



Oregon

Theodore Kulongoski, Governor

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Mr. David Ashton
Assistant General Counsel
Port of Portland
PO Box 3529
Portland, OR 97208

Mr. Bob Wyatt
Co-Chair
Lower Willamette Group
PO Box 3529
Portland, OR 97209

RE: Staff Report, Response to Comments
Port of Portland, Terminal 4, Slip 3 Upland

Dear Mr. Ashton and Mr. Wyatt:

Thank you for your comments on the Staff Report for the Terminal 4, Slip 3 Upland Facility. The Department of Environmental Quality (DEQ) received comments from David Ashton of the Port of Portland by letter dated March 3, 2002 and from Bob Wyatt and Larry Patterson of the Lower Willamette Group by letter dated March 3, 2003. DEQ has prepared the following response to those comments.

There are two main concerns expressed by both the Port and Lower Willamette Group: 1) that the proposed remedial action should be considered a final remedy by DEQ and formally endorsed as a final action by EPA; and 2) that any requirement to obtain federal permits should be exempted. DEQ's response to these concerns follows:

1) While DEQ intends this to be not only a source control decision but also the final remedy for the T4 Slip 3 Upland Facility, we disagree that the remedy should not be subject to reopening based upon Portland Harbor sediment decisions. Risk assessment of sediment and pore-water contaminant impacts in Slip 3 have not been completed and may affect compliance criteria for groundwater discharging from the upland area to Slip 3. Therefore, while EPA is to provide review of upland source control decisions in accordance with the interagency Memorandum of Understanding (MOU), potential inconsistencies with the harbor-wide cleanup cannot be resolved now because the harbor investigation has not been completed. Despite this uncertainty, the Port and DEQ have discussed on several occasions that petroleum hydrocarbons at the T4 Slip 3 Upland are expected to be amenable to product recovery and thereby achieve the stated compliance criteria for groundwater (DEQ's Level II Screening Level Values).

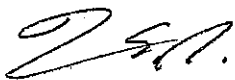


2) Currently there is no authority for DEQ to apply the CERCLA permit exemption to the T4 Slip 3 Upland cleanup, which is being selected under Oregon Revised Statutes 465. However, in recognition that the Port might pursue the topic with EPA or federal permitting agencies, DEQ will revise the Staff Report language referring to permits. The last sentence of section 5.2.3 will be revised to read: *"The Port will meet substantive requirements of state and local permits and will obtain federal permits or otherwise comply with applicable federal laws for each component of the remedy. The necessity to meet substantive requirements or obtain permits for in-water (riverbank) work and the time required for compliance with applicable laws might affect the implementation schedule for the in-water portion of the remedy."* Sections 6.1.2, 6.1.3, 6.1.4 and 6.2.1 will similarly be revised to indicate that the Port will meet substantive requirements, and obtain permits or otherwise comply with applicable laws.

In addition to these two concerns the Port suggested that section 6.1.5 of the Staff Report be modified to read that "As an alternative *or in addition to* evaluating treatment alternatives, the Port may elect to develop site-specific cleanup endpoints based on fate and transport modeling or other site-specific factors." DEQ agrees that the Level II Screening Level Values are conservative and developing site-specific cleanup endpoints is acceptable; however, the Port has not exercised that option to date. The Port should first make reasonable efforts to implement the remedial alternative and associated cleanup endpoints established in the ROD. DEQ envisions two scenarios under which the proposed compliance criteria may need to be re-evaluated: 1) if performance measures indicate that the selected alternative will be unable to achieve the cleanup goals and ways to improve performance of the existing system have been fully considered, or 2) if future Portland Harbor sediment decisions suggest there should be alternative groundwater-surface water compliance criteria. To clarify this point, the last sentence of section 4.1 in the Staff Report will be deleted, and the first and second sentences of the last paragraph, section 6.1.5 will be rewritten as *".....the remedial action will be re-evaluated. The Port will consider methods of improving the existing treatment system and may elect to develop site-specific cleanup endpoints....."*

Revisions will be made to the Staff Report as described above. With these revisions, the Staff Report will be finalized as the Record of Decision (ROD) for the site. The ROD will likely be signed by DEQ's Northwest Region Administrator, Neil Mullane, in early April.

Sincerely,



Thomas E. Roick, Project Manager
Cleanup & Portland Harbor

cc: Don Pettit / Tom Gainer / Jim Anderson / Fenix Grange/ Mike Rosen, DEQ NWR
Kurt Burkholder, Department of Justice
Anne Summers, Port of Portland
Tara Martich, EPA
Chip Humphrey, EPA