

COMMISSION AGENDA

Item No: 5E

Meeting: 12/20/18

DATE: December 3, 2018

TO: Port Commission

FROM: John Wolfe, Chief Executive Officer
Sponsor: Jason Jordan, Director, Environmental and Planning Services
Project Manager: Sarah Weeks, Environmental Project Manager I

SUBJECT: Project Authorization for work associated with the Alexander Avenue Petroleum Tank Facilities Cleanup Action

A. ACTION REQUESTED

Request project authorization in the amount \$450,000 for a total authorized amount of \$2,248,000, for work associated with the Alexander Avenue Petroleum Tank Facilities Remediation Investigation, Master Identification Nos. 094217 and 101312.01.

B. SYNOPSIS

Alexander Avenue Petroleum Tank Facilities (the Site) is currently undergoing cleanup selection under an Agreed Order with the Washington State Department of Ecology (Ecology). Concurrently, cost recovery efforts are accelerating. Port staff recommends that Commission approve additional project scope and authorization to begin cost recovery efforts in earnest, as well as additional project funding to complete the Agreed Order commitments.

C. BACKGROUND

The Alexander Avenue former tank facilities Site occupies two adjacent former bulk petroleum storage and distribution facilities that were in operation from the 1930s through the 1980s. The Port owns the property to the south (formerly 721 Alexander Avenue) and Mariana Properties, Inc. (Mariana, a subsidiary of Occidental Chemical Corporation) owns the property to the north (formerly 709 Alexander Avenue). The Port property is now part of Port Parcel 2, which is currently being leased to Puget Sound Energy for the operation of a Liquefied Natural Gas facility.

On July 10, 2013, Commission authorized the Port to enter Agreed Order DE 9835 (AO) with Ecology and Mariana for investigation and cleanup planning at the Alexander Avenue former tank facilities site. Under the AO, the Port and Mariana are obligated to take the following actions: complete a remedial investigation, feasibility study, and draft cleanup action plan. At that time, Commission also authorized the associated project to complete the above work in the amount of \$626,100.

On May 27, 2014, additional project authorization was granted in the amount of \$1,021,400. Between the 2013 and 2014 Commission authorizations, Port management clarified the way cost reimbursements and past costs are accounted for: project authorizations are requested at the gross cost estimate, including prior cost and excluding potentially recoverable costs. This change in accounting added \$508,000 to the project budget (\$307,000 added for past costs, and \$200,000 added to correct for prior inclusion of recoverable costs from Mariana). An additional authorization increase of \$513,000 was also requested to pay for a significant amount of additional sampling Ecology required for the remedial investigation, bringing the total budget addendum to \$1,021,000.

In 2017, during the preliminary FS work, it became necessary to procure a new environmental consultant. It was also an opportune time to begin preliminary cost recovery efforts. Cost recovery work was not included in the scope of previous project authorizations. Consequently, additional authorization was needed to cover costs associated procuring a new consultant and beginning cost recovery. Commission authorized an additional \$151,000 on December 21, 2017.

Over the past 12 months, the Port and Ecology have been negotiating the remedial alternatives that will be evaluated in the feasibility study. This effort has taken longer than anticipated and extended the project schedule and strained the budget. If the project continues at the current pace an estimated \$300,000 may be necessary to complete the remaining AO commitments over the next 16 months, (completion of the FS and the draft Cleanup Action Plan). Additional time and effort spent during planning and remedy selection may result in significant saving in remedial action costs.

Cost recovery efforts over the last 12 months have focused on preliminary claim development, including review of historical files available in Port and Occidental archives. The records available are incomplete. The Port's claims could be made stronger with improved knowledge of corporate and operational histories of the entities that have operated at the Site. The research effort will require contracting a consultant who specializes in finding and reviewing a variety of primary and secondary sources. The research consultant will determine corporate genealogy and operational practices to determine which entities should contribute to cleanup costs. Additional cost recovery research and associated claim preparation is estimated to cost \$150,000 over the next 12 months.

D. PROJECT DETAILS

Scope of Project:

The basic terms of the Agreed Order obligated the Port and Mariana to:

- Develop a Screening Level Technical Memorandum
- Conduct a remedial investigation (RI) that fills the identified data gaps and documents current environmental conditions. This effort includes developing multiple documents, including a pre-fieldwork sampling and analysis plan, quality assurance/quality control plan, and a site-specific health and safety plan, as well as a RI Report at the conclusion of this task.

- Prepare a feasibility study (FS) to evaluate the need for and scope of remedial action(s) required under MTCA.
- Assist Ecology in preparing a draft cleanup action plan (DCAP) that will formally describe proposed remedial actions identified to be necessary through the RI/FS process.
- Reimburse Ecology for their oversight costs.

To date, we have completed the work under the first and second bullets and a portion of the work under the third bullet.

Scope of Work for This Request:

- Conduct additional research to delineate the corporate and operational histories of the entities that have operated at the Site. Prepare credible evidence packages for Ecology. Prepare claims and notice letters to other PLPs.
- Complete preparation of the FS, including ongoing negotiations with Ecology on cleanup alternatives.
- Prepare a DCAP.
- Reimburse Ecology for their oversight costs.
- Cover Port staff costs.
- Cover legal costs.

Schedule

Feasibility Study complete	2nd Quarter 2019
Draft Cleanup Action Plan complete	4th Quarter 2019

E. FINANCIAL SUMMARY

Estimated Cost of Project

The total project cost including past project authorization, contract authorization, staff, legal, Ecology oversight cost, and the anticipated scope of work for this request is estimated at \$2,248,000.

The work under the AO will continue to be conducted in accordance with the 2013 Cost-Sharing Agreement between the Port and Mariana, with consulting costs and Ecology oversight split 60/40, respectively. Consultant and Ecology invoices are paid by the Port; Mariana is invoiced quarterly for 40 percent of costs.

Estimated Cost for This Request

The total estimated cost of the request today is \$450,000, bringing the total project authorization request to \$2,248,000. If the cost of this estimate is anticipated to exceed the authorized amount, additional Commission authorization will be requested.

Estimated Sales Tax

The total estimated sales tax to be paid to local and state governments for this project is \$0.

Cost Details

Alexander Ave Petroleum Tank	MID	This Request	Total Previous Requests	Total Estimated Project Costs	Cost to Date	Remaining Cost
Investigation	94217	\$300,000	\$1,798,000	\$2,098,000	\$1,709,000	\$389,000
Cost Recovery	101312.01	\$150,000	\$0	not estimable	\$0	not estimable
Remediation	TBD	\$0	\$0	not estimable	\$0	not estimable
TOTALS	--	\$450,000	\$1,798,000	\$2,248,000	\$1,709,000	\$539,000

*Remediation construction costs were previous estimated for GASB liability at \$4,900,000. This was a very high-level estimate and will be updated in the Feasibility Study and again during design.

To date, Mariana has reimbursed the Port \$427,000 per the terms of the cost-sharing agreement. Accounting for the cost-sharing payments from Mariana, the Port has spent \$1,282,000.

The Port applied for a MTCA Remedial Action Grant (RAG) for the 2017 – 2019 biennium in the amount of \$150,000. The grant has been approved and we anticipate receiving Ecology authorization to submit invoices for reimbursement in 2019. Port staff anticipates receiving additional RAGs for this project in the future.

Source of Funds

The 2019-2023 Capital Investment Plan (CIP) allocates \$414,000 for this project. The CIP will be increased to the \$539,000 during the 2020 budget cycle.

Financial Impact

Project costs will be expensed as incurred. The MTCA Remedial Action Grant will be recorded as non-operating income at the time the reimbursement is requested.

F. ECONOMIC INVESTMENT/JOB CREATION

Temporary indirect part-time jobs will be created during implementation of the cleanup action. This work will occur under a future Commission authorization.

G. ALTERNATIVES CONSIDERED AND THEIR IMPLICATIONS

Alternative 1) Do Nothing. Does not comply with the Agreed Order required activities.

Alternative 2) This request. Approval complies with the Agreed Order, strengthens the Port's cost recovery case, and potentially results in a more cost-effective remedy.

Alternative 2 is the recommended course.

H. ENVIRONMENTAL IMPACTS/REVIEW

Permitting: Not applicable.

Remediation: This authorization will support the Alexander Avenue former tank facilities remediation project.

Stormwater: Not applicable.

Air Quality: Not applicable.

I. PREVIOUS ACTIONS OR BRIEFINGS

Commission actions and costs prior to project authorization:

<u>Date</u>	<u>Action</u>	<u>Amount</u>
December 3, 2007	Contract – Executive Authorization for data review and interim action cost estimates.	\$100,000
December 4, 2008	Contract – Commission Authorization for further investigation and reporting.	\$336,000 ^(a) (actuals = \$53,000)
January 1, 2009 – August 31 2013	Other project costs prior to AO project authorization (staff time, legal, misc.) – <u>No commission action</u> -	\$155,000
Subtotal		\$308,000

Project authorization by Commission and subsequent actions:

July 10, 2013	Commission authorization to enter the AO with Ecology and Mariana, and enter the cost sharing agreement with Mariana.	N/A
July 10, 2013	Commission authorization to complete the AO as a Project	\$626,000 ^(b)
May 27, 2014	Commission project authorization increase to account for past costs, exclude potentially recoverable costs, and fund additional sampling required by Ecology.	\$1,021,000 ^(c)
December 21, 2017	Commission project authorization increase for procurement of a new environmental consultant and preliminary cost recovery budget.	\$151,000
Subtotal		\$1,798,000
TOTAL		\$1,798,000

(a) Of this amount, only \$53,000 was expended, the contract is expired.

(b) Authorization to complete the Agreed Order commitments, excluding prior costs and included potentially recoverable costs.

(c) Between the 2013 and 2014 Commission authorizations, Port management clarified the way cost reimbursements and past costs are accounted for: project authorizations are

requested at the gross cost estimate, including prior cost and excluding potentially recoverable costs. This change in accounting added \$508,000 to the project budget (\$307,000 added for past costs, and \$200,000 added to correct for prior inclusion of recoverable costs from Mariana). An additional authorization increase of \$513,000 was also requested to pay for a significant amount of additional sampling Ecology required for the remedial investigation, bringing the total budget addendum to \$1,021,000.

J. ATTACHMENTS TO THIS REQUEST

- Computer slide presentation.

K. NEXT STEPS

Complete remaining obligations under the AO by fourth quarter 2019. Upon completion of the AO obligations, design will begin. It will be necessary to enter into a new AO or Consent Decree (CD) with Ecology and renegotiate cost sharing with Mariana for the implementation of the cleanup action. Port Staff will return to Commission at that time.