

EXHIBIT 1

Progress Sheet—Ground Water Application

The Hillyard Processing Co., for
Spokane International Railroad Co.
Box 6055

4-1-67

NAME Spokane, Washington 99207 Assigned to _____
G. W. APPLI. NO. 7886 PERMIT NO. 7409 CERT. NO. 5484 A
AMENDED _____ CANCELLED _____

Application received December 10, 1965 Initial \$10.00 fee received December 10, 1965
Statement of additional examination fee \$ _____ Sent _____ Received _____
Application returned for completion or correction _____ Received _____

TEMPORARY PERMIT: Approved by _____ Issued _____

PUBLICATION: BW
O.K.'d by _____ Date 12/10/65 Notice sent 12-23-65
Protests _____
Filed _____
Affidavit received and checked 2-3-66 Time expired 2-21-66
Amended notice sent _____ Affidavit received _____
Time expires _____

DEPT. OF GAME REPORT _____

EXAMINATION Made 3-30-65 by ESL
O.K.'d for permit 4-12-66 by ESL
Statement of permit fee sent 4-6-66 Amount \$ 20.00 Received 4-12-66
(\$10.00 credit - \$10.00 due)
PERMIT NO. 7409 ISSUED 4-14-66

BEGINNING OF CONSTRUCTION: Notice sent Started Filed _____
Extension fee \$ _____ Extended to _____
Extended to _____

WELL DRILLER'S REPORT: Sent 12-23-65 Filed 2-3-66

COMPLETION OF CONSTRUCTION: Notice sent Completed Filed _____
\$2.00 extension fee _____ Extended to _____
To _____

PROOF OF APPROPRIATION: Sent 4-18-66 Filed 8-15-66
\$2.00 extension fee _____ Extended to _____

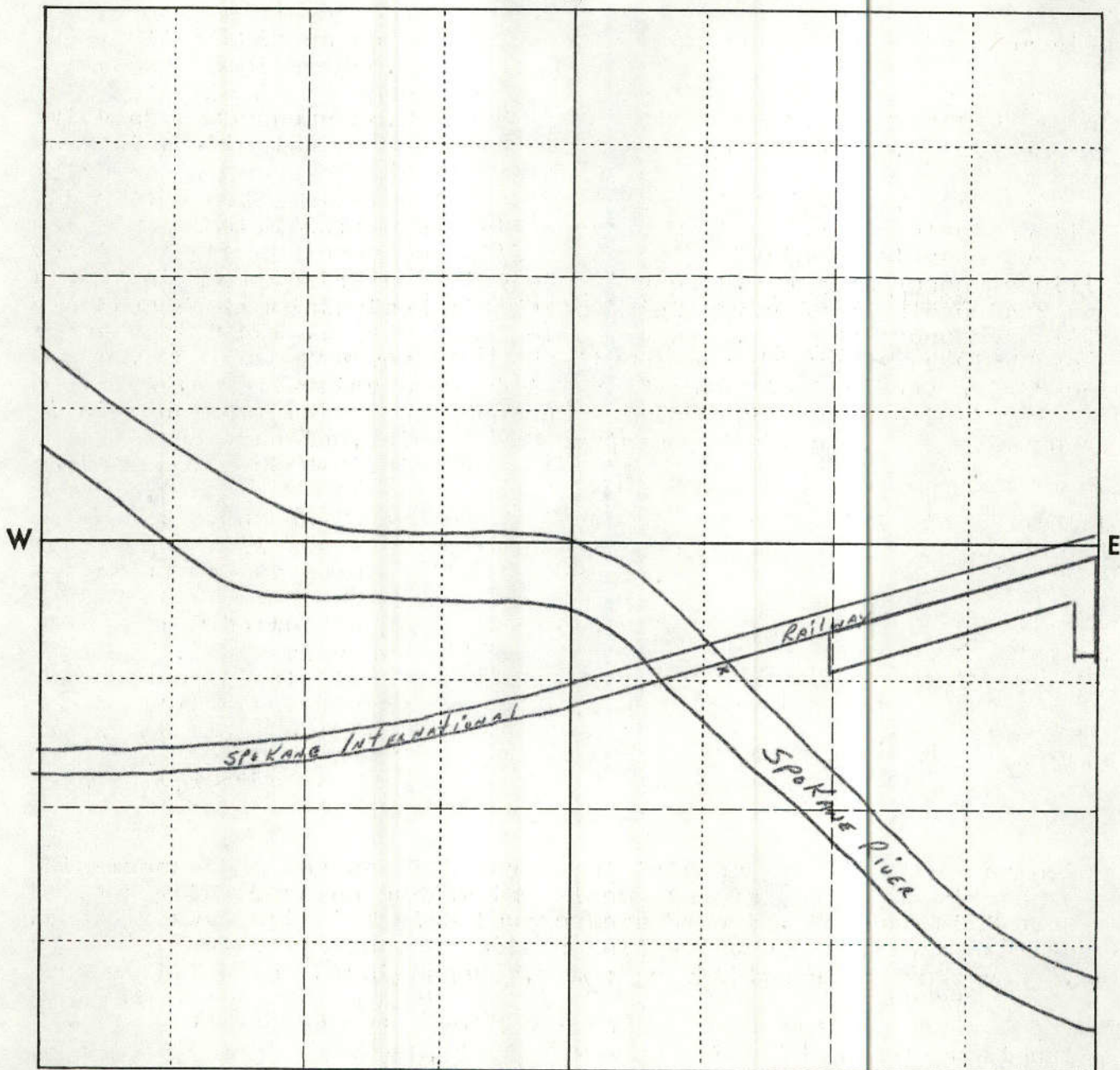
Statement of certificate fee sent 4-18-66 \$ 5.00 Received 8-15-66

CERTIFICATE OF GROUND WATER RIGHT NO. 5484 A ISSUED 8-18-66

SECTION PLAT

Sec. 11 Twp. 25 N. R. 44

N



S

1. Outline property described in application.
2. Show by a cross (X) the location of point of diversion (surface water source) or point of withdrawal (ground water source). For ground water applications, show by a circle (O) the locations of other wells or works within a quarter of a mile.
3. Indicate traveling directions from nearest town.

Scale: 1 inch = 800 feet (each small square = 10 acres)

East out of Spokane on Freeway to Sullivan Road, north on Sullivan 2000' north of Spokane River. Turn left along railroad tracks.

October 8, 1965

Hillyard Processing, Inc.
P O. Box 6055
East 3412 Wellesley Avenue
Spokane, Washington

ATTENTION: Paul V. Ortman
Plant Manager

Dear Sir:

In response to your letter of October 4, we are enclosing a ground water application and set of well driller's record forms with which your company may request a permit to appropriate ground water for your processing plant. Please complete the application and return for processing. The examination fee submitted with the surface water application will be applied to the ground water application when received.

The well driller's record forms should be completed by the driller and the original and first copy returned for our file.

The surface water application has been rejected.

Very truly yours,

DEPARTMENT OF CONSERVATION

ROBERT H. RUSSELL, Asst. Supervisor
Division of Water Resources

RHR:bj
Enclosure

**WATER WELL REPORT
STATE OF WASHINGTON**

File Original and First Copy with the Division of Water Resources
Second Copy — Owner's Copy
Third Copy — Driller's Copy

Application No. 7886

Permit No.

(1) OWNER:

Name The Hillyard Processing Company
Address Box 6055
Spokane, Washington 99207

(2) LOCATION OF WELL:

County Spokane Owner's number, if any—
1/4 Section 11 T. 25 R. 44 W.M.
Bearing and distance from section or subdivision corner
2440 ft. northwest of southeast corner

(3) TYPE OF WORK (check):

New Well Deepening Reconditioning Abandon
If abandonment, describe material and procedure in Item 11.

(4) PROPOSED USE (check):

Domestic Industrial Municipal
Irrigation Test Well Other

(5) TYPE OF WELL:

Rotary Driven
Cable Jetted
Dug Bored

(6) CASING INSTALLED:

Threaded Welded

10" Diam. from 0 ft. to 12.5 ft. Gage 3/16"
" Diam. from ft. to ft. Gage
" Diam. from ft. to ft. Gage

(7) PERFORATIONS:

Perforated? Yes No

Type of perforator used Roller Punch
SIZE of perforations 1 1/4" in. by 3/16 in.
10.6' perforations from 10.6' ft. to 11.5 ft.
perforations from 10.6' ft. to 12.0 ft.
perforations from ft. to ft.
perforations from ft. to ft.
perforations from ft. to ft.

(8) SCREENS:

Well screen installed Yes No

Manufacturer's Name
Type Model No.
Diam. Slot size Set from ft. to ft.
Diam. Slot size Set from ft. to ft.

(9) CONSTRUCTION:

Was well gravel packed? Yes No Size of gravel:
Gravel placed from ft. to ft.
Was a surface seal provided? Yes No To what depth? ft.
Material used in seal—
Did any strata contain unusable water? Yes No
Type of water? Depth of strata
Method of sealing strata off

(10) WATER LEVELS:

Static level 60 ft. below land surface Date 1/12/66
Artesian pressure lbs. per square inch Date
Water is controlled by
(Cap, valve, etc.)

(11) WELL TESTS:

Drawdown is amount water level is lowered below static level
Was a pump test made? Yes No If yes, by whom?

Yield:	gal./min. with	ft. drawdown after	hrs.
"	"	"	"
"	"	"	"

Recovery data (time taken as zero when pump turned off) (water level measured from well top to water level)

Time	Water Level	Time	Water Level
.....
.....

Date of test
Bailer test gal./min. with ft. drawdown after hrs.

Artesian flow g.p.m. Date

Temperature of water Was a chemical analysis made? Yes No

(12) WELL LOG:

Diameter of well 10" inches.

Depth drilled 125 ft. Depth of completed well 125 ft.

Formation: Describe by color, character, size of material and structure, and show thickness of aquifers and the kind and nature of the material in each stratum penetrated, with at least one entry for each change of formation.

MATERIAL	FROM	TO
Gravel with occasional boulders	0	43'
3/4" gravel up to 3" round	43	52'
Large boulders	52'	56'
Large Rocks	56'	61'
Medium - fine gravel up to 5" round	61'	75'
Coarse sand	75'	82'
3/4" gravel	82'	86'
Coarse sand & gravel	86'	103'
3/4" gravel up to 3" round	103'	125'

Work started 11/9 1965. Completed 1/12 1966

(13) PUMP:

Manufacturer's Name PEERLESS
Type: Turbine H.P. 40

Well Driller's Statement:

This well was drilled under my jurisdiction and this report is true to the best of my knowledge and belief.

NAME ZINKGRAF Well DRILLING
(Person, firm, or corporation) (Type or print)

Address 1606 E. SMARR

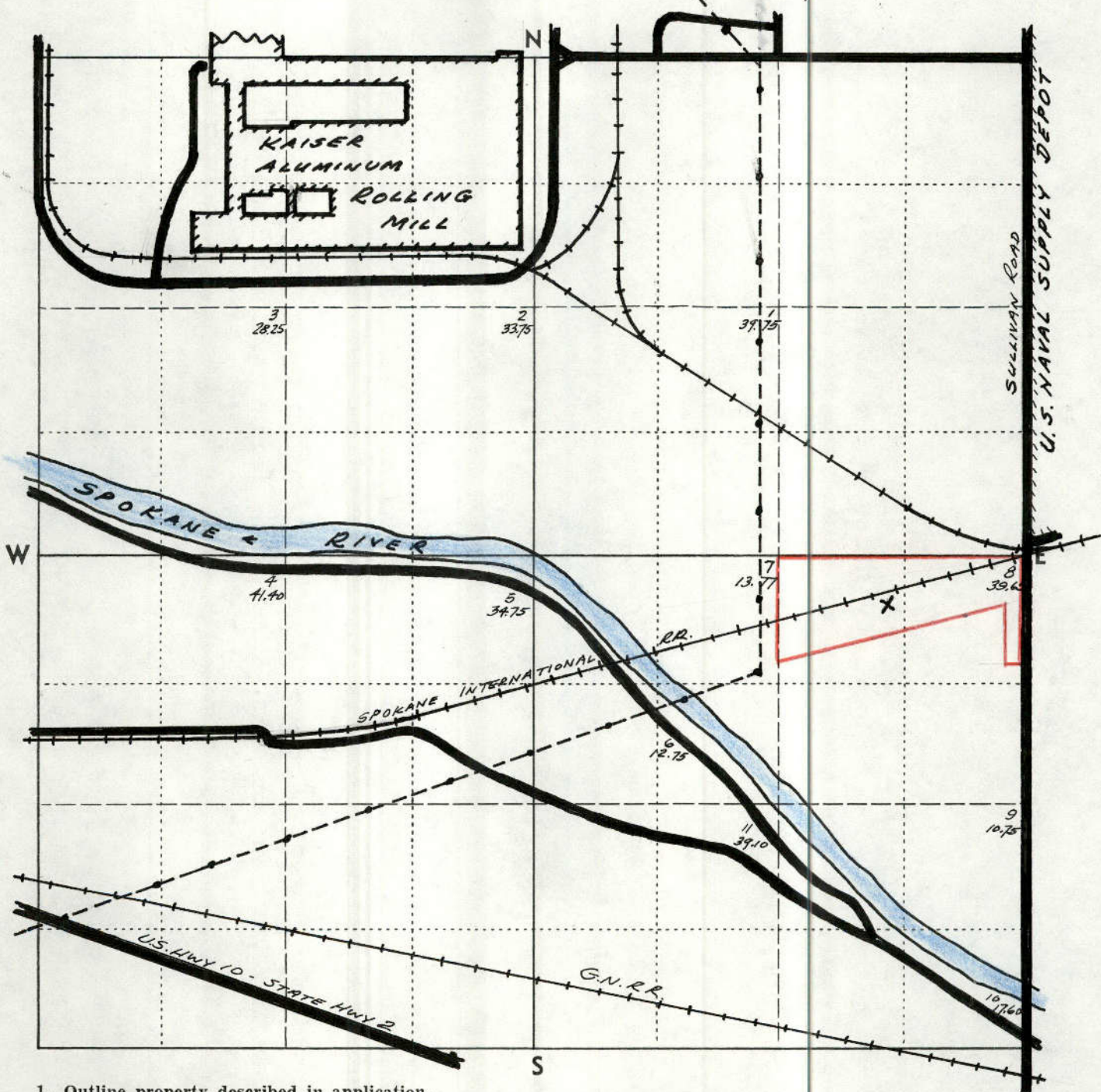
[Signed] James J. Zinkgraf
(Well Driller)

License No. 223-02-253600 Date Jan 12, 1966

OK/WRD

GW 7886

Sec. 11 Twp. 25 N. R. 44 E.



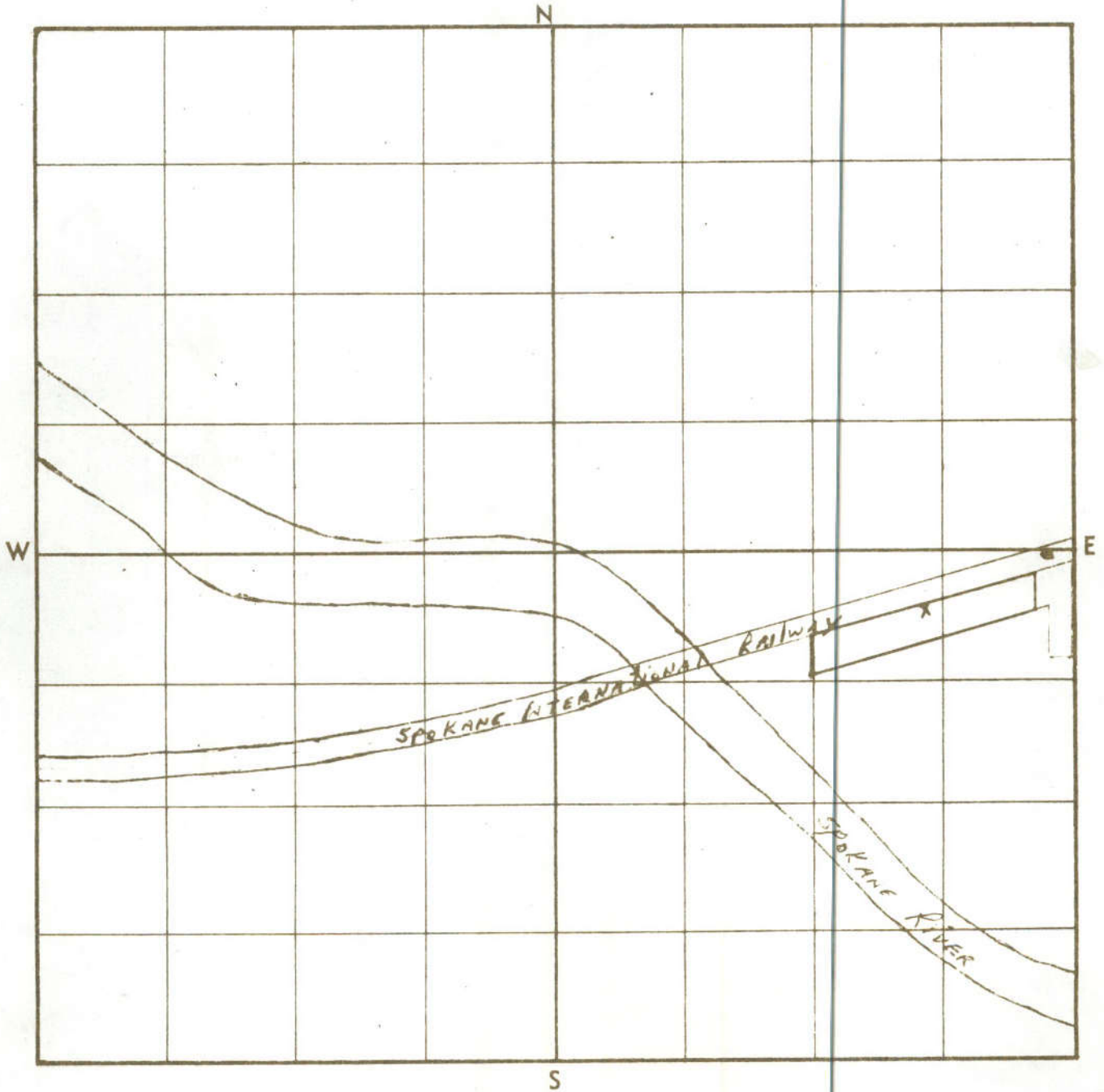
1. Outline property described in application.
2. Show by a cross (X) the location of point of diversion (surface water source) or point of withdrawal (ground water source). For ground water applications, show by a circle (O) the locations of other wells or works within a quarter of a mile.
3. Indicate traveling directions from nearest town.

OFFICE 1

Scale: 1 inch = 800 feet (each small square = 10 acres)

SECTION PLAT

Sec. 11 Twp. 25 N. R. 44 West



Show by a cross (X) the location of the well or other works covered by the application. Show by circle (O) the locations of other wells or works within a quarter of a mile. Also indicate traveling directions from nearest town on main highway.

OFFICE 2

Scale: 1 inch = 800 feet.

East out of Spokane on Freeway to Sullivan Road, North on Sullivan 2000' North of Spokane River. Turn left along railroad tracks.

7886

THE HILLYARD PROCESSING CO., for Spokane International Railroad Co.

Spokane, Washington

December 10, 1965

a well

Government Lot 8

11

25

44 E.

Spokane

600

XX

continuously

industrial use.

23rd

December

65

M. G. WALKER

Affidavit of Publication

STATE OF WASHINGTON }
County of Spokane. } ss.

I, Flobelle Frieske do solemnly swear that I am the
Principal Clerk of the Spokane Weekly Chronicle, a newspaper of general circulation established and

regularly published, once each week in the English language, in the City of Spokane, Spokane County, Washington; that said newspaper has been so established and regularly published and has had said general circulation continuously for more than six (6) months prior to the 23rd day of July, 1941; that said newspaper is printed in an office maintained at its place of publication in the City of Spokane, Washington; that said newspaper was approved and designated as a legal newspaper by order of the Superior Court of the State of Washington for Spokane County on the 23rd day of July, 1941, and that said order has not been revoked and is in full force and effect; that the notice attached hereto and which is a part of the proof of publication,

was published in said newspaper two times, the
publication having been made once each week

from the 13th. day of January A. D. 19 66

to the 20th. day of January A. D. 19 66

That said Notice was published in the regular and entire issue of every number of the paper during the period of time of publication, and that the notice was published in the newspaper proper and not in a supplement.

Flobelle Frieske

Subscribed and sworn to before me at the City of Spokane, this

20th. day of January, 19 66

Bessie M. Ward

Notary Public in and for the State of Washington,
residing at Spokane, Wash.

APPLICATION NO. 7884
STATE OF WASHINGTON, Office of
Supervisor of Water Resources, Olympia.
NOTICE OF GROUND WATER RIGHT
TAKE NOTICE: That THE HILL-
YARD PROCESSING CO., for Spokane
International Railroad Co. of Spokane,
Washington on December 10, 1965, filed
application for permit to withdraw public
ground waters through a well situated
within Government Lot 8 of Section
11, Township 25 N., Range 44 E.W.M.,
in Spokane County, in the amount of
600 gallons per minute, subject to existing
rights continuously, each year for
the purpose of industrial use.
Any objections must be accompanied
by a two dollar (\$2.00) recording fee
and filed with the State Supervisor of
Water Resources within thirty (30)
days from Jan 20, 1966.
Witness my hand and official seal
this 23rd day of December, 1965.
(Seal)
M. G. WALKER,
State Supervisor of Water Resources.

RECEIVED
DEPARTMENT OF CONSERVATION

FEB 3 1966

P. M.

A. M.
7 | 8 | 9 | 10 | 11 | 12 | 1 | 2 | 3 | 4 | 5 | 6

No.

IN THE
SUPERIOR COURT
OF THE
STATE OF WASHINGTON
in and for Spokane County

OFFICE OF

Proof of Appropriation of Water

Application No. 7886

Permit No. 7409

1. Name of Permittee HILLYARD PROCESSING CO., INC.
2. Postoffice address Box 6055, Spokane, Washington
3. Source of appropriation Well
4. Name or number of works (if any) _____
5. For what purpose or purposes is water used? Processing aluminum dross
6. Give date of beginning of construction December 1, 1965
7. Give date of completion of construction work, including water distribution system February 2, 1966
8. Give date when water was completely applied to proposed use June 13, 1966
9. If used for irrigation:
 Give number of acres described in permit _____
 Give number of acres actually irrigated _____
10. If used for power: HP actually developed _____
11. LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS USED:



Portion of Lot 8 in southeast quarter laying north of line drawn parallel with and 200 feet distant southerly when measured at right angle from southerly Spokane International Railway right-of-way line; also, east 100 feet of north 575 feet of Lot 8

Section 11 Township 25 north range 44 east W. M.

Has Access Port or Airline Been Installed? Yes

12. During what months is water used? All year
13. Does map filed with your application show correctly the location of well or point of diversion for withdrawal of water, and area of land where water is used? Yes
14. If the dimensions, location or type of structure do not correspond to those described in your permit, state what changes have been made, giving dimensions, etc. _____

15. Actual measured discharge or diversion of permanent system: 450 GPM (gpm or cfs)

450gpm (impossible) (Sign certification on reverse side)
7200 AF E.E.L.
RMR

STATE OF WASHINGTON,

County of Spokane } ss.

I, Paul V. Ortman, being first duly sworn, depose and say that I have read the above and foregoing proof of appropriation; that I know the contents thereof; and that the facts therein stated are true.

IN WITNESS WHEREOF, I have hereunto set my hand this 11 day of August, 1966

Paul V. Ortman

Subscribed and sworn to before me this 11 day of August, 1966

J. J. Oskin
Notary Public.



ALBERT D. ROSELLINI
GOVERNOR

STATE OF WASHINGTON

Department of Conservation

EARL COE, DIRECTOR

335 GENERAL ADMINISTRATION BUILDING
OLYMPIA

DIVISIONS:

RECLAMATION
FLOOD CONTROL
WATER RESOURCES
MINES AND GEOLOGY
COLUMBIA BASIN PROJECT
POWER RESOURCES
WEATHER MODIFICATION

August 19, 1966

Spokane County Auditor
Spokane, Washington

Dear Sir:

Enclosed is Certificate of Water Right No. 5484-A
and a check or money order in the amount of
\$ 2.00 to cover the cost of recording in your
office.

When this has been done, please forward the cer-
tificate to:

The Hillyard Processing Co., for
Spokane International Railroad Co.
Box 6055
Spokane, Washington 99207

Very truly yours,

DEPARTMENT OF CONSERVATION

EARL COE, DIRECTOR

M. G. WALKER, Supervisor
Division of Water Resources

\$10.00 examination fee should accompany each application.

STATE OF WASHINGTON
DEPARTMENT OF CONSERVATION
Division of Water Resources

Priority _____
Date 12-10-65
Time 9:30 am
Accepted RHR

APPLICATION FOR A PERMIT

To Appropriate Public Ground Waters
OF THE STATE OF WASHINGTON

Application No. G. W. 7886

I, The Hillyard Processing Co. for Spokane International Railroad Co.
(Name of applicant)

of Box 6055, Spokane, Washington 99207
(Complete post office address)

do hereby make application for a permit to appropriate the following described public ground waters of the State of Washington, subject to existing rights. This application is made under the provisions of Chap. 263 of the Session Laws of 1945, and amendments thereto of the State of Washington and subject to the rules and regulations of the Department of Conservation, Division of Water Resources.

1. The proposed appropriation will be from Well
(Well, tunnel, infiltration trench)

located 6 1/2 miles east of Spokane
(Give approximate distance and direction from nearest city or town)

Area _____ Sub-area _____
(Leave blank) (Leave blank)

Zone _____
(Leave blank)

Applicant's name or number of well or other works, if any Permit #3485 *(see GW 2022A - in Sec. 3, T. 25, R. 43E)*

2. The quantity of water which applicant intends to withdraw for beneficial use is 600
gallons per minute; 988.2 acre feet per year. *INDUSTRIAL USE ← use this*

3. The use or uses to which water is to be applied Processing aluminum dross
from Kaiser Aluminum & Chemical Corporation
(Domestic supply, irrigation, municipal, manufacturing, industrial use, etc.)

4. The time during which water will be required each year All year continuously

5. Location of well or other works for withdrawal of water: In county of Spokane

750' W & 250' S from east 1/4 corner of Sec. 11
(a) 2440 feet Northwest of Southeast corner of Sec. 11, Twp. 25, R. 44 W
(Give distance and bearing from nearest corner of section or legal subdivision)

being within the Portion of lot 8 in SE quarter of Sec. 11, Twp. 25 N., Rge. 44 W
(Give smallest legal subdivision) *Cont Lot 8* (E. or W.)

or (b) If within limits of recorded platted property, town or city: Lot _____, Block _____,
of _____
(Give name of plat or addition) (If within town or city, give name)

(c) Show this location on accompanying section plat. Other adequate maps or drawings will be acceptable.

RHR

6. DESCRIPTION OF WORKS:

(a) Well will be drilled and have a diameter of 10 inches and an estimated depth of 120 feet.
(Dug or drilled)

(b) Tunnels or trenches to be described: (Attach additional sheets if needed for full description.)

(c) Distribution system to be described:

(d) If pumps are to be used, give size and type: 40 h.p. vertical hollow shaft motor with 6x8x16½ cast iron surface discharge head, 110' of 6"x1" water lubricated discharge column and 7 stage pumping unit.

(e) Give capacity and type of motor or engine to be used:

(f) If the location of the well, tunnel, or other works is less than one-fourth mile from a natural stream or stream channel, give the distance to the nearest point on each of such channels and the difference in elevation between the stream bed and the ground surface at the source of development:

955 feet west
65 feet lower than well

(g) Ownership of each existing well or other works from which ground water is withdrawn within a radius of one-quarter mile and the distance and direction from well or other works being reported herein:

(Name)	(Direction)	(Distance)
(Name)	(Direction)	(Distance)
(Name)	(Direction)	(Distance)

SUPPLY THE FOLLOWING INFORMATION ACCORDING TO USE PROPOSED:

7. For Municipal Supply: To supply the city, town, or community of _____, in the county of _____, having a present population of _____, and an estimated population of _____, in 19_____.

8. For Irrigation: Number of acres to be irrigated _____ acres.

9. Legal Description of Property on which water is to be used for all purposes other than municipal supply:

(Copy legal description from deed)
(If more space is required, attach separate sheet)

That portion of ^{Gout} Lot 8 in Southeast quarter ^{laying} North of ^a line drawn parallel with and 200' distance southerly, when measured at right angle from southerly Spokane International Railway right-of-way line, ^{the} also east 100' of ^{the} North 575' of ^{said Gout.} Lot 8.

OK
BN

(On accompanying plat show location of the existing wells or works)

10. What interest do you have in the above described property? Leasing from
Spokane International Railroad
(Owner, lessee, contract buyer, etc.)

11. Do you have any other water rights appurtenant to the above described property? No.
If so, from what source?

12. Construction work will begin on or before November 1, 1965

13. Construction work will be completed on or before December 15, 1965

14. Water will be put to complete beneficial use on or before January 1, 1966

Paul V. Optman, mgr.
(Signature of applicant)

15. Name and address of owner of land on which well or works are located:

(Spokane International Railroad Co.)
(Name)

Portland, Oregon
(Address)

J. Baker
(Signature of legal landowner)
General Manager

Signed in the presence of us as witnesses:

M. Gial
(Name)

UPRR, Portland, Oregon
(Address of witness)

W. Krowat
(Name)

UPRR, Portland, Oregon
(Address of witness)

STATE OF WASHINGTON, }
COUNTY OF THURSTON. } ss.

This is to certify that I have examined the foregoing application, together with the accompanying maps and data, and return the same for correction or completion as follows:

In order to retain its priority, this application must be returned to the State Supervisor of Water Resources, with corrections, on or before _____, 19____

WITNESS my hand this _____ day of _____, 19____

State Supervisor of Water Resources.

CERTIFICATE RECORD No. 11 PAGE No. 5484-A

STATE OF WASHINGTON, COUNTY OF Spokane

Certificate of Ground Water Right

Issued in accordance with the provisions of Chapter 263, Laws of Washington for 1945, and amendments thereto, and the rules and regulations of the State Supervisor of Water Resources thereunder.

THIS IS TO CERTIFY That SPOKANE INTERNATIONAL RAILROAD CO.
of Spokane, Washington, has made proof
to the satisfaction of the State Supervisor of Water Resources of Washington, of a right to the use of
the ground waters of a well
located within Government Lot 8
Sec. 11, Twp. 25 N., R. 44 E. W.M.,
for the purpose of industrial use (processing aluminum dross from Kaiser Aluminum and Chemical Corp.)
under and subject to provisions contained in Ground Water Permit No. 7409 issued by the State
Supervisor of Water Resources and that said right to the use of said ground waters has been perfected
in accordance with the laws of Washington, and is hereby confirmed by the State Supervisor of Water
Resources of Washington and entered of record in Volume 11 at page 5484-A;
that the right hereby confirmed dates from December 10, 1965; that the quantity of ground
water under the right hereby confirmed for the purposes aforesaid, is limited to an amount actually
beneficially used for said purposes, and shall not exceed 450 gallons per minute; 720 acre-feet
per year, for industrial use.

Special provisions required by the Supervisor of Water Resources: _____

A description of the lands to which such ground water right is appurtenant:

That portion of Government Lot 8 in SE $\frac{1}{4}$ lying north of a line drawn parallel with and 200 feet distance southerly, when measured at right angles from southerly Spokane International Railway right-of-way line; also the east 100 feet of the north 575 feet of said Government Lot 8, all in Sec. 11, T. 25 N., R. 44 E.W.M.

The right to the use of the ground water aforesaid hereby confirmed is restricted to the lands or place of use herein described, except as provided in Sections 6 and 7, Chapter 122, Laws of 1929.

WITNESS the seal and signature of the State Supervisor of Water Resources affixed this

18th day of August, 1966


State Supervisor of Water Resources.

Ground Water Permit No.....

**CERTIFICATE OF GROUND
WATER RIGHT**

Recorded in the office of the State Super-
visor of Water Resources, Olympia, Wash-
ington, in Book No.....of Ground
Water Right Certificates, on page.....,
on the.....day of.....
19.....

STATE OF WASHINGTON, }
County of } ss.

I certify that the within was received and
duly recorded by me in Volume.....
of Book of Water Right Certificates, at
page....., on the.....day of
....., 19.....

Report of Examination on Ground Water

Received date December 10, 1965 Date of exam March 30, 1966 Appli. No. 7886
Name The Hillyard Processing Co., for/ Address Spokane International Railroad Co. Box 6055, Spokane, Washington
Type of works a well Dimensions 10" x 120"
Progress of works Completed
Quantity applied for 600 g.p.m. 988.2 acre-feet per year
Government
Legal sub. Lot 8 Sec. 11 Twp. 25 N. Rge. 44 E. County Spokane
Use industrial use (processing aluminum dross from Kaiser Aluminum & Chemical Corp.)
Irrigation-acreage: Present _____ Planned _____ Feasible _____
Municipal: Population _____ as of _____
Industrial _____
Time pump will be operated continuously
Other water rights appurtenant to this land None
Proximity to existing works, springs, wells, or streams None

Area _____ Sub-area _____ Zone _____

RECOMMENDATIONS


Approved for 600 g.p.m. 984 acre-feet per year, subject to existing water rights. (1 acre-foot 325,850 gallons.)

The installation of an access port to well as described in attached Ground Water Bulletin No. 1 is recommended.

It should be noted that use of the waters appropriated under this application will be largely non-consumptive and all or a portion of the diverted quantity will be returned to this source of supply or other public waters. Under the State's Pollution Control Law, as amended by Chapter 71, Laws of 1955, any person who conducts a commercial or industrial operation of any type which results in the disposal of solid or liquid waste material into the waters of the State shall procure a permit from the Pollution Control Commission before disposing of such waste material. In view of this provision, the applicant is advised to contact the Pollution Control Commission, Public Health Building, Olympia, with regard to the need for compliance with this portion of the act.

The water requirement for this application is calculated on a continuous withdrawal of 600 gallons per minute or 984 acre-feet annually.

Signed at Olympia, Washington
This 29 Day of April, 1966.


ERNEST E. LeVASSEUR, Engineer
Division of Water Resources

STATE OF WASHINGTON
DEPARTMENT OF CONSERVATION
DIVISION OF WATER RESOURCES

Permit to Appropriate Public Ground Waters
of the State of Washington

Book No. 15 of Ground Water Permits, on page 7409 under Application No. 7886

THE HILLYARD PROCESSING CO., FOR SPOKANE INTERNATIONAL RAILROAD CO.

of Spokane, Washington

is hereby granted a permit to appropriate the following described public ground waters of the State of Washington, subject to existing rights, and to the limitations and provisions set out herein.

Priority date of this permit is December 10, 1965

Source of the proposed ground water appropriation is a well

within _____ area, _____ sub-area
_____ zone. Name or number of works is _____

Quantity of water appropriated shall be limited to the amount which can be beneficially applied and not to exceed 600 gallons per minute; 984 acre-feet per year, to be used for the following purposes: industrial use (processing aluminum dross from Kaiser Aluminum and Chemical Corp.)

as more definitely set out below.

Location of the well, tunnel, or infiltration trench is 750 feet west and 250 feet south from east quarter corner of Sec. 11

being within Government Lot 8 of Sec. 11, T. 25 N., R. 44 E.W.M.
county of Spokane

Use, or uses to which water is to be applied:

For municipal supply: _____ gallons per minute; _____ acre-feet per year, to supply _____

For irrigation: _____ gallons per minute; _____ acre-feet per year, for the irrigation of _____ acres.

For miscellaneous uses: 600 gallons per minute; 984 acre-feet per year, for industrial use

LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED

That portion of Government Lot 8 in SE $\frac{1}{4}$ lying north of a line drawn parallel with and 200 feet distance southerly, when measured at right angles, from southerly Spokane International Railway right-of-way line; also the east 100 feet of the north 575 feet of said Government Lot 8, all in Sec. 11, T. 25 N., R. 44 E.W.M.

DESCRIPTION OF WORKS FROM WHICH WATER IS TO BE WITHDRAWN

The well will be drilled and have a diameter of 10 inches, and depth of 120 feet.
(Dug or drilled)

Description of tunnel or infiltration trench:

(Please read carefully provisions below)

Particular specifications required by the Supervisor of Water Resources for the purpose of preventing waste of public waters:

Construction work shall begin on or before Started
and shall thereafter be prosecuted with reasonable diligence and completed on or before Completed
and complete application of water to proposed use shall be made on or before April 1, 1967

Given under my hand and the seal of this office at Olympia, Washington, this 14th day of April, 1966

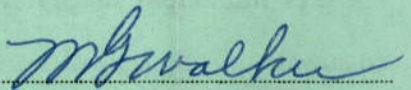

State Supervisor of Water Resources

EXHIBIT 2

G293

K-1

STATUS REPORT

WATER POLLUTION
IN THE SPOKANE RIVER

MARCH, 1970

WATER RESOURCES
CENTER ARCHIVES

APR 72

UNIVERSITY OF CALIFORNIA
BERKELEY

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
DANIEL J. EVANS
GOVERNOR
JOHN A. BIGGS
DIRECTOR
OLYMPIA, WASHINGTON

Reprint -- STATUS REPORT, March 1970, WATER POLLUTION IN THE SPOKANE RIVER. by Thomas G. Haggarty, Regional Manager, Eastern Regional Office, Washington State Department of Ecology. Originally published as Technical Report 69-1, Washington State Water Pollution Control Commission.

"It is declared to be the public policy of the State of Washington to maintain the highest possible standards to insure the purity of all waters of the state, consistent with public health and public enjoyment thereof, the propagation of wildlife, birds, game fish and other aquatic life and the industrial development of the state and to that end, require the use of all known available and reasonable methods by industries and others to prevent and control the pollution of the waters of the State of Washington."

Chapter 90.48, Revised Code of Washington.

INDUSTRIAL WASTE DISCHARGES

Any person who conducts a commercial or industrial operation of any type which results in the disposal of solid or liquid waste material into the waters of the state, including those that discharge to municipal or public sewage systems must obtain a permit from the Water Pollution Control Commission.

In the immediate Spokane area, there are 57 industries with these permits. This permit program enables the Commission to control and regulate industrial waste discharges.

The Spokane Regional Office is responsible for the 20 eastern Washington counties and has some 402 active permits issued. Statewide, there are some 965 permits in effect. These permits cover all industries - big and small - which play a role in the state's overall water pollution control programs.

Listed below are the industries with state permits which discharge wastes into the Spokane River and their current treatment process adequacy:

1. Spokane Industrial Park - upgrade existing treatment facilities by September 30, 1971.
2. Hillyard Processing Company (Sullivan Road) - upgrade existing treatment facilities by September 30, 1971.
3. Kaiser Aluminum (Trentwood) - minor modifications to existing facilities.
4. Inland Empire Paper Co. - primary treatment of waste water was required to be completed by December 31, 1969. Secondary treatment or removal of sulphite waste liquor discharge by September 30, 1971 is the second and last step in necessary corrections.
5. Thomas Cleaners (Millwood) - secondary treatment of removal of discharge by July 1970.
6. Hillyard Processing Company (Wellesley Ave.) - present treatment facilities adequate.

The remainder of the industries in the immediate Spokane area either dispose waste water on their own property by seepage and evaporation or similar means or are connected to the City of Spokane sewer system.

There are no industries discharging directly to the Spokane River without a permit and the above list is complete. The state's efforts to encourage industries to connect to the city sewer system whenever possible to discharge their industrial wastes has been successful.

Categorically speaking, industrial waste is not a major pollution problem in the Spokane River at this time. The exception to this is the Inland Empire Paper Company - discussed in another section of this report. Industries in the Spokane area are not of the type where industrial wastes pose critical problems.

WATER QUALITY STANDARDS: All surface waters of the State of Washington are classified based on present and future uses. These standards insure the purity of all waters consistent with the beneficial uses and the development of the state.

WATER QUALITY IN THE SPOKANE RIVER

The Spokane River is classified as Class A water. There are two areas where the river waters do not meet the established standards. Specifically, these areas are where dissolved oxygen standards stipulate a minimum of 8.0 ppm (parts per million) and coliform bacteria where the standards stipulate median values not to exceed 240 with less than 20% of the samples exceeding 1000.

The dissolved oxygen in the Spokane River drops below 8.0 ppm in the area below the Inland Empire Paper Company and again in the area below the Spokane Sewage Treatment Plant. Another area is in the Long Lake impoundment in the lower reaches of the Spokane River. The situation in Long Lake creates a study on its own and information about this problem can be found in a recent publication* which deals with this specific subject.

For the purposes of definition, dissolved oxygen (D.O.) is that oxygen available in water for fish and other aquatic plants and animals. It is necessary to support the more desirable forms of life people normally associate with clean water. For example, most trout cannot tolerate dissolved oxygen concentrations of less than 5.0 ppm. On the other hand, as the D.O. drops, the more objectionable forms of life such as slimes are only able to survive and become predominate in the water.

In order to establish the perspective of dissolved oxygen concentrations, the standards for the various water classifications are as follows: Class AA - 9.5 ppm, Class A - 8.0 ppm, Class B - 6.5 ppm and Class C - 5.0 ppm.

Dissolved oxygen concentrations are often used parameters in water pollution work.

Not only is it an essential property for good quality water, but also an excellent indicator of certain types of pollutants and is relatively easy to determine by analytical methods.

Certain pollutants cause dissolved oxygen concentrations to drop. One way is through a chemical reaction. Certain types of waste water discharges cause a chemical reaction which use up the available oxygen in the receiving waters.

Another example involves a biological activity in which organic material decomposes. This biological decomposition requires oxygen so that waste waters containing organic matter - domestic sewage is a typical example - further utilize the available oxygen in receiving waters.

Through testing techniques, technicians can measure the amount or degree of the above circumstances by determining the bio-chemical oxygen demand (BOD) of waste waters. Receiving waters can assimilate a certain amount of this BOD without adverse effects. When the BOD loading exceeds this inherent ability of the receiving waters, the dissolved oxygen is utilized or depleted and water pollution results. Sewage treatment plants are designed to remove part of this BOD loading then discharge an effluent that can be assimilated by the receiving waters.

The above comments refer to only one of the many phenomena involved in water pollution, however, it is probably the most common circumstance that occurs.

As stated, the dissolved oxygen concentration in the Spokane River drops below the established standard of 8.0 ppm in the area below the Inland Empire Paper Company. Sampling efforts have detected a low of 6.4 ppm that results from the firm's waste water discharge. During this same period, the river waters contain around 9.0 ppm dissolved oxygen above their operation. This industry, in making paper pulp, produces a waste referred to as sulphite waste liquor. This material

is frequently encountered on unpaved roads in the Spokane area where it is used for dust control.

During a normal day of operation and when the sulphite waste liquor is not being used for dust control, this industry discharges up to 30,000 lbs of BOD to the Spokane River. Once in the river, the sulphite waste liquor undergoes a chemical reaction and utilizes dissolved oxygen in the stream.

By comparison, the Spokane Sewage Treatment Plant, after providing primary treatment discharges about 12,000 lbs of BOD daily to the Spokane River. Dissolved oxygen concentrations in the river drop from around 9.0 to 8.0 ppm and lower as a result of the city's discharge. The Spokane Sewage Treatment Plant, when not affected by the overflow or storm water problem, removes an average of 62% of the BOD and 60% of the suspended solids. Textbook definitions of primary treatment state that 35 to 40% removal efficiency can be expected.

Because of slight modifications and excellent operation, the existing plant achieves a high efficiency for primary treatment. By providing secondary treatment, this efficiency should increase to a minimum removal of 85% BOD and suspended solids. Primary treatment involves only sedimentation while secondary treatment adds further treatment through the use of biological activity. In essence, this man-made biological treatment is the same organic decomposition process that would otherwise or does now occur in the river.

Another water pollution problem involves nitrates and phosphates or what is often referred to as nutrients. These nutrients are the fertilizers that promote the growth of algae, underwater weeds and similar vegetation that render many lakes and streams undesirable during the summer months. Domestic sewage is one significant source of these nutrients. They are not removed in standard primary or secondary treatment. Because of this, the terms "tertiary treatment" or "advanced waste treatment" are now being heard more frequently and refer to a process by which the nutrients are also removed or reduced.

During a study of Long Lake, it was determined that the Spokane River carries a load of 120 lbs/day of ortho-phosphate above the Spokane Sewage Treatment Plant and 3100 lbs/day directly below this discharge. The City of Spokane has indicated that its upgrading project will include facilities for reducing this source of nutrients. The City of Spokane is to be commended for taking this attitude, for the job of providing adequate treatment will not be accomplished until such facilities are in operation.

In the lower Spokane River, the nutrient problem is a most critical situation. Coliform bacteria are another frequently used parameter for water pollution. These particular bacteria are frequent inhabitants in the intestines of warm blooded animals and indicators of the presence of domestic sewage. Pathogenic or disease causing bacteria are found in the coliform group. This becomes a public health concern if they are found in high numbers.

Standards for Class A waters and the Spokane River, stipulate median values not to exceed 240 with 20% of the samples not exceeding 1000. In accordance with the characteristic uses for Class A waters these bacterial standards would permit water contact sports such as swimming, water skiing, etc., to be carried on without a hazard to public health. Bacterial standards for public swimming pools where disinfection facilities are available are considerably more strict. It is normal to detect bacterial counts in all surface waters since any number of wild animals could have access to even isolated bodies of water. However, when these counts start to exceed the 240 to 1000 range, it can be assumed that raw sewage is present.

Through survey work on the Spokane River and other monitoring efforts, it has been determined that coliforms counts exceed the Class A standards throughout that stretch of the river from below the Upriver Dam (across from Felts Field) to the Long Lake Dam in Lincoln and Stevens Counties.

The bacterial contamination, apparently in the form of sewage enters the Spokane River as it passes through the center of town.

The storm water problem and overflow situation contributes to these high counts as would any raw sewage discharge.

To illustrate this situation, the attached graph plots median values of coliform counts from the data collected since 1966 and during 1969. The attached vicinity map shows the entire Spokane River and circles that stretch where high bacteria counts are consistently detected.

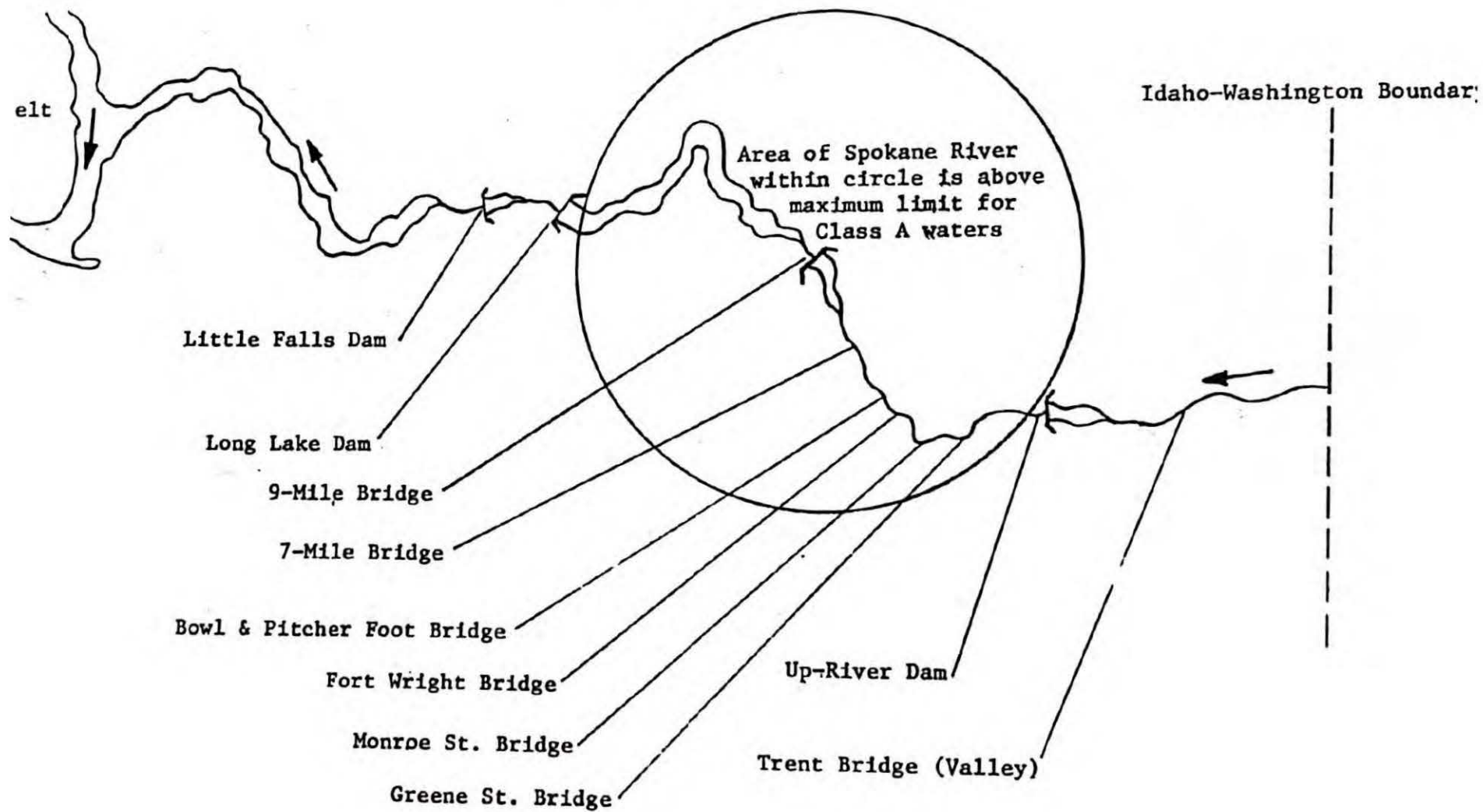
There are some interesting observations to be made from these two diagrams. First, that rather sizeable area within the circle on the vicinity map should not be used for any type of water contact sports. The graph attempts to establish the density and degree of the bacterial contamination.

The graph accurately illustrates a rather significant water pollution problem in the Spokane River.

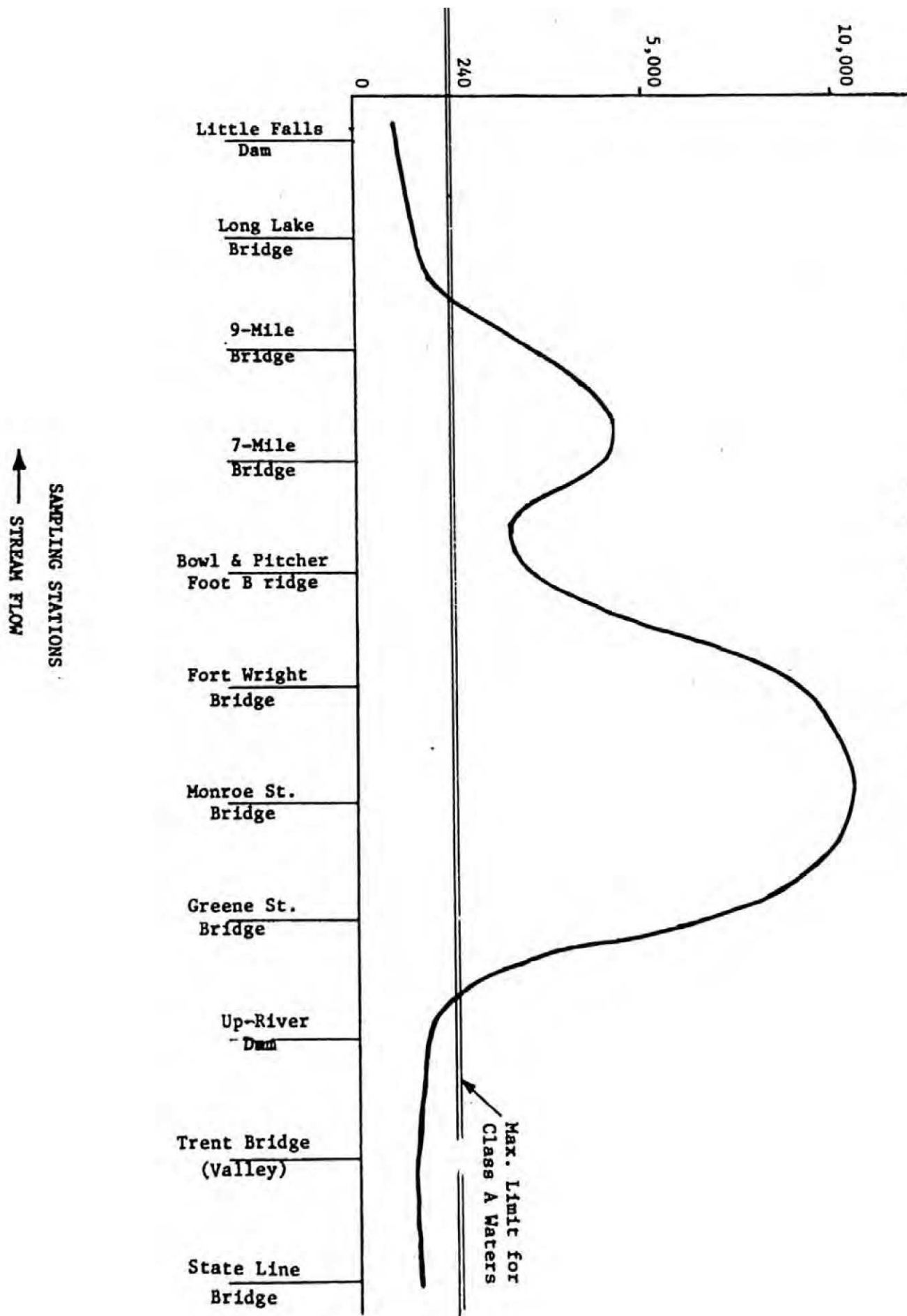
These are two of the major water quality problems in the Spokane River. These problems are not impossible to correct. The Spokane River can and must meet Class A water quality standards. This will require continued effort by Spokane area people and it appears that the effort is worthwhile.

* WPCC Technical Report No. 69-1

COLIFORM BACTERIA CONTAMINATION
SPOKANE RIVER
VICINITY MAP



COLIFORM BACTERIA CONTAMINATION
SPOKANE RIVER



It is our declared policy to require the use of all known available and reasonable methods to prevent and control the pollution of the waters of the state.
RCW 90.46.010

CITY OF SPOKANE

The Interstate Water Quality Standards outline a specific schedule for the City of Spokane to follow in order to be in compliance. The requirements placed on the City involve two situations. They must (1) upgrade their existing primary treatment plant to secondary treatment, and (2) undertake a study and develop a plan for correction of the storm water overflow problems.

Primary treatment is not adequate and secondary treatment is now the minimum acceptable degree of treatment throughout the state. This same philosophy prevails in other states and has become the national goal. This is one of the reasons for the requirement concerning the City's existing facilities. The requirement has also been made because of the effects of the existing treatment plant discharge on the Spokane River. This situation is discussed in further detail in another section.

Secondary treatment is a definable goal and does not require any unknown technical knowledge or research to accomplish. While the City has not made a reliable cost estimate for this project, it would be economically feasible for the City of Spokane. They would be eligible for the 45% grant on the total construction costs from the federal and state governments for such a project. Completion of this project is originally called for by the end of 1972.

The second portion of the requirement calls for a study and resulting engineering report identifying the problems of the storm water overflows. The problem involves the hydraulic overloading of the City sewer system.

Numerous street drains and other storm water removal facilities are connected to the City's sanitary sewer system. Rain, snow-melt, etc., enters the sanitary sewer system and causes volumes of flow beyond the capacity of the system.

As a result, overflow devices have been constructed at strategic locations along the river and at the sewage treatment plant to relieve the situation, and sewage and storm water are discharged directly to the Spokane River during the critical periods. This situation is not the result of miscalculations but rather something that has been inherited from the original sewer system when all the sewage was discharged directly to the Spokane River.

One solution to correcting this problem quite obviously is to separate the two flows, allowing the storm water to return to the river as it would if the urban development were not there, and thus, allow the treatment plant to treat the domestic sewage as it is designed to do. No doubt other alternatives or modifications of the above thoughts could be worked out. Without question, this will be a costly undertaking to correct, and it cannot be accomplished in a few short years.

First, however a great many questions must be answered. For example, the frequency of these overflows as well as the amount of water entering the system is unknown. In other words, how much does it have to rain to cause an overflow and where does the overflow occur? Answering these questions and then determining the most feasible way of effecting corrections will be the job of the consulting engineering firm the City will hire. In addition, they are to develop a feasible method of financing a stage construction program. This engineering work is to be completed by July 1972. Some time after that date, it seems reasonable to assume that actual construction, in accordance with the engineering program, will commence.

To date, the state has not required the City to do anything more than prepare a plan on how the storm water problem can be corrected and to outline their own feasible ~~and~~ ~~with~~ ~~enforce~~ ~~the~~ ~~necessary~~ ~~corrections~~ Original from

The Commission however, required that they design, finance and construct modifications to the existing sewage treatment plant by the end of 1972. These requirements have not been accepted by the City with enthusiasm. Without question, the City has expressed a very real concern as they face a problem of great magnitude. By the same token, the problems needing correction are also very real and the people of Spokane must face up to them.

The Commission issued an order to the City of Spokane on January 8, 1970. It was the first such order issued to a municipality by the Water Pollution Control Commission as a result of the adoption of Water Quality Standards on Interstate and Coastal Waters. Similar action with regard to a few other municipalities are anticipated in order for the state to achieve the goal of implementation and enforcement of these standards by the end of 1972.

The City of Spokane is not unique in its problems. It might be interesting to review the progress of some of the other Eastern Washington communities who were also required to upgrade or improve their sewerage systems under the Interstate Water Quality program and examine some of the costs involved: (a) Clarkston has a secondary sewage treatment plant under construction and individual residences pay a monthly sewer charge of \$1.83. (b) Pasco has a secondary sewage treatment plant under construction and individual residences pay a monthly sewer charge of \$2.75. (c) The Town of Coulee Dam will advertise for bids on secondary sewage treatment plant during the spring of 1970, and they presently pay a monthly charge of \$2.00. (d) Wenatchee has completed about 75% of the storm water overflow corrections and has completed an engineering report for secondary treatment facilities. The present monthly sewer charge for individual residences is \$2.60. (e) Kennewick has an engineering study under way for secondary treatment and they have indicated their intent to comply with the standards. The present sewer charge is \$2.00 per month.

Sewer rates vary widely from town to town and are dependent upon a number of different circumstances. It is interesting to note some of the higher rates that are paid by towns in the surrounding area such as Medical Lake - \$3.00/month, Othello - \$3.00/month, Kettle Falls - \$3.25/month and Metaline Falls - \$3.50/month. Sewer rates do not necessarily reflect the cost to individuals since financing may also be done by assessment per front foot or a combination of both front footage and monthly rate. The current monthly sewer charge for individual residences in Spokane is \$1.50.

This report mentioned the status of the more sizeable towns of Eastern Washington that have been affected by the Interstate Standards. The following communities are located on interstate streams and their existing sewerage facilities are adequate: Pateros, Brewster, Bridgeport, Cusick, Ione, Metaline, Metaline Falls, Colfax, Grand Coulee and Millwood.

The following towns have secondary treatment facilities but are in the process of making adjustments or modifications as a result of the Standards: Okanogan, Omak, Tonasket, Oroville and Palouse. The Town of Asotin has been delayed in upgrading their primary plant because of their involvement with the U.S. Corps of Engineers and the construction of Lower Granite Dam. East Wenatchee (served by a Sewer District) and Newport have primary plants, however, their schedule does not call for activity toward upgrading to secondary treatment until the second quarter of 1970. All three of the above towns will be expected to have secondary treatment facilities in operation prior to the end of 1972. No other cities than those just mentioned were involved in the Interstate Standards in Eastern Washington.

The Commission cannot predict what the City of Spokane will eventually do about the requirement they face. The City Government realizes the facilities are inadequate and are desirous of correcting the situation.

The solutions are not simple and the citizens could be faced with further taxation, higher rates and other procedures to meet the needs. In the November election of 1968, the people in Spokane County voted better than 2 to 1 in favor of a state bond issue for pollution control projects. It is hoped this attitude will continue and the city will be able to resolve their problems in a timely manner.

STATE AND FEDERAL FUNDS FOR SEWER CONSTRUCTION

The most used and effective grant program for sewer construction has resulted from the federal legislation identified as Public Law 660 and enacted by the 84th Congress in 1956. This program was developed to provide incentive for municipalities and other public entities to construct sewage treatment facilities and provides grant funds for the construction of sewage treatment plants, interceptors and out-fall lines under the auspices of the Federal Water Pollution Administration. It should be noted that the collection or lateral systems are not included in the program and only public entities are eligible.

While the actual law provides a number of programs for research, training, investigations and other aspects of water pollution control, this report will restrict comments to that section covering construction grants. In this area, the federal legislation stipulates a somewhat flexible program but conveys the administration of the program to a state agency through the Federal Water Pollution Control Administration. In Washington, the Water Pollution Control Commission is charged with administering this Public Law 660 program. Other states administer the program differently, and there are often conflicting reports on how much grant money is available under the 660 program.

In Washington, recipients under the 660 program receive grants from the Federal government totaling 30% of the total eligible costs of constructing sewage treatment facilities. With the passage of Referendum No. 17 on the ballot in November 1968, state monies were made available and the State of Washington now adds a 15% grant to this program. A public entity qualifying for 660 monies now receives a grant totaling 45% of the total eligible cost of constructing or modifying a sewage treatment facility. In those areas where the public entity is involved in a Regional Plan and qualifies under the criteria established by the Federal Department of Housing and Urban Development, an additional 3% federal grant can be added so that a total grant of 48% could be available.

In order to qualify for these grants, the public entity must have an approved engineering report outlining the details of its proposed project and must submit an application to the Water Pollution Control Commission. The Commission establishes a priority list and each year awards grants commensurate with the amount of funds appropriated by Congress. There are many more applicants than funds available and normally about one-third of the applicants receive grants.

While there have always been more applicants than funds available in the 660 program, grants have been made each year and a great many municipalities in the State of Washington have received funds under this program administered by the State Water Pollution Control Commission.

Other federal agencies such as the Department of Housing and Urban Development (HUD), the Farmers Home Administration and the Office of Economic Development have programs for public works projects. The HUD has been very active in the area of planning and the preparation of engineering reports. Its construction grants programs are available to entities with a population of over 5,000. On the other hand, the Farmers Home Administration has programs available to those entities of less than 5,000, and they have provided funds for comprehensive water and sewer plans in a number of counties.

The office of Economic Development is concerned only in counties of high unemployment and one of their objectives is to create better economic conditions through construction of public works projects. The details of these programs should be obtained from the offices charged with their administration.

EXHIBIT 3
INTENTIONALLY
OMITTED

EXHIBIT 4

NOTE: Please indicate Folder & Form numbers before starting dictation.

Name: W.L.L.
Date: JUL 15 1985

"Form No. 6, Folder No. 825-08"

1). Audit No.:" N/A " 2). Folder No.:" 825-08 "

3). Date Prepared:" Today day of _____, 1985"
(Day) (Month) (Year)

4). Railroad Company:" SIRR Co
a Corporation of the State of WA "

5). Lessee:" Imperial West Chemical Co.
 an Individual a Corporation of the State of Nevada
 a Partnership, consisting of _____
 dba _____

of 2317 N. Sullivan Spokane, WA 99216
(Mailing Address)

6). Effective Date:" 15 day of 7, 1985"
(Day) (Month) (Year)

7). Location:" Trentwood, Spokane County, WA "
(City or Station) (State)

8). Purpose: to be used as a site for "aluminum recycling plant"

9). Rental (Use applicable provision):
If indefinite: "(\$ 1350⁰⁰) per annum _____"
payable (annually _____ in advance for each and every year"
If term: "(\$ _____) for the term hereof, payable in
advance"

10). Special Provisions:
Dictate as follows: "Special Provision(s) entitled 'N/A
(are)(is) attached hereto and hereby made a part hereof."

EXECUTION

11). Railroad Company:" SIRR Co "

12). Corporate or Partnership Name (if applicable):"Imperial West
Chemical Co."

13). Individual and/or DBA (if applicable):" _____ "

Lease No. _____

Audit No. _____

Lessee Imperial West

Purpose Aluminum Recycle Plant

Location Trentwood

Expiration _____

Hazardous Commodities

Trackage Evaluation Needed

I. DESCRIPTION

Land Area 125 000 Sq. Ft. Acres Front Feet

Trackage _____ Track Feet

II. VALUE

Prior Rental 8c per Annum Term Month

Prior Unit Value 8c per Sq. Ft. Acre Front Foot

Valuation Source _____

New Unit Value 8c per Sq. Ft. Acre Front Foot

III. RENTAL COMPUTATION

Land: $\frac{125,000}{(\text{Area})} \times \frac{8c}{(\text{Unit Value})} \times \frac{13\%}{(\text{Cap. Rate})} = \$1,350$

Trackage: _____ X \$ ____ /ft. _____ = _____

Taxes: Centrally Assessed Locally Assessed = _____

TOTAL RENTAL \$1,350.00 Per Annum Term

used old rental as lease was with Aluminum Recycling Corp who was storing materials see file 749-20 v.2 for more

14). Title of Executing Officer of Corporation or Partnership (if applicable):

" Pres " _____"

15). Marginal Notes: " _____"

"No. of Copies 6 " TAX DEPT.

EXHIBIT 5
INTENTIONALLY
OMITTED

EXHIBIT 6

FORM 2209

Audit No.

825-08

LEASE

This Agreement made and entered into this 14th day of July, 1986 by and between SPOKANE INTERNATIONAL RAILROAD COMPANY, a corporation of the State of Washington (hereinafter called "Lessor"), party of the first part, and IMPERIAL WEST CHEMICAL CO., a corporation of the State of Nevada, of P. O. Box 696, Antioch, California 94509 (hereinafter called "Lessee"), party of the second part, WITNESSETH:

Lease / Term
Location / Use

Section 1. The Lessor, for and in consideration of the covenants and payments hereinafter mentioned to be performed and made by the Lessee, hereby agrees to lease and let and does hereby lease and let unto the Lessee for a term of one year beginning on the 15th day of July, 1986, the portion of the premises of the Lessor (hereinafter the "Premises") at or near Trentwood, Spokane County, Washington shown on the plat, or described in the description, or both, hereto attached and hereby made a part hereof, such Premises to be used only as a site for manufacturing and distribution of aluminum sulfate and oxides, storage and handling of sulphuric acid, a hazardous commodity.

Renewal

Thereafter, so long as neither party is in default, this Lease will renew itself without further documentation from year to year until terminated as provided in Section 16 herein. Each renewal term will be upon the same terms and conditions set forth herein, including, without limitation, the Lessor's right to reevaluate the rental as hereinafter provided.

Improvements

It is agreed that no improvements placed upon the Premises by the Lessee shall become a part of the realty.

Water Rights

The Lessee acknowledges that this Lease does not grant, convey or transfer any right to the use of water under any water right owned or claimed by the Lessor which may be appurtenant to or otherwise associated with the Premises, and that all right, title, and interest in and to such water is expressly reserved unto the Lessor, its successors and assigns, and that the right to use same or any part thereof may be obtained only by the prior written consent of the Lessor.

This Lease is made without covenant of title or to give possession or for quiet enjoyment.

Rental

Section 2. The Lessee shall pay to the Lessor for the use of the Premises, rental at the rate of NINE THOUSAND FIVE HUNDRED DOLLARS (\$9,500.00) per annum payable annually in advance for each and every year during the term of this Lease, or any renewal thereof, subject to reevaluation, as hereinafter provided.

COPIED
S.W.L. 825-08
By: 030000.8
FEB 27 1987
Date:

Y999 317

Rental Reevaluation

The Lessor may annually reevaluate the rental base upon which the above rental is computed. In the event the Lessor shall determine that the rental paid is no longer representative of a fair market value rental, the Lessor may adjust the rental and shall advise the Lessee by written notice of such change. Such written notice shall be served at least thirty (30) days prior to the effective date of the new rental, it being understood however that rental adjustments shall not be made more often than once every twelve months.

Utilities

The Lessee shall arrange, secure, and be responsible for all water, gas, heat, electricity, power, sewer, telephone, and any and all other utilities and services supplied and/or furnished to the Premises in connection with the use of the Premises by the Lessee as hereinafter provided, together with any and all taxes and/or assessments applicable thereto.

In the event such utilities and services are not separately metered to Lessee, Lessee shall pay a reasonable proportion of the cost of such utilities and services, to be determined by the Lessor, of all charges jointly metered with other portions of the Lessor's property.

It is understood and agreed that none of the above utilities or services may be installed upon the Premises without first securing the written consent and approval for such installation and the location thereof by the Lessor's Chief Engineer.

Taxes

The Lessee further agrees to pay, before the same shall become delinquent, all taxes levied during the life of this Lease upon the Premises and upon any buildings and improvements thereon, or to reimburse the Lessor for sums paid by the Lessor for such taxes, except taxes levied upon the Premises as a component part of the railroad property of the Lessor in the state as a whole.

Assessments

If, during the life of this Lease, any street or other improvement, whether consisting of new construction, maintenance, repairs, renewals, or reconstruction, shall be made, the whole or any portion of the cost of which is assessed against or is fairly assignable to the Premises, the Lessee agrees to pay in addition to the other payments herein provided for:

- (a) Ten and one-half per cent (10½%) per annum on the amount so assessed against or assignable to the Premises when expenditures by the Lessor for such improvements are properly chargeable to capital account under accounting rules of the Interstate Commerce Commission current at the time; and
- (b) the entire amount so assessed against or assignable to the Premises when expenditures for such improvements are not properly chargeable to capital account under said accounting rules.

**Use of Premises-
Abandonment**

Section 3. The Lessee covenants that the Premises shall not be used for any other purpose than for such use specified in Section 1 hereof and agrees that if the Lessee abandons the Premises, the Lessor may enter upon and take possession of the same, and that non-use for the purpose mentioned continuing for thirty days shall be sufficient and conclusive evidence of such abandonment.

**Lessee Not To
Sublet or Assign**

Section 4. The Lessee agrees not to let or sublet the Premises, in whole or in part, or to assign this Lease without the consent in writing of the Lessor, and it is agreed that any transfer or assignment of this Lease, whether voluntary, by operation of law or otherwise, without such consent in writing, shall be absolutely void and, at the option of the Lessor, shall terminate this Lease.

**Use for Unlawful
Purposes Prohibited-
Indemnity**

Section 5. It is especially covenanted and agreed that the use of the Premises or any part thereof for any unlawful or immoral purposes whatsoever is expressly prohibited; that the Lessee shall indemnify, hold harmless and defend the Lessor and the Premises from any and all liens, fines, damages, penalties, forfeitures or judgments in any manner accruing by reason of the use or occupation of the Premises by the Lessee; and that the Lessee shall at all times protect the Lessor and the Premises from all injury, damage, or loss by reason of the occupation of the Premises by the Lessee or from any cause whatsoever growing out of the Lessee's use thereof.

**Care of Premises and
Improvements**

Section 6. The Lessee hereby covenants and agrees that any and all buildings erected upon the Premises shall be painted by the Lessee a color satisfactory to the Lessor, and shall at all times be kept in good repair; that the roof of each building shall be of fire-resistive material; that the Premises shall during the continuance of this Lease be kept by the Lessee in a neat and tidy condition and free from all material which would tend to increase the risk of fire or give the Premises an untidy appearance; that none of the buildings or other structures erected on the Premises shall be used for displaying any signs or advertisements other than signs as may be connected with the business of the Lessee, and that such signs shall be neat, properly maintained and subject to approval of the Lessor. In the event any building or other improvement not belonging to the Lessor on the Premises is damaged or destroyed by fire, storm, or other casualty, the Lessee shall, within thirty days after such happening, remove all debris and rubbish resulting therefrom; and if the Lessee fails to do so, the Lessor may enter the Premises and remove such debris and rubbish, and the Lessee agrees to reimburse the Lessor, within thirty days after bill rendered, for the expense so incurred.

Liens-Indemnity

Section 7. The Lessee shall, when due and before any lien shall attach to the Premises, if the same may lawfully be asserted, pay all charges for water, gas, light, and power furnished; rental or use of sewer facilities serving the Premises; pay for all material joined or affixed to the Premises; pay for all taxes and

assessments; and shall pay in full all persons who perform labor upon the Premises, and shall not permit or suffer any mechanic's or materialman's or other lien of any kind or nature to be enforced against the Premises for any work done or materials furnished thereon at the instance or request or on behalf of the Lessee; and the Lessee agrees to indemnify, hold harmless, and defend, the Lessor and its property against and from any and all liens, claims, demands, costs, and expenses of whatsoever nature in any way connected with or growing out of such work done, labor performed, or materials or other things furnished.

Superior Rights

Section 8. This Lease is made subject to all outstanding superior rights, including, but not limited to, rights of way for highways, pipelines, and for power and communications lines, and the right of the Lessor to renew such outstanding rights and to extend the term thereof.

Clearances

Section 9. Detailed plans for all buildings, platforms, loading or unloading devices, structure and all alterations, improvements and/or additions thereto and/or upon the Premises which the Lessee shall desire to make, shall be presented to Lessor for consent in written form prior to installation upon the Premises. If the Lessor shall give its consent, the consent shall be deemed conditioned upon Lessee acquiring a permit to do such work from appropriate governmental agencies, the furnishing of a copy thereof to Lessor prior to the commencement of the work and the compliance by Lessee of all conditions of said permit in a prompt and expeditious manner.

All buildings, platforms, loading or unloading devices, structures, and/or material or obstruction of any kind erected, maintained, placed, piled, stacked, or maintained upon the Premises after the commencement of this Lease and any alterations, improvements, and/or additions thereto or to buildings, platforms, loading or unloading devices structures located on the Premises prior to the commencement of this Lease shall be constructed, operated, maintained, repaired, renewed, modified and/or reconstructed by the Lessee in strict conformity with Union Pacific Railroad Company's Standard Minimum Clearances for All New Structures and Facilities Along Industry Tracks, as in effect at the time of the placement, construction, operation, maintenance, repair, renewal, modification or reconstruction.

Buildings, platforms, loading or unloading devices, structures and/or material or obstruction of any kind located upon the Premises which are in place at the time the Lessee takes possession of the Premises or which were constructed, placed, piled, stored, stacked, or maintained upon the Premises with the express consent of the Lessor under the terms of a previous lease between Lessor and Lessee, but which are not in conformity with Union Pacific Railroad Company's Standard Minimum Clearances, shall be considered permitted for the purposes of this Section.

Compliance with such standards shall not relieve Lessee from the obligation to fully comply with the requirements of any federal, state, or municipal law or regulation; it being understood and agreed that Union Pacific Railroad Company's Standard Minimum Clearances are in addition to and supplemental of, any and all requirements imposed by applicable law or regulation and shall be complied with unless to do so would cause Lessee to violate an applicable law or regulation.

Lessor shall consider requests of the Lessee to impair clearances which are necessitated by the operational requirements of the Lessee, but Lessor shall not be obligated to consent to any impairment. Any necessary permission to impair clearances to which the Lessor has consented must be secured by the Lessee at its own expense, in advance of any impairment; and Lessee shall comply promptly and strictly with all requirements or orders issued by appropriate state or other public authority relating to such impairments.

Lessee assumes the risk of and shall indemnify, hold harmless, and defend the Lessor, its officers, agents, and employees, against and from all injury or death to persons or loss or damage to property of the parties hereto and their employees and agents and to the person or property of any other person or corporation resulting from the Lessee's noncompliance with the provision of this Section 9, or resulting directly or indirectly from any impairment of the clearances described in this Section 9, whether the Lessor had notice thereof or consented thereto, or whether authorized by applicable state or other public authority pursuant hereto, or existing without compliance with the provisions of this Section 9.

Any knowledge on the part of the Lessor of a violation of the clearance requirements of this Lease, whether such knowledge is actual or implied, shall not constitute a waiver and shall not relieve the Lessee of its obligation to indemnify and defend the Lessor, its officers, agents, and employees, for losses and claims resulting from such violation. However, the terms of this Section shall not apply to losses resulting from impairments or facilities created or constructed by the Lessor that will not benefit the Lessee.

Section 10. It is further agreed that no gunpowder, gasoline, dynamite, or other explosives or flammable or hazardous materials shall be stored or kept upon the Premises. Nothing herein contained, however, shall prevent the storage of those hazardous commodities, if any, specified in Section 1, or oil or gasoline where same are to be used, as indicated by Section 1 hereof, contemplates such storage; nor the storage of oil or gasoline where same are used by the Lessee for fuel in the business carried on by the Lessee on the Premises, and are stored in quantities reasonable for such purposes; PROVIDED, however, that in all of such excepted cases, the Lessee shall store such commodities no closer than fifty (50) feet from the center line of any main track and strictly comply with all statutory and municipal regulations relating to the storage of such commodities.

Explosives and
Inflammables

**No Construction by
Lessee Over or Under
Tracks**

Section 11. The Lessee shall not locate or permit the location or erection of any poles upon the Premises, nor any beams, pipes, wires, structures or other obstruction over or under any tracks of the Lessor without the written consent of the Lessor.

**Liability of Lessee
for Breach**

Section 12. The Lessee shall be liable for and shall defend against any and all injury or death of persons or loss of or damage to property, of whatsoever nature or kind, arising out of or contributed to by any breach in whole or in part of any covenant of this Lease.

**Fire Damage
Release**

Section 13. It is understood by the parties hereto that the Premises are in dangerous proximity to the tracks of the Lessor, and that by reason thereof there will be constant danger of injury and damage by fire, and the Lessee accepts this Lease subject to such danger.

It is therefore agreed, as one of the material considerations for this Lease and without which the same would not be granted by the Lessor, that the Lessee assume all risk of loss or destruction of or damage to buildings or contents on the Premises, and of or to other property brought thereon by the Lessee or by any other person with the knowledge or consent of the Lessee, and of or to property in proximity to the Premises when connected with or incidental to the occupation thereof, and any incidental loss or injury to the business of the Lessee, where such loss, damage, destruction, injury, or death of persons is occasioned by fire caused by, or resulting from, the operation of the railroad of the Lessor, whether such fire be the result of defective engines, or of negligence on the part of the Lessor or of negligence or misconduct on the part of any officer, servant or employee of the Lessor, or otherwise, and the Lessee hereby agrees to indemnify and hold harmless and defend the Lessor, its officers, servants, and/or employees, against and from all liability, causes of action, claims, or demands which any person may hereafter assert, have, claim, or claim to have, arising out of or by reason of any such loss, damage, destruction, injury, or death of persons including any claim, cause of action or demand which any insurer of such buildings or other property may at any time assert, or undertake to assert, against the Lessor, its officers, servants and/or employees.

**Water Damage
Release**

Section 14. The Lessee hereby releases the Lessor, its officers, servants, and/or employees, from all liability for damage by water to the Premises or to property thereon belonging to or in the custody or control of the Lessee, including buildings and contents, regardless of whether such damage be caused or contributed by the position, location, construction or condition of the railroad, roadbed, tracks, bridges, dikes, ditches or other structures of the Lessor.

**Termination on
Default**

Section 15. It is further agreed that the breach of any covenant, stipulation or condition herein contained to be kept and performed by the Lessee, shall, at the option of the Lessor, forthwith work a termination of this Lease, and all rights of the Lessee hereunder; provided, however, that the Lessee shall not be deemed in default under this Lease unless the Lessor has furnished written notice to the Lessee of Lessee's default, and the Lessee has failed to begin to cure that default within seventy-two (72) hours after receipt of Lessor's default notice or after commencing a cure, has failed to proceed diligently with its cure efforts.

After a default by the Lessee, the Lessor may at once re-enter upon the Premises and repossess itself thereof and remove all persons therefrom or may resort to an action of forcible/unlawful entry and detainer, or any other action to recover the same. A waiver by the Lessor of the breach by the Lessee of any covenant or condition of this Lease shall not impair the right of the Lessor to avail itself of any subsequent breach thereof.

Upon such termination and vacation of the Premises by the Lessee, the Lessor shall refund to the Lessee on a pro rata basis, any unearned rental paid in advance.

**Termination by
Notice**

Section 16. This Lease may be terminated by written notice given by either the Lessor or the Lessee to the other party on any date in such notice stated, not less, however, than thirty (30) days subsequent to the date on which such notice shall be given.

Notice

Section 17. Any notice, demand, request, consent, approval or communication that either party hereto desires or is required to give to the other party under this Lease shall be in writing. Said notice may be given to the Lessee by serving the Lessee personally or by posting a copy thereof on the outside of any door in any building upon the Premises or by mailing the same, postage prepaid, to the Lessee at the last address known to the Lessor. Said notice may be given to the Lessor by mailing the same, postage prepaid to the office of the Director of Real Estate, Room 306, 1416 Dodge Street, Omaha, Nebraska, 68179.

Postal notices shall be by certified mail, return receipt requested, and such notice shall be deemed given on the date deposited with the United States Postal Service.

Consent

Section 18. Wherever the consent, approval, judgment or determination of Lessor is required or permitted under this Lease, Lessor shall exercise its good faith reasonable business judgment in granting or withholding such consent or approval or in making such judgment or determination and shall not unreasonably withhold or delay its consent, approval, judgment or determination.

Vacation of Premises

Removal of Lessee's Property

Section 19. The Lessee covenants and agrees to vacate and surrender the quiet and peaceable possession of the Premises upon the termination of this Lease howsoever. No later than the expiration or termination date of this Lease, the Lessee shall (a) remove from the Premises, at the expense of the Lessee, all structures and other property not belonging to the Lessor; and (b) restore the surface of the ground to as good condition as the same was in before such structures were erected, including, without limiting the generality of the foregoing, the removal of foundations of such structures, the filling in of all excavations and pits and the removal of all debris and rubbish, all at the Lessee's expense, failing in which the Lessor may perform the work and the Lessee shall reimburse the Lessor for the cost thereof within thirty (30) days after bill rendered.

In the case of the Lessee's failure to remove such structures and other property, the same, at the option of the Lessor, shall upon the expiration of thirty (30) days after the termination of this Lease, become and thereafter remain the property of the Lessor; and if within one (1) year after the expiration of such thirty-day period the Lessor elects to and does remove, or cause to be removed, said structures and other property from the Premises and the market value thereof or of the material therefrom on removal does not equal the cost of such removal plus the cost of restoring the surface of the ground as aforesaid, then the Lessee shall reimburse the Lessor for the deficit within thirty (30) days after bill rendered.

Successors And Assigns

Section 20. Subject to the provisions of Section 4 hereof, this Lease shall be binding upon and inure to the benefit of the parties hereto and their heirs, executors, administrators, successors and assigns.

Special Provisions

Section 21. Special Provisions entitled "Terms and Conditions for Use of Lessor's Water" and "Hazardous Materials-Other" are attached hereto and hereby made a part hereof.

As a further consideration for the acceptance of this Lease, the Lessee hereby grants to Circle M Construction Company, its affiliates or assigns the right to enter upon the leased premises to remove the dangerous waste now located thereon.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day and year first herein written.

Witness:

SPOKANE INTERNATIONAL RAILROAD COMPANY

By _____
Director-Real Estate

Witness:

IMPERIAL WEST CHEMICAL COMPANY

X _____
X
President

EXECUTED

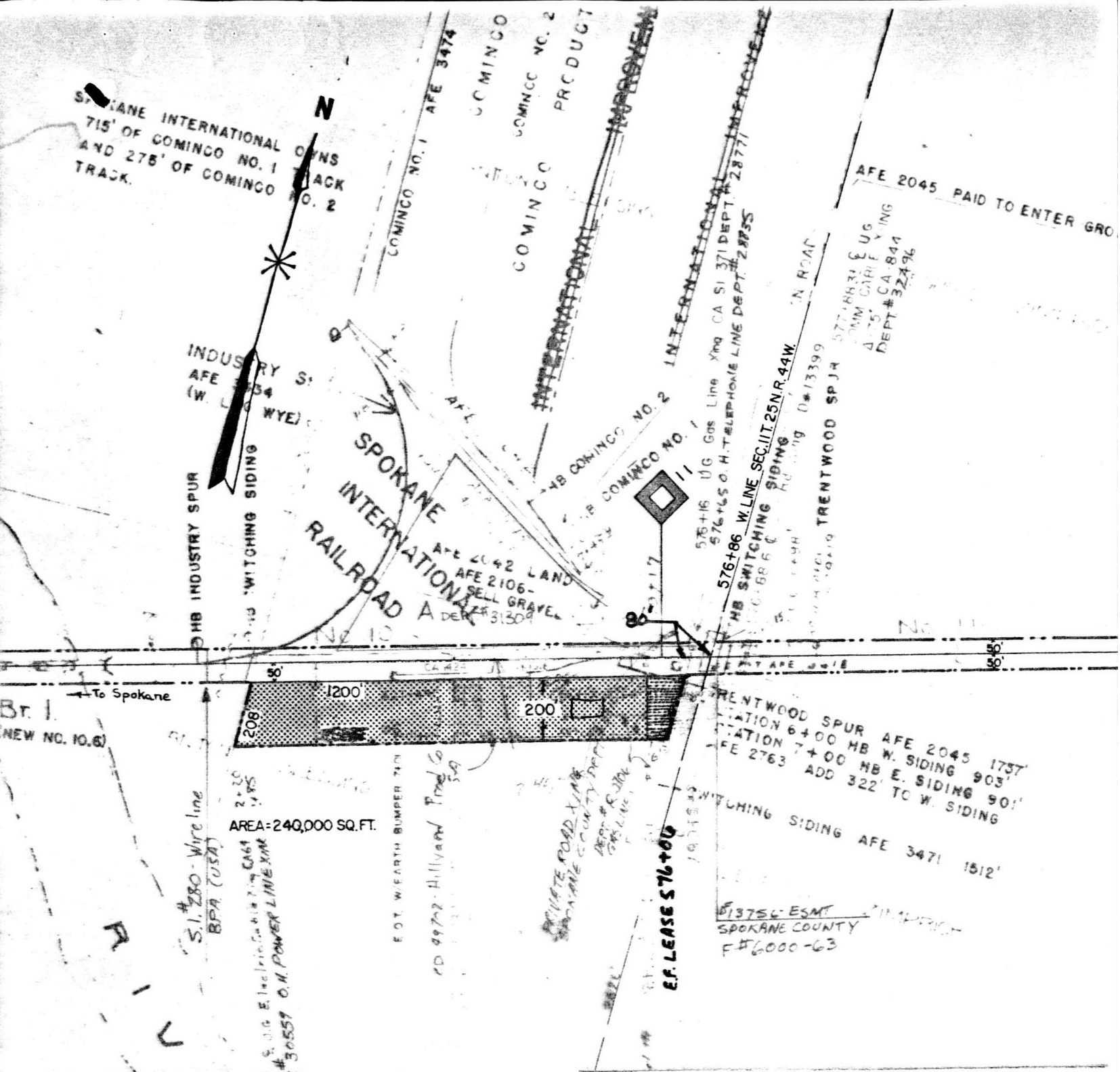




EXHIBIT 'A'
SPOKANE INTERNATIONAL RAILROAD COMPANY
 TRENTWOOD, SPOKANE COUNTY, WASHINGTON
 M.P. 10.77 - MAIN LINE
 LEASE TO IMPERIAL WEST CHEMICAL CO.

Scale 1" = 400'
 Office of Director-Real Estate
 Omaha, Nebraska JULY 15, 1985

• L E G E N D •

LEASE AREA SHOWN..... 

UPRR Co. R/W Outlined 

**TERMS AND CONDITIONS FOR
USE OF LESSOR'S WATER**

CONNECTION TO LESSOR'S WATER FACILITY.
Lessor hereby grants to Lessee the right to connect and maintain a pipeline to Lessor's water facility subject to the terms and conditions stated herein.

**COMPLIANCE WITH LEGAL REQUIREMENTS;
INDEMNITY.** Before connecting to Lessor's water facility and appropriating water therefrom, Lessee shall observe and comply with all applicable ordinances, rules and regulations, and shall apply for and obtain any and all public authority, permission and licenses required. Lessee shall obtain any and all necessary water rights in the joint name of Lessee and Lessor. Lessee shall indemnify and hold Lessor harmless from and against any loss, cost, damage, expense, liabilities, penalties, claims and forfeitures resulting from or in any manner connected with any failure of Lessee to comply with the provisions of this section, with the requirements of any public authority, license or permission obtained as aforesaid, or with any water quality regulations issued by federal, state or local government jurisdictions.

**LESSOR NOT A WATER SUPPLY SYSTEM; NO
WARRANTIES AS TO WATER QUALITY; INDEMNITY.** It is expressly understood and agreed that Lessor IS NOT A PUBLIC, MUNICIPAL OR COMMUNITY WATER SUPPLY SYSTEM, AND HAS NOT MADE AND DOES NOT MAKE ANY REPRESENTATIONS, PROMISES OR WARRANTIES WITH RESPECT TO THE QUALITY OR FITNESS FOR ANY PARTICULAR PURPOSES OF THE WATER IN LESSOR'S WATER FACILITY; and Lessee assumes the risk of any and all impurities and harmful substances which may be contained in Lessor's water facility; and Lessee agrees to indemnify and save Lessor, its officers, agents and employees, harmless from and against any and all loss, cost, damage, fees, claims, demands or causes of action by persons whomsoever arising or resulting from the consumption or use of such water by Lessee or any person on Lessee's premises or off said premises through a connection or series of connections leading from said premises, regardless of whether Lessor has consented to such use. Lessee, at Lessee's sole expense, shall take any and all action necessary to maintain the water taken by Lessee from the water facility in a safe and potable condition as required by applicable federal, state and local laws and regulations.

NEEDS OF LESSOR PREFERENTIAL. The reasonable needs of Lessor shall at all times have preference over the needs of Lessee, and the judgment of Lessor's Superintendent shall be conclusive as to Lessor's reasonable needs. Lessee shall not have or assert any claim, demand or cause of action whatsoever by reason of the failure or diminution of the water in the water facility from any cause whatsoever, whether resulting from the negligence of Lessor; Lessor's agents, servants or employees, or otherwise, it being expressly understood and agreed that Lessor does not promise or assure to Lessee a continuous or uninterrupted supply of water, and that any act or thing done or expenditure of money made by Lessee is with full understanding and realization of the possibility that said water supply may at any time cease or diminish.

LESSEE NOT TO WASTE WATER. Lessee agrees not to waste or permit the waste of any water obtained under this agreement.

MAINTENANCE. Lessor shall perform such maintenance, repair, renewal or replacement of the water facility as in the judgment of its superintendent may be necessary. The cost of such maintenance, repair, renewal or replacement shall be divided equally among all users of the water facility, based upon the number of connections each has to the water facility.

HAZARDOUS MATERIALS - OTHER THAN ANHYDROUS AMMONIA,
FLAMMABLES, OR CHLORINE

A. The Lessee further covenants that in the use of the leased Premises for the purpose hereinbefore mentioned the Lessee will comply with and abide by Department of Transportation regulations as set out in 49 Code of Federal Regulations, Parts 100-199, inclusive, as amended from time to time, and provisions contained in the applicable circular(s) of the Bureau of Explosives, Association of American Railroads, including any and all amendments and supplements thereto.

The Lessee, at the Lessee's own sole cost and expense, shall provide to the Lessor a Certificate of Insurance certifying to the effectiveness of insurance as follows:

General Public Liability providing bodily injury and property damage coverage with combined single limit of at least \$1,000,000 each occurrence, a portion of which may be self-insured with the consent and approval of the Lessor.

Such insurance shall be endorsed to provide contractual liability assumed by the Lessee under this Agreement, and that coverage shall not be cancelled or changed without giving thirty (30) days' prior written notice to Lessor c/o Manager - Insurance, 1416 Dodge Street, Omaha, Nebraska 68179.

B. The Lessee is also granted the right, subject to the terms of this Lease, to provide, maintain and operate on the Premises, suitable unloading devices (hereinafter collectively the Device) in the location shown on the attached print, which Device shall be provided, maintained and operated in accordance with applicable federal regulations and applicable circular(s) of the Bureau of Explosives, Association of American Railroads, and the requirements of any local ordinance, or state or federal laws in effect during the term of the Lease.

The Lessor shall have the right, but shall not be obligated, to inspect the Device from time to time to determine that the Device is being maintained in a proper manner, and in the event such inspection reveals any improper condition, the Lessee shall, upon notice from the Lessor specifying such condition, promptly and at the sole expense of the Lessee remedy such condition to the satisfaction of the Lessor.

The Lessee agrees that whenever compliance with the requirements set out in the applicable circular(s) necessitates the furnishing of labor and materials by the Lessor, the cost thereof shall be paid by the Lessee to the Lessor within thirty (30) days after bill rendered.

Within thirty (30) days after the termination or expiration of this Lease howsoever, the Lessee shall, at the sole expense of the Lessee, remove the Device from the Premises and restore to the satisfaction of the Lessor such Premises to as good condition as it was in at the time of the installation of the Device; and if the Lessee fails so to do, the Lessor may do such work of removal and restoration at the expense of the Lessee.

C. In addition to all other covenants of indemnity contained in this Lease, the Lessee agrees to indemnify and hold harmless the Lessor, its officers, agents and employes, against and from any and all liability, loss, damages, claims, demands, costs and expenses of whatsoever nature, including, but not limited to, court costs and attorneys' fees, which may result from injury to or death of persons whomsoever or damage to or loss or destruction of property whatsoever, including, but not limited to, damage to the roadbed, tracks, equipment or other property of the Lessor or property in its care or custody, when such injury, death, loss, destruction, or damage is due to or arises because of the existence of the Device regardless of any negligence on the part of the Lessor, its officers, agents and employes, or the installation, maintenance, operation, repair, renewal, modification, reconstruction, relocation or removal of the Device, or any portion thereof or accessory thereto, and the Lessee does hereby release the Lessor from all liability for damages on account of injury to or destruction of the Device from any cause whatsoever, regardless of any negligence on the part of the Lessor, its officers, agents or employes.

HAZARDOUS MATERIALS - OTHER THAN ANHYDROUS AMMONIA,
FLAMMABLES, OR CHLORINE

A. The Lessee further covenants that in the use of the leased Premises for the purpose hereinbefore mentioned the Lessee will comply with and abide by Department of Transportation regulations as set out in 49 Code of Federal Regulations, Parts 100-199, inclusive, as amended from time to time, and provisions contained in the applicable circular(s) of the Bureau of Explosives, Association of American Railroads, including any and all amendments and supplements thereto.

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The Lessee agrees that whenever compliance with the requirements set out in the applicable circular(s) necessitates the furnishing of labor and materials by the Lessor, the cost thereof shall be paid by the Lessee to the Lessor within thirty (30) days after bill rendered.

STATE OF NEBRASKA)
) ss
County of Douglas)

On this _____ day of _____, 19____, before me personally appeared _____ to me know to be the _____ Director of Real Estate of SPOKANE INTERNATIONAL RAILROAD COMPANY, the corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned and on oath stated he was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Notary Public in and for the
State of Nebraska

My commission expires _____

EXECUTED

EXHIBIT 7

PHASE I SITE INSPECTION REPORT

ALUMINUM RECYCLING CORPORATION

TRENTWOOD

SPOKANE, SPOKANE COUNTY, WASHINGTON

WAD 980722979

DECEMBER 1987

REPORT PREPARED BY

Fred Gardner

Washington State Department of Ecology
Preliminary Assessment/Site Inspection Section
Hazardous Waste Cleanup Program

INTRODUCTION

The Aluminum Recycling Corporation (ARC) facility at N. 2317 Sullivan Road, Spokane, Washington, also known as ARC Trentwood, (hereinafter referred to as site) has been identified by the U.S. Environmental Protection Agency (EPA) Region X and the Washington State Department of Ecology (Ecology) as requiring additional information to accurately profile the nature and extent of past waste disposal activities.

The potential hazardous waste site preliminary assessment (PA) of July 17, 1985 recommended that wells in the local area be sampled for possible contamination and that air quality be maintained by preventing dust and ammonia vapors from creating a public nuisance. It also recommended that the dross materials be appropriately disposed of. The subsequent inspection, carried out under the Superfund Multi-Site Cooperative Agreement Preliminary Assessment/Site Inspection Program (PA/SI) is described in this report along with further recommendations under the following sections:

- 1.0 Site Owner/Operator
- 2.0 Site History and Background
- 3.0 Environmental Setting
 - 3.1 Climate
 - 3.2 Geology/Hydrology
 - 3.3 Topography and Drainage
 - 3.4 Ground Water and Surface Water Uses
- 4.0 Ecology Site Inspection
- 5.0 Discussion
- 6.0 Conclusions and Recommendations
- 7.0 References

- Appendix A: Correspondence/Historical Data
- Appendix B: EPA Site Inspection Report Form
- Appendix C: Photographic Documentation
- Appendix D: Ecology Site Inspection

SITE NAME/ADDRESS

Aluminum Recycling Corporation
(Trentwood)
N 2317 Sullivan Road
Spokane, WA 98037

INVESTIGATION PARTICIPANTS

Fred Gardner	Washington State Department of Ecology Hazardous Waste Cleanup Program Mail Stop PV-11 Olympia, WA 98504 (206) 438-3014
Sherman Spencer	Washington State Department of Ecology Eastern Regional Office N. 4601 Monroe, Suite 100 Spokane, WA 98205-1295 (509) 456-2926
Phil Williams (telephone interview)	City of Spokane Director of Environmental Programs Municipal Building Spokane, WA 99201-3334 (509) 456-4370
John Huckaby	Imperial West Chemical N. 2315 Sullivan Road Spokane, WA 99216 (509) 922-2244
Roger Ray (interview regional office)	Washington State Department of Ecology Eastern Regional Office, Spokane N. 4601 Monroe, Suite 100 Spokane, WA 98205-1295 (509) 456-6174

PRINCIPAL SITE CONTACT

Sherman Spencer	Washington State Department of Ecology Eastern Regional Office N. 4601 Monroe, Suite 100 Spokane, WA 98205-1295 (509) 456-2926
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DATE OF PHASE I INSPECTION

October 13, 1987

1.0 SITE OWNER/OPERATOR

The site real property belongs to Union Pacific Railroad who leases the property to ARC and Imperial West Chemical, an adjacent property owner. At present ARC is in bankruptcy court and the legal status of their holdings and assets have not been resolved. The firm is being represented by Joseph Esposito of Esposito, Brown, Tombari and George, Attorneys at Law, Suite 960, Paulsen Building, Spokane, Washington 99201 (509) 624-9219. The Union Pacific representative is Robert Markworth, Plant Facility Engineer, Union Pacific Railroad, Omaha, Nebraska 68179. (402) 271-1078.

The operator of the ARC plant when it was in operation was Jack Lyon, MARALCO, INC., P.O. Box 1167, Kent, WA 98032-3167.

2.0 SITE HISTORY AND BACKGROUND

The site was started in 1979 by Jack Lyon and a rotary kiln was used to recycle aluminum cans and dross into secondary aluminum which was then sold. An adjacent company, Imperial West Chemical, (IWC) also used stored aluminum dross to make aluminum sulphate for concrete.

The site owners also had another facility called Hillyard Processing (Wellesley) which used much the same technology. The end product of both processes was a "black" dross which is very high in potassium and sodium chloride salts. IWC could handle high-salt dross but not both high and low salt dross at the same time. Their operation is only set up to process low-salt dross now. Some high-salt black dross has been left on-site because of this. Black dross has also been removed from the site by Union Pacific to the Mica Landfill. A new pile of low-salt dross has been moved to the site by IWC from the Hillyard site.

IWC is attempting to obtain some of ARC's assets, such as the rotary kiln, equipment, buildings and even some of the marketable dross (which it apparently has been able to do).

A legal firm for the creditors (of which IWC is one) has asked the court for an involuntary transfer of these assets. Nothing further has transpired in the legal standing of the company except for the transfer of the low-salt dross from Wellesley (Hillyard) to Trentwood.

In the process of smelting the aluminum out, not only is a substantial amount of black dross left as a by-product, but substantial air emissions are created and if not contained, can and did result in air pollution violations.

In late 1982 and early 1983 violations of air emissions occurred from the rotary kiln as well as releases of high salt content polluting substances which had been ordered bermed and covered by Ecology and the Spokane Air Pollution Control Authority.

From 1982 to 1985 numerous correspondence between Mr. Lyon and Mr. Buescher (another partner) and Ecology discuss various options. Promises were made by ARC to correct deficiencies. ARC and Ecology

went before the Pollution Control Hearing Board, where the company's fine was substantially reduced by the Board who said they had authority to set or modify the fines assessed by Ecology.

In May 1984, the company filed for reorganization under Chapter 11. Nothing has been done since that time by the company. Esposito et al. are handling the proceedings for MARALCO/ARC. The Union Pacific Railroad removed the remaining mound of black dross on the Trentwood site in August-September of 1986 to Mica Landfill. Since that time, the neighboring company, IWC transported low-salt dross from ARC's other property on Wellesley (Hillyard processing) to the site and now another pile exists on the site.

The low-salt dross is not designated by EPA or Ecology as a hazardous waste. The high-salt dross is designated a dangerous waste due to its high salt content (up to 50-70 percent sodium and potassium salts) and the fact that there are over 400 lbs. of it on-site. This designation is based on oral rat data. The designation is a mathematically calculated one.

It is unknown exactly how much high-salt dross is located on-site. Generally, the blacker the material, the saltier it is. Both types, low and high-salt occur on-site. The total amount is in the thousands of tons, a significant amount of material. One of the characteristics of the dross is that the weathering process causes a crust to form over the dross, possibly reducing the amount of salt available for leaching. Regardless, the rain, as little as it is compared to western Washington, may cause off-site migration of the salt. One reference was made on a map sketch of the site to a fish kill (in 1973). No other data or evidence has detailed this event. The Little Spokane River is within 0.10 mile of the site and the general topography slopes toward it. A research of the newspapers of that time period may reveal more information on this alleged fish kill.

In August 1983, Jim Malm of the Eastern Regional Office (Ecology) asked Mr. Buescher to analyze the dross. The following results were received:

	Percent by <u>Weight</u>
Calcium, (Ca)	0.06
Sodium, (Na)	14.15
Potassium, (K)	13.35
Aluminum, (Al)	21.4
Oxides, (as AL ₂ O ₃)	40.4
Chloride, (Cl)	43.0
Fluoride, (F)	0.13
Nitrides, (as NH ₃ -N)	1.4
pH	10.14
Soluble Material	64.60

Ecology lab results on samples collected on August 26, 1983 show the following for EP Tox metals in micrograms per liter (parts per billion).

<u>Metal</u>	<u>Fresh Dross</u>	<u>Aged Dross</u>	<u>EPA Ep Tox Limits ppb</u>
Silver, (Ag)	10	10	5000
*Barium, (Ba)	3300	750	100000
Chrome, (Cr)	20	20	5000
Cadmium, (Cd)	40	50	1000
Lead, (Pb)	260	260	5000
Mercury, (Hg)	0.2	1.1	200
*Arsenic, (As)	106.0	136.0	500
*Selenium, (Se)	434.0	158.0	1000

This analysis does not show any exceedance of EPA standards by any of these metals. Fish bioassays done on three other dross samples collected at the same time showed that in one sample fresh dross killed 100% of the salmon at 100 ppm and aged dross killed none at 1000 ppm. Several fish (7%) were killed by another fresh dross sample at 100 ppm. In the third sample, of aged dross, no mortality was observed at either 100 ppm or 1000 ppm.

A fish bioassay taken in July of 1984 for baghouse dust showed 100% mortality at 1000 ppm. Sampling from the ARC well on October 3, 1985 showed chloride levels of 2.8 mg/l, sodium 3.7 mg/l, potassium 3.6 mg/l, and conductivity 250 micromhos/cm.

The various values have confirmed so far that there is no hazardous material in the dross material, but it is still designated a state dangerous waste based on salt content.

3.0 ENVIRONMENTAL SETTING

The site is located east of the City of Spokane at N 2317 Sullivan Road. The site encompasses approximately three acres in an industrial zoned portion of the County. The site is somewhat rectangular in shape. The elevation is around 2000 to 2025 ft MSL. The latitude is 47°41'1" and longitude 117°11'9". The location is in Section 11, Township 25 North, Range 44 East, Willamette Meridian.

3.1 Climate

The climate of the Spokane area is influenced by being in between the Cascades and Rockies. The Cascades provide protection from wetter coastal weather and the Rockies prevent extremes in continental weather from travelling west into the Columbia Basin.

The mean annual precipitation is around 17 inches, falling mostly from September to April in the form of rain or snow (50 inch average). The average maximum two year, 24 hour rainfall is approximately 1.4 inches. The Spokane area has a mild climate with summer temperatures ranging from 80° to 90° in the day to 45° to 60° at night. Winter temperatures range from 25° to 40° in the day to 15° to 25° at night. Extremes in temperature are 110° in summer to -45° in winter.

3.2 Geology/Hydrology

The Spokane-Rathdrum sole source aquifer lies in eastern Washington and northern Idaho, extending from Lake Pend Oreille through the Spokane Valley under the city of Spokane, and exists as springs near the Little Spokane River. The aquifer underlies approximately 350 square miles and is composed predominantly of glacio-fluvial deposits. The deposits consist mostly of poorly to moderately sorted sands and gravels, with some beds of cobbles and boulders, and a few scattered clay lenses. The sands and gravels are relatively free of fine sand and silt, except in the uppermost 3-5 ft. of the aquifer.

Because of the relatively clean sand and gravel composition of the aquifer, its permeability is high. This high permeability, coupled with the aquifer's depth and its hydraulic gradient, results in velocities of approximately 60-90 feet per day. At this point, the volume of flow is approximately 1000 cubic feet per second. Lower velocities of approximately 10-50 feet per day occur toward the middle and western edge of the aquifer. These rates are high compared with more typical aquifer velocities, which range between 5 feet per day to 5 feet per year.

The Spokane-Rathdrum aquifer is several hundred feet thick. The water surface of the aquifer is about 178 feet below the land surface at the site, and only about 50 feet near the eastern boundary of the city of Spokane.

The aquifer is so shallow in some areas of the valley that it is exposed in some pits that are used for gravel quarries and concrete operations. On the northern boundary of the city of Spokane, the water level deepens to about 180 feet. Well logs of two large Spokane production wells, near the site, show water levels between 115 to 176 feet. The well on-site is at 125 feet with the static water level at 60 feet.

The direction of ground water flow is generally east to west regionally, with local variations, mainly to the north-northwest in the vicinity of the site. A divergence around Fivemile Prairie occurs here. Ground water velocities in the site area are as high as 46 ft/day (see map).

3.3 Topography and Drainage

The surface elevation of the site is around 2000 MSL. It is a small mesa shaped structure striking NW, SE. The SW facing edge of the property slopes down to 1980 MSL until just above the rivers edge where the topography drops steeply to the river level (at approximately 1920 MSL). The lower (SW) portion of the general site area was a gravel pit at one time. It is now filled and paved over into a Department of Transportation (DOT) park and ride lot. Drainage from this low area is to the river via storm drains or ditches.

3.4 Ground Water/Surface Water Uses

The ground water in the area is obtained from the Spokane-Rathdrum aquifer (see section 3.2). Sixteen public and 87 private wells exist within three miles of the site. The nearest well is on-site and was used by ARC and Imperial West Chemical. Several of the adjacent wells are large volume industrial wells. The Spokane River is used for irrigation and is 700 feet SW of the site.

4.0 ECOLOGY SITE INSPECTION

(See Appendix D).

5.0 DISCUSSION

The objectives of the SI were to (1) determine if hazardous materials were present on-site from records and site inspection, (2) ascertain if they were migrating off-site, (3) determine any potential receptor to off-site contamination and (4) make recommendations of further action at the site.

There is no EPA designated waste on this site (based on available sample results) nor was there in the past. This would make further efforts in the PA/SI area moot. However, the wastes are designated by the state as Toxic-Dangerous using oral rat toxicity data and amounts on-site as criteria.

Due to the large volume of dross on-site, some salt may be moving off-site either in surface pathways by being dissolved via rainfall or by seeping into the ground and possibly getting into the Spokane-Rathdrum sole source aquifer.

The mitigating factors preventing salt migration are the low rainfall in the Spokane area which probably does not allow any deep penetration into the soil. Aquifer depth is from 175 to 200 feet in that area. A more probable method of off-site migration may be surface water runoff to the Spokane River or to storm drains and ditches in the area.

6.0 CONCLUSIONS AND RECOMMENDATIONS

Based on the findings of the PA/SI Phase I SI it is recommended that no further CERCLA investigation of the site is required and that the site be removed from the CERCLIS list of active potential hazardous waste sites.

The regional office of the Department of Ecology should be the focal point for any removal actions proposed by the owners.

The "conventional" pollutants (high salt) is still present in high concentrations and should be monitored if possible by sampling for conductivity in wells around the site and on-site.

EXHIBIT 8

***** UNION PACIFIC LEASE FILE INFORMATION *****

DATE: 06/24/92

USERID: LAND006

FOLDER: 82508

AUDIT : SI82508

LESSEE NAME : IMPERIAL WEST CHEMICAL CO.

PURPOSE : 455

LOCATION : TRENTWOOD, WA

PICTURE ON FILE : Y DATE OF PICTURE : 1990/09/11

COPY OF PLOT PLAN : Y BLDGS/IMPVTS : Y

QUESTIONNAIRE : Y UNDERGROUND TANKS : Y

HAZ/WASTE : N

BANKRUPTCY : Y

COMMENTS: PHOTOS SHOW THAT GROUND IS SATURATED WITH ALUMINUM OXIDE
: AND SETTLING PONDS AND BLACK DROSS

***** U S E S *****

: ACID STORAGE
: MANUFACTURING

:
:
:
:

OTHER USES : INC. ALUMINUM SULFATE/OXIDES

EXHIBIT 9



UNION PACIFIC RAILROAD COMPANY

CONTRACTS & REAL ESTATE DEPARTMENT



ROOM 1100, 1416 DODGE STREET
OMAHA, NEBRASKA 68179-1100
(402) 271-3753
FAX (402) 271-5493

File: 825-08

M E M O R A N D U M

TO: FRANK BELLISS

FROM: DOUG RICE

DATE: JUNE 29, 1992

SUBJECT: TRENTWOOD, WASHINGTON LEASE SITE

ATTACHED ARE PHOTOS TAKEN AFTER SITE SURVEYED AND STAKES SET. ALSO IS A -
PRINT SHOWING ORIGINAL LEASE AREA IN YELLOW AND ADDITIONAL AREA IN PINK.

HOPE THE ATTACHED HELP AND WOULD APPRECIATE RECEIVING THE PHOTOS BACK.

RECEIVED
JUL 1 1992

Imperial West Chemical Co.
Antioch

825-08

RDR

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt Fee will provide you the signature of the person delivered to and the date of delivery.

I also wish to receive the following services (for an extra fee):

1. Addressee's Address

2. Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

John Huckabay
 Imperial West Chemical
 P.O. Box 696
 Antioch, CA 94519

4a. Article Number

P 120-852-669

4b. Service Type

- Registered Insured
- Certified COD
- Express Mail Return Receipt for Merchandise

7. Date of Delivery

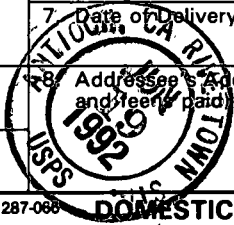
5. Signature (Addressee)

John Huckabay

6. Signature (Agent)

Michelle Fuchina

8. Addressee's Address (Only if requested and fees paid)



UNITED STATES POSTAL SERVICE

Official Business



PENALTY FOR PRIVATE
USE, \$300

Print your name, address and ZIP Code here

UNION PACIFIC RAILROAD COMPANY
CONTRACTS & REAL ESTATE DEPARTMENT
1416 DODGE STREET, ROOM 1100
OMAHA, NEBRASKA 68179



WEST



Sept 11, 1990

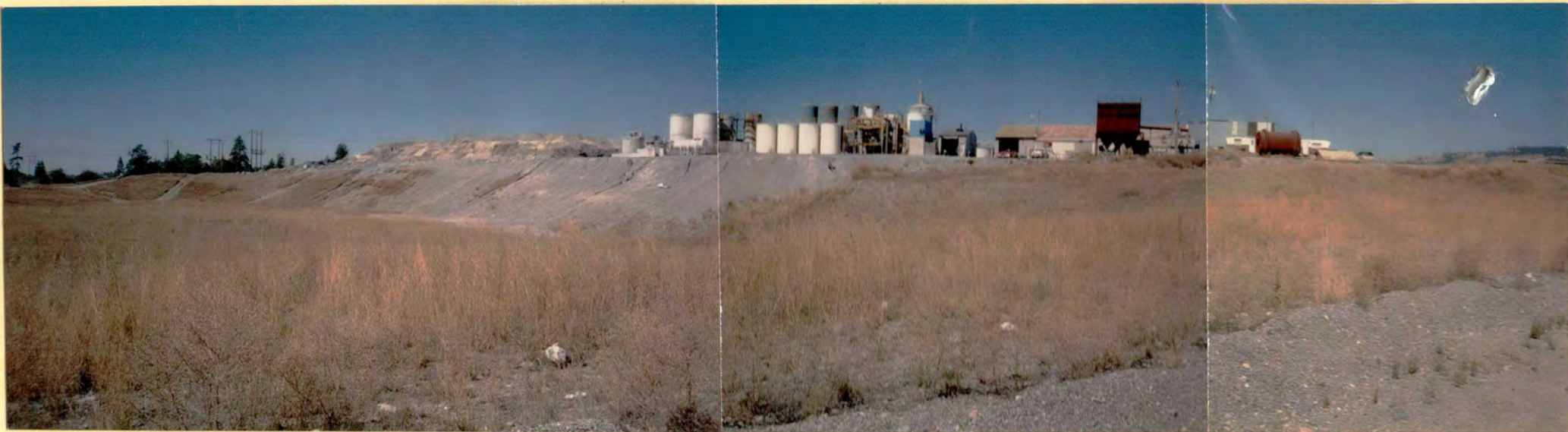


u.p.

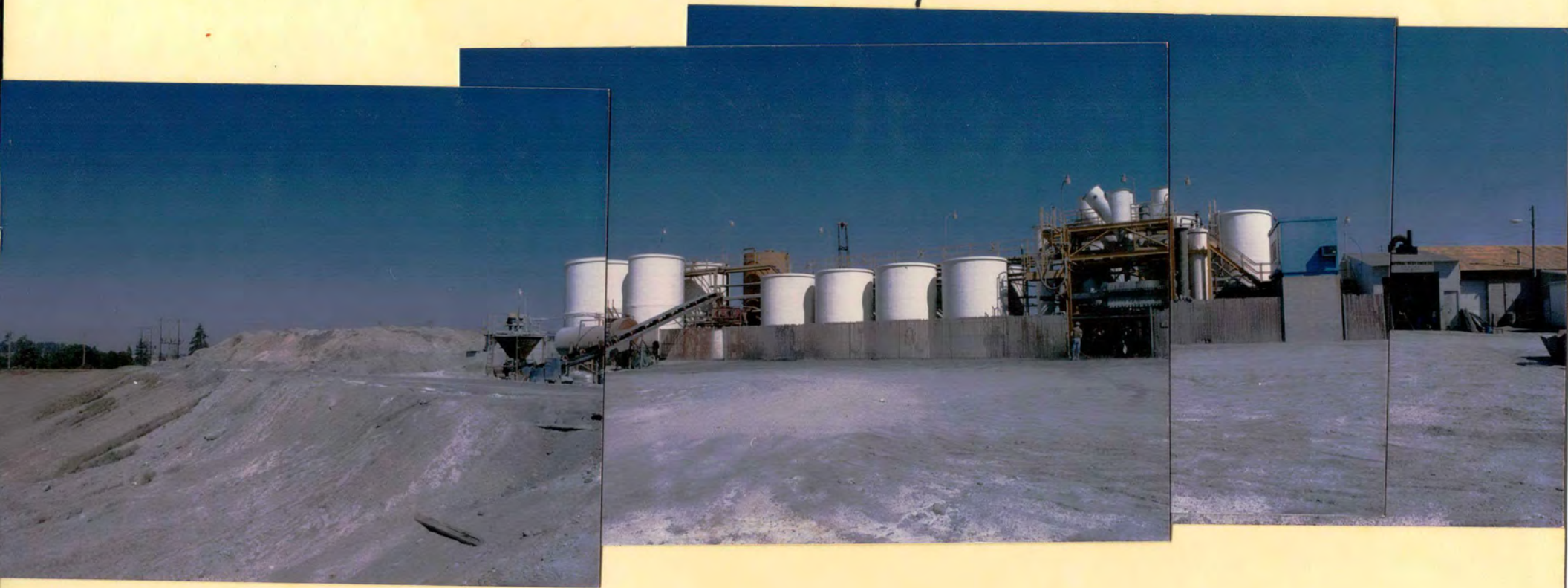
STATE

west

Sept 11, 1990



Imperial West Chemical Corp
(sublessee) ↘ Looking North





Sullivan
Road

Black Dross

Looking North East

Aluminum Recycling Corp.
Looking west





Facing
East - South East



Looking West

Aluminum Oxide ↙



Settling Ponds
Looking West



Aluminum Oxide
Looking west



Imperial West Chemical Corp.

EXHIBIT 10
INTENTIONALLY
OMITTED

EXHIBIT 11

THIS SUPPLEMENTAL AGREEMENT is made as of the 2nd day of November, 1992, by and between UNION PACIFIC RAILROAD COMPANY, a corporation of the State of Utah, (hereinafter the Lessor) and IMPERIAL WEST CHEMICAL CO. a Nevada corporation to be addressed at P.O. Box 696, Antioch, California 94509 (hereinafter the Lessee).

RECITALS:

By instrument dated July 14, 1986, the parties hereto or their predecessors in interest (if any), entered into an agreement (herein the "Basic Agreement") identified as Audit No. 825-08, covering the manufacturing and distribution of aluminum sulfate and oxides, storage and handling of sulfuric acids, a hazardous commodity located at Trentwood, Washington.

The parties now desire to modify the Basic Agreement by increasing the area covered by the above mentioned lease as shown on the new Exhibit "A" as attached hereto and increasing the rental, this as a result of the Railroad having had to purchase 4.4 acres from the State of Washington.

AGREEMENT:

NOW, THEREFORE, IT IS AGREED by and between the parties hereto as follows:

Section I. - SUBSTITUTION OF PRINT

The print dated September 1, 1992, attached hereto as Exhibit "A", shall be and hereby is substituted for the print dated July 15, 1985 attached to the Basic Agreement, and from and after the effective date herein whenever the term Premises is used in the Basic Agreement, or any amendment or supplement thereto (if any), such reference shall be deemed to refer to the Premises as shown on Exhibit "A", hereto attached.

Section II. - INCREASE IN RENTAL

Effective as of July 15, 1992, the Lessee agrees to pay to the Lessor the sum of Fourteen Thousand Six Hundred Fifty Dollars (\$14,650.00) per annum, payable annually in advance, in lieu of the rental heretofore stipulated.

Section III. - PROTECTION OF FIBER OPTIC CABLE SYSTEMS

(a) Fiber optic cable systems may be buried on the Lessor's property. Lessee shall telephone the Lessor at 1-800-336-9193 (a 24-hour number) to determine if fiber optic cable is buried anywhere on the Lessor's premises to be used by the Lessee. If it is, Lessee will telephone the telecommunications company(ies) involved, arrange for a cable locator, and make arrangements for relocating or other protection of the fiber optic cable prior to beginning any work on the Lessor's premises.

(b) In addition to the liability terms elsewhere in this Agreement, the Lessee shall indemnify and hold the Lessor harmless against and from

CODED

By: J.J.H.

Date: NOV 02 1992

all cost, liability, and expense whatsoever (including, without limitation, attorney's fees and court costs and expenses) arising out of or in any way contributed to by any act or omission of the Lessee, its contractor, agents and/or employees, that causes or in any way or degree contributes to (1) any damage to or destruction of any telecommunications system by the Lessee, and/or its contractor, agents and/or employees, on Lessor's property, (2) any injury to or death of any person employed by or on behalf of any telecommunications company, and/or its contractor, agents and/or employees, on Lessor's property, and/or (3) any claim or cause of action for alleged loss of profits or revenue by, or loss of service by a customer or user of, such telecommunication company(ies).

Section IV. - EFFECTIVE DATE

This Supplemental Agreement shall be effective as of July 15, 1992.

Section V. - AGREEMENT SUPPLEMENTAL

This agreement is supplemental to the Basic Agreement, as herein and heretofore amended, and nothing herein contained shall be construed as amending or modifying the same except as herein specifically provided.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Agreement to be executed as of the day and year first hereinabove written.

Witness:

UNION PACIFIC RAILROAD COMPANY

John J. Hernandez

By: [Signature]
Director-Field Operations

Witness:

IMPERIAL WEST CHEMICAL CO.

X _____

X [Signature]
Title: EX VP

INTERNATIONAL OWNS
COMINCO NO. 1 TRACK
75' OF COMINCO NO. 2

INDUSTRY SPUR
AFE 3434
(W LEG WYE)

SPokane
INTERNATIONAL
RAILROAD

TO SPOKANE
NEW NO. 10.5

RIVER

AREA = 397,225 SQ. FT.

AFE 2045 PAID TO ENTER GROUND

ANTON BLESSING

LEOPOLD ZIMPRICH

COMINCO NO. 1 AFE 3-
COMI
COMINCO
PR

INTERNATIONAL
INTERNATIONAL

577+88.3 ± U.G.
COMM. CABLE X-ING
A-75' C.A.-844

576 + 06 E.F. LEASE 50' RT.

576 + 86
576 + 88.6 C.O.H. Rd. Xing. D=13399

TRENTWOOD SPUR
579+11
579+19
579+19

TRENTWOOD SPUR AFE 2045 1737' TRK-3
STATION 6+00 HB W. SIDING 903' TRK-4
STATION 7+00 HB E. SIDING 901' TRK-5
AFE 2763 ADD 322' TO W. SIDING

SWITCHING SIDING AFE 3471 1812'
TRK-2

LEOPOLD ZIMPRICH

NOTE: BEFORE YOU BEGIN ANY WORK, SEE
AGREEMENT FOR FIBER OPTIC PROVISIONS.

EXHIBIT 'A'

UNION PACIFIC RAILROAD COMPANY

Trendwood, Spokane County, Washington
MP 10.67 - Spokane Subdivision

To accompany lease agreement with...
Imperial West Chemical Company

SCALE: P = 400'

OFFICE OF CONTRACTS & REAL ESTATE

OMAHA, NEBRASKA Date: 3-05-92

Revised 9-01-92

REA FILE: 825-08

*** LEGEND ***

LEASE AREA SHOWN.....

UPRRCO. R/W OUTLINED.....

P. J. EMANUEL - TAX DEPT - BROOMFIELD

COPY ATTACHED FOR YOUR RECORDS.

EXHIBIT 12

LEASE OF PROPERTY

THIS LEASE ("Lease") is entered into on the ^{17th} day of July, 19⁹⁵ between UNION PACIFIC RAILROAD COMPANY ("Lessor"), and IMPERIAL WEST CHEMICAL CO., a Nevada corporation, whose address is P.O. Box ~~696~~⁶⁰⁶, Antioch CA 94509 ("Lessee").

IT IS AGREED BETWEEN THE PARTIES AS FOLLOWS:

Article I. PREMISES; USE.

Lessor leases to Lessee and Lessee leases from Lessor the premises ("Premises"), at Trentwood, Washington, as shown on the print dated September 1, 1992 marked Exhibit A, hereto attached and made a part hereof, subject to the provisions of this Lease and of Exhibit B attached hereto and made a part hereof. The Premises may be used for the manufacturing and distribution of aluminum sulfate and oxides, storage and handling of sulfuric acids, a hazardous commodity and purposes incidental thereto, only, and for no other purpose.

Article II. TERM.

The term of this Lease shall commence on July 15, 1995, and, unless sooner terminated as provided in this Lease, shall extend for one year and thereafter shall automatically be extended from year to year.

Article III. RENT.

A. Lessee shall pay to Lessor, in advance, rent of Fifteen Thousand Nine Hundred Sixty-Eight Dollars (\$15,968.00) per annum. The rent shall be increased by Three percent (3%) annually, cumulative and compounded.

B. Not more than once every three (3) years, Lessor may redetermine the rent. In the event Lessor does redetermine the rent, Lessor shall notify Lessee of such change.

Article IV. SPECIAL PROVISION - INSURANCE.

A. At all times during the term of this Lease, Lessee shall, at Lessee's sole cost and expense, procure and maintain the following insurance coverage:

General Public Liability providing bodily injury, including death, personal injury and property damage coverage with combined single limit of at least One Million Dollars (\$ 1,000,000.00) per occurrence and a general aggregate limit of at least One Million Dollars (\$1,000,000.00). This insurance shall provide Broad Form Contractual Liability covering the indemnity provisions contained in this Agreement, severability of interests, and name Lessor as an additional insured. If coverage is purchased on a "claims made" basis, it shall provide for at least a three (3) year extended reporting or discovery period, which shall be invoked if insurance

By: 

Date: JUL 26 1995

covering the time period of this Agreement is cancelled.

B. Lessee shall furnish Lessor with certificate(s) of insurance evidencing the required coverage and, upon request, a certified duplicate original of the policy. The insurance company issuing the policy shall notify Lessor, in writing, of any material alteration including any change in the retroactive date in any "claims-made" policies or substantial reduction of aggregate limits, or cancellation at least thirty (30) days prior thereto. The insurance policy shall be written by a reputable insurance company or companies acceptable to Lessor or with a current Best's Insurance Guide Rating of B and Class VII or better, and which is authorized to transact business in the state where the Premises are located.

C. Lessee hereby waives its right of subrogation under the above insurance policy against Lessor for payment made to or on behalf of employees of Lessee or its agents or for loss of its owned or leased property or property under its care, custody and control while on or near the Premises or any other property of Lessor. Lessee's insurance shall be primary with respect to any insurance carried by Lessor.

Article V. SPECIAL PROVISION - CANCELLATION.


Effective upon commencement of the term of this Lease, the Lease dated July 14, 1986, identified as Audit No. SI82508, together with any and all supplements and amendments, is cancelled and superseded by this Lease, except for any rights, obligations or liabilities arising under such prior lease before cancellation, including any consent to conditional assignment, chattel agreement, or consent to sublease.

IN WITNESS WHEREOF, the parties have executed this Lease as of the day and year first herein written.

UNION PACIFIC RAILROAD
COMPANY

By: 
Director - Real Estate

IMPERIAL WEST CHEMICAL CO.

By: 
Title: President

Note: Cancels and Supersedes Lease SI82508 Dated 7/14/86

INTERNATIONAL OWNS
COMINCO NO. 1 TRACK
75' OF COMINCO NO. 2

INDUSTRY SPUR
AFE 3434
(W/LEG WYE)

SPokane
INTERNATIONAL
RAILROAD

LEOPOLD ZIMPRICH
577+88.3' & U.G.
COMM. CABLE X-ING
A-75' CA-844

576 + 06 E.F. LEASE 50' RT.
SULLIVAN ROAD

TRENTWOOD SPUR AFE 2045 1757' TRK-3
STATION 6+00 HB W. SIDING 903' TRK-A
STATION 7+00 HB E. SIDING 901' TRK-S
AFE 2763 ADD 322' TO W. SIDING

SWITCHING SIDING AFE 3471 1512'
TRK-2

LEOPOLD ZIMPRICH

AREA = 397,225 SQ. FT.
9.119 Acres

NOTE: BEFORE YOU BEGIN ANY WORK, SEE
AGREEMENT FOR FIBER OPTIC PROVISION.

EXHIBIT "A"
UNION PACIFIC RAILROAD COMPANY
Trentwood, Spokane County, Washington
M.P. 10.67 - Spokane Subdivision

Lease to IMPERIAL WEST CHEMICAL CO.

SCALE: 1" = 400'

OFFICE OF CONTRACTS & REAL ESTATE
OMAHA, NE Date: April 11, 1995
Folder: 825-08

* L E G E N D *

Lease Area Shown Dot Screen
(RR)R/W Outlined

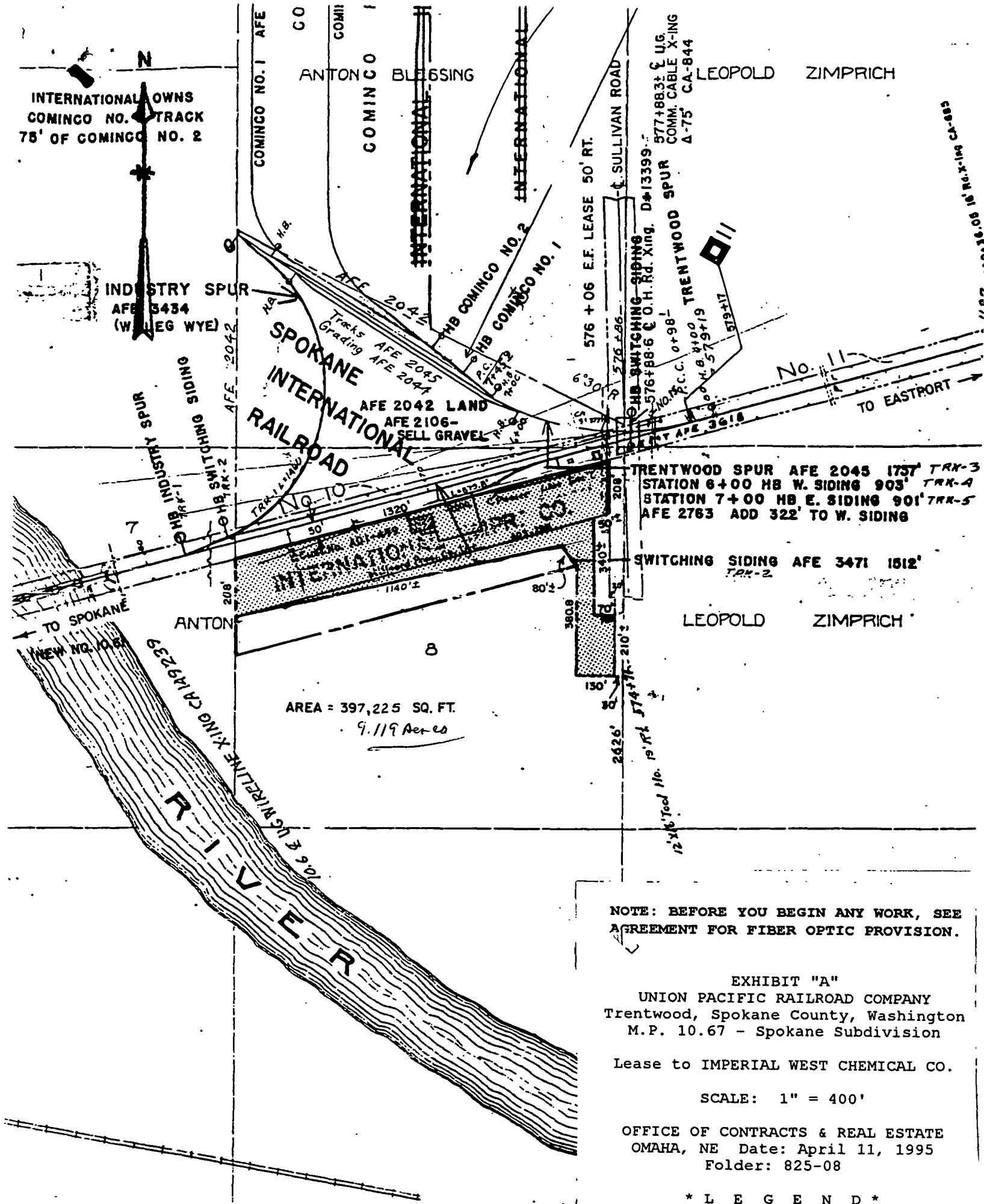


EXHIBIT B

Section 1. IMPROVEMENTS.

No improvements placed upon the Premises by Lessee shall become a part of the realty.

Section 2. RESERVATIONS AND PRIOR RIGHTS.

- A) Lessor reserves to itself, its agents and contractors, the right to enter the Premises at such times as will not unreasonably interfere with Lessee's use of the Premises.
- B) Lessor reserves (i) the exclusive right to permit third party placement of advertising signs on the Premises, and (ii) the right to construct, maintain and operate new and existing facilities (including, without limitation, trackage, fences, communication facilities, roadways and utilities) upon, over, across or under the Premises, and to grant to others such rights, provided that Lessee's use of the Premises is not interfered with unreasonably.
- C) This Lease is made subject to all outstanding rights, whether or not of record. Lessor reserves the right to renew such outstanding rights.

Section 3. PAYMENT OF RENT.

Rent (which includes the annual rent and all other amounts to be paid by Lessee under this Lease) shall be paid in lawful money of the United States of America, at such place as shall be designated by the Lessor, and without offset or deduction.

Section 4. TAXES AND ASSESSMENTS.

- A) Lessee shall pay, prior to delinquency, all taxes levied during the life of this Lease on all personal property and improvements on the Premises not belonging to Lessor. If such taxes are paid by Lessor, either separately or as a part of the levy on Lessor's real property, Lessee shall reimburse Lessor in full within thirty (30) days after rendition of Lessor's bill.
- B) If the Premises are specially assessed for public improvements, the annual rent will be automatically increased by 12% of the full assessment amount.

Section 5. WATER RIGHTS.

This Lease does not include any right to the use of water under any water right of Lessor, or to establish any water rights except in the name of Lessor.

Section 6. CARE AND USE OF PREMISES.

- A) Lessee shall use reasonable care and caution against damage or destruction to the Premises. Lessee shall not use or permit the use of the Premises for any unlawful purpose, maintain any nuisance, permit any waste, or use the Premises in any way that creates a hazard to persons or property. Lessee shall keep the Premises in a safe, neat, clean and presentable condition, and in good condition and repair. Lessee shall keep the sidewalks and public ways on the Premises, and the walkways appurtenant to any railroad spur track(s) on or serving the Premises, free and clear from any substance which might create a hazard and all water flow shall be directed away from the tracks of the Lessor.
- B) Lessee shall not permit any sign on the Premises, except signs relating to Lessee's business.
- C) If any improvement on the Premises not belonging to Lessor is damaged or destroyed by fire or other casualty, Lessee shall, within thirty (30) days after such casualty, remove all debris resulting therefrom. If Lessee fails to do so, Lessor may remove such debris, and Lessee agrees to reimburse Lessor for all expenses incurred within thirty (30) days after rendition of Lessor's bill.
- D) Lessee shall comply with all governmental laws, ordinances, rules, regulations and orders relating to Lessee's use of the Premises.

Section 7. HAZARDOUS MATERIALS, SUBSTANCES AND WASTES.

- A) Without the prior written consent of Lessor, Lessee shall not use or permit the use of the Premises for the generation, use, treatment, manufacture, production, storage or recycling of any Hazardous Substances, except that Lessee may use (i) small quantities of common chemicals such as adhesives, lubricants and cleaning fluids in order to conduct business at the Premises and (ii) other Hazardous Substances, other than hazardous wastes as defined in the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901, et seq., as amended ("RCRA"), that are necessary for the conduct of Lessee's business at the Premises as specified in Article I. The consent of Lessor may be withheld by Lessor for any reason whatsoever, and may be subject to conditions in addition to those set forth below. It shall be the sole responsibility of Lessee to determine whether or not a contemplated use of the Premises is a Hazardous Substance use.
- B) In no event shall Lessee (i) release, discharge or dispose of any Hazardous Substances, (ii) bring any hazardous wastes as defined in RCRA onto the Premises, (iii) install or use on the Premises any underground storage tanks, or (iv) store any Hazardous Substances within one hundred feet (100') of the center line of any main track.

C) If Lessee uses or permits the use of the Premises for a Hazardous Substance use, with or without Lessor's consent, Lessee shall furnish to Lessor copies of all permits, identification numbers and notices issued by governmental agencies in connection with such Hazardous Substance use, together with such other information on the Hazardous Substance use as may be requested by Lessor. If requested by Lessor, Lessee shall cause to be performed an environmental assessment of the Premises upon termination of the Lease and shall furnish Lessor a copy of such report, at Lessee's sole cost and expense.

D) Without limitation of the provisions of Section 12 of this Exhibit B, Lessee shall be responsible for all damages, losses, costs, expenses, claims, fines and penalties related in any manner to any Hazardous Substance use of the Premises (or any property in proximity to the Premises) during the term of this Lease or, if longer, during Lessee's occupancy of the Premises, regardless of Lessor's consent to such use, or any negligence, misconduct or strict liability of any Indemnified Party (as defined in Section 12), and including, without limitation, (i) any diminution in the value of the Premises and/or any adjacent property of any of the Indemnified Parties, and (ii) the cost and expense of clean-up, restoration, containment, remediation, decontamination, removal, investigation, monitoring, closure or post-closure. Notwithstanding the foregoing, Lessee shall not be responsible for Hazardous Substances (i) existing on, in or under the Premises prior to the earlier to occur of the commencement of the term of the Lease or Lessee's taking occupancy of the Premises, or (ii) migrating from adjacent property not controlled by Lessee, or (iii) placed on, in or under the Premises by any of the Indemnified Parties; except where the Hazardous Substance is discovered by, or the contamination is exacerbated by, any excavation or investigation undertaken by or at the behest of Lessee. Lessee shall have the burden of proving by a preponderance of the evidence that any exceptions of the foregoing to Lessee's responsibility for Hazardous Substances applies.

E) In addition to the other rights and remedies of Lessor under this Lease or as may be provided by law, if Lessor reasonably determines that the Premises may have been used during the term of this Lease or any prior lease with Lessee for all or any portion of the Premises, or are being used for any Hazardous Substance use, with or without Lessor's consent thereto, and that a release or other contamination may have occurred, Lessor may, at its election and at any time during the life of this Lease or thereafter (i) cause the Premises and/or any adjacent premises of Lessor to be tested, investigated, or monitored for the presence of any Hazardous Substance, (ii) cause any Hazardous Substance to be removed from the Premises and any adjacent lands of Lessor, (iii) cause to be performed any restoration of the Premises and any adjacent lands of Lessor, and (iv) cause to be performed any remediation of, or response to, the environmental condition of the Premises and the adjacent lands of Lessor, as Landlord reasonably may deem necessary or desirable, and the cost and expense thereof shall be reimbursed by Lessee to Lessor within thirty (30) days after rendition of Lessor's bill. In addition, Lessor may, at its election, require Lessee, at Lessee's sole cost and expense, to perform such work, in which event, Lessee shall promptly commence to perform and thereafter diligently prosecute to completion such work, using one or more contractors and a supervising consulting engineer approved in advance by Lessor.

F) For purposes of this Section 7, the term "Hazardous Substance" shall mean (i) those substances included within the definitions of "hazardous substance", "pollutant", "contaminant", or "hazardous waste", in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §§ 9601, et seq., as amended or in RCRA, the regulations promulgated pursuant to either such Act, or state laws and regulations similar to or promulgated pursuant to either such Act, (ii) any material, waste or substance which is (A) petroleum, (B) asbestos, (C) flammable or explosive, or (D) radioactive; and (iii) such other substances, materials and wastes which are or become regulated or classified as hazardous or toxic under federal, state or local law.

Section 8. UTILITIES.

A) Lessee will arrange and pay for all utilities and services supplied to the Premises or to Lessee.

B) All utilities and services will be separately metered to Lessee. If not separately metered, Lessee shall pay its proportionate share as reasonably determined by Lessor.

Section 9. LIENS.

Lessee shall not allow any liens to attach to the Premises for any services, labor or materials furnished to the Premises or otherwise arising from Lessee's use of the Premises. Lessor shall have the right to discharge any such liens at Lessee's expense.

Section 10. ALTERATIONS AND IMPROVEMENTS; CLEARANCES.

A) No alterations, improvements or installations may be made on the Premises without the prior consent of Lessor. Such consent, if given, shall be subject to the needs and requirements of the Lessor in the operation of its Railroad and to such other conditions as Lessor determines to impose. In all events such consent shall be conditioned upon strict conformance with all applicable governmental requirements and Lessor's then-current clearance standards.

B) All alterations, improvements or installations shall be at Lessee's sole cost and expense.

C) Lessee shall comply with Lessor's then-current clearance standards, except (i) where to do so would cause Lessee to violate an applicable governmental requirement, or (ii) for any improvement or device in place prior to Lessee taking possession of the Premises if such improvement or device complied with Lessor's clearance standards at the time of its installation.
D) Any actual or implied knowledge of Lessor of a violation of the clearance requirements of this Lease or of any governmental requirements shall not relieve Lessee of the obligation to comply with such requirements, nor shall any consent of Lessor be deemed to be a representation of such compliance.

Section 11. AS-IS.

Lessee accepts the Premises in its present condition with all faults, whether patent or latent, and without warranties or covenants, express or implied. Lessee acknowledges that Lessor shall have no duty to maintain, repair or improve the Premises.

Section 12. RELEASE AND INDEMNITY.

A) As a material part of the consideration for this Lease, Lessee, to the extent it may lawfully do so, waives and releases any and all claims against Lessor for, and agrees to indemnify, defend and hold harmless Lessor, its affiliates, and its and their officers, agents and employees ("Indemnified Parties") from and against, any loss, damage (including, without limitation, punitive or consequential damages), injury, liability, claim, demand, cost or expense (including, without limitation, attorneys' fees and court costs), fine or penalty (collectively, "Loss") incurred by any person (including, without limitation, Lessor, Lessee, or any employee of Lessee) and arising from or related to (i) any use of the Premises by Lessee or any invitee or licensee of Lessee, (ii) any act or omission of Lessee, its officers, agents, employees, licensees or invitees, or (iii) any breach of this Lease by Lessee.
B) The foregoing release and indemnity shall apply regardless of any negligence, misconduct or strict liability of any Indemnified Party, except that the indemnity, only, shall not apply to any Loss caused by the sole, active and direct negligence of any Indemnified Party if the Loss (i) was not occasioned by fire or other casualty, or (ii) was not occasioned by water, including, without limitation, water damage due to the position, location, construction or condition of any structures or other improvements or facilities of any Indemnified Party.
C) Where applicable to the Loss, the liability provisions of any contract between Lessor and Lessee covering the carriage of shipments or trackage serving the Premises shall govern the Loss and shall supersede the provisions of this Section 12.
D) No provision of this Lease with respect to insurance shall limit the extent of the release and indemnity provisions of this Section 12.

Section 13. TERMINATION.

A) Lessor may terminate this Lease by giving Lessee notice of termination, if Lessee (i) fails to pay rent within fifteen (15) days after the due date, or (ii) defaults under any other obligation of Lessee under this Lease and, after written notice is given by Lessor to Lessee specifying the default, Lessee fails either to immediately commence to cure the default, or to complete the cure expeditiously but in all events within thirty (30) days after the default notice is given.
B) Notwithstanding the term of this Lease set forth in Article II.A., Lessor or Lessee may terminate this Lease without cause upon thirty (30) days' notice to the other party; provided, however, that at Lessor's election, no such termination by Lessee shall be effective unless and until Lessee has vacated and restored the Premises as required in Section 15A).

Section 14. LESSOR'S REMEDIES.

Lessor's remedies for Lessee's default are to (a) enter and take possession of the Premises, without terminating this Lease, and relet the Premises on behalf of Lessee, collect and receive the rent from reletting, and charge Lessee for the cost of reletting, and/or (b) terminate this Lease as provided in Section 13 A) above and sue Lessee for damages, and/or (c) exercise such other remedies as Lessor may have at law or in equity. Lessor may enter and take possession of the Premises by self-help, by changing locks, if necessary, and may lock out Lessee, all without being liable for damages.

Section 15. VACATION OF PREMISES; REMOVAL OF LESSEE'S PROPERTY.

A) Upon termination howsoever of this Lease, Lessee (i) shall have peaceably and quietly vacated and surrendered possession of the Premises to Lessor, without Lessor giving any notice to quit or demand for possession, and (ii) shall have removed from the Premises all structures, property and other materials not belonging to Lessor, and restored the surface of the ground to as good a condition as the same was in before such structures were erected, including, without limitation, the removal of foundations, the filling in of excavations and pits, and the removal of debris and rubbish.

B) If Lessee has not completed such removal and restoration within thirty (30) days after termination of this Lease, Lessor may, at its election, and at any time or times, (i) perform the work and Lessee shall reimburse Lessor for the cost thereof within thirty (30) days after bill is rendered, (ii) take title to all or any portion of such structures or property by giving notice of such election to Lessee, and/or (iii) treat Lessee as a holdover tenant at will until such removal and restoration is completed.

Section 16. FIBER OPTICS.

Lessee shall telephone Lessor at 1-800-336-9193 (a 24-hour number) to determine if fiber optic cable is buried on the Premises. If cable is buried on the Premises, Lessee will telephone the telecommunications company(ies), arrange for a cable locator, and make arrangements for relocation or other protection of the cable. Notwithstanding compliance by Lessee with this Section 16, the release and indemnity provisions of Section 12 above shall apply fully to any damage or destruction of any telecommunications system.

Section 17. NOTICES.

Any notice, consent or approval to be given under this Lease shall be in writing, and personally served, sent by reputable courier service, or sent by certified mail, postage prepaid, return receipt requested, to Lessor at: Contracts & Real Estate Department, Room 1100, 1416 Dodge Street, Omaha, Nebraska 68179; and to Lessee at the above address, or such other address as a party may designate in notice given to the other party. Mailed notices shall be deemed served five (5) days after deposit in the U.S. Mail. Notices which are personally served or sent by courier service shall be deemed served upon receipt.

Section 18. ASSIGNMENT.

A) Lessee shall not sublease the Premises, in whole or in part, or assign, encumber or transfer (by operation of law or otherwise) this Lease, without the prior consent of Lessor, which consent may be denied at Lessor's sole and absolute discretion. Any purported transfer or assignment without Lessor's consent shall be void and shall be a default by Lessee.
B) Subject to this Section 18, this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

Section 19. CONDEMNATION.

If, as reasonably determined by Lessor, the Premises cannot be used by Lessee because of a condemnation or sale in lieu of condemnation, then this Lease shall automatically terminate. Lessor shall be entitled to the entire award or proceeds for any total or partial condemnation or sale in lieu thereof, including, without limitation, any award or proceeds for the value of the leasehold estate created by this Lease. Notwithstanding the foregoing, Lessee shall have the right to pursue recovery from the condemning authority of such compensation as may be separately awarded to Lessee for Lessee's relocation expenses, the taking of Lessee's personal property and fixtures, and the interruption of or damage to Lessee's business.

Section 20. ATTORNEY'S FEES.

If either party retains an attorney to enforce this Lease (including, without limitation, the indemnity provisions of this Lease), the prevailing party is entitled to recover reasonable attorney's fees.

Section 21. ENTIRE AGREEMENT.

This Lease is the entire agreement between the parties, and supersedes all other oral or written agreements between the parties pertaining to this transaction. Except for the unilateral redetermination of annual rent as provided in Article III.A, this Lease may be amended only by a written instrument signed by Lessor and Lessee.

EXHIBIT 13



KEMWATER
NORTH AMERICA COMPANY

FAXED
9/17/97
402-997-3601

September 17, 1997

G.E.L.

SEP 19 1997

Mr. George Lindsay
Union Pacific Railroad
Contracts and Real Estate
1416 Dodge St.
WP001
Omaha, Nebraska 68179

Reference: Lease

Dear Mr. Lindsay:

Confirming our telephone conversation, Kemwater North America (formerly Imperial West Chemical Company) plans to make a major investment in our plant on your site in Spokane. Kemwater North America is requesting from the Union Pacific written authorization to act as representatives of the owner of the property for the purpose of applying for the building and environmental permits necessary to construct the new facility.


As we discussed, in February of 1996 Imperial West Chemical Company bought Kemira Chemical's Savannah coagulants plant and became a licensee of the Kemira technology for all of North America. At that time we also changed our name to Kemwater North America. Ownership of the company remained the same. I apologize for not making the request to change the name on the lease sooner.

Kemwater North America also requests that the lease be renegotiated to include a longer term than one year. You indicated that the maximum time is currently five years. Since Kemwater is going to make a large capital investment at this location we would like a longer-term commitment.

We will appreciate your prompt response to this request, as Kemwater would like to pour concrete by the first part of October, due to weather considerations. I have included with this letter a plot plan of the proposed expansion.

Please let me know when your plans allow for your visiting the Spokane area so we can arrange to meet you there. Thank you again for your consideration of our request.

Sincerely,
KEMWATER NORTH AMERICA

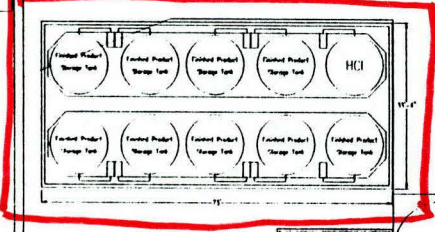

John P. Crass
Vice President, Sales and Marketing

cc: Michael K. Espinosa

CENTERLINE RAIL SPUR

CONCRETE

Expansion area in red.



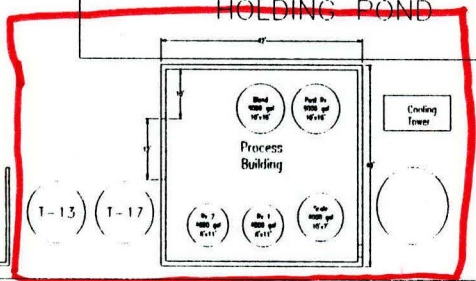
AICI3

HOLDING TANKS

Scrubber Area



HOLDING POND



PLANT

Boiler

Boiler

PROCESS AREA

PP

Lab

CONCRETE

EXHIBIT 14

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<https://www.wsj.com/articles/SB889448712904348000>

Alcoa Reaches Deal to Buy Alumax For \$2.8 Billion in Cash and Stock

By Chris Adams Staff Reporter of The Wall Street Journal

March 10, 1998 12:01 am ET

PITTSBURGH -- Aluminum Co. of America reached an agreement to buy rival Alumax Inc. for \$2.8 billion in stock and cash, allowing it to expand its global reach as well as its line of fabricated aluminum goods.

The deal, in which Alcoa is assuming \$1 billion of Alumax debt, would unite the world's largest aluminum maker and the third-largest aluminum company in the U.S., sparking what could be a stringent review of Alcoa's expanded market share by U.S. antitrust regulators. But if approved, the combination would give Alcoa, a leader in the can sheet and aerospace markets, a stronger presence in construction and transportation.

The origins for the planned acquisition go back two years, when Alumax fought off a hostile takeover bid from another rival, Kaiser Aluminum Corp. At the time, Paul O'Neill, Alcoa chairman and chief executive officer, said he made a friendly call to Alumax suggesting a possible deal. "We're here if you want us to be," Mr. O'Neill told officials of Alumax, based in Atlanta.

Under terms of the definitive agreement announced Monday and approved by both company's boards, Alcoa will pay \$50 a share in cash for half of Alumax's

shares outstanding. Alcoa will buy each remaining Alumax share for 0.6975 share of Alcoa stock. Alcoa said it is intended that the shares it issues will be tax-free to Alumax shareholders.

Alumax shares, which traded in the mid-30s for much of the past two years, jumped on the news, ending the day at \$47, up 28%, or \$10.3125 from a Friday close of \$36.6875 on the New York Stock Exchange. Alcoa closed at \$71.4375, down 18.75 cents. At that closing price, the stock portion of the Alcoa offer would be worth \$49.83 for each Alumax share.

Analysts generally praised the acquisition plan, which will allow the combined company to cut costs at a time aluminum makers world-wide are watching aluminum prices tumble. The combined company will have 1998 revenue of about \$17 billion, with 100,000 employees in 30 countries. Alcoa said it was premature to discuss any layoffs and added that attrition could take care of future work-force reductions.

Substantial Savings

Mr. O'Neill said for the deal to make financial sense, the combined company would have to find at least \$80 million in after-tax cost savings a year. In a conference call, he said the savings should be "substantially more" than that, although he didn't specify when they would kick in. He said there would be overlaps in some management functions, in transportation costs, and in research and development.

Both companies are studying whether to build aluminum plants in the same area of western Canada. "It's not a big number, but I suppose we can save some money by combining our study teams in British Columbia," Mr. O'Neill quipped.

Although the merger would bring together two aluminum giants, there will be little in the way of overlapping product lines. While both companies produce primary aluminum, those so-called primary aluminum ingots are further processed into very different fabricated aluminum products.

Alcoa is a leader in producing "can sheet," which is used to make soda cans, as well as in aluminum for the aerospace industry. Alumax isn't a factor in those markets, but it is strong in aluminum used in the construction business.

Further, Alcoa is a major producer of alumina, the raw material used to make aluminum. Alumax now buys all of its alumina from Alcoa.

"There is a surprisingly small amount of overlap between the two companies," said R. Wayne Atwell, an analyst with Morgan Stanley, Dean Witter, Discover & Co. "It's almost as though they were designing themselves to be a fit someday."

Antitrust Scrutiny Expected

Even so, analysts expect the acquisition to come under tough antitrust review by the U.S. Justice Department. Just three months ago, the Justice Department opposed Alcoa's plan to buy a can sheet mill from Reynolds Metals Co., saying the transaction would let Alcoa control too much of that market. Alcoa dropped the plan a day later.

With the Alumax acquisition, Alcoa would increase its capacity by about 28% to more than three million metric tons of primary aluminum a year, or 15% of world-wide capacity. In the U.S., however, Alcoa will have 40% of primary aluminum capacity, according to Charles Bradford, an independent metals analyst.

Mr. O'Neill stressed that aluminum was a world-wide market, with prices set daily on the London Metal Exchange. He said the "idea that some of this has anything to do with concentration in the U.S. is ludicrous," and added that he was "very confident the Justice Department won't find anything to haggle about."

But "everybody also talked as though the Reynolds can sheet mill was a done deal," said Nick Mason, a London-based consultant with CRU International. "It wasn't. It was rejected. There's no such thing as a done deal, until it is all signed, sealed and approved."

Daniel Roling, a Merrill Lynch analyst, agreed with Alcoa that aluminum was a global market. But the Justice Department might not take the same view as Alcoa. "Bill Gates thought Justice was a minor problem, too," Mr. Roling said.

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EXHIBIT 15

LAND LEASE APPLICATION FORM – UNION PACIFIC RAILROAD COMPANY

Lease in Name of: Kemiron Northwest, Inc.

If a Corporation, State of Inc. Delaware

Other Comments Pertinent to Lessee: Kemiron Northwest, Inc. ("KNWI") is in the process of purchasing the coagulant business from Kemwater North America Company, ("KNAC"). KNAC is the current lessee of your premises located at Trentwood, Spokane County, Washington (identified by UP as Folder: 0825-08 Audit Number SI82508. KNWI intends to continue KNAC's business activities at said location, and KNWI would like to assume the aforementioned lease contingent on the closing of the KNAC/ KNWI transaction. The tentative closing date for the KNAC, KNWI transaction is set for July 10/2000

Applicant Mailing Address 316 Bartow Municipal Airport, Bartow, Florida 33830

Applicant Billing Address (if different) _____

Name of Person to Contact Regarding this Lease J. Marker/J. Hisken

Phone No. (863) 533-5990 Fax No. (863) 533-7077 E-Mail: jhisken@gte.net

Desired Effective Date: Closing date of the agreement between KNAC and KNWI 8-21-00 Closing

Detailed Description of Intended Use of Leased Premises: The intended use will stay the basically the same. KNWI will continue KNAC's operating activities at the Spokane site.

List All Hazardous Materials or Petroleum Products You Will be Handling on:
Leased Premises. Aluminum and Iron Sulfates, Aluminum and Iron Chlorides, Poly Aluminum Chloride, Sulfuric Acid, Hydrochloric Acid

Adjacent Premises: NA

Will Hazardous or Petroleum Wastes be Generated? Yes _____ No X if Yes,

Describe _____

Will Improvements be Constructed on Leased Premises? Yes _____ No X If Yes,

Describe _____

Will Storage Tanks Be Installed? Yes No X If Yes,
Commodity Stored _____, Size _____, Above _____ or Below Ground

Will Trackage be Required? Yes: X No ___ If Yes, Contact the Sr. Mgr. – Track at (402) 997-3583
Note: Land Lease Does Not Include Use of Trackage

Do You Plan to Sublease to Another Party? Yes _____ No X If Yes,
Duplicate Above Information for Sublessee and Forward With Application

Provide Location (i.e.: city, street, railroad mile post) and a Drawing of the Proposed Leased Premises With Dimensions. Also, Depict Any Planned Improvements on the Leased Premises With Dimensions From Nearest Track.

Premises is located at Trentwood, Spokane County, Washington M.P. 10.67- Spokane Subdivision. (The current lease is identified by UP as Folder: 0825-08 Audit Number SI82508

This application is not to be construed as a commitment to lease property without Railroad's written consent.

FORWARD APPLICATION & PRINT TO:
Union Pacific Railroad Co
1800 Farnam St – Attn: G. E. Lindsay, Jr.
Omaha, NE 68102 or fax: (402) 997-3601

J. Marker
(signature of applicant)
(Title) SECRETARY
(date) 6-21-00

**UNION PACIFIC RAILROAD
REAL ESTATE DEPARTMENT
INFORMATION REPORT**

APPLICANT FIRM NAME: Kemiron Northwest, Inc. PHONE (863) 533-5990

COMPLETE ADDRESS: 316 Bartow Municipal Airport, Bartow , Florida, 33830
Street Name City State Zip

BANK REFERENCE Amsouth Bank Tampa Florida (813) 226 1207
Bank Name City State Phone

ARE YOU A CURRENT FREIGHT SHIPPER WITH UNION PACIFIC RAILROAD? YES
 NO

IF COMPANY IS LISTED WITH DUN & BRADSTREET, INSERT DUNS NUMBER _____

COMPLETE THIS SECTION IF APPLICANT IS A CORPORATION:

INCORPORATED IN STATE OF Delaware IS APPLICANT A SUBSIDIARY: NO YES
IF YES, COMPLETE SUBSIDIARY SECTION

HAS BUSINESS EVER DECLARED BANKRUPTCY: NO YES IF YES, DATE FILED _____
(Mo/Yr)

COMPLETE THIS SECTION IF APPLICANT IS A SUBSIDIARY:

PARENT NAME Kemiron Companies, Inc. DATE OF OWNERSHIP/CONTROL July 2000
(Mo/Yr)

COMPLETE ADDRESS: 316 Bartow Municipal Airport Bartow FL 33830
Street Name City State Zip

BUSINESS DESCRIPTION: Holding Company

COMPLETE THIS SECTION IF APPLICANT IS A PARTNERSHIP OR ASSOCIATION:

OWNER, GENERAL PARTNER OR GUARANTOR _____ % OWNED _____

RESIDENCE ADDRESS _____ HOW LONG AT THIS ADDRESS _____
Street City State Zip (Years)

HAS OWNER, GENERAL PARTNER OR GUARANTOR EVER DECLARED BANKRUPTCY: NO YES
IF YES, DATE FILED _____
(Mo/Yr)

In order to assist us in properly evaluating your application, we require a review of your latest Financial Statements.
Please ATTACH the following Financial Statements for the Current and Prior Year:

1. Balance Sheet 2. Income or Profit/Loss Statement 3. Cash Flow Statement (Source and Application of Funds).

If formal financial statements are not available, please complete the reverse side of this application.

ALL FINANCIAL STATEMENTS ARE STRICTLY CONFIDENTIAL.

SIGNATUR OF APPLICANT: [Signature] DATE: 6-21-00

FOR UNION PACIFIC USE ONLY:

Name of Field Mgr. _____ Phone: _____

Rental Amt: _____ Yr/Mo Folder Number: _____

FIRM NAME: Combined financial statements of: Kemiron, Inc. Kemiron Pacific, Inc., Kemiron North America, Inc. and Kemiron Trans, Inc.

BALANCE SHEET
(Rounded Actual \$)

ASSETS	CURRENT PERIOD	PRIOR PERIOD	LIABILITIES	CURRENT PERIOD	PRIOR PERIOD
	(Mo/Yr)	12/31/99 (Mo/Yr)		(Mo/Yr)	12/31/99 (Mo/Yr)
CURRENT ASSETS			CURRENT LIABILITIES		
Cash	\$ _____	\$ 1,487,242	Accounts Payable	\$ _____	\$ 1,726,199
Accounts Receivable	\$ _____	\$ 4,638,156	Accrued Liabilities	\$ _____	\$ 2,937,302
Inventory	\$ _____	\$ 484,003	Long Term Debt	\$ _____	\$ 3,123,965
Other Current Assets	\$ _____	\$ 62,618	Other Current Liabilities	\$ _____	\$ 2,806,085
Total Current Assets	\$ _____	\$ 6,665,018	Total Current Liabilities	\$ _____	
			TOTAL LIABILITIES		\$10,563,551
			EQUITY		
			Common Stock	\$ _____	\$ 698,682
			Treasury Stock, etc.	\$ _____	\$ -25,349
			Retained Earnings	\$ _____	\$ 5,409,733
			TOTAL EQUITY	\$ _____	\$ 6,083,067
TOTAL ASSETS	\$ _____	\$16,646,619	TOTAL LIABILITIES & EQUITY	\$ _____	\$16,646,618

NOTE: TOTAL LIABILITIES AND EQUITY MUST EQUAL TOTAL ASSETS

Income Statement
(Rounded Actual \$)

	CURRENT PERIOD	PERIOD
	(Mo/Yr)	1/1/1999-2/31/1999 (Mo/Yr)
Revenues/Sales	\$ _____	\$ 27,016,270
Less Depreciation	\$ _____	\$ _____
Less Other Operation Expenses	\$ _____	\$ _____
Operating Income	\$ _____	\$ 2,111,426
Plus Other Income	\$ _____	\$ 1,221,543
Less Other Expenses	\$ _____	\$ _____
Income Before Income Tax	\$ _____	\$ 3,332,968
Less Income Tax	\$ _____	\$ 2,241,603
Net	\$ _____	\$ 1,091,365
	\$ _____	

Contemporaneously with the KNAC/KNWT transaction, we will form a new corporation, Kemiron Companies, Inc. Kemiron Companies, Inc will be the parent company of Kemwater Northwest, Inc., Kemiron, Inc. Kemiron Pacific, Inc., Kemiron North America, Inc. and Kemiron Trans, Inc. The balance sheet above is how the consolidated opening balance sheet of Kemiron Companies, Inc would have looked like if it had been in existence on 12/31/1999

The undersigned represents that the above financial statements are true and correct and are intended for use in determining whether to extend credit

Signed By: [Signature] Title SECRETARY Date 6-21-00

EXHIBIT 16

Foldu 825-08



"Jerry Linnenbringer" <gclkiron@gte.net> on 03/15/2001 02:12:26 PM

To: <gelindsa@notes.up.com>
cc:

Subject: Transfer of Lease in Trentwood, Washington (Spokane County)

Dear Mr. Lindsay,

My name is Jerry Linnenbringer and I work for Kemiron. We recently purchased the business of Kemwater North America Company which has a production facility located in on land leased from Union Pacific Railroad.

After looking at the lease (Article VI - Special Provision - Termination) and Exhibit B, it says that Union Pacific could terminate this agreement in 2003 on thirty (30) days notice and we have 30 days to remove all our equipment. I'm not a lawyer..just a business man and this wording seems very harsh and one sided to me.

We have a multi-million dollar manufacturing facility on your site with many customers (with guaranteed supply contracts). How could we exist and maintain a viable business after the initial five (5) year term is up in August 2003 knowing that you could force us out at any time with 30 days notice?

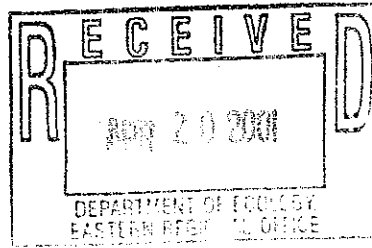
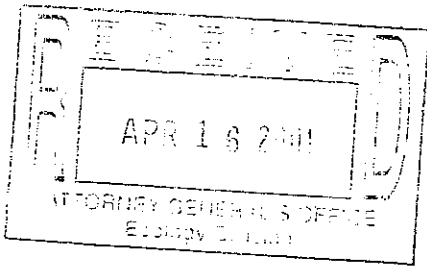
I know this agreement looks pretty much like "boilerplate". Do other companies sign these type of agreements? Am I making to big a deal of the renew and possible eviction? I'd appreciate your view.

Best regards,

Jerry Linnenbringer

EXHIBIT 17

FS 627



COPY ORIGINAL FILED
APR 12 2001
SUPERIOR COURT
SPOKANE COUNTY, WN

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SPOKANE

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

THE BURLINGTON NORTHERN AND
SANTA FE RAIL WAY COMPANY,

Defendant.

NO. 01202037-9

SUMMONS

TO: The Burlington Northern and Santa Fe Railway Company,

AND TO: The Clerk of the above-entitled Court:

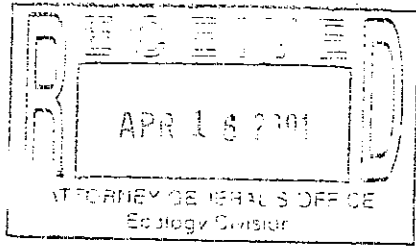
A lawsuit has been started against you in the above-entitled court by the State of Washington, Department of Ecology, Plaintiff. Plaintiff's claim is stated in the written complaint, a copy of which is served upon you with this Summons.

The parties have agreed to resolve this matter by entry of a Consent Decree. Accordingly, this Summons shall not require the filing of an answer.

Respectfully submitted this 5th day of April, 2001.

CHRISTINE O. GREGOIRE
Attorney General

KEN LEDERMAN, WSBA #26515
Assistant Attorney General
Attorneys for Plaintiff
Department of Ecology
(360) 586-4607



COPY
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APR 12 2001
SUPERIOR COURT
SPOKANE COUNTY, WN

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**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SPOKANE**

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

THE BURLINGTON NORTHERN AND
SANTA FE RAILWAY COMPANY,

Defendant.

NO. 01202037-9

COMPLAINT

I. JURISDICTION

1.1 This court has jurisdiction over the parties and over the subject matter under the Model Toxics Control Act, chapter 70.105D RCW.

II. PARTIES

2.1 Plaintiff State of Washington Department of Ecology (Ecology) is a state agency charged with the implementation of the Model Toxics Control Act.

2.2 Defendant is the Burlington Northern and Santa Fe Railway Company (BNSF). Defendant has agreed to enter into a Consent Decree with Ecology under the Model Toxics Control Act to remedy the release of hazardous substances on property.

III. FACTUAL ALLEGATIONS

3.1 The Facility, referred to as Aluminum Recycling Corporation, as defined in RCW 70.105D 020(4), is located at East 3412 Wellesley Avenue, Spokane, Washington. The Burlington Northern and Santa Fe Railway Company (BNSF), formerly known as Burlington

1 Northern Railroad Company (BN), is the owner of the property at East 3412 Wellesley Avenue.
2 Spokane, Washington on which the Site is located. The Site is more particularly described in
3 Exhibit A of the Consent Decree that is being submitted to settle this action.

4 3.2 Ecology has determined that there has been a release or threatened release of
5 hazardous substances at the Facility. Ecology has further determined that this release or
6 threatened release requires remedial action to protect human health, welfare, and the
7 environment; and that Defendant is a potentially liable person with respect to this Facility.

8 3.3 Ecology and Defendant has entered into a Consent Decree regarding remedial
9 actions to be taken at the Facility.

10 3.4 The Consent Decree has been the subject of public notice and comment under
11 RCW 70.105D 040(4)(a). The Consent Decree is being submitted to the court along with this
12 Complaint

13 Ecology has determined that entry of the Consent Decree will lead to a more expeditious
14 cleanup of the Facility.

15 IV. CAUSE OF ACTION

16 4.1 Plaintiff realleges all preceding paragraphs.

17 4.2 Plaintiff alleges that the Defendant is responsible for remedial action at the
18 Facility pursuant to the MTCA, chapter 70.105D RCW

19 V. PRAYER FOR RELIEF

20 5.1 Ecology and BNSF request that the court sign and enter the Consent Decree in this
21 matter.

22 5.2 Ecology and BNSF further request that the court retain jurisdiction to enforce the
23 terms of the Consent Decree

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Respectfully submitted this 5th day of April, 2001.

CHRISTINE O. GREGOIRE
Attorney General



KEN LEDERMAN, WSBA #26515
Assistant Attorney General
Attorneys for Plaintiff
Department of Ecology
(360) 586-4607

F:ALUMINUM RECYCLING COMPLAINT

1 STATE OF WASHINGTON
2 DEPARTMENT OF ECOLOGY

3 

4 JIM PENDOWSKI
5 Program Manager
6 Toxics Cleanup Program


7 Date: 3/23/01

8 THE BURLINGTON NORTHERN AND
9 SANTA FE RAILWAY COMPANY

10 Title: _____

11 Date: _____

CHRISTINE O. GREGOIRE
Attorney General



KEN LEDERMAN, WSBA #26515
Assistant Attorney General

Date: 4/3/01

ATTORNEY FOR THE BURLINGTON
NORTHERN AND SANTA FE
RAILWAY COMPANY

Date: _____

12 DATED this _____ day of _____, 2001.

13 ROYCE H. MOE
14 COURT COMMISSIONER

15 JUDGE
16 Spokane County Superior Court

1 STATE OF WASHINGTON
2 DEPARTMENT OF ECOLOGY

CHRISTINE O GREGOIRE
Attorney General

3
4 FLORA GOLDSTEIN
5 Section Manager
6 Toxics Cleanup Program

KEN LEDERMAN, WSBA #26515
Assistant Attorney General

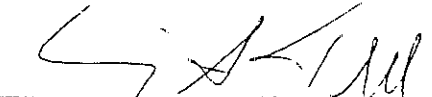
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8 Date: _____

Date: _____

9
10 THE BURLINGTON NORTHERN AND
11 SANTA FE RAILWAY COMPANY

ATTORNEY FOR THE BURLINGTON
NORTHERN AND SANTA FE
RAILWAY COMPANY

12
13 



14 Title: VP General Counsel

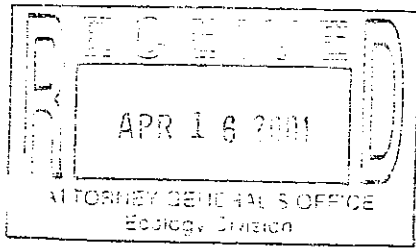
CRAIG S. TRUEBLOOD, WSBA #18357
PRESTON GATES & ELLIS LLP

15 Date: Feb. 1, 2001

Date: Feb 1, 2001

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21 DATED this _____ day of _____, 2001

22
23 JUDGE
24 Spokane County Superior Court



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ORIGINAL FILED

APR 12 2001

SUPERIOR COURT
SPOKANE COUNTY, WN

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SPOKANE**

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

Plaintiff,

v

THE BURLINGTON NORTHERN AND
SANTA FE RAILWAY COMPANY,

Defendant.

NO 01202037-9

MOTION FOR ENTRY OF
CONSENT DECREE AND
MEMORANDUM IN SUPPORT OF
MOTION

I. INTRODUCTION

Plaintiff, Washington State Department of Ecology (Ecology), represented by Christine O. Gregoire, Attorney General, and Ken Lederman, Assistant Attorney General, brings this motion seeking entry of the attached Consent Decree. This motion is based upon the pleadings filed in this matter, including the Declaration of Ken Lederman.

II. RELIEF REQUESTED

Ecology requests that the Court approve and enter the attached Consent Decree that requires certain remedial actions at the Aluminum Recycling Corporation Site, a facility where there has been a release of hazardous substances. Ecology also requests that the Court retain jurisdiction over this action until the work required by the Consent Decree is completed and the parties request a dismissal of this action

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III. AUTHORITY

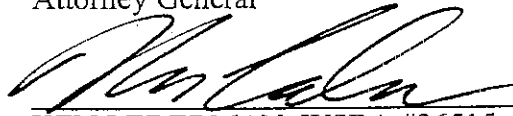
RCW 70.105D.030 authorizes Ecology to issue such orders as may be necessary to effectuate the purposes of the Model Toxics Control Act, chapter 70.105D RCW, and to enter into consent decrees through judicial proceedings. In addition, RCW 70.105D 040(4) authorizes the Attorney General to agree to a settlement with a potentially liable person and to request that the settlement be entered as a consent decree in the superior court of the county where a violation is alleged to have occurred.

IV. CONCLUSION

Ecology believes it is appropriate for the Court to exercise its judicial discretion and approve the attached Consent Decree, and hereby requests that the Court enter the attached Order.

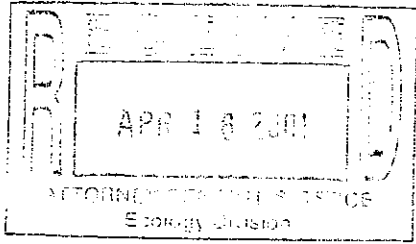
DATED this 5th day of April, 2001.

CHRISTINE O. GREGOIRE
Attorney General



KEN LEDERMAN, WSBA #26515
Assistant Attorney General
Attorneys for Plaintiff
Department of Ecology
(360) 586-4607

F:\ALUMINUM RECYCLING\MOTION FOR ENTRY



COPY
ORIGINAL FILED

APR 12 2001

SUPERIOR COURT
SPOKANE COUNTY WA

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SPOKANE**

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

THE BURLINGTON NORTHERN AND
SANTA FE RAILWAY COMPANY,

Defendant.

NO. 01202037-9

DECLARATION OF KEN LEDERMAN
IN SUPPORT OF MOTION FOR
ENTRY OF CONSENT DECREE

I, Ken Lederman, declare under penalty of perjury under the laws of the State of Washington that the following is true and correct.

1. I am over twenty-one years of age and am competent to testify herein. The facts set forth in this Declaration are from my personal knowledge.

2. I am an Assistant Attorney General assigned to represent the Washington State Department of Ecology and the Attorney General's Office on legal matters relating to the Site in Spokane, Washington referred to as Aluminum Recycling Corporation.

3. On behalf of Ecology and the Attorney General's Office, I took part in the negotiations that led to the Consent Decree that is being presented to the court.

4. The Consent Decree was the subject of public notice and public comment as required by RCW 70 105D.040(4)(a)

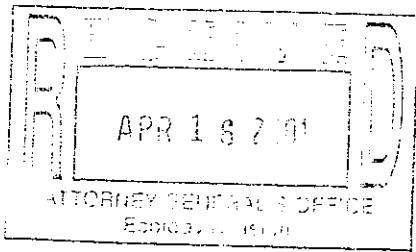
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5. Ecology has determined that the proposed remedial action will lead to a more expeditious cleanup of hazardous substances in compliance with cleanup standards under RCW 70.105D.030(2)(e).

DATED this 5th day of April, 2001, in Olympia, Washington.


KEN LEDERMAN

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ORIGINAL FILED
APR 12 2001
SUPERIOR COURT
SPOKANE COUNTY, WA

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SPOKANE**

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

THE BURLINGTON NORTHERN AND
SANTA FE RAILWAY COMPANY,

Defendant

NO *01-2-02037-9*

ORDER ENTERING CONSENT
DECREE

Having reviewed the Consent Decree signed by the parties to this matter, the Motion for Entry of the Consent Decree, the Declaration of Ken Lederman, and the file herein, it is hereby

ORDERED AND ADJUDGED that the Consent Decree in this matter is entered and that the Court shall retain jurisdiction over the Consent Decree to enforce its terms

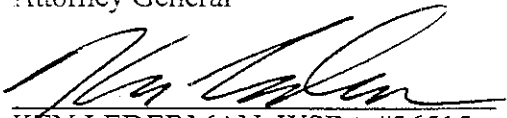
DATED this *11th* day of *April*, 2001.

**ROYCE H. MOE
COURT COMMISSIONER**

JUDGE
Spokane County Superior Court

1 Presented by:

2 CHRISTINE O. GREGOIRE
Attorney General

3 

4 KEN LEDERMAN, WSBA #26515
5 Assistant Attorney General

6 Attorneys for Plaintiff
7 State of Washington
8 Department of Ecology
9 (360) 586-4607

10 DATED: 4/5/01

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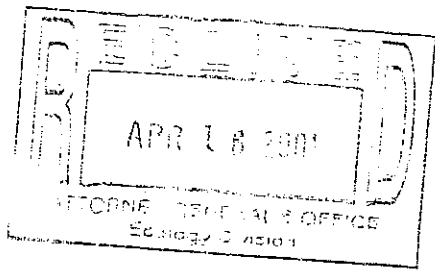
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RE: ALUMINUM RECYCLING ORDER ENTERING CD



COPY
ORIGINAL FILED

APR 12 2001

SUPERIOR COURT
SPOKANE COUNTY, WN

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SPOKANE

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

THE BURLINGTON NORTHERN
AND SANTA FE RAILWAY
COMPANY

Defendant.

NO. 01202037-9

CONSENT DECREE

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1 I. INTRODUCTION

2 A. In entering into this Consent Decree (Decree), the mutual objective of the
3 Washington State Department of Ecology (Ecology) and The Burlington Northern and Santa
4 Fe Railway Company (BNSF) is to provide for remedial action at a facility where there has
5 been a release or threatened release of hazardous substances. BNSF shall be referred to herein
6 as the "Defendant." This Decree requires the Defendant to undertake the following remedial
7 action(s):

- 8 (1) Regrading of dross materials on the Site;
- 9 (2) Installation of a multi-media cover system according to design
10 specifications approved by Ecology;
- 11 (3) Groundwater monitoring through the quarterly sampling of existing
12 wells; and
- 13 (4) Institutional controls in the form of restrictive covenants, fences, signs,
14 and the maintenance of these controls.

15 Ecology has determined that these actions are necessary to protect public health and the
16 environment.

17 B. The Complaint in this action is being filed simultaneously with this Decree. An
18 answer has not been filed, and there has not been a trial on any issue of fact or law in this case.
19 However, the parties wish to resolve the issues raised by Ecology's Complaint. In addition, the
20 parties agree that settlement of these matters without litigation is reasonable and in the public
21 interest and that entry of this Decree is the most appropriate means of resolving these matters.

22 C. In signing this Decree, Defendant agrees to its entry and agrees to be bound by
23 its terms.

24 D. By entering into this Decree, the parties do not intend to discharge nonsettling
25 parties from any liability they may have with respect to matters alleged in the complaint. The

1 parties retain the right to seek reimbursement, in whole or in part, from any liable persons for
2 sums expended at the Site, including but not limited to sums expended under this Decree.

3 E. This Decree shall not be construed as proof of liability or responsibility for any
4 releases of hazardous substances or cost for remedial action nor an admission of any facts;
5 provided, however, that the Defendant shall not challenge the jurisdiction of Ecology in any
6 proceeding to enforce this Decree.

7 F. The Court is fully advised of the reasons for entry of this Decree, and good
8 cause having been shown;

9 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

10 **II. JURISDICTION**

11 A. This Court has jurisdiction over the subject matter and over the parties pursuant
12 to chapter 70.105D RCW, the Model Toxics Control Act (MTCA).

13 B. Authority is conferred upon the Washington State Attorney General by RCW
14 70.105D.040(4)(a) to agree to a settlement with any potentially liable person if, after public
15 notice and hearing, Ecology finds the proposed settlement would lead to a more expeditious
16 cleanup of hazardous substances. RCW 70.105D.040(4)(b) requires that such a settlement be
17 entered as a consent decree issued by a court of competent jurisdiction.

18 C. Ecology has determined that a release or threatened release of hazardous
19 substances has occurred at the Site that is the subject of this Decree.

20 D. Ecology has given notice to Defendant, as set forth in RCW 70.105D.020(16),
21 of Ecology's determination that the Defendant is a potentially liable person for the Site and that
22 there has been a release or threatened release of hazardous substances at the Site.

23 E. The actions to be taken pursuant to this Decree are necessary to protect public
24 health, welfare, and the environment.

1 F Defendant has agreed to undertake the actions specified in this Decree and
2 consents to the entry of this Decree under the MTCA.

3 III. PARTIES BOUND

4 This Decree shall apply to and be binding upon the signatories to this Decree (Parties),
5 their successors and assigns. The undersigned representative of each party hereby certifies that
6 he or she is fully authorized to enter into this Decree and to execute and legally bind such party
7 to comply with the Decree. Defendant agrees to undertake all actions required by the terms
8 and conditions of this Decree and not to contest state jurisdiction regarding this Decree. No
9 change in ownership or corporate status shall alter the responsibility of the Defendant under
10 this Decree. Defendant shall provide a copy of this Decree to all agents, contractors and
11 subcontractors retained to perform work required by this Decree and shall ensure that all work
12 undertaken by such contractors and subcontractors will be in compliance with this Decree.

13 IV. DEFINITIONS

14 Except for as specified herein, all definitions in WAC 173-340-200 apply to the terms in
15 this Decree.

16 A. Site: The Site, referred to as Aluminum Recycling Corporation, is located at
17 East 3412 Wellesley Avenue, Spokane, Washington. The Site is more particularly described in
18 Exhibit A to this Decree that is a detailed site diagram. The Site is a "facility" under RCW
19 70.105D 020(4).

20 B. Parties: Refers to the Washington State Department of Ecology and The
21 Burlington Northern and Santa Fe Railway Company.

22 C. Defendant: Refers to The Burlington Northern and Santa Fe Railway Company.

23 D. Consent Decree or Decree: Refers to this Consent Decree and each of the
24 exhibits to the Decree. All exhibits are integral and enforceable parts of this Consent Decree
25 and are hereby incorporated by reference. The terms "Consent Decree" or "Decree" shall

1 include all Exhibits to the Consent Decree. In the event of a conflict between an Exhibit and
2 the Decree, the Decree shall prevail.

3 V. STATEMENT OF FACTS

4 Ecology makes the following finding of facts without any express or implied
5 admissions by Defendant.

6 1. The Burlington Northern and Santa Fe Railway Company (BNSF), formerly
7 known as Burlington Northern Railroad Company (BN), is the owner of the property at East
8 3412 Wellesley Avenue, Spokane, Washington on which the facility is located (Exhibit A,
9 Figure 1).

10 2. Kaiser Aluminum and Chemical Corporation (Kaiser) owned or possessed
11 hazardous substances and arranged for disposal or treatment of the hazardous substances at the
12 facility.

13 3. Alumax Incorporated (Alumax) is the corporate successor to Hillyard
14 Aluminum Recovery Corporation, which was an operator of the facility.

15 4. An aluminum dross reprocessing facility was operated on the land leased from
16 BN. Aluminum reprocessing reportedly began at the Site in 1954 by the Hillyard Processing
17 Company. This company was sold to Hillyard Aluminum Recovery Corporation in 1976,
18 which was again sold to Aluminum Recycling Corporation in 1979. Aluminum Recycling
19 Corporation operated the facility until 1987 when the property was abandoned. All three
20 companies operating the facility continued the same aluminum reprocessing operations.

21 5. The facility processed aluminum scrap materials and aluminum skim called
22 white dross, obtained from aluminum smelters, in a batch process. This secondary processing
23 of aluminum dross involved addition of sodium and potassium chloride salts. Molten
24 aluminum metal was extracted during the process, poured into ingots and sold. Spent dross
25 process waste called black dross, along with non-reprocessed white dross waste, remain on the

1 Site. A total of 65,000 cubic yards of these wastes occur in piles A through R and an
2 abandoned pit on-site (Exhibit A, Figure 2).

3 6 Ground water beneath the Site occurs in the Spokane Valley-Rathdrum Prairie
4 Aquifer. In 1978 the United States Environmental Protection Agency (EPA) designated this
5 aquifer as a "Sole Source" Aquifer. The aquifer serves as the main drinking water supply for
6 approximately 400,000 people in the City and County of Spokane.

7 7. Ecology completed the Phase I Site Inspection Report, Aluminum Recycling
8 Corporation, Wellesley, Spokane, Spokane County, Washington, WAD 043005651, in
9 December 1987 (Phase I SI Report) to assess the hazards of the Site. As a result of that report
10 the Site was evaluated through the Washington Ranking Method (WARM) and placed on the
11 Hazardous Sites List with a ranking of 2.

12 8. The Phase I SI Report states that in 1955 chloride and other hazardous
13 substances from the dross waste had contaminated a BN (now BNSF) well near the Site.
14 Complaints of windblown particulates and ammonia odors generated from the Site were
15 reported. The occurrence of a thermite fire in the waste materials was also noted in the report.

16 9. In 1988, BNSF initiated a dust suppression program to stabilize piled waste
17 material. A fence was also constructed by BNSF around the facility to limit Site access.

18 10. Environmental Management Resources, Inc. (EMR) prepared a Summary
19 Report BNRR Hillyard Aluminum Dross Site Spokane, Washington, for BNSF in June 1996.
20 The report indicates that the dross contains high concentrations of chloride, fluoride and
21 nitrogen compounds. The report also indicates that dross waste materials generate ammonia
22 gas when exposed to atmospheric moisture and water.

23 11. Ammonia, and the decomposition products of these dross wastes including
24 chloride, fluoride and nitrate, are hazardous substances as defined in RCW 70.105D.020(7)(a)
25 and (7)(e).

1 12 BNSF installed a monitoring well (MW3) in June 1997, and collected
2 groundwater samples from MW3 and from previously sampled monitoring wells. Sample
3 results presented in the Groundwater Sampling Report Hillyard Aluminum Dross Site
4 Spokane, Washington, 1997, indicate that a release of hazardous substances has contaminated
5 groundwater with nitrate, fluoride, and chloride beneath the Site in concentrations exceeding
6 drinking water standards

7 13 In certified correspondence dated July 29, 1997, Ecology notified BNSF of the
8 preliminary finding of potential liability and requested comment on that finding.

9 14. In certified correspondence dated November 6, 1997, Ecology notified BNSF of
10 its status as a potentially liable person with regard to the release of hazardous substances at the
11 Site.

12 15. Correspondence from EMR (February 5, 1998) indicates that BNSF has made
13 numerous and ongoing efforts beginning in 1988 to find a reuse for the dross material.

14 16. On November 16, 1998, Ecology and BNSF entered into Agreed Order No.
15 98TC-E105, under which BNSF conducted a remedial investigation to determine the extent of
16 contamination at the Site and prepared a feasibility study of remedial alternatives for the Site.

17 17. In certified correspondence dated December 10, 1998, Ecology notified Kaiser
18 of the preliminary finding of potential liability and requested comment on that finding.

19 18. In certified correspondence dated May 11, 1999, Ecology notified Kaiser of its
20 status as a potentially liable person with regard to the release of hazardous substances at the
21 Site.

22 19. In certified correspondence dated April 5, 2000, Ecology notified the Aluminum
23 Company of America (Alcoa) of the preliminary finding of potential liability and requested
24 comment on that finding. After reviewing Alcoa's responsive comments to the preliminary
25

1 finding, Ecology determined that Alumax was the corporation responsible for the release of
2 hazardous substances at the Site

3 20 In certified correspondence dated April 25, 2000, Ecology notified Alumax of
4 its status as a potentially liable person with regard to the release of hazardous substances at the
5 Site

6 21. Under the Agreed Order, BNSF submitted the Final Remedial
7 Investigation/Feasibility Study for the Hillyard Dross Site, East 3412 Wellesley Avenue,
8 Spokane, Washington (August 1999) (RI/FS). The RI/FS presents the results of soil,
9 groundwater and dross sampling. Ecology approved the RI/FS on November 29, 1999.

10 22. A Cleanup Action Plan was prepared for the Site by Ecology that determined
11 the contaminants of concern, selected the cleanup alternative, and outlined the remedial actions
12 to be taken.

13 VI. WORK TO BE PERFORMED

14 This Decree contains a program designed to protect public health, welfare and the
15 environment from the known release, or threatened release, of hazardous substances or
16 contaminants at, on, or from the Site through implementation of the Cleanup Action Plan
17 (Exhibit B).

18 1. Defendant shall implement the Cleanup Action Plan (Exhibit B).

19 2. Defendant shall perform all tasks and submit to Ecology all deliverables set
20 forth in the Scope of Work and Schedule (Exhibit C). The Scope of Work and Schedule
21 (Exhibit C) will serve as a detailed description of the work elements outlined in the Cleanup
22 Action Plan.

23 3. The Engineering Design Report, Construction Plans and Specification, and
24 Operations and Maintenance Plan are subject to review and approval by Ecology before the
25 Defendant performs work under those plans. The Defendant shall incorporate Ecology's

1 comments on the drafts into the final versions of these documents. Upon approval, these
2 documents shall become integral and enforceable parts of this Decree, and shall be complied
3 with by the Defendant.

4 4. Within sixty (60) days of entry of this Decree, BNSF shall record with the
5 Spokane County Auditor's Office the Restrictive Covenant attached to this Decree as Exhibit
6 D and provide Ecology with proof of such recording.

7 5. Defendant agrees not to perform any remedial actions outside the scope of this
8 Decree unless the parties agree to amend the scope of work to cover these actions. All work
9 conducted under this decree shall be done in accordance with Ch. 173-340 WAC unless
10 otherwise provided herein.

11 VII. DESIGNATED PROJECT COORDINATORS

12 The project coordinator for Ecology is:

13 Sandra Treccani
14 Department of Ecology
15 Eastern Regional Office
16 4601 N. Monroe, Suite 202
17 Spokane, WA 99205-1295

16 The project coordinator for the Defendant is:

17 Bruce Sheppard
18 The Burlington Northern And Santa Fe Railway Company
19 2454 Occidental Avenue, Suite 1A
20 Seattle, WA 98134-1451

21 Each project coordinator shall be responsible for overseeing the implementation of this
22 Decree. The Ecology project coordinator will be Ecology's designated representative at the
23 Site. To the maximum extent possible, communications between Ecology and the Defendant
24 and all documents, including reports, approvals, and other correspondence concerning the
25 activities performed pursuant to the terms and conditions of this Decree, shall be directed
through the project coordinators. The project coordinators may designate, in writing, working

1 level staff contacts for all or portions of the implementation of the remedial work required by
2 this Decree. The project coordinators may agree to minor modifications to the work to be
3 performed without formal amendments to this Decree. Minor modifications will be
4 documented in writing by Ecology.

5 Any party may change its respective project coordinator. Written notification shall be
6 given to the other parties at least ten (10) calendar days prior to the change.

7 VIII. PERFORMANCE

8 All work performed pursuant to this Decree shall be under the direction and
9 supervision, as necessary, of a professional engineer or hydrogeologist, or equivalent, with
10 experience and expertise in hazardous waste site investigation and cleanup. Any construction
11 work must be under the supervision of a professional engineer. Defendant shall notify Ecology
12 in writing as to the identity of such engineer(s) or hydrogeologist(s), or others and of any
13 contractors and subcontractors to be used in carrying out the terms of this Decree, in advance
14 of their involvement at the Site.

15 IX. ACCESS

16 Ecology or any Ecology authorized representatives shall have the authority to enter and
17 freely move about all property at the Site at all reasonable times for the purposes of, inter alia:
18 inspecting records, operation logs, and contracts related to the work being performed pursuant
19 to this Decree; reviewing Defendant's progress in carrying out the terms of this Decree;
20 conducting such tests or collecting such samples as Ecology may deem necessary; using a
21 camera, sound recording, or other documentary type equipment to record work done pursuant
22 to this Decree; and verifying the data submitted to Ecology by the Defendant. All parties with
23 access to the Site pursuant to this paragraph shall comply with approved health and safety
24 plans.

1 **X. SAMPLING, DATA REPORTING, AND AVAILABILITY**

2 With respect to the implementation of this Decree, Defendant shall make the results of
3 all sampling, laboratory reports, and/or test results generated by it, or on its behalf available to
4 Ecology and shall submit these results in accordance with Section XI of this Decree.

5 In accordance with WAC 173-340-840(5), sampling data shall be submitted by the
6 Defendant in an electronic format agreeable to Ecology's site coordinator. These submittals
7 shall be provided to Ecology in accordance with Section XI of this Decree.

8 If requested by Ecology, Defendant shall allow split or duplicate samples to be taken by
9 Ecology and/or its authorized representatives of any samples collected by Defendant pursuant
10 to the implementation of this Decree. Defendant shall notify Ecology seven (7) days in
11 advance of any sample collection or work activity at the Site. Ecology shall, upon request,
12 allow split or duplicate samples to be taken by Defendant or its authorized representative of
13 any samples collected by Ecology pursuant to the implementation of this Decree provided it
14 does not interfere with the Department's sampling. Without limitation on Ecology's rights
15 under Section IX, Ecology shall endeavor to notify Defendant prior to any sample collection
16 activity.

17 **XI. PROGRESS REPORTS**

18 Defendant shall submit to Ecology written progress reports that describe the actions
19 taken during the previous month to implement the requirements of this Decree. The progress
20 reports shall include the following:

21 A. A list of on-site activities that have taken place during the month;

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

24 C. Description of all deviations from the schedule (Exhibit C) during the current
25 month and any planned deviations in the upcoming month;

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

3 E. All raw data (including laboratory analysis) received by the Defendant during
4 the past month and an identification of the source of the sample; and

5 F. A list of deliverables for the upcoming month if different from the schedule.

6 All progress reports shall be submitted monthly from the effective date of this Decree
7 until three (3) months after implementation of the cleanup action is completed. Thereafter,
8 Defendant shall submit progress reports annually. All progress reports shall be submitted by
9 the tenth (10) day of the month in which they are due after the effective date of this Decree.
10 Progress reports shall be sent to Ecology's project coordinator by facsimile and first class U.S.
11 mail. Unless otherwise specified, any other documents submitted pursuant to this Decree shall
12 be sent by certified mail, return receipt requested, to Ecology's project coordinator.

13 XII. RETENTION OF RECORDS

14 Defendant shall preserve, during the pendency of this Decree and for ten (10) years
15 from the date this Decree is no longer in effect as provided in Section XXV, all records,
16 reports, documents, and underlying data in its possession relevant to the implementation of this
17 Decree and shall insert in contracts with project contractors and subcontractors a similar record
18 retention requirement. Upon request of Ecology, Defendant shall make all non-archived
19 records available to Ecology and allow access for review. All archived records shall be made
20 available to Ecology within a reasonable period of time.

21 XIII. TRANSFER OF INTEREST IN PROPERTY

22 No voluntary or involuntary conveyance or relinquishment of title, easement, leasehold,
23 or other interest held by a Defendant in any portion of the Site shall be consummated without
24 provision for continued operation and maintenance of any containment system, treatment
25 system, and monitoring system installed or implemented pursuant to this Decree.

1 Prior to transfer of any legal or equitable interest in all or any portion of the property,
2 and during the effective period of this Decree, Defendant shall serve a copy of this Decree
3 upon any prospective purchaser, lessee, transferee, assignee, or other successor in interest of
4 the property; and, at least thirty (30) days prior to any transfer, Defendant shall notify Ecology
5 of said contemplated transfer.

6 **XIV. RESOLUTION OF DISPUTES**

7 A. In the event a dispute arises as to an approval, disapproval, proposed
8 modification or other decision or action by Ecology's project coordinator, the parties shall
9 utilize the dispute resolution procedure set forth below.

10 (1) Upon receipt of the Ecology project coordinator's decision, the
11 Defendant has fourteen (14) days within which to notify Ecology's project coordinator of their
12 objection to the decision.

13 (2) The parties' project coordinators shall then confer in an effort to resolve
14 the dispute. If the project coordinators cannot resolve the dispute within fourteen (14) days,
15 Ecology's project coordinator shall issue a written decision.

16 (3) Defendant may then request Ecology management review of the
17 decision. This request shall be submitted in writing to the Toxics Cleanup Program Manager
18 within seven (7) days of receipt of Ecology's project coordinator's decision.

19 (4) Ecology's Program Manager shall conduct a review of the dispute and
20 shall issue a written decision regarding the dispute within thirty (30) days of the Defendant's
21 request for review. The Program Manager's decision shall be Ecology's final decision on the
22 disputed matter.

23 B. If Ecology's final written decision is unacceptable to Defendant, Defendant has
24 the right to submit the dispute to the Court for resolution. The parties agree that one judge
25 should retain jurisdiction over this case and shall, as necessary, resolve any dispute arising

1 under this Decree In the event Defendant presents an issue to the Court for review, the Court
2 shall review the action or decision of Ecology on the basis of whether such action or decision
3 was arbitrary and capricious and render a decision based on such standard of review.

4 C The parties agree to only utilize the dispute resolution process in good faith and
5 agree to expedite, to the extent possible, the dispute resolution process whenever it is used.
6 Where either party utilizes the dispute resolution process in bad faith or for purposes of delay,
7 the other party may seek sanctions.

8 Implementation of these dispute resolution procedures shall not provide a basis for
9 delay of any activities required in this Decree, unless Ecology agrees in writing to a schedule
10 extension or the Court so orders

11 **XV. AMENDMENT OF CONSENT DECREE**

12 This Decree may only be amended by a written stipulation among the parties to this
13 Decree that is entered by the Court or by order of the Court. Such amendment shall become
14 effective upon entry by the Court. Agreement to amend shall not be unreasonably withheld by
15 any party to the Decree.

16 Defendant shall submit any request for an amendment to Ecology for approval.
17 Ecology shall indicate its approval or disapproval in a timely manner after the request for
18 amendment is received. If the amendment to the Decree is substantial, Ecology will provide
19 public notice and opportunity for comment. Reasons for the disapproval shall be stated in
20 writing. If Ecology does not agree to any proposed amendment, the disagreement may be
21 addressed through the dispute resolution procedures described in Section XIV of this Decree.

22 **XVI. EXTENSION OF SCHEDULE**

23 A. An extension of schedule shall be granted only when a request for an extension
24 is submitted in a timely fashion, generally at least thirty (30) days prior to expiration of the
25 deadline for which the extension is requested, and good cause exists for granting the extension

1 All extensions shall be requested in writing. The request shall specify the reason(s) the
2 extension is needed.

3 An extension shall only be granted for such period of time as Ecology determines is
4 reasonable under the circumstances. A requested extension shall not be effective until
5 approved by Ecology or the Court. Ecology shall act upon any written request for extension in
6 a timely fashion. It shall not be necessary to formally amend this Decree pursuant to Section
7 XV when a schedule extension is granted.

8 B. The burden shall be on the Defendant to demonstrate to the satisfaction of
9 Ecology that the request for such extension has been submitted in a timely fashion and that
10 good cause exists for granting the extension. Good cause includes, but is not limited to, the
11 following.

12 (1) Circumstances beyond the reasonable control and despite the due
13 diligence of Defendant including delays caused by unrelated third parties or Ecology, such as
14 (but not limited to) delays by Ecology in reviewing, approving, or modifying documents
15 submitted by Defendant; or

16 (2) Acts of God, including fire, flood, blizzard, extreme temperatures,
17 storm, or other unavoidable casualty; or

18 (3) Endangerment as described in Section XVII.

19 However, neither increased costs of performance of the terms of the Decree nor
20 changed economic circumstances shall be considered circumstances beyond the reasonable
21 control of Defendant.

22 C. Ecology may extend the schedule for a period not to exceed ninety (90) days,
23 except where an extension is needed as a result of:

24 (1) Delays in the issuance of a necessary permit which was applied for in a
25 timely manner; or

1 (2) Other circumstances deemed exceptional or extraordinary by Ecology;
2 or

3 (3) Endangerment as described in Section XVII.

4 Ecology shall give Defendant written notification in a timely fashion of any extensions
5 granted pursuant to this Decree.

6 **XVII. ENDANGERMENT**

7 In the event Ecology determines that activities implementing or in noncompliance with
8 this Decree, or any other circumstances or activities, are creating or have the potential to create
9 a danger to the health or welfare of the people on the Site or in the surrounding area or to the
10 environment, Ecology may order Defendant to stop further implementation of this Decree for
11 such period of time as needed to abate the danger or may petition the Court for an order as
12 appropriate. During any stoppage of work under this section, the obligations of Defendant
13 with respect to the work under this Decree which is ordered to be stopped shall be suspended
14 and the time periods for performance of that work, as well as the time period for any other
15 work dependent upon the work which is stopped, shall be extended, pursuant to Section XVI of
16 this Decree, for such period of time as Ecology determines is reasonable under the
17 circumstances.

18 In the event Defendant determines that activities undertaken in furtherance of this
19 Decree or any other circumstances or activities are creating an endangerment to the people on
20 the Site or in the surrounding area or to the environment, Defendant may stop implementation
21 of this Decree for such period of time necessary for Ecology to evaluate the situation and
22 determine whether Defendant should proceed with implementation of the Decree or whether
23 the work stoppage should be continued until the danger is abated. Defendant shall notify
24 Ecology's project coordinator as soon as possible, but no later than twenty-four (24) hours after
25 such stoppage of work, and thereafter provide Ecology with documentation of the basis for the

1 work stoppage. If Ecology disagrees with the Defendant's determination, it may order
2 Defendant to resume implementation of this Decree. If Ecology concurs with the work
3 stoppage, the Defendant's obligations shall be suspended and the time period for performance
4 of that work, as well as the time period for any other work dependent upon the work which was
5 stopped, shall be extended, pursuant to Section XVI of this Decree, for such period of time as
6 Ecology determines is reasonable under the circumstances. Any disagreements pursuant to the
7 clause shall be resolved through the dispute resolution procedures in Section XIV.

8 **XVIII. OTHER ACTIONS**

9 Ecology reserves its rights to institute remedial action(s) at the Site and subsequently
10 pursue cost recovery, and Ecology reserves its rights to issue orders and/or penalties or take
11 any other enforcement action pursuant to available statutory authority under the following
12 circumstances:

13 1. Where Defendant fails, after notice, to comply with any requirement of this
14 Decree;

15 2. In the event or upon the discovery of a release or threatened release not
16 addressed by this Decree;

17 3. Upon Ecology's determination that action beyond the terms of this Decree is
18 necessary to abate an emergency situation which threatens public health or welfare or the
19 environment; or

20 4. Upon the occurrence or discovery of a situation beyond the scope of this Decree
21 as to which Ecology would be empowered to perform any remedial action or to issue an order
22 and/or penalty, or to take any other enforcement action. This Decree is limited in scope to the
23 geographic Site described in Exhibit A and to those contaminants that Ecology knows to be at
24 the Site when this Decree is entered.

1 Ecology reserves all rights regarding the injury to, destruction of, or loss of natural
2 resources resulting from the release or threatened release of hazardous substances from the
3 Aluminum Recycling Corporation Site

4 Ecology reserves the right to take any enforcement action whatsoever, including a cost
5 recovery action, against potentially liable persons not party to this Decree

6 **XIX. INDEMNIFICATION**

7 Defendant agrees to indemnify and save and hold the State of Washington, its
8 employees, and agents harmless from any and all claims or causes of action for death or
9 injuries to persons or for loss or damage to property arising from or on account of acts or
10 omissions of Defendant, its officers, employees, agents, or contractors in entering into and
11 implementing this Decree. However, the Defendant shall not indemnify the State of
12 Washington nor save nor hold its employees and agents harmless from any claims or causes of
13 action arising out of the negligent acts or omissions of the State of Washington, or the
14 employees or agents of the State, in implementing the activities pursuant to this Decree

15 **XX. COMPLIANCE WITH APPLICABLE LAWS**

16 A. All actions carried out by Defendant pursuant to this Decree shall be done in
17 accordance with all applicable federal, state, and local requirements, including requirements to
18 obtain necessary permits, except as provided in paragraph B. of this section.

19 B. Pursuant to RCW 70.105D.090(I), the substantive requirements of chapters
20 70.94, 70.95, 70.105, 75.20, 90.48, and 90.58 RCW and of any laws requiring or authorizing
21 local government permits or approvals for the remedial action under this Decree that are
22 known to be applicable at the time of entry of the Decree have been included in Exhibit B, the
23 Cleanup Action Plan, and are binding and enforceable requirements of the Decree. Defendant
24 has a continuing obligation to determine whether additional permits or approvals addressed in
25

1 RCW 70.105D.090(1) would otherwise be required for the remedial action under this Decree
2 In the event either Defendant or Ecology determines that additional permits or approvals
3 addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under
4 this Decree, it shall promptly notify the other party of this determination Ecology shall
5 determine whether Ecology or Defendant shall be responsible to contact the appropriate state
6 and/or local agencies. If Ecology so requires, Defendant shall promptly consult with the
7 appropriate state and/or local agencies and provide Ecology with written documentation from
8 those agencies of the substantive requirements those agencies believe are applicable to the
9 remedial action. Ecology shall make the final determination on the additional substantive
10 requirements that must be met by Defendant and on how Defendant must meet those
11 requirements. Ecology shall inform Defendant in writing of these requirements. Once
12 established by Ecology, the additional requirements shall be enforceable requirements of this
13 Decree. Defendant shall not begin or continue the remedial action potentially subject to the
14 additional requirements until Ecology makes its final determination.

15 Ecology shall ensure that notice and opportunity for comment is provided to the public
16 and appropriate agencies prior to establishing the substantive requirements under this section.

17 C Pursuant to RCW 70.105D.090(2), in the event Ecology determines that the
18 exemption from complying with the procedural requirements of the laws referenced in RCW
19 70.105D.090(1) would result in the loss of approval from a federal agency which is necessary
20 for the State to administer any federal law, the exemption shall not apply and the Defendant
21 shall comply with both the procedural and substantive requirements of the laws referenced in
22 RCW 70.105D.090(1), including any requirements to obtain permits.

23 **XXI. REMEDIAL AND INVESTIGATIVE COSTS**

24 The Defendant agrees to pay costs incurred by Ecology pursuant to this Decree. These
25 costs shall include work performed by Ecology or its contractors for, or on, the Site under Ch.

1 | 70 105D RCW both prior to and subsequent to the issuance of this Decree for investigations,
2 | remedial actions, and Decree preparation, negotiations, oversight and administration. Ecology
3 | costs shall include costs of direct activities and support costs of direct activities as defined in
4 | WAC 173-340-550(2). The Defendant agrees to pay the required amount within ninety (90)
5 | days of receiving from Ecology an itemized statement of costs that includes a summary of
6 | costs incurred, an identification of involved staff, and the amount of time spent by involved
7 | staff members on the project. A general statement of work performed will be provided upon
8 | request. Itemized statements shall be prepared quarterly. Failure to pay Ecology's costs within
9 | ninety (90) days of receipt of the itemized statement will result in interest charges

10 | **XXII. IMPLEMENTATION OF REMEDIAL ACTION**

11 | If Ecology determines that Defendant has failed without good cause to implement the
12 | remedial action, Ecology may, after notice to Defendant, perform any or all portions of the
13 | remedial action that remain incomplete. If Ecology performs all or portions of the remedial
14 | action because of the Defendant's failure to comply with its obligations under this Decree,
15 | Defendant shall reimburse Ecology for the costs of doing such work in accordance with
16 | Section XXI, provided that Defendant is not obligated under this section to reimburse Ecology
17 | for costs incurred for work inconsistent with or beyond the scope of this Decree.

18 | **XXIII. FIVE YEAR REVIEW**

19 | As remedial action, including ground water monitoring, continues at the Site, the
20 | parties agree to review the progress of remedial action at the Site, and to review the data
21 | accumulated as a result of site monitoring as often as is necessary and appropriate under the
22 | circumstances. At least every five years the parties shall meet to discuss the status of the Site
23 | and the need, if any, of further remedial action at the Site. Ecology reserves the right to require
24 | further remedial action at the Site under appropriate circumstances. This provision shall
25 | remain in effect for the duration of the Decree.

1 **XXIV. PUBLIC PARTICIPATION**

2 Ecology shall maintain the responsibility for public participation at the Site. However,
3 Defendant shall cooperate with Ecology and, if agreed to by Ecology, shall:

4 A. Prepare drafts of public notices and fact sheets at important stages of the
5 remedial action, such as the submission of work plans, Remedial Investigation/Feasibility
6 Study reports and engineering design reports. Ecology will finalize (including editing if
7 necessary) and distribute such fact sheets and prepare and distribute public notices of Ecology's
8 presentations and meetings;

9 B. Notify Ecology's project coordinator prior to the preparation of all press releases
10 and fact sheets, and before major meetings with the interested public and local governments.
11 Likewise, Ecology shall notify Defendant prior to the issuance of all press releases and fact
12 sheets, and before major meetings with the interested public and local governments;

13 C. Participate in public presentations on the progress of the remedial action at the
14 Site. Participation may be through attendance at public meetings to assist in answering
15 questions, or as a presenter;

16 D. In cooperation with Ecology, arrange and/or continue information repositories
17 to be located at the Hillyard Branch of Spokane Public Library at 4005 N. Cook St., Spokane
18 WA and Ecology's Eastern Regional Office at 4601 N. Monroe, Spokane WA. At a minimum,
19 copies of all public notices, fact sheets, and press releases; all quality assured ground water,
20 surface water, soil sediment, and air monitoring data; remedial actions plans, supplemental
21 remedial planning documents, and all other similar documents relating to performance of the
22 remedial action required by this Decree shall be promptly placed in these repositories.
23
24
25

1 **XXV. DURATION OF DECREE**

2 This Decree shall remain in effect and the remedial program described in the Decree
3 shall be maintained and continued until the Defendant has received written notification from
4 Ecology that the requirements of this Decree have been satisfactorily completed.

5 **XXVI. CLAIMS AGAINST THE STATE**

6 Defendant hereby agrees that it will not seek to recover any costs accrued in
7 implementing the remedial action required by this Decree from the State of Washington or any
8 of its agencies; and further, that the Defendant will make no claim against the State Toxics
9 Control Account or any Local Toxics Control Account for any costs incurred in implementing
10 this Decree. Except as provided above, however, Defendant expressly reserves its right to seek
11 to recover any costs incurred in implementing this Decree from any other potentially liable
12 person.

13 **XXVII. COVENANT NOT TO SUE / REOPENERS**

14 A. In consideration of the Defendant's compliance with the terms and conditions of
15 this Decree, Ecology agrees that compliance with this Decree shall stand in lieu of any and all
16 administrative, legal, and equitable remedies and enforcement actions available to the State
17 against the Defendant regarding all matters within the scope of this Decree.

18 B. Reopeners: In the following circumstances, Ecology may exercise its full
19 legal authority to address releases of hazardous substances at the Site, notwithstanding the
20 Covenant Not To Sue set forth above:

21 (1) In the event Defendant fails to comply with the terms and conditions of
22 this Decree, including all Exhibits, and after written notice of non-compliance, such failure is
23 not cured by Defendant within thirty (30) days of receipt of notice of non-compliance.

24 (2) In the event factors not known at the time of entry of this Decree and not
25 disclosed to Ecology are discovered and such factors present a previously unknown threat to

1 human health or the environment and are not addressed by the Cleanup Action Plan, attached
2 hereto as Exhibit B.

3 (3) Upon Ecology's determination that actions beyond the terms of this
4 Decree are necessary to abate an emergency or endangerment situation which threatens public
5 health, welfare, or the environment.

6 (4) In the event that the results of groundwater monitoring indicate that
7 cleanup standards are being exceeded.

8 C. Applicability: The Covenant Not To Sue set forth above shall have no
9 applicability whatsoever to:

- 10 (1) Criminal Liability;
- 11 (2) Actions against PLP's who are not parties to this Decree;
- 12 (3) Liability for damages for injury to, destruction of, or loss of natural
13 resources;
- 14 (4) Determinations pursuant to groundwater monitoring that show that
15 cleanup levels are being exceeded.

16 D. Ecology retains all of its legal and equitable rights against all persons except as
17 otherwise provided in this Decree.

18 **XXVIII. CONTRIBUTION PROTECTION**

19 With regard to claims for contribution against the Defendant, the parties intend that the
20 Defendant will obtain protection against claims for contribution for matters addressed in this
21 Decree pursuant to RCW 70.105D.040(4)(d).

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XXIX. EFFECTIVE DATE

This Decree is effective upon the date it is entered by the Court.

XXX. PUBLIC NOTICE AND WITHDRAWAL OF CONSENT

This Decree has been the subject of public notice and comment under RCW 70.105D.040(4)(a). As a result of this process, Ecology has found that this Decree will lead to a more expeditious cleanup of hazardous substances at the Site.

If the Court withholds or withdraws its consent to this Decree, it shall be null and void at the option of any party and the accompanying Complaint shall be dismissed without costs and without prejudice. In such an event, no party shall be bound by the requirements of this Decree.

1 STATE OF WASHINGTON
2 DEPARTMENT OF ECOLOGY

CHRISTINE O. GREGOIRE
Attorney General

3
4 FLORA GOLDSTEIN
5 Section Manager
6 Toxics Cleanup Program

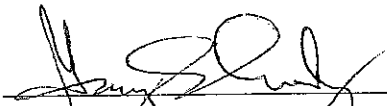
KEN LEDERMAN, WSBA #26515
Assistant Attorney General

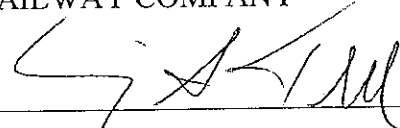
7
8 Date: _____

Date: _____

9
10 THE BURLINGTON NORTHERN AND
11 SANTA FE RAILWAY COMPANY

ATTORNEY FOR THE BURLINGTON
NORTHERN AND SANTA FE
RAILWAY COMPANY





12 Title: VP General Counsel

CRAIG S. TRUEBLOOD, WSBA #18357
PRESTON GATES & ELLIS LLP

13 Date: Feb. 1, 2001

Date: Feb. 1, 2001

14
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16
17
18
19
20
21 DATED this _____ day of _____, 2001.

22
23 JUDGE
24 Spokane County Superior Court
25

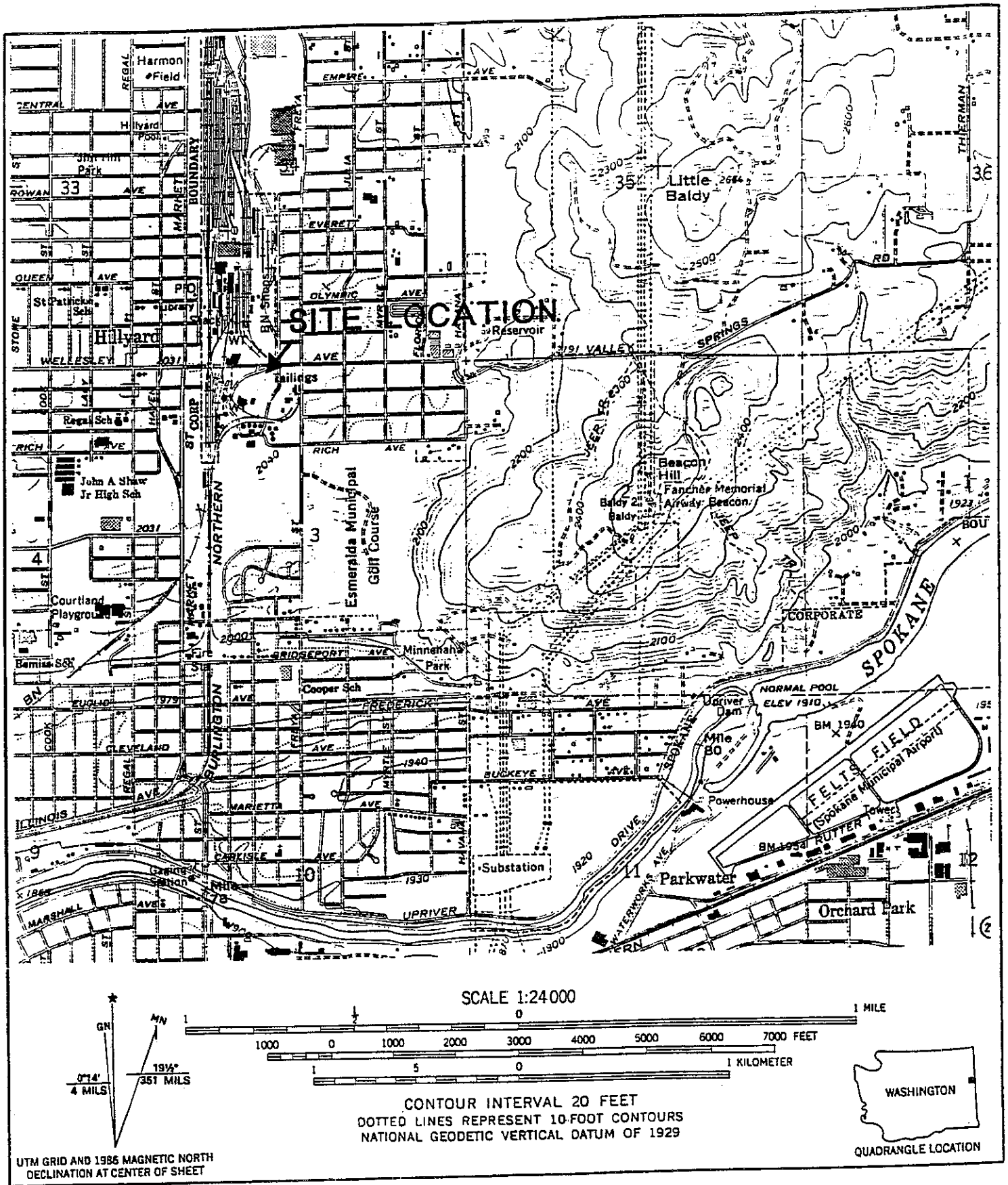


EXHIBIT A
 Aluminum Recycling Corporation Site Diagram



WASHINGTON STATE
DEPARTMENT OF
E C O L O G Y

EXHIBIT B
FINAL CLEANUP ACTION PLAN

Aluminum Recycling Corporation Site
Spokane, WA

Washington Department of Ecology
Toxics Cleanup Program
Eastern Regional Office
Spokane, WA

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1.0 INTRODUCTION

This report presents Ecology's selected cleanup action for the Aluminum Recycling Corporation (Site), located at East 3412 Wellesley Avenue, Spokane, Washington (figure 1). This Draft Cleanup Action Plan (DCAP) is required as part of the site cleanup process established by Washington State Department of Ecology (Ecology) under Ch.70.105D RCW Model Toxics Control Act (MTCA). The cleanup action decision is based on the Phase I Remedial Investigation/Feasibility Study (RI/FS) conducted by Environmental Management Resources (EMR) on behalf of Burlington Northern Santa Fe Railway (BNSF), the potentially liable person (PLP).

This cleanup action plan will outline the following:

- The history of operations, ownership, and disposal activities at the Site;
- The nature and extent of contamination as presented in the RI;
- Establish cleanup levels for the Site that are protective of human health and the environment; and
- Determine the appropriate remediation strategy.

1.1 DECLARATION

Ecology has selected this remedy because it will be protective of human health and the environment. Furthermore, the selected remedy is consistent with the preference of the State of Washington as stated in RCW 70.105D.030(1)(b) for permanent solutions.

1.2 APPLICABILITY

Cleanup levels specified in this cleanup action plan are applicable only to the Aluminum Recycling Corporation Site. They were developed as a part of an overall remediation process under Ecology oversight using the authority of MTCA, and should not be considered as setting precedents for other sites.

1.3 ADMINISTRATIVE RECORD

The documents used to make the decisions discussed in this cleanup action plan are on file in the administrative record for the Site. These documents are listed in the reference section. The administrative record for the Site is available for public review by appointment at Ecology's Eastern Regional Office, located at N 4601 Monroe Street, Spokane, WA 99205-1295.

2.0 SITE BACKGROUND

The information presented in this section was provided by historical site documents and BNSF or their consultants.

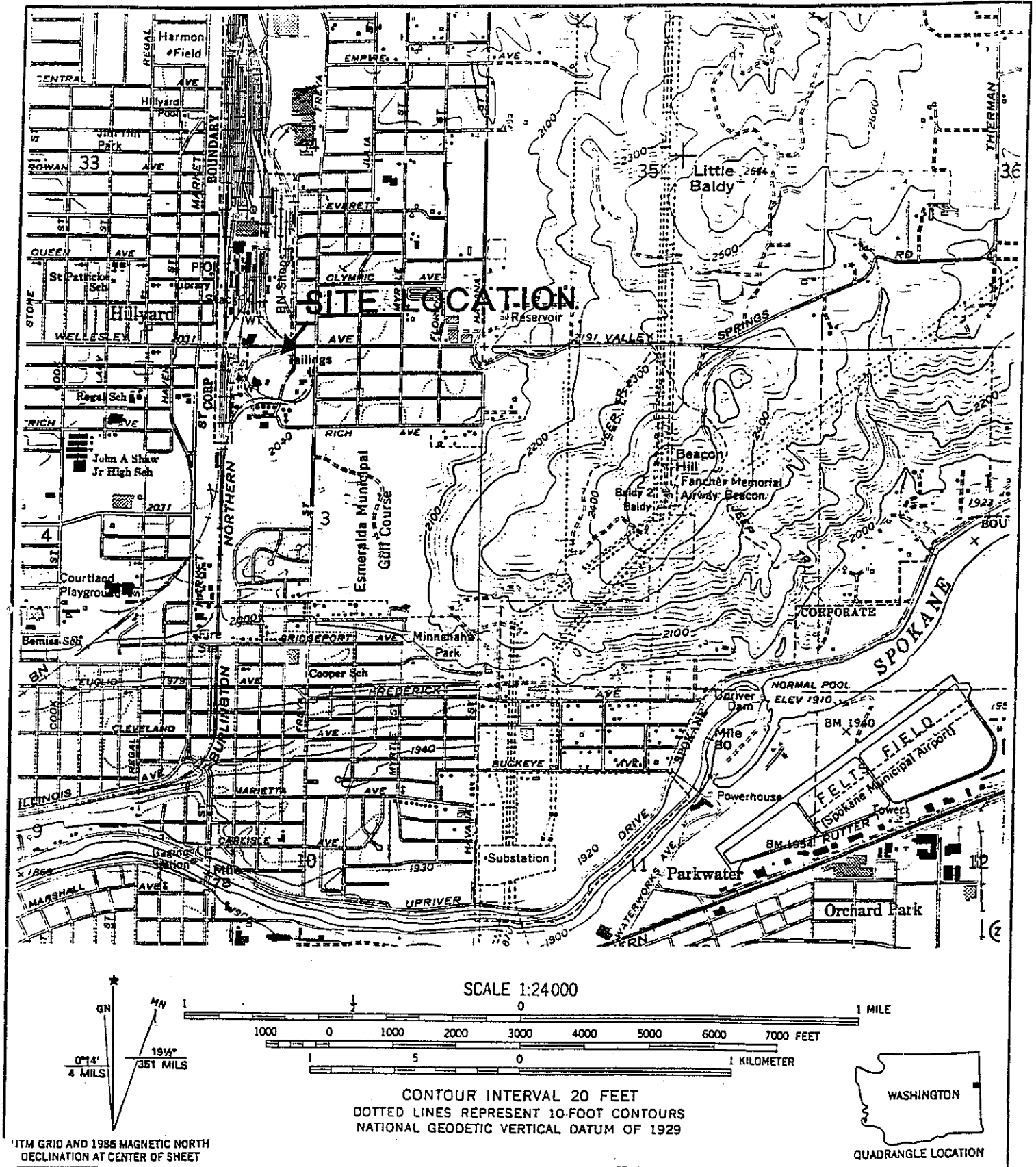


Figure 1. Location of Aluminum Recycling Corporation Site

2.1 SITE HISTORY

The eight-acre Site was initially used as a gravel pit for an asphalt plant. Hillyard Processing Corporation leased the Site from BNSF in 1954 to operate an aluminum reprocessing facility using scrap aluminum and aluminum dross. A new lessee renamed the company in 1976 to Hillyard Aluminum Recovery Corporation, which continued the same operations. That company was then sold to Aluminum Recycling Corporation in 1979. In 1987, the property was abandoned by all lessees with an estimated 65,000 cubic yards of dross material remaining on-site. BNSF still retained ownership of the property throughout that timeframe.

The facility processed white dross, which was composed of aluminum skim and other materials derived from primary smelting operations. White dross contains various oxides, aluminum metal, carbides, and nitrides. This white dross was treated in the secondary recycling plant through a batch process which, through the addition of salts, cryolite, and heat, separated out the molten aluminum metal. The metal was cast into ingots and sold. The resulting residue after the secondary treatment was high salt black dross. This material was deposited on-site in various waste piles and in the former gravel pit. Also, a volume of semi-processed white dross remained on-site.

Between 1979 and 1983, several complaints were made to the City about wind blown particulates and ammonia odors, caused when the dross became wet. Smoke and ammonia fumes were also generated by a fire in 1979 caused by heat from a metal oxide reaction. In August 1988, a polyvinyl acetate/wood fiber solution called Marloc was applied to the piles as part of a dust suppression and site characterization program by BNSF. The product forms a thin film on the surface of the piles and controls dust.

2.2 SITE INVESTIGATIONS

On July 17, 1985, the Department of Ecology completed a Preliminary Assessment (PA) of the property, and recommended that dust and fumes be controlled, the dross materials be appropriately disposed of, and local water supply wells be sampled to ensure they hadn't been contaminated. Through an agreement with the Environmental Protection Agency, Ecology then followed up with a Preliminary Assessment/Site Inspection (PA/SI) on October 13, 1987. These investigations were limited to surficial examination and sampling of the piles. The PA/SI Phase I Site Inspection Report concluded that the Site was potentially contaminated with hazardous substances. No dangerous waste designation was completed at that time. The City of Spokane also requested improvements in dust suppression and site security.

In 1988, BNSF performed a Site characterization study. Samples of the dross were collected from deeper within the piles, groundwater samples were collected from under the piles through soil borings, and the Marloc was applied to the dross surface. Although it ultimately breaks down under ultraviolet radiation, the Marloc was estimated to remain effective for a minimum of two years. An eight-foot high chain link fence was also installed around the dross piles and former gravel pit.

In 1989, Chemical Processors, Inc (Chempro) conducted a stabilization and characterization study on the Site for BNSF. Their results showed that about 95% of the dross on-site could be considered a dangerous waste under Washington State regulations due to high concentrations of chloride, fluoride, and nitrate. Also, groundwater under the dross piles contained chloride, fluoride, and nitrate at levels exceeding state drinking water standards

In August of 1991, a Site ranking was completed by Ecology using the Washington Ranking Method (WARM); the Site received a rank of 2 on a scale of 1 to 5, with 1 representing the greatest threat to human health and the environment

In June of 1996, EMR produced a Summary Report which reviewed the information and data generated through previous work, and provided information on the physical and chemical properties of the dross. These results contradicted the work of Chempro, indicating that the dross was not a dangerous waste according to bioassay testing and that the remaining salts were encapsulated in the dross, limiting their ability to be leached.

A Work Plan for a remedial investigation at the Site was completed by EMR on behalf of BNSF in August of 1998. An agreed order was then signed between BNSF and Ecology on November 16, 1998, implementing the Work Plan. BNSF began the Remedial Investigation/Feasibility Study (RI/FS) of the Site to determine the nature and extent of contamination at the Site and suggest potential cleanup actions. The RI/FS was completed and finalized after public comment in November of 1999.

2.3 PHYSICAL SITE CHARACTERISTICS

2.3.1 Hydrogeology

Geology in the vicinity of the Site consists of Columbia basalts overlain by Quaternary flood deposits. The flood deposits are composed of poorly sorted boulders, cobbles, gravel and sand. The coarse nature of the deposits results in very high permeabilities. Depth to bedrock below the Site ranges from 250-300 feet below ground surface. (EMR, 1999)

The Site overlies the Spokane Valley Rathdrum Prairie Aquifer, which is the sole source of water for almost 400,000 people in the greater Spokane area. The aquifer flows from Northern Idaho to the west and southwest down the Spokane Valley at an estimated rate of 60 to 90 ft/day. In the area of the Site, the flow divides around a protrusion of basalt at Fivemile Prairie and flows to the northwest through the Hillyard Trough. The flow rate in this region is about 46 ft/day. Depth to groundwater at the Site is approximately 178 feet below ground surface.

2.3.2 Aluminum Dross

The dross varies in composition and texture across the Site, but generally appears dark to medium gray in color with a coarse sandy texture. Many piles have larger conglomerates

of material which can be as large as boulders. Below the leached surface layer, the dross is often a pinkish brown color with streaks of red, black, or green from metallic oxides. These interior portions of the piles are often moist with a distinct ammonia odor. Some piles contain irregularly shaped nodules of aluminum metal. Within the pit, the dross is dark gray to black in color and is found consolidated into a dense, sandstone-like mass.

3.0 NATURE AND EXTENT OF CONTAMINATION

3.1 ALUMINUM DROSS

The aluminum dross is the source material for contaminants in groundwater and soils at the Site. Approximately 65,000 cubic yards of dross are present on-site in the form of large piles and deposits within the 20-ft deep gravel pit (figure 2). The dross has been the subject of numerous physical and chemical investigations to determine its characteristics. Several different laboratories tested the dross for its composition of chloride, fluoride, nitrite, nitrate, phosphate, and sulfate. In addition, sodium, potassium, and certain metals were tested to determine potential reuses of the material. Results indicated that the dross contained about 5.6% aluminum metal. The results from two different labs showed maximum concentrations of 104,000 ppm and 57,000 ppm chloride, and 375 ppm and 6400 ppm fluoride. The differences are attributed to the inhomogeneous nature of the material and lab differences. Samples were also crushed in varying degrees and tested to determine the quantities of leachable metals only. No metals were detected in the leachate.

Aluminum dross samples were collected from five soil borings on and around the piles, and four test pits in the old gravel pit as a part of the RI investigation (figure 2). The concentrations of chloride, fluoride, nitrate, ammonia, and various metals were measured, and leaching tests were performed on intact samples.

3.2 SOILS

Soil was also sampled as part of the RI/FS investigation. Samples were taken along with the dross from the same borings and test pits. The maximum depth of soil samples was five feet below the soil/dross interface at each sample location. With the exception of chloride, concentrations were generally lower in the soils than in the dross. The presence of these contaminants in soil is due to the downward leaching of contaminants through the dross piles. Leaching has occurred throughout the lifetime of the piles, and does continue to occur.

3.3 GROUNDWATER

Groundwater beneath the Site is contaminated through the leaching of contaminants as a result of precipitation and runoff through the dross piles and soil. The groundwater contains chloride, fluoride, and nitrate at concentrations above cleanup levels. Maximum concentrations measured in investigations prior to and during the RI were 1400 ppm chloride, 14 ppm fluoride, and 83 ppm nitrate. Figure 3 shows the distribution of

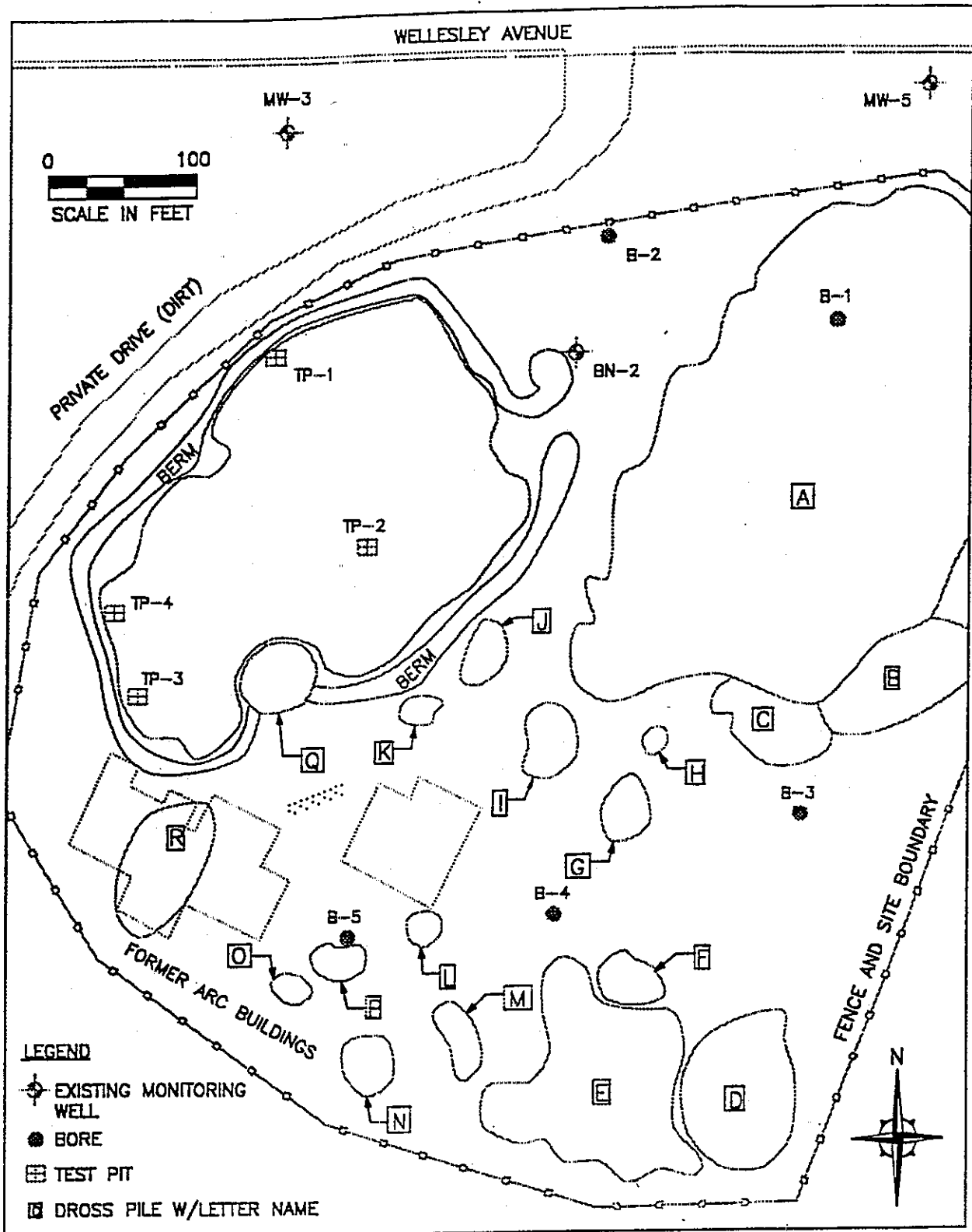


Figure 2. Locations of Aluminum Dross Piles

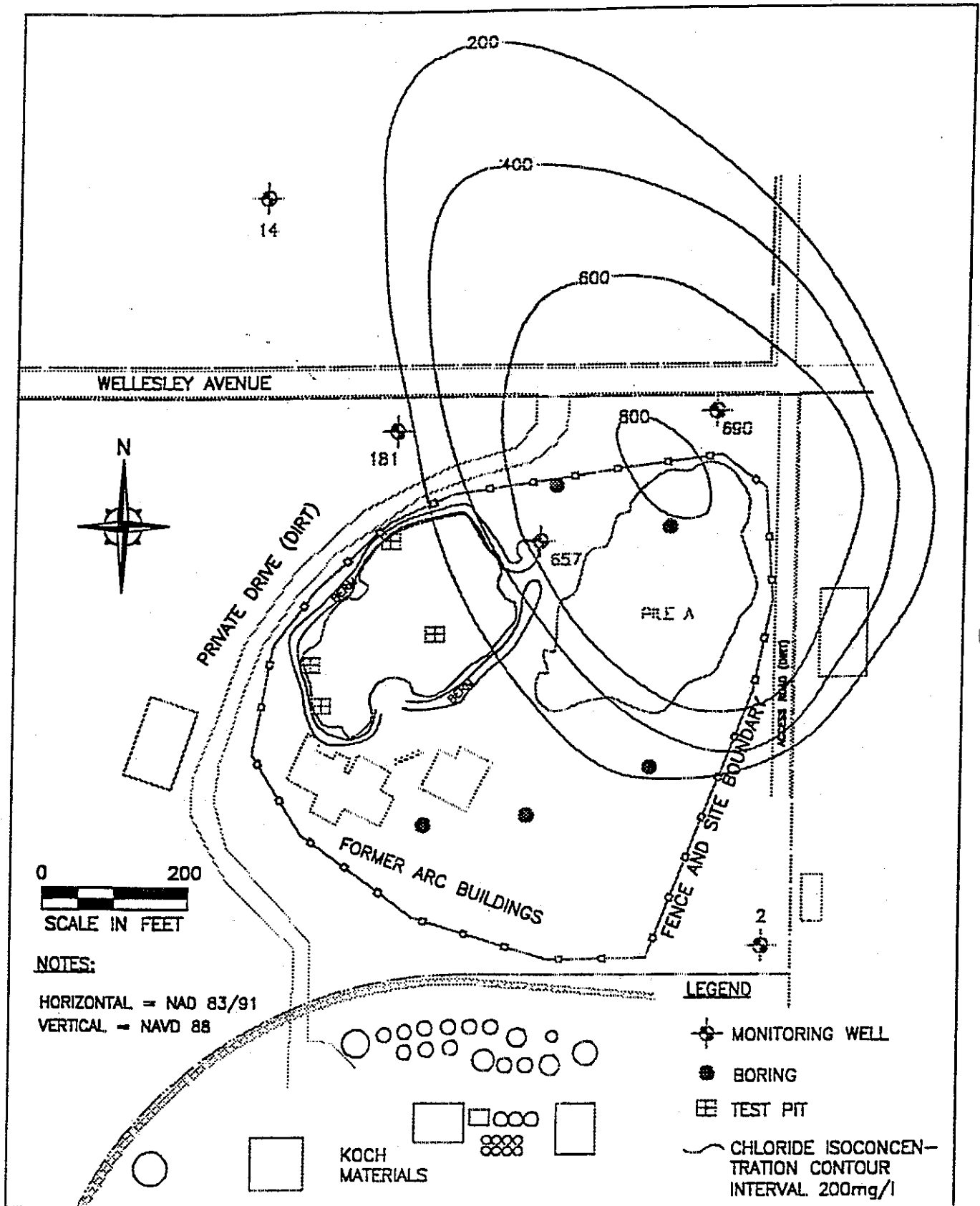


Figure 3. Isocontours of Chloride Concentrations

chloride in groundwater. Because chloride is a conservative tracer, it is expected to move readily in groundwater and represents the maximum extent groundwater contamination might occur. Therefore, other parameters are not plotted but are assumed to have the same general pattern of distribution.

3.4 RISKS TO HUMAN HEALTH AND THE ENVIRONMENT

The Spokane Valley-Rathdrum Prairie Aquifer is the drinking water supply for the greater Spokane area. Sampling has shown that the aquifer has been impacted by contaminants from the Site. Consumers of drinking water from the aquifer may potentially be exposed to these contaminants via ingestion or direct contact.

Both soil and dross pose a risk to potential on-site populations (workers, trespassers) and off-site populations (residents, passersby). These populations may be exposed to these media through accidental ingestion, inhalation or dermal contact. Air quality has also been impacted in the past through the generation of dust and ammonia from the piles. The Site is located in an area adjacent to commercial and residential properties. Although currently managed through fencing and the Marloc, these controls are only temporary and need to be permanently addressed.

4.0 CLEANUP STANDARDS

A requirement of MICA (WAC 173-340) is the establishment of cleanup standards for individual sites. Cleanup standards are comprised of cleanup levels and the point of compliance. Cleanup level development involves the selection of indicator hazardous substances which meet the criteria of WAC 173-340-720 through 173-340-760. Cleanup levels are based on the concentrations of those indicator substances above which human health and the environment are threatened. Those concentrations are determined using risk-based exposure equations defined in MICA (WAC 173-340-720 through 173-340-760). Three methods are available for establishing site-specific cleanup levels: Method A, Method B, and Method C. Method A is used for routine sites or sites that involve relatively few hazardous substances which have available numerical levels in the Method A tables of MICA. Method B is the standard method for determining cleanup levels and is applicable to all sites. Method C is a conditional method used when a cleanup level under Method A or B is technically impossible to achieve or may cause greater environmental harm. Method C may also be applied to qualifying industrial properties. The point of compliance is then established as the location where the cleanup levels must be achieved before the Site is no longer considered a threat to human health and the environment.

4.1 CLEANUP LEVELS

MICA defines the factors used to determine whether a substance should be retained as an indicator for the Site. When defining cleanup levels at a site contaminated with several

hazardous substances, Ecology may eliminate from consideration those contaminants that contribute a small percentage of the overall threat to human health and the environment. WAC 173-340-708(2)(b) outlines that a substance may be eliminated from consideration based on:

- The frequency of detection. If a compound is detected at a frequency of 5% or less, it may be appropriate to eliminate it;
- The concentration of the substance. Substances with concentrations marginally above their cleanup standards may not be important in considerations of overall hazard and risk;
- The toxicity of the substance. It may be suitable to delete substances of low toxicity;
- Environmental fate. Substances that readily degrade in the environment may not be of importance to overall hazard or risk. Conversely, those with highly-toxic degradation products should be included in an analysis of overall hazard and risk;
- The natural background levels of the substance. MTCA regulates risks due to substances found at contaminated waste sites. The risks caused by substances at background concentrations are not addressed by MTCA;
- The mobility and potential for exposure to the substance. Substances may be eliminated if the values for these factors are low.

4.2 SITE CLEANUP LEVELS

The Remedial Investigation has documented the presence of contamination in soils and groundwater at the Site. Therefore, site cleanup levels are developed for each of these contaminated media. Groundwater cleanup levels are first developed, with soil cleanup levels calculated next to ensure that levels do not violate the groundwater standard. Cleanup levels are shown in Tables 1 through 6.

4.2.1 Groundwater

Table 1 shows the applicable cleanup criteria of analytes for which Site groundwater was tested. The most stringent of these criteria is the selected Method B cleanup level for each substance. Method B is the appropriate method for groundwater cleanup levels because there are multiple contaminants and multiple pathways of exposure.

Table 2 shows the analytes detected in groundwater along with the maximum concentrations and frequencies of detection. Maximum concentrations are based on water sampling completed in 1988, 1995, 1997, and 1998. Contaminants with concentrations less than the individual cleanup level, those with 5% or less detection frequency, and those with no toxicity data are eliminated from consideration as indicator substances. Four indicator contaminants were identified for the Site: chloride, fluoride, nitrate-nitrogen, and nitrite-nitrogen.

Analyte	Federal MCL		MTCA			
	Primary MCL, ug/L	Secondary MCL, ug/L	Method A Concentration, ug/L	Basis	Method B Concentration, ug/L	Basis
alkalinity					272,000	BNCAR
ammonia						
arsenic	50		5	background	0.0583	BCAR
barium	2000				1120	BNCAR
bromide						
cadmium	5				8	BNCAR
calcium						
chloride		250,000				
chromium	100				80	BCAR
copper	1300				592	BNCAR
fluoride	4000				960	BNCAR
iron						
lead			5	blood levels		
magnesium						
mercury	2				4.8	BNCAR
nitrate-nitrogen	10,000				25,600	BNCAR
nitrite-nitrogen	1000				1600	BNCAR
organophosphate-phosphorous						
potassium						
selenium					80	BNCAR
silver	50				80	BNCAR
sodium						
sulfate		250,000				
bold - the selected criteria for that analyte BNCAR - MTCA Method B non-carcinogen BCAR - MTCA Method B, carcinogen MCL - Federal Maximum Contaminant Level						

Table 1. Applicable Groundwater Cleanup Criteria

Analyte	Frequency of Detection	Maximum Concentration, ug/L	Method B Cleanup Level, ug/L	Basis	Screening Results
alkalinity	1.0	240,000			no toxicity data
ammonia	1.0	7340	272,000	BNCAR	below cleanup level
arsenic	1.0	1.48	5	A- background	below cleanup level
barium	1.0	134	1120	BNCAR	below cleanup level
bromide	0.83	724			no toxicity data
cadmium	0.0	ND	5	MCL	<=5% detection frequency
calcium	1.0	120,000			no toxicity data
chloride	1.0	1,400,000	250,000	SMCL	indicator
chromium	1.0	1.54	80	BNCAR	below cleanup level
copper	0.0	ND	592	BNCAR	<=5% detection frequency
fluoride	0.45	14,000	960	BNCAR	indicator
iron	0.67	80,100			no toxicity data
lead	0.0	ND	5	A - blood lead	<=5% detection frequency
magnesium	1.0	72,300			no toxicity data
mercury	0.0	ND	2	MCL	<=5% detection frequency
nitrate-nitrogen	1.0	83,800	10,000	MCL	indicator
nitrite-nitrogen	0.09	1500	1000	MCL	indicator
organophosphate-phosphorous	0.0	ND			no toxicity data
potassium	1.0	255,000			no toxicity data
selenium	1.0	1.5	80	BNCAR	below cleanup level
silver	0.0	ND	50	MCL	<=5% detection frequency
sodium	1.0	420,000			no toxicity data
sulfate	1.0	74,800	250,000	SMCL	below cleanup level

BNCAR - MTCA Method B non-carcinogen
 BCAR - MTCA Method B carcinogen
 A - MTCA Method A
 MCL - Federal Maximum Contaminant Level
 SMCL - Federal Secondary Maximum Contaminant Level
 ND - not detected

Table 2. Indicator Substance Screening, Groundwater

Table 3 presents the calculations of cancer risk and hazard quotient for groundwater. Final Method B cleanup levels are shown, along with the hazard quotient for each contaminant separated by its toxic effect. Each contaminant's hazard quotient is listed by its toxic effect; the total for each toxic effect must be less than or equal to one. If the hazard quotient for a toxic effect is greater than one, the cleanup level for contaminants with that toxic effect must be adjusted downward. Table 4 shows the adjusted groundwater cleanup levels. The chloride cleanup level is a secondary maximum contaminant level, which is based on aesthetics and therefore has no toxic effect. The cleanup level for nitrite was lowered so that the hemotoxicity effect hazard quotient was equal to one. These adjusted values are the groundwater cleanup levels for the four indicators.

4.2.2 Soil

Applicable soil cleanup criteria for the Site are shown in Table 5. Since the Site does not meet the requirements of an industrial property as defined in WAC 173-340-745, Method B residential cleanup levels were applied. Method A levels were used for arsenic since it is based on background levels, and for lead because of the absence of a Method B cleanup level.

Table 6 presents the screening for indicator substances in soils. All substances are either below their cleanup level, detected at a frequency of less than 5%, or have no toxicity data, except arsenic and lead. Both these contaminants exceed their respective cleanup levels. However, of the nineteen results for arsenic levels in soil, the two exceedances of 22.2 and 23.4 mg/kg are only 17% above the cleanup level. Ecology has determined that the two samples do not represent significant exceedances. Additionally, although arsenic was detected in 84% of the soil samples, the majority of the concentrations were under 10 mg/kg. Lead will be the only contaminant with a cleanup level in soil.

4.3 POINT OF COMPLIANCE

MICA defines the Point of Compliance as the point or points where cleanup levels shall be attained. Once cleanup levels are met at the point of compliance, the Site is no longer considered a threat to human health or the environment. For soils, the point of compliance shall be from the ground surface to fifteen feet below ground surface. This is based on exposure through direct contact.

The point of compliance for groundwater is defined in WAC 173-340-720(6). Groundwater points of compliance are established for the entire Site from the top of the saturated zone to the lowest affected portion of the aquifer, which is bedrock at this Site.

5.0 PROPOSED CLEANUP ACTIONS

5.1 REMEDIAL ACTION GOALS

The remedial action goals are intended to protect human health and the environment by

Indicator	Method B Cleanup Level, ug/L	Basis	Hazard Quotient	
			Dental Fluorosis (sign of fluoride poisoning)	Hemotoxicity (toxic to blood)
chloride	250,000	SMCL		
fluoride	960	BNCAR	1	
nitrate-nitrogen	10,000	MCL		0.391
nitrite-nitrogen	1000	MCL		0.625
Total Hazard Quotient:			1	1.016
MCL - Federal Maximum Contaminant Level SMCL - Federal Secondary Maximum Contaminant Level BNCAR - MTCA Method B, non-carcinogen				

Table 3. Risk/Hazard Quotient Calculations for Groundwater Indicators

Indicator	Method B Cleanup Level, ug/L	Basis	Hazard Quotient	
			Dental Fluorosis (sign of fluoride poisoning)	Hemotoxicity (toxic to blood)
chloride	250,000	SMCL		
fluoride	960	BNCAR	1	
nitrate-nitrogen	10,000	MCL		0.391
nitrite-nitrogen	974	MCL		0.609
Total Hazard Quotient:			1	1.000
MCL - Federal Maximum Contaminant Level SMCL - Federal Secondary Maximum Contaminant Level BNCAR - MTCA Method B, non-carcinogen				

Table 4. Groundwater Cleanup Levels Adjustments

Analyte	MTCA				Protection of Groundwater, mg/kg	Background, mg/kg
	Method A, mg/kg	Basis	Method B, mg/kg	Basis		
ammonia			2,720,000	BNCAR		
arsenic	20	background	1.67	BCAR	0.5	
barium			5600	BNCAR		
cadmium			80	BNCAR		1
chloride					25,000	
chromium			400	BNCAR		18
copper			2960	BNCAR		22
fluoride			4800	BNCAR	96	
lead	250	blood levels				15
mercury			24	BNCAR		0.02
nitrate-nitrogen			128,000	BNCAR	1000	
nitrite-nitrogen			8000	BNCAR	97.4	
organophosphate-phosphorous						
potassium						
selenium			400	BNCAR		
silver			400	BNCAR		
sodium						
sulfate						

bold - the selected criteria for that analyte
 BNCAR - non-carcinogen
 BCAR - carcinogen

Table 5. Applicable Soil Cleanup Criteria

Analyte	Frequency of Detection	Maximum Concentration, mg/kg	MTCA Cleanup Level, mg/kg	Basis	Screening Results
ammonia	0.0	ND	2,720,000		<=5% detection frequency
arsenic	0.84	23.4*	20	A - background	below cleanup level*
barium	1.0	149	5600	BNCAR	below cleanup level
cadmium	0.32	1.46	80	BNCAR	below cleanup level
chloride	0.74	17,500	25,000	100xGW	below cleanup level
chromium	1.0	49.3	400	BNCAR	below cleanup level
copper	1.0	441	2960	BNCAR	below cleanup level
fluoride	0.89	88.2	96	100xGW	below cleanup level
lead	0.89	485	250	A	indicator
mercury	0.63	0.0344	24	BNCAR	below cleanup level
nitrate-nitrogen	0.67	5.29	1000	100xGW	below cleanup level
nitrite-nitrogen	0.0	ND	97.4	100xGW	<=5% detection frequency
organophosphate-phosphorous	0.0	ND			<=5% detection frequency
potassium	1.0	24,300			no toxicity data
selenium	0.21	18.2	400	BNCAR	below cleanup level
silver	0.05	5.27	400	BNCAR	<=5% detection frequency
sodium	0.95	25,900			no toxicity data
sulfate	0.0	ND			<=5% detection frequency

* - maximum value for arsenic determined not to be significantly different from cleanup level; see text for a more detailed explanation
BNCAR - MTCA Method B non-carcinogen
A - Method A
100xGW - 100 times groundwater cleanup level

Table 6. Indicator Substance Screening, Soils

eliminating, reducing, or otherwise controlling risks posed through each exposure pathway and migration route. They are developed considering the characteristics of the contaminated medium, the characteristics of the hazardous substances present, migration and exposure pathways, and potential receptor points.

Both groundwater and soil have been contaminated by the former Site activities and the continued storage of dross at the Site. Populations may be exposed to contaminated soil or dross via windblown dust or direct dermal contact. Since the aquifer is a drinking water source, contact or ingestion of groundwater is also possible. Potential populations include on-site workers, trespassers, residents of nearby neighborhoods, passersby, and off-site workers.

Given these potential exposure pathways, the following are the remedial action goals for the Site:

- Prevent direct contact, inhalation or ingestion of contaminated soil by humans
- Prevent direct contact, inhalation or ingestion of contaminated dross by humans
- Prevent direct contact or ingestion of contaminated groundwater by humans
- Prevent further contamination of soil
- Prevent further contamination of groundwater

5.2 CLEANUP ACTION ALTERNATIVES

Cleanup alternatives are evaluated as part of the RI/FS for the Site. All contaminated media are required to be addressed as part of each cleanup alternative. The following alternatives are as proposed by BNSF.

5.2.1 Alternative 1: Limited Action/Institutional Controls

Semi-annual groundwater monitoring would take place at the four monitoring wells for chloride, fluoride, nitrate and nitrite. This data would only be used to evaluate the movement and concentration of these contaminants in groundwater. No remedial action would take place.

The chain link fence currently surrounding the property would continue to be maintained. A deed restriction would be placed on the property because indicator substances would remain in contaminated Site media above cleanup levels. Five year reviews would take place to evaluate the status of contaminated media.

5.2.2 Alternative 2: Removal and Off-Site Disposal

All dross and soil exceeding cleanup levels would be removed and transported off-site for disposal at a permitted facility. As part of this work, the fence would need to be removed and temporary roads installed. Dust and odor-suppression materials would be available to limit off-site impacts. Excavated materials would be characterized and then transported via rail car to a permitted landfill. The Site would then be filled with clean

materials, regraded, and the fence reinstalled. Semi-annual groundwater monitoring would take place at the four monitoring wells for chloride, fluoride, nitrate and nitrite, to determine the effectiveness of the remedy. Five-year reviews would also be performed by Ecology.

5.2.3 Alternative 3: On-Site Containment

Contaminated soil and dross would remain on-site, and be covered with an engineered multimedia cover system. For this remedial action, the fence would be removed and the materials regraded to specifications required for the cover. Dust and odor suppression materials would be available to limit off-site impacts. The multimedia cover would then be installed to the specifications of the engineering design, and the fence reinstalled. Deed restrictions would be imposed to limit the potential for future Site activities to break through the cover and/or expose the dross. Semi-annual groundwater monitoring would take place at the four monitoring wells for chloride, fluoride, nitrate and nitrite, to determine the effectiveness of the remedy. Long-term cover system maintenance would take place to ensure that the cover remains effective. Five-year reviews would be performed by Ecology to ensure that the remedy remains protective of human health and the environment.

6.0 CLEANUP ACTION CRITERIA

The requirements for selection cleanup actions are given in the Model Toxics Control Act (WAC 173-340-360). Outlined here are the specific criteria and hierarchy for selecting cleanup actions.

6.1 THRESHOLD REQUIREMENTS

All cleanup actions shall:

- Protect human health and the environment;
- Comply with cleanup standards;
- Comply with applicable state and federal laws; and
- Provide for compliance monitoring.

6.2 OTHER REQUIREMENTS

In addition, the cleanup action shall:

- Use permanent solutions to the maximum extent practicable, including;
 - Long-term effectiveness;
 - Short-term effectiveness;
 - Permanent reduction of toxicity, mobility, and volume;
 - Ability to be implemented;
 - Cleanup costs, and

- Degree to which community concerns are addressed.
- Provide for a reasonable restoration time frame; and
- Consider public concerns raised during public comment on the draft cleanup action plan

6.3 CLEANUP TECHNOLOGIES

Cleanup of contaminated sites shall be conducted using technologies which minimize the amount of untreated hazardous substances remaining at a site. The following technologies shall be considered in order of descending preference:

- Reuse or recycling;
- Destruction or detoxification;
- Separation or volume reduction followed by reuse, recycling, destruction, or detoxification of the residual hazardous substance;
- Immobilization of hazardous substances;
- On-site or off-site disposal at an engineering facility;
- Isolation or containment with attendant engineering controls; and
- Institutional controls and monitoring.

7.0 EVALUATION OF PROPOSED REMEDIAL ALTERNATIVES

7.1 THRESHOLD REQUIREMENTS

Alternative 1 only provides for compliance monitoring; it does not meet any state or federal laws nor complies with cleanup standards. Since no cleanup would be done under this alternative, human health and the environment would not be protected.

Alternatives 2 and 3 would meet all four of the threshold criteria. The removal/off-site disposal and on-site containment would meet the first three requirements, and institutional controls and monitoring would be required for both.

7.2 OTHER REQUIREMENTS

7.2.1 Use Permanent Solutions to the Maximum Extent Practicable

Cleanup actions are selected in part by their preference for permanent solutions. A permanent solution is defined as one where cleanup levels can be met without further action being required at the Site other than the disposal of residue from the treatment of hazardous substances. The following criteria are used to determine the permanence of a cleanup action: long-term effectiveness, short-term effectiveness, permanent reduction of toxicity, mobility, or volume, implementability, and cleanup cost. The details of these criteria are presented in WAC 173-340-360(5). Ranking of the alternatives under each criteria is summarized in Table 7.

Long-term Effectiveness: Long-term effectiveness addresses the following: degree of certainty that the alternative will be successful, long-term reliability, magnitude of

	Alternative 1 Limited Action/ Institutional Controls	Alternative 2 Removal and Off-Site Disposal	Alternative 3 On-Site Containment
Threshold Requirements			
Protect human health and the environment	No	Yes	Yes
Comply with cleanup standards	No	Yes	Yes
Comply with applicable state and federal laws	No	Yes	Yes
Provide for compliance monitoring	Yes	Yes	Yes
Other Requirements*			
Use permanent solutions			
Overall protectiveness	Low	High	Medium
Long term effectiveness	Low	High	Medium-low
Short term effectiveness	Low	High	Medium
Reduction in toxicity, mobility, and volume	Low	Medium	Medium-low
Implementability	High	High	High
Cost	Low	High	Medium
Restoration time frame	>20 years	5-10 years	10-20 years
Consider public concerns	No	Yes	Yes
Cleanup Technology Preference			
Reuse or recycling	No	No	No
Destruction or detoxification	No	No	No
Separation or volume reduction	No	No	No
Immobilization	No	No	No
On-site or off-site disposal	No	Yes	No
Isolation or containment	No	Yes	Yes
Institutional controls and monitoring	Yes	Yes	Yes
* - alternatives are given a ranking in each category relative to the other alternatives.			

Table 7. Comparison of Proposed Cleanup Action Alternatives

residual risk, and effectiveness of management controls. Alternative 1 is ranked low because none of these measures are attained. Alternative 2 is ranked high because the removal of the dross would provide a reliable and successful long-term solution with low residual risk. Alternative 3 is given a medium-low ranking because the long-term reliability is unknown due to the dependence on cover integrity, along with an unknown amount of residual risk. The risk due to soil would be removed, but the recovery of groundwater is dependent upon the reduction of leaching and infiltration, which is again dependent on cover system integrity.

Short-term Effectiveness: Criteria for short-term effectiveness include protection of human health and the environment during implementation, and the degree of risk prior to attainment of cleanup standards. Alternative 1 is ranked low because neither criteria are satisfied to any degree. Alternative 2 and 3 would rank similarly for the first criteria; both would require similar controls for dust and odor, and would require the temporary removal of the fence. However, alternative 2 would have a shorter time frame before attaining cleanup standards, so it is ranked high while alternative 3 is ranked medium.

Permanent Reduction in Toxicity, Mobility, or Volume: Alternative 1 is again ranked low since nothing will be done with the stockpiled materials. Neither alternatives 2 nor 3 have a destruction or waste treatment process involved, so the only remaining applicable criteria is the reduction or elimination of hazardous substances or sources. Since alternative 2 would remove dross materials, but still not destroy them, it receives a medium ranking, while alternative 3 ranks medium-low.

Implementability: All three alternatives are equally implementable with regard to the criteria listed in WAC 173-340-360(5)(d)(v). Therefore, all alternatives received a high ranking.

Cost: Relative to each other, alternative 1 is the least expensive, alternative 3 was intermediate, and alternative 2 was most expensive. Cost is only factored in if one

alternative has a large cost increase with only a minimal improvement in the degree of protection offered. Details on the cost of each alternative are provided in the RI/FS

7.2.2 Provide a Reasonable Restoration Time Frame

Alternative 1 would require a significant restoration time frame since no remedial action would be performed. Alternatives 2 and 3 would be shorter because they both involve the removal of contaminant transport pathways. Alternative 2 would achieve cleanup levels in the shortest time because contaminated materials would be entirely removed from the Site.

7.2.3 Consider Public Concerns

All three alternatives would be required to address public comments and concerns. A 30-day public comment period is required for the draft cleanup action plan.

7.3 CLEANUP TECHNOLOGIES

Alternative 1 ranks the lowest because only institutional controls and monitoring would take place. Alternative 3 ranks higher because it utilizes on-site containment. The highest ranking is alternative 2 which requires off-site disposal.

8.0 SITE CLEANUP ACTION

Alternative 3 will be selected for implementation at the Site. It meets all the threshold requirements and represents an effective remedy for protection of human health and the environment while balancing costs and restoration time frame. Ecology has made some modifications to the alternative from that proposed by BNSF; the following outlines the details of the final selected alternative.

8.1 SOIL AND DROSS

Soil and dross will be addressed through the construction of a multimedia cover system over the dross and affected soil. Components of this work include:

- Site Preparation – The existing chain link fence will be removed and the site regraded. Currently, the dross exists as large piles on-site and in a gravel pit. The land will be graded to remove these features and also to direct surface water runoff away from the covered dross. Since regrading will likely generate dust and expose moist weathered dross and ammonia, a non-water based foaming agent will be available as a control measure.
- Installation of Cover System – A cover system will be installed over the regraded dross to prevent infiltration and leaching of surface water through the dross. The cover system shall consist of an HDPE liner at the base, to act as a barrier to infiltrating water and to help distribute loading. One foot of lightly compacted gravel would cover the liner to assist in drainage and to further help prevent subsidence. A woven geotextile fabric would cover the gravel to help filter migrating soil from above and prevent clogging of the gravel layer. Finally, a three foot layer of soil would complete the cover. Details on the design and composition of the cover will be outlined in the Engineering Design Report to be completed by the PLPs. This document will undergo review by Ecology and a public comment period.
- Site Maintenance – The fence will be reinstalled and monitoring of the cover system will take place. Expected concerns would be subsidence and erosion; to repair this, the addition of soil to the cover would periodically take place. The details of such maintenance requirements will be outlined in an Operation and Maintenance Plan that will be submitted with the Engineering Design Report.

8.2 GROUNDWATER

Concentrations of several contaminants have exceeded cleanup standards in the past, but concentrations have been decreasing steadily since the exceedances have occurred. Therefore, groundwater shall be addressed through long-term monitoring. With the

installation of the impermeable cover, leaching is expected to decrease. Thus the need for active remediation of the groundwater will be significantly diminished. The PLPs shall monitor groundwater on a quarterly basis for five years. At that point, a five-year review shall take place as required by MTCA.

8.3 FIVE YEAR REVIEW

WAC 173-340-420 states that at sites where a cleanup action results in hazardous substances remaining on-site at concentrations exceeding cleanup levels, a periodic review shall be completed no less frequently than every five years. Since the contaminated soil and dross will remain on-site and the groundwater will not be actively remediated, a five year review shall take place at this Site. Groundwater monitoring data shall be reviewed to assess the effectiveness of the cover system in reducing leaching. If it is determined that concentrations of contaminants in groundwater are not decreasing, then the necessity of further remedial action will be addressed.

8.4 INSTITUTIONAL CONTROLS

Under WAC 173-340-360(8)(b), institutional controls shall be required at sites where containment is the selected cleanup action. Institutional controls will be required at the Site because the integrity of the cover system must be maintained. At this site, they will take the form of fences and signs at the property, and restrictive covenants placed with the deed. The restrictive covenants will limit site use with the purpose of minimizing disturbance to the cover system, and will also prevent any excavation, well installation, or withdrawal of water for any purpose other than monitoring on the property.

9.0 EVALUATION OF CLEANUP ACTION WITH MTCA CRITERIA

9.1 EVALUATION WITH RESPECT TO THRESHOLD CRITERIA

9.1.1 Protection of Human Health and the Environment

Direct contact with contaminated soil or dross and inhalation/contact with airborne dust are the major routes of exposure. By consolidating the materials and covering them with an impermeable cover, these pathways will be eliminated. The cover will also prevent further contamination of the groundwater by reducing leaching through contaminated media.

9.1.2 Compliance with Cleanup Standards

The selected cleanup action will comply with cleanup standards for both soil and groundwater through on-site containment.

9.1.3 Compliance with State and Federal Laws

The selected cleanup action will comply with applicable state and federal laws as identified in Table 8. Local laws, which may be more stringent than specified state and federal laws, will govern where applicable.

9.1.4 Provision for Compliance Monitoring

Compliance monitoring will be performed under the selected cleanup action. A compliance monitoring plan will be completed by the PLP and submitted to Ecology to meet MTCA requirements.

9.2 EVALUATION WITH RESPECT TO OTHER REQUIREMENTS

9.2.1 Use of Permanent Solutions to the Maximum Extent Practicable

On-site containment represents a permanent solution as detailed in WAC 173-340-360(5).

9.2.1.1 Long-Term Effectiveness

The selected cleanup action achieves long-term effectiveness through the installation of the impermeable cover system. Long-term effectiveness remains dependent on the integrity of this cover.

9.2.1.2 Short-Term Effectiveness

Risks in the short-term would be caused by dust and odor generation from materials movement. On-site workers and surrounding populations would potentially be exposed to these materials during the construction of the cover. Mitigation of these risks would provide short-term effectiveness for the selected cleanup action.

9.2.1.3 Permanent Reduction of Toxicity, Mobility and Volume

Consolidation and covering of contaminated materials will provide a permanent reduction in toxicity, mobility and volume of hazardous substances. Groundwater monitoring will confirm that this is taking place at the Site.

9.2.1.4 Implementability

The selected cleanup action employs remedies that are readily implementable.

9.2.1.5 Cleanup Costs

The cost for the selected cleanup action is less than other alternatives, and yet provides a similar level of protection for human health and the environment. The cover system will

Cleanup Action Implementation	Ch. 18.104 RCW; WAC 173-160	Water Well Construction; Minimum Standards for Construction and Maintenance of Water Wells
	WAC 173-162	Rules and Regulations Governing the Licensing of Well Contractors and Operators
	Ch. 70.105D RCW; WAC 173-340	Model Toxics Control Act
	Ch. 43.21C RCW; WAC 197-11	State Environmental Policy Act; SEPA Rules
	29 CFR 1910	Occupational Safety and Health Act
Groundwater	42 USC 300	Safe Drinking Water Act
	33 USC 1251; 40 CFR 131	Clean Water Act of 1977; Water Quality Standards
	Ch. 70.105D RCW; WAC 173-340	Model Toxics Control Act
	40 CFR 141; 40 CFR 143	National Primary Drinking Water Standards; National Secondary Drinking Water Standards
	WAC 246-290	Department of Health Standards for Public Water Supplies
	WAC 173-154	Protection of Upper Aquifer Zones
	WAC 173-200	Water Quality Standards for Ground Waters of the State of Washington
Air	42 USC 7401; 40 CFR 50	Clean Air Act of 1977; National Ambient Air Quality Standards
	Ch. 70.94 RCW and Ch. 43.21A RCW; WAC 173-400	Washington Clean Air Act; General Regulations for Air Pollution
	WAC 173-460	Controls for New Sources of Air Pollution
	WAC 173-470	Ambient Air Quality Standards for Particulate Matter
	SCAPCA Regulation 1 Article VI	Control of Fugitive Emissions
	Ch. 70.105D RCW; WAC 173-340	Model Toxics Control Act
Soil and Dross	Ch. 70.95 RCW; WAC 173-304	Solid Waste Management Recovery and Recycling Act; Minimum Functional Standards for Solid Waste Handling
	Ch. 70.105D RCW; WAC 173-340	Model Toxics Control Act
	42 USC 9601; 40 CFR 260	CERCLA; Resource Conservation and Recovery Act
	WAC 173-216	State Waste Discharge Program

Table 8. Applicable or Relevant and Appropriate Requirements for the Selected Cleanup Action

reduce potential exposure routes and limit the migration of contaminants

9.2.2 Provision for a Reasonable Restoration Time Frame

The restoration time frame for the selected cleanup action is believed by Ecology to be reasonable according to criteria outlined in WAC 173-340-360(6).

9.2.3 Consideration of Public Concerns

The public will have an opportunity to review this Draft Cleanup Action Plan and provide comments to Ecology. These comments will be taken into account when preparing the Final Cleanup Action Plan. If needed, a Responsiveness Summary will be prepared to address comments received on this document

10.0 REFERENCES CITED

EMR, 1996, Summary Report, BNRR Hillyard Aluminum Dross Site, Spokane WA

EMR, 1997, Groundwater Sampling Report, Hillyard Aluminum Dross Site, Spokane WA

EMR, 1999, Final Remedial Investigation/Feasibility Study for the Hillyard Dross Site, East 3412 Wellesley Avenue, Spokane WA

EXHIBIT C
Scope of Work and Schedule for the Cleanup Action at the
Aluminum Recycling Corporation Site, Spokane WA

This Scope of Work will be used to perform a cleanup action at the Aluminum Recycling Corporation Site (Site). This Scope of Work prepared by the Department of Ecology is to be used by the potentially liable persons (PLPs) to develop Work Plans in order to implement the Cleanup Action Plan (CAP) for the Site. The PLPs shall furnish all personnel, materials, and services necessary for, or incidental to, implementing the CAP at the Site

The cleanup action shall contain the following submittals:

A Remedial Action Plan

A work plan outlining procedures for the cleanup action shall be prepared which includes the following elements:

1. Remedial Action Work Plan Summary

The Remedial Action Work Plan shall contain the goals of the cleanup action, performance requirements, general facility information and site operational history, site characterization history, characteristics of the contaminants and contaminated media, summary of the remedial action, and schedule of deliverables

2. Institutional Controls Plan

As a component of the remedial action and as required by the Cleanup Action Plan, institutional controls will be placed on the Site. As described in WAC 173-340-440, institutional controls are to limit or prohibit activities that may interfere with the integrity of a cleanup action. This plan shall include documents listing the proposed institutional controls.

3. Engineering Design Plan

The Engineering Design Plan shall include a soil containment plan with technical specifications for the cover system, including material and design specifications and construction schedules.

4. Compliance Monitoring Plan

As described in WAC 173-340-410, compliance monitoring is required at all cleanup sites. It consists of protection monitoring, performance monitoring, and confirmational monitoring. Protection monitoring confirms that human health and the environment are adequately protected during construction and operation of a cleanup action. Performance monitoring confirms that the cleanup action has attained cleanup and/or performance standards. Confirmational monitoring confirms the long-term effectiveness of the cleanup action once cleanup standards are attained.

a. Groundwater Monitoring, Sampling & Analysis Plan

Groundwater monitoring represents protection, performance, and confirmational monitoring. A reviewed and possibly revised Sampling and Analysis Plan from the RI/FS shall be applicable.

b. Soil Compliance Monitoring Plan

Soil monitoring represents protection, performance, and confirmational monitoring. A reviewed and possibly revised Sampling and Analysis Plan from the RI/FS shall be applicable.

c. Air Compliance Monitoring Plan

Air monitoring represents protection and performance monitoring. An Air Compliance Monitoring Plan shall be implemented due to the dust and ammonia gas issues that need to be addressed. The document shall include:

- Sample locations and intervals;
- Sampling procedures and method of analysis;
- List of parameters to be measured; and
- Action levels triggering additional sampling or mitigative measures.

5. Quality Assurance Project Plan

The Quality Assurance Project Plan from the RI/FS shall be reviewed and revised, if necessary.

6. Data Management Plan

A Data Management Plan shall be included which lists procedures for analyzing and evaluating all collected data. Statistical procedures to be used in the analysis of data are given in WAC 173-340-410.

7. Health and Safety Plan

A Health and Safety Plan is required for all remedial actions under WAC 173-340-820. This plan shall include emergency information, characteristics of waste, levels of protection, hazard evaluation, and any other site specific information.

B. Cleanup Action Report

A final cleanup action report shall be submitted after the completion of all elements of the Remedial Action Plan. The report shall include, but not be limited to:

- all aspects of facility construction, including any drawings or design documents;
- all compliance monitoring data gathered;
- a stamped statement from a professional engineer as to whether the cleanup action was completed in substantial compliance with the plans and specifications for the site;
- copies of property deeds, documenting that institutional controls are in place; and
- long term operation & maintenance plans.

C. Remedial Action Performance and Groundwater Compliance Monitoring Report

To track the performance of the cleanup action, quarterly reports presenting the results of monitoring shall be completed and submitted to Ecology.

Schedule of Deliverables

<u>Deliverables</u>	<u>Date Due</u>
Effective date of Decree (date signed by Ecology)	Start
TASK A	
Draft Remedial Action Plan, including all elements listed in this Scope of Work	60 days after start
Final Remedial Action Plan, including all elements listed in this Scope of Work	30 days after Ecology approval of draft
TASK B	
Draft Remedial Action Report	90 days after completion of remedial action
Final Remedial Action Report	30 days after Ecology approval of draft
TASK C	
Completion of remedial action	Start date
Remedial Action Performance and Groundwater Compliance Monitoring Reports	60 days after completion of each quarterly monitoring event
Five Year Review	60 months after Task C start

EXHIBIT D

**ALUMINUM RECYCLING
CORPORATION**

**DRAFT
PUBLIC PARTICIPATION PLAN
FOR
PROPOSED CONSENT DECREE**

PREPARED BY:

WASHINGTON STATE DEPARTMENT OF ECOLOGY

JANUARY 2001

INTRODUCTION

OVERVIEW OF PUBLIC PARTICIPATION PLAN

This Public Participation Plan (Plan) is an amendment to the August, 1998 Plan which focused on the Remedial Investigation through Feasibility Study phases of cleanup at the Aluminum Recycling Corporation Site. The current Plan has been developed by the Washington Department of Ecology. The Plan complies with the Washington State Model Toxics Control Act (MTCA) regulations (Chapter 173-340-600 WAC) and outlines proposed public participation for the Aluminum Recycling Corporation for final stages of cleanup to be implemented under the Consent Decree. Ecology will determine final approval of the Plan as well as any amendments.

The Site is located at 3412 East Wellsley in the City of Spokane, Spokane County, Washington. The potentially liable persons for the Site are Burlington Northern Santa Fe Railway (BNSF), Kaiser Aluminum and Chemical Corporation (Kaiser) and Alumax Inc. (Alumax). Kaiser and Alumax have declined to sign the Consent Decree.

The purpose of the Plan is to promote public understanding of the Washington Department of Ecology and BNSF's responsibilities, planning activities, and cleanup activities at hazardous waste sites. It also serves as a way of gathering information from the public that will help Ecology and BNSF complete cleanup of the Site that is protective of human health and the environment. Additionally, it provides information on how the public may be involved in the decision making process.

Documents relating to the cleanup may be reviewed at the repositories listed on Page 6 of this Plan. If individuals are interested in knowing more about the Site or have comments regarding the Public Participation Plan, please contact one of the individuals listed below:

Ms. Sandra Treccani
Site Manager
Washington State Department of Ecology
Toxics Cleanup Program
4601 North Monroe
Spokane, WA 99205
(509) 456-2740
E-mail: satr461@ecy.wa.gov

Mr. Bruce Sheppard
Burlington Northern Santa Fe Railway
2454 Occidental Ave. Suite 1A
Seattle, WA 98134-1451
(206) 625-6035

Carol Bergin
Public Involvement
Washington State Department of Ecology
Toxics Cleanup Program
4601 North Monroe
Spokane, WA 99205
(509) 456-6360
E-mail: cabe461@ecy.wa.gov

Johnnie Harris
Public Disclosure Coordinator
Washington State Department of Ecology
4601 North Monroe
Spokane, WA 99205
(509) 456-2751
E-mail: johh461@ecy.wa.gov

PUBLIC PARTICIPATION AND THE MODEL TOXICS CONTROL ACT

The Model Toxics Control Act (MTCA) is a citizens' initiative which passed in the November 1988 general election. It provides guidelines for the clean up of contaminated sites in Washington State. This law sets up strict standards to make sure the cleanup of sites is protective of human health and the environment. The Department of Ecology's Toxic Cleanup Program investigates reports of contamination that may threaten human health or the environment. If an investigation confirms the presence of contaminants, the site is ranked and placed on a Hazardous Sites List. Current or former owner(s) or operator(s), as well as any other potentially liable persons (PLPs), of a site may be held responsible for cleanup of contamination according to the standards set under MTCA. The PLPs are notified by Ecology that the site has contaminants and the process of cleanup begins with Ecology implementing and overseeing the project.

Public participation is an important part of the MTCA process during cleanup of sites. The participation needs are assessed at each site according to public interest and degree of risk posed by contaminants. Individuals who live near the site, community groups, businesses, organizations and other interested parties are provided an opportunity to become involved in commenting on the cleanup process. The Public Participation Plan includes requirements for public notice such as: identifying reports about the site and the repositories where reports may be read; providing public comment periods; and holding public meetings or hearings. Other forms of participation may be interviews, citizen advisory groups, questionnaires, or workshops. Additionally, citizen groups living near contaminated sites may apply for public participation grants to receive technical assistance in understanding the cleanup process and to create additional public participation avenues.

Ecology prepared the proposed Public Participation Plan for the Aluminum Recycling Corporation and maintains responsibility for public participation at the Site.

SITE BACKGROUND

SITE DESCRIPTION AND HISTORY

The Aluminum Recycling Corporation Site is located in the City of Spokane (near the northern city limits) at 3412 East Wellsley (Appendix A, Figure 1). It is bounded on the north by Wellsley Avenue, on the east by Freya Street and Market Street on the west. The Site encompasses approximately eight acres in an industrial zoned portion of the city. The Site is somewhat circular in shape.

An aluminum dross reprocessing facility was operated by Hillyard Processing Company on the land leased from Burlington Northern Railroad Company. Hillyard Processing Company reportedly began aluminum reprocessing at the Site in 1954, and the activities continued through several operator changes. Aluminum Recycling Corporation was the latest operator of the facility until 1987 when the property was abandoned.

The facility processed aluminum skim, called white dross, in a batch process. The white dross was obtained from aluminum smelters, including Kaiser. The process involved the addition of sodium and potassium chloride salts and the extraction of molten aluminum metal, which was poured into ingots and sold. The high chloride waste resulting from this process, known as black dross, remains on site along with non-reprocessed white dross waste. An estimated 65,000 cubic yards of wastes occur in piles A through R and in an abandoned pit on Site (Appendix A, Figure 2).

Ecology completed an inspection in December 1987 and the Site was ranked using the Washington Ranking Method (WARM) in August of 1991.

CONTAMINANTS OF CONCERN

The cleanup at this Site focuses on groundwater contaminated with chloride, fluoride, nitrate and nitrite and soil containing elevated levels of metals and dross. Actions have been taken to cleanup the Site and they are outlined under Site Cleanup Process on Page 5.

COMMUNITY BACKGROUND

COMMUNITY PROFILE

Spokane is the largest city between Seattle and Minneapolis, boasting an area wide population of more than 400,000. Nestled on the northeastern boundaries of Spokane is an area called Hillyard. This area is of modest economic means and has a growing population upwards of 30,000 households. In addition to the community housing, the neighborhood has a business district which houses a handful of local businesses, antique shops, restaurants, other quaint stores and an industrial zone. Aluminum Recycling Corporation is located in the industrially zoned portion of the Hillyard neighborhood.

COMMUNITY CONCERNS

Past concerns have focused on dust emissions and ammonia odors coming from the property. Current concerns focus primarily on groundwater contamination as explained under "Contaminants of Concern." Comments received during public comment periods have been mainly from other agencies such as the Spokane County Air Pollution Control Authority (SCAPCA), lawyers, consultants, and other interested environmental and technical representatives. While no comments have been received from the general public through the formal public process at Ecology, citizens have expressed concern about groundwater contamination in local neighborhood meetings.

The public hearing on the Consent Decree will provide an additional avenue for public concerns to be heard prior to implementation of the Cleanup Action Plan.

SITE CLEANUP PROCESS

AGREED ORDER

BNSF and Ecology entered into an Agreed Order to perform a Remedial Investigation/Feasibility Study (RI/FS) on November 16, 1998. The Agreed Order is a legal document formalizing the agreement between Ecology and the potentially liable persons (PLPs) to ensure cleanup activities are conducted appropriately. The Order is completed under the authority of the Model Toxics Control Act (MTCA) Chapter 70.105D RCW.

REMEDIAL INVESTIGATION/FEASIBILITY STUDY (RI/FS)

The purpose of the RI/FS is to collect, develop and evaluate information regarding Site related contamination. The RI defines the type, extent and degree of soil and ground water contamination and the impacts to the affected areas. The FS identifies, evaluates and proposes alternative cleanup actions.

Results of the soil, dross, and groundwater sampling completed as part of the RI showed groundwater is contaminated with chloride, fluoride, nitrate, and nitrite; soil contains elevated levels of metals. Dross is the source of these contaminants. The PLPs proposed on-site containment as the preferred cleanup alternative in the FS, and Ecology agreed with that alternative. After public notice and opportunity to comment, this was the selected cleanup action.

CLEANUP ACTION PLAN (CAP)

The CAP is a document which identifies the cleanup action and specifies cleanup standards and other requirements for a particular site. After completion of a comment period on a Draft Cleanup Action Plan, Ecology issues a final Cleanup Action Plan.

Ecology finalized the CAP after a 30-day public comment period. The contaminants of concern are identified to be: chloride, fluoride, nitrate and nitrite for groundwater, and lead for soils. The levels of these contaminants in each media will determine when the Site is considered clean.

The cleanup action selected by Ecology includes the following elements:

- regrading of site materials;
- installation of a multi-media cover system to prevent infiltration through the dross;
- cover system and fence maintenance;
- quarterly monitoring of groundwater;
- institutional controls, including fences, signs, and restrictive covenants; and
- five year reviews to determine the effectiveness of the selected remedy.

CONSENT DECREE

The Consent Decree is a legal document which formalizes the agreement between Ecology and BNSF and is entered and approved by a Court. It is used to implement the Cleanup Action Plan. After a 30-day comment period the draft Consent Decree will be modified, if necessary. After the Consent Decree is finalized, an Engineering Design will be prepared and the cleanup action work will be performed. The Engineering Design report will go through a 30-day public comment period before being finalized and implemented.

PUBLIC PARTICIPATION ACTIVITIES AND TIMELINE

The following are public participation efforts which have been occurring and will continue until the cleanup actions are completed:

- ❖ A **mailing list** was developed of all individuals who reside within the potentially affected area of the Site. Homes and/or businesses within a few blocks radius of the Site were added to the mailing list. These persons receive copies of all fact sheets developed regarding the cleanup process of the Site via first class mail. Additionally, individuals, organizations, local, state and federal governments, and any other interested parties will be added to the mailing list. Other interested persons may request to be on the mailing list at any time by contacting Sandra Treccani or Carol Bergin at the Department of Ecology (see page 2 for addresses/phone and e-mail).
- ❖ **Public Repositories** have been established and documents may be reviewed at the following offices:

Spokane Public Library Hillyard Branch 4005 North Cook Street Spokane, WA 99207-5879	Department of Ecology 4601 North Monroe Spokane, WA 99205-1295
---	--
- ❖ During each stage of cleanup **fact sheets** are created by Ecology and distributed to individuals on the mailing list. These fact sheets explain the stage of cleanup, the Site background, what happens next in the cleanup process and ask for comments from the public. A **30-day comment period** allows interested parties time to comment on the process. The information from these fact sheets is also published in a **Site Register** which is distributed to the public. Persons interested in receiving the Site Register should contact Sherrie Minnick of Ecology at (360) 407-7200 or e-mail smin461@ecy.wa.gov.
- ❖ **Display ads or legal notices** are published in the Spokesman Review to inform the general public. These notices correlate with the 30-day comment period and associated stage of cleanup. They are also used to announce public meetings and workshops or public hearings.

- ❖ **Public meetings, workshops, open houses and public hearings** are held based upon the level of community interest. If ten or more persons request a public meeting based on the subject of the public notice, Ecology will hold a meeting and gather comments. A public hearing will be held on the Consent Decree during the 30-day comment period.

Written comments which are received during the 30-day comment period will be responded to in a **Responsiveness Summary**. The Responsiveness Summary will be sent to those who make the written comments and will be available for public review at the Repositories.

ANSWERING QUESTIONS FROM THE PUBLIC

Individuals in the community may have questions they want to ask so they may better understand the cleanup process. Page 2 lists the contacts for the Aluminum Recycling Corporation Site. Interested persons are encouraged to contact these persons by phone or e-mail to obtain information about the Site, the process and potential decisions.

OBTAINING COMMUNITY INPUT ON SITE DECISIONS

Community input has been sought on Site decisions via the previously mentioned public participation activities. Mailings have been sent to the Hillyard Neighborhood Council and local Advocate newsletter to encourage community input. Recently, the Chairperson of the Hillyard Neighborhood Council provided an update on community concerns. As a result of that conversation, the location of the public hearing on the Consent Decree will be changed to better accommodate the community.

PUBLIC NOTICE AND COMMENT PERIODS

Time line

DATE	ACTION TAKEN
October 7 through November 9, 1998	Fact Sheet and 30-day public comment period on the Draft Agreed Order
October 8 through November 9, 1999	Fact Sheet and 30-day public comment period on the Draft Remedial Investigation/Feasibility Study
April 14 through May 15, 2000	Fact Sheet and 30-day public comment period on the Draft Cleanup Action Plan
To Be Determined	Public Hearing on the Consent Decree
To Be Determined	Fact Sheet and 30-day public comment period on the Consent Decree

APPENDIX A

FIGURES 1 and 2

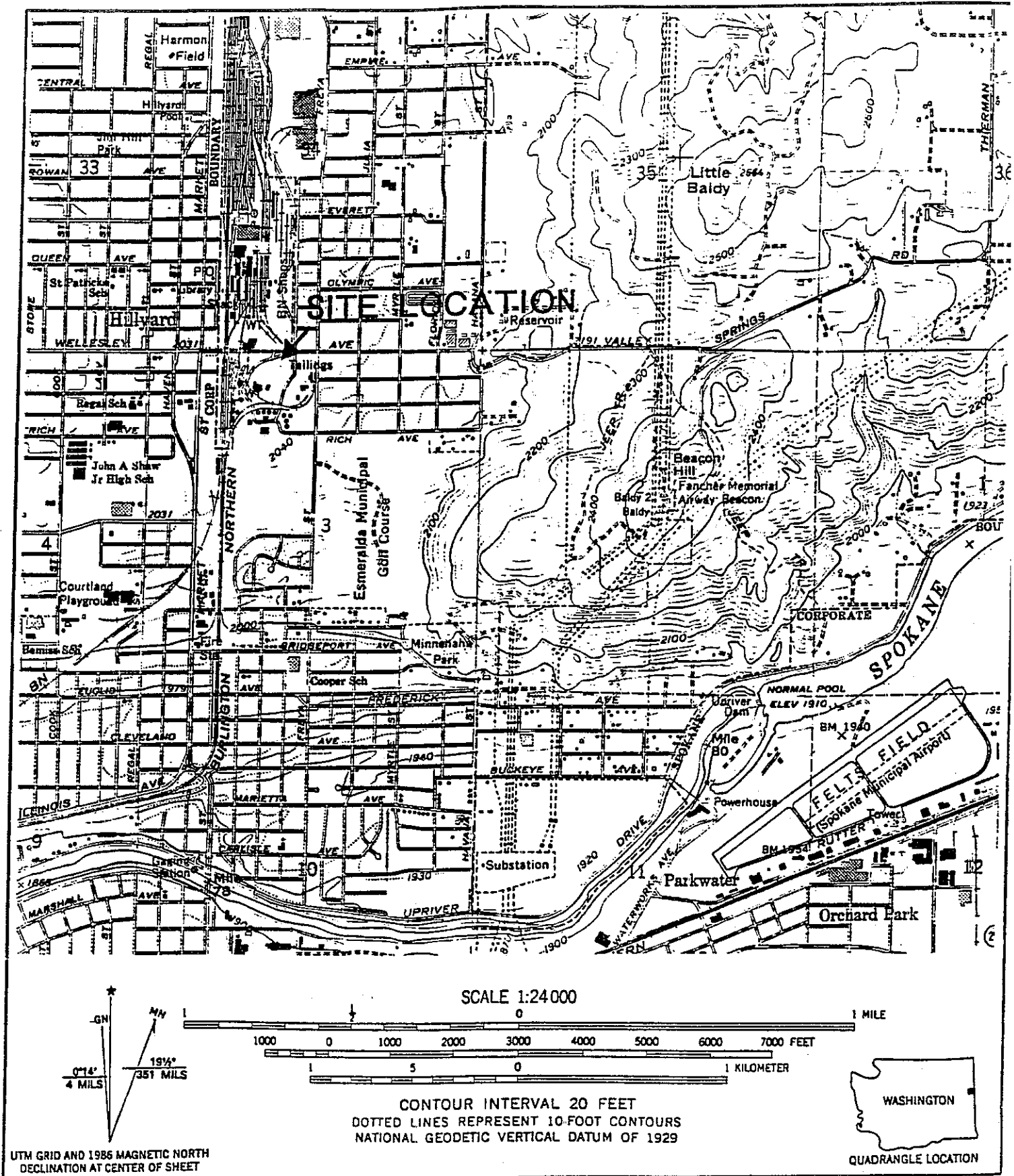


Figure 1. Location of Aluminum Recycling Corporation Site

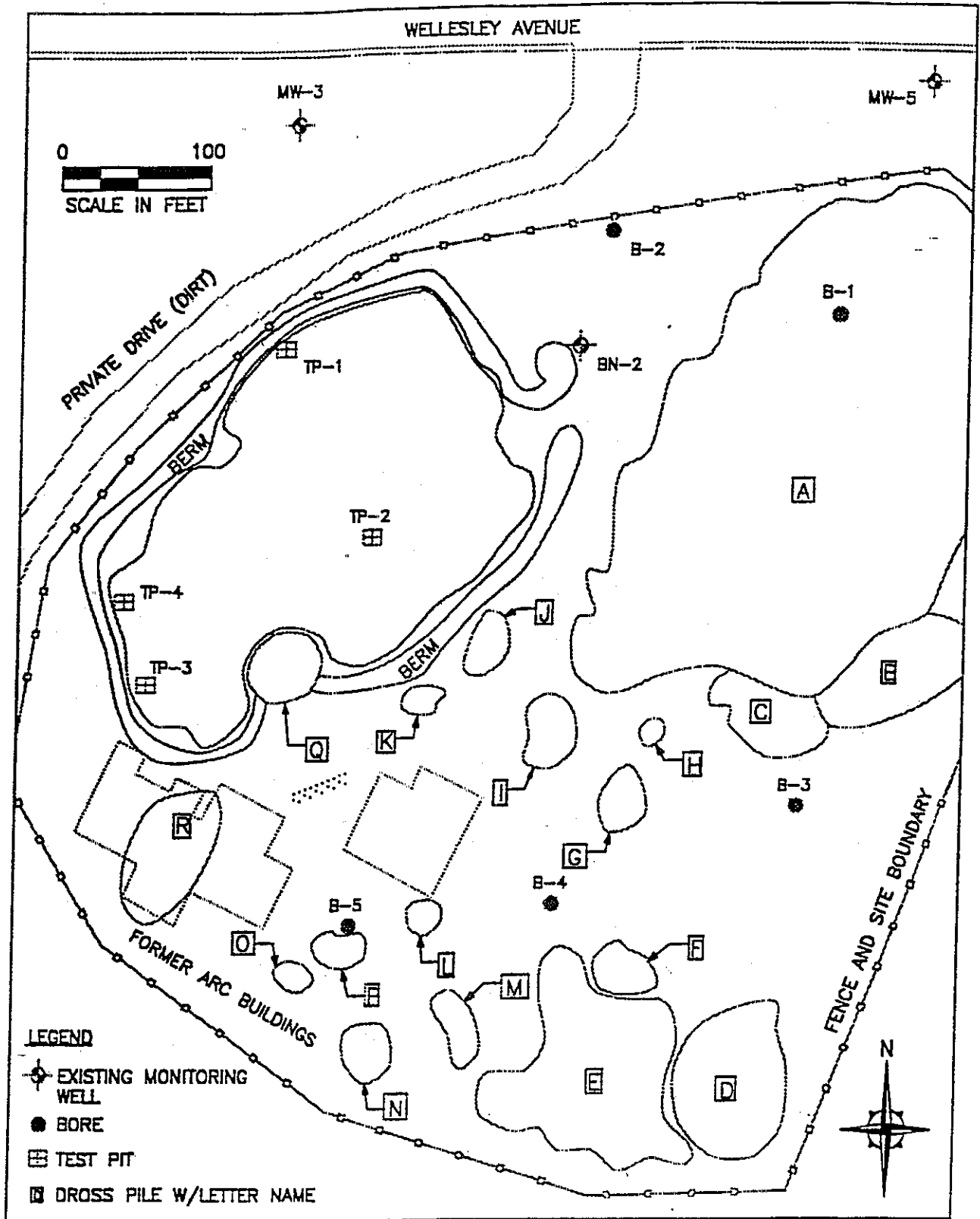


Figure 2. Locations of Aluminum Dross Piles

APPENDIX B

MAILING LIST

ALUMINUM RECYCLING CORPORATION

Aluminum Recycling Corporation Mailing Jan 2001

DALTON, OLMSTED & FUGLEVAND, INC.
11711 NORTHCREEK PKY S #D101
BOTHELL WA 98011-8224

ENVIRONMENTAL LAW CAUCUS
GONZAGA LAW SCHOOL
600 E SHARP AVENUE
SPOKANE WA 99202-1931

LEAGUE OF WOMEN VOTERS
315 W MISSION AVE #8
SPOKANE WA 99201-2325

SPOKANE COUNTY AIR POLLUTION
CONTROL AUTHORITY
1101 W COLLEGE AVE #230
SPOKANE WA 99201-2094

MR WILL ABERCROMBIE
HART CROWSER
1910 FAIRVIEW AVENUE E
SEATTLE WA 98102-3699

ASSIGNMENT EDITOR
KHQ TV
P O BOX 8088
SPOKANE WA 99203-0088

ASSIGNMENT EDITOR
KREM TV NEWS
P O BOX 8037
SPOKANE WA 99203-0037

ASSIGNMENT EDITOR
KXLY TV NEWS
500 W BOONE AVE
SPOKANE WA 99201-2497

ASSIGNMENT EDITOR
KXLY NEWSRADIO
500 W BOONE AVE
SPOKANE WA 99201-2497

ASSOCIATED PRESS
P O BOX 2173
SPOKANE WA 99210-2173

MS BETTY BINGHAM
4228 E RICH
SPOKANE WA 99217

MR WILLIAM R BLOOM
REMTECH, INC.
8924 W ELECTRIC AVE
SPOKANE WA 99224-9037

MR CHARLES BOYKEN, MANAGER
SPOKANE WATER DIST NO. 3
P O BOX 11187
SPOKANE WA 99211-1187

MR MALCOLM BOWIE
808 WEST SPOKANE FALLS BLVD
3RD FLOOR DEVELOPERS SERVICE
SPOKANE WA 99201

Aluminum Recycling Corporation Mailing Jan 2001

MS ANGEL BROWN
1111 ROAD 6 SE
WARDEN WA 98857-9608

HON LISA BROWN
WA STATE SENATOR
P O BOX 40482
OLYMPIA WA 98504-0482

MS DORIS CELLARIUS
WA ENVIRONMENTAL COUNCIL
1063 S CAPITOL SUITE 212
OLYMPIA WA 98501-1272

CITY EDITOR
THE SPOKESMAN REVIEW
P O BOX 2160
SPOKANE WA 99210-1615

HON LARRY CROUSE
WA STATE REPRESENTATIVE
P O BOX 40600
OLYMPIA WA 98504-0600

MR ALFRED DAINY
2507 E WEILE AVE
SPOKANE WA 99207-7624

MS FLORANGELA DAVILA
SEATTLE TIMES
P O BOX 70
SEATTLE WA 98111

MR BILL DILLON
PUBLISHER
THE ADVOCATE
4001 N COOK
SPOKANE WA 99207

MS ANNE DUFFY
WA DEPARTMENT OF HEALTH
OFFICE OF TOXICS SUBSTANCES
P O BOX 47825
OLYMPIA WA 98504-7825

EDITOR
THE VALLEY HERALD
P O BOX 142020
SPOKANE WA 99214-2020

EDITOR
JOURNAL OF BUSINESS
112 E 1ST AVE
SPOKANE WA 99202

EDITOR
THE VALLEY VOICE
THE SPOKESMAN REVIEW
13208 E SPRAGUE
SPOKANE WA 99216-0844

EDITOR
THE ADVOCATE
NORTHEAST COMMUNITY CENTER
401 N COOK
SPOKANE WA 99207-5880

MS ESTER HOLMES
WEAVE
523 S DIVISION #C
SPOKANE WA 99202

Aluminum Recycling Corporation Mailing Jan 2001

MR. JAMES FOREMAN
3515 E BROAD
SPOKANE WA 99207-6801

MS BETTY FOWLER
SAFE WATER COALITION OF WA STATE
5615 W LYONS COURT
SPOKANE WA 99208-3874

MR ROB FUKAI
ENVIRONMENTAL AFFAIRS
AVISTA CORP
P O BOX 3727
SPOKANE WA 99220-3727

MR MARTY GILCHRIST
HEWLETT-PACKARD COMPANY
24001 E MISSION AVE
LIBERTY LAKE WA 99019-9599

HON JEFF GOMBOSKY
WA STATE REPRESENTATIVE
P O BOX 40600
OLYMPIA WA 98504-0600

MR CRAIG GRUENIG
LABORER LOCAL #238
1310 W ROWAN AVE
SPOKANE WA 99205-5445

MR PAUL HAMILTON
HILLYARD NEIGHBORHOOD COUNCIL
5921 N MARKET
SPOKANE WA 99207-6407

MR LARRY HAMPSON
SIERRA CLUB-SPOKANE
3118 S WINDSOR RD
SPOKANE WA 99224-5043

HON PHIL HARRIS
SPOKANE COUNTY COMMISSIONER
1116 W BROADWAY AVE
SPOKANE WA 99260-0100

MR TOM HECKLER
SPOKANE CITY FIRE DEPARTMENT
WEST 44 RIVERSIDE
SPOKANE WA 99201

HILLYARD BUSINES ASSOC.
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NEEF
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RESIDENT
3827 E RICH
SPOKANE WA 99217

RESIDENT
3827 E RICH
SPOKANE WA 99217

RESIDENT
3809 E RICH
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3612 E PRINCETON
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RESIDENT
3618 E PRINCETON
SPOKANE WA 99217

RESIDENT
3703 E PRINCETON
SPOKANE WA 99217

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RESIDENT
3715 E LONGFELLOW
SPOKANE WA 99217

RESIDENT
3704 E LONGFELLOW
SPOKANE WA 99217

RESIDENT
3721 E LONGFELLOW
SPOKANE WA 99217

RESIDENT
3817 E LONGFELLOW
SPOKANE WA 99217

RESIDENT
3824 E LONGFELLOW
SPOKANE WA 99217

RESIDENT
3714 E PRINCETON
SPOKANE WA 99217

RESIDENT
3629 E PRINCETONW
SPOKANE WA 99217

RESIDENT
4630 N FREYA
SPOKANE WA 99207-6807

RESIDENT
4704 N FREYA
SPOKANE WA 99207-6808

RESIDENT
4710 N FREYA
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RESIDENT
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SPOKANE WA 99207-6825

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RESIDENT
3528 E BROAD
SPOKANE WA 99207-6801

RESIDENT
3524 E BROAD
SPOKANE WA 99207-6801

RESIDENT
3511 E BROAD
SPOKANE WA 99207-6801

RESIDENT
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APPENDIX C

GLOSSARY

Agreed Order: A legal document issued by Ecology which formalizes an agreement between the department and potentially liable persons (PLPs) for the actions needed at a site. An agreed order is subject to public comment. If an order is substantially changed, an additional comment period is provided.

Applicable State and Federal Law: All legally applicable requirements and those requirements that Ecology determines are relevant and appropriate requirements.

Area Background: The concentrations of hazardous substances that are consistently present in the environment in the vicinity of a site which are the result of human activities unrelated to releases from that site.

Carcinogen: Any substance or agent that produces or tends to produce cancer in humans.

Chronic Toxicity: The ability of a hazardous substance to cause injury or death to an organism resulting from repeated or constant exposure to the hazardous substance over an extended period of time.

Cleanup: The implementation of a cleanup action or interim action.

Cleanup Action: Any remedial action, except interim actions, taken at a site to eliminate, render less toxic, stabilize, contain, immobilize, isolate, treat, destroy, or remove a hazardous substance that complies with cleanup levels; utilizes permanent solutions to the maximum extent practicable; and includes adequate monitoring to ensure the effectiveness of the cleanup action.

Cleanup Action Plan: A document which identifies the cleanup action and specifies cleanup standards and other requirements for a particular site. After completion of a comment period on a Draft Cleanup Action Plan, Ecology will issue a final Cleanup Action Plan.

Cleanup Level: The concentration of a hazardous substance in soil, water, air or sediment that is determined to be protective of human health and the environment under specified exposure conditions.

Cleanup Process: The process for identifying, investigating, and cleaning up hazardous waste sites.

Consent Decree: A legal document, approved and issued by a court which formalizes an agreement reached between the state and potentially liable persons (PLPs) on the

actions needed at a site. A decree is subject to public comment. If a decree is substantially changed, an additional comment period is provided.

Containment: A container, vessel, barrier, or structure, whether natural or constructed, which confines a hazardous substance within a defined boundary and prevents or minimizes its release into the environment.

Contaminant: Any hazardous substance that does not occur naturally or occurs at greater than natural background levels.

Enforcement Order: A legal document, issued by Ecology, requiring remedial action. Failure to comply with an enforcement order may result in substantial liability for costs and penalties. An enforcement order is subject to public comment. If an enforcement order is substantially changed, an additional comment period is provided.

Environment: Any plant, animal, natural resource, surface water (including underlying sediments), ground water, drinking water supply, land surface (including tidelands and shorelands) or subsurface strata, or ambient air within the state of Washington.

Exposure: Subjection of an organism to the action, influence or effect of a hazardous substance (chemical agent) or physical agent.

Exposure Pathways: The path a hazardous substance takes or could take from a source to an exposed organism. An exposure pathway describes the mechanism by which an individual or population is exposed or has the potential to be exposed to hazardous substances at or originating from the site. Each exposure pathway includes an actual or potential source or release from a source, an exposure point, and an exposure route. If the source exposure point differs from the source of the hazardous substance, exposure pathway also includes a transport/exposure medium.

Facility: Any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly-owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, vessel, or aircraft; or any site or area where a hazardous substance, other than a consumer product in consumer use, has been deposited, stored, disposed or, placed, or otherwise come to be located.

Feasibility Study (FS): A study to evaluate alternative cleanup actions for a site. A comment period on the draft report is required. Ecology selects the preferred alternative after reviewing those documents.

Free Product: A hazardous substance that is present as a nonaqueous phase liquid (that is, liquid not dissolved in water).

Groundwater: Water found beneath the earth's surface that fills pores between materials such as sand, soil, or gravel. In aquifers, groundwater occurs in sufficient quantities that it can be used for drinking water, irrigation, and other purposes.

Hazardous Sites List: A list of sites identified by Ecology that requires further remedial action. The sites are ranked from 1 to 5 to indicate their relative priority for further action.

Hazardous Substance: Any dangerous or extremely hazardous waste as defined in RCW 70.105.010 (5) (any discarded, useless, unwanted, or abandoned substances including, but not limited to, certain pesticides, or any residues or containers of such substances which are disposed of in such quantity or concentration as to pose a substantial present or potential hazard to human health, wildlife, or the environment because such wastes or constituents or combinations of such wastes; (a) have short-lived, toxic properties that may cause death, injury, or illness or have mutagenic, teratogenic, or carcinogenic properties; or (b) are corrosive, explosive, flammable, or may generate pressure through decomposition or other means,) and (6) (any dangerous waste which (a) will persist in a hazardous form for several years or more at a disposal site and which in its persistent form presents a significant environmental hazard and may affect the genetic makeup of man or wildlife; and is highly toxic to man or wildlife; (b) if disposed of at a disposal site in such quantities as would present an extreme hazard to man or the environment), or any dangerous or extremely dangerous waste as designated by rule under Chapter 70.105 RCW; any hazardous substance as defined in RCW 70.105.010 (14) (any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the characteristics or criteria of hazardous waste as described in rules adopted under this chapter,) or any hazardous substance as defined by rule under Chapter 70.105 RCW; petroleum products.

Hazardous Waste Site: Any facility where there has been a confirmation of a release or threatened release of a hazardous substance that requires remedial action.

Independent Cleanup Action: Any remedial action conducted without Ecology oversight or approval, and not under an order or decree.

Initial Investigation: An investigation to determine that a release or threatened release may have occurred that warrants further action.

Interim Action: Any remedial action that partially addresses the cleanup of a site.

Mixed Funding: Any funding, either in the form of a loan or a contribution, provided to potentially liable persons from the state toxics control account.

Model Toxics Control Act (MTCA): Washington State's law that governs the investigation, evaluation and cleanup of hazardous waste sites. Refers to RCW 70.105D. It was

approved by voters at the November 1988 general election and known as Initiative 97. The implementing regulation is WAC 173-340.

Monitoring Wells: Special wells drilled at specific locations on or off a hazardous waste site where groundwater can be sampled at selected depths and studied to determine the direction of groundwater flow and the types and amounts of contaminants present.

Natural Background: The concentration of hazardous substance consistently present in the environment which has not been influenced by localized human activities.

National Priorities List (NPL): EPA's list of hazardous waste sites identified for possible long-term remedial response with funding from the federal Superfund trust fund.

Owner or Operator: Any person with any ownership interest in the facility or who exercises any control over the facility; or in the case of an abandoned facility, any person who had owned or operated or exercised control over the facility any time before its abandonment.

Polynuclear Aromatic Hydrocarbon (PAH): A class of organic compounds, some of which are long-lasting and carcinogenic. These compounds are formed from the combustion of organic material and are ubiquitous in the environment. PAHs are commonly formed by forest fires and by the combustion of fossil fuels.

Potentially Liable Person (PLP): Any person whom Ecology finds, based on credible evidence, to be liable under authority of RCW 70.105D.040.

Public Notice: At a minimum, adequate notice mailed to all persons who have made a timely request of Ecology and to persons residing in the potentially affected vicinity of the proposed action; mailed to appropriate news media; published in the local (city or county) newspaper of largest circulation; and opportunity for interested persons to comment.

Public Participation Plan: A plan prepared under the authority of WAC 173-340-600 to encourage coordinated and effective public involvement tailored to the public's needs at a particular site.

Recovery By-Products: Any hazardous substance, water, sludge, or other materials collected in the free product removal process in response to a release from an underground storage tank.

Release: Any intentional or unintentional entry of any hazardous substance into the environment, including, but not limited to, the abandonment or disposal of containers of hazardous substances.

Remedial Action: Any action to identify, eliminate, or minimize any threat posed by hazardous substances to human health or the environment, including any investigative and monitoring activities of any release or threatened release of a hazardous substance and any health assessments or health effects studies.

Remedial Investigation: A study to define the extent of problems at a site. When combined with a study to evaluate alternative cleanup actions it is referred to as a Remedial Investigation/Feasibility Study (RI/FS). In both cases, a comment period on the draft report is required.

Responsiveness Summary: A compilation of all questions and comments to a document open for public comment and their respective answers/replies by Ecology. The Responsiveness Summary is mailed, at a minimum, to those who provided comments and its availability is published in the Site Register.

Risk Assessment: The determination of the probability that a hazardous substance, when released into the environment, will cause an adverse effect in exposed humans or other living organisms.

Sensitive Environment: An area of particular environmental value, where a release could pose a greater threat than in other areas including: wetlands; critical habitat for endangered or threatened species; national or state wildlife refuge; critical habitat, breeding or feeding area for fish or shellfish; wild or scenic river; rookery; riparian area; big game winter range.

Site: See Facility.

Site Characterization Report: A written report describing the site and nature of a release from an underground storage tank, as described in WAC 173-340-450 (4) (b).

Site Hazard Assessment (SHA): An assessment to gather information about a site to confirm whether a release has occurred and to enable Ecology to evaluate the relative potential hazard posed by the release. If further action is needed, an RI/FS is undertaken.

Site Register: Publication issued every two weeks of major activities conducted statewide related to the study and cleanup of hazardous waste sites under the Model Toxics Control Act. To receive this publication, please call (360) 407-7200.

Surface Water: Lakes, rivers, ponds, streams, inland waters, salt waters, and all other surface waters and water courses within the state of Washington or under the jurisdiction of the state of Washington.

TCP: Toxics Cleanup Program at Ecology

Total Petroleum Hydrocarbons (TPH): A scientific measure of the sum of all petroleum hydrocarbons in a sample (without distinguishing one hydrocarbon from another). The “petroleum hydrocarbons” include compounds of carbon and hydrogen that are derived from naturally occurring petroleum sources or from manufactured petroleum products (such as refined oil, coal, and asphalt).

Toxicity: The degree to which a substance at a particular concentration is capable of causing harm to living organisms, including people, plants and animals.

Underground Storage Tank (UST): An underground storage tank and connected underground piping as defined in the rules adopted under Chapter 90.76 RCW.

Washington Ranking Method (WARM): Method used to rank sites placed on the hazardous sites list. A report describing this method is available from Ecology.

EXHIBIT 18



JOHN M. DONNAN
Senior Vice President, Secretary and General
Counsel

August 20, 2008

Via Federal Express

RECEIVED

AUG 21 2008

DEPARTMENT OF ECOLOGY
EASTERN REGIONAL OFFICE

Sandra Treccani, Toxics Cleanup Program
Eastern Regional Office
WA Department of Ecology
4601 N. Monroe
Spokane, WA 99205

Re: "Aluminum Recycling – Trentwood," 2317 N Sullivan Rd, Veradale, WA 99037;
July 23, 2008 Notice of Potential Liability under the Model Toxics Control Act

Dear Ms. Treccani:

On behalf of Kaiser Aluminum & Chemical Corporation LLC ("KACCLLC"), successor-in-interest to Kaiser Aluminum & Chemical Corporation ("KACC"), I am responding to your July 23, 2008 Notice of Potential Liability (the "Notice") concerning the above-referenced site (the "Site"). The Notice explains that Washington Department of Ecology has identified Kaiser Aluminum as a Potentially Liable Person ("PLP") at the Site. For the reasons outlined below, KACCLLC respectfully challenges its status as a PLP at the Site and declines to participate in the proposed process described in your Notice.

On February 12, 2002, KACC, along with several affiliated companies, filed for reorganization under chapter 11 of the United States Bankruptcy Code. As part of certain restructuring transactions consummated in connection with KACC's plan of reorganization, KACC was merged into KACCLLC in 2006 and thus KACCLLC is the successor-in-interest to KACC.

The liabilities asserted against KACC concerning the Site were discharged pursuant to the plan of reorganization (the "Plan") applicable to KACC and the February 6, 2006 order of the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court") confirming the Plan (the "Confirmation Order").¹ Of further note, the injunctions the Bankruptcy Court issued in connection with confirmation of the Plan permanently enjoin all entities from commencing or continuing any action or other proceeding against, *inter alia*, KACC or KACCLLC on account of any claim or liability arising on or before the July 6, 2006 effective date of the Plan (the "Effective Date"). All of the acts that allegedly caused the contamination at the Site occurred and any claims against KACC relating to the environmental conditions at the Site arose well before the Effective Date.

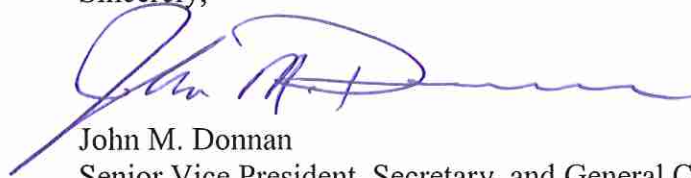
¹ The United States District Court for the District of Delaware entered an order affirming the Confirmation Order on May 11, 2006. The Plan became effective on July 6, 2006.

27422 Portola Parkway, Suite 350
Foothill Ranch, California 92610-2831
Tel (949) 614-1767
Fax (949) 614-1867

Further, on August 17, 2003, KACC entered into a multi-site consent decree (the "Consent Decree") with the United States, on behalf of USEPA and certain other federal agencies; certain states, including the State of Washington; and the Puyallup Tribe of Indians.² The Bankruptcy Court approved the Consent Decree on October 27, 2003. A copy of the Consent Decree is enclosed for your convenience.

The Consent Decree categorizes each site with respect to which KACC has been or could be alleged to be responsible for environmental contamination as either a Liquidated Site, a Discharged Site, a Debtor-Owned Site, a Reserved Site or an Additional Site (as each such term is defined in the Consent Decree). The Aluminum Recycling Site would be classified as an Additional Site. Accordingly, KACC's alleged liability for the Site was discharged under section 1141 of the United States Bankruptcy Code by the confirmation of the Plan, and KACC no longer is obligated to participate in clean-up activities or subject to orders to do so. *See* CONSENT DECREE, ¶ 7. There is a process for potential allowance of a monetary claim, which would be liquidated and satisfied in the same manner and at the same rate as were prepetition, general unsecured claims in KACC's Bankruptcy proceedings. *See id.*, ¶ 8. However, this process is different from that outlined in the Notice.

Sincerely,



John M. Donnan
Senior Vice President, Secretary, and General Counsel
Kaiser Aluminum & Chemical Corporation LLC

enclosure—as stated.

² The United States published notice of the proposed Consent Decree in the Federal Register at 68 Fed. Reg. 51596 (Aug. 27, 2003).

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In Re:

KAISER ALUMINUM CORPORATION,
a Delaware corporation, et al.,

Debtors.

Jointly Administered

Case No. 02-10429 (JKF)

Chapter 11

CONSENT DECREE

WHEREAS Kaiser Aluminum Corporation (“KAC”) and certain of its affiliates, including debtor-in-possession, Kaiser Aluminum & Chemical Corporation (“KACC”), (collectively the “Debtors”) filed with the United States Bankruptcy Court for the District of Delaware (the “Court” or “Bankruptcy Court”) voluntary petitions for relief under Title 11 of the United States Code (the “Bankruptcy Code”) on various dates as set forth in Attachment A hereto, which cases have been consolidated for procedural purposes and are being administered jointly, styled *In re Kaiser Aluminum Corporation, et al.*, Case No. 02-10429 (JKF) (the “Chapter 11 Cases”);

WHEREAS the United States, on behalf of the United States Environmental Protection Agency (“EPA”), the Department of Interior (“DOI”) and the National Oceanic and Atmospheric Administration (“NOAA”) (collectively, the “Settling Federal Agencies”), contends that the Debtors are liable for response costs incurred and to be incurred by the United States in the course of responding to releases and threats of releases of hazardous substances into the environment for the Liquidated Sites as set forth herein and natural resource damages relating to such sites;

WHEREAS the United States, on behalf of EPA, DOI, NOAA and the Nuclear Regulatory Commission (“NRC”), has filed a proof of claim, Claim No. 7135, against the Debtors (“Claim No. 7135”);

WHEREAS the States of California, Rhode Island and Washington (the "States") contend that the Debtors are liable for response costs incurred and to be incurred by the States in the course of responding to releases and threats of releases of hazardous substances into the environment for certain of the Liquidated Sites as set forth herein and natural resource damages relating to such sites;

WHEREAS the State of California has filed a proof of claim, Claim No. 7297, against KACC ("Claim No. 7297");

WHEREAS the State of Rhode Island has filed a proof of claim, Claim No. 7111, against the Debtors ("Claim No. 7111");

WHEREAS the State of Washington has filed a proof of claim, Claim No. 7181, against KAC ("Claim No. 7181");

WHEREAS the Puyallup Tribe of Indians (the "Tribe") contends that the Debtors are liable for natural resource damages relating to a certain Liquidated Site as set forth herein and has filed a proof of claim, Claim No. 1727, against KAC ("Claim No. 1727");

WHEREAS the Debtors would dispute the United States', the States', and the Tribe's contentions and would object, in whole or in part, to their proofs of claim;

WHEREAS the Debtors seek, to the maximum extent permitted by law, to obtain protection, through the resolution of environmental liabilities for the Liquidated Sites as set forth herein, from and against all Claims that have been or may in the future be asserted for response costs or natural resource damages;

WHEREAS the Debtors, the Settling Federal Agencies, the States, and the Tribe wish to resolve their differences with respect to the Liquidated Sites and with respect to the proofs of claim of the Settling Federal Agencies, the States, and the Tribe, as well as to address other issues relating to environmental matters as provided herein;

WHEREAS in consideration of, and in exchange for, the promises and covenants herein, including, without limitation, the covenants not to sue set forth in Paragraphs 18, 20 and 24 and,

subject to the provisions of Paragraphs 28-30 and intending to be legally bound hereby, the Debtors, the Settling Federal Agencies, the States and the Tribe hereby agree to the terms and provisions of this Consent Decree;

WHEREAS settlement of the matters governed by this Consent Decree is in the public interest and an appropriate means of resolving these matters and will lead to a more expeditious cleanup of hazardous substances in compliance with federal and state laws and regulations, including cleanup standards under Wash. Rev. Code § 70.105D.030(2)(e);

NOW, THEREFORE, without the admission of liability or any adjudication on any issue of fact or law, and upon the consent and agreement of the parties to this Consent Decree by their attorneys and authorized officials, it is hereby agreed as follows:

DEFINITIONS

1. In this Agreement, the following terms shall have the following meanings:
 - A. “Additional Sites” means all sites and properties, including, without limitation, all facilities, as that term is defined in CERCLA, other than the Liquidated Sites, the Discharged Sites, the Debtor-Owned Sites and the Reserved Sites. An “Additional Site” shall be construed to include (i) for those sites now or hereafter included on the NPL, all areas of a site as defined by EPA for purposes of the NPL, including any later expansion of such site as may be determined by EPA, and any affected natural resources, and (ii) for those sites or portions of sites not included on the NPL, all areas and natural resources affected or potentially affected by the release or threatened release of hazardous substances.
 - B. “Allowed General Unsecured Claim” against a particular Debtor shall have the meaning set forth in the Plan of Reorganization.
 - C. “CERCLA” refers to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601 *et seq.*, as now in effect or hereafter amended.
 - D. “Claims” has the meaning provided in Section 101(5) of the Bankruptcy Code.

E. “Debtors” means Kaiser Aluminum Corporation and certain of its affiliates listed on Attachment A hereto that filed voluntary petitions for relief on the respective dates set forth on Attachment A hereto, as debtors, debtors-in-possession or in a new or reorganized form as a result of the Chapter 11 Cases.

F. “Debtor-Owned Sites” means any properties, facilities or sites owned by any of the Debtors at or at any time after the confirmation of the Plan of Reorganization, except that Debtor-Owned Sites shall not include any Reserved Sites as defined below.

G. “Discharged Sites” means the following 18 sites (in alphabetical order) which shall have the Claims treatment set forth in Paragraph 17:

- American Barrel/ Utah Power & Light in Salt Lake City, UT
- Brantley Landfill in Island, KY
- Colorado School of Mines in Denver, CO
- Des Moines Barrel & Drum Site in Des Moines, IA
- Fike-Artel Chemical Site in Nitro, WV
- Hillyard Processing (aka Aluminum Recycling Corp.) in Spokane, WA (with respect to the State of Washington only)
- J.I.S. Landfill in Jamesburg, NJ
- Kaiser Center in Oakland, CA (with respect to the State of California only)
- Kin-Buc Landfill in Edison, NJ
- Lawrence County Landfill in Lawrence County, IN
- Many Diversified Interests in Houston, TX
- Marco of Iota in Iota, LA
- Metro Container in Trainer, PA
- Mexico Feed & Seed/ Pierce Waste Oil Services in Mexico, MO
- Miami County Incinerator in Troy, OH
- New Lyme Landfill in New Lyme, OH

- North American Environmental in Clearfield, UT
- Pottstown in Pottstown, PA.

A “Discharged Site” delineated above shall be construed to include (i) for those sites now or hereafter included on the NPL, all areas of a site as defined by EPA for purposes of the NPL, including any later expansion of such site as may be determined by EPA, and any affected natural resources, or (ii) for those sites or portions of sites not included on the NPL, all areas and natural resources affected or potentially affected by the release or threatened release of hazardous substances.

H. “DOI” means the Department of the Interior of the United States of America or any legal successor thereto.

I. “EPA” means the United States Environmental Protection Agency or any legal successor thereto.

J. “Effective Date” means the date on which this Consent Decree is approved by the Bankruptcy Court.

K. “Effective Date of the Plan of Reorganization” means the date on which any plan of reorganization that includes KACC and is confirmed becomes effective in accordance with its terms.

L. “KACC” means Kaiser Aluminum & Chemical Corporation as debtor, debtor-in-possession or in a new or reorganized form as a result of the Chapter 11 Cases.

M. “Liquidated Sites” means the following 66 sites (in alphabetical order) which shall have the Claims treatment as set forth in Paragraphs 4(A), 4(B) or 4(C) below, as noted in parentheses:

- Aberdeen Pesticide Dumps Superfund Site in Aberdeen, NC (Paragraph 4(C))
- American Chemical Services in Griffith, IN (Paragraph 4(B))
- Aqua Tech Environmental Inc. in Greer, SC (Paragraph 4(B))
- ARRCOM Corporation in Kootenai County, ID (Paragraph 4(B))

- Bay Area Drum Site in San Francisco, CA (Paragraph 4(C))
- Bay Drums (aka Peak Oil Co.) in Brandon, FL (Paragraph 4(C))
- Bayou Sorrel in Bayou Sorrell, LA (Paragraph 4(C))
- Breslube Penn Superfund Site in Coroapolis, PA (Paragraph 4(C))
- Cannons Engineering Corporation in Bridgewater, MA, Plymouth, MA and Londonderry, NH and Gilson Road, aka Sylvester's in Nashua, NH (Paragraph 4(B))
- Casmalia Disposal Site in Santa Barbara County, CA (Paragraph 4(C))
- Center for Technology (aka CFT or Pleasanton Center for Technology) in Pleasanton, CA (Paragraph 4(C)) (with respect to the State of California only)
- Chemical Control Superfund Site in Elizabeth, NJ (Paragraph 4(B))
- Chemical Handling Corporation in Broomfield, CO; (Paragraph 4(B))
- Coastal Radiation Services in St. Gabriel, LA (Paragraph 4(C))
- Combustion Inc. in Livingston, LA (Paragraph 4(C))
- Commencement Bay (Hylebos Waterway) in Tacoma, WA (Paragraph 4(C))
- Commercial Oil Services in Toledo, OH (Paragraph 4(B))
- Custom Distribution Services in Perth Amboy, NJ (Paragraph 4(A))
- Diamond State Salvage Yard in Wilmington, DE (Paragraph 4(A))
- Doepke-Holliday in Johnson County, KS (Paragraph 4(B))
- Douglassville Disposal/ Berks Reclamation in Douglassville, PA (Paragraph 4(C))
- Dubose Oil Products Superfund Site in Cantonment, FL (Paragraph 4(C))
- Dutchtown Refinery in Dutchtown, LA (Paragraph 4(C))
- Eastern Diversified Metals Superfund Site in Hometown, PA (Paragraph 4(C))
- Ekotek (aka Petrochem Recycling) in Salt Lake City, UT (Paragraph 4(B))
- Ellis Road in Jacksonville, FL (Paragraph 4(B))

- Envirotek II in Tonawanda, NY (Paragraph 4(B))
- Ettlinger's Pit in Duval County, FL (Paragraph 4(A))
- Four County Landfill in De Long, IN (Paragraph 4(B))
- French Limited in Crosby, TX (Paragraph 4(B))
- Geigy Superfund Site in Aberdeen, NC (Paragraph 4(C))
- General Refining in Garden City, GA (Paragraph 4(A))
- Gibson Environmental, Inc. in Bakersfield, CA (Paragraph 4(C))
- Great Lakes Container in St. Louis, MO (Paragraph 4(A))
- Higgins Disposal in Somerset County, NJ (Paragraph 4(A))
- Hillsdale Drums in Hillsdale and Amite, LA (Paragraph 4(B))
- Huth Oil Services in Cleveland, OH (Paragraph 4(C))
- Laskin Poplar in Ashtabula County, OH (Paragraph 4(B))
- Liquid Disposal in Utica, MI (Paragraph 4(B))
- Liquid Dynamics in Chicago, IL (Paragraph 4(C))
- Lorentz Barrel & Drum in San Jose, CA (Paragraphs 4(B))
- Marzone in Tipton, GA (Paragraph 4(C))
- Metamora Landfill in Lapeer County, MI (Paragraph 4(A))
- Moyer's Landfill in Collegeville, PA (Paragraph 4(B))
- Operating Industries, Inc. Corporation in Monterey Park, CA (Paragraph 4(B))
- Pickettville Road Landfill Site in Jacksonville, FL (Paragraph 4(C))
- PRC Patterson in Patterson, CA (Paragraph 4(C))
- Pristine, Inc. in Reading, OH (Paragraph 4(B))
- Quicksilver Products, Inc. in Brisbane, CA (Paragraph 4(A)) (with respect to the State of California only)
- Richmond Railyard in Richmond, CA (Paragraph 4(A))

- Richmond Shipyard No. 2 (aka Marina Bay Development) in Richmond, CA (Paragraph 4(C))
- Rouse Steel Drums in Jacksonville, FL (Paragraph 4(B))
- Sadler Drum Superfund Site in Mulberry, FL (Paragraph 4(C))
- Sand Springs Petrochemical Complex in Sand Springs, OK (Paragraph 4(B))
- Sea Cliff Marina in Richmond, CA (Paragraph 4(A)) (with respect to the State of California only)
- Spokane Junkyard in Spokane, WA (Paragraph 4(C))
- Stickney Ave. Landfill & Tyler St. Dump in Toledo, OH (Paragraph 4(A))
- Tacoma Reduction Facility in Tacoma, WA (Paragraph 4(A))
- Tex-Tin in Texas City, TX (Paragraph 4(C))
- Tremont City Landfill in Clark County, OH (Paragraph 4(C))
- Tri-County and Elgin Landfills in South Elgin, IL (Paragraph 4(C))
- Waste, Inc. Landfill in Michigan City, IN (Paragraph 4(A))
- West County Landfill Site in Contra Costa County, CA (Paragraph 4(B))
- West Virginia Ordnance Works (aka Point Pleasant Landfill) in Mason County, WV (Paragraph 4(C))
- XTRON in Blanding, UT (Paragraph 4(B))
- Yellow Water Road Superfund Site in Baldwin, FL (Paragraph 4(B))

A "Liquidated Site" delineated above shall be construed to include (i) for those sites now or hereafter included on the NPL, all areas of a site as defined by EPA for purposes of the NPL, including any later expansion of such site as may be determined by EPA, and any affected natural resources, or (ii) for those sites or portions of sites not included on the NPL, all areas and natural resources affected or potentially affected by the release or threatened release of hazardous substances.

N. "NOAA" means the National Oceanic and Atmospheric Administration of the United States Department of Commerce of the United States of America or any legal successor thereto.

O. "NPL" means the National Priorities List, 40 C.F.R. Part 300.

P. "NRC" means the Nuclear Regulatory Commission of the United States or any legal successor thereto.

Q. "Plan of Reorganization" or "Plan" means any plan of reorganization that includes KACC and is confirmed and becomes effective in the Chapter 11 Cases.

R. "Prepetition" with respect to a Debtor refers to the time period on or prior to the date such Debtor filed a voluntary petition for relief under Title 11 of the Bankruptcy Code, as set forth in Attachment A hereto. "Postpetition" with respect to a Debtor refers to the time period from and after the date such Debtor filed a voluntary petition for relief under Title 11 of the Bankruptcy Code, as set forth in Attachment A hereto.

S. "RCRA" refers to the Resource Conservation and Recovery Act, 42 U.S.C. §6901 *et seq.* as now in effect or hereafter amended.

T. "Reserved Sites" means the following sites: Mead Aluminum Reduction Works in Mead, WA; Spokane River (including Upriver Dam) in Spokane, WA; Mica Landfill in Spokane, WA; Tulsa Thorium Remediation Site # 9875 (aka Specialty Products Site) in Tulsa, OK; Ravenswood Aluminum Smelter and Rolled Products Facility in Ravenswood, WV; and Ohiopyle in Ohiopyle, PA.

U. "Settling Federal Agencies" means, collectively, DOI, EPA and NOAA.

V. "Similar State Laws and Tribal Laws" shall include, but not be limited to: the Hazardous Substance Account Act, Cal. Health & Safety Code section 25300 *et seq.*; the Rhode Island Hazardous Waste Management Act of 1978, R.I. Gen. Laws ch. 23-19.1 *et seq.*; the Rhode Island Groundwater Protection Act of 1985, R.I. Gen. Laws ch. 46-13.1 *et seq.*; the Rhode Island Water Pollution Act, R.I. Gen. Laws ch. 46-12 *et seq.*; the Washington State Model

Toxics Control Act, RCW 70.105D; and the Puyallup Tribal Interim Hazardous Substances Control Act, Puyallup Tribal Code, Title 10, Chapter 1.

W. State of California means, collectively, the California Department of Toxic Substances Control (“DTSC”) and the California Department of Fish and Game (“DFG”).

X. State of Rhode Island means the Rhode Island Department of Environmental Management.

Y. State of Washington means, collectively, the Washington State Department of Ecology and the Washington State Department of Fish & Wildlife.

Z. “States” means the State of California, the State of Rhode Island and the State of Washington.

AA. “Tribe” means the Puyallup Tribe of Indians.

BB. “United States” means the United States of America, including EPA, DOI, NOAA, NRC and all of the United States’ agencies, departments and instrumentalities.

JURISDICTION

2. The Court has jurisdiction over the subject matter hereof pursuant to 28 U.S.C. §§157, 1331, and 1334, and 42 U.S.C. §§9607 and 9613(b).

PARTIES BOUND; SUCCESSION AND ASSIGNMENT

3. This Consent Decree applies to, is binding upon, and shall inure to the benefit of the United States, the States, the Tribe, the Debtors, and the Debtors’ legal successors and assigns, and any trustee, examiner or receiver appointed in the Bankruptcy Cases.

ALLOWANCE OF CLAIMS

4. In settlement and satisfaction of the Claims of the Settling Federal Agencies, the States and the Tribe under CERCLA, Section 7003 of RCRA and all Similar State Laws and Tribal Laws with respect to the Liquidated Sites, the Debtors consent to Allowed General Unsecured Claims against KACC in the amounts set forth in Paragraphs 4(A), 4(B) and 4(C) below. The Settling Federal Agencies, the States and the Tribe shall receive no distributions

from the Debtors in the Chapter 11 Cases with respect to any Debtor's liabilities and obligations under CERCLA, Section 7003 of RCRA and Similar State Laws and Tribal Laws for the Liquidated Sites other than as set forth in this Consent Decree. If no amount of allowed claim is listed below for EPA, DOI, NOAA, NRC, the Tribe, DTSC, DFG, or the State of Washington for a particular Liquidated Site, then the amount of the allowed claim for such entity for the Liquidated Site is zero.

A. With respect to the following Liquidated Sites, the following parties shall have Allowed General Unsecured Claims in the amount of zero (\$ 0) because the parties agree that a settlement for no liability under CERCLA, Section 7003 of RCRA and Similar State Laws and Tribal Laws for such Liquidated Sites is appropriate:

<u>Site Name and Location</u>	<u>EPA Region</u>	<u>Claim Recipient</u>	<u>Amount of Allowed General Unsecured Claim</u>
Custom Distribution Services, Perth Amboy, NJ	2	EPA	\$ 0
Diamond State Salvage Yard, Wilmington, DE	3	EPA	\$ 0
Ettlinger's Pit, Duval County, FL	4	EPA	\$ 0
General Refining, Garden City, GA	4	EPA	\$ 0
Great Lakes Container, St. Louis, MO	7	EPA	\$ 0
Higgins Disposal, Somerset County, NJ	2	EPA	\$ 0
Metamora Landfill, Lapeer County, MI	5	EPA	\$ 0
Quicksilver Products, Inc., Brisbane, CA (with respect to State of CA only)	9	CA	\$ 0
Richmond Railyard, Richmond, CA	9	CA	\$ 0

<u>Site Name and Location</u>	<u>EPA Region</u>	<u>Claim Recipient</u>	<u>Amount of Allowed General Unsecured Claim</u>
Sea Cliff Marina, Richmond, CA (with respect to State of CA only)	9	CA	\$ 0
Stickney Ave. Landfill & Tyler St. Dump, Toledo, OH	5	EPA	\$ 0
Tacoma Reduction Facility, Tacoma, WA	10	WA EPA	\$ 0 \$ 0
Waste, Inc. Landfill, Michigan City, IN	5	EPA	\$ 0

B. With respect to the following Liquidated Sites, the following parties shall have Allowed General Unsecured Claims in the amount of zero (\$ 0) because the parties agree that such a settlement is appropriate on account of payments previously made by KACC, including in the amounts, on the dates and to the recipients listed below:

<u>Site Name and Location</u>	<u>Claim Recipient</u>	<u>Amount(s) of Payments Made</u>	<u>Date(s) of Payments</u>	<u>Recipient(s) of Payments</u>
American Chemical Services, Griffith, IN	EPA	\$8,726.35	1/17/95	American National Bank and Trust Company of Chicago Corporate Trust Division (cc EPA 5)
Aqua Tech Environmental Inc., Greer, SC	EPA	\$4,000	11/11/93 to 9/11/95	Aqua-Tech PRP Group Trust Fund
ARRCOM Corporation, Kootenai County, ID	EPA	\$234,600	4/6/92	Mellon Bank, Superfund Accounting, US EPA Region 10

<u>Site Name and Location</u>	<u>Claim Recipient</u>	<u>Amount(s) of Payments Made</u>	<u>Date(s) of Payments</u>	<u>Recipient(s) of Payments</u>
Cannons Engineering Corporation in Bridgewater, MA, Plymouth, MA and Londonderry, NH and Gilson Road, aka Sylvester's in Nashua, NH	EPA	\$41,746.80 \$4,745.88 \$4,005.30	8/88	EPA, Massachusetts, New Hampshire
Chemical Control Superfund Site, Elizabeth, NJ	EPA	\$250 \$2,500 \$1,000 \$2,475 \$6,000 \$160,002.07 \$120,886.42	5/24/89 5/24/89 5/24/89 8/26/91 8/27/90 11/22/91 11/11/98	Chemical Control Joint Admin Fund State Chem Control Joint Defense Fund Fed Chem Control Joint Defense Fund Chemical Control PRP Group Admin Fund Richard White, Esq. Of Putnam, Hayes & Bartlett, Inc. Chemical Control PRP Trust Fund, Chemical Control State Settlement Escrow Account
Chemical Handling Corporation, Broomfield, CO	EPA	\$106.10	9/30/96	EPA Hazardous Substance Superfund
Commercial Oil Services, Toledo, OH	EPA	\$61,064.42	6/24/88 to 3/2/94	Commercial Oil Services Steering Committee
Doepke-Holliday, Johnson County, KS	EPA	\$15,000	1/17/95	Holliday Remediation Task Force
Ekotek (aka Petrochem Recycling), Salt Lake City, UT	EPA	\$250	5/18/94	Ekotek Site Remediation Committee

<u>Site Name and Location</u>	<u>Claim Recipient</u>	<u>Amount(s) of Payments Made</u>	<u>Date(s) of Payments</u>	<u>Recipient(s) of Payments</u>
Ellis Road, Jacksonville, FL	EPA	\$8,235.93	2/9/89 to 5/8/92	Ellis Road Steering Committee Trust Fund
Envirotek II, Tonawanda, NY	EPA	\$250	3/18/91	Sent to Saperston & Day of Buffalo, NY - administrators of Envirotek II Escrow Fund
Four County Landfill, De Long, IN	EPA	\$3,000	5/8/99	Four County Landfill Operable Unit One RD RA Group
French Limited, Crosby, TX	EPA	\$540	4/27/93	FLTG, Inc. Coopers & Lybrand, Trustee
Hillsdale Drums Hillsdale and Amite, LA	EPA	\$20,000 \$786.87	6/27/94 6/27/94	Texas Commerce Bank Nat'l Assn Hillsdale Group Administrative Fund
Laskin Poplar, Ashtabula County, OH	EPA	\$13,500 \$4,034	10/27/87 11/18/94 to 6/1/00	October 1986 Laskin Settlement Trust Fund Laskin Final Remediation Trust Fund
Liquid Disposal, Utica, MI	EPA	\$1,250 \$17,940.01	12/19/85 to 9/21/87 2/22/90	LDI PRP Admin Fund LDI De Minimis Settlement Fund
Lorentz Barrel & Drum, San Jose, CA	EPA CA (DTSC)	\$5,447.75 \$2,563.65	10/18/96	Lorentz Superfund Site De minimis Escrow Acct
Moyer's Landfill, Collegeville, PA	EPA	\$178,479 \$33,996	11/97 11/5/97	U.S. Dept. of Justice Hazardous Sites Cleanup Fund, Commonwealth Environmental Cleanup Program

<u>Site Name and Location</u>	<u>Claim Recipient</u>	<u>Amount(s) of Payments Made</u>	<u>Date(s) of Payments</u>	<u>Recipient(s) of Payments</u>
Operating Industries, Inc. Corporation, Monterey Park, CA	EPA	\$122,148	1/14/99	OII Fifth Partial Consent Decree Escrow Account
Pristine, Inc., Reading, OH	EPA	\$2,000 \$250	11/19/90 9/3/93	Pristine Facility 468B Trust Fund Pristine City Steering Committee Repository Acct
Rouse Steel Drums, Jacksonville, FL	EPA	\$16,076.94	8/11/00	Rouse Steel Drum PRP Group
Sand Springs Petrochemical Complex, Sand Springs, OK	EPA	\$500 \$5,375	9/21/87 2/22/91	Sand Springs Superfund PRP Group Sand Springs Superfund PRP Trust
West County Landfill Site, Contra Costa County, CA	CA (DTSC)	\$213,000	2/10/97	West County Landfill Premium Fund
XTRON, Blanding, UT	EPA	\$20,000	8/27/91	Participating Respondents Xtron Site Account
Yellow Water Road Superfund Site, Baldwin, FL	EPA	\$41,629.50	5/6/94 to 5/7/94	EPA Hazardous Substance

C. With respect to the following Liquidated Sites, the following parties shall have Allowed General Unsecured Claims in the amounts set forth below:

<u>Site Name and Location</u>	<u>EPA Region</u>	<u>Claim Recipient</u>	<u>Amount of Allowed General Unsecured Claim</u>
Aberdeen Pesticide Dumps Superfund Site, Aberdeen, NC	4	EPA	\$323,613
Bay Area Drum Site, San Francisco, CA	9	EPA	\$2,500
Bay Drums (aka Peak Oil Co.), Brandon, FL	4	EPA	\$2,500
Bayou Sorrel, Bayou Sorrel, LA	6	EPA	\$95,400
Breslube Penn Superfund Site, Coropolis, PA	3	EPA	\$3,480,000
Casmalia Disposal Site, Santa Barbara County, CA	9	EPA CA (DTSC) CA (DFG)	\$633,965 \$25,885 \$15,818
Center for Technology (aka CFT or Pleasanton Center for Technology), Pleasanton, CA	9	CA (DTSC)	\$10,000
Coastal Radiation Services, St. Gabriel, LA	6	EPA	\$2,750,000
Combustion Inc., Livingston, LA	6	EPA	\$100,000
Commencement Bay (Hylebos Waterway), Tacoma, WA	10	EPA NOAA, DOI, WA, and Tribe	\$8,900,000 \$5,500,000
Douglasville Disposal/ Berks Reclamation, Douglasville, PA	3	EPA	\$5,000
Dubose Oil Products Superfund Site, Cantonment, FL	4	EPA	\$3,000
Dutchtown Refinery, Dutchtown, LA	6	EPA	\$24,000

<u>Site Name and Location</u>	<u>EPA Region</u>	<u>Claim Recipient</u>	<u>Amount of Allowed General Unsecured Claim</u>
Eastern Diversified Metals Superfund Site, Hometown, PA	3	EPA	\$1,000,000
Geigy Superfund Site, Aberdeen, NC	4	EPA	\$119,261
Gibson Environmental, Inc., Bakersfield, CA	9	CA (DTSC)	\$3,813
Huth Oil Services, Cleveland, OH	5	EPA	\$2,500
Liquid Dynamics, Chicago, IL	5	EPA	\$2,500
Marzone, Tipton, GA	4	EPA	\$2,500
Pickettville Road Landfill Site, Jacksonville, FL	4	EPA	\$119,600
PRC Patterson, Patterson, CA	9	CA (DTSC)	\$26,666
Richmond Shipyard No. 2 (aka Marina Bay Development), Richmond, CA	9	CA (DTSC)	\$1,075,000
Sadler Drum Superfund Site, Mulberry, FL	4	EPA	\$5,000
Spokane Junkyard, Spokane, WA	10	EPA	\$2,500
Tex-Tin, Texas City, TX	6	EPA	\$100,000
Tremont City Landfill, Clark County, OH	5	EPA	\$2,500
Tri-County and Elgin Landfills, South Elgin, IL	5	EPA	\$2,500
West Virginia Ordnance Works (aka Point Pleasant Landfill), Mason County, WV	3	EPA	\$150,000

D. Summary of Total Allowed General Unsecured Claims Under Paragraph 4(C): Each of the following parties shall have an Allowed General Unsecured Claim against KACC under Paragraph 4(C) in the total amount listed below:

<u>Claimant</u>	<u>Total Allowed General Unsecured Claim</u>
United States on behalf of EPA	\$ 17,828,839
For Commencement Bay (Hylebos Waterway), Tacoma, WA NRDA Claim: United States on behalf of DOI and NOAA, State of Washington and Tribe	\$ 5,500,000
California DTSC	\$ 1,141,364
California DFG	<u>\$ 15,818</u>
TOTAL	\$ 24,486,021

5. With respect to the Liquidated Sites:

A. With respect to the Allowed General Unsecured Claims set forth in Paragraph 4 for EPA, DOI, NOAA, the State of California, the State of Washington and the Tribe, only the amount of cash received by each such entity (and net cash received by each such entity on account of any non-cash distributions) from KACC under this Consent Decree for the Allowed General Unsecured Claim for a particular site, and not the total amount of the allowed claim, shall be credited by each such entity to its account for a particular site, which credit shall reduce the liability of non-settling potentially responsible parties for the particular site by the amount of the credit. Nothing in this Consent Decree shall require any agency to credit to its account for a site any distribution received by any other agency under this Consent Decree.

B. The Claims and distributions set forth in Paragraph 4 will be deemed allocated towards all past, present and future Claims with respect to response costs, natural resource damages and cleanup costs for the Liquidated Sites, whether to address matters known or unknown, for which a Claim of any kind or nature has been or could be asserted against the Debtors pursuant to Sections 106 or 107 of CERCLA, 42 U.S.C. §§ 9606 or 9607, Section 7003 of RCRA, 42 U.S.C. § 6973, or Similar State Laws or Tribal Laws by the Settling Federal

Agencies, the States, the Tribe or potentially responsible parties or potentially responsible party groups which have incurred or may incur such costs.

C. While none of the Debtors has nor shall have any obligation to pursue insurance recovery, including by virtue of this Consent Decree, and subject to the limitations set forth in this Paragraph, to the extent that at any time after the Effective Date of the Plan of Reorganization, KACC pursues from its insurers recovery for environmental costs or payments under liability coverage applicable to property damage liability and obtains insurance proceeds for such costs or payments from such coverage on account of any of the Liquidated Sites in excess of KACC's costs of pursuing such recovery ("Excess Recovery"), KACC may retain 60% of the Excess Recovery and KACC shall pay 40% of the Excess Recovery to the Settling Federal Agencies, the State of California, the State of Washington and the Tribe on a pro rata basis in accordance with the allocation set forth in Attachment B. KACC agrees to allocate in writing any Excess Recovery on a fair and equitable basis between Liquidated Sites and other sites based upon all of the facts and circumstances, including but not limited to any defenses asserted by insurers, and with deference to any allocation by a court or in an approved settlement document. In determining KACC's cost of pursuing recovery for environmental costs for the Liquidated Sites, KACC shall use the same percentage allocation of costs as is used in KACC's allocation of the Excess Recovery. To the extent that the Excess Recovery is allocable to sites other than the Liquidated Sites, no payment need be made to the government agencies and the Tribe from the Excess Recovery allocable to sites other than Liquidated Sites. The United States, the State of California, the State of Washington and the Tribe each reserves the right to petition the Court for an adjustment of KACC's allocation based upon all of the facts and circumstances. The payments required to be made under this Paragraph 5(C) shall be in addition to the payments required to be made under Paragraph 4. Under no circumstances may the payments required to be made under this Paragraph, when combined with any other consideration received by any of the government agencies and the Tribe for the Liquidated Sites under this Consent Decree,

exceed the amount of the Allowed General Unsecured Claims to be received by the applicable government agencies and the Tribe for the Allowed General Unsecured Claims for the Liquidated Sites under Paragraph 4 of this Consent Decree. In the event that the Excess Recovery sharing requirements of this Paragraph would otherwise result in such an exceedance, KACC shall retain the additional amount of the Excess Recovery necessary to avoid such an exceedance.

D. Notwithstanding the foregoing, and as an express limitation to the foregoing, the Settling Federal Agencies, the States and the Tribe acknowledge that KACC is pursuing insurance coverage for asbestos and non-asbestos bodily injury liabilities, including in litigation styled *Kaiser Aluminum & Chemical Corporation v. Certain Underwriters at Lloyds, London, et al.*, No. 312415, and *Kaiser Aluminum & Chemical Corporation v. Insurance Company of North America, et al.*, No. 322710, pending in the San Francisco County, Superior Court of California (collectively, the "California Insurance Litigation"). The Settling Federal Agencies, the States and the Tribe recognize and agree that, except as set forth in the next two sentences, they have no right or entitlement to, the provisions of this Paragraph shall not apply to, and the Settling Federal Agencies, the States and the Tribe shall not seek, in any proceeding, to assert any right or entitlement to (a) any policies at issue in the California Insurance Litigation and/or (b) any amounts paid by an insurer or insurers in settlement or otherwise where (i) the predominant liability being resolved is bodily injury liability and/or (ii) the funds are paid by an insurer or insurers on account of asbestos and/or non-asbestos bodily injury liabilities under a trust established under section 524(g) or section 105 of the Bankruptcy Code, even if the release provided to an insurer or insurers extends to environmental liabilities or costs, either expressly or impliedly. KACC (and any successor-in-interest) shall have no obligation to amend the California Insurance Litigation or to otherwise pursue from its insurers insurance recoveries for non-asbestos environmental costs or payments as to any specific Liquidated Site. In the event, however, that KACC (or any successor-in-interest) amends the California Insurance Litigation to

pursue, or otherwise specifically pursues, insurance recoveries from its insurers for non-asbestos environmental costs or payments as to any specific Liquidated Site, then KACC (or any successor-in-interest) shall allocate on a fair and equitable basis, in writing, the portion of such recoveries allocable to such specific Liquidated Sites and, then, the provisions of Paragraph 5(C) shall apply to such allocated portion only.

NON-DISCHARGEABILITY/DEBTOR-OWNED SITES/RESERVATION OF RIGHTS

6. A. The following claims of or obligations to the Settling Federal Agencies and the States shall not be discharged pursuant to this Consent Decree or Section 1141 of the Bankruptcy Code by the confirmation of a Plan of Reorganization, nor shall such claims or obligations be impaired or affected in any way in the Chapter 11 Cases or by the confirmation of a Plan of Reorganization:

(i) Claims against the Debtors by the Settling Federal Agencies or the States under Section 107 of CERCLA, 42 U.S.C. §9607, or Similar State Laws for recovery of response costs incurred Postpetition with respect to response action taken at a Debtor-Owned Site, including such response action taken to address hazardous substances that have migrated from a Debtor-Owned Site to a proximate location other than a Reserved Site;

(ii) Actions against the Debtors by the Settling Federal Agencies or the States under CERCLA, RCRA, or Similar State Laws seeking to compel the performance of a removal action, remedial action, corrective action, closure or any other cleanup action at a Debtor-Owned Site, including actions to address hazardous substances that have migrated from a Debtor-Owned Site to a proximate location other than a Reserved Site;

(iii) Claims against the Debtors by the Settling Federal Agencies or the States under Section 107 of CERCLA, 42 U.S.C. §9607, for recovery of natural resource damages arising as a result of Postpetition releases or ongoing releases of hazardous substances at or which migrate or leach from a Debtor-Owned Site to a proximate location other than a Reserved Site; or

(iv) Claims against the Debtors by the Settling Federal Agencies or the States for recovery of civil penalties for violations of law resulting from Postpetition conduct of the Debtors at Debtor-Owned Sites.

Nothing in this Paragraph 6(A) shall limit or be deemed to waive any rights or defenses of any of the parties to this Consent Decree, except for any alleged defense of discharge of liabilities provided under the Bankruptcy Code, any plan of reorganization or order of confirmation.

B. With respect to any Liquidated Site, Additional Site or Discharged Site, this Consent Decree does not address the Debtors' Postpetition conduct which would give rise to liability under 42 U.S.C. §§9606 and 9607(a)(1)-(4) and the Settling Federal Agencies, the States, the Tribe and the Debtors reserve all rights and defenses they may have with respect to such Postpetition conduct; *provided, however*, that this reservation shall not apply to any damage which arises from or is related to Prepetition acts, omissions or conduct of the Debtors or their predecessors, including without limitation any ongoing releases of hazardous substances, exacerbation (except to the extent caused by Postpetition acts of the Debtors) of pre-existing contamination, migration or leaching of hazardous substances, and natural resource damages. Nothing in this Consent Decree shall affect or limit such rights and defenses.

C. As used in this Paragraph 6, "Postpetition conduct" shall not include a failure to satisfy or comply with any Prepetition liability or obligations, or to pay a claim (including, without limitation, a penalty claim) except as required by or resulting from the terms of the Plan of Reorganization, any provision of this Consent Decree, or a final order of the Court confirming a Plan of Reorganization.

D. The Settling Federal Agencies or the States may pursue enforcement actions or proceedings under applicable law with respect to the Claims and obligations of the Debtors to the Settling Federal Agencies or the States, respectively, under the foregoing Paragraphs 6(A) and 6(B) in the manner, and by the administrative or judicial tribunals, in which

the Settling Federal Agencies or the States could have pursued enforcement actions or proceedings if the Chapter 11 Cases had never been commenced. The Debtors reserve the right to assert any and all defenses and counterclaims available to them under applicable law with respect to any Claims and obligations of the Debtors to the Settling Federal Agencies or the States under Paragraphs A and B that are asserted by the Settling Federal Agencies or the States, respectively, except for any alleged defense of discharge of liabilities provided under the Bankruptcy Code, any plan of reorganization or order of confirmation. The Settling Federal Agencies and the States reserve all of their rights with respect to any defenses or counterclaims asserted by the Debtors under this Paragraph D.

E. This Consent Decree does not address or apply to the Reserved Sites and the United States, the States and the Debtors reserve all rights and defenses they may have with respect to the Reserved Sites, including with respect to Debtors' conduct at the Reserved Sites. Nothing in this Consent Decree shall affect, limit or waive such rights and defenses.

TREATMENT OF ADDITIONAL SITES

7. With respect to all Additional Sites, all liabilities and obligations of the Debtors to the Settling Federal Agencies and the States under Sections 106 and 107 of CERCLA, 42 U.S.C. §§9606 and 9607, Section 7003 of RCRA, 42 U.S.C. § 6973, and Similar State Laws arising from Prepetition acts, omissions or conduct of the Debtors or their predecessors, including without limitation the Prepetition generation, transportation, disposal or release of hazardous substances, wastes or materials or dangerous wastes or the Prepetition ownership or operation of hazardous waste or hazardous substance sites and/or facilities and state counterparts, shall be discharged under Section 1141 of the Bankruptcy Code by the confirmation of a Plan of Reorganization, and the Settling Federal Agencies and the States shall receive no distributions in the Chapter 11 Cases with respect to such liabilities and obligations, but KACC may be required to distribute to the Settling Federal Agencies, the States or such other party as they may designate, such amounts as are provided for in this Paragraph and Paragraph 8. Such liabilities

and obligations shall be treated and liquidated as general unsecured Claims against KACC on the terms specified herein. If and when any Settling Federal Agencies or the States undertake(s) enforcement activities in the ordinary course with respect to any Additional Site, the Settling Federal Agencies or the States, respectively, may seek a determination of the liability, if any, of KACC and may seek to obtain and liquidate a judgment of liability of KACC or enter into a settlement with KACC with regard to any of the Additional Sites (for Prepetition acts, omissions or conduct of the Debtors or their predecessors) in the manner and before the administrative or judicial tribunal in which the Settling Federal Agencies' or the States' claims would have been resolved or adjudicated if the Chapter 11 Cases had never been commenced. However, the Settling Federal Agencies and the States shall not issue or cause to be issued any unilateral order or seek any injunction against KACC under Section 106 of CERCLA, 42 U.S.C. § 9606, Section 7003 of RCRA, 42 U.S.C. § 6973, or any Similar State Laws arising from the Prepetition acts, omissions or conduct of the Debtors or their predecessors with respect to any Additional Sites. The Settling Federal Agencies and KACC (and the States and KACC, as applicable) will attempt to settle each liability or obligation asserted by the Settling Federal Agencies (or the States, as applicable) against KACC relating to an Additional Site on a basis that is fair and equitable under the circumstances, including consideration of (i) settlement proposals made to other PRPs who are similar to KACC in the nature of their involvement with the site, (ii) the fact of KACC's bankruptcy, and (iii) the circumstances of this Agreement; but nothing in this sentence shall create an obligation of the Settling Federal Agencies or the States that is subject to judicial review. The aforesaid liquidation of liability may occur notwithstanding the terms of the Plan of Reorganization, the order confirming the Plan of Reorganization, or the terms of any order entered to effectuate the discharge received by KACC. In any action or proceeding with respect to an Additional Site, KACC, the Settling Federal Agencies and the States reserve any and all rights, claims, and defenses they would have been entitled to assert had the claim been liquidated in the ordinary course or during the course of the Chapter 11 Cases, including, without

limitation, any argument that joint and several liability should or should not be imposed upon KACC. Nothing herein shall be construed to limit the Parties' rights to assert any and all rights, claims and defenses they may have in actions or proceedings involving other parties with respect to Additional Sites.

8. In the event any Claim is liquidated pursuant to Paragraph 7 by settlement with KACC or judgment against KACC to a determined amount (the "Determined Amount"), KACC will satisfy such Claim within thirty (30) days after the date on which the settlement or judgment is final and effective (the "Settlement/ Judgment Date") by providing the holder of the Claim the "Distribution Amount." The Distribution Amount shall be the value of the consideration which would have been distributed under the Plan of Reorganization to the holder of such Claim if the Determined Amount had been an Allowed General Unsecured Claim against KACC in such amount under the Plan of Reorganization. Except as provided in Paragraph 9(B), the Distribution Amount shall be paid in the same form (e.g., stock, cash, notes, etc.) as was distributed under the Plan of Reorganization.

9. A. In the event that the Plan of Reorganization provides that Allowed General Unsecured Claims against KACC will receive consideration other than cash, for purposes of determining the value of the consideration paid to the holders of Allowed General Unsecured Claims at the time of distribution(s) under the Plan of Reorganization (i.e., the Distribution Amount), notes shall have a value equal to their face value and equity securities shall have a value equal to (a) if the security is trading, the reported closing sales price for the security on the date(s) of distribution(s) under the Plan of Reorganization (or the first date thereafter on which the security trades), (i) on the New York Stock Exchange; or (ii) if the security is not listed or admitted to trade on the New York Stock Exchange, on the principal national securities exchange on which the security is listed or admitted to trading; or (iii) if the security is not listed or admitted to trading on any national securities exchange, on all transactions on the National Association of Securities Dealers Automated Quotations National Market System; or (iv) if the

security is not listed or admitted to trading on any national securities exchange or quoted on such National Market System, on all transactions in the over-the-counter market in the United States as furnished by any New York Stock Exchange member firm selected by KACC and the Settling Federal Agencies (or the States, if applicable) for that purpose; or (b) if the security is not trading in any of the foregoing markets, the value ascribed to the security in the disclosure statement pursuant to which approval of the Plan was sought. Then, for purposes of determining the number of shares of securities that have the value of the Distribution Amount on the Settlement/Judgment Date (i.e., the number of shares to be distributed in satisfaction of the Claim as provided in Paragraph 8), the fair market value per share of securities on the Settlement/Judgment Date also shall be determined as set forth in the immediately preceding sentence. To the extent, however, that the Settling Federal Agencies (or the States, if applicable) calculate that the reported closing sales price for the security is materially different than the weighted average of the reported regular way sales prices of all transactions for the security on the date(s) of distribution(s) under the Plan of Reorganization (or the first date thereafter on which the security trades), the Settling Federal Agencies (or the States, if applicable) may present this calculation to KACC prior to the date KACC must satisfy the Claim as provided in Paragraph 8 and then the weighted average of the reported regular way sales prices of all transactions for the security shall be used to value the security instead of the reported closing sales price.

B. Further, in the event that the Plan of Reorganization provides that Allowed General Unsecured Claims against KACC will receive consideration other than cash, Debtors may, in their sole discretion, provide the non-cash portion of the Distribution Amount to the Settling Federal Agencies (or the States, if applicable) in cash that has an aggregate value as of the Settlement/Judgment Date that is equivalent to the Distribution Amount. The terms of Paragraphs 7, 8 and this Paragraph 9 of this Consent Decree shall apply to, be binding on, and inure to the benefit of any successor or assign of KACC to the extent that, and only to the extent

that, the alleged liability of the successor or assign for an Additional Site is based on its status as and in its capacity of a successor or assign of KACC.

TREATMENT OF ALLOWED CLAIMS

10. With respect to the Allowed General Unsecured Claims set forth in Paragraph 4 for EPA, DOI, NOAA, the State of California, the State of Washington and the Tribe, and regardless of the holder of such Claims, such Claims (A) will receive the same treatment under the Plan of Reorganization, without discrimination, as other Allowed General Unsecured Claims against KACC with all attendant rights provided by the Bankruptcy Code and other applicable law and (B) will not be entitled to any priority in distribution (although the provisions of Paragraph 5(C) shall apply in the event of excess insurance proceeds). With respect to any Claims as may eventually be allowed pursuant to Paragraphs 7-9 for Additional Sites, such Claims shall be governed by the terms of Paragraphs 7-9. In no event shall the General Unsecured Claims against KACC allowed or to be allowed pursuant to this Consent Decree be subordinated to any other Allowed General Unsecured Claims against KACC pursuant to any provision of the Bankruptcy Code or other applicable law that authorizes or provides for subordination of allowed Claims, including without limitation Sections 105 and 510 of the Bankruptcy Code.

11. The Claims allowed in this Consent Decree do not constitute, nor shall they be construed as, forfeitures, fines or penalties (or payments in lieu thereof), and nothing herein is intended, or shall be construed, as an admission by Debtors of any facts (other than the fact of distributions made referred to in Paragraph 4) or any violation of law. Notwithstanding the foregoing, Debtors do agree to comply with all terms of this Consent Decree upon the Effective Date.

12. Notwithstanding any other provision of this Consent Decree, and except as provided under applicable law, there shall be no restrictions on the ability and right of the United States on behalf of EPA or the State of California to transfer or sell all or a portion of any

securities distributed to them pursuant to the Plan of Reorganization; to sell their right to all or a portion of any distributions under the Plan to one or more third parties; or to transfer or sell to one or more third parties all or a portion of any Allowed General Unsecured Claim pursuant to this Consent Decree.

TREATMENT OF PROOFS OF CLAIM

13. The Settling Federal Agencies, the States, and the Tribe shall be deemed to have filed proofs of claim for all matters addressed in this Consent Decree, which proofs of claim are and shall be deemed satisfied in full in accordance with the terms of this Consent Decree. Accordingly, by executing this Consent Decree but without any prejudice with respect to any of the Reserved Sites, (i) the Settling Federal Agencies agree that Claim No. 7135 shall be reduced and allowed as of the Effective Date in the amounts listed for the Settling Federal Agencies in Paragraph 4(C) of this Consent Decree; (ii) the State of California agrees that Claim No. 7297 shall be reduced and allowed as of the Effective Date in the amount listed for the State of California in Paragraph 4(C) of this Consent Decree; (iii) the State of Rhode Island agrees that Claim No. 7111 shall be withdrawn pursuant to this Consent Decree as of the Effective Date and Kaiser's claims and noticing agent, Logan & Company, is authorized and empowered to withdraw Claim No. 7111 as of the Effective Date; (iv) the State of Washington agrees that Claim No. 7181 shall be reduced and allowed as of the Effective Date in the amount listed for the State of Washington in Paragraph 4(C) of this Consent Decree; and (v) the Tribe agrees that Claim No. 1727 shall be reduced and allowed as of the Effective Date in the amount listed for the Tribe in Paragraph 4(C) of this Consent Decree.

DISTRIBUTION INSTRUCTIONS

14. A. Cash distributions for the Liquidated Sites to the United States on behalf of EPA shall be made by Fed Wire Electronic Funds Transfer ("EFT" or wire transfer) to the U.S. Department of Justice account in accordance with current electronic funds transfer procedures. Payment shall be made in accordance with instructions provided to the Debtor by

the Financial Litigation Unit of the United States Attorney's Office for the District of Delaware and shall reference Case No. 02-10429 (JKF) and DOJ File Number 90-11-3-07769/1. The Debtors shall transmit written confirmation of such payments to the Department of Justice at the address specified in Paragraph 27. In the event that the United States sells or transfers its Claims, payment will be made to a transferee only at such time as the Debtors receive written instructions from the United States directing that payments be made to a transferee amid instructions as to where such payments should be directed, and, prior to the closing of the Chapter 11 Cases, after an evidence of claim transfer shall have been filed with the Court.

B. Other distributions with respect to the allowed Claims of the United States for the Liquidated Sites pursuant to this Consent Decree shall be made as follows. Non-cash Distributions to the United States on behalf of EPA shall be made to:

U.S. EPA Superfund
P.O. Box 371003M
Pittsburgh, PA 15251

Copies of all distributions and related correspondence to the United States shall be sent to:

Environmental Enforcement Division
Environment & Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044
Ref. DOJ File No. 90-11-3-07769/1

Helena A. Healy
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W. - Mail Code 2272A
Washington, D.C. 20460

C. The United States must notify the Debtors in writing of any modifications to the foregoing addresses. In the event that the United States on behalf of EPA sells or transfers its Claims, distributions will be made to a transferee only at such time as the Debtors receive

written instructions from the United States on behalf of EPA directing that payments be made to a transferee and instructions as to where such payments should be made, and, prior to the closing of the Chapter 11 Cases, after an evidence of claim transfer shall have been filed with the Court.

D. Distributions received by EPA will either be deposited in site-specific special accounts within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with those sites, or be deposited into the EPA Hazardous Substance Superfund.

E. Cash distributions for the Commencement Bay (Hylebos Waterway), Tacoma, WA Liquidated Site with respect to the Allowed General Unsecured Claims of the United States on behalf of NOAA and DOI, the State of Washington and the Tribe pursuant to this Consent Decree shall be made to:

Registry of the Court
c/o Clerk of the Court
U.S. District Court
Western District of Washington
1010 Fifth Avenue, Room 215
Seattle, WA 98104

The payment shall reference the Case Number U.S. Dist. Ct. D. Del (Bankr) Case No. 02-10429 (JKF) and shall request that the payment be deposited in the Commencement Bay Natural Resource Restoration Account established pursuant to W.D. Wash. Civil No. C93-5462B.

Non-cash distributions with respect to the Commencement Bay (Hylebos Waterway), Tacoma, WA Liquidated Site with respect to the Allowed General Unsecured Claims of the United States on behalf of NOAA and DOI, the State of Washington and the Tribe shall be made to:

United States Department of the Interior
Natural Resource Damage Assessment and Restoration Program
Attn: Restoration Fund Manager
1849 C Street, NW, Mail Stop 4449
Washington, DC 20240

Copies of all distributions under this Paragraph 14(E) and related correspondence shall be sent to:

Eric G. Williams
Trial Attorney
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044
Ref. DOJ File No. 90-11-3-07769/1

Robert A. Taylor
NOAA GC Natural Resources/NW
7600 Sand Point Way NE
Seattle, WA 98115-0070

Steven J. Thiele
Assistant Attorney General
Office of the Attorney General, Ecology Division
P.O. Box 40117
Olympia, WA 98504-0117

Cynthia P. Lyman
Office of the Tribal Attorney
Puyallup Tribe of Indians
1850 Alexander Ave.
Tacoma, WA 98421

Bill Sullivan
Environmental Programs
Puyallup Tribe of Indians
1850 Alexander Ave.
Tacoma, WA 98421

15. A. Cash distributions for the Liquidated Sites to the California DTSC shall be made by certified check, payable to: Cashier, Department of Toxic Substances Control and shall be sent to DTSC Accounting, P.O. Box 806, Sacramento, CA 95812-0806, and shall reference the docket number of the Chapter 11 Cases. A copy of such check shall be sent to the attention of Jeff Mahan, DTSC, P.O. Box 806, Sacramento, CA 95812-0806.

B. Cash distributions for the Liquidated Sites to the California DFG shall be made by check, payable to: Office of Spill Prevention and Response, California Department of Fish & Game, and shall be sent in care of John Holland, Esquire, Department of Fish & Game, P.O. Box 160-362, Sacramento, CA 95816-0362.

C. Distributions received by DTSC for a particular site will be used by DTSC to supervise, conduct or pay for environmental response activities at or for that site, or will be credited to the unreimbursed costs that DTSC has incurred at that site.

D. In the event that the State of California sells or transfers its Claims, distributions will be made to a transferee only at such time as the Debtors receive written instructions from the State of California directing that distributions be made to a transferee and instructions as to where such distributions should be made, and, prior to the closing of the Chapter 11 Cases, after an evidence of claim transfer shall have been filed with the Court.

16. A. Distributions with respect to the Allowed General Unsecured Claims of the State of Washington and the Tribe for the Liquidated Sites pursuant to this Consent Decree shall be made in accordance with Paragraph 14(E).

B. Notwithstanding anything to the contrary in this Consent Decree, in the event that the Plan of Reorganization provides that Allowed General Unsecured Claims against KACC will receive consideration in the form of equity securities and any one of the States is precluded by law from accepting a distribution under this Consent Decree in the form of equity securities, then KACC and such State shall work to cause the equity securities that otherwise would have been distributed to such State to be sold on any applicable market and the cash proceeds from such sale, less all costs and expenses associated with such sale, shall be distributed to such State instead of the equity securities.

TREATMENT OF DISCHARGED SITES

17. With respect to all Discharged Sites, all liabilities and obligations of the Debtors to the Settling Federal Agencies, the States and the Tribe under Sections 106 and 107 of

CERCLA, 42 U.S.C. §§9606 and 9607, Section 7003 of RCRA, 42 U.S.C. § 6973, and Similar State Laws and Tribal Law arising from Prepetition acts, omissions or conduct of the Debtors or their predecessors, including without limitation the Prepetition generation, transportation, disposal or release of hazardous substances, wastes or materials or dangerous wastes or the Prepetition ownership or operation of hazardous waste or hazardous substance sites and/or facilities, shall be discharged under Section 1141 of the Bankruptcy Code by the confirmation and effectiveness of a Plan of Reorganization, and neither the Settling Federal Agencies, the States, nor the Tribe shall receive any distributions in the Chapter 11 Cases with respect to such liabilities and obligations.

COVENANT NOT TO SUE AND RESERVATION OF RIGHTS

18. In consideration of all of the foregoing, including, without limitation, the distributions that will be made and the Claims allowed pursuant to the terms of this Consent Decree, and except as specifically provided in Paragraphs 21 through 23 (below), the Settling Federal Agencies, the States and the Tribe covenant not to file a civil action or to take any administrative or other action against the Debtors pursuant to Sections 106 or 107 of CERCLA, 42 U.S.C. §§9606 or 9607, Section 7003 of RCRA, 42 U.S.C. § 6973, or any Similar State Laws or Tribal Laws with respect to each of the Liquidated Sites. These covenants not to sue shall take effect on the Effective Date.

19. This Consent Decree in no way impairs the scope and effect of the Debtors' discharge under Section 1141 of the Bankruptcy Code as to any third parties or as to any Claims that are not addressed by this Consent Decree.

20. Without in any way limiting the covenant not to sue (and the reservations thereto) set forth in Paragraph 18 and notwithstanding any other provision of this Consent Decree, such covenant not to sue shall also apply to the Debtors' successors and assigns, officers, directors, employees, and trustees, but only to the extent that the alleged liability of the successor or assign,

officer, director, employee, or trustee of any Debtor is based on its status as and in its capacity as a successor or assign, officer, director, employee, or trustee of any Debtor.

21. The covenants not to sue contained in Paragraphs 18 and 20 of this Consent Decree extend only to the Debtors and the persons described in Paragraph 20 above and do not extend to any other person. Nothing in this Agreement is intended as a covenant not to sue or a release from liability for any person or entity other than the Debtors, the United States, the States, the Tribe and the persons described in Paragraph 20. The United States, the States, the Tribe and the Debtors expressly reserve all claims, demands and causes of action either judicial or administrative, past, present or future, in law or equity, which the United States, the States, the Tribe or the Debtors may have against all other persons, firms, corporations, entities or predecessors of the Debtors for any matter arising at, or relating in any manner to, the sites or claims addressed herein.

22. Notwithstanding the foregoing, the covenants not to sue contained in this Consent Decree shall not apply to nor affect any action based on (i) a failure to meet a requirement of this Consent Decree; (ii) criminal liability; or (iii) matters addressed in Paragraph 6(A) through 6(D) above.

23. Nothing in this Consent Decree shall be deemed to limit the authority of the United States or the States to take response action under Section 104 of CERCLA, 42 U.S.C. §9604, Similar State Laws or any other applicable law or regulation, or to alter the applicable legal principles governing judicial review of any action taken by the United States or the States pursuant to that authority. Nothing in this Consent Decree shall be deemed to limit the information gathering authority of the United States or the States under Sections 104 and 122 of CERCLA, 42 U.S.C. §§9604 and 9622, Similar State Laws or any other applicable federal law or regulation, or to excuse the Debtors from any disclosure or notification requirements imposed by CERCLA, RCRA, any Similar State Laws or any other applicable federal or state law or regulation.

24. The Debtors hereby covenant not to sue and agree not to assert or pursue any claims or causes of action against the United States, the States or the Tribe with respect to the Liquidated Sites including, but not limited to, any direct or indirect claim for reimbursement from the Hazardous Substances Superfund (established pursuant to the Internal Revenue Code, 26 U.S.C. § 9507) through Sections 106(b)(2), 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9611, 9612, or 9613, any Similar State Laws or Tribal Laws or any other provision of law; any claim against the United States, including any department, agency or instrumentality of the United States, under Sections 107 or 113 of CERCLA, 42 U.S.C. § 9607 or 9613, related to the Liquidated Sites, or any claims arising out of response activities at the Liquidated Sites. The covenant not to sue set forth in this Paragraph shall not apply in the event that the Settling Federal Agencies and/or one or more of the States brings a cause of action or issues an order pursuant to the reservations set forth in Paragraphs 6(A) and/or 6(B), but only to the extent that the Debtors' claims arise from the same response action, response costs, or damages that the Settling Federal Agencies and/or the States is/are seeking pursuant to Paragraphs 6(A) and/or 6(B). Nothing in this Consent Decree shall be deemed to constitute 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).

CONTRIBUTION PROTECTION

25. With regard to all existing or future third-party Claims against the Debtors with respect to the Liquidated Sites, including claims for contribution, the parties hereto agree that, as of the Effective Date, the Debtors are entitled to protection from actions or Claims to the maximum extent provided by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), and Similar State Laws and Tribal Laws.

26. The Debtors agree that with respect to any suit for contribution brought against any of them after the Effective Date for matters related to this Consent Decree in which a party challenges the applicability of Debtors' contribution protection provided under Paragraph 25, they will notify the United States within a reasonable time after service of the complaint upon

them. In addition, in connection with such suit, the Debtors shall notify the United States within a reasonable time after service or receipt of any Motion for Summary Judgment and within a reasonable time after receipt of any order from a court setting a case for trial (provided, however, that the failure to notify the United States pursuant to this Paragraph shall not in any way affect the protections afforded under Paragraphs 18 through 25).

NOTICES AND SUBMISSIONS

27. Whenever, under the terms of this Consent Decree, written notice is required to be given, or a report or other 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 of address to the other parties in writing. All notices and submissions shall be considered effective upon receipt, unless otherwise provided. Except as otherwise provided in this Consent Decree, written notice as specified herein shall constitute complete satisfaction of any written notice requirement in this Consent Decree with respect to the United States, the States and the Debtors, respectively.

As to the United States:

Environmental Enforcement Section
Environment & Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Ben Franklin Station
Washington, D.C. 20044
Ref. DOJ File No. 90-11-3-07769/1

Helena A. Healy
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W. - Mail Code 2272A
Washington, D.C. 20460

As to the State of California:

Kevin James, Deputy Attorney General
California Department of Justice
1515 Clay Street, Suite 2000
Post Office Box 70550
Oakland, CA 94612-0550

As to the State of Rhode Island:

Bret W. Jedele, Esq.
RIDEM Office of Legal Services
235 Promenade Street
Providence, RI 02908

As to the State of Washington:

Steven J. Thiele
Assistant Attorney General
Office of the Attorney General, Ecology Division
P.O. Box 40117
Olympia, WA 98504-0117

James Pendowski
Program Manager
Toxics Cleanup Program
Washington State Department of Ecology
P.O. Box 47600
Olympia, WA 98504-76001

As to the Tribe:

Puyallup Tribe of Indians
1850 Alexander Avenue
Tacoma, WA 98421
ATTN: Cynthia Lyman

Bill Sullivan
Environmental Programs
Puyallup Tribe of Indians
1850 Alexander Ave.
Tacoma, WA 98421

As to the Debtors:

Kaiser Aluminum & Chemical Corporation
5847 San Felipe, Suite 2500
Houston, TX 77057
ATTN: General Counsel

Heller, Ehrman, White & McAuliffe, LLP
701 Fifth Avenue, Suite 6100
Seattle, WA 98104-7098
ATTN: R. Paul Beveridge

LODGING AND OPPORTUNITY FOR PUBLIC COMMENT

28. This Consent Decree shall be subject to approval of the Bankruptcy Court. The Debtors shall promptly seek approval of this Consent Decree under Bankruptcy Rule 9019 or other applicable provisions of the Bankruptcy Code. The hearing on Debtors' request for such approval will not be held for at least thirty-eight days from the date of filing (the "Filing Date").

29. Likewise, this Consent Decree shall be lodged with the Court for public notice and comment for a period of not less than thirty days. To the extent, if any, that such lodging does not satisfy all public notice and comment requirements of the State of Washington laws and regulations, the State of Washington shall take all action necessary during such thirty-day period to satisfy all such requirements. After the conclusion of the public comment period, the United States (and, if applicable, the State of Washington) will file with the Court any comments received, as well as the United States' (and the State of Washington's, as applicable) responses to the comments, and at that time, if appropriate, the Court will be requested by motion of the United States (and the State of Washington, as applicable) to approve this Consent Decree. The United States and the State of Washington reserve the right to withdraw or withhold their consent if the comments regarding the Consent Decree disclose facts or considerations which

indicate that this Consent Decree is not in the public interest.

30. If for any reason (i) this Consent Decree is withdrawn by the United States or the State of Washington as provided in Paragraph 29, or (ii) the Bankruptcy Court issues a final order not approving this Consent Decree, or (iii) KACC's Chapter 11 Case is dismissed or converted to a case under Chapter 7 of the Bankruptcy Code before the Effective Date of a Plan of Reorganization: (a) this Consent Decree shall be null and void and the parties shall not be bound hereunder or under any documents executed in connection herewith; (b) the parties shall have no liability to one another arising out of or in connection with this Consent Decree or under any documents executed in connection herewith; (c) this Consent Decree and any documents prepared in connection herewith shall have no residual or probative effect or value and it shall be as if they had never been executed; and (d) this Consent Decree, any statements made in connection with settlement discussions, and any documents prepared in connection herewith may not be used as evidence in any litigation between or among the parties.

31. The Debtors shall file a Plan of Reorganization that is consistent with and does not conflict with the terms and provisions of this Consent Decree. The Settling Federal Agencies and the States will not oppose any term or provision of a Plan of Reorganization filed by the Debtors that is addressed by and consistent with this Consent Decree. The parties reserve all other rights and defenses they may have with respect to any Plan of Reorganization filed by the Debtors.

AMENDMENTS/INTEGRATION AND COUNTERPARTS

32. This Consent Decree and any other documents to be executed in connection herewith shall constitute the sole and complete agreement of the parties hereto with respect to the matters addressed herein. This Consent Decree may not be amended except by a writing signed by all parties to this Consent Decree.

33. This Consent Decree may be executed in counterparts each of which shall constitute an original and all of which shall constitute one and the same agreement.

RETENTION OF JURISDICTION

34. Except as provided in Paragraphs 6 through 9 regarding proceedings in other administrative or judicial tribunals, the Court (or, upon withdrawal of the Court's reference, the U.S. District Court of the District of Delaware) shall retain jurisdiction over the subject matter of this Consent Decree and the parties hereto for the duration of the performance of the terms and provisions of this Consent Decree for the purpose of enabling any of the parties to apply to the Court at any time for such further order, direction and relief as may be necessary or appropriate for the construction or interpretation of this Consent Decree or to effectuate or enforce compliance with its terms.

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THE UNDERSIGNED PARTIES ENTER INTO THIS CONSENT DECREE

FOR THE UNITED STATES OF AMERICA:

Date: 8.15.03

By: Tom Sansonetti
Thomas L. Sansonetti
Assistant Attorney General
Environment and Natural Resources
Division
U.S. Department of Justice

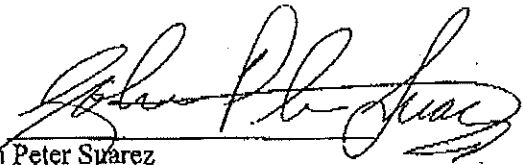
Date: 8/18/03

By: Alan S. Tenenbaum
Alan S. Tenenbaum
Senior Counsel
Environmental Enforcement Section
Environment and Natural Resources
Division
U.S. Department of Justice


Date: 8/09/03

By: Eric G. Williams
Eric G. Williams
Trial Attorney
Environmental Enforcement Section
Environment and Natural Resources
Division
U.S. Department of Justice

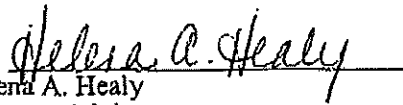
Date: 8/20/03

By: 
John Peter Suarez
Assistant Administrator for Enforcement
and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

Date: 8/20/03

By: 
John H. Wheeler
Senior Attorney
Office of Enforcement and
Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

Date: 8/20/03

By: 
Helena A. Healy
Attorney-Advisor
Office of Enforcement and
Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

FOR THE STATE OF CALIFORNIA
DEPARTMENT OF TOXIC SUBSTANCES
CONTROL:

Date: August 12, 2003

By: Edwin F. Lowry
Edwin F. Lowry
Director, State of California Department
of Toxic Substances Control
Post Office Box 806
Sacramento CA 95812-0806

FOR THE STATE OF CALIFORNIA
DEPARTMENT OF FISH AND GAME:

Date: _____

By: _____
John A. Holland
Staff Counsel III
Office of Spill Prevention and Response
State of California Department of
Fish and Game
1700 K Street, Suite 250
Post Office Box 94420
Sacramento, CA 94244-2090


FOR THE STATE OF CALIFORNIA
DEPARTMENT OF TOXIC SUBSTANCES
CONTROL:

Date: _____

By: _____
Edwin F. Lowry
Director, State of California Department
of Toxic Substances Control
Post Office Box 806
Sacramento CA 95812-0806


FOR THE STATE OF CALIFORNIA
DEPARTMENT OF FISH AND GAME:

Date: 13 August 2003


By: 
John A. Holland
Staff Counsel III
Office of Spill Prevention and Response
State of California Department of
Fish and Game
1700 K Street, Suite 250
Post Office Box 94420
Sacramento, CA 94244-2090

FOR THE STATE OF RHODE ISLAND:

Date: 8/2/03

By: 
Jan H. Reitsma, Director
Rhode Island Department of
Environmental Management
235 Promenade Street
Providence, RI 02908

Date: 8/2/03

By: 
Bret W. Jedele, Esq.
RIDEM Office of Legal Services
235 Promenade Street
Providence, RI 02908

FOR THE PUYALLUP TRIBE OF INDIANS:

Date: _____

By: _____
Name: _____
Title: _____

FOR THE STATE OF RHODE ISLAND:

Date: _____

By: _____

Jan H. Reitsma, Director
Rhode Island Department of
Environmental Management
235 Promenade Street
Providence, RI 02908

Date: _____

By: _____

Bret W. Jedele, Esq.
RIDEM Office of Legal Services
235 Promenade Street
Providence, RI 02908

FOR THE PUYALLUP TRIBE OF INDIANS:

Date: 8/13/03

By: Bill Steud

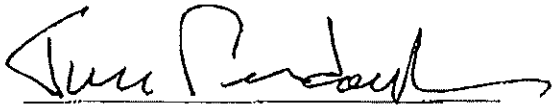
Name: Bill Steud

Title: Chairman

FOR THE STATE OF WASHINGTON:

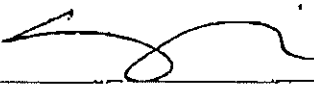
DEPARTMENT OF ECOLOGY

Date: 8/19/03

By: 
Jim Pendowski
Program Manager
Washington Department of Ecology
Toxics Cleanup Program

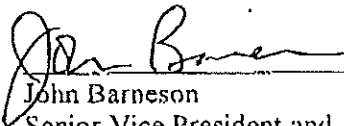
CHRISTINE O. GREGOIRE
Attorney General

Date: 8/19/03

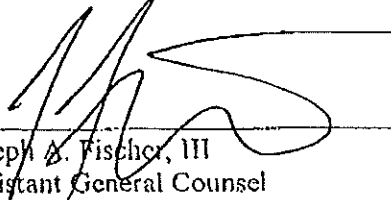
By: 
Steven J. Thiele, WSBA #20275
Assistant Attorney General
Attorney for State of Washington
Department of Ecology

FOR THE DEBTORS:
Kaiser Aluminum & Chemical Corporation

Date: August 13, 2003

By: 
John Barneson
Senior Vice President and
Chief Administrative Officer

Date: August 13, 2003

By: 
Joseph A. Fischer, III
Assistant General Counsel

ATTACHMENT A
List of Debtors and Petition Dates

DEBTOR	PETITION DATE
Kaiser Aluminum Corporation	February 12, 2002
Kaiser Aluminum & Chemical Corporation	February 12, 2002
Akron Holding Corporation	February 12, 2002
Kaiser Alumina Australia Corporation	February 12, 2002
Kaiser Aluminum & Chemical Investment, Inc.	February 12, 2002
Kaiser Aluminium International, Inc.	February 12, 2002
Kaiser Aluminum Properties, Inc.	February 12, 2002
Kaiser Aluminum Technical Services, Inc.	February 12, 2002
Kaiser Bellwood Corporation	February 12, 2002
Kaiser Finance Corporation	February 12, 2002
Kaiser Micromill Holdings, LLC	February 12, 2002
Kaiser Sierra Micromills, LLC	February 12, 2002
Kaiser Texas Sierra Micromills, LLC	February 12, 2002
Kaiser Texas Micromill Holdings, LLC	February 12, 2002
Oxnard Forge Die Company, Inc.	February 12, 2002
Alwis Leasing, LLC	March 15, 2002
Kaiser Center, Inc	March 15, 2002
Alpart Jamaica Inc.	January 14, 2003
KAE Trading, Inc.	January 14, 2003
Kaiser Aluminum & Chemical Investment Limited (Canada)	January 14, 2003
Kaiser Aluminum & Chemical of Canada Limited (Canada)	January 14, 2003
Kaiser Bauxite Company	January 14, 2003
Kaiser Center Properties	January 14, 2003
Kaiser Export Company	January 14, 2003
Kaiser Jamaica Corporation	January 14, 2003
Texada Mines Ltd. (Canada)	January 14, 2003

ATTACHMENT B
Pro Rata Allocation of 40% Share of Excess Recovery

United States on behalf of EPA	72.81%
For Commencement Bay (Hylebos Waterway), Tacoma, WA NRDA Claim: United States on behalf of DOI and NOAA, State of Washington and Tribe	22.46%
California DTSC	4.66%
California DFG	0.07%

EXHIBIT 19

ASSIGNMENT

THIS AGREEMENT is entered into on the 15th day of August, 2001, between UNION PACIFIC RAILROAD COMPANY ("Lessor") and KEMWATER NORTH AMERICA COMPANY, a Delaware corporation, whose address is 2185 North California Blvd., Suite 500, Walnut Creek, California 94596 ("Assignor").

RECITALS:

By instrument dated August 20, 1998, Lessor and Assignor, or their predecessors in interest, entered into an agreement ("Basic Agreement"), identified as Audit No. SI82508, at Trentwood, Washington.

AGREEMENT:

Effective August 21, 2000, Assignor assigns all of Assignor's right, title and interest in and to the Basic Agreement, including any supplement or amendment (if any), to KEMIRON NORTHWEST, INC., a Delaware corporation, whose address is 316 Bartow Municipal Airport, Bartow, Florida 33830 ("Assignee").

Assignee accepts the above Assignment and agrees to be bound by all of the terms and conditions contained in the Basic Agreement and any supplement or amendment (if any).

Lessor gives its consent to this Assignment. This consent does not authorize any further assignment of the Basic Agreement, whether voluntary or otherwise, without the prior written consent of Lessor. In the event of default by Assignee, Assignor shall be bound by and shall perform all of the obligations of the Basic Agreement.

ADMINISTRATIVE HANDLING CHARGE:

Upon execution of this Assignment, Assignor shall pay Lessor an administrative handling charge of Five Hundred Dollars (\$500.00).

IN WITNESS WHEREOF, the parties have executed this Assignment as of the day and year first herein written.

UNION PACIFIC RAILROAD COMPANY

By: [Signature]

Senior Manager - Real Estate

KEMWATER NORTH AMERICA COMPANY

By: [Signature]

Title: Vice President
(Assignor)

KEMIRON NORTHWEST, INC.

By: [Signature]

Title: Chief Operating Officer
(Assignee)

CODED
M.C.W.

By:

AUG 20 2001

Date:

EXHIBIT 20

California Regional Water Quality Control Board
Santa Ana Region

Cleanup & Abatement Order No. R8-2006-0035
for
Yellow Roadway Corporation
Former Alumax Fontana Facility
San Bernardino County

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter Regional Board), finds that:

1. RCM Technologies, Inc. operated an aluminum recovery facility from 1957 to 1977 in the City of Fontana. The 18-acre facility was located on the northeast corner of Beech Boulevard and Santa Ana Boulevard, as shown on **Attachment 1**, which is hereby made a part of this order. In 1976, the Regional Board adopted Waste Discharge Requirements, Order No. 76-238, for aluminum recycling operations conducted at the site by RCM Technologies, Inc. and Mr. Robert Sackett. Mr. Sackett, the Board Chairman and Chief Executive Officer of RCM Technologies, Inc., owned the property and the aluminum recovery facility until July 1977 when Hillyard Aluminum Recovery Corporation (HARC), a wholly-owned subsidiary of Alumax Inc., purchased certain assets, excluding the Fontana property (hereinafter referred to as the Alumax Fontana property).
2. HARC operated the aluminum recovery facility in Fontana from 1977 to 1982, when recovery operations ceased. In August 1985, HARC purchased the Alumax Fontana property from RCM. In July of 1998, Aluminum Company of America (Alcoa) acquired all assets and facilities, including the Fontana property, from Alumax Inc. In January of 2004, USF Reddaway Inc. (USFR) acquired the Alumax Fontana property from Alcoa and began plans for site development. Prior to USFR's final acquisition of the property, Board staff approved their tentative site development plans in September 2003. In May 2005, before final construction plans were developed, Yellow Roadway Corp. (YRC, hereinafter discharger) acquired USFR and became directly involved in the property management, including development, of the Alumax Fontana site.
3. The Alumax Fontana property overlies the Chino North Groundwater Management Zone, the beneficial uses of which include:
 - a. Municipal and domestic supply,
 - b. Agricultural supply,
 - c. Industrial service supply, and
 - d. Industrial process supply.

4. On October 14, 1977, the Regional Board adopted Board Order No. 77-200, which replaced Order No. 76-238, for the storage and handling of aluminum oxide wastes at the Alumax Fontana facility. Aluminum oxide was generated as a manufacturing by-product of the aluminum recovery process. These wastes were stockpiled at the site, partly on a concrete-paved storage pad located at the southwest corner of the site, and partly on native soil. The former waste pile storage and salt-affected areas are shown on **Attachment 2**. The aluminum oxide waste contained high levels of soluble salts consisting almost entirely of sodium and potassium chloride.
5. On January 10, 1986, the Regional Board adopted Cleanup and Abatement Order (CAO) No. 86-17. This Order required Alumax Inc., Robert Sackett, and RCM Technologies, Inc. to perform a subsurface investigation, and to propose remedial measures for mitigating any water quality degradation that may have resulted from the migration of soluble salts contained in the aluminum oxide wastes. In order to facilitate investigation at the site and to eliminate a likely source of groundwater contaminants, all aluminum oxide wastes were removed from the site by March of 1992.
6. To comply with CAO No. 86-17, Alumax Inc. conducted two site investigations between 1986 and 1989 and instituted a groundwater monitoring program in April 1993. Initial groundwater monitoring indicated the presence of soluble salts in the groundwater downgradient of the site.
7. Alumax Inc. prepared to initiate a site closure in July 1993 to prevent further groundwater degradation by soluble salts known to remain in the soils beneath the former waste pile storage areas. On September 2, 1994, CAO No. 86-17 was replaced by CAO No. 94-44 to include time schedules for conducting additional groundwater investigations and for mitigating the impact of soluble salts on groundwater.
8. The additional groundwater investigation and salt load reports submitted by Alumax Inc. indicated that:
 - a. The estimated quantity of salt leached to the vadose and saturated zone was 16,400 tons. This salt load is relatively minor compared to salt loads resulting from both past and present agricultural and other industrial practices existing within the Chino Basin.

- b. The transport modeling results indicated that the Alumax Fontana salt plume travels in a southwesterly direction toward the Jurupa Community Services District (JCSD) production well field located in Sections 4 and 5, R6W, T2S, SBB&M (see **Attachment 1**). Due to the relatively high production rates of the JCSD wells compared to the slow rate at which the plume appeared to be migrating toward the well field, the model predicted that the impact on the quality of pumped water would be negligible. Further, the model indicated that if the salt plume reaches the JCSD well field, it would be completely captured by the JCSD wells, for as long as they remain in service.
9. On April 10, 1997, based on the findings in the salt load reports, the Executive Officer of the Regional Board determined that neither a conventional pump-and-treat system, nor a salt offset program was appropriate as a groundwater remedial alternative.
10. In July of 1998, Aluminum Company of America (Alcoa) acquired all assets and facilities, including the Fontana property, from Alumax Inc.
11. On May 21, 1999, the Regional Board adopted CAO No. 99-38, which replaced CAO No. 94-44, to require Alcoa to implement appropriate corrective measures and monitoring requirements. CAO No. 99-38 specifically required the following:
 - a. Submittal and implementation of a site closure and post-closure maintenance plan for the former waste pile storage areas at the site;
 - b. Installation of an offsite groundwater monitoring program, in addition to the existing on-site groundwater monitoring program, to provide early warning to JCSD regarding changes in the quality of groundwater upgradient of their well field resulting from the Alumax Fontana salt plume.
 - c. Implementation of measures to remediate any adverse impacts the Alumax Fontana plume may have on the JCSD production wells.
12. As required under Item 3 of CAO No. 99-38, Alcoa installed four offsite monitoring wells, AOS #1 through #4, between 1999 and 2000, and began monitoring these wells in addition to the existing two on-site groundwater monitoring wells, MW-1 and MW-2. The locations of these monitoring wells are shown on **Attachment 1**.
13. Item 1 of CAO No. 99-38 required Alcoa to submit a site closure and post-closure maintenance plan (SCPCMP) by August 31, 1999. On August 27, 1999, Alcoa submitted a SCPCMP. After several plan revisions, the Executive Officer of the Regional Board approved the SCPCMP on March 7, 2000, conditioned upon the submittal of a revised plan incorporating three additional post-closure maintenance requirements. On June 19, 2001, Alcoa submitted a revised SCPCMP, dated April 20, 2001, which includes a copy of an unrecorded deed restriction.

14. Item 2 of CAO No. 99-38 required Alcoa to formally close the site by December 31, 1999 or an alternate date approved by the Executive Officer of the Regional Board. On May 2, 2000, Alcoa formally requested a site closure deferral from the December 31, 1999 closure date because the property was for sale, and the cap configuration would be dependent on the buyer's development of the property. On March 1, 2001, the Executive Officer of the Regional Board conditionally approved a time extension for site closure until March 1, 2006, based on the following findings:
- a. No apparent degradation of the groundwater basin due to the Alumax Fontana plume. Existing on-site and offsite water quality monitoring data indicated consistent improvement in water quality beneath and downgradient of the site;
 - b. An increasing trend in water quality degradation upstream of the Alumax Fontana site; and
 - c. An anticipation of the divestiture of the property for future development, and fulfillment of the capping requirement in concert with future development.

The site closure deferral was granted conditioned upon compliance with the following water quality indices:

- a. Water Quality Index No. 1 – When a divergence, as defined in the May 2000 site closure deferral proposal, is identified in the annual moving average of chloride values between the onsite groundwater monitoring wells, MW-1 (background) and MW-2 (downgradient).
- b. Water Quality Index No. 2 – When the annual moving average of chloride in offsite Well AOS #4 exceeds the annual moving average of chloride in the onsite background well, MW-1.

An immediate site closure could be required if any of the above water quality indices is not met.

15. In early November 2005, Alcoa notified Regional Board staff that YRC had purchased USFR, the owner of the former Alumax Fontana facility property, and had become directly involved with the property management of the Alumax Fontana site since May 2005. Prior to final acquisition by YRC, USFR intended to build a truck terminal on the Alumax Fontana property that would incorporate a closure cap for the site, and YRC supports that use. On November 11, 2005, YRC formally requested a time extension for site closure from March 1, 2006 to December 31, 2007 to allow time for a reassessment of the facility design, which may influence the design of the final closure cap. On February 24, 2006, based on the information provided and the monitoring data presented in the January 2005 Annual Groundwater Monitoring Report, the Board granted YRC the requested time extension for site closure.

16. This order is being revised to reflect the change in ownership of the Alumax Fontana property, and to require YRC to:
 - a. Continue the existing on-site and offsite water quality monitoring programs;
 - b. Propose and implement a site closure and post-closure maintenance plan to minimize the infiltration of water through soil, which causes mobilization of salts remaining in the vadose zone beneath the former Alumax Fontana facility;
 - c. Initiate site closure without further delay if new groundwater monitoring data indicate that any of water quality indices (see Finding 13) have not been met; and
 - d. Implement other necessary remedial measures to minimize the impact of the Alumax salt plume on nearby water supply wells.
17. Water Code Section 13304 allows the Regional Board to recover reasonable expenses from the responsible parties for overseeing cleanup of illegal discharges, contaminated properties, and other unregulated releases adversely affecting the state's waters. It is the Regional Board's intent to recover such costs for regulatory oversight work conducted in accordance with this order.
18. This action is being taken by a regulatory agency for the protection of the California Environmental Quality Act (Public Resources Codes, Section 21000 et seq.) in accordance with Section 15321, Division 3, Title 14, California Code of Regulations.

IT IS HEREBY ORDERED THAT, pursuant to Section 13304, Division 7 of the California Water Code, YRC (hereinafter discharger) shall implement the following monitoring and corrective measures:

1. Submit a proposed closure and postclosure maintenance plan for the former waste pile storage and salt-affected areas as indicated on Attachment 2, by **December 1, 2006**, for approval by the Executive Officer of the Regional Board. This plan shall include measures to minimize infiltration of water, which causes mobilization of waste constituents remaining in the vadose zone beneath the site. At a minimum, the closure and postclosure maintenance plan shall include the following:
 - a. A description, including any construction drawings, of the site redevelopment plan;
 - b. Preparation of the former waste pile storage area for closure;
 - c. The design of the closure cover, including the permeability data of each component of the cover, and any drainage control structures to divert water away from the cap;

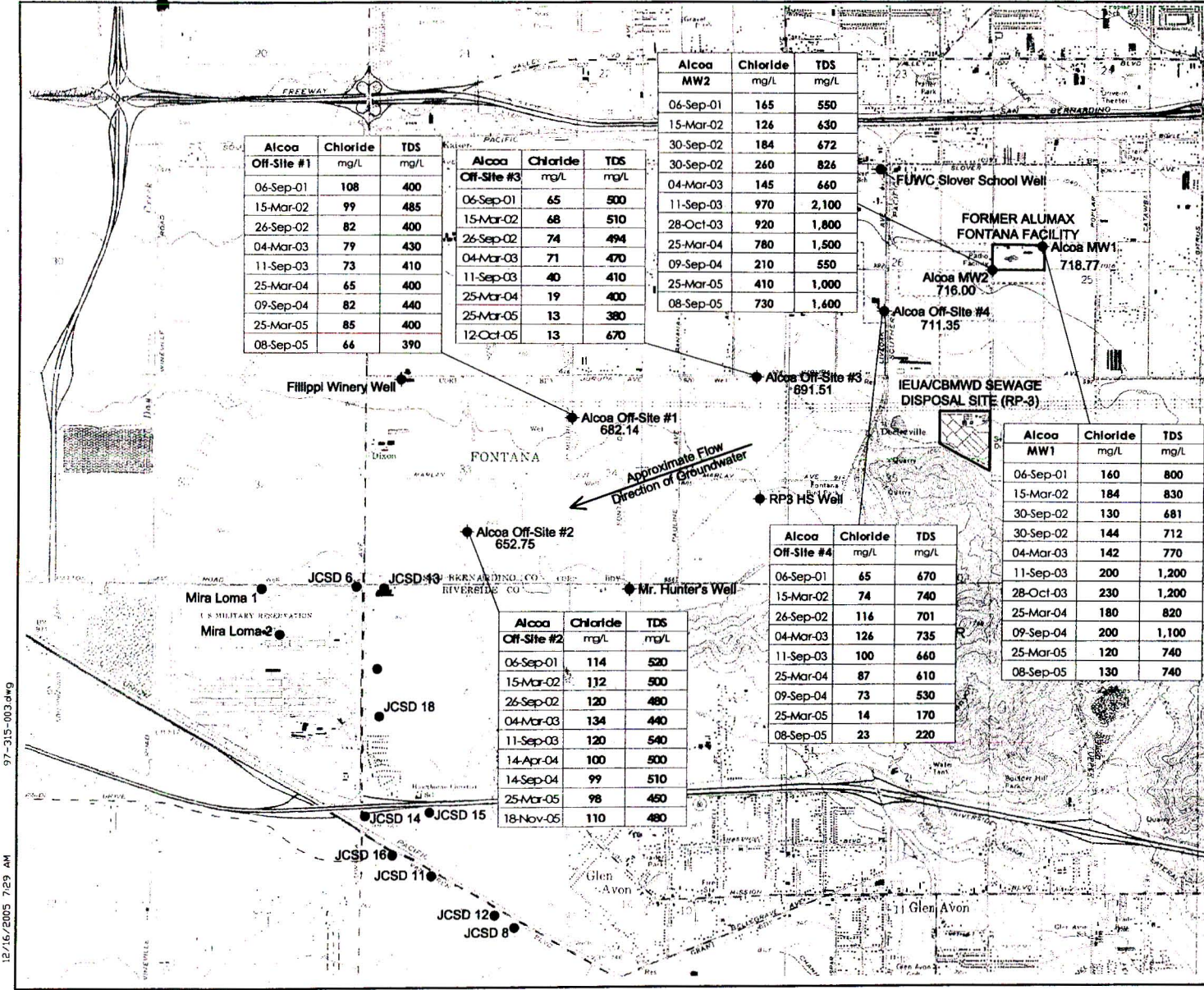
- d. A construction quality assurance/quality control plan for cover installation;
 - e. A proposed time schedule for site closure activities and final closure report submittal;
 - f. A discussion of any planned postclosure land use of the capped area;
 - g. A postclosure cover maintenance program consisting of cap inspection and maintenance, including repair of cracks or other damage, record keeping, and submittal of annual maintenance reports; and
 - h. A proposed deed restriction for the capped area to declare the responsibility of the property owner and its successor(s) to maintain the capped area and to notify the Regional Board of any proposed changes to the existing cap. A notarized copy of the deed restriction with any attachments for the capped area shall be submitted to the Regional Board within thirty days after it has been recorded with the County of San Bernardino.
2. Complete implementation of the approved site closure plan submitted pursuant to Item 1 no later than **December 31, 2007**.
 3. This order hereby rescinds Order No. 99-38.

If, in the opinion of the Executive Officer, this order is not complied with in a reasonable and timely manner, this matter will be referred to the Regional Board for the imposition of administrative civil liability or referral to the Attorney General for imposition of judicial liability, as provided by law.



Gerard J. Thibeault
Executive Officer

June 8, 2006



EXPLANATION

- ◆ Approximate Locations of Alcoa Monitoring Wells
 - ◆ Approximate Locations of IEUA Monitoring Wells
 - Approximate Locations of JCS D and FUWC Production Wells
- 721.48 Groundwater Elevations for September 2005 (Feet Mean Sea Level)
- JCS D Jurupa Community Services District
- FUWC Fontana Union Water Company

Alcoa Off-Site #1	Chloride mg/L	TDS mg/L
06-Sep-01	108	400
15-Mar-02	99	485
26-Sep-02	82	400
04-Mar-03	79	430
11-Sep-03	73	410
25-Mar-04	65	400
09-Sep-04	82	440
25-Mar-05	85	400
08-Sep-05	66	390

Alcoa Off-Site #3	Chloride mg/L	TDS mg/L
06-Sep-01	65	500
15-Mar-02	68	510
26-Sep-02	74	494
04-Mar-03	71	470
11-Sep-03	40	410
25-Mar-04	19	400
25-Mar-05	13	380
12-Oct-05	13	670

Alcoa MW2	Chloride mg/L	TDS mg/L
06-Sep-01	165	550
15-Mar-02	126	630
30-Sep-02	184	672
30-Sep-02	260	826
04-Mar-03	145	660
11-Sep-03	970	2,100
28-Oct-03	920	1,800
25-Mar-04	780	1,500
09-Sep-04	210	550
25-Mar-05	410	1,000
08-Sep-05	730	1,600

Alcoa MW1	Chloride mg/L	TDS mg/L
06-Sep-01	160	800
15-Mar-02	184	830
30-Sep-02	130	681
30-Sep-02	144	712
04-Mar-03	142	770
11-Sep-03	200	1,200
28-Oct-03	230	1,200
25-Mar-04	180	820
09-Sep-04	200	1,100
25-Mar-05	120	740
08-Sep-05	130	740

Alcoa Off-Site #4	Chloride mg/L	TDS mg/L
06-Sep-01	65	670
15-Mar-02	74	740
26-Sep-02	116	701
04-Mar-03	126	735
11-Sep-03	100	660
25-Mar-04	87	610
09-Sep-04	73	530
25-Mar-05	14	170
08-Sep-05	23	220

Alcoa Off-Site #2	Chloride mg/L	TDS mg/L
06-Sep-01	114	520
15-Mar-02	112	500
26-Sep-02	120	480
04-Mar-03	134	440
11-Sep-03	120	540
14-Apr-04	100	500
14-Sep-04	99	510
25-Mar-05	98	450
18-Nov-05	110	480

GEOSCIENCE, INC.
 ENVIRONMENTAL & GEOTECHNICAL CONSULTANTS

SITE AND WELL LOCATIONS
 FORMER ALUMAX RECYCLING FACILITY
 BEECH AND SANTA ANA AVENUE
 FONTANA, CALIFORNIA

PROJECT NO. 97-315 FILE NO. 97-315-003.DWG FIGURE 1

12/16/2005 7:29 AM 97-315-003.dwg

