

**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

In the Matter of Remedial Action by:

AGREED ORDER

HEGLAR KRONQUIST SITE

No. 6557

**TO: KAISER ALUMINUM & CHEMICAL CORPORATION, LLC
9141 Interline Avenue, Suite 1A
Baton Rouge, LA 70809**

TABLE OF CONTENTS

I.	INTRODUCTION.....	2
II.	JURISDICTION.....	2
III.	PARTIES BOUND.....	2
IV.	DEFINITIONS.....	2
V.	FINDINGS OF FACT.....	3
VI.	ECOLOGY DETERMINATIONS.....	5
VII.	WORK TO BE PERFORMED.....	6
VIII.	TERMS AND CONDITIONS OF ORDER.....	7
	A. Public Notice.....	7
	B. Remedial Action Costs.....	7
	C. Implementation of Remedial Action.....	8
	D. Designated Project Coordinators.....	8
	E. Performance.....	9
	F. Access.....	9
	G. Sampling, Data Submittal, and Availability.....	10
	H. Public Participation.....	11
	I. Retention of Records.....	12
	J. Resolution of Disputes.....	12
	K. Extension of Schedule.....	13
	L. Amendment of Order.....	14
	M. Endangerment.....	15
	N. Reservation of Rights.....	16
	O. Transfer of Interest in Property.....	16
	P. Compliance with Applicable Laws.....	17
	Q. Indemnification.....	18
IX.	SATISFACTION OF ORDER.....	18
X.	ENFORCEMENT.....	18
	EXHIBIT A. Site Diagram	
	EXHIBIT B. Scope of Work and Schedule	
	EXHIBIT C. Public Participation Plan	

I. INTRODUCTION

The mutual objective of the State of Washington, Department of Ecology (Ecology) and Kaiser Aluminum & Chemical Corporation, LLC (Kaiser) 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. This Order requires Kaiser to complete a Remedial Investigation (RI) to determine the extent of contamination, and a Feasibility Study (FS) to evaluate potential cleanup actions at the Heglar Kronquist Site (the Site) as specified in Section VII of this Order and in Exhibit B to the Order. 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. Kaiser agrees to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter Kaiser's responsibility under this Order. Kaiser 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 the Heglar Kronquist Site and is generally located at the intersection of Heglar Road and Kronquist Road in Spokane County, Washington. 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 Kaiser Aluminum & Chemical Corporation, LLC.

C. Potentially Liable Person (PLP): Refers to Kaiser Aluminum & Chemical Corporation, LLC.

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 Kaiser:

A. The Site is located in a rural area approximately 10 miles northeast of downtown Spokane, Washington as shown in Exhibit A. The Site was originally a gravel pit that closed in 1969.

B. From 1969 to 1974, Kaiser Aluminum & Chemical Corporation’s Trentwood Works in Spokane Valley, WA sent black dross for disposal in this nearly 4-acre closed gravel pit.

C. According to Kaiser Aluminum & Chemical Corporation’s data, the black dross was composed of 39% sodium chloride, 19% potassium chloride, 35% aluminum oxide, 4% free

aluminum, 2% cryolite, and 1% carbides and nitrides. Up to 55,000 cubic yards of black dross is believed to have been disposed at the Site.

D. The Spokane County Health Department (SCHD) sampled groundwater and springs on nine occasions from 1973 to 1980. In 1973, the Amend spring and Adams well, both less than 0.1 mile downgradient from the landfill, had chloride concentrations of over 600 milligrams per liter (mg/L); the secondary maximum contaminant level for chloride is 250 mg/L. SCHD concluded that the disposed black dross was the source of chloride and sodium levels in a shallow groundwater well and in springs used for drinking water purposes, and recommended an alternative source of drinking water supply.

E. Air was also sampled in September 1979. Several organic compounds were detected in samples collected downwind of the Site. Ammonia was detected at levels up to 230 milligrams per cubic meter; the acceptable source impact level (ASIL) for ammonia is 59.9 milligrams per cubic meter.

F. From 1980 to 1983, various SCHD correspondences directed the then property owner, Robert Lamon, to cover and secure the dross pile.

G. In 1984, Kaiser Aluminum & Chemical Corporation installed a 2-foot interim clay cover over the black dross to prevent infiltration of precipitation, constructed drainage ditches, and vegetated the surface. Kaiser Aluminum & Chemical Corporation also installed a gas venting system, constructed a fence, and initiated monitoring of groundwater. Kaiser Aluminum & Chemical Corporation eventually purchased the property.

H. In 1987, Ecology staff conducted a Site inspection which noted the entire surface of the Site had been capped and was covered with weeds and grasses, with no evidence of sinkholes or heaving.

I. In 1993, a Site Inspection Prioritization Level I Report prepared for the U.S. Environmental Protection Agency (EPA) Region 10 recommended no further action at the Site under the federal Superfund program at that time. The report noted that additional groundwater

and springs water samples were to be collected by Kaiser Aluminum & Chemical Corporation to fully evaluate the effectiveness of the clay cover.

J. Kaiser Aluminum & Chemical Corporation reorganized in 2006. Kaiser Aluminum & Chemical Corporation, LLC is the survivor of a merger that included Kaiser Aluminum & Chemical and now owns the Site.

K. Groundwater data from a nearby spring, submitted by Kaiser Aluminum & Chemical Corporation to Ecology in 2006, showed monthly monitoring, intermittent at times, from September 1983 through December 1989, November 1993 through December 2003, and only one sample in September 2004. The data show decreasing concentrations still above the secondary maximum contaminant level for chloride and above the primary maximum contaminant level for nitrate.

L. In 2006, Ecology conducted a Site Hazard Assessment of the Site. The Site's hazard ranking was determined to be a 2 where 1 represents the highest risk and 5 the lowest.

M. On July 2, 2008, Ecology notified Kaiser of its preliminary finding that Kaiser is a Potentially Liable Person (PLP) under MTCA. On August 6, 2007, Kaiser responded to Ecology that, without admitting liability, it is not disputing its PLP status and would conduct the RI/FS under Ecology's supervision. Ecology issued Kaiser a final PLP determination on August 13, 2008.

VI. ECOLOGY DETERMINATIONS

Ecology makes the following determinations, without any express or implied admissions of such determinations by Kaiser:

A. Kaiser is an "owner or operator" as defined in RCW 70.105D.020(17) of a "facility" as defined in RCW 70.105D.020(5). Kaiser is also a "generator" of hazardous substances found at the Site under RCW 70.105D.040(1).

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 Kaiser dated July 2, 2008, pursuant to RCW 70.105D.040,.020(21) and WAC 173-340-500. By letter dated August 6, 2008, Kaiser voluntarily waived its rights to notice and comment and accepted Ecology’s determination under RCW 70.105D.040.

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 Findings of Fact, 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 Kaiser 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). A Scope of Work and Schedule for the completion of a RI/FS is attached hereto as Exhibit B. Exhibit B is incorporated by reference and is an integral and enforceable part of this Order.

B. Kaiser shall submit all necessary work plans or other deliverables to Ecology for review and approval according to the schedule in Exhibit B. Upon approval by Ecology, such deliverables become integral and enforceable parts of this Order. Kaiser shall proceed with field implementation in accordance with the schedule approved in the Work Plans.

C. Within 90 days of the effective date of the Order, Kaiser shall submit to Ecology for review and approval a RI/FS Work Plan. The Work Plan and each element thereof shall be designed, implemented, and completed in accordance MTCA (Chapter 70.105D RCW) and its implementing regulation (Chapter 173-340 WAC).

D. Within 90 days of the Order, Kaiser shall submit a Sampling and Analysis Plan, for Ecology's review and approval, and a Health and Safety Plan, for Ecology's review and comment, per WAC 173-340-350(7)(c)(iv).

E. As provided in the agreed Scope of Work and Schedule, attached as Exhibit B, Kaiser shall commence and thereafter complete all tasks in the time frames and framework indicated unless the Department grants an extension in accordance with Section K or unless provided for otherwise in this Order.

F. Kaiser shall submit a RI/FS Report for Ecology's review and approval in accordance with the agreed upon schedule. Upon Ecology's approval, Ecology will provide for a 30-day public comment period of the RI/FS Report.

G. Progress reports shall be completed on a quarterly basis. The reports shall address progress made during the period, work in progress, problem areas, key activities, deliverables submitted, field work and data generated, subcontracting, analytical services performed, and key staff changes.

H. If, at any time after the first exchange of comments on drafts and after Kaiser has had the opportunity to cure any deficiencies within 30 days, 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. Ecology will provide advance notice to Kaiser of its decision to complete the final deliverable.

VIII. TERMS AND CONDITIONS OF ORDER

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

Kaiser 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, concerning this Order, including remedial actions and Order preparation, negotiation, oversight, and administration of this Order. 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). Except as provided herein, Kaiser shall pay the required amount within ninety (90) days of receiving from Ecology an itemized statement of costs that includes a summary of costs incurred, an identification of involved staff, a general description statement of work performed, and the amount of time spent by involved staff members on the project. Itemized statements shall be prepared quarterly. Pursuant to WAC 173-340-550(4), failure to pay Ecology's costs, other than disputed costs as provided herein, 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, or as such interest rate may be modified in Ecology regulations. Such modified interest rate shall apply to cost accruing after the effective date of the regulation that modifies the rate. Kaiser shall pay any disputed costs that remain after completion of the dispute resolution process set forth below within ninety (90) days of a final determination by Ecology. If Ecology affirms the costs, Kaiser shall pay

interest for the costs affirmed from the date of the expiration of the original 90 day period following receipt of the itemized statement.

Pursuant to RCW 70.105D.055, Ecology has authority to recover unreimbursed remedial action costs by filing a lien against real property subject to the remedial actions.

C. Implementation of Remedial Action

If Ecology determines that Kaiser has failed without good cause to implement the remedial action, in whole or in part, Ecology may, after notice to Kaiser, perform any or all portions of the remedial action that remain incomplete. If Ecology performs all or portions of the remedial action because of Kaiser's failure to comply with its obligations under this Order, Kaiser shall reimburse Ecology for the costs of doing such work in accordance with Section VIII.B (Remedial Action Costs), provided that Kaiser 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, Kaiser shall not perform any remedial actions at the Site outside those remedial actions required by this Order, or other Ecology orders, unless Ecology concurs, in writing, with such additional remedial actions.

D. Designated Project Coordinators

The project coordinator for Ecology is:

Teresita Bala
WA Department of Ecology
Eastern Regional Office
4601 N. Monroe St.
Spokane, WA 99205
(509) 329-3543

The project coordinator for Kaiser is:

J. W. (Bill) Vinzant
Kaiser Aluminum & Chemical Corporation, LLC
9141 Interline Ave., Suite 1A
Baton Rouge, LA 70809
(225) 231-5116

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 Kaiser, 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 Decree.

Ecology and Kaiser may change their 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.

Any 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.

Kaiser shall notify Ecology in writing of the identity of any engineer(s) or hydrogeologist(s), or others, and of any contractor(s) and subcontractor(s), 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 Kaiser either owns, controls, or has access rights to, with escorts, at all reasonable times for the purposes of, *inter alia*: inspecting non-privileged records, operation logs, and contracts related to the work being performed pursuant to this Order; reviewing Kaiser'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 Kaiser. Kaiser shall make all reasonable efforts to secure access rights for those properties within the Site not owned or controlled by Kaiser 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 Kaiser 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, Kaiser 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, unless otherwise specified, shall be submitted to Ecology in both printed and electronic formats in accordance with Section VII (Work to be Performed), 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, Kaiser shall allow Ecology and/or its authorized representative to take split or duplicate samples of any samples collected by Kaiser pursuant to implementation of this Order. Unless Ecology agrees in writing, Kaiser shall notify Ecology seven (7) days in advance of any sample collection or work activity pursuant to the implementation of this Order at the

Site. If the situation warrants it, Ecology will allow less advance notice and will notify Kaiser in writing of its approval. Ecology shall, upon request, allow Kaiser 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 (Access), Ecology shall notify Kaiser 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

Ecology will develop a Public Participation Plan for the Site. Ecology shall maintain the responsibility for public participation at the Site. However, Kaiser 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, and with input from Kaiser, Ecology will edit, finalize, and distribute such fact sheets and prepare and distribute public notices of Ecology's presentations and meetings.

2. With regard to investigation and cleanup of contamination at the Site covered by this Order, notify Ecology's project coordinator prior to the issuance of all press releases; distribution of fact sheets; and before major meetings with the interested public and local governments. Likewise, Ecology shall notify Kaiser 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 Kaiser that do not receive prior Ecology approval, Kaiser 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. Spokane Public Library
Hillyard Branch
4005 N. Cook Street
Spokane, WA 99207-5879
- b. Argonne Public Library
4322 N. Argonne Road
Spokane, WA 99206
- c. Ecology's Eastern Regional Office
4601 N. Monroe St.
Spokane, WA 99205-1295

At a minimum, copies of all public notices, fact sheets, and documents associated with the public comment period 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, Kaiser 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 shall require contractors to insert similar records retention requirements into contracts with subcontractors. Upon request of Ecology, Kaiser shall make all non-privileged 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 (Remedial Action Costs), 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, Kaiser 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. Kaiser may then request regional management review of the decision. This request shall be submitted in writing to the Eastern Region 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 Kaiser'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, except as provided herein, 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; and

- d. Any related deadline or schedule that would be affected if the extension were granted.

2. The burden shall be on Kaiser 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 Kaiser 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 Kaiser; or
- b. Acts of God, including fire, flood, blizzard, extreme temperatures, storm, or other unavoidable casualty; or
- c. Endangerment as described in Section VIII.M (Endangerment); or
- d. Other circumstances agreed to by Ecology.

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 Kaiser.

3. Ecology shall act upon any written request for extension in a timely fashion. Ecology shall give Kaiser written notification in a timely fashion 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 (Amendment of Order) 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, or agreed to, by Ecology; or
- c. Endangerment as described in Section VIII.M (Endangerment).

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 (Reservation of Rights), 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 Kaiser. Kaiser 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 (Resolution of Disputes).

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 Kaiser to cease such activities for such period of time as it deems necessary to abate the danger. Kaiser shall immediately comply with such direction.

If, for any reason, Kaiser 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, Kaiser may cease such activities. Kaiser 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 Kaiser shall provide Ecology with documentation of the basis for the

determination or cessation of such activities. If Ecology disagrees with Kaiser's cessation of activities, it may direct Kaiser to resume such activities.

If Ecology concurs with or orders a work stoppage pursuant to Section VIII.M (Endangerment), Kaiser'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 (Extension of Schedule) for such period of time as Ecology determines is reasonable under the circumstances. In such case, Kaiser shall not be subject to any enforcement action for stopping or delaying implementation of this Order.

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 Kaiser to recover remedial action costs paid to and received by Ecology under this Order. In addition, Ecology will not take additional enforcement actions against Kaiser regarding remedial actions required by this Order, provided Kaiser 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. Kaiser reserves all rights and defenses with respect to any additional actions that Ecology may seek to require 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 Kaiser that would reasonably be expected to impact implementation of this Order 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 Kaiser's transfer of any such interest in all or any portion of the Site, and during the effective period of this Order, Kaiser 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, Kaiser shall notify Ecology of said transfer. Upon transfer of any interest, Kaiser 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 Kaiser 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 additional 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), Kaiser 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 for the remedial action under this Order. However, Kaiser 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.

Kaiser 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 Kaiser 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 Kaiser shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, Kaiser 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 Kaiser and on how Kaiser must meet those requirements. Ecology shall inform Kaiser in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. Kaiser shall not begin or continue the remedial action 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 Kaiser 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

Kaiser 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 negligent acts or omissions or acts or omissions subject to strict liability, of Kaiser, its officers, employees, agents, or contractors in entering into and implementing this Order. However, Kaiser 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 the activities pursuant to this Order.

IX. SATISFACTION OF ORDER

The provisions of this Order shall be deemed satisfied upon Kaiser's receipt of written notification from Ecology that Kaiser has completed the remedial activity required by this Order, as amended by any modifications, and that Kaiser 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 Kaiser refuses, without sufficient cause, to comply with any term of this Order, Kaiser will be liable for:
 1. Up to three (3) times the amount of any costs incurred by the State of Washington as a result of its refusal to comply; and
 2. 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.

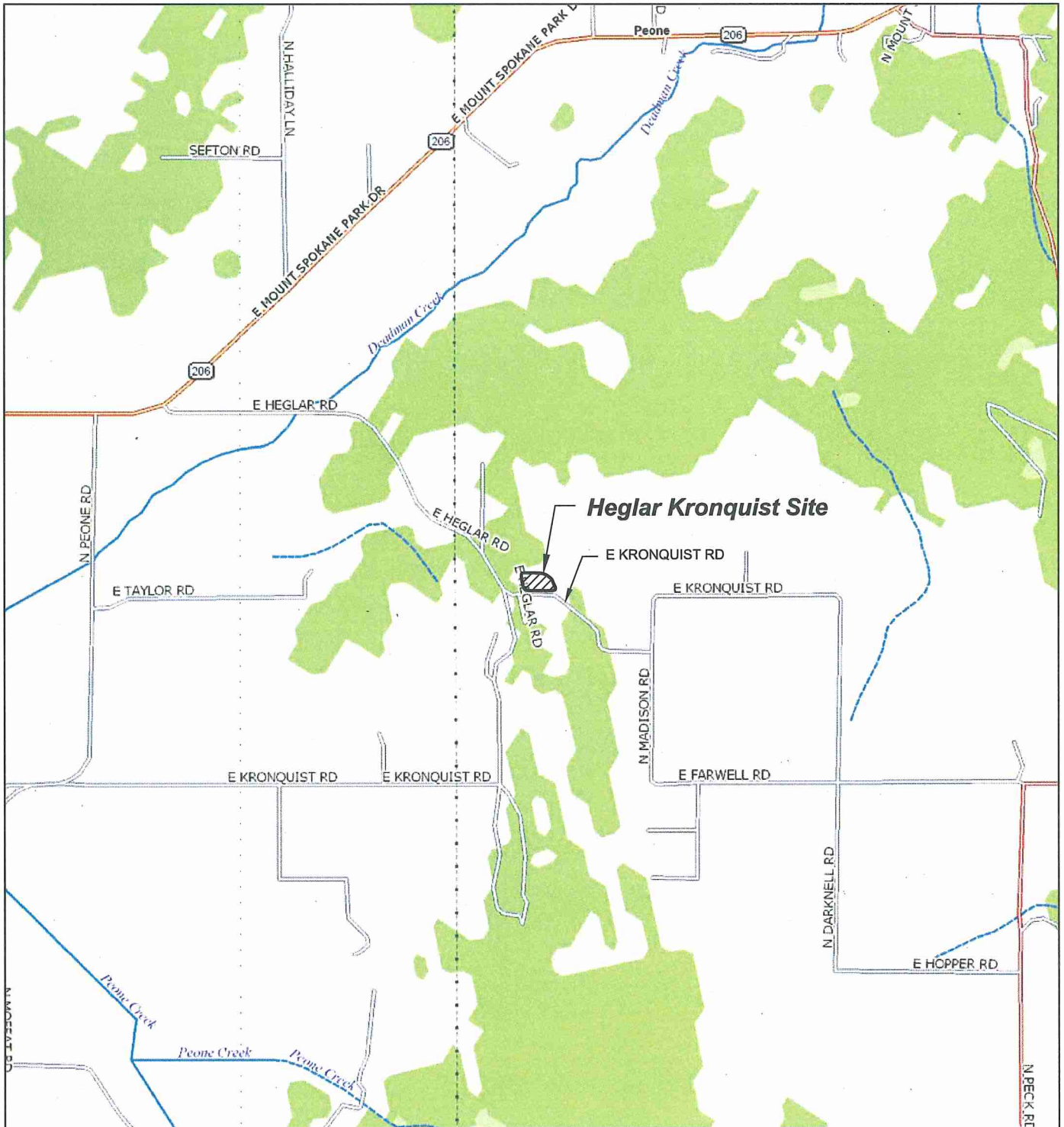
Effective date of this Order: 30th of March, 2009

**KAISER ALUMINUM & CHEMICAL
CORPORATION, LLC.**

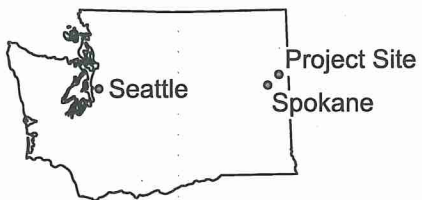

John M. Donnan
Senior Vice President, General Counsel
and Secretary
Foothill Ranch Corporate Office
(949) 614-1757

**STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY**

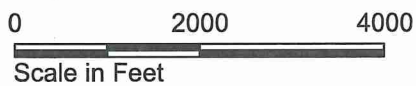

Michael A. Hibbler
Section Manager
Toxics Cleanup Program
Eastern Regional Office
(509) 329-3568



Source: Base map prepared from DeLorme Topo 7.0, 2007.



WASHINGTON



Heglar Kronquist Site Mead, Washington	
Vicinity Map	
12/08	
Exhibit	
A	

EXHIBIT B

HEGLAR KRONQUIST SITE Scope of Work and Schedule Remedial Investigation/Feasibility Study

This Scope of Work is to investigate contamination at the Heglar Kronquist Site (Site) located at Heglar Road & Kronquist Road in Spokane, WA. This Scope of Work, prepared by the Washington Department of Ecology (Ecology), is to be used by Kaiser Aluminum & Chemical Corporation, LLC (Kaiser), the potentially liable person (PLP), to develop Work Plans in order to complete a Remedial Investigation/Feasibility Study (RI/FS) at the Site as required by the Model Toxics Control Act (MTCA) Cleanup Regulation (Chapter 173-340 WAC).

The RI will determine the nature and extent of contamination at the Site. The FS will evaluate remedial alternatives that are applicable for the Site. The information and data gathered during the RI/FS will be used to identify and determine an appropriate remedial action. Kaiser will furnish all personnel, materials, and services necessary for, or incidental to, performing the RI/FS at the Site.

The RI/FS to be performed must include the following tasks:

TASK I RI/FS Project Planning

A. RI/FS Work Plan

Kaiser will prepare a RI/FS Work Plan, consistent with WAC 173-340-350(7). The Work Plan will include the following information:

1. Facility Background and Preliminary Conceptual Model. This will include the following:
 - General Facility Information, including, but not limited to, legal description of the facility, present owner and/or operator; chronological listing of past owners and/or operators and operational history; adjacent property owners, zoning designations of property and adjacent properties, current site activities/operations, and other pertinent information.
 - Site Conditions Map to include an existing site conditions map that illustrates relevant current site features such as property boundaries, proposed facility boundaries, surface topography, surface and subsurface structures, utility lines, well locations, and other pertinent information like surface water bodies near the vicinity of the Site. All maps will be consistent with the requirements 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.

- Locations of all known groundwater supply wells and springs within one mile radius from the site.
 - Dross Material Information. Existing information on dross material disposed on site to include chemical composition and characteristics, volume disposed, and area of site used for disposal.
 - Previous Investigations and Remedial Activities. This will include data reports generated during previous investigations and remedial actions undertaken.
 - Data Evaluation and Preliminary Conceptual Site Model (CSM). Based on existing information, a CSM as defined in WAC 173-340-200 will be presented describing the potential migration and exposure pathways. The CSM will consider known site conditions, hazardous substance fate and transport, and receptors.
 - Preliminary analysis and presentation of Applicable, Relevant, and Appropriate Requirements (ARARs).
 - Preliminary cleanup level analysis.
 - Preliminary terrestrial ecological exposure evaluation screening as established in WAC 173-340-7490.
2. Description of RI/FS Tasks described in Tasks II and III.
 3. Project Management – Project Team, roles, and responsibilities.
 4. Deliverables and schedule for Tasks II through IV.

B. Sampling and Analysis Plan

Kaiser will prepare a Sampling and Analysis Plan (SAP) in accordance with WAC 173-340-820, for use during all Site characterization studies. Plan amendments and additional phases of investigation may be required during the RI/FS. All SAPs prepared for the Site will contain:

1. Field Investigations, Sampling, and Testing. The field sampling and testing component of the SAP will describe in detail the rationale for data collection, including 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. This component will include but not be limited to the following:
 - a. Discussion on the purpose and objectives of the data collection.
 - b. Types of media to be sampled.

- c. Sampling locations and designations, including access considerations.
 - d. Proposed number and location of monitoring wells, soil borings, test pits and other investigative activities.
 - e. Monitoring well construction requirements.
 - f. Number of samples, sampling frequency, and data quality objectives.
 - g. Supplies and equipment
 - h. Specific sampling methods, including number and type of Quality Assurance/Quality Control (QA/QC) samples.
 - i. Shipping and handling arrangements.
 - j. Analytical procedures, methods, and detection limits.
 - k. Investigative-derived waste management.
 - l. Schedule and task assignments.
2. Quality Assurance Project Plan (QAPP)
- a. Field QA/QC methods.
 - b. Chain of custody procedures.
 - c. Decontamination procedures.
 - d. Laboratory analyses and QA/QC methods.
 - e. Sample custody procedures, including holding times, containers, and preservation.

C. Health and Safety Plan

The Health and Safety Plan will conform to the requirements of WAC 173-340-810.

TASK I DELIVERABLES: Draft RI/FS Work Plan
 Draft Sampling and Analysis Plan
 Health and Safety Plan

Final RI/FS Work Plan
 Final Sampling and Analysis Plan

TASK II Remedial Investigation Field Investigations

The RI data will meet the criteria set out in the QAPP and be of sufficient quality to characterize the Site, complete the FS, and support the development of an appropriate remedial action for the Site. The investigation will meet the requirements stated in WAC 173-340-350 and, more specifically, must include the following elements:

A. Site Characterization

Collect analytical data on groundwater contamination in the vicinity of the Site. Considering information on historical operations and hydrogeology, the data must be sufficient to delineate the type, depth, concentration and areal extent of contaminants, along with information that addresses the rate and direction of contaminant movement.

1. Hydrogeology

Investigations of the regional and Site-specific geologic and hydrogeologic characteristics affecting groundwater flow through the Site to adequately characterize the distribution and concentrations of hazardous substances in groundwater.

- a. Locate and sample all springs downgradient of the Site.
- b. Locate residential/domestic wells within 1.0 mile downgradient of the landfill. Identify and sample residential/domestic wells that may be potentially impacted by the landfill.
- c. Locate and sample all existing groundwater monitoring wells.
- d. Install new groundwater monitoring wells, including a background well, and soil borings where needed.
- e. Characterize site-specific stratigraphy and lithology based on well logs, maps, and any other information available, including identification of major aquifer and aquitard units.
- f. Estimate hydraulic conductivity and porosity based on well logs, samples, aquifer tests, and other general information available.
- g. Prepare maps including cross-sections, as necessary, showing water levels and regional/Site hydrogeology, localized groundwater divides, and inferred direction of groundwater flow. Maps will also identify localized areas of groundwater recharge and discharge (i.e. springs).
- h. Groundwater will be analyzed for major anions (chloride, fluoride, etc.), major cations (Al, Ca, Mg, K, Na, etc.), conventional

analytical parameters (ammonia, nitrate, nitrite, pH, etc.), and Metals. Limited groundwater samples will be analyzed for organics, including PCBs.

2. Air

- a. Evaluate air quality impacts. Analysis will include, at a minimum, ammonia, acetylene, methane, CN, and a scan for hydrocarbon vapor including PCBs.

B. Source and Contamination Characterization

1. Investigate for potential areas where groundwater comes in contact with the disposed black dross thereby providing for a source of groundwater and/or air contamination
2. Examine existing engineered drainage features to determine effectiveness in eliminating infiltration into and erosion of the cover.
3. Analytical data collected must help describe the nature, extent, and potential sources of contamination.

C. Potential Receptor Information

Collect data to permit the evaluation of appropriate human and ecological cleanup standards (WAC 173-340-700 through 760). This may include:

1. Public Use/Site Access – Potential uses of the affected properties, including zoning and land use. The presence or absence of controls on Site access.
2. Potential Groundwater/Surface Water Uses – Any consumptive, agricultural, recreational, or other use of groundwater and surface water in the area, and used by which populations.
3. Potential air and soil-gas pathways – Any basements or other spaces that are below grade.
4. Environmental Receptors – Information on ecological environments at the site, including the presence of endangered or threatened species. Analytical data collected must assess potential ecological exposure as established in WAC 173-340-7492.

- D. Perform a Terrestrial Ecological Evaluation following WAC 173-340-7491 through -7493, as appropriate.

TASK III Feasibility Study

The purpose of the FS is to evaluate potential remedial technologies and approaches to enable selection of an appropriate remedial action for the Site. The selected remedy will be established by Ecology with the Draft Cleanup Action Plan (DCAP), to be developed following completion and approval of the final RI/FS Report. The FS will meet the requirements stated in WAC 173-340-350(8).

TASK IV RI/FS Reporting

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

A. Remedial Investigation

1. Background Information

- a. Site History.
- b. Previous Studies.

2. Nature and Extent of Contamination

Kaiser will prepare an assessment and description of the degree and extent of contamination. This should include:

- a. Data Analysis – Analyze all data collected during previous Tasks and prepare supporting maps and tables.
- b. Lab reports, previous investigations, well and boring logs, and any other documentation of characterization activities must be included.
- c. Presentation of conceptual site models.

3. 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.

4. Cleanup Levels/Risk Assessment Analysis

Perform a baseline Model Toxics Cleanup 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.

5. 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 requirements.

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.

TASK IV DELIVERABLES: Draft RI/FS Report

Draft Final RI/FS Report

Final RI/FS Report

SCHEDULE OF TASKS/DELIVERABLES

TASK/DELIVERABLE	DATE
Effective Date of the Agreed Order	Start
Progress Reports	In accordance with the Order (quarterly)
Task I. Draft RI/FS Work Plan Draft Sampling and Analysis Plan Health and Safety Plan	90 days after start
Final RI/FS Work Plan Final Sampling and Analysis Plan	30 days after receipt of Ecology's comments on the draft RI/FS Plan and draft Sampling and Analysis Plan
Task II. Task II Implementation	As established in the Final RI/FS Work Plan and Sampling and Analysis Plan
Task III. Task III Implementation	As established in the Final RI/FS Work Plan
Task IV. Draft RI/FS Report	As established in the Final RI/FS Work Plan
Draft Final RI/FS Report	30 days after receipt of Ecology's comments on the draft RI/FS Report.
Final RI/FS Report	30 days after Ecology's determination of revisions, if necessary, to address comments received during the public comment period.

EXHIBIT C

HEGLAR KRONQUIST SITE

Draft Public Participation Plan

Agreed Order for a Remedial Investigation/ Feasibility Study

Prepared by:
Washington State Department of Ecology

Para asistencia en Español: Richelle Perez 360/407-6971
Если вам нужно помощь по русский, звоните Tatyana Bistrevsky 509/928-7617

January 2009

Getting Involved in the Cleanup at the Heglar Kronquist Site

Ecology encourages the public to learn about and get involved in decision-making opportunities at the Heglar Kronquist site. Opportunities are available during specific stages of the investigation and cleanup of contamination at the site. The site is located 10 miles northeast of downtown Spokane in a rural area near the intersection of Heglar and Kronquist Roads in Mead, Spokane County, Washington (See Appendix A – Site Map Figure 1).

The Public Participation Plan (Plan) provides an overview of the Plan itself and the Model Toxics Control Act (MTCA), which guides the formal cleanup process at sites in Washington State. This document also outlines the purpose of the Plan, when public notice will occur, the amount of time the public has to comment, where the potentially affected area is located, and ways the public may get involved in providing feedback. It also provides site background, a community profile, and community concerns.

Purpose of the Plan

The Public Participation Plan has three main purposes:

- To promote public understanding of the Washington Department of Ecology's (Ecology) responsibilities, planning, and cleanup activities at the site.
- To serve as a way of gathering information from the public. This information will assist Ecology and the potentially liable persons (PLPs) to conduct the investigation and plan for cleanup in a manner that is protective of human health and the environment.
- To inform the community living near the site, as well as the general public, about cleanup activities and how to contribute to the decision-making process.

Overview of the Public Participation Plan and Model Toxics Control Act (MTCA)

The Plan is required under authority of the Model Toxics Control Act. MTCA is a "citizen-mandated" law that became effective in 1989 to provide guidelines for the cleanup of contaminated sites in Washington State. This law sets standards to make sure the cleanup of sites is protective of human health and the environment. A glossary of MTCA terms is included as Appendix C of this Plan.

Ecology's Toxics Cleanup Program investigates reports of contamination that may threaten human health and the environment. If contaminants are confirmed during an investigation, the site is generally ranked and placed on a Hazardous Sites List (HSL).

The Heglar Kronquist site ranked a two on the Hazardous Sites List. A rank of one represents the highest level of concern and five the lowest. Current and former owners or operators, as well as any other PLPs of a site, may be held responsible for cleanup of contamination based on MTCA. The PLP identified by Ecology for this site is Kaiser Aluminum & Chemical Corporation, LLC (Kaiser).

Public participation is an important part of cleanup under the MTCA process. The participation needs are assessed at each site according to the level of public interest and degree of risk posed by contaminants. Individuals who live near the site, community groups, businesses, government,

other organizations and interested parties are provided an opportunity to become involved in commenting on the cleanup process.

The Plan includes requirements for public notice such as: identifying reports about the site and the repositories where reports may be read; providing public comment periods; and holding public meetings or hearings. Other forms of participation may be interviews, citizen advisory groups, questionnaires, or workshops.

Public Participation Grants and Technical Assistance

Additionally, citizen groups living near contaminated sites may apply for public participation grants (during open application periods). These grants help citizens receive technical assistance in understanding the cleanup process and create additional public participation avenues.

NOTE: Ecology currently does not have a citizen technical advisor for providing technical assistance to citizens on issues related to the investigation and cleanup of the site.

Amendments

The Plan was developed by Ecology and complies with the Model Toxics Control Act regulations (Chapter 173-340-600 WAC). It will be reviewed as cleanup progresses and may be amended if necessary. Amendments may be submitted to Ecology's site manager, Teresita Bala, for review and consideration. Ecology will determine final approval of the Plan as well as any amendments.

Review of Documents and Project Contacts

Documents relating to the cleanup may be reviewed at the repositories listed on page 7 of this Plan. If individuals are interested in knowing more about the site or have comments regarding the Public Participation Plan, please contact one of the individuals listed below.

<p>WA Department of Ecology Contacts: Ms. Teresita Bala, Site Manager WA State Department of Ecology Toxics Cleanup Program 4601 N. Monroe Spokane, WA 99205 509/329-3543 e-mail tbal461@ecy.wa.gov</p> <p>Ms. Carol Bergin, Public Involvement WA State Department of Ecology Toxics Cleanup Program 4601 N. Monroe Spokane, WA 99205 509/329-3546 e-mail cabe461@ecy.wa.gov</p> <p>Ms. Kari Johnson, Public Disclosure WA State Department of Ecology 4601 N. Monroe Spokane, WA 99205 509/329-3415 e-mail kajo461@ecy.wa.gov</p>	<p>Para asistencia Español Rochelle Perez WA State Department of Ecology Toxics Cleanup Program 300 Desmond Drive Lacey, WA 98504-7600 360/407-6971</p> <p>Если вам нужно помощь по русский, звоните Tatyana Bistrevsky 509/928-7617</p> <p>-----</p> <p>Kaiser Aluminum & Chemical Corporation, LLC: J. W. (Bill) Vinzant 9141 Interline Ave., Suite 1A Baton Rouge, LA 70809 225/231-5116</p>
--	--

SITE BACKGROUND

Site Overview

The Washington State Department of Ecology is proposing to enter into an Agreed Order with Kaiser Aluminum & Chemical Corporation, LLC (Kaiser) to conduct a Remedial Investigation and Feasibility Study (RI/FS) at the site. The site is located 10 miles northeast of downtown Spokane, south of Day Mt. Spokane Road. It is found in a rural wooded area near the intersection of Heglar and Kronquist Roads in Mead, Spokane County, Washington (See Appendix A – Site Map Figure 1).

The Agreed Order between Kaiser and Ecology for this site follows some previous independent investigations and cleanup work conducted by Kaiser and begins the formal process under MTCA. The Agreed Order is a legal document issued by Ecology. It formalizes the agreement between Ecology and Kaiser to assess the contamination and the need for additional cleanup actions at the site. The purpose of the Remedial Investigation is to gather more information to determine the nature and extent of site-related contamination that may be in soil and groundwater. The Feasibility Study will evaluate cleanup options.

The nearly four-acre site was used as a gravel pit until it was closed in 1969. The site was subsequently operated by Gemini Management, Inc. as a disposal site. Kaiser used the site during these operations from 1969 until 1974 for disposal of aluminum black dross from its Trentwood plant in the Spokane Valley. Black dross is a by-product from processing aluminum materials. According to Kaiser's data, the black dross was composed of 39% sodium chloride, 19% potassium chloride, 35% aluminum oxide, 4% free aluminum, 2% cryolite, and 1% carbides and nitrides. Nearly 55,000 cubic yards of black dross was disposed of at the site.

The dross disposal was stopped in 1974 because high levels of chloride were found in shallow water supply wells and springs down gradient of the site. Air sampling conducted downwind of the site in 1979 showed elevated levels of several organic compounds. Ammonia also was detected at levels higher than accepted by state laws.

Kaiser took several steps to address the contamination in 1984 including the installation of a cover designed to protect the dross pile, and eventually purchased the property. Monitoring that occurred from the early 1980s through 2004 indicated decreasing but still elevated chloride and nitrate in the springs downgradient from the site.

The Washington Department of Ecology conducted an assessment of the property in 2006 and ranked the site a two on the Hazardous Sites List. The Hazardous Sites List is a record of contaminated sites throughout the state that are ranked on a scale of one to five. One represents the greatest potential threat to human health and the environment; five represents the least potential threat.

Initial Well Testing Begins

On December 10 and 11, 2008, Ecology and Kaiser sampled 16 residential wells near the Heglar Kronquist site. Residents asked to have their wells tested because of concerns about how the site may have impacted their wells. Kaiser was already in the process of completing a legal agreement called an Agreed Order with Ecology to begin studies at the site to determine the nature and extent of contamination. Kaiser agreed to sample wells before their legal agreement with Ecology was final because of the community concerns. Once the Agreed Order is finalized, Kaiser will conduct additional studies and identify potential cleanup options for the site. (Chemicals related to agricultural and individual property practices are not part of the current domestic well testing.)

Results Expected Late January or Early February 2009

An independent lab in Kelso, WA is processing the water samples. Ecology expects to receive the results in late January or early February 2009. Residents whose wells were tested will receive a copy of the results. Results will also be shared with other residents and the general public. *If test results show elevated levels of site-related contaminants, well sampling may be expanded to other residents.*

How Does the Site Impact My Property?

Once Kaiser conducts a Remedial Investigation and Feasibility Study at the site, we will have more information to provide an accurate answer to this question. The Remedial Investigation will gather current scientific data about the nature and extent of contamination at the site and potentially in nearby areas. This information will help determine if there are impacts to properties near the site. Questions about real estate values, sales disclosure issues, tax assessments, and other property questions should be directed to experts in those fields.

Contaminants of Concern

Past site data shows that chemicals of concern related to the aluminum dross include: sodium, potassium, aluminum, chloride, fluoride, ammonia, nitrates and nitrites. The Remedial Investigation will provide additional information to identify the extent and concentration of contaminants at the site.

COMMUNITY BACKGROUND

Community Profile

The rural community near the site is comprised mainly of residential homes on large parcels in a wooded setting. The site is near Mt. Spokane State Park, and there is an abundance of wildlife in the region.

The nearby plains and rolling hills are made up of expansive parcels which include some family agricultural uses. Some parcels are being split and developed into new housing in the vicinity and throughout the Peone Prairie area. Residents are primarily Caucasian and fall into the middle and upper financial brackets.

Community Concerns

Community interviews are still being conducted with residents who live near the site. Some of the primary concerns expressed during interviews already conducted are listed on the following page:

- Some residents are concerned that their current health issues may be a result of exposure to site-related contamination. They are concerned about their children, themselves, pets, and farm animals. They question potential long-term exposure risks.
- There is concern about wells on individual properties and the potential impact of the site on the general watershed in the area.
- The question of property values and how the site may impact future sales as well as taxes were raised frequently.
- The majority of residents interviewed said they would like to see the site cleaned up as quickly as possible and in a way that provides the greatest protection to children, adults, and animals.
- Residents want to be kept informed throughout the process.
- Residents are frustrated with how long the cleanup process takes. They would like it accelerated. In an effort to address this concern, Kaiser agreed to conduct initial sampling of wells before the Agreed Order with Ecology was signed.

Ecology will focus on addressing site-related concerns through the activities listed in the Public Participation Activities and Timeline section below.

Public Participation Activities and Timeline

The following is a list of some of the public participation efforts that will occur until the cleanup actions are completed:

- ❖ A **mailing list** has been developed for individuals who live near the site. The potentially affected vicinity covers any adjacent properties and homes and businesses within close proximity to the site, and areas to be investigated. These persons, along with the PLPs, will receive copies of all 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 as requested. Other interested persons may request to be on the mailing list at any time by contacting Carol Bergin at the Department of Ecology (see page 3 for details).
- ❖ **Public Repositories** are locations where documents may be reviewed. Due to reduced hours at many libraries throughout the county, three repositories have been established. The following locations will contain copies of any documents that go through the public review process related to this site:

WA Department of Ecology
4601 N. Monroe
Spokane, WA 99205-1295
Contact: Ms. Kari Johnson
Public Disclosure Coordinator
509-329-3415

Spokane Public Library
Hillyard Branch
4005 N. Cook St.
Spokane, WA 99207

North Spokane Library
Hawthorne Branch
44 E. Hawthorne Rd.
Spokane WA 99218
893-8350

Ecology's Web Site at http://www.ecy.wa.gov/programs/tcp/sites/heglar/heglar_hp.html

❖ **Opportunity to Comment**

- During each stage of cleanup **fact sheets** are created by Ecology, then distributed to individuals on the mailing list. These fact sheets explain the stage of cleanup, the site background, what happens next in the cleanup process and ask for comments from the public.
- A **30-day comment period** allows interested parties time to comment on the process. The fact sheet contains contact information about where to submit comments and where and when public meetings or hearings will be held if requested.
- The information from these fact sheets is also published in a statewide **Site Register** which is sent to those who request to be on that mailing list. Persons interested in receiving the Site Register should contact Linda Thompson of Ecology at 360-407-6069 or e-mail Ltho461@ecy.wa.gov. The fact sheets are also posted on Ecology's web page under the Toxics Cleanup Program at http://www.ecy.wa.gov/programs/tcp/sites/heglar/heglar_hp.html

- ❖ **Display ads or legal notices** are published in the Spokesman Review, ethnic newspapers when available, and on Ecology's Public Events Calendar <http://www.ecy.wa.gov> to inform the general public. These notices are published at the beginning of the 30-day comment period for the public notices. They are also used to announce public meetings and workshops or public hearings.

- ❖ **Public meetings, workshops, open houses, and public hearings** are held based on 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. These meetings, workshops, or hearings will be held at a location that meets ADA standards and is close to the site. They may be held away from the site if it is necessary to accommodate large numbers of interested persons. These events are announced using the same methods as display ads or legal notices.

- ❖ Flyers may also be made available in various locations throughout the community (e.g., postings at local businesses, schools, libraries, etc.) to announce public comment periods, meetings, workshops, etc.

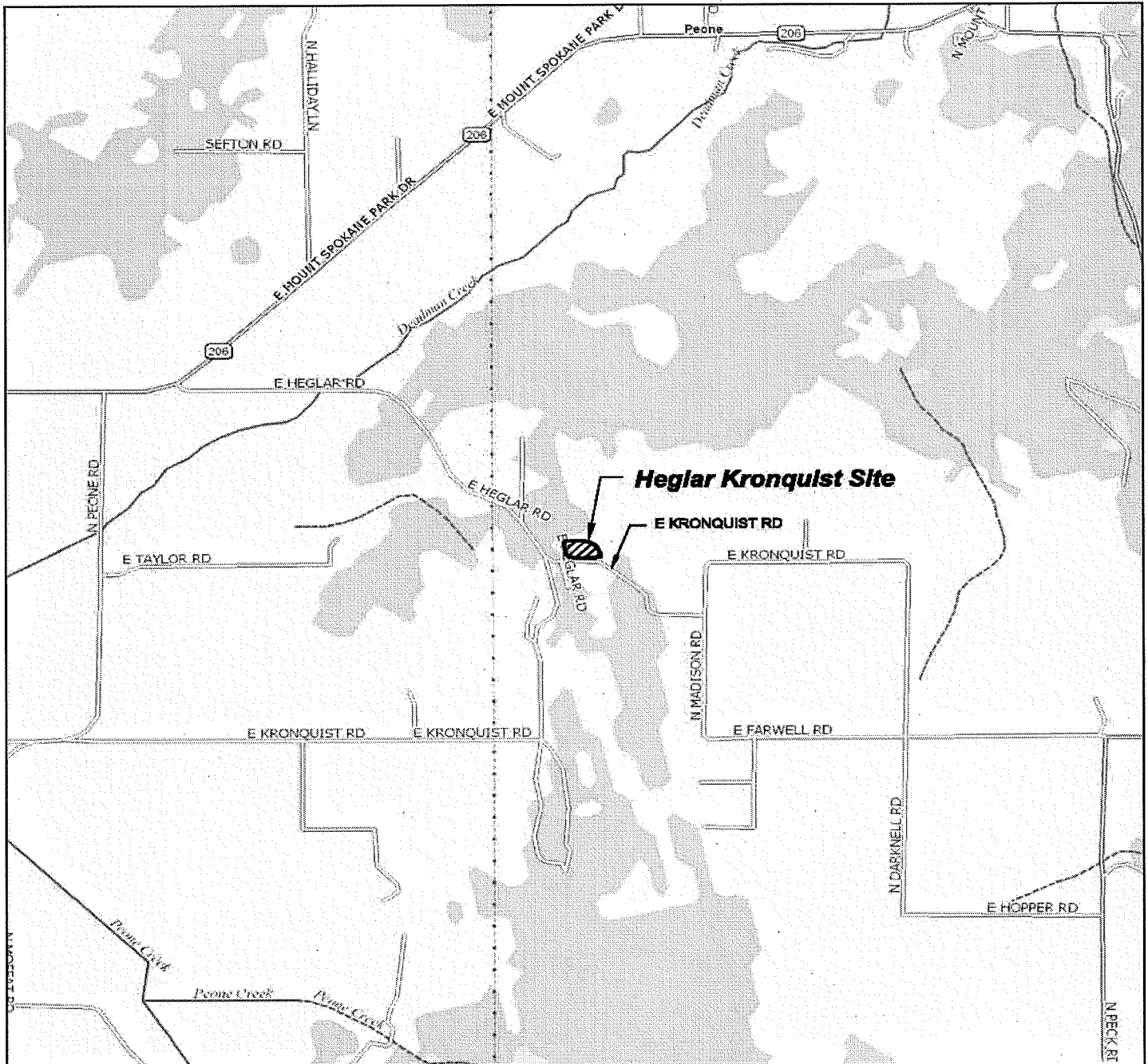
Answering Questions from the Public

If you have questions about fact sheets, documents available for public comment, meetings and hearings or about the general cleanup process, you are encouraged to contact one of the individuals listed on page 4.

Public Notice and Comment Periods Timeline

DATE	ACTION TAKEN
September 22, 2008	Negotiations began between Ecology and Kaiser for an Agreed Order to conduct a Remedial Investigation and Feasibility Study.
October 22, 2008	Ecology met with local residents who were concerned about potential contamination to their properties.
October 2008	Ecology sent out an invitation to participate in a community interview. Residents living within a one-half mile radius of the site were invited to have their wells tested.
October 2008	Ecology began conducting interviews with local residents.
December 10 and 11, 2008	Ecology and Kaiser conducted preliminary testing for residents who requested their wells be sampled. These residents live within a one-half mile radius of the site.
January 2009	Fact Sheet and Agreed Order for Remedial Investigation and Feasibility Study available for Public Comment
February 2009	Public Meeting to discuss the Agreed Order

APPENDIX A SITE MAP - FIGURE 1



Source: Base map prepared from DeLorme Topo 7.0, 2007.



WASHINGTON



Heglar Kronquist Site Mead, Washington	
Vicinity Map	
12/08	
Exhibit	
A	

APPENDIX B

CURRENT MAILING LIST

(to be included in final hard copy of the Agreed Order)

HEGLAR KRONQUIST SITE

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.

Free Product: A hazardous substance that is present as a nonaqueous phase liquid (that is, liquid not dissolved in water).

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 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.

Polynuclear Aromatic Hydrocarbon (PAH): A class of organic compounds, some of which are long-lasting and carcinogenic. These compounds are formed from the combustion of organic material and are ubiquitous in the environment. PAHs are commonly formed by forest fires and by the combustion of fossil fuels.

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.

Recovery By-Products: Any hazardous substance, water, sludge, or other materials collected in the free product removal process in response to a release from an underground storage tank.

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 (RI): 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

Total Petroleum Hydrocarbons (TPH): A scientific measure of the sum of all petroleum hydrocarbons in a sample (without distinguishing one hydrocarbon from another). The "petroleum hydrocarbons" include compounds of carbon and hydrogen that are derived from naturally occurring petroleum sources or from manufactured petroleum products (such as refined oil, coal, and asphalt).

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

Underground Storage Tank (UST): An underground storage tank and connected underground piping as defined in the rules adopted under Chapter 90.76 RCW.

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