



Christine O. Gregoire

ATTORNEY GENERAL OF WASHINGTON

Ecology Division

2425 Bristol Court SW 2nd Floor • Olympia WA 98502

Mailing Address: PO Box 40117 • Olympia WA 98504-0117

(360) 586-6770

December 18, 2001

Mr. Mark M. Myers
WILLIAMS, KASTNER & GIBBS PLLC
P. O. Box 21926
Seattle, WA 98111-3926

Ms. Patricia E. Thompson
DAVIS, WRIGHT & TREMAINE LLP
1800 Bellevue Place
10500 NE Eighth St.
Bellevue, WA 98004-4300

RE: **Arnolds Consent Decree**

Dear Mr. Myers & Ms. Thompson:

Please find enclosed conformed copies of the consent decree documents that were filed with the King County Superior Court.

Very truly yours,

SHARON NELSON
Legal Assistant to
ANDREW A. FITZ
Assistant Attorney General

sn
Enclosures
cc: Brian Sato

F:\ARNOLDS\MYERS 12-18-01 LTR

RECEIVED
DEC 19 2001
DEPT OF ECOLOGY



STATE OF WASHINGTON
INVOICE VOUCHER

AGENCY USE ONLY		
AGENCY NO.	LOCATION CODE	AGENCY P.R. OR AUTH NO.
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AGENCY NAME
Attorney General of Washington P.O. Box 40117 Olympia, WA 98504-0117 Andrew A. Fitz
VENDOR OR CLAIMANT (Warrant is to be payable to)
King County Superior Court 516 Third Ave., Room E-609 Seattle, WA 98104-2386

INSTRUCTIONS TO VENDOR OR CLAIMANT: Submit this form to claim payment for materials, merchandise, or services. Show complete detail for each item.

VENDOR'S CERTIFICATE: I hereby certify under penalty of perjury that the items and totals listed herein are proper charges for materials, merchandise, or services furnished to the State of Washington, and that all goods furnished and/or services rendered have been provided without discrimination because of age, sex, marital status, race, color, national origin, handicap, religion, or Vietnam era or disabled veterans status.

J. SHAULIS

By

(SIGN IN INK)

DEPUTY CLERK

DEC 10 2011

(TITLE)

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DIRECTOR & SUPERIOR COURT CLERK
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7 **STATE OF WASHINGTON**
8 **KING COUNTY SUPERIOR COURT**

9 STATE OF WASHINGTON,
10 DEPARTMENT OF ECOLOGY,

11 Plaintiff,

12 v.

13 ESTATE OF WILLIAM F. ARNOLD;
14 and ESTATE OF ERMA R. ARNOLD,

15 Defendants.

NO.

SUMMONS

16 TO: The Estate of William F. Arnold and the Estate of Erma R. Arnold;

17 AND TO: The Clerk of the above-entitled Court.

18 A lawsuit has been started against you in the above-entitled court by the State of
19 Washington, Department of Ecology, Plaintiff. Plaintiff's claim is stated in the written
20 complaint, a copy of which is served upon you with this Summons.

21 The parties have agreed to resolve this matter by entry of a Consent Decree.
22 Accordingly, this Summons shall not require the filing of an answer.

23 ///

24 ///

25
SUMMONS

1 Respectfully submitted this 10th day of December, 2001.

2
3 CHRISTINE O. GREGOIRE
Attorney General

4
5 
6 ANDREW A. FITZ, WSBA #22169
7 Assistant Attorney General
8 Attorneys for Plaintiff
9 State of Washington
10 Department of Ecology
11 (360) 586-6752

12 F:ARNOLDS/SUMMONS
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7 **STATE OF WASHINGTON**
8 **KING COUNTY SUPERIOR COURT**

9 STATE OF WASHINGTON,
10 DEPARTMENT OF ECOLOGY,

11 Plaintiff,

NO.

COMPLAINT

12 v.

13 ESTATE OF WILLIAM F. ARNOLD; and
14 ESTATE OF ERMA R. ARNOLD,

15 Defendants.

16 **I. JURISDICTION**

17 1.1 This court has jurisdiction over the parties and over the subject matter under the
18 Model Toxics Control Act, chapter 70.105D RCW.

19 **II. PARTIES**

20 2.1 Plaintiff State of Washington Department of Ecology (Ecology) is a state
21 agency charged with the implementation of the Model Toxics Control Act.

22 2.2 Defendants are the Estate of William F. Arnold and the Estate of Erma R.
23 Arnold. Defendants have agreed to enter into a Consent Decree with Ecology under the Model
24 Toxics Control Act for reimbursement of certain past remedial action costs expended by
25 Ecology related to the site.

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III. FACTUAL ALLEGATIONS

3.1 Site refers to the Manhattan Express Deli (formerly Arnolds Mini-Mart), located at 631 Queen Anne Avenue North, Seattle, Washington. The Site is more particularly described in Exhibit A, a detailed site diagram, to this Decree that is being submitted to settle this action.

3.2 Ecology has determined that there has been a release or threatened release of hazardous substances at the Site. Ecology has further determined that this release or threatened release requires remedial action to protect human health, welfare, and the environment; and that the Defendants are potentially liable persons with respect to this Site.

3.3 Ecology and Defendants have entered into a Consent Decree regarding certain past remedial action costs incurred by Ecology related to the Site.

3.4 The Consent Decree has been the subject of public notice and comment under RCW 70.105D.040(4)(a). The Consent Decree is being submitted to the court along with this Complaint.

Ecology has determined that entry of the Consent Decree will lead to a more expeditious cleanup of the Site.

IV. CAUSE OF ACTION

4.1 Plaintiff realleges all preceding paragraphs.

4.2 Plaintiff alleges that the Defendants are responsible for past remedial action costs incurred at the Site pursuant to the MTCA, RCW 70.105D.050(3).

V. PRAYER FOR RELIEF

5.1 Ecology and the Estate of William F. Arnold and the Estate of Erma R. Arnold request that the court sign and enter the Consent Decree in this matter.

5.2 Ecology and the Estate of William F. Arnold and the Estate of Erma R. Arnold further request that the court retains jurisdiction to enforce the terms of the Consent Decree.

Respectfully submitted this 10th day of December, 2001.

CHRISTINE O. GREGOIRE
Attorney General

ANDREW A. FITZ, WSBA #22169
Assistant Attorney General
Attorneys for Plaintiff
State of Washington
Department of Ecology
(360) 586-6752

F:\FITZ\ARNOLDS\COMPLAINT

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

9 STATE OF WASHINGTON,
10 DEPARTMENT OF ECOLOGY,

11 Plaintiff,

12 v.

13 ESTATE OF WILLIAM F. ARNOLD;
14 and ESTATE OF ERMA R. ARNOLD,

15 Defendants.

NO.

MOTION FOR ENTRY OF CONSENT
DECREE AND MEMORANDUM IN
SUPPORT OF MOTION

16 **I. INTRODUCTION**

17 Plaintiff, Washington State Department of Ecology (Ecology), represented by
18 Christine O. Gregoire, Attorney General, and Andrew A. Fitz, Assistant Attorney General,
19 brings this motion seeking entry of the attached Consent Decree. This motion is based upon
20 the pleadings filed in this matter, including the Declaration of Andrew A. Fitz.

21 **II. RELIEF REQUESTED**

22 Ecology requests that the Court approve and enter the attached Consent Decree that
23 requires payment of certain past remedial action costs at the Manhattan Express Deli (formerly
24 Arnolds Mini-Mart), a site where there has been a release of hazardous substances. Ecology
25

1 also requests that the Court retain jurisdiction over this action until the action required by the
2 Consent Decree is completed and the parties request a dismissal of this action.

3 **III. AUTHORITY**

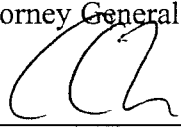
4 RCW 70.105D.030 authorizes Ecology to issue such orders as may be necessary to
5 effectuate the purposes of the Model Toxics Control Act, chapter 70.105D RCW, and to enter
6 into consent decrees through judicial proceedings. In addition, RCW 70.105D.040(4)
7 authorizes the Attorney General to agree to a settlement with a potentially liable person and to
8 request that the settlement be entered as a consent decree in the superior court of the county
9 where a violation is alleged to have occurred.

10 **IV. CONCLUSION**

11 Ecology believes it is appropriate for the Court to exercise its judicial discretion and
12 approve the attached Consent Decree, and hereby requests that the Court enter the attached
13 Order.

14 DATED this 10th day of December, 2001.

15
16 CHRISTINE O. GREGOIRE
Attorney General

17 
18 ANDREW A. FITZ, WSBA #22169
19 Assistant Attorney General
20 Attorneys for Plaintiff
21 State of Washington
22 Department of Ecology
23 (360) 586-6752

24 F:\ARNOLDS\MOTION FOR ENTRY

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7 STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT
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9 STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

10 Plaintiff,

11 v.

12 ESTATE OF WILLIAM F. ARNOLD;
13 and ESTATE OF ERMA R. ARNOLD,

14 Defendants.
15

NO.

DECLARATION OF ANDREW A.
FITZ

16 I, Andrew A. Fitz, declare under penalty of perjury under the laws of the State of
17 Washington that the following is true and correct.

18 1. I am over twenty-one years of age and am competent to testify herein. The facts
19 set forth in this Declaration are from my personal knowledge.

20 2. I am an Assistant Attorney General assigned to represent the Washington State
21 Department of Ecology and the Attorney General's Office on legal matters relating to the site
22 in King County, Washington referred to as the Manhattan Express Deli (formerly Arnolds
23 Mini-Mart).

24 3. On behalf of Ecology and the Attorney General's Office, I took part in the
25 negotiations that led to the Consent Decree that is being presented to the court.

DECLARATION OF ANDREW A.
FITZ

4. The Consent Decree was the subject of public notice and public comment as required by RCW 70.105D.040(4)(a).

5. Ecology has determined that the proposed remedial action will lead to a more expeditious cleanup of hazardous substances in compliance with cleanup standards under RCW 70.105D.030(2)(e).

I declare under penalty of perjury of the laws of the state of Washington that the foregoing is true and correct.

DATED this 10th day of December, 2001, in Olympia, Washington.


ANDREW A. FITZ

F:ARNOLDS\FITZ DECLARATION

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7 **IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON**
8 **IN AND FOR KING COUNTY**

9 STATE OF WASHINGTON,
10 DEPARTMENT OF ECOLOGY,

11 Plaintiff,

12 v.

13 ESTATE OF WILLIAM F. ARNOLD;
14 and ESTATE OF ERMA R. ARNOLD,

15 Defendants.

NO.

ORDER ENTERING CONSENT
DECREE

16 Having reviewed the Consent Decree signed by the parties to this matter, the Motion
17 for Entry of the Consent Decree, the Declaration of Andrew A. Fitz, and the file herein, it is
18 hereby

19 ORDERED AND ADJUDGED that the Consent Decree in this matter is entered and
20 that the Court shall retain jurisdiction over the Consent Decree to enforce its terms.

21 DATED this 11th day of December, 2001.

22
23
24 JUDGE
King County Superior Court
25

1 Presented by:

2 CHRISTINE O. GREGOIRE
3 Attorney General

4  (for)

5 ANDREW A FITZ, WSBA #22169
6 Assistant Attorney General
7 Attorneys for Plaintiff
8 State of Washington
9 Department of Ecology
10 (360) 586-6752

11 DATED: 12/10/01

12 F:\ARNOLDS\ORDER ENTERING CD
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ORDER ENTERING CONSENT
DECREE

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7 STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT
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9 STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

10 Plaintiff,

11 v.

12 ESTATE OF WILLIAM F. ARNOLD; and
13 ESTATE OF ERMA R. ARNOLD,

14 Defendants.

NO.

CONSENT DECREE RESOLVING
ECOLOGY'S PAST COSTS CLAIM
AGAINST ARNOLDS

15
16 I. INTRODUCTION

17 A. In entering into this Consent Decree (Decree), the mutual objective of the
18 Washington State Department of Ecology (Ecology), and the Estate of William F. Arnold and
19 the Estate of Erma R. Arnold (hereafter Arnolds or Defendants) is to settle Ecology's claim
20 against the Arnolds for all Costs it incurred through September 28, 1999, relating to the release
21 or threatened release of hazardous substances at or near the Manhattan Express Deli (formerly
22 Arnold's Mini-Mart) located at 631 Queen Anne Avenue North, Seattle, Washington (the Site).
23 Ecology has determined that these actions are necessary as part of the process to remediate the
24 release or threatened release of hazardous substances at or near the Site and to protect public
25 health and the environment.

CONSENT DECREE RESOLVING ECOLOGY'S PAST COSTS
CLAIM - 1

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
FAX (360) 586-6760

1 B. The Complaint in this action is being filed simultaneously with this Decree. An
2 answer has not been filed, and there has not been a trial on any issue of fact or law in this case.
3 However, the parties wish to resolve the issues raised by Ecology's Complaint. In addition, the
4 parties agree that settlement of these matters without litigation is reasonable and in the public
5 interest and that entry of this Decree is the most appropriate means of resolving these matters.

6 C. In signing this Decree, Defendants agree to its entry and agree to be bound by its
7 terms.

8 D. By entering into this Decree, and except as provided below, the Parties do not
9 intend to discharge nonsettling parties from any liability they may have with respect to matters
10 alleged in the Complaint. The Parties retain the right to seek reimbursement, in whole or in
11 part, from any liable persons for sums expended under this Decree. Furthermore, Ecology does
12 not intend to waive its right to seek reimbursement for Costs incurred after September 28,
13 1999, or to order the Arnolds to perform a remedial action at the Site.

14 E. This Decree shall not be construed as proof of liability or responsibility for any
15 releases of hazardous substances or cost for remedial action nor an admission of any facts;
16 provided, however, that the Defendants shall not challenge the jurisdiction of Ecology in any
17 proceeding to enforce this Decree.

18 F. The Court is fully advised of the reasons for entry of this Decree, and good
19 cause having been shown:

20 Now, Therefore, it is HEREBY ORDERED, ADJUDGED, AND DECREED as
21 follows:

22 II. JURISDICTION

23 A. This Court has jurisdiction over the subject matter and over the parties pursuant
24 to Chapter 70.105D RCW, the Model Toxics Control Act (MTCA).

1 B. Authority is conferred upon the Washington State Attorney General by RCW
2 70.105D.040(4)(a) to agree to a settlement with any potentially liable person if, after public
3 notice and hearing, Ecology finds the proposed settlement would lead to a more expeditious
4 cleanup of hazardous substances. RCW 70.105D.040(4)(b) requires that such a settlement be
5 entered as a consent decree issued by a court of competent jurisdiction.

6 C. Ecology has determined that a release or threatened release of hazardous
7 substances has occurred at or near the Site which is the subject of this Decree.

8 D. Ecology has given notice to Defendants, as set forth in RCW 70.105D.020(15),
9 of Ecology's determination that the Defendants are potentially liable persons for the site and
10 that there has been a release or threatened release of hazardous substances at the site.

11 E. Defendants consent to the entry of this Decree under the MTCA.

12 III. SETTLEMENT AND PARTIES BOUND

13 Within thirty (30) days after the effective date of this Decree, Defendants shall pay
14 Ecology One Hundred Fifty Thousand Dollars (\$150,000.00) to completely settle Ecology's
15 claim against Defendants for Ecology's costs and expenses incurred before September 28,
16 1999. Upon receipt of this payment, Ecology shall release its creditor's claim filed against the
17 Estate of Erma R. Arnold under Cause No. 96-4-04704-7 and Ecology shall assert no claim
18 against the Estate of William F. Arnold for Costs settled in this Decree. This Decree shall
19 apply to and be binding upon the signatories to this Decree (parties), their successors and
20 assigns. The undersigned representative of each Party hereby certifies that he or she is fully
21 authorized to enter into this Decree and to execute and legally bind such Party to comply with
22 the Decree. Defendants agree to undertake all actions required by the terms and conditions of
23 this Decree and not to contest state jurisdiction regarding this Decree.

1 IV. DEFINITIONS

2 Except for as specified herein, all definitions in WAC 173-340-200 apply to the terms
3 in this Decree.

4 A. Site: Refers to the Manhattan Express Deli (formerly Arnolds Mini-Mart),
5 located at 631 Queen Anne Avenue North, Seattle, Washington. The Site is more particularly
6 described in Exhibit A to this Decree, which is a detailed site diagram. For the purposes of
7 remedial investigation and cleanup action under MTCA, the Site includes the location defined
8 above and all areas where hazardous substances released from that location have come to be
9 located.

10 B. Parties: Refers to the Washington State Department of Ecology, the Estate of
11 William F. Arnold, and the Estate of Erma R. Arnold.

12 C. Defendants: Refers to William F. Arnold (deceased), the Estate of William F.
13 Arnold, Erma R. Arnold (deceased), and the Estate of Erma R. Arnold.

14 D. Consent Decree or Decree: Refers to this Consent Decree and each exhibit to
15 the Decree. All exhibits are integral and enforceable parts of this Consent Decree. The terms
16 "Consent Decree" or "Decree" shall include any exhibits to the Consent Decree.

17 E. Costs: Refers to costs and/or expenses incurred by Ecology associated with staff
18 oversight, travel, laboratory services, contractors, consultants, attorneys, and other
19 administrative matters or expenses relating to the Site and remedial actions conducted at or
20 near the Site.

21 F. Yoos: Refers to the Estate of John Yoo and his widow, Young Hee Yoo, who
22 are successors to the Arnolds. The Yoos purchased the Site from the Arnolds in 1989 but then
23 rescinded the transaction *ab initio* in 1993. This settlement between Ecology and the Arnolds
24
25

1 expressly includes settlement of liability the Yoos may have to Ecology, if any, relating to
2 Costs incurred by Ecology prior to September 28, 1999.

3 V. STATEMENT OF FACTS

4 Ecology makes the following findings of fact without any express or implied
5 admissions by Defendants.

6 A. William F. Arnold and Erma R. Arnold were the owners of the Manhattan
7 Express Deli (formerly Arnold's Mini-Mart) located at 631 Queen Anne Avenue North,
8 Seattle, Washington. Credible evidence exists indicating that a hazardous substance
9 (petroleum product) was released at the Site. Petroleum hydrocarbons presently exist in the
10 soil, soil-gas, dissolved in ground water, and as free-phase product floating on the ground
11 water.

12 B. On or about April 26, 1977, the Arnolds purchased the Site from Texaco, Inc.
13 Texaco, formerly the Texas Company, owned and operated the Site as a gas station since 1927.
14 The Arnolds assumed operation of Texaco's gas station at the Site in May 1977. In February
15 1978, the basement of the neighboring Monterey apartment building was noted to have gasoline
16 odors, which were investigated by the Seattle Fire Department. In 1986, Ecology began
17 investigating the source of gasoline odors in the Monterey apartment building. In 1989, the
18 Arnolds sold the site to John Yoo and Young Yoo. In 1993, the sale was rescinded because of
19 the presence of petroleum contamination. In 1993, Ecology ordered the Site to stop selling
20 gasoline and contracted to have the underground storage tanks and associated gasoline
21 dispensing equipment removed from the Site. In addition, Ecology installed a soil vapor
22 extraction remediation system at the Site.

23 C. By letter dated February 11, 1994, Ecology notified Mr. and Mrs. Arnold that it
24 proposed to find them "potentially liable persons" under RCW 70.105D.040. This letter
25

1 invited Mr. and Mrs. Arnold to submit comments on this proposed finding. Mr. and
2 Mrs. Arnold requested and were given additional time to submit comments. After reviewing
3 information submitted by Mr. and Mrs. Arnold, Ecology notified them by letter dated October
4 5, 1994, of their status as "potentially liable persons" under RCW 70.105D.040.

5 D. On November 20, 1991, Ecology notified the Yoos that based upon all available
6 information, it was Ecology's opinion that releases of petroleum contamination at the Site
7 occurred prior to the Yoos' ownership of the property. As of the date of entry of this Decree,
8 Ecology has not named the Yoos as "potentially liable persons" under RCW 70.105D.040 and
9 does not consider there to be credible evidence to support imposing liability for past costs on
10 the Yoos.

11 E. On July 19, 1996, Erma R. Arnold died. Probate was filed in King County
12 Superior Court under Cause No. 96-4-04704-7. Ecology filed a creditor's claim dated March 3,
13 1997, in the amount of \$914,809.52 for claimed costs incurred relating to the site.

14 F. On December 17, 2000, William F. Arnold died. Probate was filed in King
15 County Superior Court under Cause No. 01-4-01512-2 SEA. Mr. and Mrs. Arnold hereby
16 appear in this matter through their duly appointed Estates' executors.

17 G. By letter dated April 27, 1999, Ecology notified Texaco, Inc. that it proposed to
18 find it a "potentially liable person" under RCW 70.105D.040. The letter invited Texaco to
19 submit comments on this proposed finding. Texaco did submit comments on August 5, 1999.
20 After reviewing information submitted by Texaco, Ecology notified Texaco by letter dated
21 September 28, 1999, of its status as a "potentially liable person" under RCW 70.105D.040.

22 H. Ecology and Defendants have evaluated Ecology's claim for past Costs through
23 September 28, 1999, including the creditor's claim Ecology filed with the Estate of Erma R.
24 Arnold. Ecology has determined that it is appropriate under the circumstances to compromise
25

1 its past Costs claim for this period. Ecology has agreed to accept payment from defendants in
2 the amount of \$150,000.00 as complete and full compromise of all Ecology claimed Costs
3 incurred through September 28, 1999, as related to Defendants.

4 VI. AMENDMENT OF CONSENT DECREE

5 This Decree may only be amended by a written stipulation among the parties to this
6 Decree that is entered by the Court or by order of the Court. Such amendment shall become
7 effective upon entry by the Court. Agreement to amend shall not be unreasonably withheld by
8 any party to the Decree.

9 Defendants shall submit any request for an amendment to Ecology for approval.
10 Ecology shall indicate its approval or disapproval in a timely manner after the request for
11 amendment is received. If the amendment to the Decree is substantial, Ecology will provide
12 public notice and opportunity for comment. Reasons for the disapproval shall be stated in
13 writing.

14 VII. OTHER ACTIONS

15 Ecology reserves its rights to institute remedial action(s) at the Site and subsequently
16 pursue cost recovery, and Ecology reserves its rights to issue orders and/or penalties or take any
17 other enforcement action pursuant to available statutory authority for matters outside the scope
18 of this Consent Decree (i.e., Costs incurred by Ecology after September 28, 1999, relating to
19 the Site and not settled in this Consent Decree, and remedial investigation and cleanup actions
20 relating to the Site). With respect to matters within the scope of this Consent Decree (i.e.,
21 Costs incurred by Ecology through September 28, 1999, relating to the Site), Ecology reserves
22 its rights to issue orders and/or penalties or take any other enforcement action pursuant to
23 available statutory authority in the event Defendants fail, after notice, to comply with any
24 requirement of this Decree.

1 Ecology reserves the right to take any enforcement action whatsoever, including a cost
2 recovery action, against potentially liable persons not party to this Decree, except as otherwise
3 expressly provided herein relating to the Yoos.

4 VIII. INDEMNIFICATION

5 Defendants agree to indemnify and save and hold the State of Washington, its
6 employees, and agents harmless from any and all claims or causes of action for death or injuries
7 to persons or for loss or damage to property arising from or on account of acts or omissions of
8 Defendants, its officers, employees, agents, or contractors in entering into and implementing
9 this Decree. However, the Defendants shall not indemnify the State of Washington nor save
10 nor hold its employees and agents harmless from any claims or causes of action arising out of
11 the negligent acts or omissions of the State of Washington, or the employees or agents of the
12 State, in implementing the activities pursuant to this Decree.

13 IX. EFFECT OF SETTLEMENT; CONTRIBUTION PROTECTION

14 By entering into this settlement and Consent Decree, Ecology covenants that it will not
15 sue Defendants, Defendants' heirs and successors, and/or the Yoos for Costs incurred by
16 Ecology through September 28, 1999. In addition, Ecology expressly waives and forever
17 releases with prejudice any and all claims it may have against Defendants, Defendants' heirs
18 and successors, and the Yoos for Costs incurred through September 28, 1999. Nothing in this
19 Consent Decree shall be construed to create any rights in, or grant any cause of action to, any
20 person not a Party to this Consent Decree except as otherwise expressly provided herein
21 relating to the Yoos. Each of the Parties expressly reserves any and all rights (including, but
22 not limited to, any right to contribution), defenses, claims, demands, and causes of action which
23 each Party may have with respect to any matter, transaction, or occurrence relating in any way
24 to the Site against any person not a Party hereto.

1 The Parties agree, and by entering this Consent Decree this Court finds, that the
2 Defendants, Defendants' heirs and successors, and the Yoos are entitled, as of the Effective
3 Date, to protection from contribution actions or claims as provided by RCW 70.105D.040(4)(d)
4 for matters addressed in this Consent Decree. "Matters addressed" in this Consent Decree
5 include all Costs incurred by Ecology through September 28, 1999, relating to the Site and as
6 settled in this Consent Decree.

7 X. REMEDIAL AND INVESTIGATIVE COSTS

8 By entering into this Consent Decree, Ecology does not waive or release any claims
9 against Defendants for costs incurred after September 28, 1999, and does not waive the right to
10 order Defendants to perform additional remedial actions relating to the Site.

11 XI. CLAIMS AGAINST THE STATE

12 Defendants hereby agree that they will not seek to recover any costs paid pursuant to
13 this Decree from the State of Washington or any of its agencies; and further, that the
14 Defendants will make no claim against the State Toxics Control Account or any Local Toxics
15 Control Account for any costs incurred in implementing this Decree. Except as provided
16 above, however, Defendant expressly reserves its right to seek to recover any costs incurred in
17 implementing this Decree from any other potentially liable person.

18 XII. EFFECTIVE DATE

19 This Decree is effective upon the date it is entered by the Court.

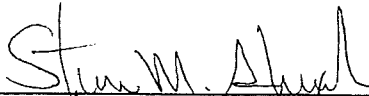
20 XIII. PUBLIC NOTICE AND WITHDRAWAL OF CONSENT

21 This Decree has been the subject of public notice and comment under RCW
22 70.105D.040(4)(a). As a result of this process, Ecology has found that this Decree will lead to
23 a more expeditious cleanup of hazardous substances at the site.
24
25

If the Court withholds or withdraws its consent to this Decree, it shall be null and void at the option of any party and the accompanying Complaint shall be dismissed without costs and without prejudice. In such an event, no party shall be bound by the requirements of this Decree.

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

CHRISTINE O. GREGOIRE
Attorney General



STEVE ALEXANDER
Section Head
Toxics Cleanup Program
Northwest Regional Office



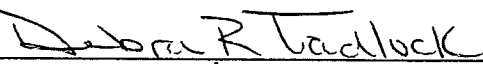
ANDREW A. FITZ, WSBA #22169
Assistant Attorney General

Date: 11-20-01

Date: 12/03/01

ESTATE OF WILLIAM F. ARNOLD

ESTATE OF ERMA R. ARNOLD



EXECUTOR (Administrator)
Estate of William F. Arnold

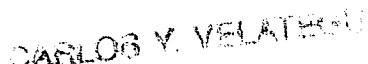


EXECUTOR
Estate of Erma R. Arnold

Date: 11-16-01

Date: 11-16-01

DATED this 11th day of Dec., 2001.

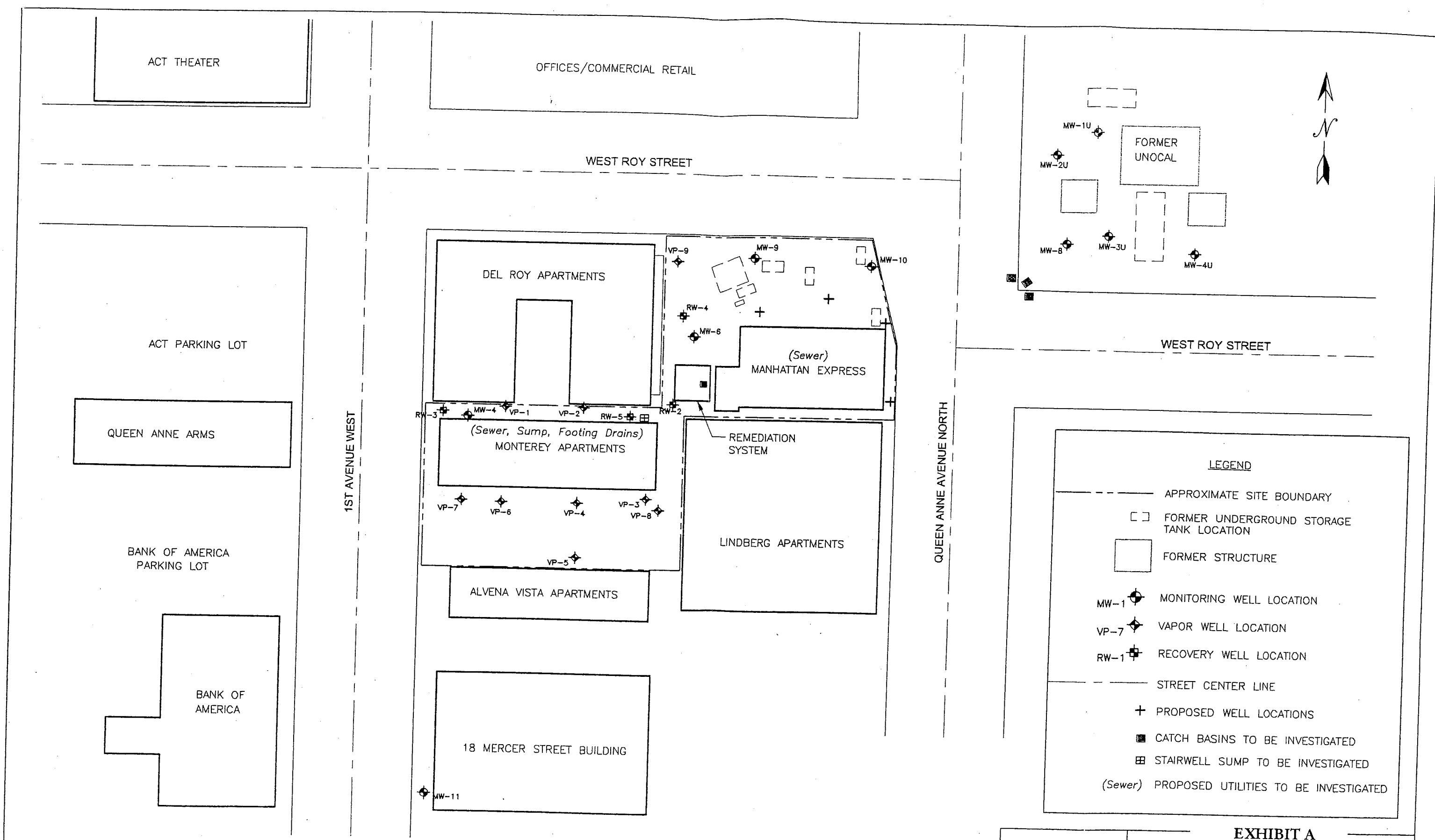


JUDGE
King County Superior Court

CONSENT DECREE RESOLVING ECOLOGY'S PAST COSTS
CLAIM - 10

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
FAX (360) 586-6760

ORIGINAL



BASE MAP REFERENCE: City of Seattle Department of Engineering
SE 1/4 & NE 1/4 Section 25-TS. 25 N., R 3 E., W.M.
Revised 9/90

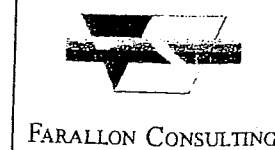


EXHIBIT A

SITE MAP SHOWING PROPOSED WELL
LOCATIONS AND UTILITIES TO BE EXPLORED
QUEEN ANNE TEXACO
631 QUEEN ANNE AVE. NORTH
SEATTLE WASHINGTON