

# COMMISSION AGENDA

Item No: 5A

Meeting: 7/26/18

**DATE:** July 9, 2018

**TO:** Port Commission

**FROM:** John Wolfe, Chief Executive Officer  
Sponsor: Jason Jordan, Director, Environmental and Planning Services  
Project Manager: Rob Healy, Environmental Senior Project Manager

**SUBJECT:** Parcel 15 – Portac Cleanup Investigation Agreed Order Amendments and additional Project Authorization

## A. ACTIONS REQUESTED

Request authorization for the CEO or his delegate to amend the 2016 Agreed Order with Ecology to remove Portac as a party to the Agreed Order and to add a draft cleanup action plan as a deliverable.

Request authorization for the CEO or his delegate to amend the 1998 Order on Consent with Ecology to remove Portac as a party to the Consent Order.

Request additional project authorization in the amount \$230,000 for a total authorized amount of \$1,563,000, for work associated with the Parcel 15 – Portac Cleanup Investigation.

## B. SYNOPSIS

With a lump sum payment of \$8.6M, Portac has settled their environmental liabilities with the Port for their past operations on Parcel 15. The actions requested above conform with the Port's obligations to the settlement agreement, by removing Portac as a signatory from the Ecology Agreed Order and the Ecology 1988 Order on Consent, as well as providing additional project authorization to complete a Draft Cleanup Action Plan for the property.

## C. BACKGROUND

The Site (Port property Parcel 15) is owned by the Port and was leased by Portac (a subsidiary of Mitsui) and operated as a log yard and sawmill from 1974 to 2009. The northern and eastern portions of the site include the former Log Yard area with an environmental cap covering metals-containing slag present in soil. The rest of the site includes the former sawmill area (Sawmill). In June 2013, Ecology issued notice letters to Portac and the Port identifying each entity as a potentially liable person (PLP) under MTCA for contamination at the site.

An Executive Authorization was approved in January 2014 to support settlement negotiations with Portac, conduct additional investigational studies to support those negotiations and negotiate an AO with Ecology, the Port, and Portac. Settlement negotiations with Portac were

unsuccessful, largely due to the uncertainty around what Ecology would require for the cleanup action plan. Additional project authorization was approved by Commission in December 2015 to complete a Remedial Investigation and Feasibility Study, and identify the preferred remedy. In April 2016, following Commission's March 2016 approval and the public notice period, the Port and Portac jointly entered into an Agreed Order with Ecology to complete a Remedial Investigation and Feasibility Study.

The Port and Portac have completed the requirements of the Agreed Order and Portac has settled with the Port, whereby Portac paid the Port a lump sum of \$8,600,000 and the Port has agreed to undertake all responsibility for further environmental investigation, cleanup, and remedial action at the Site.

#### **D. TERMS OF THE ORDER AMENDMENTS**

The basic terms of the amendment to 2016 Agreed Order with Ecology includes:

- The removal of Portac as a party to the Agreed Order.
- The Port may modify the FS as warranted. The modified FS must be submitted to Ecology within 60 days of the Effective Date of this Amendment.
- The Port must submit a Draft Cleanup Action Plan to Ecology for approval within 120 days of the effective date of this Amendment, or within 120 days of Ecology's approval of the modified FS.

The basic terms of the 1998 Order on Consent with Ecology includes:

- The removal of Portac as a party to the Consent Order.
- The Port assumes responsibility for any Consent Order requirements that could be imposed on Portac, such as the requirement to inspect, maintain, and repair the environmental cap.

#### **E. PROJECT DETAILS**

##### ***Scope of Project:***

The Project Scope of Work includes:

1. Completing actions identified in the draft AO; conducting a remedial investigation and feasibility study for the Site and preparing the March 2016 AO listed submittals:
  - a. Prepare a data gaps memorandum
  - b. Prepare a draft and final remedial investigation work plan
  - c. Prepare a draft and final remedial investigation
  - d. Prepare a draft and final feasibility study technical memorandum
  - e. Prepare a draft and final remedial investigation and feasibility study

- f. Submit project environmental data to the Environmental Information Management system
  - g. Participate as needed in the public process that applies to all cleanups performed under Ecology agreed orders
  - h. Perform interim cleanup actions to expedite site development, if agreed to by all parties
  - i. Amend this order, or negotiate a new order or consent decree, and prepare a final cleanup action plan for implementation
  - j. Reimburse Ecology for past and future oversight costs
2. Port staff and legal to support settlement negotiations with Portac.
  3. Preparation of the draft cleanup action plan and negotiating a new order prior to implementing any future cleanup.

Scope of Work Tasks 1 and 2 are now complete. The approach for completing Task 3 requires refinement to allow for the optimum implementation FS identified preferred remedy in conjunction with a future undefined redevelopment opportunity at Parcel 15.

***Scope of Work for This Request:***

The scope of work for this request supports the Project Scope of Work Task 3 above. The anticipated actions include: drafting a feasibility study addendum to evaluate alternative phasing remedial action components, two additional groundwater sampling events, planning support for implementing deferred maintenance on the environmental cap and stormwater infrastructure, and drafting a cleanup action plan.

***Schedule***

Upon Commission approval of the Ecology agreement addendum the feasibility study addendum will be initiated, as will the interim action planning support. The cleanup action plan will be drafted following Ecology's review and approval of the FS addendum. Ecology's acceptance of the draft Cleanup Action Plan is anticipated in 2019. An agreed order to implement the final preferred remedy will follow the Cleanup Action Plan and will require Commission Authorization.

**F. FINANCIAL SUMMARY**

**Estimated Cost of Project and for This Request**

The total project authorization to date is \$1,333,000, tracked under MID 099597. This represents the combined contribution from both the Port and Portac for the joint consultant subject to the cost share of 61% Portac to 39% Port. This also includes the Port's staff and legal costs. The combined costs through May 2018 are \$1,315,996 with \$17,004 remaining. Of the total spent to date the Port has paid \$658,005 and Portac has paid \$658,431. Portac's costs to date do not include Portac's soft costs, to which the Port has had no visibility.

The requested additional authorization for this next phase of the project is \$230,000. The total project costs for past work and this next phase of the project is \$1,563,000. Upon Commission approval of this action MID 099597 will be closed and the balance will be transferred to a new MID to track the Port’s sole costs going forward.

If the cost of this estimate is anticipated to exceed the authorized amount, additional Commission authorization will be requested.

**Cost Details**

Item	This Request	Total Previous Requests	Total Request	Total Project Cost	Cost to Date	Remaining Cost
<b>TOTAL</b>	<b>\$230,000</b>	<b>\$1,330,000</b>	<b>\$1,560,000</b>	<b>\$1,563,000</b>	<b>\$1,315,996</b>	<b>\$247,004</b>

**Source of Funds**

The current Capital Investment Plan (CIP) allocates \$13,037,000 for this project, which includes future cleanup costs and long-term monitoring. Future cleanup costs are estimated based on the identified preferred remedy in current Feasibility Study. This estimate may be revised as an outcome of this next phase of work.

**Financial Impact**

The Portac \$8.6M settlement received in April 2018 was recorded as an environmental liability and will offset future cleanup and monitoring costs. The current estimated cost less the settlement has been recognized in prior years financial results and no additional environmental expense will be recognized on the Port’s income statement. Additional costs will be expensed in the future if the cost of the clean-up exceeds the current estimate.

**G. ECONOMIC INVESTMENT/JOB CREATION**

Future remediation will facilitate property redevelopment and return to productive use. Employment opportunities will arise during remediation, construction of future improvements and long-term leasing of the property.

**H. ALTERNATIVES CONSIDERED AND THEIR IMPLICATIONS**

Alternative 1) Complete a draft cleanup action plan based on the current Feasibility Study, thereby committing the Port to a remedy that isn’t optimized to future potential redevelopment of the property.

Alternative 2) This request.

**Alternative 2 is the recommended course.**

**I. ENVIRONMENTAL IMPACTS/REVIEW**

Permitting: Future interim action activities may require permits with the USACE. This will be determined via interim action planning support through coordination with a Port permitting manager.

Remediation: This is a remediation project.

Water Quality: Any modifications to stormwater infrastructure will be closely coordinated with a water quality manager via the interim action planning support activities.

Air Quality: Not Applicable

**J. PREVIOUS ACTIONS OR BRIEFINGS**

<u>Date</u>	<u>Action</u>	<u>Amount</u>
January 21, 2014	Executive Authorization for Portac Cleanup Investigation	\$150,000
December 2, 2015	Executive Authorization for Portac Cleanup Investigation	\$25,000
August 13, 2015	Commission Authorization for Cost Sharing Agreement	--
December 17, 2015	Commission Authorization for AO and Cleanup Investigation	\$1,158,000
March 15, 2018	Commission Authorization for settlement agreement with Portac	--
<b>TOTAL</b>		<b>\$1,333,000</b>

**K. ATTACHMENTS TO THIS REQUEST**

- Computer slide presentation
- Agreed Order Amendment
- Order on Consent Amendment

**L. NEXT STEPS**

Initiate the feasibility study addendum and begin planning interim actions for the deferred environmental cap and stormwater infrastructure maintenance.