

Investco

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**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

In the Matter of Interim Remedial Action by:)

ENFORCEMENT ORDER

Pacific Trustee, Ltd.)
c/o Stephen A. Burnham, Attorney)
1302 Puyallup Street)
Sumner, WA 98390)

No. DE 95 TC-S408

Sack I need a state code for this site FS 1359

To: Stephen A. Burnham, Attorney
Pacific Trustee, Ltd.

I.

JURISDICTION

This Order is issued pursuant to the authority of RCW 70.105D.050(1).

II.

STATEMENT OF FACTS

1. The facility is a vacant property located at 1147 Dock Street in Tacoma, Washington. It is listed on the Department of Ecology Site Information System database as the "Investco, Dock Street" property. (The site is more particularly described in Exhibit A).
2. A special warranty deed notarized on November 25, 1987 shows that the property was conveyed to Pacific Trustee, Ltd., as Trustee for the Investco Financial Corporation.
3. The Site is located within the boundaries of the Commencement Bay Nearshore/Tideflats ("CBN/T") Superfund site. The Department of Ecology ("Ecology") and the U.S. Environmental Protection Agency ("EPA") have completed the CBN/T remedial investigation (August 1985) and the feasibility study

(February 1989). The remedial actions for contaminated sediments and upland source control within the CBN/T site are documented in a Record of Decision, which was signed on September 30, 1989 ("CBN/T ROD"). The 1147 Dock Street site is located within the drainage basin of, and is adjacent to, the Head of Thea Foss Waterway Problem Area in the CBN/T site. The Record of Decision designated certain "problem chemicals" for the Head of Thea Foss Problem Area (see Exhibit B). These are chemicals which were found to be present in the sediments at toxic concentrations.

4. The "problem chemicals" mercury, lead and zinc have been detected at the site, in contact with the Thea Foss Waterway, at concentrations above the CBN/T sediment quality objectives.

5. In 1993, Ecology discovered a non-soil fill material located along the bank of the site in contact with Thea Foss Waterway. This material is a gray substance which contains small pieces of black, charred material. Also present with the gray substance in parts of the fill is a white granular appearing substance. Between 1993 and 1995 Ecology obtained five samples of the fill. Sample locations are shown on Exhibit D. Samples were obtained by gathering spoonful of sediments from the top 0-2 inches over an area of 1-3 square feet for each sample (composite samples). Four of the samples exceeded the CBN/T sediment quality objective of .59 mg/kg. Sample SPB3, which was obtained from intertidal sediments below the fill material, contained 2.21 mg/kg mercury. This sample contained intertidal sediments that were mixed with small pieces of the white grainy material from the fill. This indicates that mercury contamination from the fill material is reaching the intertidal sediments and causing sediment contamination in the Thea Foss Waterway. In addition to the mercury exceedances, one sample exceeded the sediment quality objective for lead, and one sample exceeded the sediment quality objective for zinc.

The sample results are shown below:

DATE	Sample #	Sample Name	Cadmium mg/kg	Copper mg/kg	Lead mg/kg	Mercury mg/kg	Zinc mg/kg
12/7/93	508044	SPB1	1U	203	13	0.136	116
12/7/93	50845	SPB2	2U	181	111J	4.76	202
4/28/94	188007	SPB3	.96P	163	125	2.21	242
3/2/95	95098130	INV B1	0.39P	321N	764N	38.3	550N
3/2/95	95098131	INV-B2	.46P	178N	95.7N	2.22	459N
	Commencement Bay Sediment Quality Objective		5.1	390	450	.59	410

bold = exceeds Commencement Bay Sediment Quality Objective

P = Analyte was detected above the instrument detection limit but below the established minimum quantitation limit.

N = The spike recover sample for quality assurance is not within control limits.

J = The analyte was identified. The numerical result is an estimate.

6. On March 10, 1994, Ecology requested the Investco Financial Corporation, beneficiary of the Trust held by Pacific Trustee and operator of the property, to investigate the extent of the mercury-containing fill and to develop a plan for preventing further contamination of Thea Foss Waterway sediments. March 24, 1994, Ecology inspectors met with representatives of Pacific Trustee and the Investco Financial Corporation at the site to show them the fill material and sample locations. At that time, the Pacific Trustee representative, Mr. Stephen Burnham, informed the Ecology inspector that he would provide a letter to Ecology describing actions to be taken on the site. Mr. Burnham is also the representative for the Investco Financial Corporation. No such letter was received. In a telephone conversation of June 7, 1994, Ecology again requested a letter from

Mr. Burnham describing actions to be taken to prevent further sediment contamination from the site. On October 31, 1994, Ecology received a letter from David Evans and Associates, an environmental consulting firm, describing a sampling plan to investigate the extent of the mercury contamination on the site. Ecology provided comments on the sampling plan in a letter to Stephen Burnham on November 23, 1994, and clarified these comments in a telephone conversation with David Evans and Associates on December 9, 1994. Ecology received no further communication from Investco Financial Corporation or Pacific Trustee concerning the sampling plan. On February 16, 1995, Ecology received a letter from the Stephen A. Burnham, representing both the Investco Financial Corporation and Pacific Trustee, Ltd., informing Ecology that the property at 1147 Dock Street is owned by Pacific Trustee, Ltd., and that the Investco Financial Corporation would no longer participate in any clean up activities at the site. The letter states that "In any action you [Ecology] may bring regarding the Dock Street property, the named party would be Pacific Trustee, Ltd., as Trustee, under that Trust Agreement dated December 4, 1987." On September 7, 1995, Ecology met with Mr. Burnham, as representative of Pacific Trustee. At that time Ecology requested that Pacific Trustee enter into an agreed order for controlling the mercury source at the site. Mr. Burnham requested that Ecology wait until Pacific Trustee had an opportunity to request the City of Tacoma to take on the Superfund liability for sediment contamination from the site. Ecology agreed to this delay. In a letter to Mr. Burnham dated October 19, 1995, the City of Tacoma declined accept liability.

III.

ECOLOGY DETERMINATIONS

1. Pacific Trustee is an "owner" as defined at RCW 70.105D.020(11) of a "facility" as defined at RCW 70.105D.020(4).

2. The substances found at the facility as described above are "hazardous substances" as defined in RCW 70.105D.020(7) are present at the site.
3. Based on the presence of these hazardous substances at the facility and all factors known to the Department, there is a release or threatened release of hazardous substances from the facility, as defined at RCW 70.105D.020(19). The release of hazardous substances is contributing to sediment contamination of the Thea Foss Waterway, which is part of the Commencement Bay Nearshore/Tideflats Federal Superfund site. The release is also causing exceedances of the State of Washington Sediment Management Standards.
4. By letter dated November 9, 1995, Ecology notified Pacific Trustee, Ltd. of its status as a "potentially liable person" under RCW 70.105D.040 after notice and opportunity for comment.
5. Pursuant to RCW 70.105D.030(1) and 70.105D.050, the Department may require potentially liable persons to investigate or conduct other remedial actions with respect to the release or threatened release of hazardous substances, whenever it believes such action to be in the public interest.
6. Pursuant to WAC 173-340-430, Interim Remedial Actions may occur prior to the selection and completion of a cleanup action, if the interim action is technically necessary to reduce a threat to human health or the environment by eliminating or substantially reducing one or more pathways for exposure to a hazardous substance at a facility.
7. It is necessary to remove the contaminated fill material from contact with the surface waters of the Thea Foss Waterway, in order to prevent further contamination of the sediments of the Thea Foss Waterway.
8. Based on the foregoing facts, Ecology believes an interim remedial action is necessary to control this source of pollution to the Thea Foss Waterway, and that the actions required by this

Order are in the public interest.

IV.

WORK TO BE PERFORMED

Based on the foregoing Facts and Determinations, it is hereby ordered that Pacific Trustee, Ltd. investigate and remove contaminated fill material at the 1147 Dock Street site. All work shall be conducted in accordance with Chapter 173-340 WAC unless otherwise specifically provided for herein. All work shall also meet the substantive permit requirements of relevant local and state permits as described in Exhibit C.

1. **INVESTIGATION OF FILL.** Pacific Trustee, Ltd. shall investigate the areal and vertical distribution and concentrations of hazardous substances in fill material on the site in order to obtain information to plan for its removal. Pacific Trustee shall submit a letter to Ecology within sixty (60) days of the effective date of this order describing the areal and vertical distribution and concentration of hazardous substances in fill material. The letter shall include, at a minimum:

A) A description, including diagrams and maps, of the height, lateral extent, and depth of the fill and an estimate of quantity. Include a determination of whether, and to what extent, the fill material is present in the intertidal area. This determination shall be for the intertidal zone down to the zero foot tidal level.

B) Results of subsurface samples of the fill material. At least three samples from three discrete locations, at a depth of 12" - 36" beneath the surface of the fill, shall be obtained and analyzed for cadmium, copper, lead, zinc, mercury, percent solids, polyaromatic hydrocarbons, and phthalates. All results shall be reported on a dry weight basis. Samples shall be analyzed at a laboratory accredited by the Department of Ecology. A composite of the three samples shall be analyzed for TCLP mercury to determine the dangerous waste status of the fill. Prior to sampling,

provide Ecology with a letter showing proposed sample locations. Notify Ecology at least seven days prior to all sampling activities.

C) Information about the soils, subsurface conditions, or other characteristics of the site which may affect the removal of the material. This shall include a description of structures which may need to be removed or worked around in order to reach the material, potential for sloughing of underlying soils when the fill is removed, and other relevant factors.

2. **INTERIM ACTION PLAN.** Pacific Trustee, Ltd. shall develop an interim action plan for removal of the contaminated fill material. Pacific Trustee, Ltd. shall submit a draft plan to remove the material from contact with the Thea Foss Waterway to Ecology within thirty (30) days of the receiving Ecology's comments on the results of the fill investigation described under #1, above. The plan shall include, at a minimum:

A. A detailed description of the proposed interim action. This shall include:

- Methods and extent of excavation within the upland, shoreline, and intertidal areas.
Provide scale maps showing projected excavation areas. Describe rationale for deciding where excavation will stop.
- Timing of excavation in relationship to tides (no excavation or work shall take place in the intertidal zone when tide is covering the beach);
- Methods for stockpiling and handling of excavated fill on site. Show stockpile area on maps.
- Methods for decontamination of equipment (including disposal of contaminated water);
- Description of any planned shoreline restructuring after the fill is removed. Include detailed drawings and map showing location and engineering design of bank

reconfiguration. At a minimum, the plan shall include provisions to prevent erosion from the newly exposed soils after the fill is removed..

B. A description of erosion control measures to prevent the contaminated fill from getting into Thea Foss Waterway during excavation. Provide drawings showing location of silt fences and other erosion control mechanisms.

C. A description of how the material will be loaded, transported and disposed of. This shall include measures to prevent it from spilling or from being spread around the site or off the site by vehicles. This shall also include the name of the landfill where the waste will be disposed of. Proposed landfill shall be in compliance with all state, federal, and local regulations.

D. A Worker Safety and Health Plan per WAC 173-340-810. The Worker Health and Safety Plan ensures the protection of worker safety and health during the site work phases specified in this Order. Although the health and safety plan must be submitted to Ecology for review and comment, Ecology does not have the authority to approve the plan.

E. A Compliance Monitoring Plan per WAC 173-340-410 for sampling within and around the excavated area to ensure contaminated materials have been removed.

F. A schedule for conducting the cleanup activities.

2. **STATE ENVIRONMENTAL POLICY ACT.** With the draft Interim Action Plan, submit a completed State Environmental Policy Act (SEPA) checklist for the cleanup action to Ecology.

3. **U.S. ARMY, CORPS OF ENGINEERS PRE-DISCHARGE NOTIFICATION.** Submit a pre-discharge notification letter to the U.S. Army Corps of Engineers, requesting verification that the cleanup action complies with Nationwide Permit #38. This Nationwide Permit is in place to provide coverage under the Section 404 permit process for sites where an environmental cleanup is taking place.

4. IMPLEMENTATION OF CLEANUP ACTION PLAN

Upon Ecology's review and approval of the final Interim Action Plan, implement the activities in the plan. Prior to implementation of the plan, Ecology shall provide an opportunity for the public to comment on the plan. This shall be provided through publishing of a Fact Sheet and notification in the Site Register describing the proposed interim cleanup action and informing the public of the opportunity to review the plan. In addition, a SEPA determination will be made by Ecology and published in the SEPA register for public review. Public notice of the proposed cleanup action will take place at least 30 days prior to the start of the cleanup activities.

5. GROUNDWATER MONITORING

Obtain quarterly groundwater samples from the four monitoring wells on the site, for at least one year. Samples shall be analyzed for Total Petroleum Hydrocarbons using method 418.1. The first quarterly sample shall also be analyzed for polyaromatic hydrocarbons and total and dissolved mercury.

6. DELIVERABLES/SCHEDULE

1. Letter describing investigation of fill.	Sixty (60) days from the effective date of this order.
2. Draft Interim Action Plan	Thirty (30) days from receiving Ecology's comments on the investigation letter.
3. Final Interim Action Plan.	Thirty (30) days from receiving Ecology's comments on the draft plan.
4. SEPA Checklist	Ninety (90) days from the effective date of this order.
5. Begin Implementation of Interim Action Plan	Thirty (30) days after Ecology publishes public notice of the plan.

V.

TERMS AND CONDITIONS OF ORDER

1. Definitions.

Unless otherwise specified, the definitions set forth in ch. 70.105D RCW and ch. 173-340 WAC shall control the meanings of the terms used in this Order.

2. Public Notice.

RCW 70.105D.030(2)(a) requires that, at a minimum, this Order be subject to concurrent public notice. Ecology shall be responsible for providing such public notice and reserves the right to modify or withdraw any provisions of this Order should public comment disclose facts or considerations which indicate to Ecology that the Order is inadequate or improper in any respect.

3. Remedial Action Costs.

Pacific Trustee, Ltd. shall pay to Ecology costs incurred by Ecology pursuant to this Order. These costs shall include work performed by Ecology or its contractors for investigations, remedial actions, and Order preparation, oversight and administration. Ecology costs shall include costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2). Pacific Trustee, Ltd. shall pay the required amount within 90 days of receiving from Ecology an itemized statement of costs that includes a summary of costs incurred, an identification of involved staff, and the amount of time spent by involved staff members on the project. A general description of work performed will be provided upon request. Itemized statements shall be prepared quarterly. Failure to pay Ecology's costs within 90 days of receipt of the itemized statement of costs will result in interest charges.

4. Designated Project Coordinators.

The project coordinator for Ecology is:

Joyce Mercuri
Washington State Department of Ecology
Southwest Regional Office
Post Office Box 47775
Olympia, WA 98504-7775

Telephone (360) 407-6260

The project coordinator for Pacific Trustee, Ltd. is:
Stephen A. Burnham, Attorney
1302 Puyallup Street
Sumner, WA 98390

The project coordinator(s) shall be responsible for overseeing the implementation of this Order. To the maximum extent possible, communications between Ecology and Pacific Trustee, Ltd., and all documents, including reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order, shall be directed through the project coordinator(s). Should Ecology or Pacific Trustee, Ltd. change project coordinator(s), written notification shall be provided to Ecology or Pacific Trustee, Ltd. at least ten (10) calendar days prior to the change.

5. Performance.

All work performed pursuant to this Order shall be under the direction and supervision, as necessary, of a professional engineer or hydrogeologist, or similar expert, with appropriate training, experience and expertise in hazardous waste site investigation and cleanup. Pacific Trustee, Ltd. shall notify Ecology as to the identity of such engineer(s) or hydrogeologist(s), and of any contractors and subcontractors to be used in carrying out the terms of this Order, in advance of their involvement at the site. Pacific Trustee, Ltd. shall provide a copy of this Order to all agents, contractors and

subcontractors retained to perform work required by this Order and shall ensure that all work undertaken by such agents, contractors and subcontractors will be in compliance with this Order.

Except when necessary to abate an emergency situation, Pacific Trustee, Ltd. shall not perform any remedial actions at the Site outside that required by this Order unless Ecology concurs, in writing, with such additional remedial actions.

WAC 173-340-400(7)(b)(i) requires that "construction" performed on the site must be under the supervision of a professional engineer registered in Washington.

6. Access.

Ecology or any Ecology authorized representative shall have the authority to enter and freely move about all property at the site at all reasonable times for the purposes of, inter alia: inspecting records, operation logs, and contracts related to the work being performed pursuant to this Order; reviewing the progress in carrying out the terms of this Order; conducting such tests or collecting samples as Ecology or the project coordinator may deem necessary; using a camera, sound recording, or other documentary type equipment to record work done pursuant to this Order; and verifying the data submitted to Ecology by Pacific Trustee, Ltd. When entering the site under Ch. 70.105D RCW, Ecology shall provide reasonable notice prior to entering the site unless an emergency prevents notice. Ecology shall allow split or replicate samples to be taken by Pacific Trustee, Ltd. during an inspection unless doing so would interfere with Ecology's sampling. Pacific Trustee, Ltd. shall allow split or replicate samples to be taken by Ecology and shall provide Ecology seven (7) days notice before any sampling activity.

7. Public Participation.

Pacific Trustee, Ltd. shall prepare and/or update a public participation plan for the site. Ecology shall maintain the responsibility for public participation at the site.

Pacific Trustee, Ltd. shall help coordinate and implement public participation for the site.

8: Retention of Records.

Pacific Trustee, Ltd. shall preserve in a readily retrievable fashion, during the pendency of this Order and for ten (10) years from the date of completion of the work performed pursuant to this Order, all records, reports, documents, and underlying data in its possession relevant to this Order. Should any portion of the work performed hereunder be undertaken through contractors or agents of Pacific Trustee, Ltd., a record retention requirement meeting the terms of this paragraph shall be required of such contractors and/or agents.

9. Dispute Resolution.

Pacific Trustee, Ltd. may request Ecology to resolve factual or technical disputes which may arise during the implementation of this Order. Such request shall be in writing and directed to the signatory, or his/her successor(s), of this Order. Ecology resolution of the dispute shall be binding and final. Pacific Trustee, Ltd. is not relieved of any requirement of this Order during the pendency of the dispute and remains responsible for timely compliance with the terms of the Order unless otherwise provided by Ecology in writing.

10. Reservation of Rights.

Ecology reserves all rights to issue additional orders or take any action authorized by law in the event or upon the discovery of a release or threatened release of hazardous substances not addressed by this Order, upon discovery of any factors not known at the time of issuance of this Order, in order to abate an emergency, or under any other circumstances deemed appropriate by Ecology.

Ecology also reserves all rights regarding the injury to, destruction of, or loss of natural resources resulting from the release or threatened release of hazardous substances from the 1147 Dock Street site.

In the event Ecology determines that conditions at the site are creating or have the potential to create a danger to the health or welfare of the people on the site or in the surrounding area or to the environment, Ecology may Order Pacific Trustee, Ltd. to stop further implementation of this Order for such period of time as needed to abate the danger.

11. Transference of Property.

No voluntary or involuntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the site shall be consummated by Pacific Trustee, Ltd. without provision for continued implementation of all requirements of this Order and implementation of any remedial actions found to be necessary as a result of this Order.

Prior to transfer of any legal or equitable interest Pacific Trustee, Ltd. may have in the site or any portions thereof, Pacific Trustee, Ltd. shall serve a copy of this Order upon any prospective purchaser, lessee, transferee, assignee, or other successor in such interest. At least thirty (30) days prior to finalization of any transfer, Pacific Trustee, Ltd. shall notify Ecology of the contemplated transfer.

12. Compliance With Applicable Laws.

A. All actions carried out by Pacific Trustee, Ltd. pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements, including requirements to obtain necessary permits, except as provided in paragraph B of this section.

B. Pursuant to RCW 70.105D.090(1), the substantive requirements of chapters 70.94, 70.95, 70.105, 75.20, 90.48, and 90.58 RCW and of any laws requiring or authorizing local government permits or approvals for the remedial action under this Order that are known to be applicable at the time of issuance of the Order have been included in Exhibit C and are binding and enforceable requirements of the Order.

Pacific Trustee, Ltd. has a continuing obligation to determine whether additional permits or

approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order. In the event Pacific Trustee, Ltd. determines that additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order, it shall promptly notify Ecology of this determination. Ecology shall determine whether Ecology or Pacific Trustee, Ltd. shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, Pacific Trustee, Ltd. shall promptly consult with the appropriate state and/or local agencies and provide Ecology with written documentation from those agencies of the substantive requirements those agencies believe are applicable to the remedial action. Ecology shall make the final determination on the additional substantive requirements that must be met by Pacific Trustee, Ltd. and on how Pacific Trustee, Ltd. must meet those requirements. Ecology shall inform Pacific Trustee, Ltd. in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. Pacific Trustee, Ltd. shall not begin or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination.

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

Pursuant to RCW 70.105D.090(2), in the event Ecology determines that the exemption from complying with the procedural requirements of the laws referenced in RCW 70.105D.090(1) would result in the loss of approval from a federal agency which is necessary for the state to administer any federal law, the exemption shall not apply and Pacific Trustee, Ltd. shall comply with both the procedural and substantive requirements of the laws referenced in RCW 70.105D.090(1), including any requirements to obtain permits.

VI.

SATISFACTION OF THIS ORDER

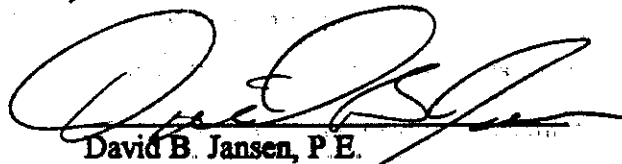
The provisions of this Order shall be deemed satisfied upon Pacific Trustee, Limited's receipt of written notification from Ecology that Pacific Trustee, Ltd. has completed the remedial activity required by this Order, as amended by any modifications, and that all other provisions of this Order have been complied with.

VII.

ENFORCEMENT

1. Pursuant to RCW 70.105D.050, this Order may be enforced as follows:
 - A. The Attorney General may bring an action to enforce this Order in a state or federal court.
 - B. The Attorney General may seek, by filing an action, if necessary, to recover amounts spent by Ecology for investigative and remedial actions and orders related to the site.
 - C. In the event Pacific Trustee, Ltd. refuses, without sufficient cause, to comply with any term of this Order, Pacific Trustee, Ltd. will be liable for:
 - (1) up to three times the amount of any costs incurred by the state of Washington as a result of its refusal to comply; and
 - (2) civil penalties of up to \$25,000 per day for each day it refuses to comply.
 - D. This Order is not appealable to the Washington Pollution Control Hearings Board. This Order may be reviewed only as provided under RCW 70.105D.060.

Effective date of this Order: 12/7/1995



David B. Jansen, P.E.
Section Manager
Toxics Cleanup Program
Southwest Regional Office

8712070358

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Chicago Title Insurance Company

FILED FOR RECORD AT REQUEST OF

THIS SPACE RESERVED FOR RECORD'S USE.
87 DEC 7 P 1: 57
FILED IN TAG
PIERCE COUNTY WASH.

WHEN RECORDED RETURN TO

Name..... COMMONWEALTH TITLE INSURANCE COMPANY

Address..... 1120 PACIFIC AVENUE

City, State, Zip..... TACOMA, WASHINGTON 98402

CT.I.
383404
DEC 7 1987

Escrow No. 383404 **Special Warranty Deed**

THE GRANTOR FIRST INTERSTATE BANK OF WASHINGTON, N.A., TRUSTEE UTA, DATED 3/26/70 for and in consideration of Ten Dollars and other valuable considerations Dollars (\$10.00), in hand paid, grant, bargain, sell, convey, and confirm to

PACIFIC TRUSTEE LTD, A WASHINGTON CORPORATION, AS TRUSTEE FOR INVESTCO FINANCIAL CORP. the following described real estate, situated in the County of PIERCE, State of Washington:

THE SOUTH HALF OF LOT 12, ALL OF LOTS 13 AND 14, AND THE NORTH HALF OF LOT 15, BLOCK 62 MAP OF TACOMA TIDE LANDS AS SURVEYED AND PLATTED BY THE BOARD OF TIDE LAND APPRAISERS FOR PIERCE COUNTY, ACCORDING TO PLAT FILED SEPTEMBER 14, 1895, IN PIERCE COUNTY, WASHINGTON.

TAX PAID \$ 2862.06
6-13-75 Date 12-7-87
Pierce County

[Signature]
Notary Public

The Grantor for itself and for its successors in interest do by these presents expressly limit the covenants of the deed to those herein expressed, and exclude all covenants arising or to arise by statutory or other implication, and do hereby covenant that against all persons whomsoever lawfully claiming or to claim by, through or under said Grantor and not otherwise, will forever warrant and defend the said described real estate.

Dated November 20, 19 87

(If Individual)

(Individual)

FIRST INTERSTATE BANK OF WASHINGTON, N.A., AS TRUSTEE

By *Richard A. Hammarsten*
Richard A. Hammarsten, Asst. Vice President

By *Nancy Jo Bigg*
Nancy Jo Bigg, Trust Officer

STATE OF WASHINGTON
COUNTY OF _____

On this day personally appeared before me

to me known to be the individual described in and

STATE OF WASHINGTON
COUNTY OF Pierce

On this 25th day of November 1987, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared

Richard A. Hammarsten

**TABLE 8. PROBLEM CHEMICALS IN HEAD OF
THEA FOSS (CITY) WATERWAY**

Priority ^a	Chemical
Priority 1	Total organic carbon
	Zinc
	Lead
	Mercury
Priority 2	Oil and grease
	LPAH
	HPAH
	Cadmium
	Nickel
	2-Methylphenol
	4-Methylphenol ^b
	Bis[2-ethylhexyl]phthalate ^c
	Butyl benzyl phthalate ^c
	Copper
Priority 3	1,4-Dichlorobenzene
	N-nitrosodiphenylamine
	Aniline ^b
	Benzyl alcohol
	Phenol ^d

Note: The Head of Thea Foss (City) Problem Area is comprised of Segment 1 as described in Tetra Tech (1985) (see Figure 12 of the Record of Decision).

^a Priority 1 problem chemical—Detected at concentrations exceeding apparent effects thresholds, and the spatial distribution of this chemical corresponds to gradients of observed toxicity or benthic effects.

Priority 2 problem chemical—Detected at concentrations exceeding apparent effects thresholds at more than one station, but shows no particular spatial relationship with gradients of observed toxicity or benthic effects.

Priority 3 problem chemical—Detected at concentrations exceeding apparent effects thresholds at only one station in a problem area or is the highest recorded concentration of that chemical in the Puget Sound database.

^b The Record of Decision does not include a CB/NT cleanup objective for this constituent.

^c Bis[2-ethylhexyl]phthalate and butyl benzyl phthalate are the only two phthalate esters identified as Priority 2 chemicals.

^d Although phenol was not identified as a Priority chemical in Tetra Tech (1985) (p. 6.34) and was identified as a Priority 2 chemical in Tetra Tech (1986b) (p. 159), information presented in Tetra Tech (1985) (p. 4.11, 4.18) suggests that phenol should have been listed in Table 6.14 as a Priority 3 problem chemical. The SEDQUAL database retrieval confirmed this designation.

**PACIFIC TRUSTEE, LTD.
1147 DOCK STREET**

Exhibit C: Substantive requirements for complying with State and Local Permits

Permits pertinent to this action:

1. Tacoma Shoreline Regulations
2. Tacoma Grading and Excavation Regulations
3. State Hydraulic Project Approval
4. State Water Pollution Control Act
5. State Hazardous Waste Management Act
6. Puget Sound Air Pollution Control Agency
7. Local health Department - Solid Waste Regulations

Substantive requirements for state and local permits that have been identified as pertinent to this project and that shall be complied with in the process of completing the interim remedial action are described below:

1. City of Tacoma, Chapter 13.10, Shoreline Regulations

- Construction design shall include measures to minimize erosion during and after excavation and construction and for the replanting of any vegetated portion of the site which is disturbed from the remedial action.
- The construction of bulkheads shall be permitted only when they are necessary for protection to upland areas or facilities. Bulkheads shall not be permitted for the indirect purpose of creating land by filling behind the bulkhead.
- Bulkheads shall be constructed of concrete, wood, rock, riprap, or other suitable materials. The design and construction of such bulkheads shall, to the maximum extent feasible, preserve the natural characteristics of the shoreline, including beaches, and shall take into account habitat protection and aesthetics.
- Returned water from any dredge material disposed of on land shall meet all applicable water quality standards in accordance with applicable water quality regulations.
- Landfills shall be considered only where such construction can be integrated with the shoreline.
- Construction design for landfills shall address methods which will be used to minimize negative impacts to shellfish, fish, and wildlife habitat, feeding, reproduction, or migration areas.
- Construction design for landfills shall address methods which will be used to minimize physical damage such as alteration of local current, wave damage, water surface reduction, navigation

restriction, impediment to water flow and circulation, reduction of water quality, loss of public access, elimination of accretional beaches, erosion, and aesthetics.

- Site development shall include the capability to contain and clean up spills, discharges, or pollutants.

2. City of Tacoma, Chapter 70, Excavation and Grading

- Any grading, excavation, or filling to take place between October 1st and March 31st shall be performed according to a plan prepared by a licensed Civil or Geotechnical Engineer which specifically addresses the winter rain season and associated erosion problems.

3. Hydraulic Project Approval, Washington State Department of Fish and Wildlife, Chapter 220-110 WAC.

- Work below the ordinary high water mark (OHW) shall not occur from March 15 through June 14 of any years for the protection of migrating juvenile salmonids.
- Project activities below OHW shall not occur when the project area is inundated by tidal waters.
- Excavated materials shall not be stockpiled on the beach.
- All trenches, depressions, or holes created in the intertidal area shall be backfilled prior to inundation by tidal waters.
- All manmade debris on the beach at the project site shall be removed and disposed of upland such that it does not enter waters of the state.
- Use of equipment on the beach shall be prevented to the maximum extent practicable.
- Bed material waterward of the excavation area (approximately Mean Higher High Water, +11.8 ft) shall not be utilized for project construction or fill.
- Project activities shall be conducted to minimize siltation of beach areas and bed materials.
- If a fish kill occurs or fish are observed in distress, the project activity shall immediately cease and WDFW Habitat Program shall be notified immediately.
- Debris or deleterious material resulting from construction shall be removed from the beach area and project site and shall not be allowed to enter waters of the state. Water quality is not to be degraded to the detriment of fish life as a result of this project.

4. State of Washington, Chapter 90.48 RCW, Water Pollution Control

- Construction design and implementation shall include measures to prevent discharge into any of the waters of the state of any organic or inorganic matter that shall cause or tend to cause pollution of such waters according to the determination of Ecology.

5. State of Washington, Chapter 70.105 RCW, Hazardous Waste Management

- The remedial action shall provide for management or disposal of dangerous wastes or hazardous wastes in a manner in compliance with regulations under Chapter 173-303 WAC. Wastes shall be designated and managed in compliance with the site Work Plans. Hazardous waste manifests shall be used to track the transfer and disposal of hazardous wastes.

6. Puget Sound Air Pollution Control Agency

- Remedial action shall be conducted such that toxic air contaminant emissions will not result in the exceedance of acceptable source impact levels listed in Appendix A of the Puget Sound Air Pollution Control Authority, Regulation III, Appendix A.
- Remedial action shall be performed so as to not allow the emission of any air contaminants in violation of the visual standard established by Section 9.03 of Regulation I.
- Remedial action shall be performed so as to not allow the emission of particulate matter in violation of Section 9.04 or 9.09 of Regulation I.
- Remedial action shall be performed so as to not allow the emission of air contaminants in violation of Section 9.11 of Regulation I.
- Remedial action shall be performed so as to not allow the emission of fugitive dust in violation of Section 9.15 of Regulation I.
- Equipment utilized on-site for the remedial action shall be maintained in a manner so as not to be in violation of Section 9.20(b) of Regulation I.

7. Local Health Department - Solid Waste Disposal Authorization

- Comply with Local Health Department provisions for acceptance of any soils to be disposed of at a landfill in the state of Washington, according to criteria developed for the specific facility.

Foss
WATERWAY

← North

SPW (water)

SP3 (sediment)

Flow

CITY STEAM
PLANT

SPB3

PILES

Fill

concrete
dock

Collapsed concrete
brick structure
over fill

SPB1

INV3

INV2

SPB2

Wharf

INV B3 Compositid from
B1 + B2 for TCCP

INVESTED/
CENTRAL HEATING PLANT

Property Boundary

Make odd fill

Fill
(concrete
high tide)

brick on

SECTION VIEW

