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**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 PLAINTIFF
STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY'S
MOTION TO AMEND THE APRIL 11,
2022 ORDER GRANTING
INJUNCTIVE RELIEF TO PLAINTIFF

[PROPOSED]

This matter comes before the Court on Plaintiff State of Washington, Department of Ecology's Motion to Amend the Court's April 11, 2022 Order Granting Injunctive Relief to Plaintiff. On March 4, 2022, this Court granted Ecology's Motion for Injunctive Relief, which enjoined 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 the property located at 4242 Aldergrove Road, Whatcom County, Washington, Whatcom County Assessor parcel number 3901083260850000 (Property). On April 11, 2022, the Court entered the "Order Granting Injunctive Relief to Plaintiff." The Order allowed Ecology access to the Defendants' Property to conduct environmental inspections for a period of one year from the date of the entry of that Order (April 11, 2022).

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

- 1 1. Plaintiff's Motion to Amend the Court's April 11, 2022 Order Granting Injunctive
- 2 Relief to Plaintiff.
- 3 2. Declaration of Sunny Becker and the exhibit thereto.
- 4 3. Declaration of Mindy Collins and the exhibits thereto.
- 5 4. Declaration of Elizabeth Fint and the exhibits thereto.
- 6 5. Declaration of Sylvia Graham.

7 Having fully considered the above record, the Court hereby enters the following:

8 **FINDINGS OF FACT**

9 1. On March 4, 2022, this Court granted Ecology's Motion for Injunctive Relief,
10 which enjoined Defendants from interfering or restricting in any way entry and/or access by
11 representatives from Ecology from entering upon the Property.

12 2. On April 11, 2022, the Court entered the "Order Granting Injunctive Relief to
13 Plaintiff."

14 3. Since this Court issued its April 11, 2022 Order, Ecology staff have conducted a
15 number of site inspections at the Property. During those inspections, Ecology staff observed bare
16 ground that had been stained from spills and leaks of materials at the Property and derelict vehicles
17 and municipal solid waste that have been abandoned at the Property.

18 4. In May 2022, Ecology inspectors took water samples at the Property. A water
19 sample taken from a wetland at the Property showed exceedances of water quality standards for
20 copper, zinc, and lead, and the presence of diesel range organics and heavier range oils.

21 5. Without continued access to the Property, Ecology staff are unable to conduct
22 necessary inspections and sampling at the facility to determine if it is in compliance with the
23 State's Dangerous Waste regulations and the State's Water Pollution Control statute, or if
24 conditions posed by releases or threatened releases of hazardous substances at the Property pose
25 threats to the environment and human health.

26 *6. The Finding of Fact from the Court's 4/11/22 Order are incorporated by reference*
Based on the above Findings of Fact, the Court enters the following:

1 **CONCLUSIONS OF LAW**

2 1. RCW 7.40.020 provides authority for the Court to grant injunctive relief.

3 2. The Hazardous Waste Management Act grants Ecology with the authority to enter
4 at a reasonable time an establishment regulated under the Act for the purposes of inspection,
5 monitoring, and sampling. RCW 70A.300.220(2)(d). An “establishment regulated under the Act”
6 includes a “facility,” which “means all contiguous land and structures, other appurtenances, and
7 improvements on the land used for recycling, storing, treating, incinerating, or disposing of
8 hazardous waste.” RCW 70A.300.010(8).

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

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

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

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

25 7. Without continued access to the Property, Ecology will be deprived of the ability
26 to conduct: (a) an inspection and sampling at the Property to determine if it is in compliance with

1 the State's Dangerous Waste regulations and the State's Water Pollution Control statute, or if the
2 Property's conditions are impacting or have potential to impact surface water and groundwater at
3 the Property; and (b) a MTCA investigation of the Property.

4 **ORDER**

5 Except as set forth below, all other provisions of the Court's April 11, 2022 Order remain
6 in full force and effect, unchanged by this amendment. Based on the above Findings of Fact and
7 Conclusions of Law, the Court hereby grants Ecology's Motion to Amend the Court's April 11,
8 2022 Order Granting Injunctive Relief to Plaintiff and amends paragraph 3 of the Order's "Order"
9 section as follows:

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

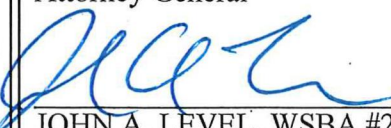
12 DATED this ____ day of APR 21 2023 2023.

13
14 **DAVID E. FREEMAN**

The Honorable David E. Freeman

15 Presented by:

16 ROBERT W. FERGUSON
17 Attorney General

18 
19 _____
20 JOHN A. LEVEL, WSBA #20439
Assistant Attorney General

21 Attorneys for Plaintiff
22 State of Washington
23 Department of Ecology
360-586-6753

24 Approved as to form and presentation waived:

25 _____
26 Defendant(s)