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WHATCOM COUNTY
WASHINGTON

STATE OF WASHINGTON
WHATCOM COUNTY SUPERIOR COURT

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY

Plaintiff,

v.

CAMPBELL LAND CORPORATION;
and JAGROOP S. GILL,

Defendants.

NO. 21-2-01292-37

ORDER GRANTING INJUNCTIVE
RELIEF TO PLAINTIFF

On March 4, 2021, Plaintiff State of Washington, Department of Ecology's ("Ecology") Motion for Permanent Injunctive Relief came before the Court. Ecology moved for a permanent injunction to permanently enjoin Campbell Land Corporation and Jagroop S. Gill ("Defendants") from interfering or restricting in any way entry and/or access by representatives from Ecology from entering upon property located at 4242 Aldergrove Road, Whatcom County, Washington, Whatcom County Assessor parcel number 3901083260850000 ("Property"), for the purpose of conducting:

1. An inspection, monitoring, and sampling of wastes at the Property to determine if there are violations of the State's Dangerous Waste regulations pursuant to RCW 70A.300.220(2)(d).

- 1 2. An inspection and investigation relating to the pollution of or the possible pollution
2 of any of the waters of this state pursuant to RCW 90.48.090.
- 3 3. An investigation (including but not limited to inspecting, sampling, or testing) to
4 determine the nature and extent of any of releases or threatened releases of
5 hazardous substances that have occurred at the Property pursuant to the Model
6 Toxics Control Act, RCW 70A.305.

7 The Court having heard argument, considered the records and files herein:

- 8 1. Plaintiff's Motion for Permanent Injunctive Relief.
- 9 2. Plaintiff's Brief in Support of Its Motion for Permanent Injunctive Relief.
- 10 3. Declaration of Stephanie Barney and the exhibits thereto.
- 11 4. Declaration of Mindy Collins and the exhibits thereto.
- 12 5. Declaration of Susan Dier and the exhibits thereto.
- 13 6. Declaration of Elizabeth Fint and the exhibits thereto.
- 14 7. Declaration of Victoria Sutton and the exhibit thereto.
- 15 8. Declaration of Chris Wilkerson and the exhibits thereto.
- 16 9. Declaration of John A. Level and the exhibits thereto.

17 Having fully considered the above record, the Court enters the following:

18 **FINDINGS OF FACT**

- 19 1. Whatcom County Assessor records establish that the Property is owned by the
20 Campbell Land Corporation.
- 21 2. The Campbell Land Corporation was registered in the state of Nevada, Mr. Gill
22 was the corporate officer for the Corporation, and the Corporation has dissolved.
- 23 3. The Property has been used historically for numerous industrial operations
24 including the processing of tall oil, biodiesel refining, and other small-scale industrial ventures.
- 25 4. Environmental sampling of water, liquids, soils, and solids from the Property in
26 2000 indicated that the soils, tall oil rosin, water in the containment area, and sandblast grit area

1 were contaminated with total petroleum hydrocarbons, polynuclear aromatic hydrocarbons, and
2 metals.

3 5. In April 2014, representatives from the Whatcom County Health Department
4 conducted an inspection of the Property and observed that hazardous substances (bio-oil)
5 quantities have been released to the grounds of the Property, and outside of the secondary
6 containment structures for the industrial refinery tankage farms.

7 6. In September 2014, Ecology inspectors conducted a dangerous waste compliance
8 inspection at the Property. The inspectors observed that many of the containers on the Property
9 were rusted, corroded, and leaking. Ecology inspectors also saw that the containment areas at
10 the Property were full of black liquid which appeared to be spilled tall oil, tall oil derivatives,
11 biodiesel production wastes, and storm water, which was uncovered and open to the elements.

12 7. In May 2015, Ecology returned to the Property and took samples of a tote
13 containing tall oil. Laboratory results from this sample demonstrated that the tall oil designated
14 as toxic dangerous waste. Ecology inspectors observed that many of the containers, including
15 those which held material reported to be tall oil, were open, rusty, unlabeled, and perforated. The
16 containers at the Property were not being protected from the elements or from contamination.

17 8. In July 2015, Ecology's Hazardous Waste and Toxics Reduction Program issued
18 an administrative enforcement order to Mr. Gill, Treoil Industries Ltd, Campbell Land
19 Corporation, Farrington Financial Corporation, and TG Energy, which required the Property
20 owner/operator to designate materials in specifically identified containers (per WAC 173-303-
21 170(1)(a)) and submit a report to Ecology, obtain a RCRA site identification number, properly
22 dispose of any dangerous waste at the Property, and file a dangerous waste annual report with
23 Ecology. The Property Owner/Operator has failed to comply with the requirements of the
24 administrative order.

25 9. The Property is subject to state industrial stormwater permitting requirements.
26 Ecology issued the Property operator an Industrial Stormwater General Permit, which authorized

1 Treoil Industries Ltd. (Treoil) to discharge stormwater from its industrial activity to surface
2 waters. Discharges from the facility are subject to complying with requirements specified in the
3 permit. In December 2019, permit coverage lapsed for the Treoil site after Mr. Gill failed to
4 reapply for the permit.

5 10. In April 2020, Ecology's Water Quality Program issued an administrative
6 enforcement order to Mr. Gill, on behalf of Treoil Industries Ltd. and Campbell Land
7 Corporation. Ecology issued this order due to Mr. Gill's failure to reapply for the Industrial
8 Stormwater General Permit. Neither Treoil Industries Ltd. nor Campbell Land Corporation
9 complied with the requirements of the Water Quality Program's administrative order and no
10 appeal of the Order was ever filed.

11 11. In 2019 and 2021, Ecology made repeated attempts to gain permission from
12 Mr. Gill and his representative to access the Property to conduct investigations and regulatory
13 compliance inspections. Mr. Gill has denied or been unresponsive to Ecology's requests for
14 access to the Property. Ecology staff have not been able to gain access to the Property since
15 2017.

16 12. Without access to the Property, Ecology staff are unable to conduct necessary
17 inspections and sampling at the facility to determine if it is in compliance with the Dangerous
18 Waste regulations and the State's Water Pollution Control statute or if conditions posed by
19 releases or threatened releases of hazardous substances at the Property pose threats to the
20 environment and human health.

21 Based on the above Findings of Fact, the Court enters the following:

22 **CONCLUSIONS OF LAW**

- 23 1. RCW 7.40.020 provides authority for the Court to grant injunctive relief.
24 2. The Hazardous Waste Management Act grants Ecology with the authority to enter
25 at a reasonable time an establishment regulated under the Act for the purposes of inspection,
26 monitoring, and sampling. RCW 70A.300.220(2)(d). An "establishment regulated under the

1 Act” includes a “facility,” which “means all contiguous land and structures, other appurtenances,
2 and improvements on the land used for recycling, storing, treating, incinerating, or disposing of
3 hazardous waste.” RCW 70A.300.010(8).

4 3. The State’s Water Pollution Control Act, RCW 90.48, provides that Ecology “or
5 its duly appointed agent shall have the right to enter at all reasonable times in or upon any
6 property, public or private, for the purpose of inspecting and investigating conditions relating to
7 the pollution of or the possible pollution of any of the waters of this state.” RCW 90.48.090.

8 4. The State’s Model Toxics Control Act (MTCA), RCW 70A.305, authorizes
9 Ecology to enter upon private property to investigate releases of hazardous substances, including
10 but not limited to inspecting, sampling, or testing to determine the nature or extent of any release
11 or threatened release. RCW 70A.305.030(1)(a).

12 5. Ecology has established a clear legal right to enter the Property to: conduct an
13 inspection and take samples concerning the dangerous waste located at the Property; inspect and
14 investigate conditions on the Property related to possible pollution to waters of the state; and
15 conduct an investigation of releases of hazardous substances to the environment at the Property.

16 6. Ecology’s right and obligation to inspect facilities regulated by the Dangerous
17 Waste regulations and Water Pollution Control Act, and investigating releases or threatened
18 releases of hazardous substances under MTCA are jeopardized by not having access to the
19 Property.

20 7. Without access to the Property, Ecology will be deprived of the ability to conduct:
21 (a) an inspection and sampling at the Property to determine if it is in compliance with the
22 Dangerous Waste regulations or if the Property’s conditions are impacting or have potential to
23 impact surface water and groundwater at the facility; and (b) a MTCA investigation of the
24 Property.

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1 **ORDER**

2 Based on the above Findings of Fact and Conclusions of Law, THE COURT HEREBY
3 ORDERS

4 1. That Ecology is granted a temporary injunction, which enjoins Defendants from in
5 any way restricting entry and access by Ecology or its authorized employees, agents, or contractors
6 from entering upon the Property for the purpose of conducting:

7 a. An inspection, monitoring, and sampling of wastes at the Property to
8 determine if there are violations of the State's Dangerous Waste regulations pursuant to
9 RCW 70A.300.220(2)(d).

10 b. An inspection and investigation relating to the pollution of or the possible
11 pollution of any of the waters of this state pursuant to RCW 90.48.090.

12 c. An investigation (including but not limited to inspecting, sampling, or
13 testing) to determine the nature and extent of any releases or threatened releases of
14 hazardous substances that have occurred at the Property pursuant to
15 RCW 70A.305.030(1)(a).

16 2. Ecology may take samples of any liquids or solids from secondary containment
17 areas and of the contents in any containers (tanks, totes, and drums) at the Property. In addition,
18 Ecology may collect samples of soil, surface water, or groundwater at any location at the
19 Property.

20 3. Ecology shall have access to the Property to conduct these inspections and
21 investigation actions for a period of one year from the date of entry of this Order.

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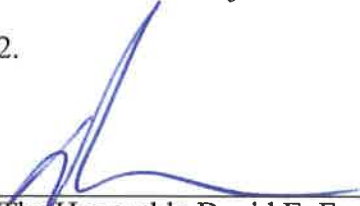
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1 4. That the Court shall retain jurisdiction over this injunction so as to enforce its terms.

2 DATED this 11 day of ~~March~~ 2022.

3 April

4 
5 _____
6 The Honorable David E. Freeman

7 Presented by:

8 ROBERT W. FERGUSON
9 Attorney General

10 _____
11 JOHN A. LEVEL, WSBA #20439
12 Assistant Attorney General

13 Attorneys for Plaintiff
14 State of Washington
15 Department of Ecology
16 360-586-6753

17 Approved as to form and presentation waived:

18 _____
19 Defendant(s)