

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

In the Matter of Remedial Action by:

J.R. Simplot Company

AGREED ORDER

No. 8421

TO: Andrew Hutchison  
PO Box 27  
Boise, ID 83707

RECEIVED

MAR 28 2011

DEPARTMENT OF ECOLOGY  
EASTERN REGIONAL OFFICE

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## **I. INTRODUCTION**

The mutual objective of the State of Washington, Department of Ecology (Ecology) and the J.R. Simplot Company ("Simplot") under this Agreed Order (Order) is to provide for remedial action at a facility where there has been a release or threatened release of hazardous substances as provided herein. This Order requires Simplot to complete a Remedial Investigation/Feasibility Study (RI/FS) for contamination related to activities at their facility located at 1800 First Street in Warden, Washington. The remedial action required by this order includes only the RI/FS and does not include any cleanup actions as that term is defined by WAC 173-340-200. In entering this Agreed Order, Simplot makes no admissions of fact or law. Ecology believes the actions required by this Order are in the public interest.

## **II. JURISDICTION**

This Agreed Order is issued pursuant to the Model Toxics Control Act (MTCA), RCW 70.105D.050(1).

## **III. PARTIES BOUND**

This Agreed Order shall apply to and be binding upon the Parties to this Order, their successors and assigns. The undersigned representative of each party hereby certifies that he or she is fully authorized to enter into this Order and to execute and legally bind such party to comply with this Order. Simplot agrees to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter Simplot's responsibility under this Order. Simplot 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 complies with this Order.

## **IV. DEFINITIONS**

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

A. Site: The Site is referred to as Warden City Water Supply Wells 4 & 5 and is generally located in the industrial area of West Warden. The Site is listed in Ecology's Facility/Sites database under ID 2802409. The Site is defined by the extent of contamination caused by the release of hazardous substances at the Site. Based upon factors currently known to Ecology, the Site is more particularly described in the Site Diagram (Exhibit A). The Site constitutes a Facility under RCW 70.105D.020(5).

B. Parties: Refers to the State of Washington, Department of Ecology and Simplot.

C. Potentially Liable Person (PLP): Refers to Simplot.

D. Agreed Order or Order: Refers to this Order and each of the exhibits to this Order. All exhibits are integral and enforceable parts of this Order. The terms "Agreed Order" or "Order" shall include all exhibits to this Order.

#### V. FINDINGS OF FACT

Ecology makes the following findings of fact, without any express or implied admissions of such facts by Simplot:

A. Simplot is the current owner of the property located at 1800 First Street, Warden, WA.

B. Ethylene dibromide (EDB) contamination has been found in drinking water supplies for the city of Warden at levels exceeding health-based drinking water criteria. The city water contamination was identified in two water supply wells located in the area of West Warden, an industrial area centered on First Street.

C. Five monitoring wells were installed in West Warden to further delineate the extent of groundwater contamination. Only one well showed EDB contamination; this well was located on property owned by Simplot at 1800 First Street, immediately to the east of the city water supply well with the highest EDB contamination.

D. Soil sampling conducted in the area surrounding the single contaminated monitoring well showed EDB soil contamination exceeding health-based soil criteria on property owned by Simplot at 1800 First Street.

E. In February 2005, a Site Hazard Assessment was completed for Ecology by Grant County Health District. It was evaluated under the Washington Ranking Method (WARM) and ranked a 3.

#### **VI. ECOLOGY DETERMINATIONS**

Ecology makes the following conclusions of law, which are not admitted or agreed to by Simplot:

A. Simplot is an "owner or operator" as defined in RCW 70.105D.020(17) of a "facility" as defined in RCW 70.105D.020(5).

B. Based upon all factors known to Ecology, a "release" or "threatened release" of "hazardous substance(s)" as defined in RCW 70.105D.020(25) and RCW 70.105D.020(10), respectively, has occurred at the Site.

C. Based upon credible evidence, Ecology issued a PLP status letter to Simplot dated April 6, 2010, pursuant to RCW 70.105D.040, -.020(21) and WAC 173-340-500. After providing for notice and opportunity for comment, reviewing any comments submitted, and concluding that credible evidence supported a finding of potential liability, Ecology issued a determination that Simplot is a PLP under RCW 70.105D.040 and notified Simplot of this determination by letter dated May 11, 2010.

D. Pursuant to RCW 70.105D.030(1) and -.050(1), Ecology may require PLPs to investigate or conduct other remedial actions with respect to any release or threatened release of hazardous substances, whenever it believes such action to be in the public interest. Based on the foregoing facts, Ecology believes the remedial actions required by this Order are in the public interest.

#### **VII. WORK TO BE PERFORMED**

Based on the Findings of Fact and Ecology Determinations, it is hereby ordered that Simplot take the following remedial actions at the Site and that these actions be conducted in accordance with Chapter 173-340 WAC unless otherwise specifically provided for herein:

A. The work to be performed includes the planning, implementation, and reporting on the conduct of a Remedial Investigation and Feasibility Study (RI/FS). Attached hereto as

Exhibit B is a Scope of Work for the completion of an RI/FS. Exhibit B is incorporated by reference as an integral and enforceable part of the Order.

B. Simplot shall submit all necessary work plans to implement the Scope of Work to Ecology for review and approval according to the Schedule of Deliverables attached as Exhibit B. Upon approval by Ecology, Simplot will proceed with field implementation of the Work Plans in accordance with an agreed upon schedule.

C. Work Plans shall consist of a detailed description of site conditions, work to be performed, personnel requirements, and schedules for implementation and deliverables for the following:

1. TASK I. Project Plan including RI Work Plan, Sampling and Analysis Plan, and Health and Safety Plan.
2. TASK II. Conduct RI Field Investigations.
3. TASK III. Remedial Investigation/Feasibility Study Report.

These work plans and each element thereof shall be designed, implemented, and completed in accordance with the MTCA (Chapter 70.105D RCW) and its implementing regulation (Chapter 173-340 WAC) as amended, and all applicable federal, state, and local laws and regulations.

D. After receipt of a deliverable plan, technical report, draft, or final document, Ecology will provide written notification to Simplot of approval or disapproval. If not approved, Ecology will specify deficiencies and necessary changes.

E. If, at any time after the first exchange of comments on drafts, Ecology determines that insufficient progress is being made in the preparation of any of the deliverables required by this Section, Ecology may complete and issue the final deliverable.

## VIII. TERMS

### A. 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 this Order is inadequate or improper in any respect.

**B. Remedial Action Costs**

Simplot shall pay to Ecology costs incurred by Ecology pursuant to this Order and consistent with WAC 173-340-550(2). These costs shall include work performed by Ecology or its contractors for, or on, the Site under Chapter 70.105D RCW, related to the Work to be Performed set out in Section VII and Order preparation, negotiation, oversight, and administration. These costs shall include work performed both prior to and subsequent to the issuance of this Order. Ecology's costs shall include costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2). Ecology has accumulated \$217,562.82 in remedial action costs related to this facility as of March 17, 2011. Payment for this amount shall be submitted within thirty (30) days of the effective date of this Order. For all costs incurred subsequent to March 17, 2011, Simplot shall pay the required amount or invoke resolution of disputes under Subsection J within thirty (30) 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 statement of work performed will be provided upon request. Itemized statements shall be prepared quarterly. Pursuant to WAC 173-340-550(4), failure to pay Ecology's costs within ninety (90) days of receipt of the itemized statement of costs will result in interest charges at the rate of twelve percent (12%) per annum, compounded monthly.

In addition to other available relief, pursuant to RCW 19.16.500, Ecology may utilize a collection agency and/or, pursuant to RCW 70.105D.055, file a lien against real property subject to the remedial actions to recover unreimbursed remedial action costs.

**C. Implementation of Work to be Performed**

If Ecology determines that Simplot has failed without good cause to implement the Work to be Performed ("Work"), in whole or in part, Ecology may, after notice to Simplot, perform any or all portions of the Work that remain incomplete. If Ecology performs all or portions of

the Work because of Simplot's failure to comply with its obligations under this Order, Simplot shall reimburse Ecology for the costs of doing such work in accordance with Section VIII.B, provided that Simplot is not obligated under this Section to reimburse Ecology for costs incurred for work inconsistent with or beyond the scope of this Order.

Except where necessary to abate an emergency situation, Simplot shall not perform any Work at the Site outside those actions required by this Order, unless Ecology concurs, in writing, with such additional actions.

**D. Designated Project Coordinators**

The project coordinator for Ecology is:

Sandra Treccani  
4601 N Monroe  
Spokane, WA 99205  
509/329-3412

The project coordinator for Simplot is:

Andrew Hutchison  
PO Box 27  
Boise, ID 83707

Each project coordinator shall be responsible for overseeing the implementation of this Order. Ecology's project coordinator will be Ecology's designated representative for the Site. To the maximum extent possible, communications between Ecology and Simplot, 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 coordinators. The project coordinators may designate, in writing, working level staff contacts for all or portions of the implementation of the work to be performed required by this Order.

Any party may change its respective project coordinator. Written notification shall be given to the other party at least ten (10) calendar days prior to the change.

**E. Performance**

All geologic and hydrogeologic work performed pursuant to this Order shall be under the supervision and direction of a geologist licensed in the State of Washington or under the direct supervision of an engineer registered in the State of Washington, except as otherwise provided for by Chapters 18.220 and 18.43 RCW.

All engineering work performed pursuant to this Order shall be under the direct supervision of a professional engineer registered in the State of Washington, except as otherwise provided for by RCW 18.43.130.

All construction work performed pursuant to this Order shall be under the direct supervision of a professional engineer or a qualified technician under the direct supervision of a professional engineer. The professional engineer must be registered in the State of Washington, except as otherwise provided for by RCW 18.43.130.

Any documents submitted containing geologic, hydrologic or engineering work shall be under the seal of an appropriately licensed professional as required by Chapter 18.220 RCW or RCW 18.43.130.

Simplot shall notify Ecology in writing of the identity of any engineer(s) and geologist(s), contractor(s) and subcontractor(s), and others to be used in carrying out the terms of this Order, in advance of their involvement at the Site.

**F. Access**

Ecology or any Ecology authorized representative shall have the full authority to enter and freely move about all property at the Site that Simplot either owns, controls, or has access rights to 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 Simplot's progress in carrying out the terms of this Order; conducting such tests or collecting such samples as Ecology 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 Simplot. Simplot shall make all reasonable efforts to secure access rights for those properties within the Site not owned or controlled by Simplot where remedial activities or investigations will be performed pursuant to this Order. Ecology or any Ecology authorized representative shall give reasonable notice before entering any Site property owned or controlled by Simplot unless an emergency prevents such notice. All persons who access the Site pursuant to this Section shall comply with any applicable Health and Safety Plan(s). Ecology employees



and their representatives shall not be required to sign any liability release or waiver as a condition of Site property access.

**G. Sampling, Data Submittal, and Availability**

With respect to the implementation of this Order, Simplot shall make the results of all sampling, laboratory reports, and/or test results generated by it or on its behalf available to Ecology. Pursuant to WAC 173-340-840(5), all sampling data shall be submitted to Ecology in both printed and electronic formats in accordance with Section VII, Ecology's Toxics Cleanup Program Policy 840 (Data Submittal Requirements), and/or any subsequent procedures specified by Ecology for data submittal.

If requested by Ecology, Simplot shall allow Ecology and/or its authorized representative to take split or duplicate samples of any samples collected by Simplot pursuant to implementation of this Order. Simplot shall notify Ecology seven (7) days in advance of any sample collection or work activity at the Site. Ecology shall, upon request, allow Simplot and/or its authorized representative to take split or duplicate samples of any samples collected by Ecology pursuant to the implementation of this Order, provided that doing so does not interfere with Ecology's sampling. Without limitation on Ecology's rights under Section VIII.F, Ecology shall notify Simplot prior to any sample collection activity unless an emergency prevents such notice.

In accordance with WAC 173-340-830(2)(a), all hazardous substance analyses shall be conducted by a laboratory accredited under Chapter 173-50 WAC for the specific analyses to be conducted, unless otherwise approved by Ecology.

**H. Public Participation**

A Public Participation Plan is required for this Site. Ecology shall develop a draft Public Participation Plan and provide Simplot an opportunity to review and comment. (Exhibit C).

Ecology shall maintain the responsibility for public participation at the Site. However, Simplot shall cooperate with Ecology, and shall:

1. If agreed to by Ecology, develop appropriate mailing list, prepare drafts of public notices and fact sheets at important stages of the remedial action, such as the submission of work plans, remedial investigation/feasibility study reports, cleanup action plans, and engineering design reports. As appropriate, Ecology will edit, finalize, and distribute such fact sheets and prepare and distribute public notices of Ecology's presentations and meetings.

2. Notify Ecology's project coordinator prior to the preparation of all press releases and fact sheets, and before major meetings with the interested public and local governments. Likewise, Ecology shall notify Simplot prior to the issuance of all press releases and fact sheets, and before major meetings with the interested public and local governments. For all press releases, fact sheets, meetings, and other outreach efforts by Simplot that do not receive prior Ecology approval, Simplot shall clearly indicate to its audience that the press release, fact sheet, meeting, or other outreach effort was not sponsored or endorsed by Ecology.

3. When requested by Ecology, participate in public presentations on the progress of the remedial action at the Site. Participation may be through attendance at public meetings to assist in answering questions or as a presenter.

4. When requested by Ecology, arrange and/or continue information repositories to be located at the following locations:

- a. Warden Public Library  
305 South Main  
Warden, WA 98857
- b. Ecology's Eastern Regional Office  
4601 N Monroe  
Spokane, WA 99205

At a minimum, copies of all public notices, fact sheets, and press releases; all quality assured monitoring data; remedial action plans and reports, supplemental remedial planning documents, and all other similar documents relating to performance of the remedial action required by this Order shall be promptly placed in these repositories.

**I. Retention of Records**

During the pendency of this Order, and for ten (10) years from the date of completion of work performed pursuant to this Order, Simplot shall preserve all records, reports, documents, and underlying data in its possession relevant to the implementation of this Order and shall insert a similar record retention requirement into all contracts with project contractors and subcontractors. Upon request of Ecology, Simplot shall make all records available to Ecology and allow access for review within a reasonable time.

**J. Resolution of Disputes**

1. In the event a dispute arises as to an approval, disapproval, proposed change, or other decision or action by Ecology's project coordinator, or an itemized billing statement under Section VIII.B, the Parties shall utilize the dispute resolution procedure set forth below.

a. Upon receipt of Ecology's project coordinator's written decision or the itemized billing statement, Simplot has fourteen (14) days within which to notify Ecology's project coordinator in writing of its objection to the decision or itemized statement.

b. The Parties' project coordinators shall then confer in an effort to resolve the dispute. If the project coordinators cannot resolve the dispute within fourteen (14) days, Ecology's project coordinator shall issue a written decision.

c. Simplot may then request regional management review of the decision. This request shall be submitted in writing to Ecology's Eastern Region's Toxics Cleanup Section Manager within seven (7) days of receipt of Ecology's project coordinator's written decision.

d. The Section Manager shall conduct a review of the dispute and shall endeavor to issue a written decision regarding the dispute within thirty (30) days of Simplot's request for review. The Section Manager's decision shall be Ecology's final decision on the disputed matter.

2. The Parties agree to only utilize the dispute resolution process in good faith and agree to expedite, to the extent possible, the dispute resolution process whenever it is used.

3. Implementation of these dispute resolution procedures shall not provide a basis for delay of any activities required in this Order, unless Ecology agrees in writing to a schedule extension.

**K. Extension of Schedule**

1. An extension of schedule shall be granted only when a request for an extension is submitted in a timely fashion, generally at least thirty (30) days prior to expiration of the deadline for which the extension is requested, and good cause exists for granting the extension.

All extensions shall be requested in writing. The request shall specify:

- a. The deadline that is sought to be extended.
- b. The length of the extension sought.
- c. The reason(s) for the extension.
- d. Any related deadline or schedule that would be affected if the extension were granted.

2. The burden shall be on Simplot to demonstrate to the satisfaction of Ecology that the request for such extension has been submitted in a timely fashion and that good cause exists for granting the extension. Good cause may include, but may not be limited to:

- a. Circumstances beyond the reasonable control and despite the due diligence of Simplot including delays caused by unrelated third parties or Ecology, such as (but not limited to) delays by Ecology in reviewing, approving, or modifying documents submitted by Simplot.
- b. Acts of God, including fire, flood, blizzard, extreme temperatures, storm, or other unavoidable casualty.
- c. Endangerment as described in Section VIII.M.

However, neither increased costs of performance of the terms of this Order nor changed economic circumstances shall be considered circumstances beyond the reasonable control of Simplot.

3. Ecology shall act upon any written request for extension in a timely fashion. Ecology shall give Simplot written notification of any extensions granted pursuant to this Order. A requested extension shall not be effective until approved by Ecology. Unless the extension is a substantial change, it shall not be necessary to amend this Order pursuant to Section VIII.L when a schedule extension is granted.

4. An extension shall only be granted for such period of time as Ecology determines is reasonable under the circumstances. Ecology may grant schedule extensions exceeding ninety (90) days only as a result of:

- a. Delays in the issuance of a necessary permit which was applied for in a timely manner.
- b. Other circumstances deemed exceptional or extraordinary by Ecology.
- c. Endangerment as described in Section VIII.M.

**L. Amendment of Order**

The project coordinators may verbally agree to minor changes to the work to be performed without formally amending this Order. Minor changes will be documented in writing by Ecology within seven (7) days of verbal agreement.

Except as provided in Section VIII.N, substantial changes to the work to be performed shall require formal amendment of this Order. This Order may only be formally amended by the written consent of both Ecology and Simplot. Simplot shall submit a written request for amendment to Ecology for approval. Ecology shall indicate its approval or disapproval in writing and in a timely manner after the written request for amendment is received. If the amendment to this Order represents a substantial change, Ecology will provide public notice and opportunity to comment. Reasons for the disapproval of a proposed amendment to this Order

shall be stated in writing. If Ecology does not agree to a proposed amendment, the disagreement may be addressed through the dispute resolution procedures described in Section VIII.J.

**M. Endangerment**

In the event Ecology determines that any activity being performed at the Site is creating or has the potential to create a danger to human health or the environment on or surrounding the Site, Ecology may direct Simplot to cease such activities for such period of time as it deems necessary to abate the danger. Simplot shall immediately comply with such direction.

In the event Simplot determines that any activity being performed at the Site is creating or has the potential to create a danger to human health or the environment, Simplot may cease such activities. Simplot shall notify Ecology's project coordinator as soon as possible, but no later than twenty-four (24) hours after making such determination or ceasing such activities. Upon Ecology's direction Simplot shall provide Ecology with documentation of the basis for the determination or cessation of such activities. If Ecology disagrees with Simplot's cessation of activities, it may direct Simplot to resume such activities.

If Ecology concurs with or orders a work stoppage pursuant to Section VIII.M, Simplot's obligations with respect to the ceased activities shall be suspended until Ecology determines the danger is abated, and the time for performance of such activities, as well as the time for any other work dependent upon such activities, shall be extended in accordance with Section VIII.K for such period of time as Ecology determines is reasonable under the circumstances.

Nothing in this Order shall limit the authority of Ecology, its employees, agents, or contractors to take or require appropriate action in the event of an emergency.

**N. Reservation of Rights**

This Order is not a settlement under Chapter 70.105D RCW. Ecology's signature on this Order in no way constitutes a covenant not to sue or a compromise of any of Ecology's rights or authority. Ecology will not, however, bring an action against Simplot to recover remedial action costs paid to and received by Ecology under this Order. In addition, Ecology will not take

additional enforcement actions against Simplot regarding remedial actions required by this Order, provided Simplot complies with this Order.

Ecology nevertheless reserves its rights under Chapter 70.105D RCW, including the right to require additional or different remedial actions at the Site should it deem such actions necessary to protect human health and the environment, and to issue orders requiring such remedial actions. 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 at the Site.

**O. Transfer of Interest in Property**

No voluntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Site shall be consummated by Simplot 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 Simplot's transfer of any interest in all or any portion of the Site, and during the effective period of this Order, Simplot shall provide a copy of this Order to any prospective purchaser, lessee, transferee, assignee, or other successor in said interest; and, at least thirty (30) days prior to any transfer, Simplot shall notify Ecology of said transfer. Upon transfer of any interest, Simplot shall restrict uses and activities to those consistent with this Order and notify all transferees of the restrictions on the use of the property.

**P. Compliance with Applicable Laws**

1. All actions carried out by Simplot 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 RCW 70.105D.090. At this time, no federal, state or local requirements have been identified as being applicable to the actions required by this Order.

2. Pursuant to RCW 70.105D.090(1), Simplot is exempt from the procedural requirements of Chapters 70.94, 70.95, 70.105, 77.55, 90.48, and 90.58 RCW and of any laws

requiring or authorizing local government permits or approvals. However, Simplot shall comply with the substantive requirements of such permits or approvals. At this time, no state or local permits or approvals have been identified as being applicable but procedurally exempt under this Section.

Simplot 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 either Ecology or Simplot 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 the other party of its determination. Ecology shall determine whether Ecology or Simplot shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, Simplot 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 Simplot and on how Simplot must meet those requirements. Ecology shall inform Simplot in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order unless dispute resolution is invoked. Simplot shall not begin or continue the Work potentially subject to the additional requirements until Ecology makes its final determination.

3. 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 that is necessary for the State to administer any federal law, the exemption shall not apply and Simplot 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.



**Q. Indemnification**

Simplot agrees to indemnify and save and hold the State of Washington, its employees, and agents harmless from any and all claims or causes of action for death or injuries to persons or for loss or damage to property to the extent arising from or on account of acts or omissions of Simplot, its officers, employees, agents, or contractors in entering into and implementing this Order. However, Simplot shall not indemnify the State of Washington nor save nor hold its employees and agents harmless from any claims or causes of action to the extent arising out of the negligent acts or omissions of the State of Washington, or the employees or agents of the State, in entering into or implementing this Order.

**IX. SATISFACTION OF ORDER**

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

**X. ENFORCEMENT**

Pursuant to RCW 70.105D.050, this Order may be enforced as follows:

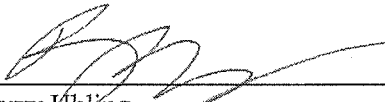
- A. The Attorney General may bring an action to enforce this Order in a state or federal court.
- B. The Attorney General may seek, by filing an action, if necessary, to recover amounts spent by Ecology for investigative and remedial actions and orders related to the Site.
- C. In the event Simplot refuses, without sufficient cause, to comply with any term of this Order, Simplot will be liable for:
  - a. Up to three (3) times the amount of any costs incurred by the State of Washington as a result of its refusal to comply.
  - b. Civil penalties of up to twenty-five thousand dollars (\$25,000) per day for each day it refuses to comply.

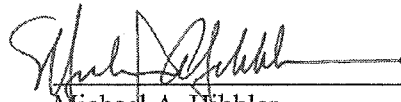
D. This Order is not appealable to the Washington Pollution Control Hearings Board.  
This Order may be reviewed only as provided under RCW 70.105D.060.

Effective date of this Order: 5/27/2011

**J.R. SIMPLOT COMPANY**

**STATE OF WASHINGTON,  
DEPARTMENT OF ECOLOGY**

  
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**EXHIBIT B**  
**Warden City Water Supply Wells 4 & 5 Site**  
**Scope of Work**  
**Remedial Investigation/Feasibility Study**

This Scope of Work is to investigate the contamination at the Warden City Water Supply Wells 4 & 5 Site (Site) in Warden, Washington. This Scope of Work prepared by the Department of Ecology is to be used by the potentially liable party (PLP) to develop Work Plans in order to complete a Remedial Investigation/Feasibility Study (RI/FS) at the Site.

The RI is to supplement existing data and determine the nature and extent of contamination by hazardous substances at the Site. The FS shall evaluate remedial alternatives that are applicable to the Site. The information and data gathered during the RI/FS shall be used to identify if additional data needs be collected and determine an appropriate remedial action. The PLP shall furnish all personnel, materials, and services necessary for, or incidental to, performing the Remedial Investigation at the Site. The RI/FS shall contain the following tasks:

**Task I: RI/FS Project Plan**

**A. RI/FS Work Plan**

A work plan outlining procedures for the Remedial Investigation shall be prepared which includes the following information:

**1. Background Summary**

Any pertinent Site information including, but not limited to:

- a. Maps – topographical, property lines, underground tank locations, monitoring and water supply wells, surface water bodies on or near the vicinity of the Site, previous Site investigations; all maps shall be consistent with the requirement set forth in WAC 173-340-840(4) and be of sufficient detail and accuracy to locate and report all current and future work performed at the Site.
- b. Property history – Collect detailed information on the historical use of the facilities. This research will help guide the location and type of data collection activities.

**2. Evaluation of Existing Data**

A brief discussion of activities and data already collected during previous investigations, including but not limited to:

- a. City of Warden Preliminary Investigation of Ethylene Dibromide Contamination (Pacific Groundwater Group, 2007)
- b. Phase II Preliminary Investigation; Warden City Water Supply Wells Site (Department of Ecology, 2009)

Warden City Water Supply Wells 4 & 5 Site  
Exhibit B

3. Task II (Remedial Investigation) Work Plans and Schedules

B. Sampling and Analysis Plan

The PLP shall prepare a Sampling and Analysis Plan for use during all Site characterization studies. The Sampling and Analysis Plan shall contain:

1. Field Sampling and Testing Plans – The plan shall describe in detail the sampling, testing, and data gathering methods, locations, frequency and other field study procedures that will be used for obtaining data required to complete the RI/FS. The Sampling and Testing Plan will include the following:

- a. Specific sampling methods, including number and type of QA/QC samples.
- b. Sampling locations and designations, including access considerations.
- c. Types of media to be sampled and the number of samples of each.
- d. Schedule and task assignments.
- e. Supplies and equipment.
- f. Monitoring well construction requirements.
- g. Analytical procedures, methods, and detection limits.
- h. Sample custody procedures, including holding times, containers, and preservation.
- i. Shipping and handling arrangements.

2. Quality Assurance Project Plan (QAPP)

- a. Field quality assurance/quality control (QA/QC) methods.
- b. Chain of custody procedures.
- c. Decontamination procedures.
- d. Laboratory QA/QC methods.

3. Health and Safety Plan

- a. Level of chemical protection.
- b. Hazard evaluation.
- c. Waste characteristics.
- d. Special considerations and emergency information.

**Task II: Remedial Investigation**

The purpose of the Remedial Investigation is to obtain the information necessary to supplement and verify existing data. That information will be used to characterize the Site and source(s), type(s), and extent of contamination present to sufficiently complete the Feasibility Study and select the appropriate Remedial Action. The resulting data shall meet the criteria set out in the QAPP and be of sufficient quality to develop an appropriate remedial action for the Site. The investigation shall meet the requirements stated in WAC 173-340-350, and more specifically, shall include the following elements:

Warden City Water Supply Wells 4 & 5 Site  
Exhibit B

A. Historical Research

Present detailed information on the historical use of the facilities, and explain how this research helped guide the location and type of data collection activities.

B. Site Characterization

Conduct representative sampling and testing to assess the nature, extent, and potential sources of contamination.

1. Soils

- a. Drill soil borings and/or excavate test pits, where needed. Collect and analyze surface and subsurface soil samples, as appropriate, to support characterization of vadose zone conditions, contaminant fate and transport analyses, and soil properties that may affect implementability of alternative cleanup actions.
- b. Collect soil samples at specified locations and analyze for ethylene dibromide (EDB); quantity and location need to be sufficient to characterize potential EDB sources.
- c. Characterize soil samples using the Unified Soil Classification System (USCS).
- d. Generate boring logs for each boring.

2. Groundwater

- a. Characterize groundwater through the use of any combination of permanent and/or non-permanent subsurface collection and sampling techniques; at least some portion must be permanent monitoring wells such that seasonal effects on contaminant concentration can be evaluated.
- b. Generate subsurface logs such that regional stratigraphy may be characterized.
- c. Collect soil samples as necessary.
- d. Measure water levels in all wells.
- e. Collect four quarters of groundwater samples at new and existing monitoring wells; groundwater will be analyzed for EDB.
- f. Generate maps showing water levels and regional/site hydrogeology.

C. Potential Receptor Information

Collect data on the surrounding human and ecological populations that may be in contact with contaminants and potential routes of exposure for those populations in support of the Feasibility Study.

1. Public Use/Site Access – Potential uses of the affected properties and the presence or absence of controls on Site access.
2. Potential Groundwater/Surface Water Uses – Any consumptive, recreational, or other use of groundwater and surface water in the area, and by which populations.
3. Environmental Receptors – Collect sufficient information on the presence of endangered or threatened species, potential habitats, and ecological environments such that an evaluation under WAC 173-340-7490 can be performed.

Warden City Water Supply Wells 4 & 5 Site  
Exhibit B

**Task III: RI/FS Report**

The PLP shall complete a report documenting the RI/FS as required by WAC 173-340-350(7) and (8). This report shall include the following elements:

A. Remedial Investigation

1. Background Information
  - a. Site History
  - b. Previous Studies
2. Nature and Extent of Contamination  
The PLP shall prepare an assessment and description of the degree and extent of contamination. This should include:
  - a. Data Analysis – Analyze all data collected during Task II (Remedial Investigation) and prepare supporting maps and tables.
  - b. Lab reports, previous investigations, well and boring logs, and any other documentation of characterization activities shall be included.
3. Conceptual Site Model  
Prepare a conceptual site model identifying types and sources of contaminants, transport and/or migration pathways, and exposure routes.
4. Applicable, Relevant, and Appropriate Requirements (ARARs) Analysis  
Identify Applicable State and Federal Laws for cleanup of the Site in accordance with WAC 173-340-710.
5. Cleanup Levels/Risk Assessment Analysis  
Perform a baseline Model Toxics Control Act (MTCA) cleanup levels analysis/baseline risk assessment characterizing the current and potential threats to public health and the environment that may be posed by hazardous substances at the facility. The assessment will integrate cleanup standards and risk assessment as required by WAC 173-340-357 and WAC 173-340-708.
6. Discussion and Recommendations
  - a. Interpret and discuss data to determine the nature and extent of the contamination and to support final recommendations for the Site.
  - b. A summary of all possible and suspected source areas of contamination based on the data collected will be included.
  - c. Any known or potential risks to the public health, welfare, and the environment should be discussed.
  - d. Recommendations should be provided identifying additional data needs.

Warden City Water Supply Wells 4 & 5 Site  
Exhibit B

B. Feasibility Study

1. Identification of contamination to be remediated.
2. Identification and initial screening of treatment technologies.
3. Proposed remedial alternatives and evaluation with respect to MTCA criteria.
4. Recommended alternative.



Warden City Water Supply Wells 4 & 5 Site  
Exhibit B

**Schedule of Deliverables**

<u>Deliverables</u>	<u>Date Due</u>
Effective date of Order	Start
PLP to Submit <i>Draft</i> RI/FS Work Plan, Sampling and Analysis Plan, Health and Safety Plan (Task I) and Schedule of Work to be Performed	60 days after start
PLP to Submit <i>Draft Final</i> Task I Plans	30 days after PLP receives Ecology comments on the Draft Task I Plans
PLP to Submit <i>Final</i> RI/FS Work Plan, Sampling and Analysis Plan, Health and Safety Plan (Task I) and Schedule of Work to be Performed	30 days after PLP receives written approval from Ecology of draft documents
PLP to Begin implementation of RI (Task II) following Schedule of Work to be Performed	30 days after PLP receives written approval of plans from Ecology
PLP to Submit <i>Draft</i> RI/FS Report (Task III)	As approved in RI/FS Work Plan
PLP to Submit <i>Final</i> RI/FS Report (Task III)	15 days after PLP receives Ecology's written approval of draft
Progress Reports	Every 3 months, except during field work when reports will be due every month

**EXHIBIT C**

**PUBLIC PARTICIPATION PLAN**

**WARDEN CITY SUPPLY**  
**WELLS 4 & 5 SITE**  
Facility Site ID No. 2802409  
Cleanup Site ID No. 1618

**PREPARED BY:**  
**WASHINGTON STATE**  
**DEPARTMENT OF ECOLOGY**

**March 2011**

# **PUBLIC PARTICIPATION PLAN**

## **Introduction**

This Public Participation Plan (Plan) is part of an Agreed Order between The Washington State Department of Ecology (Ecology) and J.R. Simplot Company (Simplot) to address contamination at the Warden City Supply Wells 4 & 5 site. The site is located at 1800 First Street in the City of Warden, Grant County, Washington. The Agreed Order is necessary because two water supply wells in the West Warden area were found with ethylene dibromide (EDB) contamination at levels that exceeded Washington state standards for drinking water.

The Agreed Order requires Simplot to conduct a Remedial Investigation and Feasibility Study at the Warden City Supply Wells 4 & 5 site. The Order legally formalizes the agreement between Ecology and Simplot to further assess contamination and the need for cleanup actions at the site. The purpose of the Remedial Investigation is to provide additional information about past and current site conditions. More information will be gathered to determine the nature and extent of contamination in groundwater at the site. The purpose of the Feasibility Study is to evaluate cleanup options.

## **Overview of Public Participation Plan**

In the November 1988 general election, a citizens' initiative passed that is called the Model Toxics Control Act (MTCA). MTCA provides guidelines and requirements for the cleanup of contaminated sites in Washington State. The law sets strict standards, so clean up at sites is protective of human health and the environment. Public participation is an important part of the MTCA process.

There are three primary purposes of the Public Participation Plan:

- Inform the public about ways to participate in the decision-making process related to the site cleanup.
- Gather information from the public that will help Ecology plan for site related cleanup.
- Provide background about the proposed cleanup and outline Ecology's roles and responsibilities regarding cleanup activities.

Public participation needs are assessed at each site based on public interest and the degree of risk posed by contaminants. Individuals who live near a site, community groups, businesses, organizations and other interested parties are provided an opportunity to become involved in commenting on the cleanup process. Citizen groups living near contaminated sites may apply for public participation grants to receive technical assistance in understanding the cleanup process and to create additional public participation avenues

A Public Participation Plan includes requirements for public notice such as:

- Identifying available site-related documents and the locations for review.
- Providing public comment periods.
- Holding public meetings or hearings.

Additional forms of participation may be personal interviews, involvement in citizen advisory groups, questionnaires, or workshops.

The Plan complies with MTCA regulations (Chapter 173-340-600 WAC). Ecology maintains responsibility for public participation at the site, and Simplot will help coordinate and implement outreach activities as applicable. Ecology will determine final approval of the Plan as well as any amendments.

A glossary of terms used in this Plan is included as Appendix C. Documents relating to the cleanup action may be reviewed at the repositories listed on page 8 of this Plan. If individuals are interested in knowing more about the site or have comments regarding the Plan, please contact one of the individuals listed below:

<p><b>WA Department of Ecology Contacts:</b> Sandra Treccani Washington State Department of Ecology Eastern Regional Office 4601 North Monroe Spokane, WA 99205 509/329-3412 E-mail: <a href="mailto:sandra.treccani@ecy.wa.gov">sandra.treccani@ecy.wa.gov</a></p> <p>Kari Johnson, Public Disclosure Washington State Department of Ecology Eastern Regional Office 4601 North Monroe Spokane, WA 99205 509/329-3415 E-mail: <a href="mailto:kari.johnson@ecy.wa.gov">kari.johnson@ecy.wa.gov</a></p> <p>Carol Bergin, Public Involvement Washington State Department of Ecology Eastern Regional Office 4601 North Monroe Spokane, WA 99205 509/329-3546 Email: <a href="mailto:carol.bergin@ecy.wa.gov">carol.bergin@ecy.wa.gov</a></p> <p><b>WA Department of Health Contact:</b> Lenford O'Garro, WA Dept. of Health Environmental Health Assessments P.O. Box 47846 Olympia WA 98504-7846 360/236-3376 <a href="mailto:lenford.o'garro@doh.wa.gov">lenford.o'garro@doh.wa.gov</a></p>	<p><b>J.R. Simplot Company Contact:</b> Andy Hutchison EHS Manager J.R. Simplot Company PO Box 27 Boise, ID 83707 208/389-7451 E-Mail: <a href="mailto:andrew.hutchison@simplot.com">andrew.hutchison@simplot.com</a></p>
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## **Public Participation and the Model Toxics Control Act (MTCA)**

Ecology's Toxics Cleanup Program investigates reports of contamination that may threaten human health and/or the environment. If an investigation confirms the presence of contaminants, a site is ranked and placed on a Hazardous Sites List. A rank of one represents the greatest threat to human health and the environment and a rank of 5 the least threat. The Warden site is ranked a 3.

Current or former owners or operators as well as any other potentially liable persons (PLPs) of a site may be held responsible for cleanup of contamination according to the standards set under MTCA. The PLPs are notified by Ecology that a site has contaminants, and the process of cleanup begins with Ecology implementing and overseeing the project. The PLP for this site is the J.R. Simplot Company.

## **Site Background**

Ethylene dibromide (EDB) was used in the past as a pesticide for potato crops and as an additive for leaded gas. Potato crops are grown in the Warden area and there is potato processing in the industrial section of the city. Although the chemical was banned for use as a soil fumigant in 1984, elevated levels of EDB were found in wells 4 & 5.

## **Protecting the Public**

The City of Warden, WA State Department of Health, WA State Department of Ecology, and the J.R. Simplot Company reduced EDB exposure in the following ways:

- Provided written information about the contamination to the public in English and Spanish.
- Held a public meeting to explain what was found and how the problem would be corrected.
- Installed five monitoring wells in West Warden to determine the extent of contamination in groundwater. (Only one monitoring well had EDB. This well was on Simplot's property at 1800 First Street.)
- Sampled soil and found elevated levels of EDB on Simplot's property.
- Established a new drinking well.
- Stopped use of well 4 and sealed it closed
- Decided well 5 would be used only as a backup in an emergency situation. If emergency use happened it would most likely be during a summer season. The City would notify people as soon as possible if it was used.
- The City continues to monitor well 5 and looks for ways to improve it.
- Ecology and Simplot began negotiations for an Agreed Order in September 2010 to further identify where contaminants are coming from and develop solutions.

## **Health Questions**

Questions about EDB exposure should be directed to Lenford O'Garro at the Department of Health. His contact information is in the box on page 3.

## **The Cleanup Process**

This fact sheet focuses on information about the Agreed Order, Remedial Investigation, and Feasibility Study. These documents are part of the beginning phase of cleanup.

After the investigation and study are done, reports of the findings will be made available to the public for another 30-day comment period.

Usually, the next step is to prepare a draft Cleanup Action Plan. This plan gives details about how the cleanup will be put into action. During this step Ecology also considers possible environmental impacts of the project. The draft Cleanup Action Plan and documents associated with environmental impacts are made available for public review.

Next, a Consent Decree is developed. It is a legal agreement between Ecology and Simplot that ensures all applicable laws and regulations will be followed during the cleanup. It also is made available for public comment.

## **Community Background**

### **Community Profile**

Warden is a small town in Grant County, Washington of approximately 2,600 people. It was incorporated in 1910. Early settlers in the area were Native Americans of the Salish Tribes. Later a mix of Russian and German immigrants moved into the area, and now the town is predominantly Hispanic.

In 1945, the Columbia Basin Project brought irrigation and more agriculture and with it more immigrants to work the farms. The agricultural tradition continues today with wheat and potatoes comprising most of the farming in the area.

### **Community Concerns**

No specific concerns about the site have been identified at this time. An effort to conduct community interviews was made on Saturday, November 20, 2010. An Ecology representative went door-to-door seeking community input. No one answered their door.

Some conversations were held with a few local residents gathered in public areas about the site, but they did not want to participate in formal interviews. The general feedback from the small number of people contacted was "as long as the drinking water is safe" and "my children are safe" we are ok with the project.

Ecology interviewed the Mayor and City Administrator and will make additional efforts to contact local residents about the project. A Spanish translator will be used as part of the outreach. Anyone interested in participating in a formal community interview may contact Carol Bergin at 509/329-3546.

## **Public Participation Activities and Timeline**

The following are public participation efforts which will occur until the cleanup actions are completed:

- ❖ A **mailing list** has been developed for people who live within near the site. It also includes businesses, organizations, and other individuals who have expressed interest in the cleanup process for the site.

- ❖ People on the mailing list will receive copies of fact sheets developed regarding the cleanup process via first class mail. Additionally, individuals, organizations, local, state and federal governments, and any other interested parties will be added to the mailing list upon request. Other people who are interested may request to be added to the mailing list by contacting Carol Bergin at the Department of Ecology (see Page 3 of this Plan for Carol Bergin's contact information).
- ❖ **Public Repositories** have been established and documents may be reviewed at the following offices:

**Warden Public Library**  
 305 South Main  
 Warden, WA 98857  
 Mrs. Dean  
 509/349-2226

**Washington State Department of Ecology**  
 Eastern Regional Office  
 4601 North Monroe  
 Spokane, WA 99205-1295  
 Contact: Kari Johnson 509/329-3515  
 e-mail: [kari.johnson@ecy.wa.gov](mailto:kari.johnson@ecy.wa.gov)

**Ecology's website:**

<http://www.ecy.wa.gov/programs/tcp/sites/WardenWells/WardenWells-hp.html>

During each stage of the cleanup process, **fact sheets** are created by Ecology, reviewed by Simplot and distributed to individuals on the mailing list. These fact sheets explain the current status of the cleanup process, give a brief background, and ask for comments from the public. A **30-day comment period** allows the public time to comment at specific stages during the cleanup process.

**Display ads or legal notices** are published in the **Spokesman Review and Columbia Basin Herald** to inform the general public. We also are working to identify a local Hispanic paper for publications. These notices correlate with the 30-day comment period and associated stage of the cleanup process. They are also used to announce public meetings, workshops, open houses, or hearings.

- ❖ **Public meetings, workshops, open houses and public hearings** are held based upon the level of community interest. If ten or more persons request a public meeting or hearing based on the subject of the public notice, Ecology will hold a meeting or hearing and gather comments. It is anticipated that public meetings, open houses, or hearings will be held at the Community Center at 114 N. Oak Street, Warden, Washington if it is available. City Hall or the local school may act as substitutes if necessary. The date, time and locations of hearings, meetings, workshops, or open houses will be announced in a legal notice in the newspaper, fact sheets, or display ads in accordance with MTCA.
- ❖ Written comments which are received during the 30-day comment periods may be responded to in a **Responsiveness Summary**. The Responsiveness Summary may be sent to those who make written comments and will be available for public review at the Repositories listed at the top of this page.

### Answering Questions from the Public

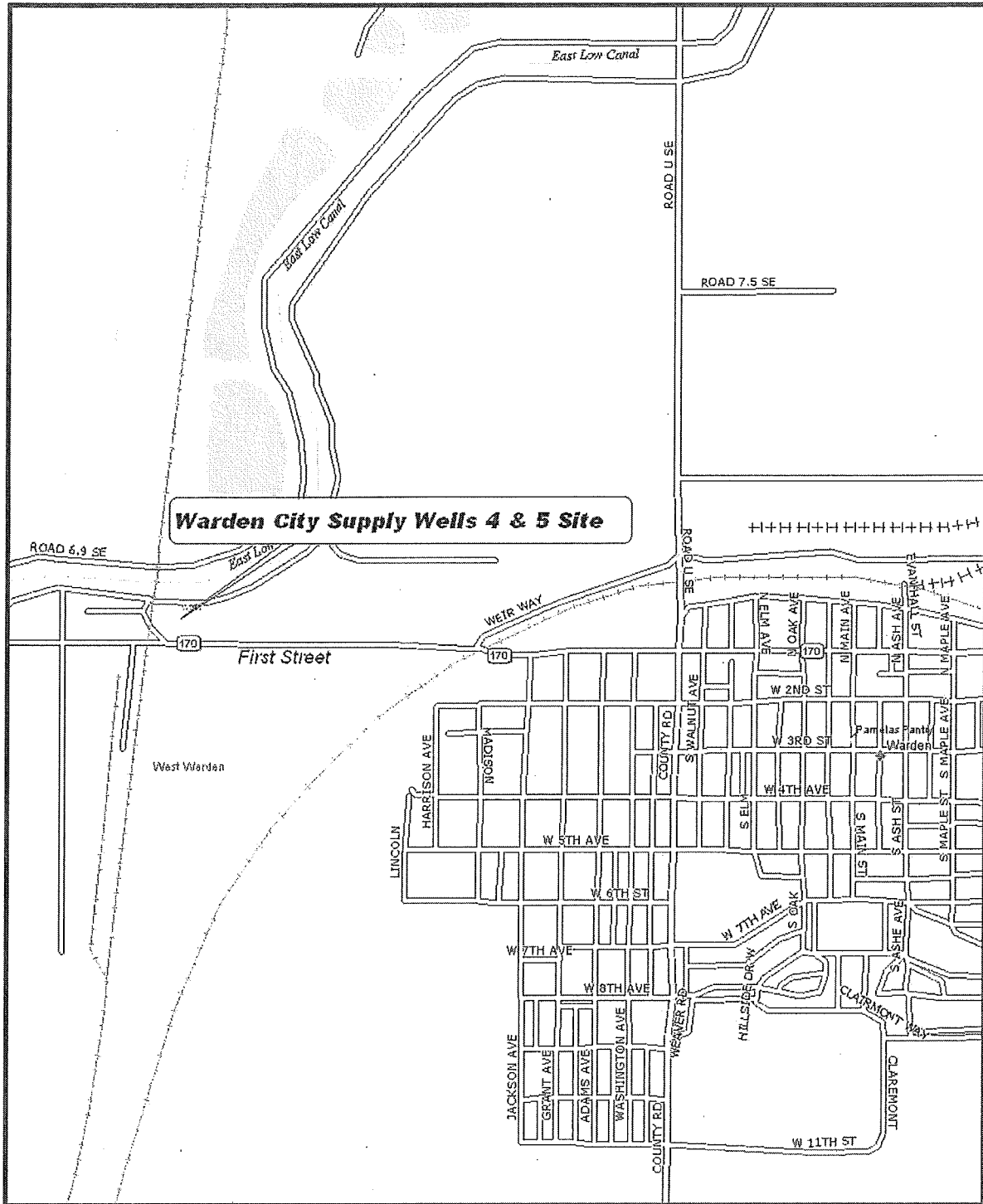
Individuals may want to ask questions about the site, the cleanup process and how to get involved. A list of contacts is provided on page 3 of this Plan.

### Public Participation Time Line

Document or Activity	Date
Notice in Ecology's Site Register announcing negotiations began between Ecology and J.R. Simplot Company for an Agreed Order to complete a Remedial Investigation and Feasibility Study	September 23, 2010
Agreed Order, Scope of Work and Public Participation Plan documents and fact sheet	30-Day Public Comment Period March [ ], 2011 through April [ ], 2011



APPENDIX A  
SITE MAP



**APPENDIX B  
MAILING LIST  
(to be included in the final Agreed Order)**

## APPENDIX C GLOSSARY

**Agreed Order:** A legal document issued by Ecology which formalizes an agreement between the department and potentially liable persons (PLPs) for the actions needed at a site. An agreed order is subject to public comment. If an order is substantially changed, an additional comment period is provided.

**Applicable State and Federal Law:** All legally applicable requirements and those requirements that Ecology determines are relevant and appropriate requirements.

**Area Background:** The concentrations of hazardous substances that are consistently present in the environment in the vicinity of a site which are the result of human activities unrelated to releases from that site.

**Carcinogen:** Any substance or agent that produces or tends to produce cancer in humans.

**Chronic Toxicity:** The ability of a hazardous substance to cause injury or death to an organism resulting from repeated or constant exposure to the hazardous substance over an extended period of time.

**Cleanup:** The implementation of a cleanup action or interim action.

**Cleanup Action:** Any remedial action, except interim actions, taken at a site to eliminate, render less toxic, stabilize, contain, immobilize, isolate, treat, destroy, or remove a hazardous substance that complies with cleanup levels; utilizes permanent solutions to the maximum extent practicable; and includes adequate monitoring to ensure the effectiveness of the cleanup action.

**Cleanup Action Plan:** A document which identifies the cleanup action and specifies cleanup standards and other requirements for a particular site. After completion of a comment period on a Draft Cleanup Action Plan, Ecology will issue a final Cleanup Action Plan.

**Cleanup Level:** The concentration of a hazardous substance in soil, water, air or sediment that is determined to be protective of human health and the environment under specified exposure conditions.

**Cleanup Process:** The process for identifying, investigating, and cleaning up hazardous waste sites.

**Consent Decree:** A legal document, approved and issued by a court which formalizes an agreement reached between the state and potentially liable persons (PLPs) on the actions needed at a site. A decree is subject to public comment. If a decree is substantially changed, an additional comment period is provided.

**Containment:** A container, vessel, barrier, or structure, whether natural or constructed, which confines a hazardous substance within a defined boundary and prevents or minimizes its release into the environment.

**Contaminant:** Any hazardous substance that does not occur naturally or occurs at greater than natural background levels.

**Enforcement Order:** A legal document, issued by Ecology, requiring remedial action. Failure to comply with an enforcement order may result in substantial liability for costs and penalties. An enforcement order is subject to public comment. If an enforcement order is substantially changed, an additional comment period is provided.

**Environment:** Any plant, animal, natural resource, surface water (including underlying sediments), ground water, drinking water supply, land surface (including tidelands and shorelands) or subsurface strata, or ambient air within the state of Washington.

**Exposure:** Subjection of an organism to the action, influence or effect of a hazardous substance (chemical agent) or physical agent.

**Exposure Pathways:** The path a hazardous substance takes or could take from a source to an exposed organism. An exposure pathway describes the mechanism by which an individual or population is exposed or has the potential to be exposed to hazardous substances at or originating from the site. Each exposure pathway includes an actual or potential source or release from a source, an exposure point, and an exposure route. If the source exposure point differs from the source of the hazardous substance, exposure pathway also includes a transport/exposure medium.

**Facility:** Any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly-owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, vessel, or aircraft; or any site or area where a hazardous substance, other than a consumer product in consumer use, has been deposited, stored, disposed or, placed, or otherwise come to be located.

**Feasibility Study(FS):** A study to evaluate alternative cleanup actions for a site. A comment period on the draft report is required. Ecology selects the preferred alternative after reviewing those documents.

**Groundwater:** Water found beneath the earth's surface that fills pores between materials such as sand, soil, or gravel. In aquifers, groundwater occurs in sufficient quantities that it can be used for drinking water, irrigation, and other purposes.

**Hazardous Sites List:** A list of sites identified by Ecology that requires further remedial action. The sites are ranked from 1 to 5 to indicate their relative priority for further action.

**Hazardous Substance:** Any dangerous or extremely hazardous waste as defined in RCW 70.105.010 (5) (any discarded, useless, unwanted, or abandoned substances including, but not limited to, certain pesticides, or any residues or containers of such substances which are disposed of in such quantity or concentration as to pose a substantial present or potential hazard to human health, wildlife, or the environment because such wastes or constituents or combinations of such wastes; (a) have short-lived, toxic properties that may cause death, injury, or illness or have mutagenic, teratogenic, or carcinogenic properties; or (b) are corrosive, explosive, flammable, or may generate pressure through decomposition or other means,) and (6) (any dangerous waste which

(a) will persist in a hazardous form for several years or more at a disposal site and which in its persistent form presents a significant environmental hazard and may affect the genetic makeup of man or wildlife; and is highly toxic to man or wildlife; (b) if disposed of at a disposal site in such quantities as would present an extreme hazard to man or the environment), or any dangerous or extremely dangerous waste as designated by rule under Chapter 70.105 RCW: any hazardous substance as defined in RCW 70.105.010 (14) (any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the characteristics or criteria of hazardous waste as described in rules adopted under this chapter,) or any hazardous substance as defined by rule under Chapter 70.105 RCW; petroleum products.

**Hazardous Waste Site:** Any facility where there has been a confirmation of a release or threatened release of a hazardous substance that requires remedial action.

**Independent Cleanup Action:** Any remedial action conducted without Ecology oversight or approval, and not under an order or decree.

**Initial Investigation:** An investigation to determine that a release or threatened release may have occurred that warrants further action.

**Interim Action:** Any remedial action that partially addresses the cleanup of a site.

**Mixed Funding:** Any funding, either in the form of a loan or a contribution, provided to potentially liable persons from the state toxics control account.

**Model Toxics Control Act (MTCA):** Washington State's law that governs the investigation, evaluation and cleanup of hazardous waste sites. Refers to RCW 70.105D. It was approved by voters at the November 1988 general election and known is as Initiative 97. The implementing regulation is WAC 173-340.

**Monitoring Wells:** Special wells drilled at specific locations on or off a hazardous waste site where groundwater can be sampled at selected depths and studied to determine the direction of groundwater flow and the types and amounts of contaminants present.

**Natural Background:** The concentration of hazardous substance consistently present in the environment which has not been influenced by localized human activities.

**National Priorities List (NPL):** EPA's list of hazardous waste sites identified for possible long-term remedial response with funding from the federal Superfund trust fund.

**Owner or Operator:** Any person with any ownership interest in the facility or who exercises any control over the facility; or in the case of an abandoned facility, any person who had owned or operated or exercised control over the facility any time before its abandonment.

**Potentially Liable Person (PLP):** Any person whom Ecology finds, based on credible evidence, to be liable under authority of RCW 70.105D.040.

**Public Notice:** At a minimum, adequate notice mailed to all persons who have made a timely request of Ecology and to persons residing in the potentially affected vicinity of the proposed action; mailed to appropriate news media; published in the local (city or county) newspaper of largest circulation; and opportunity for interested persons to comment.

**Public Participation Plan:** A plan prepared under the authority of WAC 173-340-600 to encourage coordinated and effective public involvement tailored to the public's needs at a particular site.

**Release:** Any intentional or unintentional entry of any hazardous substance into the environment, including, but not limited to, the abandonment or disposal of containers of hazardous substances.

**Remedial Action:** Any action to identify, eliminate, or minimize any threat posed by hazardous substances to human health or the environment, including any investigative and monitoring activities of any release or threatened release of a hazardous substance and any health assessments or health effects studies.

**Remedial Investigation:** A study to define the extent of problems at a site. When combined with a study to evaluate alternative cleanup actions it is referred to as a Remedial Investigation/Feasibility Study (RI/FS). In both cases, a comment period on the draft report is required.

**Responsiveness Summary:** A compilation of all questions and comments to a document open for public comment and their respective answers/replies by Ecology. The Responsiveness Summary is mailed, at a minimum, to those who provided comments and its availability is published in the Site Register.

**Risk Assessment:** The determination of the probability that a hazardous substance, when released into the environment, will cause an adverse effect in exposed humans or other living organisms.

**Sensitive Environment:** An area of particular environmental value, where a release could pose a greater threat than in other areas including: wetlands; critical habitat for endangered or threatened species; national or state wildlife refuge; critical habitat, breeding or feeding area for fish or shellfish; wild or scenic river; rookery; riparian area; big game winter range.

**Site:** See Facility.

**Site Characterization Report:** A written report describing the site and nature of a release from an underground storage tank, as described in WAC 173-340-450 (4) (b).

**Site Hazard Assessment (SHA):** An assessment to gather information about a site to confirm whether a release has occurred and to enable Ecology to evaluate the relative potential hazard posed by the release. If further action is needed, an RI/FS is undertaken.

**Site Register:** Publication issued every two weeks of major activities conducted statewide related to the study and cleanup of hazardous waste sites under the Model Toxics Control Act. To receive this publication, please call (360) 407-7200.

**Surface Water:** Lakes, rivers, ponds, streams, inland waters, salt waters, and all other surface waters and water courses within the state of Washington or under the jurisdiction of the state of Washington.

**TCP:** Toxics Cleanup Program at Ecology

**Toxicity:** The degree to which a substance at a particular concentration is capable of causing harm to living organisms, including people, plants and animals.

**Washington Ranking Method (WARM):** Method used to rank sites placed on the hazardous sites list. A report describing this method is available from Ecology.