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8                   **STATE OF WASHINGTON**  
                     **KING COUNTY SUPERIOR COURT**

9   STATE OF WASHINGTON,  
10   DEPARTMENT OF ECOLOGY,

11                                   Plaintiff,

12                   v.

13   PALMER COKING COAL  
14   COMPANY, LLP; WEYERHAEUSER  
15   NR COMPANY; BNSF RAILWAY  
16   COMPANY; PACCAR INC; and  
17   BROWNING-FERRIS INDUSTRIES  
18   OF ILLINOIS, INC.,

19                                   Defendants.

NO. 17-2-28787-3 KNT

PLAINTIFF’S MOTION FOR ENTRY  
OF AMENDMENT TO CONSENT  
DECREE WITH PALMER COKING  
COAL COMPANY, LLP,  
WEYERHAEUSER NR COMPANY,  
BNSF RAILWAY COMPANY,  
PACCAR INC, AND BROWNING-  
FERRIS INDUSTRIES OF ILLINOIS,  
INC. RE: LANDSBURG MINE SITE

20           Plaintiff, State of Washington, Department of Ecology, (Ecology) brings this motion  
21 seeking entry of the attached Amendment to Consent Decree (Amendment) between Ecology  
22 and Defendants Palmer Coking Coal Company, LLP, Weyerhaeuser NR Company, BNSF  
23 Railway Company, PACCAR Inc., and BFI Waste Systems of North America, LLC (as  
24 successor to Browning-Ferris Industries of Illinois, Inc.). The Amendment is necessary to revise  
25 the Cleanup Action Plan by adjusting the approach to detections of 1,4-dioxane in the northern  
26 part of the Site, including new requirements for monitoring and evaluating an *in situ*  
bioremediation treatment option. Except as specifically provided in Amended Cleanup Action

1 Plan, all other provisions and requirements contained within the CAP (Ecology 2017a) and all  
2 associated Exhibits to the Consent Decree and CAP remain unchanged.

3 Ecology has reviewed the approach for 1,4-dioxane at the Site and determined that the  
4 installation and operation of a contingent groundwater extraction and treatment system, which  
5 was a remedial action required in the CAP (Ecology 2017a), was not the most appropriate  
6 response to the low-level detections of 1,4-dioxane at the northern end of the Site.  
7 Implementation of the contingent groundwater extraction and treatment system under the  
8 existing conditions would have sustainability impacts with minimal to no reduction in risk, due  
9 to the low levels and limited extent of the 1,4-dioxane present at the Site. The Parties are in  
10 agreement that alternative remedial actions are more appropriate to address the low level 1,4-  
11 dioxane detected at the northern end of the Site and ensure the long-term protection of human  
12 health and the environment. The Amended Cleanup Action Plan details the approach to be taken  
13 at the Site, including: upgrading the soil cover to a geomembrane cover system, increasing  
14 groundwater monitoring frequency in the north end wells, adding routine monitoring of three  
15 new off-Site groundwater monitoring wells, connecting a discharge line for rapid contingency  
16 response, and evaluating use of an *in situ* bioremediation treatment for 1,4-dioxane.

17 Ecology determined that the Amendment does constitute a substantial change to the  
18 Decree that requires public notice under Section XV of the Decree (Amendment of Decree) and  
19 WAC 173-340-600(10)(e). Accordingly, Ecology conducted a public comment period on this  
20 amendment and the Amended Cleanup Action Plan from May 10, 2021 to July 8, 2021. Ecology  
21 recommends approval and entry of the Amendment.

22 Accordingly, pursuant to Section XV of the Decree, Ecology hereby requests that the  
23 Court approve and enter the Amendment, and that the Court retain jurisdiction over this action  
24 until the work required by the Consent Decree is completed and the Parties request a dismissal  
25 of this action. The Defendants have advised Ecology that they support this motion.  
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1 DATED this 13th day of December 2021.

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3 ROBERT W. FERGUSON  
Attorney General

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