Communication Protocol Agreement
Between
Skagit County Planning and Development Services (County),
Washington State Department of Ecology (Ecology),
and HDR, Inc. (Third Party Team)
for the Shell Crude-by-Rail East Gate Project
Environmental Impact Statement

1. PURPOSE: The purpose of this Communication Protocol Agreement (CPA) is to identify communications requirements and protocols to ensure there is no conflict of interest regarding the formulation of an Environmental Impact Statement (EIS) evaluating permitted activities to construct Shell's Crude-by-Rail East Gate Project (the project) so as to maintain the public's faith in the integrity of the process.

2. RESPONSIBLITIES: The EIS is being prepared under a third-party contractor arrangement pursuant to Washington State Environmental Policy Act (SEPA) requirements at RCW 43.21C, WAC 197-11, and Skagit County Code 14.12.130. The third party contractor and associated subcontractors (Third Party Team) have been selected from a field of candidates solicited by Skagit County, and is subject to the sole supervision and control of the County and Ecology (together, the Co-leads) in the development of that EIS. While Shell is funding development of the EIS, they have no supervisory authority or control over the Third Party Team preparing the EIS.

To ensure and maintain the integrity of the SEPA process, by precluding any source of bias in the formulation of the EIS, as well as by averting any potential appearance of improper influence, communication protocols are formulated in this CPA. However, these protocols are not intended to be so restrictive as to eliminate all efficiency from the information exchange process. The following is not an all-inclusive list of communication limitations and documentation procedures, but they set forth general policies and practices to preserve the independence and integrity of the County and State evaluation and decision-making processes. In light of circumstances encountered during EIS development, revisions to this CPA may be necessary. Revisions will only be made with the approval of all signatory parties (the parties).

The Co-leads will independently evaluate the product prepared by the Third Party Team upon its completion, and will assume responsibility for the scope and content of the EIS.

The Co-leads and the Third Party Team will hold monthly meetings (in person or telephonic) with Shell regarding project schedule and EIS development, or more frequently as the parties may agree.

The roles and responsibilities of the Co-leads will be consistent with the provisions of the approved Memorandum of Understanding between the Co-leads.

3. **COMMUNICATION PROTOCOLS:** The parties will follow the following communication protocols during the development of the EIS:

a. Only the Co-leads will provide instructions and guidance to the Third Party Team relative to the preparation of the EIS, compliance with Co-lead's policies and procedures, impact assessments, data interpretation, and conclusions. These are the exclusive responsibility of the Co-leads and the Third Party Team. Except as provided in section 3(h) below, the Third Party Team may neither take nor request direction or guidance from Shell, including company representatives, consultants, agents, and attorneys (collectively, "Shell"), on any aspect of the EIS preparation.

b. Except as provided in paragraph 3(i) below, any direct communication, contact, coordination, meetings, document review or consultation between the third party and Shell must be approved by the Co-leads and documented by the Third Party Team through e-mail, memoranda, conversation records, or other notes as appropriate. This documentation is the responsibility of the Third Party Team and is to be provided to the Co-leads. Any in-person meetings or telephone conferences between the Third Party Team and Shell must be scheduled in advance, with a minimum of three (3) business days notice to the Co-leads. The Co-leads may attend any such meetings or conferences, at their discretion, and may request a meeting or conference be reasonably rescheduled to accommodate Co-lead participation.

c. Direct communication between the Third Party Team and Shell is expected to occur. However, this contact must be limited to (a) collection of data and information (including site access); (b) amplification and clarification of information submitted by Shell; and (c) receipt of comments from Shell on requests received and on draft and final documents, unless otherwise expressly approved by the Co-leads. Data and information subject to direct communication will normally include technical reports and data held and/or prepared by Shell. Additionally, at the request of the Co-leads, Shell may be requested to generate and supply various work products and data for the preparation of the EIS. For the sake of efficiency, the submission of requested materials by Shell to the Third Party Team will be courtesy copied to the Co-leads when submitted to the Third Party Team.

d. Work products prepared by the Third Party Team will be submitted directly to the Co-leads. These work products will be provided to Shell's team only upon the approval of the Co-leads;

e. Notwithstanding the preceding paragraph, the Co-leads shall provide the following work product in electronic format to Shell for review and comment within thirty (30) days of receipt from the Third Party Team:

i. Preliminary notice of scoping
ii. Draft project proposal provided in the form of a technical memorandum
iii. Draft proposal objective provided in the form of a technical memorandum

iv. Draft purpose and need provided in the form of a technical memorandum
v. Draft alternatives, preferred alternative, and alternatives eliminated from detailed analysis provided in the form of a technical memorandum
vi. Draft mitigation measures will be discussed by the parties in regularly-scheduled coordination meetings.
vii. Proposed location(s) and draft agenda for scoping meetings
viii. Copies of all scoping comments received
ix. Transcript(s) (if any) of scoping meetings
x. Draft Scoping Report summarizing comments
xi. Final scope determination made by the Co-leads after completion of the scoping period
xii. Copies of all public comments on the Draft EIS from public hearings
xiii. Transcript(s) (if any) of public hearing on the Draft EIS

f. The Third Party Team will provide the parties with regular updates regarding EIS development, as determined in the contract scope of work.

g. Inquiries or contacts from members of the public received by the Third Party Team outside of the public comment period concerning procedural matters pertaining to the SEPA EIS will be addressed by the Third Party Team in accordance with direction provided by the Co-leads. Inquiries or contacts from members of the public received by the Third Party Team outside of the public comment period concerning substantive matters pertaining to the project or EIS will be reviewed with the Co-leads. Depending on the nature of the substantive questions received, the Third Party Team will develop and provide a response either on their own or with the assistance of the Co-Leads and Shell. Summaries of questions received outside of the public comment period and responses will be maintained by the Third Party Team in accordance with the terms of an approved scope of work. All comments received during the public comment periods for scoping and the DEIS will be handled according to the Public Participation Plan to be developed by the Third Party Team and the Co-leads.

h. The Third Party Team will submit EIS budget proposals to the Co-leads and Shell simultaneously.

i. The Third Party Team will deal solely with Shell regarding contract billings, adequacy of invoice documentation, and budget exceedances. The Third Party Team will submit their monthly billing after the close of every month to: Shell Oil Products U.S., Attn: Gene Akiaten, 8505 S. Texas Road, Anacortes, WA 98274. Monthly billings shall follow the protocol specified in the Contract for Services Agreement between HDR, Inc. and Shell.

4. PROJECT MANAGERS:

Project managers for each signatory to the CPA are:

For the County:

Leah Forbes, AICP, Senior Planner
Skagit County
Planning & Development Services
1800 Continental Place
Mount Vernon, WA 98273
(360) 416-1337
leahf@co.skagit.wa.us

For HDR, Inc. and the Third Party Team:

Ronalee Spellecacy, AICP
601 Union Street, Suite 700
HDR, Inc.
Seattle, WA 98101-2341
(206) 826-4728 (office)
(206) 297-1072 (cell)
Ronalee.Spellecacy@hdrinc.com

For Ecology:

Alice Kelly
Department of Ecology
Northwest Regional Office
3190 160th Ave SE
Bellevue, WA 98008
(425) 649-7128 (office)
(425) 681-6236 (cell)
Alice.kelly@ecy.wa.gov

5. NON-FUND OBLIGATING DOCUMENT: This CPA is neither a fiscal nor a funding obligation document, and does not reflect or constitute an obligation of funds of the United States, Washington State, Skagit County, or Shell. This CPA does not establish a contracting or funding relationship between the County, Ecology, Shell and the Third Party Team. Any endeavor involving reimbursement, contribution of funds, or a transfer of anything of value between parties to this instrument must be addressed in separate documentation, in accordance with applicable laws, regulations and procedures. Specifically, this CPA does not establish authority for noncompetitive award to the contractor of any future contract or other agreement.

6. EXPIRATION: This CPA shall be in effect for a period not to exceed two (2) years from the executed date and shall terminate at the end of that period unless otherwise modified, terminated, or renewed in writing by all parties.

7. MODIFICATION AND AMENDMENT: This CPA may be modified or amended in writing, by mutual agreement of all parties.

8. TERMINATION: The Co-leads may terminate this CPA at any time before the date of expiration, with thirty (30) days advance written notice to the other party.

9. PARTICIPATION IN SIMILAR ACTIVITIES: This instrument in no way

restricts the parties from participating in similar activities with other public or private agencies, organizations, and individuals.

10. EFFECT OF AGREEMENT: This CPA does not in any manner affect statutory authorities and responsibilities of the signatory parties. This CPA is not intended, nor may it be relied upon, to create rights in extrinsic persons or entities, enforceable in litigation with the United States, Washington State, Skagit County, or any party hereto.

11. EFFECTIVE DATE: This Agreement shall be effective as of the date of last signature below.

12. COUNTERPARTS: This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

13. ACCEPTANCE: The following signatures indicate the respective acceptance of the provisions of this document:

Skagit County Planning and Development Services

Dale Pernula, AICP, Planning Director and SEPA Responsible Official

Date: 8/9/15

Washington State Department of Ecology

Josh Baldi, Regional Director, Northwest Regional Office

Date: 8.6.15

HDR, Inc.

David Moyano, Vice President

Date: 8/11/2015