

State of Washington
Department of Ecology

In the Matter of Remedial Action by:
International Paper Company, Simpson Tacoma Kraft Company, LLC,
and WestRock CP, LLC
Agreed Order No. DE 22553

To:

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1. Introduction

The mutual objective of the State of Washington, Department of Ecology (Ecology) and the PLPs under this Agreed Order (Order) is to provide for remedial investigation and feasibility study (RI/FS) at a facility where there has been a release or threatened release of hazardous substances. This Order requires the PLPs to develop a Remedial Investigation Report, and if required by WAC 173-340 , develop a Feasibility Study, and, if cleanup is required under WAC 173-340 a, a Preliminary Draft Cleanup Action Plan for the upland area of the Former WestRock Pulp and Paper Mill facility located at 801 E. Portland Avenue, Tacoma, WA. Ecology believes the actions required by this Order are in the public interest.

2. Jurisdiction

This Order is issued pursuant to the Model Toxics Control Act (MTCA), RCW 70A.305.050(1).

3. Parties Bound

This Agreed Order shall apply to and be binding upon the Parties to this Order, their successors and assigns. The undersigned representative of each Party hereby certifies that he or she is fully authorized to enter into this Order and to execute and legally bind such Party to comply with this Order. The PLPs agree to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter the PLPs' responsibility under this Order. 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.

4. Definitions

Unless otherwise specified herein, the definitions set forth in RCW 70A.305 and WAC 173-340 shall control the meanings of the terms in this Order

4.1 Site

The Site is referred to as the former WestRock Tacoma pulp and paper mill in Ecology's database. The Site constitutes a facility under RCW 70A.305.020(8). The Site is defined by where a hazardous substance, other than a consumer product in consumer use, has been deposited, stored, disposed of, or placed, or otherwise come to be located. Based upon factors currently known to Ecology, the Site is generally located in the vicinity of 801 E. Portland Ave, Tacoma, WA 98421 as shown in the Location Diagram (Exhibit A). At the time of the issuance of this Order, the Site boundaries have not yet been determined.

4.2 Parties

Refers to the State of Washington, Department of Ecology and International Paper Company, Simpson Tacoma Kraft Company, LLC, and WestRock CP, LLC.

4.3 Potentially Liable Persons (PLP(s))

Refers to International Paper Company, Simpson Tacoma Kraft Company, LLC, and WestRock CP, LLC.

4.4 Agreed Order or Order

Refers to this Order and each of the exhibits to this Order. All exhibits are integral and enforceable parts of this Order.

5. Findings of Fact

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

5.1

Based upon factors currently known to Ecology, the Site is generally located in the vicinity of 801 E. Portland Ave., Tacoma, WA 98421 as shown in the Location Diagram (Exhibit A).

5.2

The Site is a former Kraft and recycled pulp and paper mill that produced bleached and unbleached products. The Union Bag Company built the mill in 1928. The mill was owned and operated by the St. Regis Paper Company for several decades. Champion

International acquired St. Regis and the Site in 1984. Simpson Tacoma Kraft Company, LLC (“Simpson”) bought the mill from Champion International Corporation in 1985. In 2014, Simpson sold the mill to WestRock CP, LLC (f/k/a) RockTenn CP, LLC). WestRock CP, LLC ceased pulp and paper production permanently on September 6, 2023. WestRock CP, LLC is the current owner of the mill property.

5.3

Commencement Bay, which borders the northwest boundary of the former WestRock Tacoma pulp and paper mill property, was placed on a national interim list of 115 highest priority hazardous waste sites on October 23, 1981 (“National Priorities List”).

5.4

On April 13, 1983, EPA announced that a cooperative agreement had been reached with Ecology to conduct a remedial investigation/feasibility study on the nature and extent of contamination in the sediments in the Commencement Bay. Under the agreement, Ecology was designated as the lead agency for the investigation. The Commencement Bay Nearshore/Tideflats remedial investigation, completed in August 1985, characterized the nature and extent of contamination in the sediments in the Commencement Bay. The Commencement Bay Nearshore/Tideflats Feasibility study, completed in December 1988, described feasible alternatives for sediment remedial action at the site.

5.5

On December 24, 1987, Simpson, Ecology, and the Department of Natural Resources entered into a consent decree for remedial action (No. 87-2-07673-9). Although Ecology has no CERCLA authority, the underlying applicable authority cited in the consent decree was both CERCLA and a predecessor of MTCA. The consent decree required dredging to allow for the relocation of the wastewater treatment plant outfall, and construction of a sediment cap.

5.6

In September 1988, Simpson completed source control activities and implemented the sediment cleanup action as required under the Ecology consent decree. The sediment cap consisted of three areas referred to as “Area A”, “Area B”, and “Area C”. Areas A and B are located in the waters adjacent to the northwest edge of the mill property, between the Puyallup River and St. Paul Waterway. Area C is located adjacent to the edge of the mill property along the St. Paul Waterway, where the mill historically received wood chips via barge.

5.7

On June 30, 1989, EPA and Ecology entered a cooperative agreement under which EPA would assume the lead for the sediment remedial action while Ecology would be the lead for source control activities.

5.8

In EPA's Record of Decision for the Commencement Bay, dated September 30, 1989, EPA stated that the capping and confinement option, already completed under the Ecology consent decree between December 1987 and September 1988, is appropriate to address contamination in the St. Paul Waterway that borders the boundary of the former WestRock Tacoma pulp and paper mill property, but that EPA will continue to evaluate the success of the capping through ongoing monitoring.

5.9

Early in 1991, Ecology amended the 1987 Consent Decree (No. 87-2-07673-9). The amendment noted that the remedial work has been completed and that monitoring must now be conducted in accordance with the federal consent decree (issued in December 1991 – see next paragraph of this document). The amended consent decree also documented that EPA will be the lead agency for sediment remedial action, and that Ecology will be a consulted agency for the sediment remedial action. The consent decree noted that Ecology would be lead for source control activities.

5.10

On December 13, 1991, EPA filed the "St. Paul Waterway Consent Decree" (No. C91-5260T). The Consent Decree documented that the sediment cap in place previously completed under the Ecology consent decree was EPA's selected remedy for the area. The Consent Decree put in place a long-term Monitoring and Contingency Plan. The long-term monitoring plan only included requirements to monitor Area A and Area B of the cap. Section 2.3.1 of EPA's Fifth Year Review Report for the Commencement Bay Nearshore/Tideflats Superfund Site (2020) states that Area C of the cap is not subject to CERCLA.

5.11

On October 29, 1996, EPA deleted the St. Paul Waterway from the National Priorities List.

5.12

Long-term monitoring included but was not limited to bathymetric surveys, visual inspections, photographs, surface and subsurface chemistry sampling, water seep sampling, and benthic community sampling. In October 2004, EPA concluded that all long-term monitoring efforts were completed. Presently, the only remaining long-term monitoring requirement is to perform visual inspections after significant events such as major storms or earthquakes. However, EPA continues to perform 5-year reviews of the Commencement Bay Nearshore/Tideflats Superfund Site during which they evaluate if previous work completed remains protective or if additional information is necessary.

5.13

A list of known releases identified by Ecology is presented in Exhibit E.

6. Ecology Determinations

Ecology makes the following determinations, without any express or implied admissions of such determinations (and underlying facts) by PLPs.

6.1

St. Regis Corporation was the “owner or operator” as defined in RCW 70A.305.020(22) of the “facility” as defined in RCW 70A.305.020(8) from sometime in the 1930s until Champion International Corporation merged with St. Regis Corporation in 1984. Champion International Corporation was the “owner or operator” as defined in RCW 70A.305.020(22) of the “facility” as defined in RCW 70A.305.020(8) owned and operated the site until they sold the facility in 1985.

6.2

Based upon all factors known to Ecology, a “release” or “threatened release” of “hazardous substance(s)” as defined in RCW 70A.305.020(32), (13), respectively, occurred at the Site during the time St. Regis Corporation and Champion International Corporation owned and operated the Site.

6.3

International Paper Company purchased Champion International Corporation in 2000. International Paper Company is the successor to the environmental liabilities incurred by St. Regis and Champion.

6.4

Based upon credible evidence, Ecology issued a PLP status letter to International Paper Company dated January 17, 2024, pursuant to RCW 70A.305.040, .020(26), and WAC 173-340-500. After providing for notice and opportunity for comment, reviewing any comments submitted, and concluding that credible evidence supported a finding of potential liability, Ecology issued a determination that International Paper Company is a PLP under RCW 70A.305.040 and notified International Paper Company of this determination by letter dated March 13, 2024.

6.5

Simpson Tacoma Kraft Company, LLC is a former “owner or operator” as defined in RCW 70A.305.020(22) of the “facility” as defined in RCW 70A.305.020(8).

6.6

Based upon all factors known to Ecology, a “release” or “threatened release” of “hazardous substance(s)” as defined in RCW 70A.305.020(32), (13), respectively, occurred at the Site during the time Simpson owned and operated the facility.

6.7

Based upon credible evidence, Ecology issued a PLP status letter to Simpson Tacoma Kraft Company dated February 5, 2025, pursuant to RCW 70A.305.040, .020(26), and WAC 173-340-500. After providing for notice and opportunity for comment, reviewing any comments submitted, and concluding that credible evidence supported a finding of potential liability, Ecology issued a determination that Simpson Tacoma Kraft Company is a PLP under RCW 70A.305.040 and notified Simpson Tacoma Kraft Company of this determination by letter dated March 30, 2025.

6.8

WestRock CP, LLC is a current “owner or operator” as defined in RCW 70A.305.020(22) of a “facility” as defined in RCW 70A.305.020(8).

6.9

Based upon all factors known to Ecology, a “release” or “threatened release” of “hazardous substance(s)” as defined in RCW 70A.305.020(32), (13), respectively, has occurred at the Site.

6.10

Based upon credible evidence, Ecology issued a PLP status letter to WestRock, CP LLC dated October 10, 2023, pursuant to RCW 70A.305.040, .020(26), and WAC 173-340-500. After providing for notice and opportunity for comment, reviewing any comments submitted, and concluding that credible evidence supported a finding of potential liability, Ecology issued a determination that WestRock, CP LLC is a PLP under RCW 70A.305.040 and notified WestRock CP, LLC of this determination by letter dated January 9, 2024.

6.11

Pursuant to RCW 70A.305.030(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.

7. 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 upland area of the Site. These remedial actions must be conducted in accordance with WAC 173-340:

7.1

PLPs will complete the Remedial Investigation/Feasibility Study (RI/FS) for the upland area of the Site in accordance with WAC 173-340 and a preliminary draft Cleanup Action Plan, if required by WAC 173-340, in accordance with the schedule and terms of the Scope of Work and Schedule set forth in Exhibits B and C and all other requirements of this Order. The following naming conventions shall be used for documents: Agency Review Draft (designation for the first time Ecology receives a document); Public Review Draft (designates a document ready for public comment); and Final (designation for a document after public comment and Ecology approval); and the preliminary Draft Cleanup Action Plan (designation for the Subject PLP(s)'s version of the DCAP).

7.2

If PLPs learn of a significant change in conditions at the upland area of the Site, including but not limited to a statistically significant increase in contaminant and/or chemical concentrations in any media, PLPs, within seven (7) business days of learning of the change in condition, shall notify Ecology in writing of said change and provide Ecology with any reports or records (including laboratory analyses, sampling results) relating to the change in conditions.

7.3

PLPs shall submit to Ecology written quarterly Progress Reports that describe the actions taken during the previous quarter to implement the requirements of this Order. All Progress Reports shall be submitted by the fifteenth (15th) day of the month in which they are due after the effective date of this Order (i.e., April 15th for the first quarter, July 15th for the second quarter, October 15th for the third quarter, and January 15th for the fourth quarter). Unless otherwise specified by Ecology, Progress Reports and any other documents submitted pursuant to this Order shall be sent by electronic mail to Ecology's project coordinator. The Progress Reports shall include the following:

7.3.1

A list of on-site activities that have taken place during the quarter.

7.3.2

Detailed description of any deviations from required tasks not otherwise documented in project plans or amendment requests.

7.3.3

Description of all deviations from the Scope of Work and Schedule (Exhibits B and C) during the current quarter and any planned deviations in the upcoming quarter.

7.3.4

For any deviations in schedule, a plan for recovering lost time and maintaining compliance with the schedule.

7.3.5

All raw data (including laboratory analyses) received during the previous quarter (if not previously submitted to Ecology), together with a detailed description of the underlying samples collected.

7.3.6

A list of deliverables for the upcoming quarter.

7.4

All plans or other deliverables submitted by the PLPs for Ecology's review and approval under the Scope of Work and Schedule (Exhibits B and C) shall, upon Ecology's approval, become integral and enforceable parts of this Order. The PLPs shall take any action required by such deliverable.

7.5

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 plan. Any Party may propose an interim action under this Order. If the Parties are in agreement concerning the interim action, PLPs shall prepare and submit to Ecology an Interim Action Work Plan, including a scope of work and schedule, by the date determined by Ecology. Ecology will provide public notice and opportunity to comment on the Interim Action Work Plan in accordance with WAC 173-340-600(16). The PLPs shall not conduct the interim action until Ecology approves the Interim Action Work Plan. Upon approval by Ecology, the Interim Action Work Plan becomes an integral and enforceable part of this Order, and PLPs are required to conduct the interim action in accordance with the approved Interim Action Work Plan. If the Parties are not in agreement, Ecology reserves its authority to require interim action(s) under a separate

order or other enforcement action under RCW 70A.305, or to undertake the interim action itself.

If Ecology determines that the PLPs have failed to make sufficient progress or failed to implement the remedial action, in whole or in part, Ecology may, after written notice to PLPs and a reasonable cure period not to exceed thirty (30) days, perform any or all portions of the remedial action or at Ecology's discretion allow the PLPs opportunity to correct. In an emergency, Ecology is not required to provide notice to PLPs, or an opportunity for dispute resolution. PLPs shall reimburse Ecology for the costs of doing such work in accordance with Section 8.1 (Payment of Remedial Action Costs). Ecology reserves the right to enforce requirements of this Order under Section 10 (Enforcement).

7.6

Except where necessary to abate an emergency situation or where required by law, the PLPs shall not perform any remedial actions at the Site outside those remedial actions required by this Order to address the contamination that is the subject of this Order, unless Ecology concurs, in writing, with such additional remedial actions pursuant to Section 8.11 (Amendment of Order). In the event of an emergency, or where actions are taken as required by law, PLPs must notify Ecology in writing of the event and remedial action(s) planned or taken as soon as practical but no later than within twenty-four (24) hours of the discovery of the event.

8. Terms and Conditions

8.1 Payment of 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 RCW 70A.305, including remedial actions and Order preparation, negotiation, 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). Ecology has accumulated \$38,436.68 in remedial action costs related to this Site as of December 15, 2025. For all Ecology costs incurred, 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 70A.305.060, file a lien against real property subject to the remedial actions to recover unreimbursed remedial action costs.

8.2 Designated Project Coordinators

The project coordinator for Ecology is:

Emily Toffol
SWM Program, Industrial Section
PO Box 47600
Olympia, Washington 98504
360-790-8363
emily.toffol@ecy.wa.gov

The project coordinator for the PLPs are:

David Livermore, R.G., L.H.G.
Integral Consulting, Inc.
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The 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 Parties at least ten (10) calendar days prior to the change.

8.3 Performance

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

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

Any documents submitted containing geologic, hydrogeologic, or engineering work shall be under the seal of an appropriately licensed professional as required by RCW 18.43 and 18.220.

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

8.4 Access

Ecology or any Ecology authorized representative shall have access to enter and freely move about all property at the Site that a PLP either owns, controls, or has access rights to at all reasonable times for the purposes of, inter alia: inspecting records, operation logs, and contracts related to the work being performed pursuant to this Order; reviewing the PLPs' progress in carrying out the terms of this Order; conducting such tests or collecting such samples as Ecology may deem necessary; using a camera, sound recording, or other documentary type equipment to record work done pursuant to this Order; and verifying the data submitted to Ecology by PLPs. Ecology or any Ecology authorized representative shall give reasonable notice before entering any Site property owned or controlled by PLPs unless an emergency prevents such notice. All persons who access the Site pursuant to this section shall comply with any applicable health and safety plan(s) and procedures. Ecology employees and their representatives shall not be required to sign any liability release or waiver as a condition of Site property access.

PLPs shall make best efforts to secure access rights for those properties within the Site not owned or controlled by PLPs where remedial activities or investigations will be performed pursuant to this Order. As used in this Section, "best efforts" means the efforts that a reasonable person in the position of PLPs would use so as to achieve the goal in a timely manner, including the cost of employing professional assistance and the payment of reasonable sums of money to secure access and/or use restriction agreements, as required by this Section. If, within 60 days after the effective date of this Order, PLPs are unable to accomplish what is required through "best efforts," they shall notify Ecology, and include a description of the steps taken to comply with the requirements. If Ecology deems it appropriate, it may assist PLPs, or take independent action, in obtaining such access and/or use restrictions. Ecology reserves the right to seek payment from PLPs for all costs, including cost of attorneys' time, incurred by Ecology in obtaining such access or agreements to restrict land, water, or other resource use.

8.5 Sampling, Data Submittal, and Availability

With respect to the implementation of this Order, 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), all sampling data shall be submitted to Ecology in both printed and electronic formats in accordance with Section 7 (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 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 8.4 (Access), Ecology shall notify PLPs prior to any sample collection activity unless an emergency prevents such notice. If requested by the PLPs, Ecology shall allow the PLPs and/or their authorized representative to take split or duplicate samples of any samples collected by Ecology at the Site.

In accordance with WAC 173-340-830(5) all hazardous substance analyses shall be conducted by a laboratory accredited under WAC 173-50 for the specific analyses to be conducted, unless otherwise approved by Ecology.

8.6 Public Participation

Ecology shall maintain the responsibility for public participation at the Site. However, PLPs shall cooperate with Ecology, and shall:

8.6.1

If agreed to by Ecology, develop appropriate mailing lists and prepare drafts of public notices and fact sheets at important stages of the remedial action, such as the submission of work plans, remedial investigation/feasibility study reports, cleanup action plans, and engineering design reports. As appropriate, Ecology will edit, finalize, and distribute such fact sheets and prepare and distribute public notices of Ecology's presentations and meetings.

8.6.2

Notify Ecology's project coordinator prior to the preparation of all press releases and fact sheets, and before meetings related to remedial action work to be performed at the Site with the interested public and/or local governments. Likewise, Ecology shall notify PLPs prior to the issuance of all press releases and fact sheets related to the Site, and before meetings related to the Site with the interested public and local governments. For all press releases, fact sheets, public or local government meetings, and other outreach efforts by PLPs that do not receive prior Ecology approval, PLPs shall clearly indicate to their audience

that the press release, fact sheet, public or local government meeting, or other outreach effort was not sponsored or endorsed by Ecology.

8.6.3

When requested by Ecology, participate in public presentations on the progress of the remedial action at the Site. Participation may be through attendance at public meetings to assist in answering questions or as a presenter.

8.6.4

When requested by Ecology, arrange for and maintain a repository of documents concerning the work performed under this Order to be located at:

Tacoma Public Library's Main Branch
1102 Tacoma Ave S
Tacoma, Washington

At a minimum, copies of all public notices, fact sheets, and documents relating to public comment periods shall be promptly placed in these repositories, if permitted by the owner of the repository location. A copy of all documents related to this Site shall be maintained in the repository at Ecology's Headquarters Office in Lacey, Washington.

8.7 Access to Information

PLPs shall provide to Ecology, upon request, copies of all records, reports, documents, and other information (including records, reports, documents, and other information in electronic form) (hereinafter referred to as "Records") within PLPs' possession or control or that of their contractors or agents relating to activities at the Site or to the implementation of this Order, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information regarding the work. PLPs shall also make available to Ecology, for purposes of investigation, information gathering, or testimony, their employees, agents, or representatives with knowledge of relevant facts concerning the performance of the work.

Nothing in this Order is intended to waive any right PLPs may have under applicable law to limit disclosure of Records protected by the attorney work-product privilege and/or the attorney-client privilege. If PLPs withholds any requested Records based on an assertion of privilege, PLPs shall provide Ecology with a privilege log specifying the Records withheld and the applicable privilege. No Site-related data collected pursuant to this Order shall be considered privileged, including: (1) any data regarding the Site, including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, radiological, biological, or engineering data, or the portion of any

other record that evidences conditions at or around the Site; or (2) the portion of any Record that Respondents are required to create or generate pursuant to this Order.

Notwithstanding any provision of this Order, Ecology retains all of its information gathering and inspection authorities and rights, including enforcement actions related thereto, under any other applicable statutes or regulations.

8.8 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 who perform work required by this Order.

8.9 Resolution of Disputes

8.9.1

In the event that PLPs elect to invoke dispute resolution, PLPs must utilize the procedure set forth below.

8.9.1.1 Upon the triggering event (receipt of Ecology's project coordinator's written decision or an itemized billing statement), PLPs have fourteen (14) calendar days within which to notify Ecology's project coordinator in writing of its dispute (Informal Dispute Notice).

8.9.1.2 The Parties' project coordinators shall then confer in an effort to resolve the dispute informally. The Parties shall informally confer for up to fourteen (14) calendar days from receipt of the Informal Dispute Notice. If the project coordinators cannot resolve the dispute within those fourteen (14) calendar days, then within seven (7) calendar days Ecology's project coordinator shall issue a written decision (Informal Dispute Decision) stating: the nature of the dispute; the PLPs' position with regards to the dispute; Ecology's position with regards to the dispute; and the extent of resolution reached by informal discussion.

8.9.1.3 PLPs may then request Ecology Industrial Section's management review of the dispute. PLPs must submit this request (Formal Dispute Notice) in writing to the Industrial Section Manager within seven (7) calendar days of receipt of Ecology's Informal Dispute Decision. The Formal Dispute Notice shall include a written statement of dispute setting forth: the nature of the dispute; the PLPs' position with respect to the dispute; and the information relied upon to support its position.

- 8.9.1.4 The Section Manager shall conduct a review of the dispute and shall endeavor to issue a written decision regarding the dispute (Section Manager's Decision on Dispute) within thirty (30) calendar days of receipt of the Formal Dispute Notice.
- 8.9.1.5 PLPs may then request Ecology Solid Waste Program Manager's review of the dispute. PLPs must submit this request (Formal Dispute Notice) in writing to the Solid Waste Program Manager within seven (7) calendar days of receipt of the Section Manager's Decision on Dispute. The Formal Dispute Notice shall include a written statement of dispute setting forth: the nature of the dispute, the PLPs' position with respect to the dispute, and the information relied upon to support its position.
- 8.9.1.6 The Solid Waste Management Program Manager shall conduct a review of the dispute and shall endeavor to issue a written decision on the dispute (Solid Waste Program Manager's Decision on Dispute) within thirty (30) calendar days of receipt of the Formal Dispute Notice. Solid Waste Management Program Manager's Decision on Dispute shall be Ecology's final decision on the disputed matter.

8.9.2

The Parties agree to only utilize the dispute resolution process in good faith and agree to expedite, to the extent possible, the dispute resolution process whenever it is used.

8.9.3

Implementation of these dispute resolution procedures shall not provide a basis for delay of any activities required in this Order, unless Ecology agrees in writing to a schedule extension.

8.9.4

In case of a dispute, failure to either proceed with the work required by this Order or timely invoke dispute resolution may result in Ecology's determination that insufficient progress is being made in preparation of a deliverable, and may result in Ecology undertaking the work under Section 7.1 (Work to be Performed) or initiating enforcement under Section 10 (Enforcement).

8.10 Extension of Schedule

8.10.1

PLPs' request for 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 good cause exists for granting the extension. All extensions shall be requested in writing. The request shall specify:

8.10.1.1 The deadline that is sought to be extended.

8.10.1.2 The length of the extension sought.

8.10.1.3 The reason(s) for the extension.

8.10.1.4 Any related deadline or schedule that would be affected if the extension were granted.

8.10.2

The burden shall be on 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. Good cause may include, but may not be limited to:

8.10.2.1 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.

8.10.2.2 A shelter in place or work stoppage mandated by state or local government order due to public health and safety emergencies.

8.10.2.3 Acts of God, including fire, flood, blizzard, extreme temperatures, storm, or other unavoidable casualty.

8.10.2.4 Endangerment as described in Section 8.12 (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 PLPs.

8.10.3

Ecology shall act upon any PLPs 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. Unless the extension is a substantial change, it shall not be necessary to amend this Order pursuant to Section 8.11 (Amendment of Order) when a schedule extension is granted.

8.10.4

At the PLPs' request, 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 one of the following:

8.10.4.1 Delays in the issuance of a necessary permit which was applied for in a timely manner.

8.10.4.2 Other circumstances deemed exceptional or extraordinary by Ecology.

8.10.4.3 Endangerment as described in Section 8.12 (Endangerment).

8.11 Amendment of Order

The project coordinators may verbally agree to minor changes to the work to be performed without formally amending this Order. Minor changes will be documented in writing by Ecology within seven (7) days of verbal agreement.

Except as provided in Section 8.13 (Reservation of Rights), substantial changes to the work to be performed shall require formal amendment of this Order. This Order may only be formally amended by the written consent of both Ecology and PLPs. Ecology will provide its written consent to a formal amendment only after public notice and opportunity to comment on the formal amendment.

When requesting a change to the Order, PLPs shall submit a written request to Ecology for approval. Ecology shall indicate its approval or disapproval in writing and in a timely manner after the written request is received. If Ecology determines that the change is substantial, then the Order must be formally amended. Reasons for the disapproval of a proposed change to this Order shall be stated in writing. If Ecology does not agree to a proposed change, the disagreement may be addressed through the dispute resolution procedures described in Section 8.9 (Resolution of Disputes).

8.12 Endangerment

In the event Ecology determines that any activity being performed at the Site under this Order 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 promptly comply with such direction.

In the event PLPs determines that any activity being performed at the Site under this Order 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 and the Puyallup Tribe Environmental Program Director 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 this section, the 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 8.10 (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.

8.13 Reservation of Rights

This Order is not a settlement under RCW 70A.305. Ecology's signature on this Order in no way constitutes a covenant not to sue or a compromise of any of Ecology's rights or authority. Ecology will not, however, bring an action against PLPs to recover remedial action costs paid to and received by Ecology under this Order. In addition, Ecology will not take additional enforcement actions against PLPs regarding remedial actions required by this Order, provided PLPs complies with this Order.

Ecology nevertheless reserves its rights under RCW 70A.305, including the right to require additional or different remedial actions at the Site should it deem such actions necessary to protect human health or 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.

By entering into this Order, the PLPs do not admit to any liability for the Site. Although the PLPs are committing to conducting the work required by this Order under the terms of this Order, PLPs expressly reserves all rights available under law, including but not limited to the right to seek cost recovery or contribution against third parties, and the right to assert any defenses to liability in the event of enforcement.

8.14 Transfer of Interest in Property

No voluntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Site shall be consummated by PLPs without provision for continued implementation of all requirements of this Order.

Prior to any PLPs' transfer of any interest in all or any portion of the Site, and during the effective period of this Order, the PLP 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, the PLP shall notify Ecology of said transfer. Upon transfer of any interest, the PLP shall notify all transferees of the restrictions on the activities and uses of the property under this Order and incorporate any such use restrictions into the transfer documents.

8.15 Compliance with Applicable Laws

8.15.1 Applicable Laws

All actions carried out by PLPs pursuant to this Order shall be done in accordance with all applicable federal, state, Tribal, and local requirements, including requirements to obtain necessary permits or approvals, except as provided in RCW 70A.305.090. The permits or specific federal, state, or local requirements that the agency has determined are potentially applicable and that are known at the time of the execution of this Order have been identified in Exhibit D. PLPs have a continuing obligation to identify additional applicable federal, state, and local requirements which apply to actions carried out pursuant to this Order, and to comply with those requirements. As additional federal, state, Tribal, and local requirements are identified by Ecology or PLPs, Ecology will document in writing if they are applicable to actions carried out pursuant to this Order, and PLPs must implement those requirements.

8.15.2 Relevant and Appropriate Requirements

All actions carried out by PLPs pursuant to this Order shall be done in accordance with applicable, relevant and appropriate requirements identified by Ecology. Potentially applicable, relevant and appropriate requirements identified by Ecology are in Exhibit D. If additional applicable relevant and appropriate requirements are identified by Ecology or PLPs, Ecology will document in writing if they are applicable to actions carried out pursuant to this Order and PLPs must implement those requirements.

8.15.3

Pursuant to RCW 70A.305.090(1), PLPs may be exempt from the procedural requirements of RCW 70A.15, 70A.205, 70A.300, 77.55, 90.48, and 90.58 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. For permits and approvals covered under RCW 70A.305.090(1) that have been issued by local government, the Parties agree that Ecology has the non-exclusive ability under this Order to enforce those local government permits

and/or approvals. At this time, no state or local permits or approvals have been identified as being applicable but procedurally exempt under this section.

8.15.4

The PLPs have a continuing obligation to determine whether permits or approvals addressed in RCW 70A.305.090(1) would otherwise be required for the remedial action under this Order. In the event either Ecology or PLPs determines that permits or approvals addressed in RCW 70A.305.090(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, Tribal and/or local agencies. If Ecology so requires, PLPs shall promptly consult with the appropriate state, Tribal, 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.

Pursuant to RCW 70A.305.090(2), in the event Ecology determines that the exemption from complying with the procedural requirements of the laws referenced in RCW 70A.305.090(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 70A.305.090(1), including any requirements to obtain permits or approvals.

8.16 Indemnification

PLPs agree to indemnify and save and hold the State of Washington, its employees, and agents harmless from any and all claims or causes of action (1) for death or injuries to persons, or (2) for loss or damage to property, to the extent arising from or on account of acts or omissions of PLPs, its officers, employees, agents, or contractors in entering into and implementing this Order. However, PLPs shall not indemnify the State of Washington nor save nor hold its employees and agents harmless from any claims or causes of action to the extent arising out of the negligent acts or omissions of the State of Washington, or the employees or agents of the State, in entering into or implementing this Order.

9. Satisfaction of Order

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

10. Enforcement

Pursuant to RCW 70A.305.050, this Order may be enforced as follows:

10.1

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

10.2

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.

10.3

A liable party who refuses, without sufficient cause, to comply with any term of this Order will be liable for:

10.3.1

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

10.3.2

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

10.4

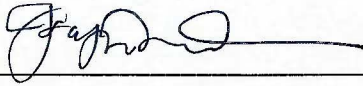
This Order is not appealable to the Washington Pollution Control Hearings Board. This Order may be reviewed only as provided under RCW 70A.305.070.

Effective date of this Order: _____

International Paper Company

Brian Heim
General Counsel, EHS & Sustainability

Simpson Tacoma Kraft Company, LLC



Kathryn Navarro
Vice President and General Counsel

WestRock CP, LLC

Nina Butler
VP and Senior EHS Counsel

State of Washington
Department of Ecology

James DeMay
Industrial Section Manager
Solid Waste Management Program

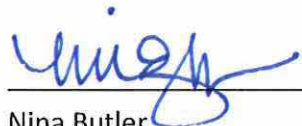
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EXHIBIT A – Location Diagram

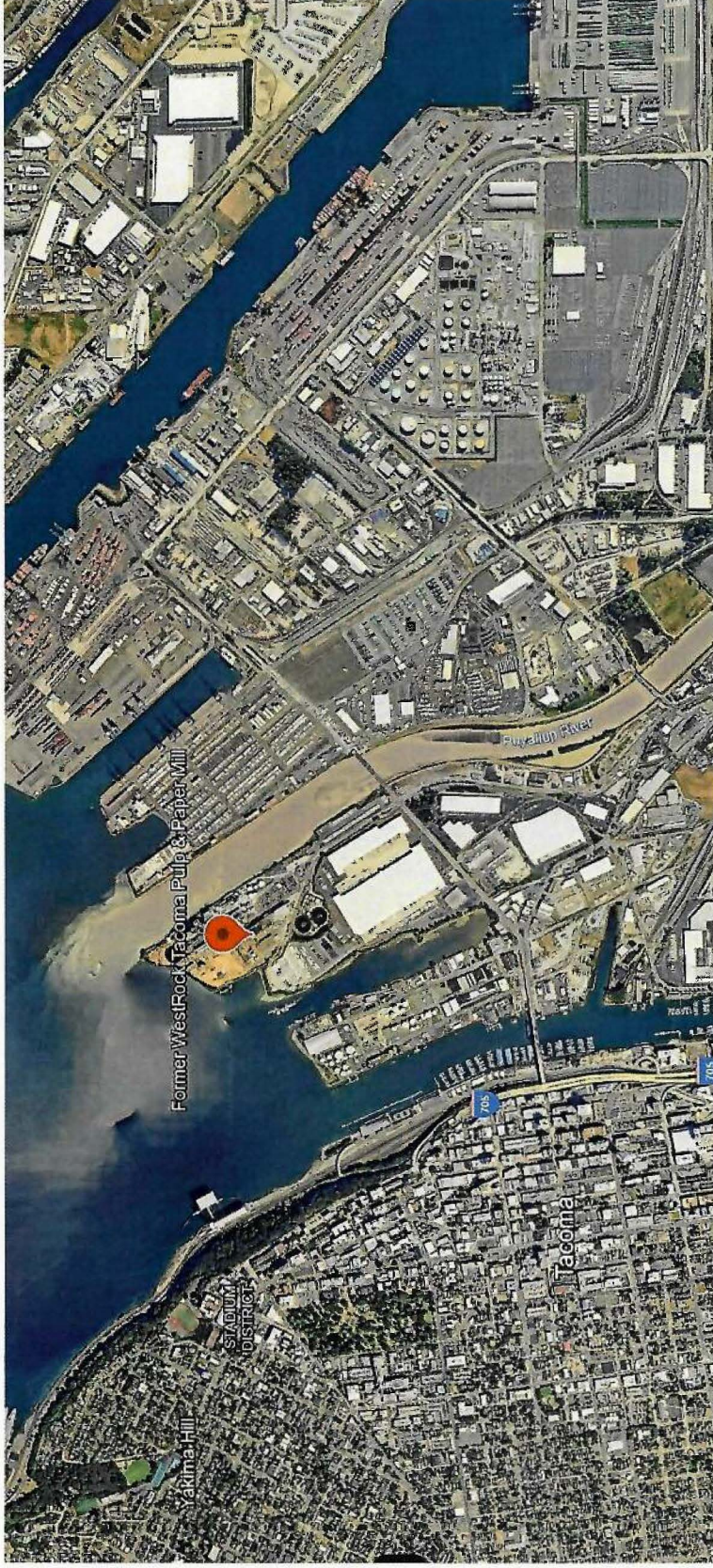


EXHIBIT B – Scope of Work

PURPOSE

The work under this Agreed Order (AO) in the upland area of the Site involves developing a Remedial Investigation (RI) Work Plan, conducting a RI, developing a RI Report, conducting interim actions if agreed to by Ecology and the PLPs per Agreed Order Section 7.5, developing a Feasibility Study (FS) if required by WAC 173-340 , and developing a preliminary Draft Cleanup Action Plan (DCAP) to select cleanup alternatives if required by WAC 173-340. The purpose of the RI/FS, and, if required by WAC 173-340, preliminary DCAP for the upland area of the Site, is to provide sufficient data, analysis, and evaluations to enable Ecology to determine whether cleanup is required by WAC 173-340 , and, if warranted, select any appropriate cleanup alternatives for the upland area of the Site if required by WAC 173-340.

The PLPs shall coordinate with Ecology throughout the development of the RI, interim actions, FS, and, if required by WAC 173-340, preliminary DCAP and shall keep Ecology informed of changes to any Work Plan or other project plans, and of any issues or problems as they develop.

The Scope of Work (SOW) for the upland area of the Site is divided into seven major tasks as follows:

- Task 1. Remedial Investigation Work Plan
- Task 2. Remedial Investigation
- Task 3. Interim Action(s) (if required)
- Task 4. Feasibility Study
- Task 5. SEPA Compliance
- Task 6. Public Participation
- Task 7. Preliminary Draft Cleanup Action Plan

Section 504 of the Rehabilitation Act published in the United State Code at 29 U.S.C. §794 requires non-discrimination and Washington State’s digital accessibility Office of the Chief Information Officer Policy 188 requires that electronic documents produced by state agencies be accessible. This Order requires that documents submitted to Ecology be formatted using modern and widely available Word (.docx) and Adobe (.pdf) formats that make it accessible to people who use text-to-speech software, are color blind, or have other needs for reviewing public notice documents. The PLPs must provide all deliverables in the Schedule of Deliverables (Exhibit C) in Ecology approved accessible formats.

TASK 1. Remedial Investigation Work Plan

The PLPs shall prepare a Remedial Investigation Work Plan for the upland area of the Site (Work Plan). The Work Plan shall include an overall description and schedule of all RI activities. The Work Plan shall clearly describe the project management strategy for implementing and reporting on RI activities. The responsibility and authority of all organizations and key personnel involved in conducting the RI will be outlined.

A Remedial Investigation Planning Meeting will be held prior to submittal of the Work Plan. The purpose of the Remedial Investigation Planning Meeting is to review requirements for the Work Plan and plan RI field work, discuss the preliminary Conceptual Site Model, and identify project data needs and possible interim actions.

Historical Site Review and Conceptual Site Model

The Work Plan shall describe for the upland area of the Site, general facility information; site history and conditions, including previous operations; past field investigations, including any data collection and analysis of soils, air, groundwater, and surface water; a conceptual site model showing contaminants, migration pathways in all environmental media, and potential receptors; geology and groundwater system characteristics; past, current, and future land use; identification of natural resources and ecological receptors; hazardous substances and their sources, etc., in compliance with WAC 173-340-350.

Data Gap Identification

As part of the project background included in the Work Plan, existing environmental data on upland area site soil, groundwater, and surface water will be compiled and evaluated for data gaps. The data gaps will be used as the basis for conducting additional upland area site investigations, if necessary. The Work Plan will also identify specific data collection procedures in a Sampling and Analysis Plan (SAP) and Quality Assurance Project Plan (QAPP) as part of the Work Plan in compliance with WAC 173-340-820 for defining the nature and extent of contamination.

Health and Safety Plan (HASP)

The PLPs will also submit copy of the Health and Safety Plan (HASP) for the project with the Work Plan.

Sampling and Analysis Plan (SAP) and Quality Assurance Project Plan (QAPP)

The Work Plan will include a SAP that identifies the proposed number and location of all environmental samples and methods, including soil borings, groundwater monitoring wells,

soil, groundwater, stormwater, seep, and catch basin samples , approximate depths, and includes a quality assurance project plan. The SAP will describe the sampling objectives, the rationale for the sampling approach (based upon the identified data gaps), and plans for data use, and shall provide a detailed description of sampling tasks. The SAP shall describe specifications for sample identifiers; sampling equipment; the type, number, and location of samples to be collected; the analyses to be performed; descriptions of sampling equipment and methods to be used; sample documentation; sample containers, collection and handling; data and records management; and schedule. If a second phase of RI sampling is necessary, then an addendum to the SAP will be prepared to identify the proposed number, locations, and approximate depths of samples that are necessary to meet the objectives of the RI.

The Work Plan will include a QAPP and any addendum to the QAPP (if a second phase of the RI is necessary) prepared in accordance with the Guidance for Preparation of Quality Assurance Project Plans, EPA Region 10, Quality Data Management Program, QA/R-5 and requirements of the EPA Contract Laboratory Program. The QAPP will also follow Ecology's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies (July 2004, or as revised)¹ Laboratories must meet the accreditation standards established in WAC 173-50. Data quality objectives will reflect the criteria or threshold values used for the source control evaluation.

The SAP, including the QAPP, will be submitted to Ecology for review and approval. Work under the Work Plan may not begin without written approval from Ecology. The plan shall provide seven (7) days' notice to Ecology prior to beginning sampling. Ecology may obtain split samples.

The PLPs or their contractors shall submit all new sampling data generated under this SAP and any other recently collected data to Ecology for entry into the Environmental Information Management System (EIM) in accordance with WAC 173-340-840(5) and Ecology's Toxics Cleanup Program Policy 840: Data Submittal Requirements. Only validated data will be entered into the EIM database within 30 days of submittal.

RI Work Plan Tasks

The Work Plan tasks and subtasks may include the following:

- Sampling and analysis of soil, groundwater, surface water, and seeps;
- Sampling and analysis of stormwater and catch basin solids to determine whether the stormwater system is a source of contamination to sediments;
- Evaluate the potential to contaminate or recontaminate sediments, including analysis of the following pathways:

¹ Found at <https://fortress.wa.gov/ecy/publications/summarypages/0403030.html>

- Direct discharges
- Stormwater discharges
- Overland flow
- Groundwater discharges and seeps
- Soil erosion
- Site operations
- Spills, dumping, leaks, housekeeping, and management practices;

The PLPs will provide Ecology with an Agency Review Draft Work Plan. Once Ecology reviews and approves the Work Plan, it will be considered the Final Work Plan. The Work Plan shall not be implemented until approved by Ecology. Once approved by Ecology, the PLPs will implement the Final Work Plan according to the schedule contained in Exhibit C.

The PLPs shall prepare one (1) electronic copy in Word (.docx) form, and one (1) electronic copy in Adobe (.pdf) form, of the Agency Review Draft Work Plan and any subsequent addendum documents and submit them to Ecology for review and comment. After incorporating Ecology's comments on the Agency Review Draft Work Plan or any subsequent addendum documents and after Ecology approval, the PLPs shall prepare one (1) electronic copy in Word (.docx) form, and one (1) electronic copy in Adobe (.pdf) form of the Final Work Plan and submit them to Ecology.

TASK 2. Remedial Investigation

The PLPs shall conduct an RI that meets the requirements of WAC 173-340-350 according to the Work Plan as approved by Ecology. The RI will determine the nature and extent of contamination exceeding preliminary Model Toxics Control Act (MTCA) cleanup levels, and other regulatory requirements. The RI must provide sufficient data and information to define the nature and extent of contamination in the upland area of the Site.

Field sampling and analysis will be completed in general accordance with the SAP and QAPP. Deviation(s) from the approved SAP and QAPP must be communicated to Ecology immediately and documented as required by Ecology.

The PLPs shall provide interim data reports and updates to Ecology as new upland area site data and information become available. Laboratory analysis data shall also be provided in electronic format when it has been validated. Raw laboratory data will be provided to Ecology upon request.

Prior to submittal of the Agency Review Draft RI Report, a Remedial Investigation Pre-Report Check-In will be held. During the Remedial Investigation Pre-Report Check-In, Ecology and the PLPs will review available data and an updated conceptual site model and discuss the content and organization of the Draft RI Report.

The PLPs shall compile the results of the upland area Site investigation into an Agency Review Draft RI Report. The PLPs shall prepare one electronic copy in Word (.docx), one electronic copy in Adobe (.pdf) form and submit them to Ecology for review and comment.

After incorporating the agreed upon Ecology comments on the Agency Review Draft RI Report, the PLPs shall prepare one electronic copy in Word (.docx) form, and one electronic copy in Adobe (.pdf) form, of a Public Review Draft RI Report and submit them to Ecology for distribution and public comment. Electronic survey data for monitoring locations, electronic lab data, and GIS maps of contaminant distribution shall also be provided for both the Agency Review Draft RI Report and Public Review Draft RI Reports either in the report or as attachments. The RI Report will not be considered Final until after a public review and comment period.

If the data collected during this investigation is insufficient to define the full nature and extent of the contamination, an additional phase of investigation shall be conducted to define the nature and extent of the contamination in the upland area of the Site. The PLPs shall submit a Work Plan Addendum that addresses the next phase of RI sampling. The Work Plan Addendum will include an SAP, QAPP, and HASP. After submittal of the Work Plan Addendum, the PLPs shall incorporate Ecology's comments on the Work Plan Addendum and implement the plan according to the Schedule of Deliverables (Exhibit C). Information received from implementation of the Work Plan Addendum will be incorporated in the Agency Review Draft RI Report.

TASK 3. Interim Action(s) (if required)

Remedial actions in the upland area of the Site implemented prior to completion of the RI and FS, including those that:

- Are 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;
- Correct a problem that may become substantially worse or cost substantially more to address if the remedial action is delayed; or
- Are needed to provide for completion of the remedial investigation/feasibility study or design of the cleanup action

will be considered interim actions, will be implemented in accordance with WAC 173-340-430 and the Agreed Order, and will be designed in a manner that will not foreclose reasonable alternatives for any final cleanup action that may be required.

As detailed in the Agreed Order, the PLPs will implement an interim action if Ecology and PLPs are in agreement concerning the interim action in accordance with Agreed Order Section 7.5. Based upon information in the Agency Review Draft RI Report, interim action(s) may be needed to expedite control of releases to sediments or other environmental media pursuant to WAC 173-340-430.

The scope of the interim actions may include, but not be limited to, typical source control or containment elements such as:

- Soil removal
- Groundwater remediation
- Repair, slip lining, replacement, or closure of stormwater conveyances or other structures such as conduit, vaults, catch basins
- Removal of underground storage tanks and pipes
- Removal of old drain fields or former surface impoundments
- Proper abandonment of old wells
- Removal of contaminated building or other structural material
- Construction of a treatment facility
- Shoreline stabilization such as bulkhead repair, erosion or seepage control, and grading or clearing.

If an interim action is to be performed, the PLPs will prepare and submit for Ecology approval an Agency Review Draft Interim Action Work Plan (IAWP) with detail commensurate with the work to be performed. The Agency Review Draft IAWP shall include, as appropriate:

- Description of the interim action including its purpose, general requirements, and relationship to the (final) cleanup action (to the extent known);
- Summary of relevant RI/FS information, including at a minimum existing site conditions and alternative interim actions considered;

- Information regarding design and construction requirements, including a proposed schedule and personnel roles and responsibilities;
- Compliance Monitoring Plan;
- SAP/QAPP; and
- Permits required.

The PLPs will also submit a copy of the Health and Safety Plan for the project. The PLPs will be responsible for complying with the State Environmental Policy Act (SEPA) Rules including preparing and submitting an environmental checklist for the interim action, and will assist Ecology with presentations at any additional meetings or hearings that might be necessary for SEPA compliance or as part of the Public Participation Plan.

The PLPs shall prepare two paper (2) copies, one electronic copy in Word (.docx) format, and one electronic copy in Adobe (.pdf) format of the Agency Review Draft IAWP and submit them to Ecology for review. The PLPs shall incorporate Ecology's comments and then prepare one electronic copy in Word (.docx) format, and one electronic copy in Adobe (.pdf) format of the Public Review Draft IAWP and submit them to Ecology. After a public notice and comment period for the Public Review Draft IAWP (and SEPA determination), Ecology will approve the IAWP (if appropriate) and the document will be considered Final. The PLPs shall prepare one electronic copy in Word (.docx) format, and one electronic copy in Adobe (.pdf) format of the Final IAWP and submit them to Ecology. Once approved by Ecology, the PLPs will implement the interim action according with the approved schedule.

Upon successful completion of the work, an Agency Review Draft Interim Action Report will be prepared as a separate deliverable. The PLPs shall prepare one electronic copy in Word (.docx) format, and one electronic copy in Adobe (.pdf) format of the Agency Review Draft Interim Action Report and submit them to Ecology for review and approval. After incorporating Ecology's agreed upon comments on the Agency Review Draft Interim Action Report and after Ecology approval, The PLPs shall prepare one electronic copy in Word (.docx) format, and one electronic copy in Adobe (.pdf) format of the Final Interim Action Report and submit them to Ecology.

TASK 4. Feasibility Study

The PLPs shall use the information obtained in the RI to prepare an Agency Review Draft Feasibility Study (FS) for the upland area of the site, if required by WAC 173-340, that meets the applicable requirements of WAC 173-340-351 according to the schedule in Exhibit C. The Agency Review Draft FS will evaluate remedial alternatives for upland area site cleanup, consistent with MTCA requirements to ensure protection of human health and the

environment by eliminating, reducing, or otherwise controlling risk posed through each exposure pathway and migration route.

Prior to beginning the FS, a Draft Feasibility Study Meeting will be held to review applicable or relevant and appropriate requirements (ARARs), potential remedial alternatives, and establish points of compliance.

The Agency Review Draft FS will provide a detailed analysis of each remedial alternative according to the applicable requirements of WAC 173-340-350. The remedial alternatives will be evaluated for compliance with the applicable requirements of WAC 173-340-360.

The remedial alternative that is judged to best satisfy the evaluation criteria will be identified. Justification for the selection will be provided, and the recommended remedial alternative further developed, in the FS Report.

The PLPs shall prepare one electronic copy in Word (.docx) format, and one electronic copy in Adobe (.pdf) format of the Agency Review Draft FS and submit them, to Ecology for review. After addressing Ecology's comments on the Agency Review Draft FS, the PLPs shall prepare one electronic copy in Word (.docx) format, and one electronic copy in Adobe (.pdf) format of the Public Review Draft FS and submit them to Ecology for distribution and public comment. The FS will not be considered Final until after a public review and comment period.

TASK 5. SEPA Compliance

The PLPs shall be responsible for complying with the State Environmental Policy Act (SEPA) Rules including preparing and submitting an environmental checklist. If the result of the threshold determination is a determination of significance (DS), the PLPs shall be responsible for the preparation of draft and final environmental impact statements. The PLPs shall assist Ecology with coordinating SEPA public involvement requirements with MTCA public involvement requirements whenever possible, such that public comment periods and meetings or hearings can be held concurrently.

TASK 6. Public Participation

The PLPs shall support Ecology in presenting the Public Review Draft RI Report and the Public Review Draft FS Report at one public meeting or hearing. The PLPs will assist Ecology with presentations at any additional meetings or hearings that might be necessary for SEPA compliance or as part of the Public Participation Plan.

After the public comment periods are completed, the PLPs will prepare an Agency Review Draft Responsiveness Summary that addresses public comments. The PLPs shall prepare one electronic copy in Word (.doc) format, and one electronic copy in Adobe (.pdf) formats of the

Agency Review Draft Responsiveness Summary and submit them to Ecology for review and approval.

After addressing Ecology's comments and after Ecology approval, the PLPs shall prepare of the Final Responsiveness Summary, one electronic copy in Word (.doc) format, and one electronic copy in Adobe (.pdf) formats, to Ecology.

TASK 7. Preliminary Draft Cleanup Action Plan

Upon Ecology approval of the Public Review Draft Remedial Investigation Report and Public Review Draft Feasibility Study, and if required by WAC 173-340, a Cleanup Action Plan Meeting will be held regarding a preliminary Draft Cleanup Action Plan for the upland area of the Site. A Cleanup Action Plan Meeting will be used to review plans for developing the Agency Review preliminary Draft Cleanup Action Plan (DCAP) for the upland area of the Site.

The PLPs shall prepare an Agency Review preliminary DCAP in accordance with WAC 173-340-380, if required by WAC 173-340, that provides a proposed remedial action to address the contamination present on the upland area of the Site. The Agency Review preliminary DCAP shall include a general description of the proposed remedial actions, cleanup standards developed from the RI and FS and rationale regarding their selection, a schedule for implementation, description of any institutional controls proposed, and a summary of applicable local, state, and federal laws pertinent to the proposed cleanup actions.

The PLPs will submit an Agency Review preliminary DCAP for Ecology's review and approval. The Agency Review preliminary DCAP will include, but not be limited to, the information listed under WAC 173-340-380. The PLPs shall prepare one electronic copy in Word (.docx) format, and one electronic copy in Adobe (.pdf) format of the Agency Review preliminary DCAP and submit them to Ecology for review and approval.

After receiving Ecology's comments on the Agency Review preliminary DCAP, if any, the PLPs shall revise the Agency Review preliminary DCAP to address Ecology's comments and submit the Public Review DCAP, one electronic copy in Word (.docx) format, and one electronic copy in and Adobe (.pdf) format.

EXHIBIT C – Schedule of Deliverables

The schedule for deliverables described in the Agreed Order and the Scope of Work is presented below. If the date for submission of any item or notification required by this Schedule of Deliverables occurs on a weekend, state or federal holiday, the date for submission of that item or notification is extended to the next business day following the weekend or holiday. Where a deliverable due date is triggered by Ecology notification, comments or approval, the starting date for the period shown is the date the PLPs received such notification, comments or approval by electronic mail (the date the electronic mail is sent). Where triggered by Ecology receipt of a deliverable, the starting date for the period shown is the date Ecology receives the deliverable by electronic mail (the date the electronic mail is sent).

Deliverable/Task	Date
Progress Reports	15 th of each month following a quarter following effective date of the Agreed Order
Remedial Investigation Planning Meeting	Prior to submittal of the Work Plan
Agency Review Draft RI Work Plan	Within 60 calendar days following effective date of the Agreed Order
Final RI Work Plan	Within 30 calendar days following receipt of Ecology comments on Agency Review Draft Work Plan
Commencement of RI Field Work	Within 6 months following Ecology approval of the Final Work Plan (and Work Plan Addendum if needed) including the SAP, QAPP, and HSP
RI Pre-Report Check-In Meeting	Prior to submittal of Draft RI Report
Agency Review Draft RI Report	Within 90 calendar days following receipt of final laboratory data
Work Plan Addendum, including SAP, QAPP, HASP (if needed)	Within 60 calendar days following Ecology's written notification that a Work Plan Addendum is necessary

Deliverable/Task	Date
Initiate implementation of Work Plan Addendum (if needed)	Within 30 days following Ecology approval of Work Plan Addendum
Revised Agency Review Draft RI Report incorporating Work Plan Addendum RI field activities (if needed)	Within 60 days of completing Work Plan Addendum RI field activities
Public Review Draft RI Report	If Work Plan Addendum is not required: Within 45 calendar days following receipt of Ecology comments on Agency Review Draft RI Report If Work Plan Addendum is required: Within 45 calendar days following receipt of Ecology comments on Revised Agency Review Draft RI Report
Feasibility Study Meeting	Prior to Submittal of FS
Agency Review Draft FS	Within 90 calendar days following Ecology approval of Public Review Draft RI Report
Public Review Draft FS	Within 45 calendar days following receipt of Ecology's comments on the Agency Review Draft FS
SEPA Checklist & Compliance	As needed (example: prior to conducting interim action)
Agency Review Draft Interim Action Work Plan (if needed)	Within 60 calendar days following an agreement between Ecology and PLPs under Agreed Order Section 7.5
Public Review Draft Interim Action Work Plan (if needed)	Within 45 calendar days following receipt of Ecology's comments on the Draft Interim Action Work Plan
Initiate implementation of Interim Action Work Plan (if needed)	Within 30 days following Ecology approval of the Final Interim Action Work Plan

Deliverable/Task	Date
Cleanup Action Plan Meeting	Prior to submittal of DCAP
Agency Review preliminary DCAP	Within 90 calendar days following Ecology approval of the Public Review Draft FS
Revised Agency Review preliminary DCAP	Within 45 calendar days following receipt of Ecology's comments on Agency Review preliminary DCAP

EXHIBIT D – Potentially Applicable Permits and Regulatory Requirements

Chapter 70A.305 RCW (Model Toxics Control Act), and Chapter 173-340 WAC (MTCA Cleanup Regulations);

Chapter 90.48 RCW (State Water Pollution Control Act);

Chapter 173-160 WAC (Minimum Standards for Construction and Maintenance of Wells);

Chapter 43.21C RCW (State Environmental Policy Act), and Chapter 197-11 WAC (State Environmental Policy Act Rules);

Department of the Army Permit; Section 10 of the Rivers and Harbors Act of 1899

Chapter 70A.205 RCW (Solid Waste Management – Reduction and Recycling), and Chapter 173-350 WAC (Solid Waste Handling Standards) incorporated by reference in Tacoma-Pierce County Health Department Regulations (solid waste)

Pierce County Code (excavation and grading);

Chapter 173-303 WAC (Dangerous Waste Regulations)

Puyallup Land Claims Settlement Act of 1989, Pub. L. No. 101-41, Jun. 21, 1989, 103 Stat. 83; Ch. 4 Washington Laws, 1989 1st Ex. Sess. amending RCW chapters 35.43 and 36.32.

Puyallup Tribe of Indians Water Quality Standards

Consent Decree No. C91-5260T: Commencement Bay Nearshore/Tideflats Superfund Site; St. Paul Waterway Problem Area Consent Decree (December 13, 1991 and amended November 30, 1995) Ecology Consent Decree 87-2-07673-9 (December 24, 1987 and amendment)

EXHIBIT E – List of Known Releases

1. The pulp and paper mill on the Site was constructed in 1928. The pulp and paper mill was operated prior to the existence of environmental regulations, including the 1976 Resource Conservation and Recovery Act (RCRA), the 1986 Emergency Planning and Community Right-to-Know Act (EPCRA), and the 1988 MTCA initiative. Prior to these regulations, it is unclear if historical releases were reported or documented.
2. A map dated September 8, 1971 shows three wastewater outfalls along the Puyallup River shoreline of the Site and three wastewater outfalls along the Commencement Bay shoreline of the site. There was little to no regulation of the facility's wastewater discharges until the 1968 issuance of a permit by the State of Washington Pollution Control Commission.
3. A letter dated September 30, 1974 from Ecology to St. Regis Paper Company states that during a visit on September 5, 1974, Ecology stated: "the lime sludge storage area located to the southeast of your Bunker "C" storage area appeared to drain into the Puyallup River during high rainfall periods. Minor diking should prevent runoff from these highly caustic areas this winter."
4. A letter dated February 25, 1974 from Seattle Marine Laboratories to the St. Regis Paper Company identified approximately 3,999 cubic yards of sludge deposits associated with mill operations adjacent to the paper mill.
5. A US Coast Guard report states that on April 11, 1975, St. Regis spilled Bunker C oil into the St. Paul waterway due to a ruptured fuel line. About 4,000 gallons were observed on the ground and in the water.
6. A penalty dated August 19, 1976 states that on May 6, 1976, St. Regis exceeded the daily permitted total suspended solids limit due to a bypass of the primary clarifier. A memorandum for the penalty, dated July 20, 1976 states that the limit of 44,000 lbs/day was exceeded by a factor of ten.
7. A letter dated September 29, 1976 from St. Regis to the Department of the Army states that St. Regis had historically used the proposed site for the Secondary Treatment Facility to store wood debris and trash before St. Regis excavated said trash and wood debris. The letter also identifies an area between a pier and a breakwater that had "been used by the mill labor force for the deposit of solid mill waste for many years". The letter goes on to state that St. Regis discontinued this practice in 1976. These solid waste disposal practices appear to have occurred prior to the regulation of dangerous waste or hazardous waste.
8. A letter from St. Regis to the Department of Ecology dated April 20, 1977 states that due to construction in the lime kiln area, some drainage of process chemicals into the river has occurred due to run-off during rain events.

9. A letter from St. Regis to the US Coast Guard dated April 24, 1978 states that on February 26, 1978, the facility spilled approximately 50 gallons of vanillin black liquor to the St. Paul waterway.
10. An internal Ecology memorandum dated November 13, 1978 documents dozens of daily maximum total suspended solids and five-day biochemical oxygen demand violations that occurred in September and October of the same year due to a partial wastewater treatment plant bypass.
11. An internal Ecology memorandum states that St. Regis bypassed its treatment system from 8 A.M. on March 20, 1974 to midnight on March 24, 1979.
12. A letter from St. Regis to Ecology dated March 2, 1979 states that the wastewater treatment system was bypassed for some or all of the following dates: November 7, 8, and 9, 1979 and December 1 and 2, 1979.
13. An internal Ecology memorandum dated April 21, 1983 stated that WestRock bypassed their wastewater treatment system for 57 hours beginning on April 12, 1983.
14. An internal Ecology memorandum dated April 22, 1983 states that after receiving a complaint, an investigation confirmed that foamy bleach plant effluent had bypassed the wastewater treatment system and flowed into the Puyallup River.
15. An internal Ecology memorandum dated September 30, 1983 includes a photograph of sawdust along the banks of the mill property.
16. A letter dated April 6, 1984 from Ecology to St. Regis states that during a site visit on April 3, 1984 in response to a citizen complaint, Ecology identified leachate from a solid waste storage area containing primary and secondary sludge, hog fuel boiler ash, lime, and wood waste "percolating" under railroad tracks and into a storm drain which discharges to the Puyallup River.
17. Correspondence from St. Regis to Ecology dated April 25, 1984 and a reply from Ecology to St. Regis dated May 2, 1984 states that leachate from a solid waste handling area had been flowing into a storm drain.
18. A letter from Simpson to Ecology dated April 9, 1986 states that Simpson bypassed the wastewater treatment plant on March 7 and 8, causing TSS violations.
19. A letter dated April 30, 1986 stated that a leak was discovered in a tank containing phosphoric acid. The letter states that some of the material leaked out of the containment structure and into ground.
 - a. A letter from Simpson to Ecology dated September 22, 1994 stated that a containment sump vault in the phosphoric acid containment area had not been completely sealed to prevent liquid from contacting the ground. The letter stated

that the open space between the sump vault and the containment area was properly filled and sealed on September 2, 1994.

20. A letter from Ecology to Simpson dated September 29, 1986 states that Simpson has been purchasing chemicals containing copper and phenols used for chemical makeup which are passing through the wastewater treatment system.
21. An internal Ecology memorandum dated April 1, 1987 states that the mill discovered a process sewer line from the causticizing area had failed where they pass under the rail tracks.
22. A letter from Ecology to Simpson Tacoma Kraft Company dated June 16, 1988 stated that Ecology observed that lime had spilled over an asphalt berm on to the bank of the Puyallup River.
23. During a maintenance event in November 1988 that included demolition work of an electrostatic precipitator, a PCB-containing oil leaked from electrical bushings, contaminating construction and demolition waste. A report from Crowley Environmental Services documents the clean-up response. An Ecology internal memorandum dated November 12, 1988 states that approximately 25 gallons of PCB-containing oil was spilled.
24. A "Department of Ecology Environmental Report" dated September 16, 1989 states that for roughly ½ hour on September 16, 1989, there was a complete plant bypass of effluent into storm drains and to the bay.
25. An internal Ecology memorandum dated October 28, 1990 stated that on August 27, 1990, Simpson Tacoma Kraft Company discharged 20-30 gallons of Bunker C oil to the Puyallup River.
26. ERTS #102492 states that on January 1, 1996 Simpson reported that approximately 1 gallon of hydraulic oil spilled to ground and flowed into a drain leading to a culvert which discharged into the middle waterway. A slight sheen was observed on the middle waterway.
27. A letter from Simpson to Ecology dated April 27, 1994 states that due to a failure of the wastewater line between the lift station and the primary clarifier, about 150,000 gallons of untreated wastewater spilled to the bay and the Puyallup River.
28. On August 1, 1996 Simpson Tacoma Kraft Company reported that approximately 500 gallons of 93% sulfuric acid escaped containment and onto soil (Environmental Report Tracking Incident 103738). This incident was also discussed in a letter from Simpson to Ecology dated August 6, 1996.
29. On November 1, 1996 Simpson Tacoma Kraft Company reported that the north strong black liquor tank suffered a complete failure and over 100,000 gallons of black liquor spilled from the tank instantaneously. Black liquor spilled over a retaining wall and approximately 100 feet of the Puyallup River shoreline was sprayed (Environmental Report Tracking Incident

104207). This event was also discussed in a fax Simpson sent to Ecology dated November 4, 1996.

30. Environmental Report Tracking System Report #S5584 states that on July 15, 1997, approximately 6,000-10,000 gallons of primary-treated wastewater was spilled to the St. Paul waterway.
31. Environmental Report Tracking System Report #S5809 states that on August 22, 1997 a 42" pipe carrying untreated wastewater cracked causing a release of approximately 10,000 gallons untreated wastewater into Commencement Bay.
32. Environmental Report Tracking System Report #513572 states that due to a capsized log boom boat, approximately 2 gallons of lube oil was released to the St. Paul waterway on September 22, 2000.
33. Environmental Report Tracking System Report #531341 states that on January 14, 2003, a semitruck spilled approximately 5 gallons of fuel into a soil ditch. The report states that sawdust was applied over the spill material for later disposal with the soil.
34. ERTS #647215 states that on March 4, 2004, Simpson reported that a rainbow sheen was running off of an unpaved parking lot into the Puyallup River during a period of heavy rain.
35. Environmental Tracking System Report #539772 states that approximately 1 quart of hydraulic oil was spilled to the St. Paul Waterway on May 22, 2004.
36. A letter from Simpson to Ecology dated February 22, 2005 states that an estimated 8,000 gallons of primary-treated effluent was discharged to the St. Paul Waterway adjacent to the mill on February 10, 2005.
37. A letter from Simpson to Ecology dated July 27, 2005 states that a leak in the underground process sewer pipe and vault that encases a portion of the sewer pipe was discovered, resulting in leakage to soil.
38. Environmental Report Tracking System Report #603467 states that on January 25, 2008, approximately 10 gallons of diesel fuel spilled from a barge to surface waters.
39. Environmental Report Tracking System Report #612717 states on May 9, 2009 that 5 gallons of oil spilled to surface waters.
40. A letter dated July 11, 2005 from the Simpson Tacoma Kraft Company describes an accidental release of sulfuric acid to soil discovered on June 30, 2005.
41. In 2014, WestRock CP, LLC (WestRock) performed sediment sampling near their wastewater outfall required by WestRock's National Pollutant Discharge Elimination System Permit. A Department of Ecology Memorandum dated October 21, 2016, titled "RockTenn Tacoma Mill (NPDES Permit WA 000085-0; FSID: 39) Sediment Data Report, November 20, 2014

Draft” states that, based on the increase in dioxin/furan toxic equivalency value (TEQ) measured in sediments between a 2004 sampling event and the 2014 sampling event, an exceedance of the recommended cleanup criterion for total dioxin/furan TEQ is likely in the next 1-2 permit cycles (5-10 years). As of the issuance of the drafting of this agreed order, WestRock has not performed any subsequent sampling.

42. Correspondence from RockTenn to Ecology dated February 6 and 11, 2015, states that approximately 200 gallons of primary effluent mixed with saltwater was discharged in the St. Paul Waterway.
43. An email dated January 25, 2017 from WestRock to Ecology states that due to a leak in the line from the primary clarifier to secondary treatment, partially treated wastewater travelled down railroad tracks along the secondary treatment area.
44. An email dated February 19, 2018 from WestRock to Ecology described an event in which untreated process wastewater flooded onto unpaved railroad tracks. Wastewater also flooded near the main gate of the mill and filled a ditch system along the east side of Portland Avenue.
45. A report WestRock submitted to the Department of Natural Resources, dated June 5, 2018, titled “WestRock Tacoma Mill Aquatic Land Characterization”, documents the presence of wood chip debris underwater in the vicinity of WestRock CP, LLC’s wood chip offload barge in the St. Paul Waterway.