

**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

In the Matter of Remedial Action by:

ENFORCEMENT ORDER

Stephen Mason; Mason Marine Service Inc.;  
Kien Chau; Hansan Corp.; Hansan Carpet and  
Blind; Trinh Nghia; and West East Co.

No. DE 9833

TO:

Mr. Stephen Mason  
2602 S. 38th Street PMB 314  
Tacoma, WA 98409

Mason Marine Services, Inc.  
1690 Marine View Drive  
Tacoma, WA 98422

Mr. Kien Chau  
2439 Alvin Avenue  
San Jose, CA 95121

Hansan Corp.  
2439 Alvin Avenue  
San Jose, CA 95121

Hansan Carpet and Blind  
2439 Alvin Avenue  
San Jose, CA 95121

Trinh Nghia  
10465 Fern Avenue, Unit D  
Stanton, CA 90680

West East Co.  
10465 Fern Avenue, Unit D  
Stanton, CA 90680

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EXHIBIT A. Site Diagram

**I. INTRODUCTION**

The objective of the State of Washington, Department of Ecology (Ecology) under this Enforcement Order (Order) is to require remedial action at a facility where there has been a release or threatened release of hazardous substances. This Order requires Stephen Mason, Mason Marine Service Inc., Kien Chau, Hansan Corp., Hansan Carpet and Blind, Trinh Nghia, and West East Co. (hereafter Potentially Liable Persons or PLPs), to take interim remedial actions at the location of the *F/V Helena Star* vessel that has sunk and is releasing oil and other hazardous substances into the Hylebos waterway in Pierce County, Washington.

**II. JURISDICTION**

This Enforcement Order is issued pursuant to the Model Toxics Control Act (MTCA), RCW 70.105D.050(1).

**III. PLP BOUND**

This Enforcement Order shall apply to and be binding upon the PLPs. To the extent allowed by law, changes in ownership or corporate status shall not alter the PLPs' responsibility under this Order. The PLPs shall provide a copy of this Order to all agents, contractors, and subcontractors retained to perform work required by this Order, and shall ensure that all work undertaken by such agents, contractors, and subcontractors complies with this Order.

**IV. DEFINITIONS**

Unless otherwise specified herein, the definitions set forth in Chapter 70.105D RCW and Chapter 173-340 WAC shall control the meanings of the terms in this Order.

A. Site: The Site is referred to as the *F/V Helena Star* and is generally located resting on the tidelands/sediments in the Hylebos Waterway, in front of Mason Marine Services, Inc.'s location of operation, at 1690 Marine View Drive, Tacoma, Washington. The Site is defined by the extent of contamination caused by the release of hazardous substances at the Site.

Based upon factors currently known to Ecology, the Site is more particularly described in the Site Diagram (Exhibit A). The Site constitutes a Facility under RCW 70.105D.020(5).

B. Potentially Liable Person (PLP): Refers to PLPs named for the Site including Stephen Mason, Mason Marine Services, Inc., Ken Chau, Hansan Corp., Hansan Carpet and Blind, Inc., Trinh Nghia, and West East Co.

C. Enforcement Order or Order: Refers to this Order and each of the exhibits to the Order. All exhibits are an integral, and to the extent they require action by the PLPs, are enforceable parts of this Order. The terms "Enforcement Order" or "Order" shall include all exhibits to this Order.

## V. FINDINGS OF FACT

Ecology makes the following findings of fact, without any express or implied admissions of such facts by the PLPs:

A. In February 2012, the U.S. Coast Guard learned that the 167 foot *F/V Helena Star* and the 129.5 foot *F/V Golden West*, that are moored next to one another on the water in front of 1690 Marine View Drive, Tacoma, Washington, were unattended and in deteriorating condition. The person who had been in control of the vessels, Stephen Mason, had recently declared bankruptcy. The Coast Guard issued two orders, effective February 29, 2012, and March 2, 2012 respectively to Steve Mason regarding the *F/V Golden West* and the *F/V Helena Star*. In the February 29, 2012 order the Coast Guard found that the *F/V Golden West* may present an imminent and substantial endangerment to public health or welfare, or to the environment, because of an actual or threatened release of oil or designated hazardous substances from the facility or vessel. It also found that because oil and hazardous materials can be flammable and/or toxic, the threat of a spill may present an imminent and substantial endangerment to the public health or welfare of the United States, including fish, shellfish, wildlife, public and private property, shorelines, beaches, habitats, and other living and nonliving natural resources under the jurisdiction or control of the United States. Among those who may be subjected to such an endangerment are the residents of Tacoma, Washington and the waters and natural resources of

the Hylebos Waterway. The order required Steve Mason to undertake removal actions to remove all petroleum products and hazardous materials from the vessel in a manner sufficient to prevent further harm to the environment, and to begin the work no later than 5:00 p.m. on February 29, 2012.

In the March 2, 2012 order, the coast Guard determined that the *F/V Helena Star* posed an imminent and substantial endangerment to the public health or welfare or the environment because of an actual or threatened spill/release of oil or designated hazardous substance from the facility or vessel. It also found there is a threat of a discharge of an estimated 8000 gallons of petroleum products from the *F/V Helena Star*. It further found that because petroleum is combustible, the discharge may present an imminent and substantial endangerment to the public health or welfare, including fish, shellfish, wildlife, public and private property, shorelines, beaches, habitats, and other living and nonliving natural resources. Among those who may be subjected to such an endangerment are the residents of Tacoma, WA and the waters and natural resources of the Hylebos waterway. The order required Steve Mason to undertake removal actions to remove all petroleum products from the vessel by a competent contractor in a manner sufficient to prevent further harm to the environment.

B. In March 2011, Steve Mason had arranged to have Western Towboat transport and moor the *F/V Helena Star* and the *F/V Golden West* to the Marine View Drive location. Until February 15, 2012, Steve Mason operated his business, Mason Marine Services, Inc. on the abutting uplands. Mason Marine Services, Inc. filed Chapter 7 bankruptcy in Tacoma on February 15, 2012. After unsuccessfully attempting to obtain Steve Mason's agreement to address the potential releases from the vessels, the Coast Guard hired National Response Corporation Environmental Services in March 2012 to remove oil and hazardous substances from the *F/V Golden West* and the *F/V Helena Star*. National Response Corporation Environmental Services removed a total of 6,500 gallons of oily water that was sent off for disposal. It also removed 200 pounds of waste paints, 5 pounds of aerosol cans, and 14 fire extinguishers. It also reported ammonia in the water in the bilge system of *Golden West*. The

company made temporary patching repairs to the *F/V Golden West*. After the Coast Guard completed its removal action and repairs, it closed its case.

C. On January 25, 2013, the *F/V Helena Star* sank and began to discharge oil. Ecology and the Coast Guard responded to the oil spill and hired contractors to contain and clean up the oil. Because oil continues to leak from the vessel, the Coast Guard contractor has been retained to continue to contain the oil and sheen with a boom, collect the oil with sorbent material and to "tend boom" and remove woody debris that interferes with oil recovery. The Coast Guard and Ecology are monitoring the vessel releases. Ecology observed oil sheening from the vessel from January 23 through January 31, 2013, for 11 days in February (1-8, 12, 24, and 27), and throughout the month of March to present, including on March 1, 3, 6, 12, 14, 15, 19, and 21. Ecology identified samples of the discharges by laboratory analysis as lube oil and diesel oil.

D. When the *F/V Helena Star* sank, its rigging became entangled with, and the mast came to rest on, the *F/V Golden West*, moored alongside the *F/V Helena Star*, causing the *F/V Golden West* to list to its port side. The *F/V Golden West* also broke loose from its mooring and had to be re-moored. In its current position, the *F/V Golden West* remains entangled with the *F/V Helena Star* and the *F/V Golden West* grounds at extreme low tide causing its hull to hit the tidelands and placing it in danger of further damage and sinking.

E. The Coast Guard contacted Steve Mason to address the sunken *F/V Helena Star* and to pay for the cleanup. The Coast Guard issued a letter to Mason Marine Services, Inc., Ng and Chau Enterprises, Inc., Hansan Carpet and Blind, West East Demolition and Trading, LLC, and Ballard Oil seeking to recover response costs associated with the 2012 response on the *F/V Golden West* and *F/V Helena Star* and the Coast Guard's response actions beginning January 2013 on the *F/V Helena Star*.

F. Ecology also contacted Mr. Mason who proposed to Ecology's hazardous material specialist to raise the *F/V Helena Star* and move both vessels to a nearby metal recycler. However, Ecology determined that Mr. Mason's proposal would have violated RCW 90.48.160,

because the proposed facility is not equipped with National Pollution Discharge Elimination System (NPDES) stormwater permits necessary to scrap the vessel.

G. The Coast Guard and Ecology are coordinating on maintenance of response resources and identifying options for abating the releases of hazardous substances and threat of releases.

H. As of March 29, 2013, the *F/V Helena Star* continues to release residual oil from tanks, engines and equipment into the Hylebos Waterway. The *F/V Helena Star* is also likely to contain heavy metals, such as lead, cadmium, copper, nickel, and zinc as well as polychlorinated biphenols (PCBs) and asbestos. The oil and other suspected hazardous substances on the vessel present a threat to human health and the environment, and remedial action is therefore required.

I. On June 18, 2010, Ballard Oil Company, through its president Warren R. Akkervik Jr., executed a Sale and Assignment of Lien Rights in which Ballard Oil sold and assigned a Maritime Lien and personal property lien against the *Helena Star* and another vessel (the *Crest*) in its possession to Kien Chau and Trinh Nghia. The agreement states that Ballard Oil "desires to sell and Chau and Nghia desire to purchase said Lien Rights for the purpose of scrapping both Vessels." Under the agreement Chau was required to pay \$6,262.46 for the *F/V Helena Star*. The agreement was signed by Warren Akkervik, Jr., Kien Chau, and Trinh Nghia.

J. On July 31, 2010, Kien Chau executed a Bill of Transfer as part of a Moorage Lien Foreclosure Sale in which Chau conveyed all of Chau's lien rights to the *M/V Helena Star* to West East Demolition and Trading LLC. The agreement was signed by Kien Chau.

K. On February 2, 2011, Mason Marine Services, Inc. entered into a Joint Venture Agreement with Hansan, a California corporation. The purpose of the joint venture was "to salvage the following ex-Navy merchant vessels" including the *Helena Star* and another vessel, the *Crest*. Under the agreement, Mason Marine Service, Inc., would contribute \$10,000 immediately upon the signing of the agreement, and contribute knowledge, expertise, and the labor (five men) for specified time periods for a value of \$40,000. Mason Marine Services, Inc. agreed to the "salvage operation, sale of the scrap metal, management, and record keeping, and

to continue until the vessels are completely salvaged and disposed of properly.” Hansan Corp. would contribute \$10,000 upon the granting of a permit by the appropriate governmental agency for the salvage of the vessels. It would also contribute the vessels worth \$30,000. Hansan Corp. had no additional obligations. The agreement was signed by Kien Chau and Steve Mason.

L. National Vessel Documentation Center records indicate that on April 27, 2011, Brian and Laura Joo sold the *F/V Golden West* to Ng and Chau Enterprises Inc. for \$1.00.

M. On May 29, 2011, Hansan Carpet and Blind, issued a “Statement for the Deposite Moneys and Ships” to Mason Marine Services. The statement recorded that Hansan paid \$30,000 for the Golden West fishing boat “from the marshall” and \$30,000 for the Helena Star cargo ship from Ballard Oil Co. The statement was signed by Mason Marine Services owner, Stephen Mason, and Hansan Corp. owner, Kien Chau.

## VI. ECOLOGY DETERMINATIONS

A. The PLPs are each an “owner or operator” as defined in RCW 70.105D.020(17) of a “facility” as defined in RCW 70.105D.020(5), or past owner or operator of a facility at the time of the disposal or release of hazardous substances. The PLPs are each arrangers who owned or possessed a hazardous substance and by contract, agreement, or otherwise arranged for disposal or treatment of the hazardous substances at the facility, or arranged with a transporter for transport, disposal or treatment of the hazardous substances at the facility under RCW 70.105D.040(1)(c).

B. Based upon all factors known to Ecology, a “release” or “threatened release” of “hazardous substance(s)” as defined in RCW 70.105D.020(25) and RCW 70.105D.020(10), respectively, has occurred at the Site.

C. Based upon credible evidence, and because of an emergency, Ecology is issuing a PLP status letter concurrently with the issuance of this Order in which it finds that Stephen Mason, Mason Marine Services, Inc., Ken Chau, Hansan Corp., Hansan Carpet and Blind, Inc., Trinh Nghia, and West East Co., pursuant to RCW 70.105D.040, .020(21), and WAC 173-340-500, -540, are PLPs under RCW 70.105D.040. The PLPs will have 30 days from the date of

receipt of the status letter to submit comments on the status letter in writing to Ecology under WAC 173-340-500(3).

D. Pursuant to RCW 70.105D.030(1) and .050(1), Ecology may require PLPs to investigate or conduct other remedial actions with respect to any release or threatened release of hazardous substances, whenever it believes such action to be in the public interest. Based on the foregoing facts, Ecology believes the remedial actions required by this Order are in the public interest.

E. Under WAC 173-340-430, an interim action is a remedial action that is technically necessary to reduce a threat to human health or the environment by eliminating or substantially reducing one or more pathways for exposure to a hazardous substance, that corrects a problem that may become substantially worse or cost substantially more to address if the remedial action is delayed, or that is needed to provide for completion of a site hazard assessment, remedial investigation/feasibility study, or design of a cleanup action. Oil is discharging from the sunken *F/V Helena Star*, and there is a threat of it releasing other hazardous substances. These circumstances warrant an interim action consistent with WAC 173-340-430.

F. The ongoing discharge of oil and threat of discharge of other hazardous substances from the *F/V Helena Star* warrants Ecology issuing this emergency enforcement order.

## VII. WORK TO BE PERFORMED

Based on the Findings of Fact and Ecology Determinations, it is hereby ordered that the PLPs take the following remedial actions at the Site and that these actions be conducted in accordance with Chapter 173-340 WAC unless otherwise specifically provided for herein:

A. By 5:00 p.m. on April 8, 2013, submit to Ecology for its approval a workplan to raise the *F/V Helena Star* and remove the vessel from the water in compliance with all federal, state, and local rules and laws. The workplan must:

- (1) Describe methods, means, and equipment to be used to:

(a) Remove the *F/V Helena Star* from waters of the state; to facilitate removal, safely move the *F/V Golden West* out of the way, to safely access the *F/V Helena Star*.

(b) Capture, contain, remove and dispose of debris and pollutants that may be discharged during the removal of the *F/V Helena Star* consistent with the National Contingency Plan, 40 C.F.R. 300 and the Northwest Area Contingency Plan under RCW 90.56; and

(c) Remove and dispose of oil and hazardous substances remaining on the vessel after it is raised and removed from the water; and

(2) Describe procedures and methods for demobilizing and decontaminating equipment used for the projects in subsection A.(1) above; and

(3) Indicate whether you intend to re-launch or scrap the vessel. If you plan to re-launch the vessel, the workplan must include a signed statement from a qualified marine surveyor certifying that the *F/V Helena Star* is seaworthy for its intended use, or, if you intend to scrap the *F/V Helena Star*, the workplan must include a signed contract for scrapping with a shipyard with a current National Pollution Discharge Elimination System Permit, or upland facility with a current Industrial Stormwater Permit.

(4) Identify contractors who will perform the work in the workplan.

B. Within 10 days of Ecology's approval of the workplan, remove the *F/V Helena Star* from waters of the state. Complete the remaining work and provide proof of completion to Ecology no later than 45 days after Ecology's approval of the workplan. All work must be completed in compliance with federal, state, and local rules and laws. All work must be performed by contractors licensed to conduct business in Washington and who possess the qualifications and credentials to perform marine services. The workplan, once approved by Ecology, becomes an integral and enforceable part of this Order.

C. During and until the *F/V Helena Star* is completely removed from the waters of the state, provide daily written progress reports to Ecology. Submit a health and safety plan, for Ecology's review, comment, and approval per WAC 173-340-350(7)(c)(iv) within two days of receiving Ecology's approval of the workplan.

D. If, at any time Ecology determines that insufficient progress is being made in the preparation of any of the deliverables required by this Section, Ecology may complete and issue the final deliverable.

## VIII. TERMS AND CONDITIONS OF ORDER

### A. Public Notice

RCW 70.105D.030(2)(a) requires that, at a minimum, this Order be subject to concurrent public notice. Ecology shall be responsible for providing such public notice and reserves the right to modify or withdraw any provisions of this Order should public comment disclose facts or considerations which indicate to Ecology that this Order is inadequate or improper in any respect.

### B. Remedial Action Costs

The PLPs shall pay to Ecology costs incurred by Ecology pursuant to this Order and consistent with WAC 173-340-550(2). These costs shall include work performed by Ecology or its contractors for or on the Site under Chapter 70.105D RCW, including remedial actions and Order preparation, oversight, and administration. These costs shall include work performed both prior to and subsequent to the issuance of this Order. Ecology's costs shall include costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2). The PLPs shall pay the required amount within thirty (30) days of receiving from Ecology an itemized statement of costs that includes a summary of costs incurred, an identification of involved staff, and the amount of time spent by involved staff members on the project. A general statement of work performed will be provided upon request. Itemized statements shall be prepared quarterly. Pursuant to WAC 173-340-550(4), failure to pay Ecology's costs within ninety (90) days of receipt of the itemized statement of costs will result in interest charges at the rate of twelve percent (12%) per annum, compounded monthly.

In addition to other available relief, pursuant to RCW 19.16.500, Ecology may utilize a collection agency and/or, pursuant to RCW 70.105D.055, file a lien against real property subject to the remedial actions to recover unreimbursed remedial action costs.

### C. Implementation of Remedial Action

If Ecology determines that the PLPs have failed without good cause to implement the remedial action, in whole or in part, Ecology may, after notice to the PLPs, perform any or all

portions of the remedial action that remain incomplete. If Ecology performs all or portions of the remedial action because of PLPs' failure to comply with its obligations under this Order, PLPs shall reimburse Ecology for the costs of doing such work in accordance with Section VIII.B (Remedial Action Costs), provided that PLPs are not obligated under this Section to reimburse Ecology for costs incurred for work inconsistent with or beyond the scope of this Order.

Except where necessary to abate an emergency situation, PLPs shall not perform any remedial actions at the Site outside those remedial actions required by this Order, unless Ecology concurs, in writing, with such additional remedial actions.

**D. Designated Project Coordinators**

The project coordinator for Ecology is:

James A. Sachet, Regional Supervisor, Spill Response Team  
Southwest Region  
Washington Department of Ecology  
P.O. Box 47775  
(360) 409-6328

Within seven (7) days of the effective date of this Order the PLPs shall inform Ecology of the identity and contact information of their project coordinator.

Each project coordinator shall be responsible for overseeing the implementation of this Order. Ecology's project coordinator will be Ecology's designated representative for the Site. To the maximum extent possible, communications between Ecology and the PLPs, and all documents, including reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order shall be directed through the project coordinators. The project coordinators may designate, in writing, working level staff contacts for all or portions of the implementation of the work to be performed required by this Order.

Any party may change its respective project coordinator. Written notification shall be given to the other party at least ten (10) calendar days prior to the change.

**E. Performance**

All geologic and hydrogeologic work performed pursuant to this Order shall be under the supervision and direction of a geologist licensed in the State of Washington or under the direct supervision of an engineer registered in the State of Washington, except as otherwise provided for by Chapters 18.220 and 18.43 RCW.

All engineering work performed pursuant to this Order shall be under the direct supervision of a professional engineer registered in the State of Washington, except as otherwise provided for by RCW 18.43.130.

All construction work performed pursuant to this Order shall be under the direct supervision of a professional engineer or a qualified technician under the direct supervision of a professional engineer. The professional engineer must be registered in the State of Washington, except as otherwise provided for by RCW 18.43.130.

Any documents submitted containing geologic, hydrologic or engineering work shall be under the seal of an appropriately licensed professional as required by Chapter 18.220 RCW or RCW 18.43.130.

PLPs shall notify Ecology in writing of the identity of any engineer(s) and geologist(s), contractor(s) and subcontractor(s), and others to be used in carrying out the terms of this Order, in advance of their involvement at the Site.

**F. Access**

RCW 70.105D.030(1)(a) authorizes Ecology or any Ecology authorized representative to enter all property at the Site that PLPs either own, control, or have access rights to, after reasonable notice unless an emergency prevents such notice. The PLPs shall make all reasonable efforts to secure access rights for those properties within the Site not owned or controlled by the PLPs where remedial activities or investigations will be performed pursuant to this Order.

**G. Sampling, Data Submittal, and Availability**

With respect to the implementation of this Order, the PLPs shall make the results of all sampling, laboratory reports, and/or test results generated by it or on its behalf available to

Ecology. Pursuant to WAC 173-340-840(5), as appropriate, all sampling data shall be submitted to Ecology in both printed and electronic formats in accordance with Section VII (Work to be Performed), Ecology's Toxics Cleanup Program Policy 840 (Data Submittal Requirements), and/or any subsequent procedures specified by Ecology for data submittal.

If requested by Ecology, PLPs shall allow Ecology and/or its authorized representative to take split or duplicate samples of any samples collected by PLPs pursuant to the implementation of this Order. PLPs shall notify Ecology seven (7) days in advance of any sample collection or work activity at the Site. Ecology shall, upon request, allow PLPs and/or its authorized representative to take split or duplicate samples of any samples collected by Ecology pursuant to the implementation of this Order, provided that doing so does not interfere with Ecology's sampling. Without limitation on Ecology's rights under Section VIII.F (Access), Ecology shall notify PLPs prior to any sample collection activity unless an emergency prevents such notice.

In accordance with WAC 173-340-830(2)(a), all hazardous substance analyses shall be conducted by a laboratory accredited under Chapter 173-50 WAC for the specific analyses to be conducted, unless otherwise approved by Ecology.

#### **H. Retention of Records**

During the pendency of this Order, and for ten (10) years from the date of completion of the work performed pursuant to this Order, PLPs shall preserve all records, reports, documents, and underlying data in its possession relevant to the implementation of this Order and shall insert a similar record retention requirement into all contracts with project contractors and subcontractors. Upon request of Ecology, PLPs shall make all such records available to Ecology and allow access for review within a reasonable time.

#### **I. Resolution of Disputes**

PLPs may request Ecology to resolve factual or technical disputes which may arise during the implementation of this Order. Such request shall be in writing and directed to the signatory, or his/her successor(s), of this Order. Ecology resolution of the dispute shall be binding and final. PLPs are not relieved of any requirement of this Order during the pendency of

the dispute and remain responsible for timely compliance with the terms of this Order unless otherwise provided by Ecology in writing.

**J. Extension of Schedule**

1. An extension of schedule shall be granted only when a request for an extension is submitted in a timely fashion, generally at least thirty (30) days prior to expiration of the deadline for which the extension is requested, and when good cause exists for granting the extension. All extensions shall be requested in writing. The request shall specify:

- a. The deadline that is sought to be extended;
- b. The length of the extension sought;
- c. The reason(s) for the extension; and
- d. Any related deadline or schedule that would be affected if the extension were granted.

2. The burden shall be on the PLPs to demonstrate to the satisfaction of Ecology that the request for such extension has been submitted in a timely fashion and that good cause exists for granting the extension. The existence of good cause shall be determined by Ecology in its sole discretion. Good cause may include, but may not be limited to:

- a. Circumstances beyond the reasonable control and despite the due diligence of PLPs including delays caused by unrelated third parties or Ecology, such as (but not limited to) delays by Ecology in reviewing, approving, or modifying documents submitted by PLPs;
- b. Acts of God, including fire, flood, blizzard, extreme temperatures, storm, or other unavoidable casualty; or
- c. Endangerment as described in Section VIII.K (Endangerment).

However, neither increased costs of performance of the terms of this Order nor changed economic circumstances shall be considered circumstances beyond the reasonable control of the PLPs.

3. Ecology shall act upon any written request for extension in a timely fashion. Ecology shall give PLPs written notification of any extensions granted pursuant to this Order. A requested extension shall not be effective until approved by Ecology.

4. An extension shall only be granted for such period of time as Ecology determines is reasonable under the circumstances. Ecology may grant schedule extensions exceeding ninety (90) days only as a result of:

- a. Delays in the issuance of a necessary permit which was applied for in a timely manner;
- b. Other circumstances deemed exceptional or extraordinary by Ecology; or
- c. Endangerment as described in Section VIII.K (Endangerment).

#### **K. Endangerment**

In the event Ecology determines that any activity being performed at the Site is creating or has the potential to create a danger to human health or the environment on or surrounding the Site, Ecology may direct PLPs to cease such activities for such period of time as it deems necessary to abate the danger. PLPs shall immediately comply with such direction.

In the event PLPs determine that any activity being performed at the Site is creating or has the potential to create a danger to human health or the environment, PLPs may cease such activities. PLPs shall notify Ecology's project coordinator as soon as possible, but no later than twenty-four (24) hours after making such determination or ceasing such activities. Upon Ecology's direction PLPs shall provide Ecology with documentation of the basis for the determination or cessation of such activities. If Ecology disagrees with PLPs cessation of activities, it may direct PLPs to resume such activities.

If Ecology concurs with or orders a work stoppage pursuant to Section VIII.K (Endangerment), PLPs obligations with respect to the ceased activities shall be suspended until Ecology determines the danger is abated, and the time for performance of such activities, as well as the time for any other work dependent upon such activities, shall be extended in accordance

with Section VIII.J (Extension of Schedule) for such period of time as Ecology determines is reasonable under the circumstances.

Nothing in this Order shall limit the authority of Ecology, its employees, agents, or contractors to take or require appropriate action in the event of an emergency.

**L. Reservation of Rights**

Ecology reserves its rights under Chapter 70.105D RCW, including the right to require additional or different remedial actions at the Site should it deem such actions necessary to protect human health and the environment, and to issue orders requiring such remedial actions. Ecology also reserves all rights regarding the injury to, destruction of, or loss of natural resources resulting from the release or threatened release of hazardous substances at the Site.

**M. Transfer of Interest in Property**

Before any voluntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Site shall be consummated by PLPs, PLPs shall provide for continued implementation of all requirements of this Order and implementation of any remedial actions found to be necessary as a result of this Order.

Further, prior to PLPs' transfer of any interest in all or any portion of the Site, PLPs shall provide a copy of this Order to any prospective purchaser, lessee, transferee, assignee, or other successor in said interest; and at least thirty (30) days prior to any transfer, PLP shall notify Ecology of said transfer. Upon transfer of any interest, PLP shall restrict uses and activities to those consistent with this Order and notify all transferees of the restrictions on the use of the property.

**N. Compliance With Applicable Laws**

1. All actions carried out by the PLPs pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements, including requirements to obtain necessary permits, except as provided in RCW 70.105D.090. At this time, no federal, state or local requirements have been identified as being applicable to the actions required by this

Order. Ecology will identify the necessary permits if any based upon its review of the work plan.

2. Pursuant to RCW 70.105D.090(1), PLPs are exempt from the procedural requirements of Chapters 70.94, 70.95, 70.105, 77.55, 90.48, and 90.58 RCW and of any laws requiring or authorizing local government permits or approvals. However, PLPs shall comply with the substantive requirements of such permits or approvals. At this time, no state or local permits or approvals have been identified as being applicable but procedurally exempt under this Section. Ecology will identify the state or local permits or approvals, if any, identified as being applicable but procedurally exempt based upon its review of the work plan.

PLPs have a continuing obligation to determine whether additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order. In the event either Ecology or PLPs determine that additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order, it shall promptly notify the other party of its determination. Ecology shall determine whether Ecology or PLPs shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, PLPs shall promptly consult with the appropriate state and/or local agencies and provide Ecology with written documentation from those agencies of the substantive requirements those agencies believe are applicable to the remedial action. Ecology shall make the final determination on the additional substantive requirements that must be met by PLPs and on how PLPs must meet those requirements. Ecology shall inform PLPs in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. PLPs shall not begin or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination.

3. Pursuant to RCW 70.105D.090(2), in the event Ecology determines that the exemption from complying with the procedural requirements of the laws referenced in RCW 70.105D.090(1) would result in the loss of approval from a federal agency that is necessary for the State to administer any federal law, the exemption shall not apply and PLPs shall comply

with both the procedural and substantive requirements of the laws referenced in RCW 70.105D.090(1), including any requirements to obtain permits.

#### IX. SATISFACTION OF ORDER

The provisions of this Order shall be deemed satisfied upon PLPs' receipt of written notification from Ecology that the PLPs have completed the remedial activity required by this Order, and that the PLPs have complied with all other provisions of this Enforcement Order.

#### X. ENFORCEMENT

Pursuant to RCW 70.105D.050, this Order may be enforced as follows:

A. The Attorney General may bring an action to enforce this Order in a state or federal court.

B. The Attorney General may seek, by filing an action, if necessary, to recover amounts spent by Ecology for investigative and remedial actions and orders related to the Site.

C. In the event PLPs refuse, without sufficient cause, to comply with any term of this Order, PLPs will be liable for:

1. Up to three (3) times the amount of any costs incurred by the State of Washington as a result of its refusal to comply; and

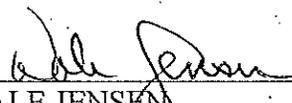
2. Civil penalties of up to twenty-five thousand dollars (\$25,000) per day for each day it refuses to comply.

D. This Order is not appealable to the Washington Pollution Control Hearings Board.

This Order may be reviewed only as provided under RCW 70.105D.060.

Effective date of this Order: April 1, 2013

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

  
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