

FILED

APR 23 2008

SONYA KRASKI
COUNTY CLERK
SNOHOMISH CO. WASH.

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

STATE OF WASHINGTON, DEPARTMENT
OF ECOLOGY,

Plaintiff,

v.

CITY OF EVERETT and
OM EVERETT, INC.,

Defendants.

NO. 01-2-03640-6

STIPULATION TO ENTER
AMENDMENT NO. 1 TO CONSENT
DECREE AND WAIVER OF FURTHER
HEARING

STIPULATION

Plaintiff, State of Washington, Department of Ecology ("Ecology"), and Defendants City of Everett ("City") and OM Everett, Inc. ("OME") stipulate to the following facts and request that the Court enter as an order of the Court the attached Amendment No. 1 to Consent Decree ("CD Amendment") in this matter.

1. On April 2, 2001, this Court approved a Consent Decree (the "Decree") pursuant to RCW 70.105D.040(4) in order to provide for remedial action at the Everett Landfill/Tire Fire Site ("Site"), where there had been a release or threatened release of hazardous substances. The Decree and a Cleanup Action Plan ("CAP") attached as Exhibit C to the Decree and other exhibits to the Decree (collectively, "CAP/CD") contemplated that the City might transfer all or part of the landfill property ("Property") to another party or parties for development purposes, and that the new owner or developer could become a party to the Decree.

ORIGINAL

1 2. The City has entered into an agreement whereby OME will purchase a portion of
2 the Property for development. The City and OME have agreed to certain responsibilities
3 regarding the future remediation of the Property and compliance with the CAP/CD. The CD
4 Amendment maintains the City's existing obligations under the Decree.

5 3. The CD Amendment is necessary so that OME can be added as a party to the
6 Decree and thereby receive the benefits of the Decree, and so that the allocation of
7 responsibilities between the City and OME can be incorporated within the Decree.

8 4. OME is a person not currently liable for remedial action at the Site, which
9 proposes to purchase, develop, and reuse the facility, as contemplated by the CAP/CD. The CD
10 Amendment is consistent with and in furtherance of Ecology's settlement authority under
11 RCW 70.105.D.040 in order to implement the CAP/CD provision for a future owner/developer
12 to become a party to the Decree and is in the public interest.

13 5. The parties have reviewed, voluntarily entered into, and executed the attached CD
14 Amendment. The parties have received notice of the presentation of the CD Amendment, this
15 stipulation, and order in Snohomish County Superior Court and hereby waive any further notice
16 and hearing on the matter.

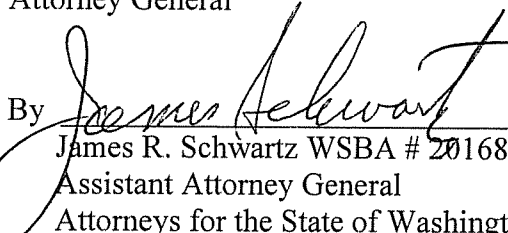
17 6. The parties respectfully request that the Court promptly enter the amendment.


18 DATED this 18 day of April, 2008.

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20 STATE OF WASHINGTON
21 ROBERT M. MCKENNA
22 Attorney General

CITY OF EVERETT, a Washington
municipal corporation

K&L GATES

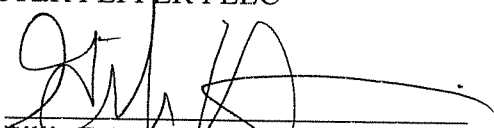
22 By 
23 James R. Schwartz WSBA # 20168
24 Assistant Attorney General
25 Attorneys for the State of Washington,
26 Department of Ecology

By 
Kenneth S. Weiner WSBA #11594
Attorneys for Defendant City of Everett

OM EVERETT, INC., a Washington
corporation

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FOSTER PEPPER PLLC

By 

Gillis E. Reavis WSBA #21451
Attorneys for Defendant OM Everett, Inc.