

**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

In the Matter of Remedial Action by:

Union Pacific Railroad Company

AGREED ORDER

No. 6968

TO: Gary Honeyman
Union Pacific Railroad Company
221 Hodgeman
Laramie, WY 82072

RECEIVED
AUG 06 2009

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DEPARTMENT OF ECOLOGY
EASTERN REGIONAL OFFICE

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I. INTRODUCTION

The mutual objective of the State of Washington, Department of Ecology (Ecology) and Union Pacific Railroad Company (hereafter referred to as the potentially liable person or “PLP”) 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 the PLP to complete a remedial investigation/feasibility study for contamination related to activities at the Aluminum Recycling Trentwood Site in Veradale, WA. 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. The PLP agrees to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter the PLP’s responsibility under this Order. The PLP shall provide a copy of this Order to all agents and contractors 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 Aluminum Recycling Trentwood and is generally located at 2317 N. Sullivan Road, Veradale, WA. 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 Union Pacific Railroad Company.

C. Potentially Liable Person (PLP): Refers to Union Pacific Railroad Company.

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 the PLP:

A. Union Pacific Railroad Company is the current and historical owner of the property generally located at 2317 N. Sullivan Road, Veradale, WA.

B. This property was the location of aluminum dross reprocessing activities by Aluminum Recycling Corporation resulting in the generation and storage of aluminum dross. Aluminum Recycling Corporation began operations in 1979 and filed for bankruptcy in 1985.

C. The facility processed aluminum skim called white dross, obtained from aluminum smelters, and aluminum scrap materials in a batch process. This secondary processing of aluminum dross involved addition of sodium and potassium chloride salts. Molten aluminum metal was extracted during the process, poured into ingots, and sold. Spent dross process waste called black dross, along with non-reprocessed white dross waste remains on the Site.

D. Imperial West Chemical Company (IWCC) transported aluminum dross to the Site for treatment, and used dross in its operations. It is unknown when IWCC began using dross in its operations, but it is reported that use of dross was occurring in 1979 when Aluminum Recycling Corporation began its operations. Dross was used to make aluminum sulfate for concrete. The operations are located on property leased from Union Pacific Railroad Company.

E. Kaiser Aluminum is the generator of white dross present at the Site.

F. An approximately 3-acre aluminum dross pile is present on the property. The pile is uncovered and uncontained, and shows evidence of erosion onto neighboring properties. The volume is unknown.

G. Black dross is classified as a state-only dangerous waste due to failure of fish bioassays from high salt content, and white dross is considered a hazardous substance due to fluoride content.

H. In February 2008, a Site Hazard Assessment was done by Ecology. It was evaluated under the Washington Ranking Method (WARM) and ranked a 2.

I. In certified correspondence dated July 23, 2008, Ecology notified Union Pacific Railroad Company, Pioneer Companies Inc., and Kaiser Aluminum of the preliminary finding of potential liability and requested comment on that finding.

J. In certified correspondence dated September 8, 2008, Ecology notified Union Pacific Railroad Company of its status as a potentially liable person with regard to the release of hazardous substances at the Aluminum Recycling Trentwood Site.

VI. ECOLOGY DETERMINATIONS

A. Union Pacific Railroad Company is an “owner or operator” as defined in RCW 70.105D.020(17) of a “facility” as defined in RCW 70.105D.020(5).

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

C. Based upon credible evidence, Ecology issued a PLP status letter to Union Pacific Railroad Company dated July 23, 2008, pursuant to RCW 70.105D.040, -.020(21) and WAC 173-340-500. After providing for notice and opportunity for comment, reviewing any comments submitted, and concluding that credible evidence supported a finding of potential liability, Ecology issued a determination that Union Pacific Railroad Company is a PLP under RCW 70.105D.040 and notified Union Pacific Railroad Company of this determination by letter dated September 8, 2008.

D. Pursuant to RCW 70.105D.030(1) and -.050(1), Ecology may require the 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 the PLP take the following remedial actions at the Site and that these actions be conducted in accordance with Chapter 173-340 WAC unless otherwise specifically provided for herein:

A. The work to be performed includes the planning, implementation, and reporting on the conduct of a remedial investigation and feasibility study (RI/FS). Attached as Exhibit B is a Scope of Work and Schedule for the completion of an RI/FS. Exhibit B is incorporated by reference as an integral and enforceable part of the Order.

B. The PLP shall submit all necessary work plans to implement the Scope of Work to Ecology for review and approval according to the Schedule of Deliverables (Exhibit B). Upon approval by Ecology, the deliverables become integral and enforceable parts of this Order. The PLP will proceed with field implementation of the plans in accordance with the approved schedule.

C. As provided in the agreed Scope of Work and Schedule (Exhibit B), the PLP shall commence and thereafter complete all tasks in the time frames and framework indicated unless Ecology grants an extension in accordance with Section VIII.K. Work shall consist of a detailed description of site conditions, work to be performed, personnel requirements, and schedules for implementation and deliverables for the following:

1. TASK I. Project Plan including RI Work Plan, Sampling and Analysis Plan, and Health and Safety Plan.
2. TASK II. Conduct RI Field Investigations.

3. TASK III. Remedial Investigation/Feasibility Study Report.

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.

Progress reports shall be completed every month. The reports shall address progress made during the period, work in progress, problem areas, key activities, deviations from the work and sampling plans, deliverables submitted, field work and data generated, subcontracting, analytical services performed, and key staff changes.

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

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

VIII. TERMS 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

The PLP 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 this Order. Ecology's costs shall

include costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2). Ecology has accumulated \$27,538.25 in remedial action costs related to this facility as of May 31, 2009. Payment for this amount shall be submitted within thirty (30) days of the effective date of this Order. For all costs incurred subsequent to May 31, 2009, the PLP shall pay the required amount within thirty (30) days of receiving from Ecology an itemized statement of costs that includes a summary of costs incurred, an identification of involved staff, and the amount of time spent by involved staff members on the project. A general statement of work performed will be provided upon request. Itemized statements shall be prepared quarterly. Pursuant to WAC 173-340-550(4), failure to pay Ecology's costs within ninety (90) days of receipt of the itemized statement of costs will result in interest charges at the rate of twelve percent (12%) per annum, compounded monthly.

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

C. Implementation of Remedial Action

If Ecology determines that the PLP has failed without good cause to implement the remedial action, in whole or in part, Ecology may, after notice to the PLP, perform any or all portions of the remedial action that remain incomplete. If Ecology performs all or portions of the remedial action because of the PLP's failure to comply with its obligations under this Order, the PLP shall reimburse Ecology for the costs of doing such work in accordance with Section VIII.B (Remedial Action Costs), provided that the PLP 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, the PLP 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:

Sandra Treccani
WA Department of Ecology
Eastern Regional Office
4601 N Monroe
Spokane, WA 99205-1295
(509) 329-3412

The project coordinator for the PLP is:

Gary Honeyman
Manager, Environmental Site Remediation
Union Pacific Railroad Company
221 Hodgeman
Laramie, WY 82072
(307) 760-0017

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 the PLP, 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.

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

E. Performance

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

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

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

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

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

F. Access

Ecology or any Ecology authorized representative shall have the full authority to enter and freely move about all property at the Site that the PLP 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 the PLP'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 the PLP. The PLP shall make all reasonable efforts to secure access rights for those properties within the Site not owned or controlled by the PLP 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 the PLP 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). All parties who access the rail yard property will be required to complete Union Pacific Railroad Company's Contractor Safety Training Program (www.contractororientation.com), unless they are personally escorted by someone who has completed the Program. 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, the PLP shall make the results of all sampling, laboratory reports, and/or test results generated by it or on its behalf available to Ecology. Pursuant to WAC 173-340-840(5), all sampling data shall be submitted to Ecology in both printed and electronic formats in accordance with Section VII (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, the PLP shall allow Ecology and/or its authorized representative to take split or duplicate samples of any samples collected by the PLP pursuant to implementation of this Order. The PLP shall notify Ecology seven (7) days in advance of any sample collection or work activity at the Site. Ecology shall, upon request, allow the PLP 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 the PLP prior to any sample collection activity unless an emergency prevents such notice.

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

H. Public Participation

A Public Participation Plan is required for this Site. Ecology shall develop a Public Participation Plan alone or in conjunction with the PLP.

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

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

2. Notify Ecology's project coordinator prior to the preparation of all press releases and fact sheets, and before major meetings with the interested public and local governments. Likewise, Ecology shall notify the PLP 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 the PLP that do not receive prior Ecology approval, the PLP 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 Valley Library
12004 E. Main
Spokane, WA 99206
- b. Ecology's Eastern Regional Office
4601 N. Monroe
Spokane, WA 99205

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

I. Retention of Records

During the pendency of this Order, and for ten (10) years from the date of completion of work performed pursuant to this Order, the PLP 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, the PLP shall make all records available to Ecology and allow access for review within a reasonable time.

J. Resolution of Disputes

1. In the event a dispute arises as to an approval, disapproval, proposed change, or other decision or action by Ecology's project coordinator, or an itemized billing statement (including a dispute on the amount billed) 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, the PLP has generally at least fourteen (14) days within which to notify Ecology's project coordinator in writing of their 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. The PLP 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 the PLP's request for review. The Section Manager's decision shall be Ecology's final decision on the disputed matter.

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

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

K. Extension of Schedule

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

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

2. The burden shall be on the PLP 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 the PLP 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 the PLP;
- 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).

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 the PLP.

3. Ecology shall act upon any written request for extension in a timely fashion. Ecology shall give the PLP written notification of any extensions granted pursuant to this Order. A requested extension shall not be effective until approved by Ecology. Unless the extension is a substantial change, it shall not be necessary to amend this Order pursuant to Section VIII.L (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 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 the PLP. The PLP 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 the PLP to cease such activities for such period of time as it deems necessary to abate the danger. The PLP shall immediately comply with such direction.

In the event the PLP 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, the PLP may cease such activities. The PLP 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 the PLP shall provide Ecology with documentation of the basis for the determination or cessation of such activities. If Ecology disagrees with the PLP's cessation of activities, it may direct the PLP to resume such activities.

If Ecology concurs with or orders a work stoppage pursuant to Section VIII.M (Endangerment), the PLP'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.

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 the PLP to recover remedial action costs paid to and received by Ecology under this Order. In addition, Ecology will not take

additional enforcement actions against the PLP regarding remedial actions required by this Order, provided the PLP 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 the PLP 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 the PLP's transfer of any interest in all or any portion of the Site, and during the effective period of this Order, the PLP 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, the PLP shall notify Ecology of said transfer. Upon transfer of any interest, the PLP 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 the PLP pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements, including requirements to obtain necessary permits, except as provided in RCW 70.105D.090. At this time, no federal, state or local requirements have been identified as being applicable to the actions required by this Order.

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

requiring or authorizing local government permits or approvals. However, the PLP 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.

The PLP 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 the PLP 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 the PLP shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, the PLP 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 the PLP and on how the PLP must meet those requirements. Ecology shall inform the PLP in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. The PLP 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 the PLP 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

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

IX. SATISFACTION OF ORDER

The provisions of this Order shall be deemed satisfied upon the PLP's receipt of written notification from Ecology that the PLP has completed the remedial actions required by this Order, as amended by any modifications, and that the PLP 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 the PLP refuses, without sufficient cause, to comply with any term of this Order, the PLP 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: _____

UNION PACIFIC RAILROAD COMPANY

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY



Robert M. Grimaila
Sr. AVP Safety and Environment
1400 Douglas Street, Mail Stop 1180
Omaha, NE 68179
(402) 544-4344

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

Kaiser
Aluminum
Plant

UPRR Trentwood Station

Dross Pile

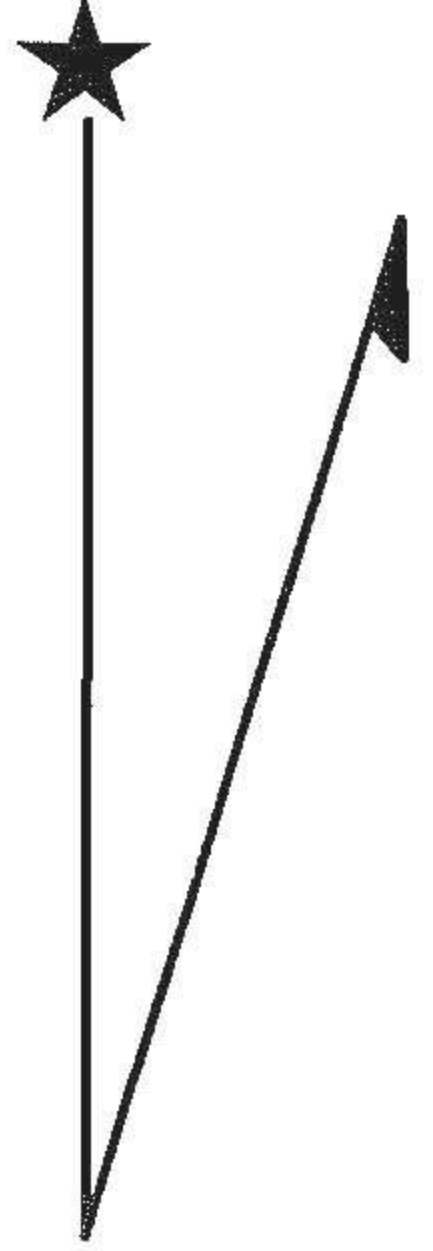
Former
Aluminum
Recycling Plant

Sullivan
Road

Spokane
River

Spokane
Valley
Mall

Magnetic Declination



17° E

SCALE 1:6000

0 100 200 300 400 YARDS

0 1000 FEET

0 100 200 300 400 METERS

EXHIBIT B
Aluminum Recycling Trentwood Site Scope of Work
Remedial Investigation/Feasibility Study

This scope of work is designed to investigate contamination at the Aluminum Recycling Trentwood Site (Site) in Veradale, Washington. Under Agreed Order No. 6968, to which this Scope of Work is an exhibit, the potentially liable party (PLP) will implement this scope of work in order to develop necessary Work Plans and to conduct a Remedial Investigation/Feasibility Study (RI/FS) for the Site that meets the requirements of the Model Toxics Control Act cleanup regulation, Chapter 173-340 WAC.

The RI is to supplement existing data and determine the nature and extent of contamination by hazardous substances at the Site. The FS will 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

The PLP shall prepare a work plan outlining procedures for the Remedial Investigation, which includes the following information:

1. Facility Background

- 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 (s) 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 (for example, 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 document all current and future work performed at the Site.
- Locations and logs of all known monitoring wells, groundwater supply wells, and identification of known springs within one mile radius from the site.
- Previous Investigations and Remedial Activities. This will include data reports generated during previous investigations and remedial actions undertaken.

2. Planning and Description of RI/FS Tasks II and III

3. Project Management – project team, roles, and responsibilities

B. Sampling and Analysis Plan

The PLP shall prepare a Sampling and Analysis Plan for use during all Site characterization

activities. The plan shall conform with the requirements of WAC 173-340-820, and shall generally 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. Purpose and objectives of the data collection activities;
 - b. Specific sampling methods, including number and type of QA/QC samples;
 - c. Sampling locations and designations, including access considerations;
 - d. Types of media to be sampled and the number of samples of each;
 - e. Proposed number and location of monitoring wells, soil borings, test pits and other investigative activities;
 - f. Schedule and task assignments;
 - g. Supplies and equipment;
 - h. Monitoring well construction requirements;
 - i. Analytical procedures, methods, and detection limits;
 - j. Sample custody procedures, including holding times, containers, and preservation;
 - k. Investigation-derived waste management;
 - l. 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;
 - e. Electronic data management, archival, and transmittal protocols.

C. Health and Safety Plan, conforming with WAC 173-340-810 and generally including:

1. Level of chemical protection;
2. Hazard evaluation;
3. Waste characteristics;
4. Special considerations and emergency information.

Task II: Remedial Investigation

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

A. Site Characterization

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

Conduct analytical tests on groundwater and soils contamination in the vicinity of the Site. Data must be sufficient to delineate the sources, type, depth, concentration and areal extent of contaminants, along with information that addresses the rate and direction of contaminant movement.

1. Hydrogeology

- a. Install new groundwater monitoring wells, background wells, and soil borings where needed and comply with the resource protection well requirements of 173-160 WAC
- b. Generate well logs such that regional stratigraphy may be characterized
- c. Characterize site-specific stratigraphy and lithology based on well logs, maps, and any other information available
- d. Estimate hydrogeologic parameters such as hydraulic conductivity and porosity
- e. Measure water levels in all wells and new borings
- f. Collect at least two rounds of groundwater samples at any site monitoring wells so that seasonal high and low flows are captured
- g. Analyze groundwater for metals, inorganic chemicals (chloride, fluoride, nitrate, nitrite), general water quality parameters, and any other contaminants based on historical property use
- h. Generate maps and/or figures showing water levels and regional/site hydrogeology

2. Soils

- a. Install soil borings and/or excavate test pits, and collect representative soil samples for the characterization of lithology, subsurface conditions, and contaminant concentrations.
- b. Characterize soil samples using the Unified Soil Classification System (USCS)
- c. Generate logs for each boring and/or test pit
- d. Analyze soils for metals and inorganic chemicals (chloride, fluoride, nitrate, nitrite) and any other contaminants based on historical property use

B. Potential Receptor Information

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

1. Public Use/Site Access – Potential uses of the affected properties and the presence or absence of controls on Site access;
2. Potential Groundwater/Surface Water Uses – Any consumptive, recreational, or other use of groundwater and surface water in the area, and by which populations;
3. Environmental Receptors – 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 RI/FS as required by WAC 173-340-350(7) and (8). This report shall include, but not be limited to, the following elements:

A. Remedial Investigation

1. Background Information
 - a. Site & Facility Operational History
 - b. Physical Setting
 - c. Previous Investigations & Studies

2. Nature and Extent of Contamination

The PLP shall prepare an assessment and description of the degree and extent of contamination. This should include:

 - a. Data Analysis – Analyze all data collected during Task II (Remedial Investigation) and prepare supporting maps and tables;
 - b. Lab reports, previous investigations, well and boring logs, and any other documentation of characterization activities shall be included.

3. 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

The purpose of the Feasibility Study is to evaluate potential remedial technologies and approaches to enable selection of an appropriate remedial action for the Site. The Feasibility Study must meet the requirements stated in WAC 173-340-350(8).

1. Identification of contamination to be remediated;
2. Identification and initial screening of remedial actions;
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
PLP to Submit <i>Draft</i> RI/FS Work Plan, <i>Draft</i> Sampling and Analysis Plan, Health and Safety Plan (Task I) and Schedule of Work to be Performed	90 days after start
PLP to Submit <i>Final</i> RI/FS Work Plan, Sampling Analysis Plan (Task I) and Schedule of Work to be Performed	45 days after PLP receives and written approval from Ecology of draft documents
PLP to Begin implementation of RI (Task II) Schedule of Work to be Performed	30 days after PLP receives following written approval of plans from Ecology
PLP to Submit <i>Draft</i> RI/FS Report (Task III)	As approved in RI/FS Work Plan
PLP to Submit <i>Draft Final</i> RI/FS Report (Task III)	30 days after PLP receives Ecology's written approval of draft
Progress Reports	Every month

EXHIBIT C

ALUMINUM RECYCLING CORPORATION TRENTWOOD 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 Bistrevesky 509/928-7617

June 2009

Getting Involved in the Cleanup at the Aluminum Recycling Corporation Trentwood Site

The Washington State Department of Ecology (Ecology) encourages the public to learn about and get involved in decision-making opportunities for the Aluminum Recycling Corporation Trentwood site. Opportunities are available during specific stages of the investigation and cleanup of contamination at the site. The site is near the Spokane River at 2317 N Sullivan Road in the city of Spokane Valley, 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 Ecology’s 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 the 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 Aluminum Recycling Corporation Trentwood 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. Ecology identified Union Pacific Railroad (UPRR) as the PLP for this site.

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: Currently, Ecology 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

This Plan was developed by Ecology and complies with the MTCA 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, Sandra Treccani 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 6 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 on the following page.

<p>WA Department of Ecology Contacts: Sandra Treccani, Site Manager WA State Department of Ecology Toxics Cleanup Program 4601 N. Monroe Spokane, WA 99205 509/329-3412 e-mail satr461@ecy.wa.gov</p> <p>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>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 Richelle 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>Union Pacific Railroad Contact: Gary Honeyman Union Pacific Railroad 221 Hodgeman Laramie, WY 82072 307/760-0117 glhoneym@up.com</p>
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SITE BACKGROUND

Site Overview

The Washington State Department of Ecology is proposing to enter into an Agreed Order with the Union Pacific Railroad (UPRR) to conduct a Remedial Investigation and Feasibility Study (RI/FS) at the Aluminum Recycling Corporation Trentwood site. Negotiations for an Agreed Order began April 13, 2009 between Ecology and UPRR. The site is located near the Spokane River at 2317 N Sullivan Road in the city of Spokane Valley, Spokane County, Washington (See Appendix A – Site Map Figure 1).

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

Beginning in 1979, the site was used to process and store aluminum materials. There are two types of aluminum processing, primary and secondary. Primary processing puts bauxite ore through a multi-phase process to create aluminum. The byproduct of primary processing is white dross.

Secondary processing uses scrap aluminum and/or white dross to create aluminum by adding sodium and potassium chloride salts. The byproduct of secondary processing is black dross. White dross contains a high aluminum content while black dross contains high levels of chloride, fluoride, and nitrate.

Beginning in 1979 the site was used to recycle aluminum cans and white dross into secondary aluminum that was sold. Black dross, along with non-reprocessed white dross waste remains on the site. Currently, the amount of dross material on site is unknown, but it is estimated to cover nearly three acres.

The Spokane Regional Health District completed an assessment of the property in February 2008 and ranked the site a two on Ecology's 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.

The Remedial Investigation and Feasibility study will provide additional information to assess past and current site conditions and determine what needs to be done to protect human health and the environment.

Contaminants of Concern

The primary suspected sources of contaminants are by-products of the aluminum smelting process. Suspected contaminants are fluoride, chloride, nitrate, and metals from the black and white dross.

COMMUNITY BACKGROUND

Community Profile

The site is located in the City of Spokane Valley in a mixed use area that combines commercial, industrial, and park-like settings along the Spokane River. The City of Spokane Valley incorporated in 2003 with a population of nearly 89,000 people. However, there is currently a movement to disincorporate. Petitions are being collected and the decision will be made by public vote.

Aluminum Recycling Corporation Trentwood lies northeast and across the river from the Spokane Valley mall, several businesses and two hotels. Center Place community center, Mirabeau Meadows Park and Mirabeau Springs are also just across the river to the west and provide conference settings for Northeast Washington, Idaho and Western Montana.

Community Concerns

Community interviews were not conducted because there are no residents living adjacent to the site. However, community concerns expressed at public meetings, during comment periods or through discussions with the site manager will be addressed throughout the cleanup process.

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 commercial and industrial businesses near the site. No residents live adjacent to the site. The potentially affected vicinity covers any adjacent properties 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 contact information).
- ❖ **Public Repositories** are locations where documents may be reviewed. 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 Valley Library
12004 East Main

Spokane Valley, WA
Contact: Mr. Dave Barnett at 509/926-6283

Ecology's Web Site at

http://www.ecy.wa.gov/programs/tcp/sites/alumRecyTrent/alumRecyTrent_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/alumRecyTrent/alumRecyTrent_hp.html

- ❖ **Display ads or legal notices** are published in the Spokesman Review 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

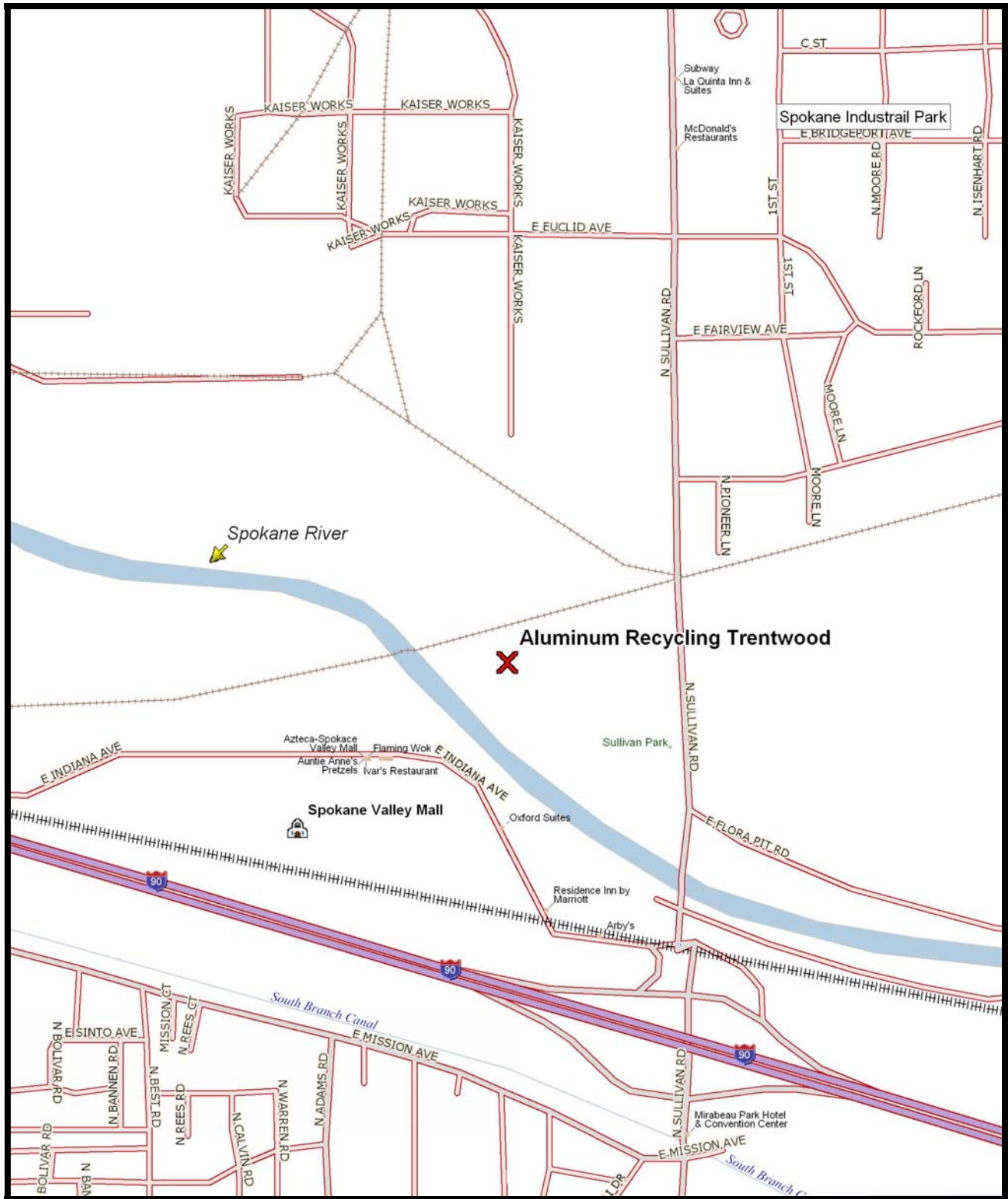
If you have questions about fact sheets, documents available for public comment, meetings and hearings, or about the general cleanup process, you are encouraged to contact one of the individuals listed on page 3.

Public Notice and Comment Periods Timeline

DATE	ACTION TAKEN
April 13, 2009	Negotiations begin with Union Pacific Railroad for an Agreed Order for a Remedial Investigation/ Feasibility Study
April 23, 2009	Notice in Site Register about negotiations beginning
July 16, 2009	Notice in Site Register about extension of negotiations
August 2009	Draft Agreed Order for a Remedial Investigation and Feasibility Study
August 2009	Begin a 30-day comment period for the draft Agreed Order for a Remedial Investigation and Feasibility Study which includes the Scope of Work and Public Participation Plan

APPENDIX A SITE MAP - FIGURE 1

Figure 1



APPENDIX B

CURRENT MAILING LIST

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

Aluminum Recycling Trentwood 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.