STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY

In the Matter of: VIGOR INDUSTRIAL LLC and SHIPYARD COMMERCE CENTER LLC

DEQ No. OPV-NWR-16-05 ORDER ON CONSENT

Respondents.

Pursuant to ORS 465.260(4), the Director, Oregon Department of Environmental Quality (DEQ), issues this Order on Consent (Consent Order) to Vigor Industrial LLC ("Vigor") and Shipyard Commerce Center LLC (collectively, "Respondents"). This Consent Order contains the following provisions:

Contents

1. Purpose .......................................................... 2
2. Stipulations ...................................................... 2
3. Findings of Fact .................................................. 3
4. Conclusions of Law and Determinations .......................... 6
5. Work to be Performed ........................................... 7
   A. Source Control Measure Implementation ...................... 7
   B. Modification of SOW or Related Work Plans .................. 7
   C. Additional Measures ............................................. 8
6. Public Participation .............................................. 8
7. General Provisions ............................................... 9
   A. Project Managers .............................................. 9
   B. Supervising Contractor ....................................... 9
   C. DEQ Approvals ............................................... 10
   D. Access to Property ........................................... 11
   E. Records ....................................................... 12
   F. Notice and Samples ......................................... 13
   G. Quality Assurance ........................................... 14
   H. Progress Reports ............................................. 15
   I. Other Applicable Laws ....................................... 15
   J. Reimbursement of DEQ Costs ................................. 16

ORDER ON CONSENT – SOURCE CONTROL
OPV-NWR-16-05 Page 1 of 27
1. **Purpose**

The mutual objective of DEQ and Vigor Industrial (Respondent) (collectively the “Parties”) is to protect public health, safety, and welfare and the environment by the design and implementation of removal actions (source control measures) at Respondents’ facility, in accordance with the applicable provisions of ORS 465.200 through 465.420, and regulations promulgated thereto.

2. **Stipulations**

   A. Respondents consent and agree:

      (1) To issuance of this Consent Order;

      (2) To perform and comply with all provisions of this Consent Order;

      (3) In any proceeding brought by DEQ to enforce this Consent Order, to not challenge DEQ's jurisdiction to issue and enforce this Consent Order;

      (4) To waive any rights Respondents might have, before commencement of action by DEQ to enforce this Consent Order, to seek judicial review or review by the Environmental Quality Commission of this Consent Order;
(5) To not litigate, in any proceeding brought by DEQ to enforce this Consent Order or to assess penalties for noncompliance with this Consent Order, any issue other than Respondents' compliance with this Consent Order;

(6) To waive any rights Respondents might have under ORS 465.260(7) to seek reimbursement from the Hazardous Substance Remedial Action Fund of costs incurred under this Consent Order.

B. DEQ and Respondents stipulate:

(1) For the purposes of this Consent Order, the “Facility,” as defined in ORS 465.200(13), means: the Vigor Portland Shipyards located at 5555 North Channel Avenue in Portland, Oregon (Site) as describe in section 3.B of this Consent Order.

(2) For the purposes of this Consent Order, Vigor and Shipyards Commerce Center LLC shall each be considered an “owner or operator,” as defined in ORS 465.200(20), of the Facility.

(3) For the purposes of this Consent Order, “Matters Addressed” means all investigation and removal actions taken or to be taken and all remedial action costs incurred or to be incurred at or in connection with stormwater source control at the Facility by, or on behalf of, Respondents.

3. Findings of Fact

DEQ makes the following findings without admission of any such facts by Respondents:

A. Vigor Industrial LLC is an Oregon Domestic Limited Liability Company which operates the Site as a full service shipyard, including ship and barge building and maintenance. Shipyards Commerce Center LLC is the fee title owner of the real property upon which the Site is located.
B. The 64 acre Site is located on the north end of Swan Island adjacent to the Swan island lagoon and Willamette River and includes 10 repair berths, three floating dry docks, and 2 piers. Improvements include 550,000 square feet of covered shops and a 150,000 barrel capacity waste and dry dock water treatment plant. Open areas are paved. These areas are collectively referred to in this Consent Order as the "Site." The general location of the Site is shown on Exhibit A to this Consent Order.

C. In 1942 the Site began operations as Kaiser Shipyards, and was a major ship repair and manufacturing facility in the Portland Harbor throughout World War II, constructing ships for the war effort. The Port of Portland re-purchased the Site in 1953 from Kaiser Shipyards and installed two new dry docks. Multiple contractors leased portions of the shipyard from the Port of Portland including Dillingham Ship Repair, Willamette Iron and Steel Corp., and Northwest Marine Iron Inc. In 1987, Cascade General began operating the Site as a ship repair facility under lease from the Port of Portland. In 1995, Frank Foti bought Cascade General and continued operating the Site under lease from the Port of Portland. In 2000, the newly formed Vigor Industrial LLC acquired the Site from the Port of Portland and continues to operate and expand the facility, today employing over 700 workers engaged in ship and barge repair and construction.

D. On December 1, 2000, a portion of the Willamette River (RM 3.5 to RM 9.2) was added to the Superfund National Priorities List (NPL). In February 2001 the DEQ and the US Environmental Protection Agency (EPA) and other agencies signed a Memorandum of Understanding (MOU) that provided a framework for coordinating upland and in-water work at Portland Harbor. Part of this coordination was the issuance of a DEQ/EPA December 2005 Portland Harbor Joint Source Control Strategy (JSCS) document, which
includes the framework and provides guidance for the evaluation of “Source Control” (generally defined, in this context, as remedial actions to reduce the transfer of contaminants to the Willamette River via stormwater that might pose a future/ongoing risk of recontamination of the Portland Harbor Superfund area following implementation of the Superfund cleanup/remedy and prevention of unacceptable risk to in-water receptors).

E. Vigor has been performing Source Control remedial activities and actions at the Site under a May 8, 2006, Voluntary Cleanup Program Letter Agreement under which DEQ provides review and oversight of Vigor’s assessment of the need for Source Control and actions to address Source Control consistent with the JSCS. The Parties have agreed that, as of the effective date of this Consent Order, Source Control work at the Site will be conducted under this Consent Order and not under the Source Control Letter Agreement.

F. Based on the Stormwater Source Control Evaluation completed by Vigor for the Site, in 2015 DEQ determined stormwater source control measures were needed to address elevated concentrations of the following contaminants in Site stormwater: arsenic, cadmium, copper, lead, mercury, zinc, polycyclic aromatic hydrocarbons (PAHs), phthalate esters, tributyltin (TBT) and polychlorinated biphenyls (PCBs).

G. Since 2006, Vigor has initiated multiple actions to reduce contaminant concentrations in Site stormwater including, but not limited to, the following:

- changes from dry to wet sandblasting techniques;
- changes in painting operations;
- site-wide cleaning efforts;
- Source Control investigations;
• mapping of stormwater infrastructure;
• installation of a 400 gallon per minute electrocoagulation (EC) system;
• implementation of BMPs (i.e., covering laydown materials, increased sweeping, and regular cleaning of catch basins and conveyance lines);
• installation of in-line treatment measures (i.e., grattix boxes, filtration devices containing MetalZorb media, catch basin inserts);
• integration of stormwater protection measures into vessel repair projects comprehensive worker training.

H. In 2013 Vigor began preparing and submitting a combined Source Control Plan and 1200-Z Permit Stormwater Pollution Control Plan (SWPCP) for review by the Source Control (Cleanup Program) and the City of Portland, as the 1200-Z (Stormwater Program) agent. The Parties now agree that Source Control (and any related plan) will be addressed under this Consent Order, and the 1200-Z Permit SWPCP as part of the 1200-Z Permit and DEQ enforcement process.

4. Conclusions of Law and Determinations

Based on the above findings of fact and the Administrative Record, DEQ determines, without admission of any such determinations by Respondents, that:

A. Vigor Industrial LLC is a “person” within the meaning of ORS 465.200(21) and potentially liable under ORS 465.255. Shipyard Commerce Center LLC is a “person” within the meaning of ORS 465.200(21) and potentially liable under ORS 465.255.

B. The contaminants described in Subsection 3.F. are “hazardous substances” within the meaning of ORS 465.200(16).
C. The presence of hazardous substances in stormwater constitutes a “release” or “threat of release” into the environment within the meaning of ORS 465.200(22).

D. The Site described in Subsection 3.B. is a "facility" within the meaning of ORS 465.200(13).

E. The activities required by this Consent Order are necessary to protect public health, safety, and welfare and the environment.

Based upon the above Stipulations, Findings of Fact, Conclusions of Law and Determinations, DEQ ORDERS:

5. Work to be Performed

A. Source Control Measure Implementation

Respondents will perform the Source Control work for the Site, consistent with the JSCS, in accordance with the terms and schedule set forth in the Scope of Work (SOW), attached to and incorporated by reference into this Consent Order as Exhibit B, and the terms and schedules set forth in a DEQ-approved Source Control work plan.

B. Modification of SOW or Related Work Plans

(1) If DEQ determines that modification to the work specified in the SOW and/or in work plans developed pursuant to the SOW is necessary in order to achieve Source Control, DEQ may require that such modification be incorporated in the SOW and/or such work plans; provided, any such modification may be required pursuant to this paragraph only to the extent that the modification is consistent with the JSCS.

(2) Subject to dispute resolution under Subsection 7.L., Respondents will modify the SOW and/or work plans as required by DEQ and implement any work required by
the modifications. Before invoking dispute resolution under Subsection 7.1.,
Respondents and DEQ will make a good-faith effort to resolve any dispute
regarding DEQ-requested modifications by informal discussions for no more than
30 days following notice from DEQ of a requested modification.

C. Additional Measures

Respondents may elect at any time during the term of this Consent Order to undertake
measures, beyond those required under this Consent Order and the SOW, necessary to
address the release or threatened release of hazardous substances at the Site. If not otherwise
subject to DEQ, BES or EPA oversight or permit, such additional measures are subject to
prior approval by DEQ. DEQ’s approval will be granted if DEQ determines that the
additional measures are consistent with the source control objectives in the JSCS and will not
threaten human health or the environment.

6. Public Participation

Upon issuance of this Consent Order, DEQ will provide public notice of the Consent
Order through issuance of a press release, at a minimum to a local newspaper of general
circulation, describing the measures required under this Consent Order. Copies of the
Consent Order will be made available to the public. DEQ will provide Respondent a draft
of such press release and consider any comments by Respondent on the draft press
release, before publication.

A. Project Managers

(1) To the extent possible, all reports, notices, and other communications required under or relating to this Consent Order must be directed to:

DEQ Project Manager:  
Dave Lacey  
Department of Environmental Quality Northwest Region  
700 NE Multnomah Street, Suite 600  
Portland, Oregon 97232  
Phone: 503-229-5354  
Email: LACEY.David@deq.state.or.us

Respondents Project Manager  
Tammie Wilson  
Vigor Industrial, LLC  
5555 N. Channel Avenue  
Portland, Oregon 97217  
Phone: 971-352-8112  
Email: Tammie.Wilson@vigor.net

(2) The Project Managers or their respective designees must be available and have the authority to make day-to-day decisions necessary to complete the work required under this Consent Order.

B. Supervising Contractor

(1) All aspects of the work to be performed by Respondents pursuant to this Consent Order must be performed under the direction and supervision of a qualified employee or contractor having experience in hazardous substance remediation and knowledge of applicable state and federal laws, regulations, and guidance.

(2) As of the effective date of this Consent Order, Respondents have proposed, and DEQ approves, ERM-West, Inc. as a qualified supervising contractor for Respondents for purposes of this Consent Order.

(3) If, during the course of work required under this Consent Order, Respondents propose to change the supervising contractor, Respondents will notify DEQ in writing of the name, title and qualifications of any proposed contractor. DEQ may
for good cause disapprove the proposed contractor. In the event of such
disapproval, DEQ will notify Respondents in writing of the reasons for its
disapproval within 14 days of receipt of the initial notice from Respondents.
Respondents, within 14 days of receiving DEQ’s notice of disapproval, will notify
DEQ of the name, title, and qualifications of an alternative supervising contractor,
subject to DEQ’s right to disapprove under the terms and schedule specified above.

C. DEQ Approvals

(1) Where DEQ review and approval is required for any plan or activity under this
Consent Order, Respondents may not proceed to implement the plan or activity
until DEQ approval is received. Any DEQ delay, in granting or denying approval
correspondingly extends the time for completion by Respondents. Prior approval is
not required in emergencies; provided, Respondents will notify DEQ immediately
after the emergency and evaluate the impact of its actions.

(2) After review of any plan, report, or other item required to be submitted for DEQ
approval under this Consent Order, DEQ will: (a) approve the submission in whole
or in part; or (b) disapprove the submission in whole or in part, and notify
Respondents of its deficiencies and/or request modifications to cure the
deficiencies.

(3) DEQ approvals, rejections, or identification of deficiencies will be given in writing
within the time specified in the SOW or as soon as practicable, and will state
DEQ’s reasons with reasonable specificity.

(4) In the event of DEQ disapproval or request for modification of a submission,
Respondents will, within 30 days of receipt of the DEQ notice or such longer time
as may be specified in the notice, correct the deficiencies and resubmit the revised report or other item for approval.

(5) In the event of two deficient submittals of the same deliverable that are deficient for the same reasons due to Respondents’ failure to cure the original deficiency, DEQ may modify the submission to cure the deficiency.

(6) In the event of approval or modification of a submission by DEQ, Respondents will implement the action(s) required by the plan, report, or other item, as so approved or modified, or invoke dispute resolution under Subsection 7.1.

D. Access to Property

(1) Respondents will allow DEQ to enter all portions of the Site owned by or under the control of Respondents at all reasonable times for the purpose of overseeing Respondents’ performance under this Consent Order, including but not limited to inspecting records relating to work under this Consent Order, conducting such tests and taking such samples as DEQ deems necessary, verifying data submitted to DEQ by Respondents, conducting periodic review, and using camera, sound recording, or other recording equipment. DEQ will make available to Respondents, upon Respondents’ request, any photographs or recorded or videotaped material taken. DEQ access to the Site under this Consent Order shall be subject to reasonable safety constraints (including wearing appropriate personal protective equipment), and all security provisions, arising under federal laws or contracts (including limited access where applicable) in accordance with Vigor’s written policies that apply to visitors with regard to safety and security. If respondent identifies information as confidential, DEQ will keep that information confidential to the
extent allowed by the Oregon Public Records Law, ORS 192.410-505, as provided in Section 3.E.

(2) Respondents will seek to obtain access to property not owned or controlled by Respondents as necessary to perform the work required in this Consent Order, including access by DEQ for purposes described in Paragraph 7.D.(1). DEQ may use its statutory authority to obtain access to property on behalf of Respondents if DEQ determines that access is necessary and that Respondents have exhausted all good faith efforts to obtain access.

E. Records

(1) In addition to those reports and documents specifically required under this Consent Order, Respondents will provide to DEQ, within 10 days of DEQ’s written request, copies of QA/QC memoranda and audits, raw data, final plans, task memoranda, field notes (not made by or at the direction of Respondents’ attorney), and laboratory analytical reports relating to activities under this Consent Order.

(2) Respondents will preserve all records and documents in possession or control of Respondents or their employees, agents, or contractors that relate in any way to activities under this Consent Order for at least five years after certification of completion under Section 9. Upon DEQ’s request, Respondents will provide to DEQ, or make available for copying by DEQ, copies of non-privileged records. For a period of 10 years after certification of completion, Respondents will provide DEQ 60 days notice before destruction or other disposal of such records or documents. Ten years after certification of completion, Respondents have no further obligation to preserve documents or records.
(3) Subject to Paragraph 7.E.(4), Respondents may assert a claim of confidentiality under the Oregon Public Records Law regarding any document or record submitted to or copied by DEQ pursuant to this Consent Order. DEQ will treat documents and records for which a claim of confidentiality has been made in accordance with ORS 192.410 through 192.505. If Respondents do not make a claim of confidentiality at the time the documents or records are submitted to or copied by DEQ, the documents or records may be made available to the public without notice to Respondents.

(4) Respondents will identify to DEQ (by addressee-addresssee, date, general subject matter, and distribution) any document, record, or item withheld from DEQ on the basis of attorney-client or attorney work product privilege, except to the extent that such identifying information is itself subject to a privilege. Attorney-client or work product privilege may not be asserted with respect to any records required to be submitted under Paragraph 7.E.(1). DEQ reserves its rights under law to obtain documents DEQ asserts are improperly withheld by Respondents.

F. Notice and Samples

(1) Respondents will make reasonable effort to notify DEQ of any excavation, drilling, sampling, or other fieldwork to be conducted under this Consent Order at least five working days before such activity, but in no event less than 24 hours before such activity, however, for sampling triggered by storm events Vigor will make reasonable effort to notify DEQ sometime in advance of such sampling (note: for sampling triggered by storm events, Respondents will notify DEQ via email or phone prior to initiating sample collection). Upon DEQ's verbal request,
Respondents will make every reasonable effort to provide a split or duplicate sample to DEQ in DEQ provided sampling containers, or allow DEQ to take a split or duplicate of any sample taken by Respondents while performing work under this Consent Order. DEQ will provide Respondents with copies of all analytical data from such samples as soon as practicable.

(2) If DEQ conducts any sampling or analysis in connection with this Consent Order, DEQ will, except in an emergency, make reasonable effort to notify Respondents of any excavation, drilling, sampling, or other fieldwork at least 72 hours before such activity. Upon Respondents’ verbal request, DEQ will make every reasonable effort to provide a split or duplicate sample to Respondents or allow Respondents to take a split or duplicate of any sample taken by DEQ, and will provide Respondents with copies of all analytical data for such samples. Respondents will provide DEQ with copies of all analytical data from such samples as soon as practicable.

G. Quality Assurance

(1) Respondents will conduct all sampling, sample transport, and sample analysis required by the SOW in accordance with the Quality Assurance/Quality Control (QA/QC) provisions approved by DEQ as part of the work plan. All plans prepared and work conducted as part of this Consent Order must be consistent with DEQ's Quality Assurance Policy for the Environmental Cleanup Programs (DEQ10-LQ-0063-QAG). Respondents will make every reasonable effort to ensure that each laboratory used by Respondents for such analysis performs such analyses in accordance with such provisions.
(2) If DEQ conducts sampling or analysis in connection with this Consent Order, DEQ will conduct sampling, sample transport, and sample analysis in accordance with the QA/QC provisions of the approved work plan. Upon written request, DEQ will provide Respondents with copies of DEQ’s records regarding such sampling, transport, and analysis.

H. Progress Reports

During each calendar quarter following the effective date of this Consent Order, Respondents will deliver to DEQ, on or before the tenth working day of each quarter, a progress report containing:

(1) Actions taken by Respondents under this Consent Order during the previous three months;

(2) Actions pursuant to this Consent Order scheduled to be taken by Respondents in the next three months;

(3) A summary of sampling, test results, and any other data generated or received by Respondents pursuant to this Consent Order during the previous three months; and

(4) A description of any problems experienced by Respondents pursuant to this Consent Order during the previous three months and actions taken to resolve them.

DEQ may approve less frequent reporting by Respondents, if warranted. Progress reports may be submitted in electronic form. If submitted in hard-copy written form, two copies must be provided to DEQ.

I. Other Applicable Laws

(1) Subject to ORS 465.315(3), all activities under this Consent Order must be performed in accordance with all applicable federal, state, and local laws.
(2) All activities under this Consent Order must be performed in accordance with any applicable federal, state, and local laws related to archeological objects and sites and their protection. If archeological objects or human remains are discovered during any investigation, removal, or remedial activity at the Property, Respondents will, at a minimum: (a) stop work immediately in the vicinity of the find; (b) provide any notifications required by ORS 97.745 and ORS 358.920; (c) notify the DEQ Project Manager within 24 hours of the discovery; and (d) use best efforts to ensure that Respondents and their employees, contractors, counsel, and consultants keep the discovery confidential, including but not limited to refraining from contacting the media or any third party or otherwise sharing information regarding the discovery with any member of the public. Any project delay caused by the discovery of archeological object or human remains is a Force Majeure under Subsection 7.K..

J. Reimbursement of DEQ Costs

(1) DEQ will submit to Respondents a monthly invoice of costs incurred by DEQ under Respondent's existing DEQ Hazardous Substance Remedial Action Fund (HSRAF) account, Project Number 213121-00, in connection with development and approval of this Consent Order and any activities related to the oversight and periodic review of Respondents' implementation of this Consent Order. Each invoice must include a summary of costs billed to date.

(2) DEQ oversight costs payable by Respondents include direct and indirect costs. Direct costs include site-specific expenses, DEQ contractor costs, and DEQ legal costs actually and reasonably incurred by DEQ under ORS 465.200 et seq. DEQ's
direct cost summary must include a Land Quality Division ("LQD") direct labor summary showing the persons charging time, the number of hours, and the nature of work performed. Indirect costs include those general management and support costs of DEQ and of the LQD allocable to DEQ oversight under this Consent Order and not charged as direct, site-specific costs. Indirect charges are based on actual costs and applied as a percentage of direct personal services costs. DEQ will maintain work logs, payroll records, receipts, and other documents to document work performed and expenses incurred under this Consent Order and, upon request, will provide copies of such records to Respondents.

(3) Within 30 days of receipt of DEQ’s invoice, Respondents will pay the amount of costs billed by check payable to the “State of Oregon, Hazardous Substance Remedial Action Fund,” or invoke dispute resolution under Subsection 7.L. After 30 days, any unpaid amounts that are not the subject of pending dispute resolution, or that have been determined owing after dispute resolution, become a liquidated debt collectible under ORS 293.250 or other applicable law.

(4) Respondents will pay simple interest of 9% per annum on the unpaid balance of any DEQ oversight costs, which interest begins to accrue at the end of the 30-day payment period, unless dispute resolution has been invoked. Interest on any amount disputed under Subsection 7.L. begins to accrue 30 days from final resolution of any such dispute.

K. Force Majeure

(1) If any event occurs that is beyond Respondents’ reasonable control and that causes or might cause a delay or deviation in performance of the requirements of this
Consent Order despite Respondents' reasonable efforts ("Force Majeure"),
Respondents will promptly, upon learning of the event, notify DEQ's Project
Manager verbally of the cause of the delay or deviation, its anticipated duration, the
measures that have been or will be taken to prevent or minimize the delay or
deviation, and the timetable by which Respondents propose to carry out such
measures. Respondents will confirm in writing this information within five
working days of the verbal notification. Failure to comply with these notice
requirements precludes Respondents from asserting Force Majeure for the event
and for any additional delay caused by the event.

(2) If Respondents demonstrate to DEQ's satisfaction that the delay or deviation has
been or will be caused by Force Majeure, DEQ will extend times for performance
of related activities under this Consent Order as appropriate. Circumstances or
events constituting Force Majeure might include but are not limited to acts of God,
unforeseen strikes or work stoppages, unanticipated site conditions, fire, explosion,
riot, sabotage, war, and delays in receiving a governmental approval or permit.
Normal inclement weather, increased cost of performance, or changed business or
economic circumstances may not be considered Force Majeure.

I. Dispute Resolution

(1) Except as provided in Paragraph 7.I.(4), if Respondents disagree with DEQ
regarding any matter during implementation of this Consent Order, Respondents
will promptly notifying DEQ in writing of its objection. DEQ and Respondents
then will make a good-faith effort to resolve the disagreement within 14 days of
Respondents' written objection. At the end of the 14-day period, DEQ will provide
Respondents with a written statement of its position from DEQ’s Northwest Region Cleanup Manager. If Respondents still disagrees with DEQ's position, then Respondents, within 14 days of receipt of DEQ's position from the Region Cleanup Manager, will provide Respondents’ position and rationale in writing to DEQ’s Northwest Region Administrator. The Region Administrator may discuss the disputed matter with Respondents and, in any event, will provide Respondents with DEQ's final position in writing as soon as practicable after receipt of Respondents’ written position.

(2) If Respondents refuse or fail to follow DEQ’s final position pursuant to Paragraph 7.L.(1), and DEQ seeks to enforce its final position, the Parties, subject to Sections 2 and 8, are entitled to such rights, remedies, and defenses as are provided by applicable law.

(3) During the pendency of any dispute resolution under this subsection, the time for completion of work or obligations affected by such dispute is extended for a period of time not to exceed the actual time taken to resolve the dispute. Elements of work or obligations not affected by the dispute must be completed in accordance with the applicable schedule.

(4) Dispute resolution under this subsection does not apply to: (a) DEQ approval or modification of the Source Control work plan required under the SOW (which approval or modification is nonetheless subject to Subsection 7.C.); or (b) DEQ assessment of stipulated penalties under Subsection 7.M. (after dispute resolution has been exhausted, before assessment of a penalty, regarding the alleged violation).
M. Stipulated Penalties

(1) Subject to Subsections 7.C., 7.K., and 7.L., upon any violation by Respondents of any provision of this Consent Order, and upon Respondents’ receipt from DEQ of written notice of violation, Respondents will pay the stipulated penalties set forth in the following schedule:

(a) $5,000 for the first week of violation or delay and $2,500 per day of violation or delay thereafter, for:

   (i) failure to allow DEQ access to the Site under Subsection 7.D.

   (ii) failure to provide notice and samples under Subsection 7.F.

   (iii) failure to provide records under Subsection 7.E.

(b) $2,500 for the first week of violation or delay and $1,000 per day of violation or delay thereafter, for:

   (i) failure to submit a final work plan in accordance with the SOW’s schedule and terms;

   (ii) failure to complete work in accordance with an approved work plan’s schedule and terms;

   (iii) failure to submit a final report, in accordance with an approved work plan's schedule and terms; or

(c) $500 for the first week of violation or delay and $500 per day of violation or delay thereafter, for:

   (i) failure to submit a draft work plan in accordance with the SOW's schedule and terms;

   (ii) failure to submit draft reports or progress reports in accordance with the
SOW's schedule and terms; or

(iii) any other violation of the Consent Order, SOW, or an approved work plan.

(2) Violations arising out of the same facts or circumstances or based on the same deadline are treated as one violation per day.

(3) Stipulated penalties do not begin to accrue under this subsection until Respondents receive a notice of violation from DEQ describing the violation and what is necessary to correct it. If the violation was not intentional, is capable of cure, and Respondents correct the violation within 30 days of receipt of such notice of violation or such other period as may be specified in the notice, DEQ in its sole discretion may waive in writing the stipulated penalties. This opportunity to cure does not apply to violations subject to Subparagraph 7.M.(1)(a).

(4) Respondents will, within 30 days of receipt of the notice, pay the amount of such stipulated penalty not waived by DEQ in writing as provided in Paragraph 7.M.(3) by check made payable to the "State of Oregon, Hazardous Substance Remedial Action Fund," or request a contested case hearing in accordance with Paragraph 7.M.(5). Respondents will pay simple interest of 9% per annum on the unpaid balance of any stipulated penalties, which interest begins to accrue at the end of the 30-day payment period. Any unpaid amounts that are not the subject of a pending contested case, or that have been determined owing after a contested case, are a liquidated debt collectible under ORS 293.250 and other applicable law.

(5) Respondents may request a contested case hearing regarding the penalty assessment in accordance with OAR Chapter 340, Division 11. The scope of any such hearing
must be consistent with the stipulations set forth in Section 2, be limited to the occurrence or non-occurrence of the alleged violation, and not review the amount of penalty assessed. Further penalties regarding the alleged violation subject to the penalty assessment do not accrue from the date DEQ receives a request for a contested case, through disposition of that case.

(6) If DEQ assesses stipulated penalties pursuant to this subsection for any failure of Respondents to comply with this Consent Order, DEQ may not seek civil penalties from Respondents for the same violation under ORS 465.900 or other applicable law.

N. Enforcement of Consent Order

(1) In lieu of stipulated penalties under Subsection 7.M., DEQ may assess civil penalties under ORS 465.900 for Respondents' failure to comply with this Consent Order. Penalties do not accrue pending any contested case regarding the alleged violation. In addition to penalties, DEQ may seek any other available remedy for failure by Respondents to comply with any requirement of this Consent Order, including but not limited to termination of this Consent Order or court enforcement of this Consent Order.

(2) Subject to Section 2, Respondents do not admit any liability, violation of law, or factual or legal findings, conclusions, or determinations asserted in this Consent Order.

(3) Subject to Subsection 2.A., nothing in this Consent Order prevents DEQ, the State of Oregon, or Respondents from exercising any rights each might have against any person not a party to this Consent Order.
(4) Although there may be some overlapping or similar provision under a Source Control work plan and requirements or plans under the 1200-Z Permit, no requirements or provisions of the 1200-Z Permit are enforceable under, or subject to the terms of, this Consent Order. Source Control measures identified, developed and approved under the process presented in the attached Scope of Work are enforceable, and subject to the terms, of this Consent Order regardless of overlapping or similar 1200-Z Permit requirements. The DEQ Project Manager will work to the extent practicable with the Respondents to ensure source control requirements are not incompatible with 1200-Z Permit requirements.

O. Indemnification

(1) Respondents will indemnify and hold harmless the State of Oregon and its commissions, agencies, officers, employees, contractors, and agents from and against any and all claims arising from acts or omissions related to this Consent Order of Respondents or their officers, employees, contractors, agents, receivers, trustees, or assigns. DEQ may not be considered a party to any contracts made by Respondents or their agents in carrying out activities under this Consent Order.

(2) To the extent permitted by Article XI, Section 7, of the Oregon Constitution and by the Oregon Tort Claims Act, the State of Oregon will indemnify and hold harmless Respondents and their officers, directors, managers, employees, contractors, and agents from and against any and all claims arising from acts or omissions related to this Consent Order of the State of Oregon or its commissions, agencies, officers, employees, contractors, or agents (except for acts approving or omissions constituting approval or disapproval of any activity of Respondents under this
Consent Order). Respondents may not be considered a party to any contract made by DEQ or its agents in carrying out activities under this Consent Order.

(3) Before commencing any on-site work under this Consent Order, Respondents will obtain and maintain for the duration of this Consent Order comprehensive general liability and automobile insurance with limits of $1 million, combined single limit per occurrence, naming as an additional insured the State of Oregon. If Respondents demonstrate by evidence satisfactory to DEQ that its contractor(s) or subcontractor(s) maintain equivalent coverage, or coverage for the same risks but in a lesser amount or for a lesser term, Respondents may provide only that portion of the insurance that is not maintained by its contractor(s) or subcontractor(s).

P. Parties Bound

This Consent Order is binding on the Parties and their respective successors, agents, and assigns. The undersigned representative of each Party certifies that he or she is fully authorized to execute and bind such party to this Consent Order. No change in ownership, corporate, or partnership status in any way alters Respondents’ obligations under this Consent Order, unless otherwise approved in writing by DEQ. Respondents will notify and provide a copy of this Consent Order to any prospective successor, purchaser, lessee, assignee, or mortgagee of the facility during the term of this Consent Order.

Q. Modification

DEQ and Respondents may modify this Consent Order by mutual written agreement.

R. Effective Date

The effective date of this Consent Order is the date of signature by the DEQ's Northwest
Region Cleanup Program Manager.

8. **Release from Liability**

A. Subject to Subsection 8.B., DEQ releases Respondents from liability to DEQ under ORS 465.200 to 465.455 and 465.900 with regard to Matters Addressed. This release from liability is effective upon certification of completion under Section 9.

B. DEQ reserves all rights against Respondents with respect to any matter not expressly included in the release from liability set forth in Subsection 8.A, including but not limited to:

1. Failure of the remedial action;

2. Discovery of factual information unknown to DEQ at the time of certification of completion showing that the remedial action is not protective of public health, safety, and welfare or the environment;

3. Claims based on failure by Respondents to meet any requirement of this Consent Order;

4. Liability arising from disposal of hazardous substances removed from the Site;

5. Liability for natural resource damages;

6. Claims based on criminal liability;

7. Any matters as to which the State of Oregon is owed indemnification by Respondents under this Consent Order;

8. Liability for violations of federal or state law by Respondents occurring during implementation of the work required under this Consent Order; and

9. Liability for oversight costs incurred by DEQ in connection with this Consent Order.
9. Certification of Completion

A. Upon Respondents' completion of work in accordance with the SOW, Respondents will submit a final closeout report to DEQ signed by both an Oregon-registered professional engineer and Respondents' Project Manager certifying that the remedial action for the Site has been completed in accordance with this Consent Order. The report must summarize the work performed and include all necessary supporting documentation.

B. DEQ will preliminarily determine whether the remedial action has been performed for the Site in accordance with this Consent Order. Upon a preliminary determination that the remedial action has been satisfactorily performed, DEQ will provide public notice and opportunity to comment on a proposed certification decision in accordance with ORS 465.320 and 465.325(10)(b). After consideration of public comment, and within 90 days after receiving Respondents' closeout report, DEQ's Northwest Region Cleanup Program Manager will issue a final certification decision.

C. This Consent Order is satisfied upon issuance of DEQ's certification of completion for the remedial action and payment by Respondents of any and all outstanding costs and penalties, except that issuance of a certification of completion of the remedial action does not affect Respondents' remaining obligations under this Consent Order or for implementation of measures necessary to long-term effectiveness of the remedial action.
10. Signatures

STIPULATED, AGREED, and APPROVED FOR ISSUANCE:

Respondents
Vigor Industrial LLC

By: [Signature] Date: 12/19/14
Alan Sprott
Vice President

Shipyard Commerce Center LLC

By: [Signature] Date: 12/19/14
Alan Sprott
Vice President

STIPULATED, AGREED, and SO ORDERED:

State of Oregon,
Department of Environmental Quality

By: [Signature] Date: 12/19/2014
Keith Johnson
Cleanup Program Manager, Northwest Region
ATTACHMENT B
STORMWATER SOURCE CONTROL MEASURE
SCOPE OF WORK

I. SCHEDULE AND OBJECTIVES

Within 45 days of issuance of the Consent Order, Respondent will submit for DEQ review and comment a draft work plan for Stormwater Source Control Measures (SCM) at the facility. Within 30 days of receipt of DEQ’s written comments on the draft Stormwater SCM Work Plan, Respondent will submit to DEQ for approval a final Stormwater SCM Work Plan addressing DEQ’s comments.

Implementation of Stormwater SCMs is required under the Consent Order to control stormwater as a potential contaminant pathway to the Willamette River. The objectives of the Stormwater SCMs are to prevent sediment recontamination and prevention of unacceptable risk to in-water receptors from arsenic, cadmium, copper, lead, mercury, zinc, polycyclic aromatic hydrocarbons (PAHs), phthalate esters, tributyltin (TBT) and polychlorinated biphenyl (PCBs) in stormwater discharging to the Willamette River. The objectives are consistent with the requirements set forth in the Environmental Cleanup Rules, Oregon Administrative Rules (OAR) 340-122-0010 to 0110, and the Environmental Cleanup Laws, Oregon Revised Statutes (ORS), Chapter 465, and guidance document Portland Harbor Joint Source Control Strategy (DEQ/EPA, December 2005) (“JSCS”).

All work completed under this Agreement will proceed in accordance with the schedule below:

<table>
<thead>
<tr>
<th>Deliverable</th>
<th>Schedule</th>
</tr>
</thead>
<tbody>
<tr>
<td>Draft Stormwater SCM Work Plan</td>
<td>Within 45 days of issuance of Consent Order</td>
</tr>
<tr>
<td>Final Stormwater SCM Work Plan</td>
<td>Within 30 days of receipt of DEQ comments on the Draft Stormwater SCM Work Plan</td>
</tr>
<tr>
<td>Stormwater SCM Preliminary Design</td>
<td>Within 45 days of issuance of Consent Order</td>
</tr>
<tr>
<td>Stormwater SCM Pre-Final Design</td>
<td>Within 45 days of receipt of DEQ comments on the Stormwater SCM Preliminary Design</td>
</tr>
<tr>
<td>Stormwater SCM Final Design</td>
<td>Within 30 days of receipt of DEQ comments on the Stormwater SCM Final Design</td>
</tr>
<tr>
<td>Draft Monitoring, Performance Evaluation and Contingency Plan</td>
<td>Within 30 days of approval of the Stormwater SCM Pre-Final Design</td>
</tr>
<tr>
<td>Final Monitoring, Performance Evaluation and Contingency Plan</td>
<td>Within 30 days of receipt of DEQ comments on the draft Monitoring, Performance Evaluation and Contingency Plan</td>
</tr>
<tr>
<td>Draft Construction Completion Report(s)</td>
<td>To be specified in the Stormwater SCM Work Plan</td>
</tr>
<tr>
<td>Final Construction Completion Report(s)</td>
<td>Within 30 days of receipt of DEQ comments on the Draft Construction Completion Report</td>
</tr>
<tr>
<td>Monitoring and Performance Evaluation Report</td>
<td>To be specified in the Monitoring, Performance Evaluation and Contingency Plan</td>
</tr>
<tr>
<td>Draft Operation and Maintenance Plan</td>
<td>To be submitted with Pre-final (90%) Design Report</td>
</tr>
</tbody>
</table>

Order on Consent No. OPVC-NWR-18-05
Scope of Work
<table>
<thead>
<tr>
<th>Final Operation and Maintenance Plan</th>
<th>To be submitted with Final (100%) Design Report</th>
</tr>
</thead>
<tbody>
<tr>
<td>Draft Recontamination Evaluation Work Plan</td>
<td>To be specified in the Stormwater SCM Work Plan</td>
</tr>
<tr>
<td>Final Recontamination Evaluation Work Plan</td>
<td>Within 30 days of receipt of DEQ comments on the Draft Recontamination Evaluation Work Plan</td>
</tr>
<tr>
<td>Draft Recontamination Evaluation Report</td>
<td>To be specified in the Recontamination Evaluation Work Plan</td>
</tr>
<tr>
<td>Quarterly Progress Reports</td>
<td>The 30th day of the month following the end of the calendar year quarter.</td>
</tr>
</tbody>
</table>

The schedule for additional deliverables necessary to implement this SOW will be specified in the Stormwater SCM Work Plan.

All work plans may be amended by Respondent as necessary to reflect or incorporate newly discovered information and/or environmental conditions. Amendments or additional work plans are subject to DEQ review and approval and will be processed according to schedules negotiated between the parties at the time of each phase change or task addition. Respondent will initiate and complete work according to the schedule specified in the applicable approved work plan or amendment.

II. **STORMWATER SOURCE CONTROL MEASURE DELIVERABLES**

A. **STORMWATER SCM WORK PLAN**

The Stormwater SCM Work Plan will be prepared for activities to be conducted during Stormwater SCM design and implementation. The Stormwater SCM Work Plan shall be developed in accordance with applicable Oregon Administrative Rules (OAR 340-122-0010 through 0115), and DEQ guidance as appropriate. The Stormwater SCM Work Plan will be consistent with the JSCS. The Stormwater SCM Work Plan will include, at a minimum, the following items:

1. Description of proposed Stormwater SCM tasks and activities to be performed.

2. Proposed schedule for submittal of Stormwater SCM deliverables and implementation of all proposed Stormwater SCM activities.

3. Identification and description of duties, responsibilities, authorities, and qualifications of the personnel involved in the Stormwater SCM design and implementation.

4. Project organization and identification of reporting relationships, lines of communication, and authorities.

5. Description of existing source control measures (SCMs) and/or BMPs and those that will be implemented in each stormwater collection basin.
a) Implementation schedule of primary SCMs.

b) Description of anticipated results (e.g., preventing contamination from entering stormwater system; contaminants specifically targeted and expected percent reduction in contaminant concentration, etc.) and anticipated timeline for achieving those results.

c) Description of the design elements of contingency SCMs to be implemented for each basin in the event the primary SCMs do not achieve design objectives.

6. Identification and description of design objectives.

7. Identification and description of design criteria and performance standards that will be applied to the primary SCMs.

8. Identification of JSCS requirements that are applicable to or associated with the primary SCMs and an explanation of how they will be incorporated into the design and implementation of the primary SCMs.

9. Assessment of permitting requirements, including identification of any permitting or procedural requirements exempted pursuant to ORS465.315(3) as stated in the Consent Order, or as proposed (to be exempted), and a plan for satisfying any applicable substantive or non-exempted permitting/procedural requirements. A description of permitting requirements shall be included in the specific design reports.

10. Identification and description of any site access agreements required to implement primary SCM activities.

11. Description of any proposed bench scale or pilot scale studies, treatability studies, unit process evaluations, and recontamination evaluation. Include study objectives and a schedule for submittal of a more detailed work plan describing design parameters, data requirements, size and scale, mobilization procedures, and schedule for conducting the tests.

12. Description of any special design/implementation challenges anticipated and how they will be addressed. Include any special technical challenges, anticipated community relations issues, access, easement, rights-of-way, transportation, utilities, and logistics challenges.

13. Identification and description of institutional controls necessary during and/or following implementation of primary SCMs.

14. Identification and description of additional sampling, evaluations, or engineering studies required to supplement available technical information.

15. Procedures for documentation/validation of Stormwater SCM activities.

C. DESIGN REPORTS AND IMPLEMENTATION (Plans and Specifications)
Construction plans and related design information, to accomplish the Stormwater SCMs approved by DEQ, will be submitted to DEQ for review and approval. Design reports will be submitted in the following phases:

1. **PRELIMINARY DESIGN REPORT**

The Preliminary Design Report will present the conceptual site-wide Stormwater SCM plan, reflecting an approximate 30% completion for the primary SCMs in each basin. The Preliminary Design will also include a description of anticipated contingency SCMs that would be implemented in the event that the primary SCMs are proven ineffective at meeting upland source control objectives: The objective of the Preliminary Design is to identify and allow correction of any problem areas before extensive design has been completed. The Preliminary Design will include the following:

1. Design objectives, criteria and standards for the primary and contingency SCMs.
2. Description of design elements for the primary and contingency SCMs.
3. Preliminary drawings and schematics for the primary SCMs.
4. Description of potential schedule delays.
5. Preliminary final design and construction schedule update.

2. **PRE-FINAL DESIGN**

The Pre-final Design Report shall contain a compilation of major design items reflecting an approximate 90% completion. This report will serve as the draft design report and may constitute construction-ready drawings for a design/build process. The report will contain the following, as applicable:

1. Design criteria/standards.
2. Final design/analyses calculations.
3. Drawing index and final drawings.
4. Final specifications.
5. Final implementation schedule.
6. Equipment startup and operator training requirements to include:
   i. Contractor/vendor procedures for providing appropriate service visits by experienced personnel to supervise installation, adjustment, startup, and operation of treatment systems, and
   ii. Identification of appropriate operational procedures training for personnel.
7. Description of proposed control measures to minimize releases of hazardous substances to all environmental media during construction or installation activities.

8. Description of proposed surface water runoff control measures during construction.

9. Summaries of treatability studies, bench scale or pilot scale studies, or other engineering studies conducted during the design phase, including results and conclusions.

3. FINAL DESIGN

The Final Design Report will incorporate required revisions resulting from DEQ's review and comments on the Pre-final Design Report. The Final Design Report will provide the basis for the Stormwater SCMs to be implemented, both initially and as contingencies at the facility. The Final Design Report will include the elements described above, plus draft bid packages for construction contractors, as necessary.

4. IMPLEMENTATION

Upon DEQ's approval of the Final Design Report, the primary SCMs shall be implemented in accordance with the design plans and schedule.

D. MONITORING, PERFORMANCE EVALUATION, AND CONTINGENCY PLAN

The objectives of the Monitoring, Performance Evaluation, and Contingency Plan include monitoring variations in stormwater quality at the facility, monitoring contaminant concentrations, evaluating the effectiveness of Stormwater SCMs, and evaluating the effectiveness of operational stormwater treatment systems in attaining the Stormwater SCM objectives. The plan will also propose response actions to occur in the event the Stormwater SCM objectives are not being achieved during the long-term monitoring program. Stormwater monitoring will be conducted in accordance with the ODEQ-approved Monitoring, Performance Evaluation, and Contingency Plan.

A draft Monitoring, Performance Evaluation, and Contingency Plan will be submitted for DEQ review and comment within 30 days of DEQ approval of the Pre-Final Design. A final plan will be submitted within 30 days of DEQ comments on draft plan for DEQ approval addressing DEQ's comments on the draft plan. The draft and final Monitoring, Performance Evaluation, and Contingency Plans will include, at a minimum:

1. Proposed frequency and duration of monitoring periods.

2. Proposed monitoring locations and parameters.

3. A description of sample collection techniques, sampling equipment, and sample handling procedures.

4. Descriptions of proposed analytical or test methods.

5. A description of quality assurance and quality control (QA/QC) procedures for both field and laboratory activities, including a data quality objectives plan.

Order on Consent No. OPVC-NWR-16-05
Scope of Work

B-5
6. Documentation and data reporting, including a proposed schedule for data report submittals.

7. A description of methods for data analysis, including modeling and statistical methodology, for evaluating changes and trends in stormwater quality, and attainment of Stormwater SCM objectives and criteria.

8. Proposed trigger mechanisms and assessment criteria that would warrant implementation of contingency SCMs.

9. A contingency plan to include identification of potential response actions (contingency SCMs identified in the Stormwater SCM Work Plan) and a description of the process for evaluating, designing and implementing them, following inadequate performance of the primary SCMs per the trigger mechanisms and assessment criteria developed consistent with Section D.8.

10. A description of assessment criteria for modifications to the long-term stormwater monitoring program.

11. A description of performance evaluations to be conducted for stormwater treatment systems, including performance criteria, methodology, schedule, and system termination criteria.

E. MONITORING AND PERFORMANCE EVALUATION REPORT

Stormwater monitoring reports and performance evaluation reports shall be submitted in accordance with the terms and schedule set forth in the DEQ approved Monitoring, Performance Evaluation, and Contingency Plan (Item D). The Monitoring and Performance Evaluation Report shall include, at a minimum:

1. Introduction/Background

2. Summary of monitoring event actions including precipitation information to document conditions prior to a monitoring event

3. Any deviations from the work plan

4. Summary tables of validated analytical results with comparison to SLVs

5. Field notes (provided as attachment)

6. Laboratory data sheets (provided as attachment)

7. Performance evaluation
8. In the event that primary SCMs do not achieve performance criteria defined in the Monitoring, Performance Evaluation, and Contingency Plan the Performance Monitoring and Evaluation Report shall include:

   a. Documentation of what contingency SCMs have been implemented per the Monitoring, Performance Evaluation, and Contingency Plan;

   b. A preliminary design report for any remaining contingency SCMs required under the Monitoring, Performance Evaluation, and Contingency Plan including:

      i. Design objectives, criteria and standards

      ii. Description of design elements

      iii. Preliminary drawings and schematics

      iv. Description of potential schedule delays.

      v. Preliminary final design, final design and construction schedule.

   c. A contingency plan to include identification of potential response actions (additional contingency SCMs) and a description of the process for evaluating, designing and implementing them following inadequate performance of the initial contingency SCMs.

   d. Description of assessment criteria for modifications to the long-term stormwater monitoring program.

   e. Description of performance evaluations to be conducted for stormwater treatment systems, including performance criteria, methodology, schedule, and system termination criteria.

**F. OPERATIONAL AND MAINTENANCE PLAN**

The Operation and Maintenance (O&M) Plan details the specific operation and maintenance requirements for each constructed or installed component of the completed project. A draft O&M Plan shall be submitted with Pre-final (90%) Design Report for DEQ review and comment. A final O&M Plan shall be submitted with the Final (100%) Design Report for DEQ approval addressing DEQ’s comments on the draft O&M Plan. The O&M Plan shall include, at a minimum:

1. Description of equipment and monitoring components and equipment replacement schedule.

2. Description of normal O&M tasks, prescribed treatment or operation conditions, and frequency schedule of O&M tasks.
3. Description and analysis of potential operating problems, sources of information for
trouble-shooting and common remedies.

4. Description of routine monitoring, inspection, and laboratory testing requirements,
associated QA/QC requirements, and monitoring locations, parameters, and frequency.

5. Description of alternate O&M to prevent undue hazard in the event of system failure.

6. Description of safety procedures and equipment required for operators during normal
operations and in the event of system failure.

7. A records management plan to include operation logs, laboratory results, and maintenance
activities.

8. Reporting procedures to address emergencies.

9. Proposed schedule for submittal of O&M reports to DEQ.

G. CONSTRUCTION COMPLETION REPORT

At the completion of the primary SCM construction, Respondent will prepare a draft Construction
Completion Report for DEQ review and comment. A final Construction Completion Report will be
submitted for DEQ approval addressing DEQ's comments on the draft report. The Construction
Completion Report will include, at a minimum:

1. A detailed description of all work conducted in accordance with the approved final design
plans and specifications.

2. Explanation of any modifications to the approved plans and specifications and why these
modifications were necessary.

3. Final, as-built drawings, if different from final design drawings previously submitted
(100%).

4. Copy of final permits, as applicable.

5. Operation and Maintenance Plan.

H. RECONTAMINATION EVALUATION

The objective of the recontamination evaluation (RE) is to provide a line of evidence to assess the
potential for sediment recontamination associated with stormwater discharges from the site and
assess the effectiveness of best management practices (BMPs) and Stormwater SCMs. A schedule
for submittal of the draft RE Work Plan will be included in the Stormwater SCM Work Plan. The
Recontamination Evaluation will be done in general accordance with EPA's Draft Technical
Memorandum Site Level Recontamination Evaluation Framework. The components of the RE will
include:

Order on Consent No. OPVC-NWR-16-05
Scope of Work
1. Develop Conceptual Model

2. Identify Data Needs

3. Collect Data (if needed)

4. Refine Model

5. Determine if screening level analysis indicates potential for recontamination.


A draft RE Report will be submitted following the implementation of the Stormwater SCMs and after sufficient data has been collected. The objectives, data requirements, monitoring schedule, and draft RE Report submittal schedule will be included in the Stormwater SCM Work Plan. The development of the conceptual model, identification of data needs and data collection steps will be commenced following finalization of the Stormwater SCM Work Plan. Data gathered as part of the RE will be used in the Preliminary Design, Pre-Final Design, and Final Design as necessary.

1. **PROGRESS REPORTS**

Quarterly progress reports will be submitted on or before the 30th working day of the month following the effective date of the Consent Order. The progress reports will detail:

1. Actions performed during the reporting period;

2. Actions scheduled for the upcoming reporting period;

3. Data generated during the reporting period; and

4. Problems experienced and their resolution, to include communications with DEQ regarding problems and solutions.

J. **DISTRIBUTION**

1. Two (2) bound copies and one (1) electronic copy of all reports will be submitted to DEQ.

2. DEQ requests that all copies be duplex printed on recycled paper.

3. Electronic copies of all reports will be submitted to EPA.