required under a Consent Decree between the Port and Ecology executed in July 2017, with the overall goal to protect human health and the environment.

Diversity in Contracting

Project staff is working with the Diversity in Contracting Department (DCD) to establish appropriate WMBE aspirational goals based upon the identified scopes of work.

In addition to the WMBE goal, project staff will be assisting DCD staff in their outreach and promotional efforts regarding this project.

DETAILS

Scope of Work

The proposed cleanup under the 2017 Ecology Consent Decree includes the following:

- Air sparging and soil vapor extraction of petroleum vapors, and treatment of exhaust vapors. This involves pumping air into the soil via a series of shallow wells to assist the bioremediation of petroleum;
- Petroleum hydrocarbon free-product recovery and disposal;
- Long term monitoring and reporting.

Schedule

Activity

Commission design authorization	2016 Quarter 1
Design start	2016 Quarter 2
Commission construction authorization	2019 Quarter 1
Construction start	2019 Quarter 2
In-use date	2019 Quarter 4
1 st year operation and monitoring start	2020 Quarter 1

Cost Breakdown (including contracts and Port costs)

Design (costs to date) phase	\$1,000,000
Construction (2019)	\$2,500,000*
First year operation and monitoring (2020)	\$600,000
Total	\$4,100,000

*Up to \$2 million construction contract award plus additional soft costs such as design support, construction management, and project management.

Construction contracting costs are estimated to be under \$2 million. Total estimated cost for design, construction, and first year operation and monitoring phases is \$4.1 million.

ALTERNATIVES AND IMPLICATIONS CONSIDERED

Alternative 1 – Do not comply with the Consent Decree. Not complying with the Consent Decree could result in the issuance of a unilateral Ecology enforcement order to perform the work or Ecology may elect to perform the work themselves.

Cost Implications: \$9 million plus possible fines

Pros:

- (1) It may delay spending by a year or more while Ecology prepares an enforcement order, or Ecology performs the work and compels the Port to reimburse Ecology for it.

Cons:

- (1) If Ecology issues a unilateral enforcement order, the Port would still ultimately perform the required cleanup actions and may also be liable for civil penalties of up to \$25,000 per day for each day it refuses to comply (per the Agreed Order, 1991).
- (2) If Ecology elects to perform the work themselves and bills the Port for their work, it would eliminate Port control over the cleanup activity and likely result in a significant increase in cleanup construction and operation scope and costs, as well as possible impacts to the tenant. The costs to the Port for an Ecology-lead cleanup could be up to \$9 million.
- (3) Not performing this work may question the Port’s commitment to public health and stewards of community resources and the environment.

This is not the recommended alternative.

Alternative 2 – Authorize advertising and execution of construction contracts to comply with the Consent Decree.

Cost Implications: \$4.1 million (design, construction, and first year operation and monitoring)

Pros:

- (1) This alternative would result in compliance with Ecology’s Consent Decree and facilitate cleanup design and implementation.
- (2) This alternative demonstrates the Port’s value of responsible stewards of community resources and the environment.

Cons:

- (1) Cost of \$4.1 million

This is the recommended alternative.

FINANCIAL IMPLICATIONS

Annual Budget Status and Source of Funds

There is no funding request as part of this authorization. Funding for the associated costs is included in the annual Environmental Remedial Liability (ERL) authorization. Cost recovery from the former owner Chevron is unavailable by the terms of the purchase and sale agreement. In addition, the Northwest Seaport Alliance (NWSA) Charter states that remediation of contamination that occurred on licensed property before the effective date shall be the responsibility of the homeport that owns such licensed property, unless remediation is driven by NWSA development or operation.

The total estimated cost of \$4.1 million for design, construction, and first year operation and monitoring was included in the five-year forecast (2019 through 2023) in the Commission's 2019 ERL spending authorization, approved on November 13, 2018. Any additional costs that might be required, including long-term operation and monitoring costs will be recorded as a liability and a non-operating expense in accordance with Port Policy AC-9. These amounts will be reported annually to the Commission via routine ERL reports and spending authorization requests.

The primary source of funds to pay the costs for the project will be ERL non-operations funds from the Port's Tax Levy.

ATTACHMENTS TO THIS REQUEST

- (1) Terminal 30 Former Chevron Site Cleanup PowerPoint slide presentation
- (2) Executed Consent Decree Re: Terminal 30 Site

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.

March 8, 2016 – The Commission authorized execution of the Consent Decree and execution of design contracts.

October 23, 2013 – The CEO signed an amendment to the 1991 AO that directed the Port to prepare a draft Cleanup Action Plan that describes the preferred cleanup alternative

July 23, 1991 – The Commission authorized execution of an Ecology Agreed Order that directed the Port to: a) continue product removal and groundwater monitoring; b) prepare a T-30 RI/FS; and c) prepare a final Consent Decree with Ecology.