

COMMISSION AGENDA

Item No: 2C

Meeting: 10/19/17

DATE: October 17, 2017

TO: Port Commission

FROM: John Wolfe, Chief Executive Officer

Sponsor: Jason Jordan, Director, Environmental and Planning Services

Project Manager: Deanna Seaman, Environmental Senior Project Manager

SUBJECT: Agreed Order between Department of Ecology and Port of Tacoma for the Industrial General Stormwater Permit at the West Sitcum Terminal

A. ACTION REQUESTED

As referenced in Resolution No. 2017-01-PT, Exhibit A, Delegation of Authority Master Policy, Paragraph IV.A. requires Commission authorization to enter into ILAs with other public agencies.

Requesting authorization to authorize the CEO or his delegate to sign the attached Agreed Order (Order) with the Department of Ecology.

B. SYNOPSIS

The West Sitcum Terminal at 1675 Lincoln Avenue, Tacoma, WA 98421 has been an operating terminal since 1983. The terminal is covered by an Industrial Stormwater General Permit (ISGP or Permit) issued by the Washington State Department of Ecology (Ecology). The Port of Tacoma received Permit coverage effective October 2, 2017. Ecology noted at the time it issued the Permit that it would be issuing a proposed Agreed Order to mandate treatment system installation, as well as other interim actions to minimize potential water quality violations.

The Order memorializes certain interim actions the Port voluntarily undertook to intercept stormwater and remove metals and sediment. The Order goes further by requiring certain activities that will be the responsibility of our tenant, SSAT, including sweeping and maintaining the downspout treatment boxes and catch basin inserts, along with other best management practices and source control activities. Finally, the Order lays out a timeline by which we must submit an Engineering Report, submit 30% and 100% design drawings and begin and complete treatment system construction.

Because this is an Agreed Order, we are required to seek Commission Delegation of Authority to the CEO or his delegate to sign the Order.

C. BACKGROUND

The West Sitcum Terminal is required to have coverage under the Industrial Stormwater General Permit (ISGP). The ISGP authorizes stormwater discharges from a facility only if the facility is operated consistent with the terms and conditions of the ISGP. These terms and conditions include quarterly compliance monitoring of discharges, implementation of specific best management practices and an adaptive management process triggered by discharge monitoring results above benchmark values. This adaptive management process consists of implementing specified corrective actions.

Prior to October 2, 2017, the ISGP was held by the former terminal operator. In 2016, the former operator exceeded ISGP benchmarks for zinc and copper for three consecutive quarters and reached a Level 3 corrective action stage of the adaptive management process. A Level 3 corrective action stage typically requires the installation of a stormwater treatment system.

The former operator did not implement a Level 3 corrective action and instead ceased operations and terminated their ISGP as of October 1, 2017. Anticipating the termination, on August 24, 2017, Port of Tacoma applied for ISGP coverage and received coverage effective October 2. The Port has agreed to obtain and hold the Permit for the duration of the treatment design, construction and commissioning period.

Ecology responded to the Port's Permit application with the attached Agreed Order.

D. TERMS OF AGREEMENT

The Order requires the following interim treatment and best management practices:

1. Downspout treatment boxes on all buildings
2. Catch basin inserts with metal filtration ability in all catch basins
3. Monthly sweeping over the entire terminal:
 - a. Weekly sweeping around the maintenance buildings
4. Monthly sampling at the Matson area for Q-4 2017

The Order lays out a construction program:

1. Engineering Report due January 15, 2018
2. Start of Construction by July 1, 2018
3. System complete by September 30, 2018
4. Stipulated daily penalties of \$1,000 after September 30 until treatment system is online
5. Post construction monitoring to document system performance due March 1, 2019

E. FINANCIAL IMPLICATIONS

<u>Date</u>	<u>Actions</u>	<u>Expected Cost</u>
October 16, 2107	Order Compliance Cost	**\$187,400.00

**Approximately \$160,000 has been spent to date, and the remaining funds will be spent this year.

Source of Funds: Funds have been and will be provided by the cash from operations.

F. ALTERNATIVES CONSIDERED AND THEIR IMPLICATIONS

Alternative 1) Do Nothing: There is a risk of an appeal of the Port's Permit by a third party permit, which may be expensive and time consuming. Doing nothing could also encourage the Department of Ecology to unilaterally issue the Port an administrative order directing the Port to undertake the same, or more stringent, measures.

Alternative 2) Grant delegation and authorization to sign the Order. This authorization ensures a cooperative approach with Ecology with predictable and agreed milestones. The Agreed Order enables the Port to request time extensions if the construction-related permits are delayed or if construction materials have a long lead time.

Alternative 2 is the recommended course.

G. ENVIRONMENTAL IMPACTS/REVIEW

Permitting: N/A see construction project authorization

Remediation: N/A see construction project authorization

Water Quality: N/A see construction project authorization

Air Quality: N/A see construction project authorization

H. ATTACHMENTS TO THIS REQUEST

- Computer slide presentation.
- Agreed Order between Ecology and Port of Tacoma and the Northwest Seaport Alliance

I. PREVIOUS ACTIONS OR BRIEFINGS

<u>Date</u>	<u>Action</u>	<u>Amount</u>
April 20, 2017	Executive Authorization for design	\$1,500
June 16, 2017	Executive Authorization for design	\$298,500
October 3, 2017	Commission Authorization Item 4C – Port of Tacoma & Port of Seattle – Provided notice of future Order	\$362,000
Future Request	Construction	\$7,515,000*
TOTAL		\$8,177,000

* This is an estimate, exact cost will be requested when the system is designed.

J. NEXT STEPS

These are the compliance action steps required of the Port in the Order.

<u>Activity</u>	<u>Date</u>
Engineering Report Due	January 15, 2018
Construction Documents Due	May 1, 2018
Construction Starts	July 1, 2018
Substantial Completion	September 30, 2018
Submit Monitoring Report	March 1, 2019

Construction dates are subject to change if permits are not timely or due to receipt of long lead construction items. In that case, the Port would request a project extension from Ecology.