

### 3.0 APPLICABLE, OR RELEVANT AND APPROPRIATE REQUIREMENTS

This Interim Action will protect human health and the environment by eliminating the transport of contaminated soil to the Spokane River from the WDR, substantially reducing the potential for leaching of contaminants from soil to groundwater, and substantially reducing the potential for site workers to have direct contact with contaminated soil.

#### 3.1 Compliance with ARARs

This Interim Action will comply with federal, state, and local applicable or relevant and appropriate requirements (ARARs). Under the MTCA, applicable requirements are those cleanup standards, standards of control, and other substantive requirements, criteria, or limitations promulgated under federal environmental or state environmental or local laws that specifically address a hazardous substance, cleanup action, location, or other circumstance encountered at a MTCA site. Relevant and appropriate requirements are cleanup standards, standards of control, and other substantive requirements, criteria, or limitations promulgated under federal environmental, state environmental or local requirements that, while not "applicable" to a hazardous substance, cleanup action, location, or other circumstance at a MTCA site, address problems or situations sufficiently similar to those encountered at a MTCA site that their use is well suited to the particular site.

Under RCW 70.105D.090, persons conducting a remedial action under an agreed order with Ecology are exempt from state-administered procedural requirements and the procedural requirements of any local laws requiring or authorizing local government permits or approval. However, the substantive requirements of state and local laws requiring permits or approvals shall be complied with. Thus, only the substantive requirements of state and local laws apply to the WDR Interim Action.

Site ARARs discussed below are subject to review and concurrence by the state and public prior to the implementation of this Work Plan.

**Washington Water Quality Standards for Surface Waters (Chapter 90.48 RCW and Chapter 173-201A WAC).** These regulations are applicable to discharges to surface water in Washington State. These regulations are applicable to the Interim Action to the extent that this action will result in a discharge to surface water in Washington State, i.e., during excavation and fill work. Note that the construction plan is designed to prevent any discharge of excavated or fill material into surface water bodies.

**Clean Water Act, Section 404—Dredge or Fill Regulations (33 CFR Parts 320-330, 40 CFR Part 230).** These requirements are applicable to construction activities conducted below the OHW mark in the ravine. They establish requirements that limit the discharge of dredged or fill material into navigable waters. Again, no discharge of material to navigable waters is anticipated. However, excavation and filling below the OHW mark is anticipated during implementation of this Interim action.

**Hydraulics Project Approval (Chapter 220-110 WAC).** This regulation applies to construction, which may require work within the OHW mark of the river that could change the natural flow or bed of the water body (and therefore has the potential to affect fish habitat). The requirements include bank protection (WAC 220-110-050), bed materials restrictions, siltation minimization, and debris disposal (WAC-222-110-270).

**Toxic Substances Control Act (40 CFR 761).** TSCA is applicable to the remediation and disposal of materials containing PCBs. The Environmental Protection Agency (EPA) conducts oversight of TSCA self-implementing cleanups. As MTCA limits for PCBs are more stringent in this case, EPA has deferred cleanup oversight to Ecology under MTCA. TSCA requirements for verification sampling and analysis and PCB disposal will be adhered to for this Interim Action.

**Washington Hazardous Waste Management Act Regulations (Chapter 173-303 WAC) and Resource Conservation and Recovery Act (RCRA) Subtitle C Regulations (40 CFR Parts 261 and 268).** These regulations are applicable to the identification and disposal of solid wastes that designate as dangerous (including federally hazardous) wastes. Requirements for designation, management, and disposal of dangerous/hazardous waste apply to this interim action. However, generation of such waste is not anticipated.

**Washington Solid Waste Management Act Regulations (Chapter 173-350 WAC).** These regulations are applicable to the management and disposal of solid waste materials that are not Washington dangerous wastes. They provide minimum functional standards for solid waste handling. These requirements apply to solid (non-hazardous) wastes generated during the project.

**Washington Water Pollution Control Law & Federal Clean Water Act Storm Water Multi-Sector General Permit for Construction Activities ( Chapter 90.48 RCW and 40 CFR 122.26, respectively).** These regulations provide that discharges of stormwater associated with “construction activities over 1 acre” require an NPDES permit. Although a permit will not be required for implementing the remedy on the site, the substantive requirements of the state

Construction Stormwater General Permit apply to elements of the Interim Action that could result in discharges of stormwater, including excavation and fill placement and soil screening and segregation. The general permit provides for use of sediment and erosion controls, and stormwater management measures.

**Washington State Environmental Policy Act (SEPA) (Chapter 197-11 WAC).**

These regulations require the lead state or local agency to evaluate the environmental impacts of actions and identify possible alternatives prior to committing to a particular course of action. SEPA also provides for the preparation of environmental documentation, mitigation for project impacts where applicable, and encourages public involvement in the decision making process. Ecology is the lead agency under SEPA for this Interim Action.

**Washington Shoreline Management Act of 1971 (Chapter 90.58 RCW), Shoreline Master Program Planning Guidelines (Chapter 173-26 WAC), Shoreline Management Permit and Enforcement Procedures (Chapter 173-27 WAC), and City of Spokane Valley Shoreline Master Program and Regulations (Chapter 10.20).** Management of shorelines in the Trentwood area has been delegated to the City of Spokane Valley. Development activities within 250 feet of a designated shoreline need to comply with the substantive requirements of the City's Shoreline Management Program. This will apply to grading and filling activities in the WDR.

**Washington Archaeological Sites and Resources Act (Chapter 27.53 RCW).**

This state law requires identification, preservation, and special handling of cultural and archaeological resources. The Spokane Tribe of Indians has notified Ecology of potential archaeological sites of interest that may be on or near the Kaiser property. To address the Tribe's concerns Kaiser contracted with an independent, qualified cultural resource firm to conduct a cultural resource assessment in the WDR (see Section 2.9).

## **4.0 PUBLIC PARTICIPATION**

This Interim Action is subject to public review in accordance with MTCA Public Participation requirements (WAC 173-340-600) and SEPA Public Notice requirements (WAC 197-11-510). As the lead agency in the decision making for this Interim Action, Ecology will take the lead on fulfilling public participation requirements. Kaiser will provide Ecology with assistance, as requested. At a minimum, a newspaper ad will announce that copies of this Work Plan will be available during a public review period. Construction activities related to this Interim Action will not commence until after the public review process is complete.

## 5.0 REFERENCES

Hart Crowser 2003. Draft Groundwater Remedial Investigation/Feasibility Study, Kaiser Trentwood Facility, Spokane, Washington. J-2644-76. Modified July 2003.

Hart Crowser 2005. Phase I Remedial Investigation Work Plan, Kaiser Trentwood Facility, Spokane, Washington. J-2644-95. December 21, 2005.

Hart Crowser 2007. Phase I Technical Memorandum, Kaiser Trentwood Facility, Spokane, Washington. J-2644-104. February 27, 2007.

Ecology 2004. Stormwater Management Manual for Eastern Washington, Publication Number 04-10-076, September, 2004.

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