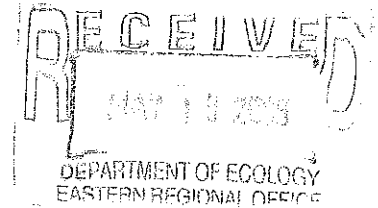


May 18, 2005

**SENT BY COURIER**

Mr. William J. Fees, P.E.  
Environmental Engineer  
Toxics Cleanup Program  
State of Washington  
Department of Ecology  
4601 North Monroe Street  
Spokane, Washington 99205-1295



Dear Mr. Fees,

Further to your instruction, please find enclosed the Agreed Order for the Remedial Investigation/Feasibility Study for the Pend Oreille Mine Tailings Disposal Facility Nos. 1 and 2, which has been duly signed by Michael P. Lipkewich.

Please acknowledge receipt of this letter, by signing below and faxing to my attention at: 604-640-5248.

Should you have any questions or concern, please contact me at 604-640-5206.

Sincerely,

A handwritten signature in cursive script that reads "Judy A. Davidson".

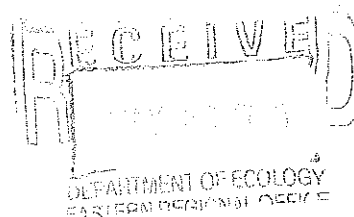
Judy A. Davidson  
Executive Assistant to  
Senior Vice President Mining

I, the undersigned, acknowledge receipt of this letter.

A handwritten signature in cursive script that reads "William J. Fees".

Please return by fax to: 604-640-5248, Attention: Judy Davidson

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY



In the Matter of Remedial Action by:

TECK COMINCO AMERICAN  
INCORPORATED

AGREED ORDER

No.

2585

[insert no. in header as well]

TO: Mr. David W. Godlewski  
Manager, Environmental & Public Affairs  
15918 East Euclid Avenue  
Spokane, WA 99216

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Exhibit A: Site Diagram  
Exhibit B: Scope of Work  
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## **I. INTRODUCTION**

The mutual objective of the State of Washington, Department of Ecology (Ecology) and Teck Cominco American Incorporated (Teck Cominco) 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 Teck Cominco to conduct a focused remedial investigation/feasibility study (RI/FS) of Tailings Disposal Facility Nos. 1 and 2 (TDF-1 and TDF-2). Ecology believes the actions required by this Order are in the public interest.

## **II. JURISDICTION**

This Agreed Order is issued pursuant to the authority of 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 the Order. Teck Cominco agrees to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter Teck Cominco's responsibility under this Order. Teck Cominco 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 used in this Order.

1. Site: The Site, for the sole purpose of this Agreed Order, is referred to as the Pend Oreille Mine, located approximately 2 miles north of Metaline Falls, Washington in Sections 10 and 15, Township 39 North, Range 43 East, Willamette Meridian (WM). The Pend Oreille Mine Tailings Disposal Facility Nos. 1 and 2 (TDF-1 and TDF-2) are located within the Site. 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 Exhibit A to this Order, which includes a detailed Site diagram. The Site constitutes a Facility under RCW 70.105D.020(4).

2. Parties: Refers to the State of Washington, Department of Ecology and Teck Cominco
3. PLP: Refers to Teck Cominco
4. Agreed Order or Order: Refers to this Order and each of the exhibits to the Order. All exhibits are integral and enforceable parts of this Order. The terms "Agreed Order" or "Order" shall include all exhibits to the Order.

## **V. FINDINGS OF FACT**

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

- 1) The Pend Oreille Mine was in operation from 1952 until its closure in 1977. At the time of closure, the Bunker Hill Company owned the mine. Between the years 1977 to 1986, the Bunker Hill Company, Pintlar, and GRC Exploration continued to operate pumps to prevent mine flooding as well as perform exploration around the mine. From 1986 to 1988, the mine was allowed to flood. In 1988, Resource Finance Corporation entered into an option-purchase agreement with Pintlar and began to dewater the mine. The Resource Finance Corporation purchased the mine and mill along with 13,000 acres of contiguous mineral holdings in 1990. Cominco American Incorporated became the owner of the mine in 1995.
- 2) Cominco American Incorporated changed its name to Teck Cominco American Incorporated in July 2001.
- 3) Tailings are the fine material that remains following ore processing and metal extraction. The tailings from the Pend Oreille Mine were directly discharged to the Pend Oreille River prior to 1967. After 1967, three tailings disposal facilities were used for tailings disposal.

from the Pend Oreille Mine. Tailings from the process mill were transported via a starter dam to the tailing disposal facility. Tailings Disposal Facility No. 1 (TDF-1) covers approximately 24 acres and was used from 1967 to 1974. Tailings Disposal Facility No. 2 (TDF-2) was used from 1974 to 1975 and covers approximately 25 acres. Tailings Disposal Facility No. 3 (TDF-3) was used from 1975 until mine closure in 1977. TDF-3 encompasses about 20 acres.

- 4) To prepare for the resumption of operations at the mine, Teck Cominco constructed a new tailings disposal facility over TDF-3. In constructing the new disposal facility, TDF-3 was covered with a geomembrane liner system that includes two, sixty mil high density polyethylene liners. The new facility's liner system essentially functions as a cover system for TDF-3. In addition, monitoring wells were installed downgradient of TDF-3 and have been supplemented since construction of the new tailings disposal facility.
- 5) Although the tailings in TDF-1 and TDF-2 have not been characterized, the tailings in TDF-1 and TDF-2 are from the same ore horizon as most of the tailings in TDF-3 and were processed by the same mill. Analysis of the existing tailings in TDF-3 show high levels of lead, zinc, arsenic, and cadmium and exceed the Washington State dangerous waste levels for lead toxicity by failure of the toxicity characteristic leaching procedure (TCLP) (ENSR 1999a)
- 6) Credible evidence that releases of hazardous substances to the environment associated with the TDF-1 and TDF-2 have occurred at the site is contained in the following documents:
  - Dames & Moore, 1997. Seep Water Analysis from Tailings Pond No. 1. Letter Report to Cominco American, Spokane, Washington. Spokane, Washington
  - Dames & Moore, 1999. Focused Groundwater Assessment Tailings Storage Facility No. 3. Pend Oreille Mine Metaline Falls, Washington. Spokane, Washington.

- ENSR, 1999a. Analysis of Data of the Pend Oreille Tailings Impoundment #3 February 1999 Sampling Study. Letter to Mr Keith Stoffel, Washington Department of Ecology. Fort Collins, Colorado.
- ENSR, 1999e. Geochemical Evaluation of Pend Oreille Mine Monitoring Wells. Report prepared for Cominco American Inc., Spokane, Washington. Redmond, Washington
- ENSR, 2000. Final Environmental Impact Statement Pend Oreille Mine Project. Report prepared for Washington Department of Ecology, Spokane, Washington. Redmond, Washington.
- Maxim Technologies, Inc 1998. MTCA/Dangerous Waste Characterization Preliminary Results No. 3 Tailings Impoundment. Letter to Dave Godlewski, Environmental Manager, Cominco American, Inc. Spokane, Washington. Spokane, Washington.

As a result of this evidence, Ecology has identified Teck Cominco American Incorporated as a Potentially Liable Person (PLP) for releases of hazardous substances at TDF-1 and TDF-2 at the Pend Oreille Mine

## **VI. ECOLOGY DETERMINATIONS**

1 Teck Cominco is an "owner or operator" as defined in RCW 70 105D 020(12), of a "facility" as defined in RCW 70 105D 020(4) because of their ownership of the Pend Oreille Mine and associated tailings disposal facilities.

2 Based upon all factors known to Ecology, a "release" or "threatened release" of "hazardous substance(s)" as defined in RCW 70 105D 020(20) and RCW 70 105D 020(7), respectively, has occurred at the Site

3. Based upon credible evidence, Ecology issued a potentially liable person status letter to Teck Cominco dated December 10, 2004, pursuant to RCW 70.105D .040, - 020(16) and WAC 173-340-500. By letter dated January 4, 2005, Teck Cominco voluntarily waived its rights to notice and comment and accepted Ecology's determination that Teck Cominco is a potentially liable person (PLP) under RCW 70 105D 040.

4. Pursuant to RCW 70.105D.030(1) and -050(1), Ecology may require PLP 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 Teck Cominco 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:

1. The work to be performed includes the planning, implementation, and reporting on the conduct of a Focused Remedial Investigation and Feasibility Study (RI/FS) for TDF-1 and TDF-2. Attached hereto as Exhibit B is a Scope of Work for the completion of a Focused RI/FS. Exhibit B is incorporated by reference as an integral and enforceable part of the Order.
2. The PLP shall submit all necessary work plans to implement the Scope of Work (Exhibit B) to Ecology for review and approval according to the Schedule of Deliverables attached as Exhibit B. Upon approval by Ecology, the PLP will proceed with field implementation of the Work Plans in accordance with an agreed upon schedule.
3. 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:
  - a. TASK I. Project Plan including RI Work Plan, Sampling and Analysis Plan, Health and Safety Plan, and Public Participation Plan.
  - b. TASK II. Conduct RI Field Investigations.
  - c. TASK III. Focused Remedial Investigation/Feasibility Study Report.

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

4. 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 AND CONDITIONS OF ORDER**

#### **A. Public Notices**

This Order has been the subject of public notice and comment pursuant to WAC 173-340-600.

#### **B. Remedial Action Costs**

Teck Cominco 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, including remedial actions and Order preparation, negotiation, oversight, and administration. These costs shall include work performed both prior to and subsequent to the issuance of the Order. Teck Cominco 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, and the amount of time spent by involved staff members on the project. A general description 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.



**C. Implementation of Remedial Action**

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

**D. Designated Project Coordinators**

The project coordinator for Ecology is:

William J. Fees  
4601 North Monroe  
Spokane, Washington 99205

The project coordinator for Teck Cominco is:

David W. Godlewski  
15918 East Euclid Avenue  
Spokane, Washington 99216

The project coordinator(s) shall be responsible for overseeing the implementation of this Order. The Ecology project coordinator will be Ecology's designated representative for the Site. To the maximum extent possible, communications between Ecology and Teck Cominco, 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 coordinator(s).

Ecology and Teck Cominco may change their respective project coordinator, but must provide ten (10) days advance written notification of the change to the other party.

**E. Performance**

All work performed pursuant to this Order shall be under the direction and supervision, as necessary, of a licensed professional engineer or licensed hydrogeologist, or equivalent as approved by Ecology, with experience and expertise in hazardous waste site investigation and cleanup. Teck Cominco shall notify Ecology in writing of the identity of such engineer(s), or hydrogeologist(s), or others, and of any contractors and subcontractors to be used in carrying out the terms of this Order, in advance of their involvement at the Site.

Any construction work performed pursuant to the Order shall be under the 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 provided in RCW 18 43 130.

**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 Teck Cominco 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 Teck Cominco'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 Teck Cominco. Teck Cominco shall make all reasonable efforts to secure access rights for those properties within the Site not owned or controlled by Teck Cominco 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 Teck Cominco unless an emergency prevents such notice. All persons who access the Site pursuant to this paragraph shall comply with the approved health and safety plan, if any. Ecology employees and their representative shall not be required to sign any release or waiver as a condition of site property access.

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

With respect to the implementation of this Order, Teck Cominco shall make the results of all sampling, laboratory reports, and/or test results generated by it or on its behalf available to Ecology and shall submit these results in accordance with Section VII of this Order.

All sampling data shall be submitted to Ecology according to the requirements of WAC 173-340-840(5) and is presented in the Ecology Environmental Information Data Submittal

Guide. Groundwater sampling data shall also be submitted in an electronic format agreed to by the Ecology Site Manager. These submittals shall be provided to Ecology in accordance with Section VII of this Order.

If requested by Ecology, Teck Cominco shall allow split or duplicate samples to be taken by Ecology and/or its authorized representative of any samples collected by Teck Cominco pursuant to implementation of this Order. Teck Cominco shall notify Ecology seven (7) days in advance of any sample collection or work activity at the Site. Ecology shall, upon request, allow split or duplicate samples of any samples collected by Ecology pursuant to the implementation of this Order to be taken by Teck Cominco or its authorized representative provided it does not interfere with Ecology's sampling. Without limitation on Ecology's rights under Section VIII.F. of this Order, Ecology shall notify Teck Cominco 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 review any existing public participation plan to determine its continued appropriateness and whether it requires amendment, or if no plan exists, Ecology shall develop a public participation plan alone or in conjunction with Teck Cominco.

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

- 1 Ecology will develop appropriate mailing list(s) with input from Teck Cominco, 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, interim actions, cleanup action plans, and engineering design reports. Ecology will edit, finalize and distribute such fact sheets and prepare and distribute public notices of Ecology's presentations and

meetings. Teck Cominco will be provided an opportunity to review fact sheets prior to distribution.

2 Notify Ecology's project coordinator prior to any of the following: the issuance of all press releases; distribution of fact sheets; performance of other outreach activities; meetings with the interested public and/or local governments. Likewise, Ecology shall notify Teck Cominco prior to the issuance of all press releases and fact sheets, and before meetings with the interested public and local governments. For all press releases, fact sheets, meetings, and other outreach efforts by Teck Cominco that do not receive prior Ecology approval, Teck Cominco 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) Metaline Falls Public Library  
302 Park Avenue (In Cutter Theater Building)  
Metaline Falls, Washington 99153
- (b) Ecology's Eastern Regional Office  
4601 North Monroe  
Spokane, Washington 99205

At a minimum, copies of public notices, including 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, Teck Cominco 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, Teck Cominco 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, the Parties shall utilize the dispute resolution procedure set forth below.

(a) Upon receipt of the Ecology project coordinator's decision, Teck Cominco has fourteen (14) days within which to notify Ecology's project coordinator of its objection to the decision.

(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) Teck Cominco may then request Ecology 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 decision.

(d) The Section Manager shall conduct a review of the dispute and shall endeavor to issue a written decision regarding the dispute within sixty (60) days of Teck Cominco'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 the reason(s) the extension is needed. 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 Teck Cominco 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 includes, but is not limited to:

- (a) Circumstances beyond the reasonable control and despite the due diligence of Teck Cominco 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 Teck Cominco; 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. of this Order.

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 Teck Cominco.

3. Ecology shall act upon any written request for extension in a timely fashion. Ecology shall give Teck Cominco written notification in a timely fashion of any extensions granted pursuant to the 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; or
- (c) Endangerment as described in Section VIII M. of this Order.

**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. of this Order, 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 Teck Cominco. Teck Cominco 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 the Order represents a substantial change, Ecology will provide additional public notice and opportunity to comment. If Ecology does not agree to a proposed amendment, the disagreement may be addressed through the dispute resolution procedures described in Section VIII J. of this Order.

**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 Teck Cominco to cease such activities for such period of time as it

deems necessary to abate the danger Teck Cominco shall immediately comply with such direction

If, for any reason, Teck Cominco 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, Teck Cominco may cease such activities. Teck Cominco 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 Teck Cominco shall provide Ecology with documentation of the basis for the determination or cessation of such activities. If Ecology disagrees with Teck Cominco's cessation of activities, it may direct Teck Cominco to resume such activities.

If Ecology concurs with or orders a work stoppage pursuant to this section, Teck Cominco'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 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/No Settlement**

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 Ecology rights or authority. Ecology will not, however, bring an action against Teck Cominco to recover remedial action costs paid to and received by Ecology under this Order. In addition, Ecology will not take additional enforcement actions against Teck Cominco regarding remedial actions required by this Order, provided Teck Cominco 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 Teck Cominco 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 Teck Cominco's transfer of any interest in all or any portion of the Site, and during the effective period of this Order, Teck Cominco shall serve a copy of this Order upon any prospective purchaser, lessee, transferee, assignee, or other successor in said interest; and, at least thirty (30) days prior to any transfer, Teck Cominco shall notify Ecology of said transfer. Upon transfer of any interest, Teck Cominco 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 Teck Cominco 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

2. Pursuant to RCW 70.105D.090(1), the substantive 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 and that are known to be applicable at the time this Order becomes effective are binding and enforceable requirements of this Order.

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

Ecology shall ensure that notice and opportunity for comment is provided to the public and appropriate agencies prior to establishing the substantive requirements under this section.

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 which is necessary for the state to administer any federal law, the exemption shall not apply and Teck Cominco 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**

Teck Cominco 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 arising from or on account of acts or omissions of Teck Cominco, its officers, employees, agents, or contractors in entering into and implementing this Order. However, the Teck Cominco shall not indemnify the State of Washington nor save nor hold its employees and agents harmless from any claims or causes of action arising out of the

negligent acts or omissions of the State of Washington, or the employees or agents of the State, in implementing the activities pursuant to this Order.

#### **IX. SATISFACTION OF ORDER**

The provisions of this Order shall be deemed satisfied upon Teck Cominco's receipt of written notification from Ecology that Teck Cominco has completed the remedial activity required by this Order, as amended by any modifications, and that the Teck Cominco 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:

1. The Attorney General may bring an action to enforce this Order in a state or federal court.

2. The Attorney General may seek, by filing an action, if necessary, to recover amounts spent by Ecology for remedial actions and orders related to the Site.

3. In the event Teck Cominco refuses, without sufficient cause, to comply with any term of this Order, Teck Cominco 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; and

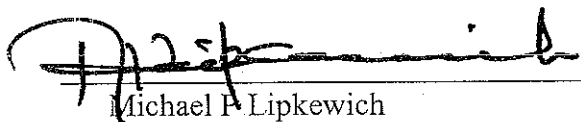
(b) Civil penalties of up to \$25,000 per day for each day it refuses to comply.

4. 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.

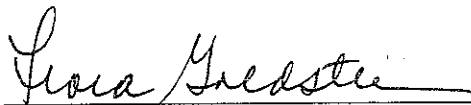
Effective date of this Order: July 5, 2005

**TECK COMINCO AMERICAN INCORPORATED**

**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**



Michael P. Lipkewich  
Vice President, Mining  
P O. Box 3087  
Spokane, Washington 99220  
(509) 747-6111



Flora Goldstein  
Section Manager, Eastern Regional Office  
Toxics Cleanup Program  
4601 North Monroe  
Spokane, Washington 99205

(509) 329-3400

## **EXHIBIT A: SITE DIAGRAM**

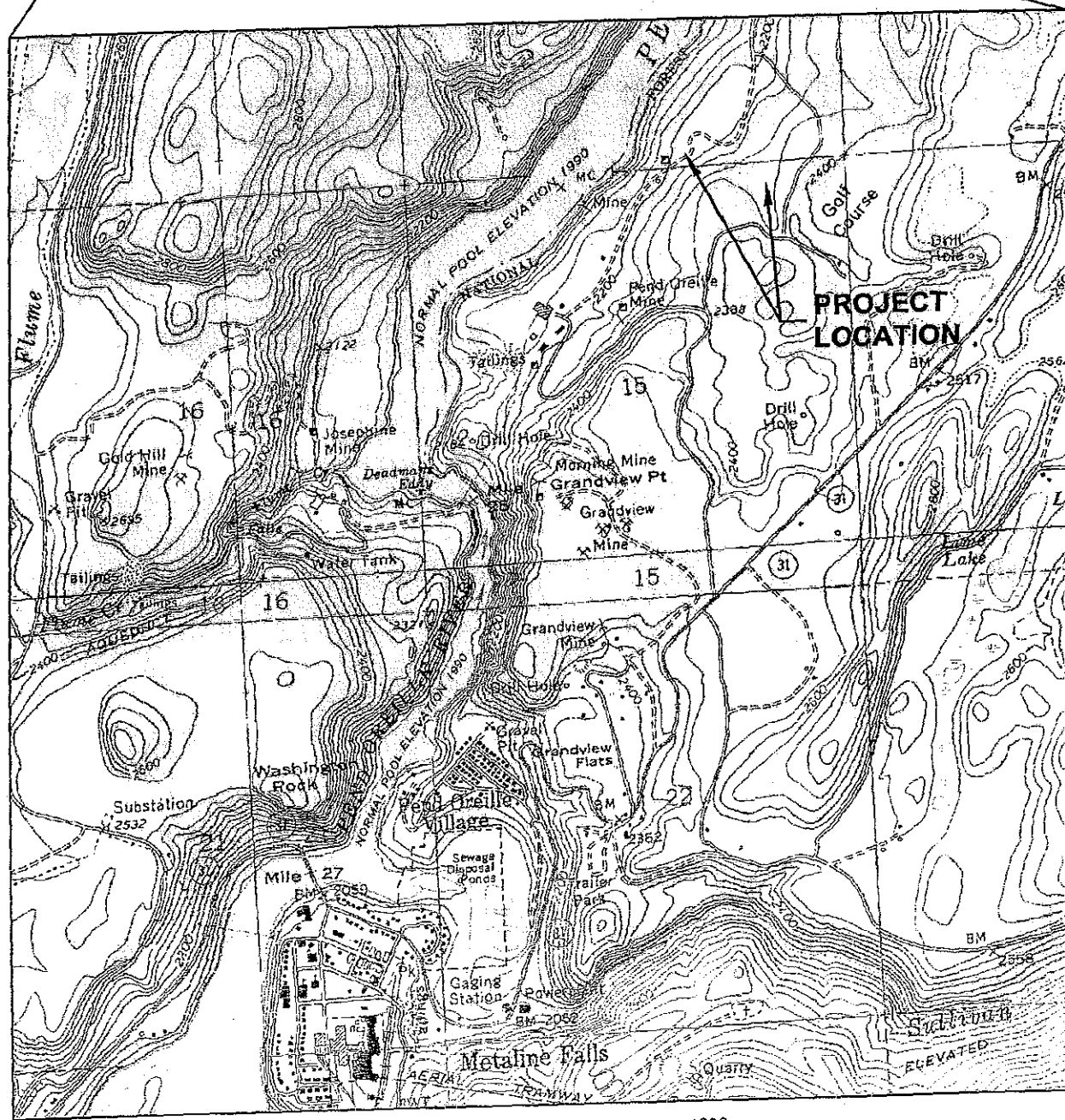
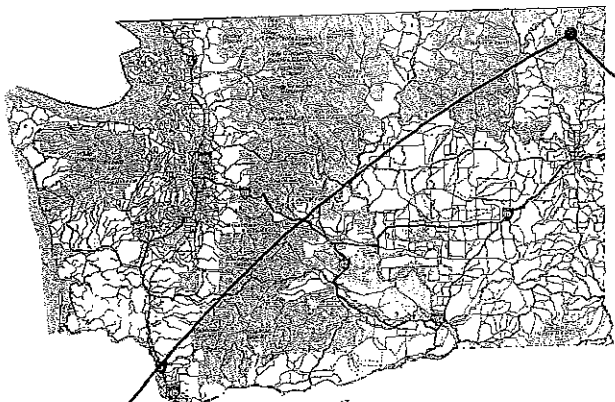


FIGURE  
**PROJECT LOCATION**  
TECK COMINCO AMERICAN INCORPORATED  
PEND OREILLE MINE TDF-1 AND TDF-2 SAP

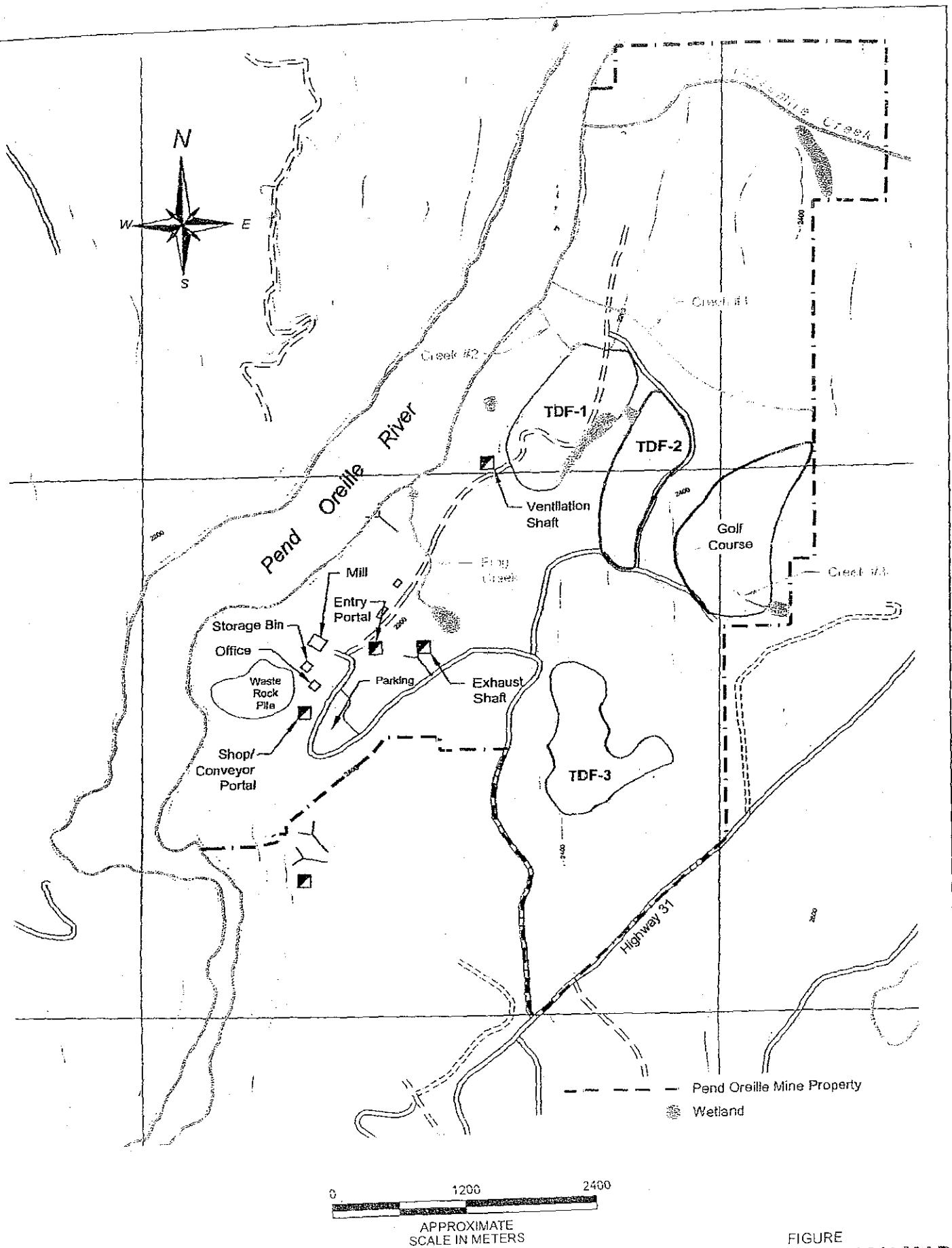


FIGURE  
**SITE LOCATION MAP**  
 TECK COMINCO AMERICAN INC.  
 PEND OREILLE MINE TDF-1 AND TDF-2 SAP

Source: Ecology (2000)

## **EXHIBIT B: SCOPE OF WORK**



**EXHIBIT B**  
**TECK COMINCO AMERICAN, INCORPORATED**  
**PEND OREILLE MINE TAILINGS DISPOSAL FACILITY NOS. 1 & 2**  
**SCOPE OF WORK**  
**REMEDIAL INVESTIGATION/FEASIBILITY STUDY**

This scope of work is to investigate metal contamination at the Teck Cominco American, Incorporated (Teck Cominco) Pend Oreille Mine Tailings Disposal Facility Nos. 1&2 (Site) in Metaline Falls, Washington. This scope of work prepared by the Washington Department of Ecology (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, surface water bodies 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 histories

2. Evaluation of Existing Data

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

3. Task II 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 protection;
  - b. Hazard evaluation;
  - c. Waste characteristics;
  - d. Special considerations and emergency information

### C. Public Participation Plan

A Public Participation Plan shall be developed to provide the public with timely information and an opportunity to participate in accordance with WAC 173-340-600. A model Public Participation Plan is available from the Department of Ecology for use as the format for the Public Participation Plan

### 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:

#### A. Site Characterization

Collect analytical data on groundwater, soils, and surface water contamination in the vicinity of the Site. The data shall be sufficient to delineate the depth, areal extent, velocity and direction of contaminant movement, type, and concentration of contaminants

1. Collect background information from the previous environmental investigations, other Ecology information, and any other historical data.

2. Hydrogeology

An investigation of the regional and Site specific geologic and hydrogeologic characteristics affecting groundwater flow beneath the Site

- a. Evaluate and monitor all existing monitoring wells;
- b. Install new groundwater monitoring wells and soil borings where needed;
- c. Measure water levels in all wells and new borings;
- d. Characterize regional stratigraphy and lithology based on well logs, maps, and any other information available;
- e. Estimate hydraulic conductivity and porosity based on well logs, samples, and other general information available;
- f. Prepare maps showing water levels and regional/Site hydrogeology

3. Soils

- a. Install soil borings and/or test pits;

b. Characterize soil samples using the Unified Soil Classification System (USCS);

c. Prepare boring logs for each boring

B. Source and Contamination Characterization

1. Sampling locations shall be selected to characterize the wastes;

2. Analytical data collected shall help describe the nature, extent, and potential sources of contamination.

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

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 – Information on the presence of endangered or threatened species, potential habitats, and ecological environments

Task III: RI/FS Report

The PLP shall complete a report documenting the remedial investigation/feasibility study 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 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 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 shall 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

## Schedule of Deliverables

<u>Deliverables</u>	<u>Date Due</u>
Effective date of Order	Start
Teck Cominco to Submit Draft RI/FS Work Plan, Sampling and Analysis Plan, Health and Safety Plan, Public Participation Plan, and Schedule of Work to be Performed	90 days after start
Teck Cominco to Submit Final RI/FS Work Plan, Sampling and Analysis Plan, Health and Safety Plan, draft Public Participation Plan, and Schedule of Work to be Performed	45 days after Teck Cominco receives written approval from Ecology of documents
Teck Cominco to begin implementation of RI following accepted written Schedule of Work to be Performed	30 days after Teck Cominco receives approval of plans from Ecology
Tech Cominco to Submit Draft RI/FS Report	As approved in RI/FS Work Plan
Final RI/FS Report	30 days after Teck Cominco receives Ecology's written approval of draft
Progress Reports	Every 3 months

## **EXHIBIT C: PUBLIC PARTICIPATION PLAN**

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**PEND OREILLE MINE SITE  
TAILINGS DISPOSAL FACILITIES  
TDF-1 AND TDF-2**

**DRAFT  
PUBLIC PARTICIPATION PLAN  
FOR THE  
AGREED ORDER  
REMEDIAL INVESTIGATION / FEASIBILITY STUDY**

**PREPARED BY:  
GOLDER ASSOCIATES INC. /  
TECK COMINCO AMERICAN INCORPORATED  
AND  
WASHINGTON STATE DEPARTMENT OF ECOLOGY  
APRIL 2005**



## **INTRODUCTION**

### **OVERVIEW OF PUBLIC PARTICIPATION PLAN**

This Public Participation Plan (Plan) has been developed by Teck Cominco American Incorporated (Teck Cominco) and the Washington Department of Ecology (Ecology) as part of an Agreed Order for a Remedial Investigation/Feasibility Study (RI/FS) at the Pend Oreille Mine Tailings Disposal Facilities TDF-1 and TDF-2 (Site). The Pend Oreille Mine is located in northeastern Washington State, 80 miles north of the City of Spokane and about two miles north of the town of Metaline Falls, Pend Oreille County. The Site is in the SE quarter of Section 10 and the NE quarter of Section 15, Township 39 North, Range 43 East. Cleanup focuses on lead, zinc, cadmium, arsenic and other metals in soils, groundwater and surface water.

This Plan complies with the Washington State Model Toxics Control Act (MTCA) regulations (Chapter 173-340-600 WAC) and outlines proposed public participation for the Pend Oreille Mine tailings facilities TDF-1 and TDF-2 from the beginning through final stages of cleanup. Ecology maintains responsibility for public participation at the Site. Teck Cominco and Golder Associates, Inc (Golder) will help coordinate and implement the public participation. This Plan will be reviewed during each stage of cleanup and may be amended if necessary. Ecology will determine final approval of the Plan as well as any amendments.

The purpose of the Plan is to promote public understanding of Ecology's responsibilities, planning, and cleanup activities at this Site. It also serves as a way of gathering information from the public that will help Ecology and Teck Cominco plan for Site related cleanup in a manner that is protective of human health and the environment. This Plan will help the communities of Pend Oreille Village, Metaline Falls and Metaline to be informed about Site cleanup activities and how interested persons may contribute to the decision-making process.

A glossary of terms used in this Plan is included as Appendix A. 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:

Mr. Bill Fees, Environmental Engineer,  
Washington State Department of Ecology, Eastern Regional Office  
4601 North Monroe, Spokane, WA 99205  
509-329-3589  
Email: [wfee461@ecy.wa.gov](mailto:wfee461@ecy.wa.gov)

Mr. David Godlewski, Manager Environmental & Public Affairs  
Teck Cominco American Incorporated  
15918 E. Euclid, Spokane, WA 99216  
509-892-2584  
Email: [Dave.Godlewski@teckcominco.com](mailto:Dave.Godlewski@teckcominco.com)

Mr. Douglas Morell, Project Manager  
Golder Associates Inc  
18300 NE Union Hill Road, Suite 200, Redmond, WA 98052  
425-883-0777  
Email: [dmorell@golder.com](mailto:dmorell@golder.com)

Ms. Bryony Stasney, Community Outreach  
Golder Associates Inc.  
1200 West Ironwood Drive, Suite 102, Coeur d'Alene, ID 83814  
208-676-9933  
Email: [bstasney@golder.com](mailto:bstasney@golder.com)

Carol Bergin, Public Involvement  
Washington State Department of Ecology, Eastern Regional Office  
4601 North Monroe, Spokane, WA 99205  
509-329-3546  
Email: [cabe461@ecy.wa.gov](mailto:cabe461@ecy.wa.gov)

Mrs. Johnnie Landis, Public Disclosure  
Washington State Department of Ecology, Eastern Regional Office  
4601 North Monroe, Spokane, WA 99205  
509-329-3415  
Email: [johh461@ecy.wa.gov](mailto:johh461@ecy.wa.gov)

#### **PUBLIC PARTICIPATION AND THE MODEL TOXICS CONTROL ACT**

The Model Toxics Control Act (MTCA) is a citizens' initiative which passed in the November 1988 general election. It provides guidelines for the cleanup of contaminated sites in Washington State. This law sets strict standards to make sure the cleanup of sites is protective of human health and the environment. The Department of 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, the Site is ranked and placed on a Hazardous Sites List. 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 the Site has contaminants, and the process of cleanup begins with Ecology implementing and overseeing the project. The PLP for this Site is Teck Cominco American Incorporated.

Public participation is an important part of the MTCA process during cleanup of sites. The public participation needs are assessed at each site according to interest expressed by the public and degree of risk posed by contaminants. Individuals who live near the Site, community groups, businesses, organizations and other interested parties are provided an opportunity to become involved in commenting on the cleanup process. The Public Participation 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 personal interviews, involvement in citizen advisory groups, questionnaires, or workshops. Additionally, 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.

## **SITE BACKGROUND**

### **SITE DESCRIPTION AND HISTORY**

The Pend Oreille Mine and Mill are located two miles north of Metaline Falls, Washington, on the east side of the Pend Oreille River. The general terrain of the northeastern corner of Washington from Metaline to the Canadian border is mountainous and rugged with glaciated valleys. The area is heavily forested and dotted with many lakes formed from the melting of glacial ice.

The mine has historical roots of operation dating from as early as 1904 to the present. Early mining began on the west side of the Pend Oreille River. Mining on the east side of the river, at the current site, took place from 1952 until closure of the mine in 1977. Various owners operated the facility until 1996 when Cominco American Incorporated acquired it. In 2001, Cominco American Incorporated changed its name to Teck Cominco American Incorporated and in 2004 reopened the mine for production. Teck Cominco remains the current operator.

The purpose of mining at the site is to remove ore-bearing rock from the underground mine and process it in facilities above ground. Zinc and lead are the primary metals recovered in the mining process and sold for economic benefit. During ore processing and metal extraction a fine material is produced called tailings. Historically, tailings were discharged directly into the Pend Oreille River until 1967. Since 1967 three areas have been used to store mine tailings at the Site.

These storage areas are called Tailings Disposal Facilities (TDF) 1, 2 and 3. TDF-1 and 2 cover approximately 49 acres and are located northwest of the Pend Oreille Mine Golf Course and east of the Pend Oreille River (see maps in Appendix B). Both TDF-1 and TDF-2 are located on Pend Oreille Mine property owned by Teck Cominco American Incorporated. Pend Oreille Village and the Town of Metaline Falls are located about two miles and three miles respectively southwest of the Site.

Lead, zinc, cadmium and arsenic have been found in soil at TDF-3. Tailings at TDF-3 were processed by the same mill and came from the same ore extracted from a geologic area called the Josephine Horizon as most of the tailings in TDF-1 and 2. As a result of these findings, TDF-1 and 2 are the focus of the Remedial Investigation and Feasibility Study (RI/FS). The Remedial Investigation will determine where and how much contamination exists in these two areas. The Feasibility Study will evaluate cleanup options. A report will be developed of the findings of the RI/FS and presented for public comment. TDF-3 is an active area where tailings continue to be stored and will be addressed in the future when the mine is closed.

### **CONTAMINANTS OF CONCERN**

The contaminants of concern at the Site include lead, zinc, cadmium, arsenic and potentially other metals in soils, groundwater and surface water related to tailings at TDF-1 and TDF-2. A Scope of Work is included as part of the Agreed Order to guide Site investigations and characterize the degree of risk posed to human health and the environment from Site-related contaminants. The results of the

remedial investigations will guide actions to clean up the Site. An overview of the investigation and cleanup process is outlined under Site Cleanup Process of this plan.

## **COMMUNITY BACKGROUND**

### **COMMUNITY PROFILE**

Three communities are found southwest of the Site. The Pend Oreille Village and town of Metaline Falls are approximately 2-3 miles southwest of the Site and east of the river. The town of Metaline is southwest of Metaline Falls on the west side of the river. The populations of Pend Oreille Village, Metaline Falls and Metaline combined are nearly 430, and are comprised of mainly English speaking communities. The primary employers are the Selkirk School District, Seattle City Light, Teck Cominco, US Forest Service and US Customs and Immigration. Art and culture is particularly important to Metaline Falls which was voted one of the "100 Best Small Art Towns in America" in 1996. Metaline Falls includes a number of historical buildings, including the Cutter Theatre which features live performances, an art gallery, the Historic Schools Display and houses the Metaline Library.

Land in the immediate vicinity of the Site is both privately and publicly owned. Private lands include the communities listed above as well as farmlands, ranches, homes and cabins. Most of the land in the vicinity of the Site is public land of the Colville National Forest. This land is managed by the federal government for multiple uses, with emphasis on recreation, wildlife and timber harvesting.

Important local industries include mining, timber, agriculture and recreation. Mining has occurred in the area since the late 1800s. Timber has been harvested for many years in the area on both private and public lands for lumber and other forest products. However, this industry has declined within the past five years. There are a few privately owned hay and beef cattle farms in the vicinity of the Site. These farms also lease Colville National Forest lands for summer pasture.

Recreation provides important income to the local communities. Popular attractions to the area include nearby Sullivan Lake, Gardner Caves, Boundary and Box Canyon Dams, the Pend Oreille River, the North Pend Oreille Scenic Byway and International Selkirk Loop. Activities include hiking, cross-county skiing, camping, rock climbing, boating, hunting, fishing, wildlife and scenery viewing. The Metaline Falls Golf Course is located adjacent and to the east of the Site on lands leased from Teck Cominco. The nine-hole golf course includes a small club house and parking area. The Gun Club includes skeet shooting (on the golf course in the winter) and gun sighting and target practice facilities.

### **COMMUNITY INTERVIEWS**

Community interviews may be conducted with the general public during the comment period for the Remedial Investigation/Feasibility Study. Example questions for community interviews are included in Appendix D of this Plan. Additional meetings in the community may be scheduled at key points in the project.

## **COMMUNITY CONCERNS**

Community concerns will be identified during general public interviews, public meetings and as a result of comments submitted during the Remedial Investigation/Feasibility Study and future public comment periods. The public may also contact any of the individuals listed on Pages 2-3 of this Plan and express Site-related concerns.

## **SITE CLEANUP PROCESS**

### **Agreed Order**

The Agreed Order to perform a Remedial Investigation/Feasibility Study (RI/FS) is a legal document formalizing the agreement between Ecology and the potentially liable persons (PLPs) to ensure cleanup activities are conducted appropriately. The Order is completed under the authority of the Model Toxics Control Act (MTCA) Chapter 70.105D RCW. The PLP for this Site is Teck Cominco American Incorporated.

### **Remedial Investigation/Feasibility Study**

The purpose of the Remedial Investigation/Feasibility Study (RI/FS) is to collect, develop and evaluate information regarding contamination in affected areas on and off-site. The RI will define the type, extent and degree of soil, groundwater and surface water contamination and the impacts to the affected areas. The FS will identify, evaluate and propose alternative cleanup actions.

### **Draft Cleanup Action Plan**

A Draft Cleanup Action Plan (DCAP) will be developed based on information obtained from the RI/FS reports. The DCAP will evaluate proposed cleanup options outlined in the FS and select a proposed cleanup action(s).

### **State Environmental Policy Act (SEPA)**

SEPA requires government agencies to consider the potential environmental impacts of a project before beginning actual cleanup. After review of a completed environmental checklist and other site specific information, Ecology may determine the cleanup at the Site will not have a probable adverse impact on the environment. Additionally, if it is determined the cleanup action will benefit the environment by reducing the release of toxic chemicals from the Site, a determination of non-significance may be issued.

## **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 persons who reside within the potentially affected vicinity of the proposed cleanup action. It also includes businesses, organizations and individuals who have expressed interest in cleanup at the Site. The potentially affected vicinity includes all property within and neighboring the Site and any other area that Ecology determines to be directly affected by the proposed action. IDF-1 and IDF-2 and the land in the immediate vicinity of the facilities are located on property owned or leased by Teck Cominco. The land down gradient of the facilities between Teck Cominco's property and the Pend Oreille River is owned by Seattle City Light. The

Washington State Department of Natural Resources has jurisdictional responsibility for the beds and shores of the Pend Oreille River. There are no homes, businesses or private land in this area.

- ❖ Persons 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 interested persons 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:

Washington State Department of Ecology  
Eastern Regional Office  
4601 North Monroe, Spokane, WA 99205  
Contact: Ms. Johnnie Harris  
509-329-3415  
**Hours:** Monday – Thursday 8:00 am – 5:00 pm

Public Library  
Cutter Theatre Building  
302 Park Street  
Metaline Falls, WA 99153  
509-446-3232  
**Hours:** Monday 10:00 am-noon and 1:00 pm – 6:00 pm  
Wednesday 1:00 pm – 6:00 pm  
Friday 10:00 am-4:00 pm  
2<sup>nd</sup> and 4<sup>th</sup> Saturdays every month 10:00 am – 3:00 pm

- ❖ During each stage of cleanup **fact sheets** are created by Ecology, reviewed by Teck Cominco American Incorporated and Golder and 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 at specific stages during the cleanup process. The information from these fact sheets is also published in a **Site Register** which is distributed to the public. Persons interested in receiving the Site Register should contact Linda Thompson of Ecology at 360-407-6069 or e-mail [ltho461@ecy.wa.gov](mailto:ltho461@ecy.wa.gov).
- ❖ **Display ads or legal notices** are published in the Statesman Examiner, Selkirk Sun, the Newport Miner and The Spokesman-Review to inform the general public. These notices correlate with the 30-day comment period and associated stage of cleanup. They are also used to announce public meetings, workshops 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 and/or hearings will be held at the Cutter Theatre in Metaline Falls. The date, time and locations of such meetings will be announced in fact sheets, display ads or legal notices.

- ❖ 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 the written comments and will be available for public review at the Repositories

#### **ANSWERING QUESTIONS FROM THE PUBLIC**

Individuals in the community may have questions they want to ask so they may better understand the cleanup process. The list of contacts for the Pend Oreille Mine Site is provided on Pages 2 and 3 of this Plan. Interested persons are encouraged to contact these persons by phone or e-mail to obtain information about the Site, the process and potential decisions

#### **OBTAINING COMMUNITY INPUT ON SITE DECISIONS**

The following points outline the anticipated community outreach activities. Timelines for the activities will be announced as the activities are confirmed and scheduled.

- ❖ Interviews may be conducted with members of the general public and other interested parties before and during the RI/FS comment period
- ❖ A meeting will be held with the Selkirk Community Teck Cominco Planners to identify additional community concerns.
- ❖ A press release and fact sheet will be developed by Ecology to introduce the project, inform the community and stakeholders of a public meeting and 30-day comment period, and describe the RI/FS project scope and timelines. Ecology will work with Teck Cominco in the development of the public meeting.
- ❖ A community meeting will be held at the Selkirk School to describe the RI/FS project and timelines. The meeting will also provide the public an opportunity to ask questions, get answers regarding the Site cleanup process and project, and submit formal comments if interested.
- ❖ After the remedial investigation and feasibility study are completed, a report will be issued explaining the findings. The draft report will be made available to the public for a 30-day review and comment period. Community input will be used to help direct the selection of the proposed remedial action and land use.
- ❖ A Draft Cleanup Action Plan (DCAP) will be developed based on information obtained from the RI/FS reports. The DCAP will evaluate the proposed cleanup options outlined in the FS and select a proposed cleanup action(s). The proposed DCAP will be made available to the public for a 30-day review and comment.
- ❖ The State Environmental Policy Act (SEPA) requires government agencies to consider the potential environmental impacts of a project before beginning actual cleanup. This document may be combined with the DCAP 30-day review and comment process

## **APPENDIX A 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 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.

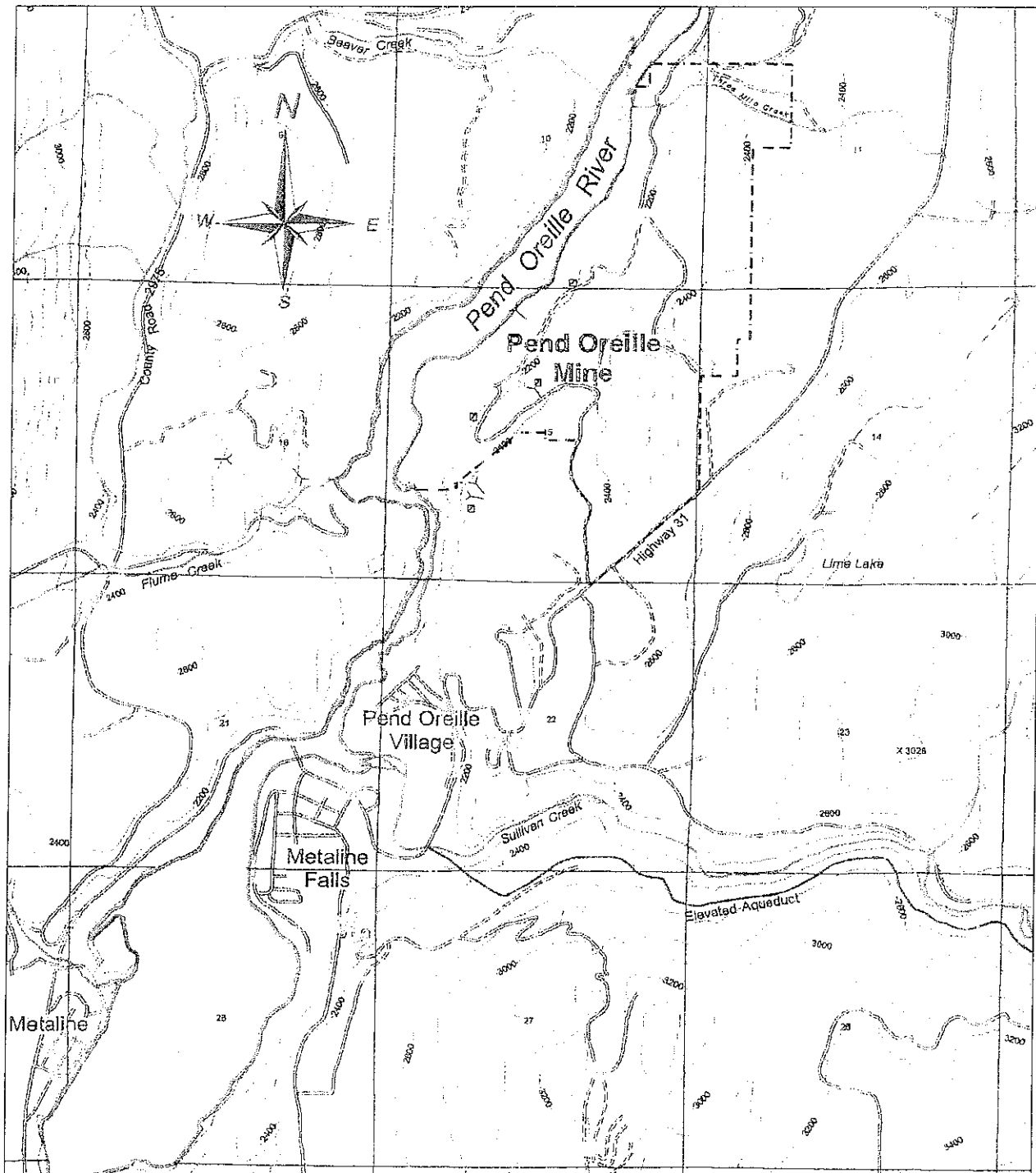
**TCP:** Toxics Cleanup Program at Ecology

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

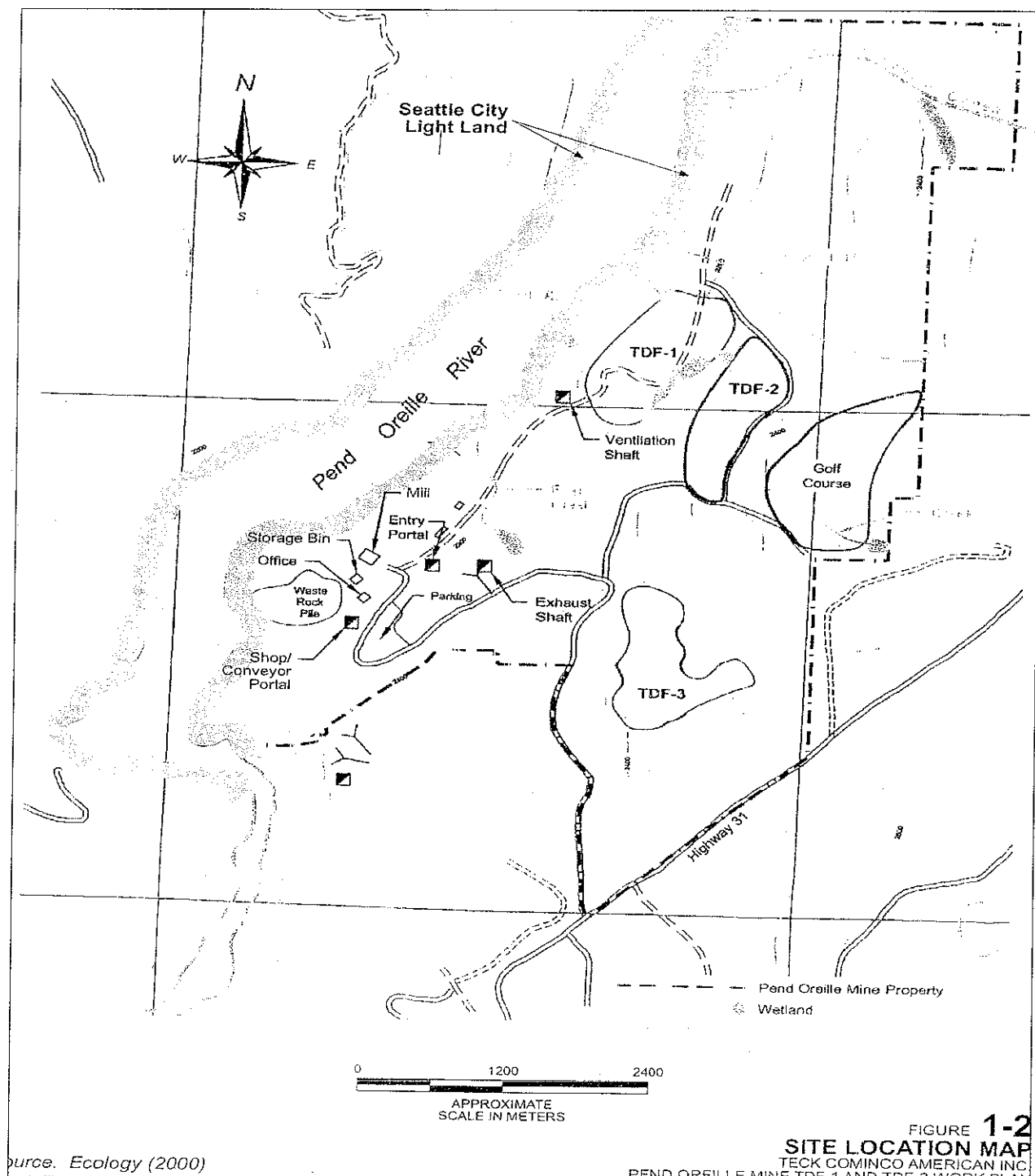
**Washington Ranking Method (WARM):** Method used to rank sites placed on the hazardous sites list. A report describing this method is available from Ecology.

**APPENDIX B  
SITE MAPS**

**PEND OREILLE MINE  
TAILINGS DISPOSAL FACILITIES TDF-1 and TDF-2  
REMEDIAL INVESTIGATION / FEASIBILITY STUDY**



**Figure 1**  
**General Site Location Map**



**Figure 2**  
**Facility Location Map**

**APPENDIX C  
MAILING LIST**

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**APPENDIX D**  
**Questions and Topics for Community Interviews**

1. Do you live near the Pend Oreille Mine? If yes, what is your location/address?
2. What do you already know about the site? Do you have any specific concerns?
3. Is the health of the soil, water, wetlands etc. on and around the Site important to you?
4. Why is the Pend Oreille Mine and surrounding area important to you?
5. Do you recreate near the site?
6. Do you believe your health or the health of the community is or has been affected by the hazardous substances at the site?
7. Do local homeowners or businesses believe that the site has caused you, or will cause you, economic loss?
8. From your perspective, does the public have confidence in the performance of the agency/consultant company responsible for the cleanup or removal action? What do you, personally, feel?
9. What current or previous experience does the community have in public involvement? Are there any group leaders who have been vocal in the community?
10. Do you believe that media coverage accurately reflects your concerns and the concerns of the community?
11. Have events at the site received adequate media coverage?
12. Where do you get your information from?
13. Where do others in the community get information about the site?
14. How would you like to be informed about progress at the site?
  - Public meetings
  - Neighborhood meetings
  - Fact Sheets (information sheets)
  - Newspaper articles
  - Other
15. How would you like to be involved?
  - Receive notices of comment periods
  - Attend public meetings/hearings
  - Sponsor a neighborhood meeting in a home
  - Meet with a site manager
16. Where would you suggest reports, etc. be available for review? (a library, for instance)
17. Where would you suggest Ecology hold public meetings or hearings?
18. How would you define the potentially affected area? Who do you think should be informed about the site?
19. Is there anyone else you think we should talk to?
20. Do you have any suggestions about how we can communicate most effectively with the public about this site?