

IN THE MATTER OF:)	SETTLEMENT AGREEMENT
)	
Portland Harbor Superfund Site)	U.S. EPA Region 10
Triangle Park Removal Action Area)	CERCLA Docket No. 10-2008-0160
Portland, Multnomah County, Oregon)	
)	
Triangle Park LLC)	
)	
Settling Party)	PROCEEDING UNDER
)	SECTION 122(h)(1) OF CERCLA
)	42 U.S.C. § 9622(h)(1)

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I. JURISDICTION

1. This Administrative Settlement Agreement ("Settlement Agreement") is entered into pursuant to the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9622(h)(1), which authority has been delegated to the Regional Administrators of the EPA by EPA Delegation No. 14-14-D and redelegated to Director of the Office of Environmental Cleanup in Region 10 of EPA by EPA Delegation No. R10 14-14-D. This Settlement Agreement is also entered into pursuant to the authority of the Attorney General of the United States to compromise and settle claims of the United States.

2. This Settlement Agreement is made and entered into by EPA and Triangle Park LLC (the "Settling Party"). The Settling Party consents to and will not contest the authority of the United States to enter into this Settlement Agreement or to implement or enforce its terms.

II. BACKGROUND

3. This Settlement Agreement concerns certain property located in Portland, Multnomah County, Oregon, referred to in this Settlement Agreement as the Triangle Park Site (as defined below), which is situated in the Portland Harbor Site (also as defined below). Settling Party is the current owner of the Triangle Park Site. EPA alleges that the Triangle Park Site is a facility as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

4. The Triangle Park Site, or some portion thereof, has been used for industrial purposes since 1900. Currently, approximately twenty structures remain on the Triangle Park Site. The majority of the historic lumber, manufacturing, and ship building structures have been removed from the Triangle Park Site. A pump-station is located on the southern-most corner of the Triangle Park Site, and the below-ground pipeline passes along the full southeast width of the Triangle Park Site. Substances detected in soils at the Triangle Park Site include, but are not limited to: polychlorinated biphenyls (PCBs); total petroleum hydrocarbons (TPH); volatile organic compounds (VOCs), including naphthalene, xylenes, alkyl-substituted aromatics, methylene chloride and PCE; both carcinogenic and non-carcinogenic polycyclic aromatic hydrocarbons (PAHs); antimony; arsenic; cadmium; lead; chromium; nickel; copper; and zinc. Substances detected in groundwater at the Triangle Park Site include, but are not limited to: TPH; PAHs; VOCs, including chlorinated solvents, BTEX, 1,1-DCA, 1,1,1-TCA, PCE, 1,2, DCPA, c-1,2-DCE, VC, chloromethane, benzene, and toluene; antimony; arsenic; beryllium; chromium; copper; lead; nickel; and zinc. Substances detected in the river sediments

include, but are not limited to: tributyl tin; arsenic, and PCBs. These substances are "hazardous substances" within the meaning of CERCLA.

5. According to the Settling Party, it uses the moorage facilities within the DSL Leased Property, defined below, to moor barges and other vessels.

6. The Settling Party has spent over \$60,000 to investigate the Triangle Park Site prior to its purchase, and has since paid \$50,000 for sediment investigation in the Portland Harbor. The Settling Party has also committed to spend an additional \$750,000 of its own funds for investigation and remediation of the Triangle Park Site pursuant to a Prospective Purchaser Agreement with Oregon DEQ, and has already spent over \$600,000 of that amount for those purposes.

7. Hazardous substances have been or are threatened to be released at or from the Triangle Park Site.

8. On December 21, 2006, EPA entered into a Bona Fide Prospective Purchaser Agreement and Order on Consent for Removal Action (Docket No. CERCLA-10-2007-0027) ("BFPP Agreement") with the University of Portland ("the University") with respect to the University's planned acquisition of the Triangle Park Site (less and except the DSL Lease and the DSL Leased Property, both as defined below) pursuant to an Agreement for Purchase and Sale of Real Property ("the Original Purchase Agreement") dated August 5, 2005, between the University, as buyer, and the Settling Party, as seller. The Original Purchase Agreement provided that, following closing, the Settling Party would retain the DSL Lease together with an easement across the Triangle Park Site so that it could access and continue the use of its moorage facilities within the DSL Leased Property.

9. As of the Effective Date (as defined below) of this Settlement Agreement, the University and Triangle Park have entered into an Amended and Restated Agreement for the Purchase and Sale of Real Property ("APSA") for the purchase and sale of the Triangle Park Site (less and except the DSL Lease and the DSL Leased Property, both as defined below), which provides among other things, that upon the consummation of such purchase and sale, Triangle Park relinquishes its right to such easement on the Triangle Park Site.

10. The Settling Party contends that its relinquishment of its easement rights provides a substantial environmental benefit as it creates the opportunity for accelerated and early restoration of the Triangle Park Site's shoreline and natural resource damages redress actions associated therewith.

11. According to the University's BFPP Agreement, the University "plans to facilitate a CERCLA early action for the sediments within the embayment" within the

DSL Leased Property and “[t]he City of Portland has expressed interest in pursuing this early action to be followed by a habitat restoration to benefit juvenile salmonids.” The Settling Party agrees to cooperate with EPA in providing access to the DSL Leased Property in connection with any future EPA approved remedial activities or Natural Resources Trustee approved restoration activities.

12. In response to the release or threatened release of hazardous substances at or from the Triangle Park Site, EPA undertook response actions at the Triangle Park Site pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604, and will undertake additional response actions in the future.

13. In performing response actions at the Triangle Park Site, EPA has incurred response costs and will incur additional response costs in the future.

14. EPA alleges that the Settling Party is a responsible party pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and is jointly and severally liable for response costs incurred and to be incurred at the Triangle Park Site.

15. EPA and the Settling Party recognize that this Settlement Agreement has been negotiated in good faith and that this Settlement Agreement is entered into without the admission or adjudication of any issue of fact or law. The actions undertaken by the Settling Party in accordance with this Settlement Agreement do not constitute an admission of any liability by the Settling Party. The Settling Party does not admit, and retains the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Settlement Agreement, the validity of the facts or allegations contained in this Section.

III. PARTIES BOUND

16. This Settlement Agreement shall be binding upon EPA and upon the Settling Party and its successors and assigns. Any change in ownership or corporate or other legal status of the Settling Party, including but not limited to any transfer of assets or real or personal property, shall in no way alter the Settling Party's responsibilities under this Settlement Agreement. Each signatory to this Settlement Agreement certifies that he or she is authorized to enter into the terms and conditions of this Settlement Agreement and to bind legally the party represented by him or her.

IV. STATEMENT OF PURPOSE

17. By entering into this Settlement Agreement, the mutual objective of the Parties is to avoid difficult and prolonged litigation by allowing the Settling Party to make a cash payment to address its alleged civil liability under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607, with regard to the Triangle Park Site as provided

in the Covenant Not to Sue by EPA in Section VIII, subject to the Reservations of Rights by EPA in Section IX.

V. DEFINITIONS

18. Unless otherwise expressly provided herein, terms used in this Settlement Agreement that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meanings assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Settlement Agreement or in any appendix attached hereto, the following definitions shall apply:

a. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601, *et seq.*

b. "Day" shall mean a calendar day. In computing any period of time under this Settlement Agreement, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the next day that is not a Saturday, Sunday, or federal holiday.

c. "DSL Lease" shall mean that certain Submerged and Submersible Land Lease ML-15335 APP#10148. See Appendix A.

d. "DSL Leased Property" shall mean the submerged and submersible lands leased pursuant to the DSL Lease as more particularly described therein. See Appendix A.

e. "EPA" shall mean the United States Environmental Protection Agency and any successor departments, agencies, or instrumentalities of the United States.

f. "Effective Date" shall mean the effective date of this Settlement Agreement as provided in Section XVIII.

g. "Existing Contamination" shall mean:

i. any hazardous substances, pollutants or contaminants present or existing on or under the Triangle Park Site as of the Effective Date;

ii. any hazardous substances, pollutants or contaminants that migrated from the Triangle Park Site prior to the Effective Date;

iii. any hazardous substances, pollutants or contaminants presently at the Triangle Park Site that migrate under or from the Triangle Park Site after the Effective Date.

h. "Interest" shall mean interest at the rate specified for interest on investments of the Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

i. "Paragraph" shall mean a portion of this Settlement Agreement identified by an Arabic numeral or a lower case letter.

j. "Parties" shall mean EPA, and the Settling Party.

k. "Portland Harbor Site" shall mean the Portland Harbor Superfund Site, in Portland, Multnomah County, Oregon, listed on the National Priorities List (NPL) on December 1, 2000. 65 Fed. Reg. 75179-01. The Portland Harbor Site consists of the areal extent of contamination, including all suitable areas in proximity to the contamination necessary for implementation of response action, at, from and to the Portland Harbor Superfund Site Assessment Area from approximately River Mile 2 to River Mile 12 (Assessment Area), including upland portions of the Portland Harbor Site that contain sources of contamination to the sediments at, on or within the Willamette River.

l. "RCRA" shall mean the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901, *et seq.* (also known as the Resource Conservation and Recovery Act).

m. "Section" shall mean a portion of this Settlement Agreement identified by a Roman numeral.

n. "Settlement Agreement" shall mean this Administrative Settlement Agreement and any attached appendices. In the event of conflict between this Settlement Agreement and any appendix, the Settlement Agreement shall control.

o. "Settling Party" shall mean Triangle Park LLC.

p. "United States" shall mean the United States of America, including its departments, agencies, and instrumentalities.

q. "Triangle Park Removal Action Area Trust Fund" shall mean that fund created to receive funds that will be used to address contamination at the Triangle Park Site and originally referenced in the BFPP Agreement.

r. "Triangle Park Site" shall mean the land located at 5828 North Van Houten Place, Portland, Oregon, encompassing approximately 35 acres and depicted in

Appendices B and C, and generally described in Appendix A hereto together with the Settling Party's leasehold interest in the DSL Leased Property pursuant to the DSL Lease.

VI. PAYMENT OF RESPONSE COSTS AND OTHER OBLIGATIONS

19. The Triangle Park Site (less and except Settling Party's interest in the DSL Lease and the DSL Leased Property) is now the subject of the APSA dated September 16, 2008, between the Settling Party, as seller, and the University, as buyer. Upon the closing of such purchase and sale, within thirty (30) days following such closing, the Settling Party shall pay One Million Two Hundred Thousand Dollars (\$1,200,000.00) as described more particularly below. In the event that such purchase and sale does not close escrow by December 18, 2008, this Settlement Agreement may be extended in writing signed by all Parties.

20. Payment shall be made to the Triangle Park Removal Action Area Trust Account to be established in accordance with Section XVI and XVIII of the BFPP Agreement. Payment shall be made in accordance with instructions to be provided to the Settling Party by EPA.

21. At the time of payment, the Settling Party shall also send notice that payment has been made in accordance with Section XV (Notices and Submissions). Such notice shall reference the EPA Region and site/spill ID # 10EC and the EPA docket number for this action.

22. Settling Party is not obligated to perform any in-water removal or remedial action, including sediment removal, under this Settlement Agreement. Settling Party must, however, cooperate with the party or parties that conduct work, including, but not limited to, investigation and cleanup work, in the sediment as part of the Portland Harbor Site CERCLA response action in accordance with Section XII.

VII. FAILURE TO COMPLY WITH SETTLEMENT AGREEMENT

23. Interest on Late Payments. If the Settling Party fails to make any part of the payment required by Paragraph 19 by the required due date, Interest shall accrue on the unpaid balance from the due date through the date of payment.

24. Stipulated Penalty.

a. If the Settling Party fails to make the payment required by Paragraph 19 by the required due date, the Settling Party shall be in violation of this Settlement Agreement and shall pay to EPA, as a stipulated penalty, in addition to the Interest required by Paragraph 23, \$10,000 per day that such payment is late.

b. If the Settling Party fails to provide access, due care and cooperation, as required by Paragraph 22 and Section XII, the Settling Party shall be in violation of this Settlement Agreement, and shall pay to EPA, as a stipulated penalty, \$10,000 per violation per day that such obligation is not met.

c. Stipulated penalties are due and payable within thirty (30) days of the date of demand for payment of the penalties by EPA. All payments to EPA under this Paragraph shall be identified as "stipulated penalties" and shall be made by certified or cashier's check made payable to "EPA Hazardous Substance Superfund." The check, or a letter accompanying the check, shall identify the name and address of the party making payment, the site name, the EPA Region and site/spill ID # 10EC, and the EPA docket number for this action, and shall be sent to:

U.S. Environmental Protection Agency
Superfund Payments
Cincinnati Finance Center
P.O. Box 979076
St. Louis, MO 63197-9000

d. At the time of each payment, the Settling Party shall also send notice that payment has been made to EPA in accordance with Section XV (Notices and Submissions). Such notice shall identify the EPA Region and site/spill ID # 10EC and the EPA Docket Number for this action.

e. Penalties shall accrue as provided above regardless of whether EPA has notified the Settling Party of the violation or made a demand for payment, but need only be paid upon demand. All penalties shall begin to accrue on the day after payment is due and shall continue to accrue through the date of payment. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Settlement Agreement.

25. In addition to the Interest and Stipulated Penalty payments required by this Section and any other remedies or sanctions available to the United States by virtue of the Settling Party's failure to comply with the requirements of this Settlement Agreement, if the Settling Party fails or refuses to comply with any term or condition of this Settlement Agreement, then it shall be subject to enforcement action pursuant to Section 122(h)(3) of CERCLA, 42 U.S.C. § 9622(h)(3). If the United States brings an action to enforce this Settlement Agreement, then the Settling Party shall reimburse the United States for all costs of such action, including but not limited to costs of attorney time.

26. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive payment of any portion of the stipulated penalties that

have accrued pursuant to this Settlement Agreement. The Settling Party's payment of stipulated penalties shall not excuse the Settling Party from payment as required by Section VI or from performance of any other requirements of this Settlement Agreement.

VIII. COVENANT NOT TO SUE BY EPA

27. **Covenant Not to Sue by EPA.** In consideration of the payments that will be made and the obligations that will be performed by the Settling Party under the terms of this Settlement Agreement, and except as specifically provided in Section IX (Reservations of Rights by EPA), EPA covenants not to sue or to take administrative action against the Settling Party pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), with regard to the Existing Contamination. With respect to present and future liability, this covenant shall take effect upon payment by Settling Party of all amounts required by Section VI (Payment of Response Costs and Other Obligations) and any amount due under Section VII (Failure to Comply with Settlement Agreement). This covenant not to sue is conditioned upon the satisfactory performance by the Settling Party of its obligations under this Settlement Agreement. This covenant not to sue extends only to Settling Party and does not extend to any other person.

IX. RESERVATIONS OF RIGHTS BY EPA

28. EPA reserves, and this Settlement Agreement is without prejudice to, all rights against the Settling Party with respect to all matters not expressly included within the Covenant Not to Sue by EPA in Paragraph 27. Notwithstanding any other provision of this Settlement Agreement, EPA reserves all rights against the Settling Party with respect to:

- a. liability for failure of Settling Party to meet a requirement of this Settlement Agreement;
- b. criminal liability;
- c. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;
- d. liability, based upon the Settling Party's transportation, treatment, storage, or disposal, or the arrangement for the transportation, treatment, storage, or disposal, of a hazardous substance or a solid waste at or in connection with the Triangle Park Site, after signature of this Settlement Agreement by the Settling Party;

e. liability arising from the past, present, or future disposal, release or threat of release of a hazardous substance, pollutant, or contaminant outside of the Triangle Park Site and not within the definition of Existing Contamination.

f. liability resulting from the release or threat of release of oil, hazardous substances, pollutants or contaminants at or in connection with the Triangle Park Site after the Effective Date and not within the definition of Existing Contamination.

g. liability resulting from exacerbation of Existing Contamination by Settling Party, its successors, assigns, lessees or sublessees.

29. With respect to any claim or cause of action asserted by the United States, Settling Party shall bear the burden of proving that the claim or cause of action, or any part thereof, is attributable solely to Existing Contamination.

30. Notwithstanding any other provision of this Settlement Agreement, EPA reserves, and this Settlement Agreement is without prejudice to, the right to reinstate or reopen this action, or to commence a new action seeking relief other than as provided in this Settlement Agreement, if the information provided to EPA by Settling Party, or the certification made by Settling Party in Section XIV, is false, or, in any material respect, inaccurate.

31. Nothing in this Settlement Agreement is intended to be nor shall it be construed as a release, covenant not to sue, or compromise of any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which EPA may have against any person, firm, corporation or other entity not a signatory to this Settlement Agreement.

X. COVENANT NOT TO SUE BY THE SETTLING PARTY

32. The Settling Party covenants not to sue and agrees not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Existing Contamination or this Settlement Agreement, including but not limited to:

a. any direct or indirect claim for reimbursement from the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

b. any claims arising out of response actions at or in connection with Existing Contamination, including any claim under the United States Constitution, the

Oregon Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law; and

c. any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to Existing Contamination.

Except as provided in Paragraph 34 (Waiver of Claims) and Paragraph 37 (Waiver of Claim-Splitting Defenses), these covenants not to sue shall not apply in the event the United States brings a cause of action or issues an order pursuant to the reservations set forth in Paragraph 27(c) - (e), but only to the extent that the Settling Party's claims arise from the same response action or response costs that the United States is seeking pursuant to the applicable reservation.

33. Nothing in this Settlement Agreement shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. 300.700(d).

34. The Settling Party agrees not to assert any claims or causes of action that it may have for all matters relating to Existing Contamination, including for contribution, against any other person who is a PRP at the Portland Harbor Site. This waiver shall not apply with respect to any defense, claim, or cause of action that the Settling Party may have against any person if such person asserts a claim or cause of action relating to Existing Contamination against such Settling Party.

XI. EFFECT OF SETTLEMENT/CONTRIBUTION

35. Except as provided in Paragraph 34, nothing in this Settlement Agreement shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Settlement Agreement. EPA reserves any and all rights (including, but not limited to, any right to contribution), defenses, claims, demands, and causes of action that it may have with respect to any matter, transaction, or occurrence relating in any way to Existing Contamination against any person not a Party hereto. Nothing in this Settlement Agreement diminishes the right of the United States, pursuant to Section 113(f)(2) and (3) of CERCLA, 42 U.S.C. § 9613(f)(2)-(3), to pursue any such persons to obtain additional response costs or response action and to enter into settlements that give rise to contribution protection pursuant to Section 113(f)(2).

36. The Parties agree that this Settlement Agreement constitutes an administrative settlement for purposes of Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), and that Settling Party is entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), or as may be otherwise provided by law, for "matters addressed" in this Settlement Agreement. The "matters addressed" in

this Settlement Agreement are all response actions taken or to be taken and all response costs incurred and to be incurred, at or in connection with the Existing Contamination, by United States or any other person. The "matters addressed" in this Settlement Agreement do not include those response costs or response actions as to which EPA has reserved its rights under this Settlement Agreement (except for claims for failure to comply with this Settlement Agreement), in the event that EPA asserts rights against Settling Party coming within the scope of such reservations. In the event that Settling Party's waiver of claims becomes inapplicable in accordance with Paragraph 33, the Parties further agree that this Settlement Agreement constitutes an administrative settlement pursuant to which Settling Party has resolved its liability to the United States, as of the Effective Date, for purposes of Section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B), for "matters addressed" as defined above.

37. In any subsequent administrative or judicial proceeding initiated by EPA, or the United States on behalf of EPA, for injunctive relief, recovery of response costs, or other relief relating to the Triangle Park Site, the Settling Party shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, *res judicata*, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by EPA, or the United States on behalf of EPA, in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the Covenant Not to Sue by EPA set forth in Section VIII.

XII. SITE ACCESS, DUE CARE AND COOPERATION

38. Commencing upon the effective date of this Settlement Agreement, Settling Party agrees to provide EPA and its representatives and contractors access at all reasonable times to the Triangle Park Site, to the extent that it is owned or controlled by Settling Party, and to any other property owned or controlled by Settling Party to which access is determined by EPA to be required for the implementation of this Settlement Agreement, or for the purpose of conducting any response activity related to the Triangle Park Site, including but not limited to:

- a. Monitoring, investigation, removal, remedial or other activities at the Triangle Park Site;
- b. Verifying any data or information submitted to EPA;
- c. Conducting investigations relating to contamination at or near the Triangle Park Site;
- d. Obtaining samples; and

e. Assessing the need for, planning, or implementing response actions at or near the Triangle Park Site.

The Settling Party's obligation to provide access to the DSL Leased Property shall terminate upon termination of the DSL Lease.

39. Except in the case of emergency situations or other circumstances requiring immediate response, EPA agrees to make best efforts or request that the party performing the work make best efforts to provide notice to the Settling Party of the timing of any work to be undertaken on the DSL Leased Property. In the event that any work to be undertaken on the DSL Leased Property will require the movement of barges or other vessels, EPA or the party performing the work will endeavor to provide the Settling Party such notice thirty (30) days in advance of such work.

40. Settling Party shall exercise due care at the Triangle Park Site with respect to the Existing Contamination and shall comply with all applicable local, State, and federal laws and regulations. The Settling Party recognizes that the implementation of response actions at the Triangle Park Site and the Portland Harbor Site may interfere with the Settling Party's use of the DSL Leased Property, and may require temporary relocation of its operations or a part thereof. The Settling Party agrees to cooperate fully with EPA in the implementation of response actions at the Triangle Park Site and the Portland Harbor Site and further agrees not to interfere with such response actions. EPA agrees, consistent with its responsibilities under applicable law, to use reasonable efforts to minimize any interference with the Settling Party's operations by such entry and response. In the event that the Settling Party becomes aware of any action or occurrence that causes or threatens a release of hazardous substances, pollutants or contaminants at or from the DSL Leased Property that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Settling Party shall immediately take all appropriate action to prevent, abate, or minimize such release or threat of release, and shall, in addition to complying with any applicable notification requirements under Section 103 of CERCLA, 42 U.S.C. § 9603, or any law, immediately notify EPA of such release or threatened release.

41. Notwithstanding any provision of this Settlement Agreement, EPA retains all of its access authorities and rights, including enforcement authorities related thereto, under CERCLA, RCRA, and any other applicable statutes and regulations.

XIII. RETENTION OF RECORDS

42. Until ten (10) years after the effective date of this Agreement, Settling Party shall preserve and retain all records, reports, or information (hereinafter referred to as "records") now in its possession or control, or which come into its possession or control, that relate in any manner to response actions taken at the Triangle Park Site or to the

liability of any person for response actions or response costs at or in connection with the Triangle Park Site, regardless of any corporate retention policy to the contrary.

43. After the conclusion of the document retention period in the preceding Paragraph, Settling Party shall notify EPA at least ninety (90) days prior to the destruction of any such record, and, upon request by EPA, Settling Party shall deliver such records to EPA. Settling Party may assert that certain records are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Settling Party asserts such a privilege, they shall provide EPA with the following: 1) the title of the record; 2) the date of the record; 3) the name, title, affiliation (*e.g.*, company or firm), and address of the author of the record; 4) the name and title of each addressee and recipient; 5) a description of the subject of the record; and 6) the privilege asserted. If a claim of privilege applies only to a portion of a record, the record shall be provided to EPA in redacted form to mask the privileged portion only. Settling Party shall retain all records that they claim to be privileged until EPA has had a reasonable opportunity to dispute the privilege claim and any such dispute has been resolved in the Settling Party's favor. However, no records created or generated pursuant to the requirements of this or any other settlement with the EPA pertaining to the Triangle Park Site shall be withheld on the grounds that they are privileged.

XIV. CERTIFICATION

44. The Settling Party hereby certifies that, to the best of its knowledge and belief, after thorough inquiry, it has:

a. not altered, mutilated, discarded, destroyed or otherwise disposed of any records, reports, or information relating to its potential liability regarding the Triangle Park Site or the Portland Harbor Site, since notification of potential liability by the United States or the State or the filing of a suit against it regarding the Triangle Park Site or the Portland Harbor Site and that it has fully complied with any and all EPA requests for information regarding the Triangle Park Site or the Portland Harbor Site pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927.

b. fully and accurately disclosed to EPA all information known to Settling Party and all information in the possession or control of its officers, directors, employees, contractors, and agents which relates in any way to the contamination at the Triangle Park Site or the Portland Harbor Site or any past or potential future release of hazardous substances, pollutants or contaminants at or from the Triangle Park Site or the Portland Harbor Site; and

c. not caused or contributed to a release or threat of release of hazardous substances or pollutants or contaminants from any other property or facility outside the Triangle Park Site and within the Portland Harbor Site.

XV. NOTICES AND SUBMISSIONS

45. Whenever, under the terms of this Agreement, notice is required to be given or a document is required to be sent by one Party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Party in writing. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of this Agreement with respect to EPA and the Settling Party.

As to EPA:

Jennifer G. MacDonald
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue
Seattle, WA 98101

As to the Settling Party:

Kathryn Silva
3121 SW Moody Avenue
Portland, OR 97201

With a copy to:

Tom Lindley
Perkins Coie LLP
1120 NW Couch St.
Tenth Floor
Portland, OR 97209

XVI. INTEGRATION/APPENDICES

46. This Agreement and its appendices constitute the final, complete and exclusive Agreement and understanding among the Parties with respect to the settlement

embodied in this Agreement. The Parties acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those expressly contained in this Agreement. The following appendices are attached to and incorporated into this Agreement:

Appendix A is the DSL Lease.

Appendices B and C are maps generally depicting the Triangle Park Site.

XVII. PUBLIC COMMENT

47. This Agreement shall be subject to a public comment period of not less than thirty (30) days pursuant to Section 122(i) of CERCLA, 42 U.S.C. § 9622(i). In accordance with Section 122(i)(3) of CERCLA, the United States may modify or withdraw its consent to this Agreement if comments received disclose facts or considerations which indicate that this Agreement is inappropriate, improper, or inadequate.

XVIII. EFFECTIVE DATE

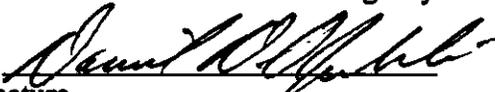
48. The effective date of this Agreement shall be the date upon which EPA issues written notice that the public comment period pursuant to Paragraph 47 has closed and that comments received, if any, do not require modification of or withdrawal by the United States from this Agreement.

IT IS SO AGREED:

Triangle Park LLC
By: 
Signature
JAY Zidell
Print Name
President
Title

9/25/08
Date

U.S. Environmental Protection Agency

By: 
Signature

9/29/08
Date

Daniel D. Opalski
Director
Office of Environmental Cleanup

U.S. Environmental Protection Agency

By: 
Signature

9/29/08
Date

Jennifer G. MacDonald
Assistant Regional Counsel

U.S. Department of Justice

By: 
Signature

20 October 2008
Date

Ronald J. Tenpas
Assistant Attorney General
Environmental and Natural Resources Division
U.S. Department of Justice
Washington, DC 20530

**STATE OF OREGON
DIVISION OF STATE LANDS
SUBMERGED AND SUBMERSIBLE LAND LEASE
COMMERCIAL AND INDUSTRIAL**

ML-15335
APP#10148

The Oregon State Land Board and the Division of State Lands (STATE) hereby lease to the person(s) herein named (LESSEE), the following described lands on the terms and conditions stated herein, to wit:

NAME of LESSEE:
Triangle Park LLC
ATTN: Steve Shain

ADDRESS:
3121 SW Moody Avenue
Portland OR 97201

Legal classification of LESSEE is a Limited Liability Company."

Land situated in Multnomah County more fully described as follows:

STATE, for the consideration and upon the terms and conditions herein mentioned, does hereby lease to the LESSEE the following property:

8.31 acres of submerged and submersible lands fronting Tax Lot 100, Section 18, Township 1 North, Range 1 East, Willamette Meridian, and as shown on the attached sketch marked Exhibit "A".

Located at Willamette River mile 7.5, Multnomah County, Oregon.

Total number of acres: 8.31 acres more or less, (3.74 use area).

Hereinafter referred to as "leasehold".

SECTION 1 - LEASE TERM AND RENEWAL

- 1.1 **Term:** This Lease shall continue for a period of 15 years commencing on June 1, 1999 the month and date of which shall be known as the LEASE ANNIVERSARY DATE, and expiring on May 31, 2014, the month and date of which shall be known as the LEASE EXPIRATION DATE.
- 1.2 **Renewal:** LESSEE shall have an option to renew this Lease for an additional period of 15 years after the original and each renewal lease term provided that LESSEE has submitted a completed lease renewal application form to the STATE not less than one hundred and eighty (180) days prior to LEASE EXPIRATION DATE. Upon receipt of such application, this Lease shall be renewed by the STATE unless:

ML-15335
Page 1 of 15

APPENDIX A

- 1.2.1 The STATE determines, in its sole discretion, that the LESSEE has not complied with the terms of this Lease, any applicable statutes, rules, ordinances, or permits, or any orders or directives of appropriate governmental agencies now in effect or subsequently issued or enacted; or
- 1.2.2 The LESSEE is no longer the preference right holder as defined by applicable state law, or
- 1.2.3 The STATE determines that the renewal of this Lease for all or portions of the leasehold would be contrary to local, state, or federal law, or would be inconsistent with the policies set forth in OAR 141-082-0010.

1.3 STATE shall provide LESSEE two (2) years advance written notice of its intent to not renew this Lease for all or portions of the leasehold pursuant to the provisions of this Section. In the event that the STATE determines not to renew this Lease, but less than two (2) years remain in the Lease term, the STATE shall utilize the holdover provisions (Section 7.11) of this Lease to complete the two (2) year notice period and to allow the LESSEE sufficient time to vacate the authorized area and to relocate any sublessees in an orderly fashion.

SECTION 2 - AUTHORIZED USES

2.1 Purpose: This Lease shall grant the LESSEE the right to use the above described land for the specific purpose(s) described below in accordance with these LEASE TERMS and CONDITIONS, applicable local (including local comprehensive land use planning and zoning ordinances), state and federal laws and the applicable Oregon Administrative Rules.

Marine Industrial/Marine Service

SECTION 3 - ANNUAL LEASE RENTAL PAYMENT CALCULATION AND ADJUSTMENTS

3.1 Annual Lease Rental Payment: The Lease rental payment to be paid by LESSEE to STATE shall be \$7,477.00 for the first year of the Lease as provided in Section 3.1.1 based on the Riparian Land Value as shown below. Receipt of the first year's Lease rental payment is hereby acknowledged.

3.1.1 The initial annual Lease rent payment shall be calculated as follows:

Use Class	Area (square ft.)	Rate Choice	Annual Rent
Marine Industrial	99,027 square feet	Riparian Land	\$7,477.00
Marine Service		Value	
		TOTAL	\$7,477.00

- 3.2 **Annual Lease Rental Payment Adjustment:** The annual lease rental payment shall be adjusted annually in accordance with the provisions of the Oregon Administrative Rule in effect at the time. The second and third year's rent shall be in accordance with OAR 141-082-0100. Each payment shall be due on the Lease Anniversary Date as shown in Section 1.1.

SECTION 4 - MODIFICATION OF LEASEHOLD AREA OR USE

- 4.1 **Modification of Leasehold Area or Use:** LESSEE may request that the STATE expand or reduce the size, or change the use of the leasehold using a form provided by the STATE. However, no such change shall occur unless authorized in writing by the STATE.
- 4.1.1 The STATE may amend this Lease to reduce the leasehold area as requested if the portion of the leasehold is not in use, or does not contain any leasable structures. Structures and improvements within the vacated leasehold area shall be treated as in Section 9.3. If the modification results in a reduction of rental(s) due hereunder, such reduction shall become effective commencing on the first (1st) full year after the later of: (1) the date of the change of area or use, or (2) the date of the issuance of the STATE's written approval.
- 4.1.2 Requests to change an authorized use, or increase the leasehold shall be processed and reviewed in the same manner as a new lease application.

SECTION 5 - RESERVATIONS AND RESTRICTIONS

- 5.1 **Compliance:** The STATE shall have access to the leasehold at all reasonable times for the purpose of evaluating and ensuring compliance with the terms and conditions of this Lease. The State shall have the right to examine pertinent records of LESSEE for the purpose of ensuring compliance with the Lease.
- 5.2 **Reservations:** The STATE reserves:
- 5.2.1 The right to lease and dispose of all coal, oil, gas, geothermal resources and other minerals, and all deposits of clay, stone, gravel and sand valuable for building, mining, or commercial purposes together with the right to explore, mine, develop, produce and remove such minerals and other deposits with the right of ingress and egress thereto, and to terminate this Lease as to all or any portion of the leasehold when required for these purposes with one hundred twenty (120) days prior written notice to LESSEE or as otherwise provided in law.

5.2.2 The right to enter in and upon the leasehold at any time for purposes of inspection or management.

5.2.3 The right at any time to grant easements across the premises for tunnels, telephone and fiber optic cable lines, pipelines, power lines, or other lawful purpose, with right of ingress and egress thereto. The STATE shall include in any such grant of easement a requirement that the easement holder take all reasonable precautions to ensure that exercise of their easement rights does not unreasonably interfere with LESSEE's use(s) authorized in the Lease.

5.2.4 All rights not expressly granted to LESSEE are reserved by the STATE.

5.3 **Public Access and Recreational Use Reservation:** All state-owned submerged and submersible land shall remain available and open to the public for commerce, navigation, fishing and recreation unless restricted or closed by the STATE to public entry pursuant to the provisions of applicable Oregon Administrative Rules. LESSEE may request the STATE to close the leasehold to public entry or restrict recreational use by the public on all or portions of the leasehold to protect persons or property from harm arising from or in connection with the LESSEE's activities.

This reservation shall not grant the public any right to use or occupy LESSEE-owned property or structures authorized under this lease without LESSEE's permission.

5.4 **Restriction on Use:** In connection with use of the leasehold, the LESSEE shall:

5.4.1 Comply with all applicable local, state and federal laws, regulations, ordinances, and permits, and with all orders and directives of appropriate governmental agencies now in effect or subsequently issued or enacted, including local comprehensive land use planning and zoning ordinances, and correct at LESSEE own expense any failure of compliance created through the LESSEE fault or by reason of any operation or activities conducted or allowed by LESSEE;

5.4.2 Dispose of all waste in a proper manner and not allow debris, garbage or other refuse to accumulate within the leasehold. If LESSEE allows debris, garbage or other refuse to accumulate within the leasehold, the STATE shall have the right to remove the debris, garbage and other refuse, and collect the cost of such removal from LESSEE;

5.4.3 Not cut, destroy or remove, or permit to be cut, destroyed or removed, any vegetation that may be upon the leasehold except with written permission of the STATE. The LESSEE shall promptly

report to the STATE the cutting or removal of vegetation by other persons;

5.4.4 Conduct all operations within the leasehold in a manner which conserves fish and wildlife habitat, protects water quality, and does not contribute to soil erosion or growth of noxious weeds;

5.4.5 Maintain all buildings, docks, pilings, floats, gangways, similar structures, and other improvements located within the leasehold in a good state of repair; and

5.4.6 Not unreasonably interfere with the public's trust rights of commerce, navigation, fishing or recreation.

5.5 **Waste Water Disposal:** In addition to any other applicable laws and regulations, LESSEE shall comply with Oregon Department of Environmental Quality and Oregon State Marine Board requirements for sewage collection and disposal for on-water boat and floating structures.

5.6 **Hazardous Materials:** LESSEE shall not use, store, or dispose of, or allow the use, storage, or disposal of any material that may pose a threat to human health or the environment, including without limitation, hazardous substances, pesticides, herbicides, or petroleum products except in strict compliance with applicable laws, regulations and manufacturer's instructions and shall take all necessary precautions to protect human health and the environment, and to prevent discharge or release of any hazardous substance or material to the environment from the leasehold. LESSEE shall keep and maintain accurate and complete records of the amount of such substances and materials stored and used on the leasehold, and shall immediately notify STATE of any release or threatened release of such substances to the environment from the leasehold or otherwise attributable to operations or activities on the leasehold. LESSEE shall not dispose of or allow the disposal of waste products or hazardous substances or materials on the leasehold. The STATE shall have the right to remove and remediate any release of hazardous substances on the leasehold or attributable to operations or activities conducted or allowed by LESSEE on the leasehold and to collect the cost of such removal or remediation from LESSEE.

SECTION 6 - REQUIREMENTS

6.1 **Assignment and Sublease:** Except as noted in Section 6.2, the LESSEE may not assign or sublease nor enter into any third party agreement without first obtaining the prior written consent of the STATE pursuant to the requirements of the applicable Oregon Administrative Rules. Requests must be received by the STATE, in writing at least thirty (30) calendar days prior to the effective date of sublease or assignment. The STATE shall make a good faith effort to complete its review of such applications within thirty (30) days. If the application is incomplete, or if the STATE requests additional information concerning the proposed assignment or sublease, the time period for reviewing applications shall be extended. The STATE reserves the right to condition its consent as it

deems reasonably prudent, including the right to require changes to the terms of this Lease. Each assignee, sublessee, and third party interest shall be required to comply with all of LESSEE's obligations under this Lease, and the applicable Oregon Administrative Rules. LESSEE shall remain liable for the performance of the obligations under this Lease unless the STATE's written consent expressly releases LESSEE from further liability hereunder. For the purposes of this section, if LESSEE is a corporation or partnership, the transfer of any corporate stock or partnership interest (including by operation of law) shall be deemed an assignment subject to the provisions of this Section if the result of said transfer shall be the change of management control or controlling interest of LESSEE.

6.1.1 LESSEE may not grant a mortgage or security interest in this Lease without prior written consent of the STATE which shall not be unreasonably withheld. Any subsequent assignment by the creditor or civil recovery shall require the prior written approval of the STATE.

6.2 Permitted Assignments and Subleases: Notwithstanding the provisions of Section 6.1 of this Lease, the following assignments, mortgages and security interests, and subleases of the LESSEE's interest in the Leased Premises shall be allowed without further STATE approval:

- 6.2.1 Subleases of portions of the LESSEE's interest in the leasehold area, in the ordinary course of LESSEE's business for the purposes approved under this Lease as specified in Section 2.1.
- 6.2.2 Subleases of the entire leasehold for a term that is less than one year for the purpose specified in Section 2.1.
- 6.2.3 The transfer or ownership of the Lease caused by the death of the LESSEE shall be considered an assignment requiring the STATE's approval. However, a transfer of ownership to a spouse or immediate family member is an assignment that does not require the STATE's prior approval.

6.3 Condition of Premises and Improvements: The leasehold area has been inspected and is accepted in its present condition, and LESSEE takes the leasehold and improvements, if any, AS IS. The STATE has made no oral representations concerning the condition of the leasehold, nor its fitness or suitability for any purpose.

6.4 Liability: LESSEE agrees to defend, indemnify and hold STATE harmless from and against all claims, demands, actions, suits, judgments, losses, damages, penalties, fines, costs, and expenses (including expert witness fees and costs and attorneys fees in an administrative proceeding, at trial, or on appeal) arising from or attributable, in whole or in part, to the Lease or any operations conducted or allowed by LESSEE on the leasehold. As used herein, "State" means the State of Oregon and its commissions, agencies, officers, employees, contractors, and agents.

- 6.5 **Assessments:** LESSEE shall pay all taxes and/or assessments that may be legally charged on public lands or related improvements which are levied against the property subject to this Lease, whether or not such taxes and/or assessments have been levied against the leasehold or STATE by the assessing agency.
- 6.6 **Bond:** The STATE reserves the right to require the LESSEE to furnish to the STATE a surety bond or an equivalent cash deposit or certificate of deposit which names the State of Oregon as co-owner to ensure that the LESSEE will perform in accordance with all terms and conditions of the Lease.

SECTION 7 - MISCELLANEOUS

- 7.1 **No Partnership:** The STATE is not a partner nor in a joint venture with LESSEE in connection with the business carried on under this Lease and shall have no obligation with respect to LESSEE's debts or other liabilities.
- 7.2 **Non-Waiver:** Waiver by either party of strict performance or any provisions of this Lease shall not be a waiver nor prejudice the party's right to require strict performance of the same provision in the future or of any other provision.
- 7.3 **Binding Interest:** This Lease shall be binding upon and inure to the benefit of the parties, and the respective heirs, administrators, successors, and assigns of the parties hereto.
- 7.4 **Notices:** Any official STATE notice required under this Lease shall be sent by certified mail and shall expressly be deemed to be delivered after the certified letter is mailed to the address given by the LESSEE in the signature block of this Lease or as shown on the most recent written notice of record with this Lease. LESSEE shall provide the STATE with a written notice of any change of address, change in corporation/partnership/ownership, or change in person(s) authorized to represent the LESSEE. The STATE shall provide written acknowledgment of such LESSEE written notices and retain copies of both the LESSEE notice(s) and STATE acknowledgment(s) with this Lease. LESSEE's failure to receive such written acknowledgment within thirty (30) days of the date LESSEE sent the original notice shall be constructive notice to LESSEE that: (1) the STATE has not properly received the notice, and (2) that such attempted notice shall be of no force and effect until such time as the notice is actually received and acknowledged by STATE.
- 7.5 **Liens:** In the event liens or other charges are placed on the leasehold premises, including land or improvements, arising out of LESSEE's actions directly or indirectly, the LESSEE shall immediately cause such liens to be discharged. The STATE may terminate this Lease if LESSEE fails to discharge such liens or charges or provide the STATE with a sufficient bond covering the full amount of the lien after ten (10) days notice to do so by the STATE. LESSEE shall pay and indemnify the STATE for all costs, damages or charges of whatsoever nature, including attorney's fees, necessary to discharge such liens or charges whether

such costs, damages or charges are incurred prior or subsequent to any termination of this Lease.

7.6 Default: The following shall be events of default:

7.6.1 Failure of the LESSEE to pay any rent, tax, reimbursement or other charge or payment due hereunder within twenty (20) days of the date such payment is due. For the purposes of this subsection, if the due date for such payment is not otherwise stated in this Lease or otherwise defined in statute or administrative rule, such payment shall be due on the date set forth in the notice from the STATE to the LESSEE informing the LESSEE of its obligation to pay such charge or payment.

7.6.2 Failure of LESSEE to comply with applicable laws, Oregon Administrative Rules or any non-payment related terms or conditions or obligations of the Lease within thirty (30) days after written notice by the STATE specifying the nature of the deficiency. Upon timely request from the LESSEE, the STATE may in its good faith discretion permit the deadline for curing such non-compliance to be extended if it finds that: (1) the default cannot reasonably be cured within the thirty (30) day period, (2) the interests of the STATE will not be harmed by an extension, (3) such default was not due to the willful acts or gross negligence of the LESSEE, and (4) the STATE and the LESSEE are able to mutually agree upon a written plan and timeline for remediation.

7.6.3 Insolvency of LESSEE; the filing by LESSEE of a voluntary petition in bankruptcy; an adjudication that LESSEE is bankrupt or the appointment of a receiver of the properties of LESSEE; the filing of any involuntary petition of bankruptcy and failure of LESSEE to secure a dismissal of the petition within thirty (30) days after filing; attachment of or the levying of execution on the leasehold interest and failure of LESSEE to secure discharge of the attachment or release of the levy of execution within ten (10) days. If LESSEE consists of two (2) or more individuals or business entities, the events of default specified in this paragraph shall apply to each individual unless within ten (10) days after an event of default occurs the remaining individuals produce evidence satisfactory to STATE that they have unconditionally acquired the interest of the one causing the default. If the Lease has been assigned in compliance with Section 6.1 of this Lease, the events of default so specified in this subsection shall apply only with respect to the one then exercising the rights of LESSEE under the Lease.

7.6.4 Notwithstanding the above, if the STATE in good faith believes that a material default has occurred which may imperil the STATE's rights in the land or its fiduciary duties under law, the STATE may

declare an immediate default without any right of LESSEE to cure the deficiency.

7.7 Termination Upon Default: In the event of a default by LESSEE, the STATE shall have the right to terminate this Lease if it has given LESSEE notice of the default and of the STATE's intent to terminate this Lease if the default is not completely cured by the deadline contained in the notice and if the listed default has not been cured by the stated deadline. The deadline contained in the notice must be at least twenty (20) calendar days from the date the notice is sent by certified mail, or if earlier, the date LESSEE actually receives said notice. The STATE shall be entitled to recover from LESSEE all costs arising out of the re-entry and all costs of re-letting the premises. The STATE shall be entitled to recover the amount of unpaid rent required to be paid under the Lease from the date of default until a new Lease has been, or with the exercise of reasonable efforts could have been, secured, if the STATE was determined to re-let the leasehold. All improvements located thereon shall be disposed of as provided by Section 9.3 of this Lease. If the LESSEE owns a floating home and has placed such home on the property pursuant to the provisions of Section 2.1 of this Lease, the lease termination provisions of ORS 90.630 shall apply to the extent that they are inconsistent with the provisions of this Lease.

7.8 STATE's Right to Cure Defaults:

7.8.1 If the LESSEE fails to perform any obligation under this Lease, the STATE shall have the option to perform the obligation of the Lease after thirty (30) days written notice to the LESSEE. All of the STATE's expenditures to carry out the obligation shall be reimbursed by the LESSEE on demand with interest at the rate of one percent (1%) per month accrued from the date of expenditure by the STATE.

7.8.2 In the event any violation or breach of the provision of this Lease is causing damage to the leasehold or the LESSEE is utilizing the leasehold in a manner not permitted by the provision of this Lease, or in any case damages are occurring to the leasehold or the environment as a result of activities conducted on the leasehold, the STATE may immediately enter upon the leasehold and take such action as necessary to cease such damages or use. In the event the damage or use is occurring by reason of a violation or breach of the provisions of this Lease, the LESSEE shall be liable for all costs incurred by the STATE by reasons of such violations. The STATE, at its option, may send notice to the LESSEE of such violations and LESSEE shall immediately cease such use or violation and correct such violation.

7.9 Termination Upon Mutual Consent: This Lease may also be terminated by mutual written consent of LESSEE and STATE.

- 7.10 **Weed Control:** The LESSEE shall control noxious weeds including aquatic weeds, plant pests and diseases within the leasehold as directed by the local county weed control district, the Oregon Department of Agriculture and/or any other governmental authority which may now or in the future have authority with regard to the prevention and/or control of noxious weeds, plant pests and/or diseases, or as may be authorized or directed by the STATE.
- 7.11 **Holdover:** If LESSEE does not vacate the leasehold at the time required at expiration or upon termination of a Lease, STATE shall have the option to treat LESSEE as a tenant from month to month, subject to all of the provisions of this Lease except the provisions for term, renewal, and rental. The STATE shall have the option to unilaterally establish a new rental for the month-to-month tenancy, with said rental payable in advance. If a month-to-month tenancy results from holdover by LESSEE under this paragraph, the tenancy shall be terminable at the end of any monthly rental period upon written notice from STATE given not less than thirty (30) days prior to the termination date which shall be specified in the notice.
- 7.12 **Governing Law:** This Lease shall be construed, interpreted and governed by and subject to the laws of the State of Oregon and the administrative rules of the Division of State Lands and the State Land Board, as they may change from time to time. The Oregon Administrative Rules contain terms and conditions which relate to the rights and responsibilities of the parties hereunder, and such terms and conditions (as they may change from time to time) are hereby incorporated by reference and made a part of this Lease.
- 7.13 **Binding on Successors:** This Lease shall be binding on and shall inure to the benefit of the successors and assigns of the parties hereto, but nothing in this section shall be construed as a consent by STATE to any disposition or transfer of the Lease or any interest herein by LESSEE except as otherwise expressly provided in this Lease.
- 7.14 **Nondiscrimination:** The leasehold shall be used in a manner, and for such purposes, that assure fair and nondiscriminatory treatment of all persons without respect to race, creed, color, religion, handicap, disability, age, gender, or national origin.
- 7.15 **Right To Sue More Than Once:** STATE may sue periodically to recover damages for the period corresponding to the remainder of the lease term and no action for damages shall bar later actions for damages subsequently accruing.
- 7.16 **Remedies Cumulative:** The remedies contained in this Lease shall be in addition to, and shall not exclude any other remedy available at law or in equity, and exercise by either party of any one or more of such remedies shall not preclude the exercise by it at the same or different times of any other such remedies for the same default or breach by the other party.
- 7.17 **Attorney Fees:** If suit or action is instituted in connection with any controversy arising out of or in connection with this Lease, the prevailing party shall be

entitled to recover all costs and disbursements incurred, including such sum as the court may adjudge reasonable as attorney fees at trial and on any appeal of the suit or action, and in any bankruptcy case or proceedings.

- 7.18 **Exhibits:** All Exhibits to which reference is made in this Lease are incorporated in this Lease by the respective references to them, whether or not they are actually attached. References to "this Lease" include matters incorporated by reference.
- 7.19 **Compliance With Applicable Law:** The STATE's performance under this Contract is conditioned on the LESSEE's compliance with the provisions of ORS 279.312, 279.314, 279.316, 279.320 and 279.555, which are incorporated by reference herein.
- 7.20 **Late Charges and Interest:** It is understood by both parties that late payments by the LESSEE of rent and other charges due hereunder will cause the STATE to incur costs not contemplated by this Lease, the exact amount of which will be difficult to ascertain, including costs associated with administrative processing and accounting. As such, the parties agree that, notwithstanding other remedies permitted hereunder, if the LESSEE has not made full payment of amounts due within twenty (20) days of the date such payment is due, LESSEE shall pay an additional charge equal to five percent (5%) of the amount of the late rent or other charge. In addition, all amounts due and owing under this agreement, including late charges, shall bear interest at the lower of: (1) the highest interest rate allowable by law, or (2) twelve percent (12%) per year.

SECTION 8 - INSURANCE

- 8.1 **Commercial General Liability:** LESSEE shall obtain at LESSEE's expense, and keep in effect during the term of this Lease, comprehensive or commercial general liability insurance covering bodily injury and property damage with an insurance company acceptable to the STATE. This insurance shall include personal injury coverage, contractual liability coverage for the indemnity provided under this Lease and products/completed operations liability. Combined single limit per occurrence shall not be less than \$1,000,000, or the equivalent. Each annual aggregate limit shall not be less than \$1,000,000, when applicable.
- 8.2 **Revisions/Amendments/New Requirements:** The amounts and types of insurance (including those specified in Section 8) and the party responsible for procuring the insurance shall be established and reviewed when circumstances warrant. The requirements may be revised or amended by the STATE periodically at the STATE's sole discretion after STATE:
- (a) consults with its insurance advisor;
 - (b) consults with LESSEE;
 - (c) considers the commercial reasonableness of any requirements, amendments or revisions; and
 - (d) considers the STATE's need for adequate insurance protection and the STATE's fiduciary obligations.

Within thirty (30) days notice to LESSEE of the STATE'S revision or amendment of the insurance requirements, LESSEE shall provide the STATE with satisfactory evidence that the LESSEE has obtained new insurance coverage which conforms with the revised/amended insurance requirements. If mutually agreed in writing, LESSEE may have additional time to obtain such insurance.

- 8.3 **Named Insured Parties:** The liability insurance coverages required for performance of the Lease shall include the State of Oregon, the Division of State Lands and their sections, officers and employees as additional insured.
- 8.4 **Certificate(s) of Insurance:** As evidence of the insurance coverages required by this Lease, the LESSEE shall furnish certificate(s) of insurance to the STATE prior to the issuance of this Lease, and not less often than annually thereafter and as reasonably requested by STATE. The certificate(s) will specify all of the parties who are additional insured (or loss payees). Insurance coverages required under this Lease shall be obtained from acceptable insurance companies or entities. The LESSEE shall be financially responsible for all deductibles, self-insured retentions and/or self-insurance included hereunder.

SECTION 9 - IMPROVEMENTS

- 9.1 **Authorized Improvements or Structures:** No improvement that exceeds fifteen thousand dollars (\$15,000) in cost or value may be constructed or placed upon the leasehold unless the LESSEE shall have first obtained the prior written authorization of the STATE. Approval for improvements consistent with the purposes of this Lease shall not be unreasonably withheld or delayed. All improvements must be consistent with the authorized use(s) of this Lease as stated in Section 2.1 and in compliance with all applicable laws, regulations, and ordinances as stated in Section 5.4.1.
- 9.2 **Unauthorized Improvements or Structures:** Unauthorized improvements shall, at the election of the STATE, either be removed from the leasehold by LESSEE (or if STATE so elects, by the STATE at LESSEE's cost and expense), or remain within the leasehold.
- 9.3 **Removal of Structures and Improvements:** Any LESSEE-owned structure or improvement must be removed within ninety (90) days of the termination of the Lease or modification of the lease as in Section 4.1.1 unless otherwise agreed by the parties as in the case of a structure exempt from authorization under OAR 141-082-0030(4). LESSEE shall be responsible for any damage caused by the removal of the structure or improvements. Any structure or improvements remaining on the leasehold after the ninety (90) day period may at the option of the STATE become the property of STATE, unless otherwise agreed by the parties.

The LESSEE expressly agrees to all covenants herein and binds him/herself for the payment of the rental herein before specified.

DIVISION OF STATE LANDS

[Signature]
Authorized Signature

October 9, 2001
Date

Division of State Lands
775 Summer ST NE, STE 100
Salem, OR 97301-1279

LESSEE

[Signature], President

Signature/Title

(Note requirement below)

July 25, 2001
Date

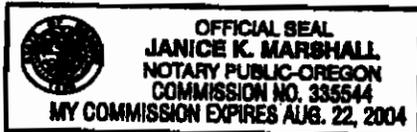
3121 SW Moody Avenue
Portland, OR 97201

Mailing Address

Note: If the LESSEE is a corporation, the signer warrants that s/he has the authority to sign the lease on behalf of the corporation by resolution of its Board of Directors, or through delegation of authority to the signer.

STATE OF OREGON)
County of MULTNOMAH)ss

The foregoing instrument was acknowledged before me this 25th day of July, 2001, by Jay Zidell (officer ~~or agent of corporation~~), the President (title of officer ~~or agent~~) of Triangle Park LLC corporation, a n Oregon (state or place of incorporation) corporation, on behalf of corporation.

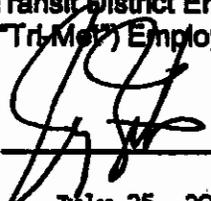


[Signature]
Signature
My commission expires 8/22/2004

CERTIFICATE OF COMPLIANCE WITH OREGON TAX LAWS

I, the undersigned, hereby swear or affirm under penalty of perjury that to the best of my knowledge, I am not in violation of any Oregon Tax Laws.

For the purposes of this certificate, "Oregon Tax Laws" means those programs listed in ORS 305.380(4) which is incorporated herein by this reference. Examples include the state inheritance tax, personal income tax, withholding tax, corporation income and excise taxes, amusement device tax, timber taxes, cigarette tax, other tobacco tax, 9-1-1 emergency communications tax, the elderly rental assistance program and local taxes administered by the Department of Revenue (Lane Transit District Self-Employment Tax, Lane Transit District Employer Payroll Tax, Tri-County Metropolitan Transit District of Oregon ("Tri-Met") Employer Payroll Tax, and Tri-Met Self-Employment Tax).

Signature:  _____

Date: July 25, 2001

Printed Name: Jay Zidell

Title: President

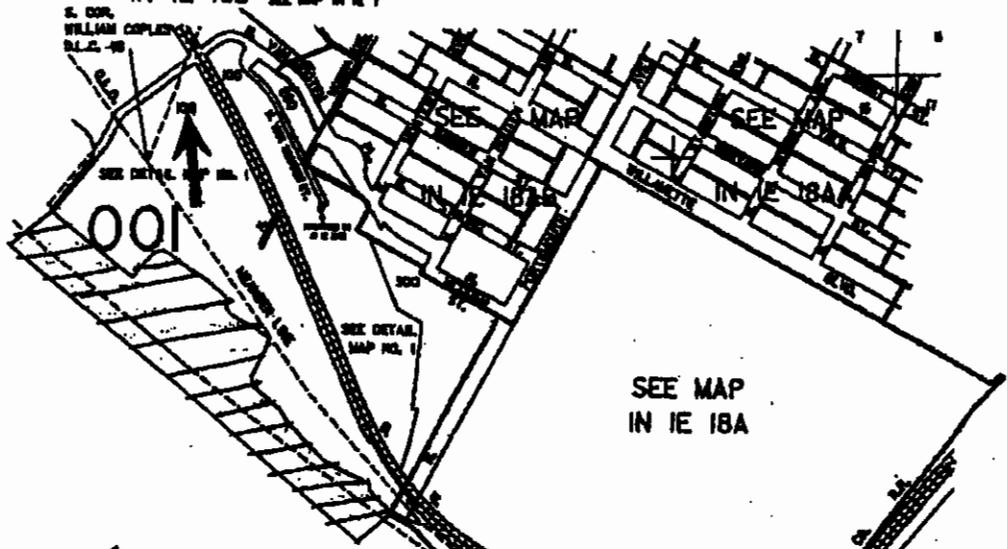
J:\Attachment\west\ML Waterway Leases Comm and Ind\ML-15335.doc

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY

SECTION 18 T.1N. R.1E. W.1E
MULTNOMAH COUNTY

IN & PORT

SEE MAP IN IE 188
SEE MAP IN IE 187



WILLAMETTE

WILLAMETTE RIVER

SEE MAP IN IE 188

SEE MAP

SEE MAP IN IW 13

SEE MAP IN IE 186

SEE MAP IN IE 180



IN & PORT

Exhibit "A"

FOURTH AMENDED LEGAL DESCRIPTION: Order No. 369466a

TRACT 1 (Parcel II of W & H Pacific survey):

A parcel of land being that certain tract of land bounded on the North by N. Van Houten Place, on the West and South by N. Van Houten Court, and on the East by N. McKenna Avenue, with said parcel being Tract 5 as described in Deed to Willamette Western Corporation recorded November 4, 1970, in Book 758, page 1274, and also Parcel II as described in Deed to Willamette Western Corporation recorded October 11, 1953 in Book 1780, Page 985, both of the Multnomah County Deed Records with the subject parcel being located within a portion of the Southwest one-quarter of Section 7 and a portion of the Northwest one-quarter of Section 18 in Township 1 North, Range 1 East of the Willamette Meridian, in the City of Portland, County of Multnomah and State of Oregon, and more particularly described as follows:

Beginning at the intersection of the Northwesterly right-of-way line of N. McKenna Avenue and the Northeasterly right-of-way line of N. Van Houten Court as described in Deed recorded December 28, 1950, in Book 1451, Page 349, of the Multnomah County Deed Records; thence tracing said Northeasterly right-of-way line of N. Van Houten Court North 27° 33' 22" West 294.92 feet to a point of curvature on the Northeasterly line of N. Van Houten Court as described in Deed to the City of Portland recorded July 17, 1951 in Book 1487, Page 154, of the Multnomah County Deed Records; thence tracing said right-of-way line the following courses and distances: along the arc of a 293.78 foot radius curve to the left through a central angle of 19° 26' 38" an arc distance of 99.70 feet (the long chord bears North 37° 16' 41" West 99.22 feet) to a point of tangency; thence North 47° 00' 00" West 110.83 feet; thence leaving N. Van Houten Court right-of-way line and tracing the lines as described in Vacation Ordinance 94389 and recorded July 17, 1951, in Book 1487, Page 160, of the Multnomah County Deed Records, North 43° 00' 00" East 53.62 feet; thence South 57° 08' 00" East 147.21 feet to a point of curvature; thence tracing the arc of a 180.00 foot radius curve to the right through a central angle of 26° 14' 50" an arc distance of 82.45 feet (the long chord bears South 44° 00' 36" East 81.74 feet); thence South 59° 07' 00" West 9.05 feet to the Southerly right-of-way line of N. Van Houten Place, being 40.00 feet Southerly and parallel with the center line of N. Van Houten Place as described in Surveyor's Certificate of Correction of the Dedication of N. Van Houten Place, recorded January 7, 1946, in Book 1002, Page 288, of the Multnomah County Deed Records; thence leaving the lines of said vacated street and tracing said parallel right-of-way line along the arc of a 264.72 foot radius curve to the right through a central angle of 4° 23' 12" an arc distance of 20.27 feet (the long chord bears South 28° 59' 36" East 20.26 feet) to a point of tangency; thence South 26° 48' 00" East 169.76 feet to a point of curvature; thence tracing the arc of a 160.42 foot radius curve to the left through a central angle of 1° 30' 55" an arc distance of 54.64 feet (the long chord bears South 36° 33' 28" East 54.38 feet) to the Northwesterly right-of-way line of N. McKenna Avenue; thence tracing said N. McKenna Avenue right-of-way line South 27° 00' 20" West 111.10 feet to the point of beginning.

(Continued)

TRACT 2 (Parcel III of W & H Pacific survey):

A parcel of land being that certain tract of land bounded on the North by N. Van Houten Place, on the West by N. McKenna Avenue, and on the South by an alleyway, with said parcel being a portion of Block 36 of the map of PORTSMOUTH as recorded in the Multnomah County Survey Records and being located within a portion of the South one-half of Section 18, in Township 1 North, Range 1 East, of the Willamette Meridian, in the City of Portland, County of Multnomah and State of Oregon, and more particularly described as follows:

Beginning at the intersection of the Southeasterly right-of-way line of N. McKenna Avenue and the Northeasterly right-of-way line of N. Van Houten Court as described in Deed recorded December 28, 1950, in Book 1451, Page 349, of the Multnomah County Deed Records; thence tracing said N. McKenna right-of-way line North $27^{\circ} 37' 06''$ East 100.38 feet to the Northerly line of Block 36, of the map of PORTSMOUTH; thence tracing said Northerly line South $62^{\circ} 30' 09''$ East 66.66 feet to the Northeasterly corner of Lot 2, said Block 36; thence tracing the Southwesterly right-of-way line of N. Van Houten Place as described in Deed recorded December 30, 1954, in Book 1698, Page 230, of the Multnomah County Deed Records, South $35^{\circ} 11' 37''$ East 239.76 feet to the Northeasterly line of the alleyway depicted on the map of PORTSMOUTH; thence tracing said Northeasterly line North $62^{\circ} 30' 09''$ West 266.14 feet to the Northeasterly right-of-way line of said N. Van Houten Court; thence tracing said Van Houten Court right-of-way line North $27^{\circ} 33' 22''$ West 16.80 feet to the point of beginning.

TRACT 3 (A portion of Parcels IV and V of W & H Pacific Survey):

That certain parcel of land consisting of Lots 11-20, Block 36, a portion of Block 37, and Lots 1-12, of Block 38, per the map of PORTSMOUTH, along with that tract described in Deed to Riedal International Inc., recorded December 22, 1982, in Book 1634, Page 1916, that tract described in Deed to Willamette Western Corp., recorded May 29, 1979, in Book 1355, Page 1234, and Tracts 1, 2 and 3, as described in Deed to Willamette Western Corp., recorded November 4, 1970, in Book 758, Page 1274, of the Multnomah County Deed Records, TOGETHER WITH vacated street rights-of-way, all of which are located in the Southwest one-quarter of Section 7 and the North one-half of Section 18, Township 1 North, Range 1 East of the Willamette Meridian, in the City of Portland, County of Multnomah and State of Oregon, more particularly described as follows:

Beginning at an iron pipe monument at the Northeast corner of Block 37 of the map of PORTSMOUTH, with said pipe being on the Northwesterly right-of-way line of N. Portsmouth Avenue; thence tracing said Northwesterly right-of-way line South $27^{\circ} 32' 09''$ West 855.32 feet to the northerly line of the Burlington Northern Railroad right of way and the TRUE POINT OF BEGINNING; thence continuing southerly along the northwesterly right of way line of N. Portsmouth Avenue, South $27^{\circ} 32' 09''$ West 162.83 feet to the ordinary high water line of

(Continued)

Continued

the Willamette River; thence tracing said ordinary high water line through the following courses and distances: North 57° 59' 55" West 72.27 feet; thence North 30° 35' 24" West 54.52 feet; thence North 58° 15' 09" West 139.44 feet; thence North 29° 40' 14" West 30.51 feet; thence North 55° 45' 06" West 156.82 feet; thence North 33° 20' 56" West 58.74 feet; thence North 71° 26' 34" West 99.13 feet; thence North 52° 10' 51" West 126.57 feet; thence North 64° 47' 37" West 64.76 feet; thence North 47° 42' 29" West 43.50 feet; thence North 19° 03' 19" East 129.75 feet; thence North 26° 45' 58" East 112.41 feet; thence North 06° 27' 24" East 42.28 feet; thence North 53° 34' 38" West 88.58 feet; thence North 56° 24' 34" West 29.77 feet; thence North 62° 55' 34" West 189.47 feet; thence North 27° 00' 20" East 68.82 feet; thence North 47° 48' 17" West 72.56 feet; thence North 59° 50' 23" West 108.91 feet; thence North 68° 45' 59" West 37.81 feet; thence North 14° 12' 56" West 24.90 feet; thence North 33° 51' 51" West 45.65 feet; thence North 28° 36' 31" East 119.76 feet; thence North 43° 31' 51" West 82.58 feet; thence South 47° 27' 25" West 115.51 feet; thence South 82° 17' 35" West 31.99 feet to the ordinary high water line as described in Deed to the Willamette Western Corp., recorded May 29, 1979, in Book 1355, Page 1234, of the Multnomah County Deed Records; thence tracing said ordinary high water line the following courses and distances: South 48° 44' 16" West 177.55 feet; thence South 81° 56' 53" West 50.60 feet; thence North 52° 01' 34" West 196.29 feet; thence North 52° 30' 37" West 151.48 feet; thence North 49° 42' 44" West 58.26 feet; thence North 00° 50' 11" East 14.14 feet; thence North 36° 13' 21" East 89.59 feet; thence North 37° 09' 02" East 160.31 feet; thence North 36° 00' 48" East 84.74 feet to the Southeastly right-of-way line of N. Van Houten Place, a 40.00 foot wide roadway as described in Deed to the City of Portland, recorded September 9, 1952, in Deed Book 1557, Page 157, of the Multnomah County Deed Records; thence leaving the line of ordinary high water and tracing said right-of-way line North 37° 58' 00" East 24.50 feet; thence North 26° 00' 00" East 162.19 feet; thence North 52° 30' 00" East 570.12 feet to a point of curvature; thence tracing the arc of an 86.16 foot radius curve to the right through a central angle of 66° 48' 00" an arc distance of 100.45 feet (the long chord bears North 85° 54' 00" East 94.86 feet) to a point of tangency; thence South 60° 42' 00" East 6.27 feet to a point of curvature and the right-of-way line of N. Van Houten Court as described in Deed recorded July 17, 1951, in Book 1487, Page 154, of the Multnomah County Deed Records; thence tracing the lines of said right-of-way along the arc of a 33.05 foot radius curve to the right through a central angle of 93° 32' 21" an arc distance of 53.96 feet (the long chord bears South 13° 55' 50" East 48.16 feet) to a point of reverse curvature; thence tracing the arc of a 76.73 foot radius curve to the left through a central angle of 79° 50' 21" an arc distance of 106.92 feet (the long chord bears South 07° 04' 49" East 98.48 feet) to a point of tangency; thence South 47° 00' 00" East 111.94 feet to a point of curvature; thence tracing the arc of a 253.78 foot radius curve to the right through a central angle of 19° 22' 16" an arc distance of 85.80 feet (the long chord bears South 37° 18' 52" East 85.39 feet) to the Northerly line of that certain tract described in Deed to Riedel International Inc., recorded December 22, 1982, in Book 1634, Page 1916, of the Multnomah County Deed Records; thence tracing said Northerly line North 64° 53' 38" East 15.01 feet to the Northeast corner of said Riedel Tract; thence tracing the Easterly line of said Riedel Tract South 27° 33' 22" East 513.01 feet to the Northerly line of that portion

(Continued)

Page 4

Fourth Amended Legal Description: 369466a
Continued

of N. Van Houten Court vacated by the City of Portland Ordinance 135887, recorded April 30, 1973, in Book 923, Page 823, of the Multnomah County Deed Records; thence tracing said line North 62° 26' 38" East 25.00 feet to the Northeastly right-of-way line of N. Van Houten Court as described in Deed recorded December 28, 1950, in Book 1451, Page 349, of the Multnomah County Deed Records; thence tracing said right-of-way line North 27° 33' 22" West 156.26 feet to the Northerly line of Lot 19, Block 36, of the map of PORTSMOUTH; thence leaving said right-of-way line and tracing the Northerly line of Lots 11-19, of said Block 36, South 62° 30' 09" East 272.71 feet to the Southerly right-of-way line of N. Van Houten Place as described in Deed recorded December 30, 1954, in Book 1698, Page 230, of the Multnomah County Deed Records; thence tracing said right-of-way line South 35° 11' 37" East 31.66 feet to the Northwestly line of the vacated right-of-way of N. Monteith Avenue, a 60.00 foot wide right-of-way; thence tracing a line being 40.00 feet Southerly of the N. Van Houten Place center line as described in the Surveyor's Certificate of Correction of the Dedication of N. Van Houten Place, recorded January 7, 1946, in Book 1002, Page 288, of the Multnomah County Deed Records, South 37° 13' 53" East 33.14 feet to the original center line of N. Monteith Avenue; thence tracing said center line as now vacated, South 27° 37' 06" West 111.32 feet to the center line of the now vacated right-of-way of N. McCosh Street; thence tracing said center line of N. McCosh Street South 62° 30' 09" East 64.62 feet to the most westerly northwest corner of that certain tract conveyed to the University of Portland by deed recorded in Volume 95, at Page 78596; thence following the southwesterly boundary of the said University of Portland tract the following courses and distances:

thence South 21° 56' 52" East 367.86 feet;
thence South 62° 55' 53" East 160.74 feet;
thence South 05° 01' 20" West 369.31 feet;
thence South 74° 36' 48" East 24.19 feet;
thence South 14° 10' 23" West 189.05 feet;
thence South 17° 10' 29" West 105.86 feet to the northerly right of way line of the Burlington Northern Railroad;

thence leaving said southwesterly boundary of the University of Portland tract and tracing said railroad right of way line along the arc of a 1,402.69 foot radius curve to the left through a central angle of 02° 25' 40" an arc distance of 59.44 feet (the long chord bears South 39° 40' 40" East 59.43 feet) to the true point of beginning.

EXCEPTING THEREFROM the Burlington Northern Railroad right-of-way and the N. McKenna right-of-way lying Southerly of said railroad.

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FOURTH AMENDED LEGAL DESCRIPTION: Order No. 369466a (continued)

EASEMENT PARCEL A:

An appurtenant easement for ingress, egress, and utility purposes, as created by that certain instrument entitled "Reservation of Easement" dated June 16, 1995, by and between Edward Hostmann, Inc., successor trustee under the plan of reorganization of Willamette-Western Corporation, Case No. 391-37814-P11, United States Bankruptcy Court for the District of Oregon, owner of the dominant estate, and University of Portland, owner of the servient estate, recorded July 3, 1995, in Volume 95, Page 78597, Deed Records of Multnomah County, Oregon, for the term and upon and subject to all of the conditions, covenants, restrictions and stipulations therein, over and along the following described property:

A strip of land being 20.00 feet wide, with the sidelines lying 10.00 feet each side of the following described centerline:

Commencing at an iron pipe monument at the northeast corner of Block 37 of the plat of PORTSMOUTH, in the City of Portland, County of Multnomah, and State of Oregon, said iron pipe being on the northwesterly right of way line of N. Portsmouth Avenue; thence tracing said northwesterly right of way line South 27° 32' 09" West 446.91 feet to the TRUE POINT OF BEGINNING of said centerline; thence leaving said right of way line [of N. Portsmouth Avenue] and tracing said centerline along the following courses and distances: North 01° 01' 52" East 79.83 feet to an angle point; thence North 07° 21' 41" East 245.98 feet to a point of curvature; thence tracing the arc of a 30.00 foot radius curve to the left through a central angle of 96° 27' 44" an arc distance of 50.51 feet (the long chord bears North 40° 52' 11" West 44.75 feet) to a point of tangency; thence North 89° 06' 03" West 38.11 feet to a point of curvature; thence tracing the arc of a 30.00 foot radius curve to the left through a central angle of 80° 14' 02" an arc distance of 42.01 feet (the long chord bears South 50° 46' 56" West 38.66 feet) to a point of tangency; thence South 10° 39' 55" West 171.08 feet to an angle point; thence South 15° 46' 29" West 101.47 feet to an angle point; thence South 19° 53' 31" West 103.48 feet to the terminus of this centerline and 20.00 foot wide strip of land at the southwesterly property line of that certain tract conveyed to the University of Portland by deed recorded July 3, 1995, in Volume 95, Page 78596. The sidelines of said strip are to be extended or shortened to meet at angle points or points of curvature and to commence at the northwesterly right of way line of N. Portsmouth Avenue and to terminate at the southwesterly property line of the said University of Portland land.

EASEMENT PARCEL B:

An appurtenant easement for pedestrian and vehicular access to mooring dolphins as created by that certain instrument entitled "Grant of Easement" dated June 16, 1995, by and between Edward Hostmann, Inc., successor trustee under the plan of reorganization of Willamette-Western Corporation, Case No. 391-37814-P11, United States Bankruptcy Court for the District of Oregon, owner of the dominant estate, and University of Portland, owner of the servient estate, recorded July 3, 1995, in Volume 95, Page 78598, Deed Records of Multnomah County, Oregon, for the term and upon and subject to the

(Continued)

Page 6

Fourth Amended Legal Description: 369456a

Continued

terms, conditions, covenants and stipulations therein contained, over and across the following property:

Commencing at an iron pipe monument at the northeast corner of Block 37 of the plat of PORTSMOUTH, said pipe being on the northwesterly right of way line of N. Portsmouth Avenue; thence tracing said northwesterly right of way line South 27° 32' 09" West 919.63 feet to the southwesterly right of way line of the Burlington Northern Railroad (30 feet from the existing rail centerline) and a point of non-tangent curvature, and the TRUE POINT OF BEGINNING; thence tracing said railroad right of way line along the arc of a 1,462.69 foot radius curve to the left (the radial center bears North 48° 10' 55" East) through a central angle of 15° 34' 24" an arc distance of 397.57 feet (the long chord bears South 49° 36' 17" East 396.35 feet) to a point of compound curvature; thence tracing the arc of a 5,759.65 foot radius curve to the left through a central angle of 01° 53' 33" an arc distance of 190.25 feet (the long chord bears South 58° 20' 16" East 190.25 feet); thence leaving said railroad right of way line South 32° 27' 56" West 84.00 feet to the ordinary high water line of the Willamette River; thence following the ordinary high water line of the Willamette River in a northwesterly direction the following courses and distances: North 62° 20' 52" West 64.21 feet; thence North 29° 11' 12" West 19.91 feet; thence North 65° 29' 58" West 86.56 feet; thence North 52° 14' 38" West 167.33 feet; thence North 41° 44' 22" West 120.14 feet; thence North 58° 36' 41" West 124.88 feet; thence leaving said ordinary high water line and tracing the southwesterly extension of the northwesterly right of way line of N. Portsmouth Avenue, North 27° 32' 09" East 98.52 feet to the true point of beginning.





ROAD CLASSIFICATION

- Heavy-duty
- Medium-duty
- Light-duty
- - - - - Unimproved dirt
- ⬡ U.S. Route
- State Route
- ⊖ Interstate Route

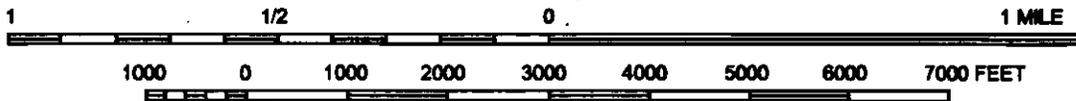
PORTLAND, OR-WA

45122-E6-TF-024
1990
DMA 1475 II SW - SERIES V892



QUADRANGLE LOCATION

SCALE 1 : 24,000



AMEC Earth & Environmental 7376 S.W. Durham Road Portland OR, U.S.A. 97224				CLIENT TRIANGLE PARK 5828 N. VAN HOUTEN PLACE PORTLAND, OREGON	
PROJECT TRIANGLE PARK		DWN BY: DD	DATUM: -	DATE: DECEMBER 2006	
TITLE SITE LOCATION MAP		CHKD BY: MK	REV. NO.: -	PROJECT NO.: 6-61M-11417-3	
		PROJECTION: -	SCALE: AS NOTED	FIGURE No. 1	

G:\11000\11400\11417\11417-3\REGIONAL ACTION INVESTIGATION REPORT\DWG\FIGURE 1 SITE LOCATION.dwg - Layer1 - Dec. 14, 2006 8:13am - 6aap.dwt