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# STATE OF WASHINGTON WHATCOM COUNTY SUPERIOR COURT

STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY.

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Plaintiff.

NO. 14 2 01294 9

COMPLAINT

TRANS MOUNTAIN PIPELINE (PUGET SOUND) LLC,

Defendant.

Plaintiff, State of Washington, Department of Ecology (Ecology) alleges as follows:

#### I. DESCRIPTION OF ACTION

- 1. This action is brought on behalf of the State of Washington, Department of Ecology (Ecology) to enter a settlement agreement known as a Consent Decree (Decree), which requires remedial action at a facility where there has been a release and/or threatened release of hazardous substances.
- 2. The Complaint and Settlement are limited to the scope of the Decree. The facility, or site, is referred to as the Laurel Station Site (Site). The Site is located at 1009 East Smith Road, Bellingham, Washington.
- 3. The Complaint and the Decree settling Ecology's Complaint are filed simultaneously. There has been no trial and no answer to Ecology's complaint is required.

#### II. JURISDICTION

4. This Court has jurisdiction over the subject matter and over the parties pursuant to the Model Toxics Control Act (MTCA), RCW 70.105D. Venue is proper in Whatcom County, Washington, the location of the Site.

#### III. PARTIES

- 5. Plaintiff, Ecology, is an agency of the State of Washington responsible for overseeing remedial action at sites contaminated with hazardous substances under RCW 70.105D, the Model Toxics Control Act.
  - 6. Defendant is Trans Mountain Pipeline (Puget Sound) LLC.

### IV. FACTUAL ALLEGATIONS

- 7. The Site is located near Bellingham, Washington. The Site encompasses three areas of contamination that are identified in Exhibit B to the Consent Decree. The Site is defined by the extent of contamination caused by the release of hazardous substances at the Site. "Property" refers to 15 developed acres surrounding the Site and the 135 acres of undeveloped or agricultural land owned by Trans Mountain.
- 8. Defendant, Trans Mountain, is the current owner of the Site, and was an owner of the Site at the time of a release of hazardous substances.
- 9. Based on credible evidence, Ecology issued a Potentially Liable Person (PLP) status letter to Trans Mountain dated February 27, 1991, pursuant to RCW 70.105D.040, .020(26), and WAC 173-340-500. Trans Mountain waived its right to notice and comment and accepted status as a PLP by a letter dated April 1, 1991.
- 10. In October 1991, Ecology issued Enforcement Order No. DE 91-N192 (Order), which directed Trans Mountain to assess and clean up releases at the Site. Ecology amended the Order in 1992. The amended Order superseded the original Order and has governed remedial activities at the Site since 1992. Pursuant to the amended Order, Trans Mountain completed a Remedial Investigation/Feasibility Study (RI/FS) in 1992, soil assessment of the

containment areas associated with Tank Nos. 170 and 180 (2008), and a Supplemental RI/FS (2013). Trans Mountain has also completed interim cleanup actions that removed soil exceeding MTCA cleanup levels in certain areas of the Site.

- 11. The RI/FS indicates that releases and/or potential releases of hazardous substances, including total petroleum hydrocarbons (gasoline-, diesel-, and oil-range) and polycyclic aromatic hydrocarbons, have occurred at the Site above applicable standards as set forth in the MTCA Cleanup Regulation, WAC 173-340.
- 12. Ecology has determined that contamination at the Site presents a threat to human health or the environment, and that a final cleanup is necessary to remedy contamination. Ecology has also determined that cleanup of the Site will occur in the most expeditious manner if remedy selection for, and cleanup of, the Property moves forward now rather than waiting until documentation is completed and further characterization can be conducted for the rest of the Site.
- 13. Ecology developed a draft Cleanup Action Plan (CAP) for the Property and negotiated a draft Consent Decree with Defendant for implementation of the CAP.
- 14. The draft CAP was subject to public notice and comment between April 18, and May 19, 2014.
  - 15. The final CAP was issued June 2, 2014.
- 16. The Consent Decree was subject to public notice and comment between April 18, and May 19, 2014.
- 17. Ecology and Defendant have now entered into the final Consent Decree requiring cleanup of the Property. The final CAP is an integral and enforceable exhibit to the Decree.

## V. CAUSES OF ACTION

18. Ecology realleges all preceding paragraphs.

COMPLAINT

1	19. Ecology alleges that Defendant is responsible for remedial action at the Site
2	pursuant to RCW 70.105D.
3	VI. PRAYER FOR RELIEF
4	20. Ecology requests that the Court approve and order entry of the proposed
5	Consent Decree.
6	21. Ecology further requests that the Court retain jurisdiction to enforce the terms of
7	the Consent Decree.
8	DATED this 3 day of June 2014.
9	ROBERT W. FERGUSON
10	Attorney General
11.	VLEC
1,2	VALERIE K. RICKMAN WSBA #46812 Assistant Attorney General
13	Attorneys for Plaintiff
14	State of Washington Department of Ecology
15	(360) 586-6770
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