

Item No.: 9D
Date of Meeting: August 19, 2021

Authorization for Parcel 91 (former Sound Mattress) Settlement Agreement with Wyeth

Rob Healy
Environmental Senior Project Manager



Authorization Parcel 91 (former Sound Mattress)



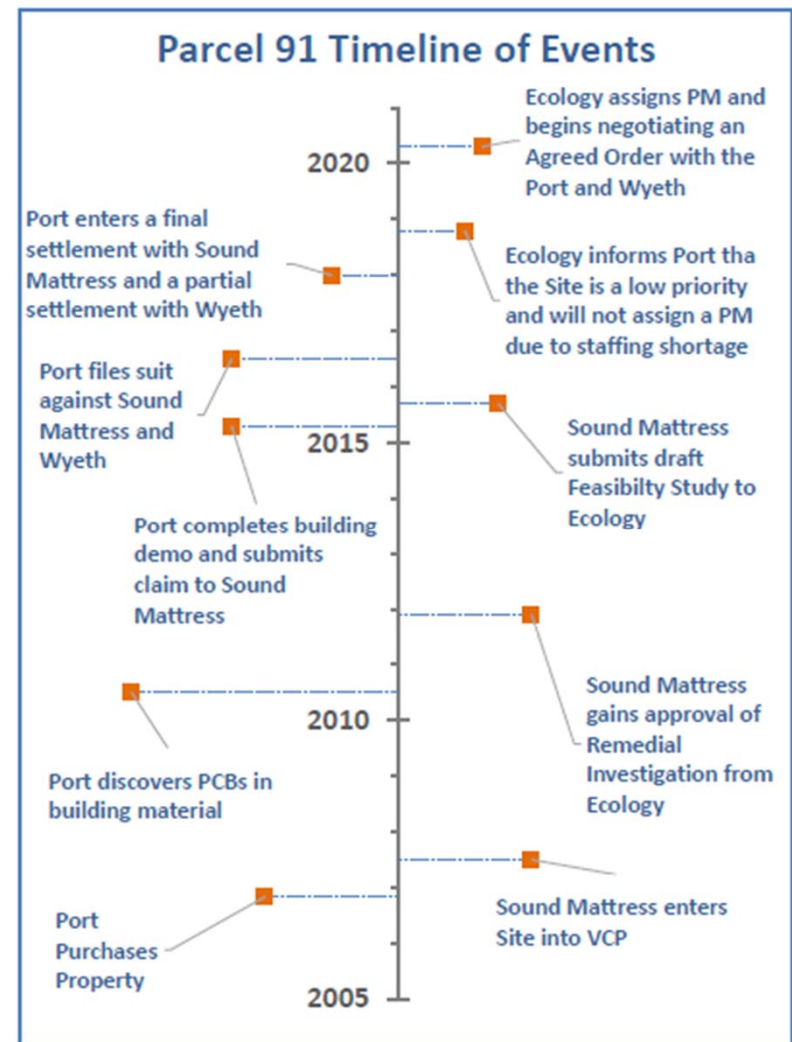
Request authorization for the Executive Director or his delegate to execute a final Settlement Agreement with Wyeth for a lump-sum payment of \$7.2M for a full release and indemnity against all claims arising out of the Site.

Master Identification No. 101042.01

Background



Background



Details of the Settlement Agreement With Wyeth



The basic terms of the agreement include:

- Wyeth agrees to pay the Port an additional lump-sum amount of \$7,200,000 within 45 days of the effective date of the Settlement Agreement.
- The Port agrees to release and indemnify Wyeth, Pfizer Inc., and its affiliates against all claims arising out of the Site.
- The settlement is conditioned upon the court entering an order dismissing with prejudice all claims brought in the subject lawsuit styled, *Port of Tacoma v. Sound Mattress & Felt Co., et al.*, Pierce County Superior Court Civil Cause Number 16-2-086379-9.
- Within 21 days of receipt of the full amount of the Lump-Sum Payment, the Port and Wyeth shall file a stipulated request for dismissal with prejudice of all claims brought in the Dispute.
- The Port agrees that it shall be the sole Party for any Site-related Order, Statement of Work, or other binding agreement issued by any governmental agency.

Project Description and Details Parcel 91 (former Sound Mattress)



Scope of Project

- All tasks necessary for cost recovery litigation associated with the former Brown & Haley/ Sound Mattress Site Project.
- All tasks necessary to complete the planning phase of cleanup including additional investigation actions, a Feasibility Study and Cleanup Action Plan (future authorization – not estimable).
- Cleanup Implementation (future authorization – not estimable).

Financial Summary and Source of Funds Parcel 91 (former Sound Mattress)



Item	This Request	Total Previous Requests	Total Request	Total Project Cost	Cost to Date	Remaining Cost
TOTAL	\$0	\$1,530,000	\$1,530,000	\$1,530,000	\$1,162,678	\$367,322

- The total project cost that is currently estimable is \$1,237,678 which represents the cost to complete the cost recovery litigation. The remaining unspent project cost will be allocated to the planning phase of the cleanup.
- Future costs for implementing a data gap investigation, feasibility study, and cleanup action plan will be estimated following development of the data gaps work plan.
- Future costs to implement the remedy are not estimable. Additional authorization will be requested to implement the future stages.

Next Steps Parcel 91 (former Sound Mattress)



- Execute the Settlement Agreement.
- Finalize the Agreed Order with Ecology and return to Commission for Authorization to execute the order.
- Return to Commission to request authorization to reprogram previously authorized funds to begin preliminary work needed to develop a cleanup action plan for the Site.

Conclusion Parcel 91 (former Sound Mattress)



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