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STATE OF WASHINGTON
SKAGIT COUNTY SUPERIOR COURT

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

SKAGIT COUNTY

Defendant.

NO. 15 z 00056 2

SUMMONS

TO: Skagit County, Defendant, by and through its attorney, Stephen R. Fallquist.

A lawsuit has been started against you in the above-entitled court by the State of Washington, Department of Ecology. Plaintiff's claim is stated in the written Complaint, a copy of which is served upon you with this Summons.

The parties have agreed to resolve this matter by entry of a Prospective Purchaser Consent Decree, a copy of which is also attached. Accordingly, this Summons shall not require the filing of an Answer.

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1 Further, all disputes arising under this cause shall be resolved under the terms of the
2 Prospective Purchaser Consent Decree.

3 DATED this 12th day of January 2015.

4 ROBERT W. FERGUSON
5 Attorney General

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7 ANNE M. POWELL, WSBA #42934
8 Assistant Attorney General
9 Attorneys for Plaintiff
10 State of Washington, Department of Ecology
11 (360) 586-4607
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STATE OF WASHINGTON
SKAGIT COUNTY SUPERIOR COURT

NO. 15 2 00056 2

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

Plaintiff,

COMPLAINT

v.

SKAGIT COUNTY

Defendant.

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

I. DESCRIPTION OF ACTION

1. This action is brought on behalf of the State of Washington, Department of Ecology (Ecology) to enter a settlement agreement known as a Prospective Purchaser Consent Decree (Decree), which requires remedial action at a portion of a facility where there has been a release and/or threatened release of hazardous substances.

2. The Complaint and settlement are limited to the scope of the Decree. The facility, or Site, is referred to as Truck City Truck Stop (Truck City) Site located at 3216 Old Highway 99 South in Mount Vernon, Washington. The Property comprises the entire Site.

II. JURISDICTION

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

1 **III. PARTIES**

2 4. Plaintiff Ecology is an agency of the State of Washington responsible for
3 overseeing remedial action at sites contaminated with hazardous substances under
4 RCW 70.105D, the MTCA.

5 5. Defendant is Skagit County (County). The County has agreed to enter into a
6 Prospective Purchaser Consent Decree with Ecology under MTCA to remedy the release of
7 hazardous substances at the Truck City Site upon taking ownership of the property.

8 **IV. FACTUAL ALLEGATIONS**

9 6. Skagit County is the prospective purchaser of real property located at 3216 Old
10 Highway 99 South in Mount Vernon, Skagit County, Washington. From approximately 1953
11 until 2014, the Site was used for automobile and commercial truck fueling, convenience mart,
12 commercial truck and trailer weighing, and commercial truck wash operations. Contamination
13 at the Site is related to fueling operations conducted at the Site.

14 7. Ecology has determined that the actions to be taken pursuant the Decree are
15 necessary to protect public health and the environment and will lead to a more expeditious
16 cleanup of hazardous substances at the Site in compliance with cleanup standards established
17 under RCW 70.105D.030(2)(e) and WAC 173-340. Ecology has further determined that the
18 Decree will yield substantial new resources to facilitate cleanup of the Site and will promote the
19 public interest by facilitating the redevelopment or reuse of the Site. The Decree will not likely
20 contribute to the existing release or threatened release at the Site, interfere with remedial actions
21 that may be needed at the Site, or increase health risks to persons at or in the vicinity of the Site.
22 Ecology has also determined that the Decree will provide a substantial public benefit with job
23 creation and also by providing for the development of a facility by a local governmental entity
24 to address an important public purpose.

1 8. Ecology has determined that contamination at the Site presents a threat to
2 human health and the environment, and that a final cleanup is necessary to remedy
3 contamination.

4 9. Ecology developed a draft Cleanup Action Plan (CAP) for the site, and
5 negotiated a draft Consent Decree with the Defendant for implementation of the CAP.

6 10. The draft CAP and draft Decree were subject to public notice and comment
7 between December 1 and December 31, 2014.

8 11. After consideration of all comments received, Ecology issued a final CAP on
9 January 5, 2015.

10 12. Ecology and Defendant have now entered into the final Consent Decree
11 requiring cleanup of the Truck City Site. The final CAP is an integral and enforceable exhibit
12 to the Decree.

13 **V. CAUSES OF ACTION**

14 13. Ecology re-alleges all preceding paragraphs.

15 14. Ecology alleges that Defendant will be responsible for remedial action at the
16 Site, pursuant to MTCA, RCW 70.105D, once it takes ownership of the real property at 3216
17 Old Highway 99 South, Mount Vernon, Washington.

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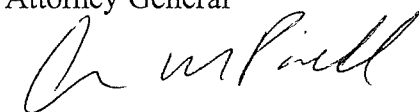
1 **VI. PRAYER FOR RELIEF**

2 15. Ecology requests that the Court approve and order entry of the proposed
3 Prospective Purchaser Consent Decree.

4 16. Ecology further requests that the Court retain jurisdiction to enforce the terms of
5 the Prospective Purchaser Consent Decree.

6
7 DATED this 12th day of January 2015.

8 ROBERT W. FERGUSON
9 Attorney General

10 

11 ANNE M. POWELL, WSBA #42934
12 Assistant Attorney General
13 Attorneys for Plaintiff
14 State of Washington, Department of Ecology
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STATE OF WASHINGTON
SKAGIT COUNTY SUPERIOR COURT

NO. 15 2 00056 2

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

SKAGIT COUNTY

Defendant.

JOINT MOTION FOR ENTRY
OF PROSPECTIVE PURCHASER
CONSENT DECREE

I. INTRODUCTION

Plaintiff, State of Washington, Department of Ecology (Ecology), and Defendant, Skagit County (the County), bring this motion seeking entry of the attached Prospective Purchaser Consent Decree (Decree). This motion is based upon the pleadings filed in this matter, including the Declaration of Dale Myers, a Site Manager for Ecology's Toxics Cleanup Program.

II. RELIEF REQUESTED

The parties request that the Court approve and enter the attached Prospective Purchaser Consent Decree, which governs the cleanup of contamination at the Truck City Truck Stop Site (Site) in Skagit County, Washington, pursuant to the Model Toxics Control Act (MTCA), RCW 70.105D. The parties also request that the Court retain jurisdiction over this action until the work required by the Decree is completed and the parties request a dismissal of this action.

1 **III. AUTHORITY**

2 Authority is conferred upon the Washington State Attorney General by
3 RCW 70.105D.040(5)(a) to agree to a settlement, after public notice and any required hearing,
4 with a person not currently liable for remedial action at a facility, who proposes to purchase,
5 redevelop or reuse the facility, provided that the settlement will yield substantial new resources
6 to facilitate cleanup; the settlement will expedite remedial action; and Ecology determines that
7 the redevelopment or reuse of the facility is not likely to contribute to the existing release or
8 threatened release, interfere with remedial actions that may be needed at the site, or increase
9 health risks to persons at or in the vicinity of the site.

10 **IV. AGENCY DETERMINATIONS SUPPORTING ENTRY OF DECREE**

11 A. Ecology has determined that a release or threatened release of hazardous
12 substances has occurred at the Site that is the subject of this Decree. Declaration of Dale Myers
13 (Myers Decl.) ¶ 4.

14 B. Ecology has determined that contamination at the Site presents a threat to human
15 health and the environment. Myers Decl. ¶ 5.

16 C. The actions to be taken pursuant to this Decree are necessary to protect public
17 health and the environment. Myers Decl. ¶ 7.

18 D. Ecology has given notice to the County of Ecology's determination that the
19 County will incur potential liability under RCW 70.105D.040(1)(a) at the time it acquires an
20 interest in the Site for performing remedial actions or paying remedial costs incurred by
21 Ecology or third parties resulting from past releases or threatened releases of hazardous
22 substances at the site. Myers Decl. ¶ 8.

23 E. This Decree has been subject to public notice and comment and public hearing.
24 Ecology considered all comments received, and determined that no additional public comment
25 was required. Myers Decl. ¶¶ 9, 10.

1 F. Ecology has determined that entering into the Decree will yield substantial new
2 resources to facilitate cleanup of the Site; will lead to a more expeditious cleanup of hazardous
3 substances at the Site in compliance with the cleanup standards established under
4 RCW 70.105D.030(2)(e) and WAC 173-340; will promote the public interest by facilitating
5 the redevelopment or reuse of the Site; will provide a substantial public benefit; and will not be
6 likely to contribute to the existing release or threatened release at the Site, interfere with
7 remedial actions that may be needed at the Site, or increase health risks to persons at or in the
8 vicinity of the Site. Myers Decl. ¶ 7.

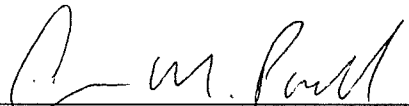
9 V. CONCLUSION

10 The parties believe it is appropriate for the Court to exercise its discretion and approve
11 the attached Prospective Purchaser Consent Decree, and hereby request that the Court enter the
12 attached Order. The parties further request that the Court retain jurisdiction to enforce the terms
13 of the Decree.

14 DATED this 14th day of January 2015.

15
16 ROBERT W. FERGUSON
Attorney General

SKAGIT COUNTY PROSECUTING
ATTORNEY'S OFFICE

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19 ANNE M. POWELL, WSBA #42934
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STEPHEN R. FALLQUIST, WSBA #31678
Deputy Prosecuting Attorney
Attorney for Defendant
Skagit County
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1 F. Ecology has determined that entering into the Decree will yield substantial new
2 resources to facilitate cleanup of the Site; will lead to a more expeditious cleanup of hazardous
3 substances at the Site in compliance with the cleanup standards established under
4 RCW 70.105D.030(2)(e) and WAC 173-340; will promote the public interest by facilitating
5 the redevelopment or reuse of the Site; will provide a substantial public benefit; and will not be
6 likely to contribute to the existing release or threatened release at the Site, interfere with
7 remedial actions that may be needed at the Site, or increase health risks to persons at or in the
8 vicinity of the Site. Myers Decl. ¶ 7.

9 **V. CONCLUSION**


10 The parties believe it is appropriate for the Court to exercise its discretion and approve
11 the attached Prospective Purchaser Consent Decree, and hereby request that the Court enter the
12 attached Order. The parties further request that the Court retain jurisdiction to enforce the terms
13 of the Decree.

14 DATED this _____ day of January 2015.

15
16 ROBERT W. FERGUSON
Attorney General

SKAGIT COUNTY PROSECUTING
ATTORNEY'S OFFICE

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STEPHEN R. FALLQUIST, WSBA #31678
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Attorney for Defendant
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STATE OF WASHINGTON
SKAGIT COUNTY SUPERIOR COURT

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

SKAGIT COUNTY

Defendant.

NO. 15 2 00056 2

DECLARATION OF DALE MYERS

I, Dale Myers, declare as follows:

1. I am over twenty-one years of age and am competent to testify herein. The facts set forth in this declaration are from my personal knowledge.

2. I am employed by the Washington State Department of Ecology as a Environmental Specialist 4 in the Northwest Regional Office of Ecology's Toxics Cleanup Program. I am the designated Project Coordinator for, and am therefore knowledgeable about, matters relating to the Truck City Truck Stop Site.

3. The Truck City Truck Stop Site is located at 3216 Old Highway 99 South in Mount Vernon, Washington.

4. Ecology has determined that a release or threatened release of hazardous substances including diesel and gasoline range petroleum hydrocarbons has occurred at the Site. The release is above applicable standards as set forth in the MTCA Cleanup Regulation, WAC 173-340.

1 5. Ecology has determined that contamination at the Site presents a threat to
2 human health and the environment.

3 6. Ecology has developed a draft Cleanup Action Plan (CAP) for the Site and
4 negotiated a draft Prospective Purchaser Consent Decree (Decree) with Defendants.

5 7. Ecology has determined that the actions to be taken pursuant the Decree are
6 necessary to protect public health and the environment and will lead to a more expeditious
7 cleanup of hazardous substances at the Site in compliance with cleanup standards established
8 under RCW 70.105D.030(2)(e) and WAC 173-340. Ecology has further determined that the
9 Decree will yield substantial new resources to facilitate cleanup of the Site and will promote the
10 public interest by facilitating the redevelopment or reuse of the Site. The Decree will not likely
11 contribute to the existing release or threatened release at the Site, interfere with remedial actions
12 that may be needed at the Site, or increase health risks to persons at or in the vicinity of the Site.
13 Specifically, Ecology has determined that the Decree will provide a substantial public benefit
14 with job creation and also by providing for the development of a facility by a local
15 governmental entity to address an important public purpose.

16 8. Ecology has given notice to Skagit County of Ecology's determination that
17 Skagit County will incur potential liability under RCW 70.105D.040(1)(a) at the time it
18 acquires an interest in the Site for performing remedial actions or paying remedial costs
19 incurred by Ecology or third parties resulting from past releases or threatened releases of
20 hazardous substances at the Site.

21 9. The draft Prospective Purchaser Consent Decree and draft CAP were subject to
22 public notice and comment as required by RCW 70.105D.040(4)(a) from December 1, 2014, to
23 December 31, 2014. A public hearing was held on December 11, 2014.

24 10. Ecology received no comments during the public comment period. Ecology
25 determined that no additional public comment was required under WAC 173-340-600.
26

1 11. Ecology has now issued the final CAP for the Site, and the parties have entered
2 into the final Prospective Purchaser Consent Decree. The final CAP is an integral and
3 enforceable exhibit to the Decree.

4 I declare under penalty of perjury of the laws of the state of Washington that the
5 foregoing is true and correct.

6 DATED this 6th day of January 2015, in Bellevue, Washington.

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8 _____
9 DALE MYERS

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STATE OF WASHINGTON
SKAGIT COUNTY SUPERIOR COURT

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

SKAGIT COUNTY

Defendant.

NO. **15 2 00056 2**

ORDER ENTERING PROSPECTIVE
PURCHASER CONSENT DECREE

RE: TRUCK CITY TRUCK STOP

[PROPOSED]

Having reviewed the Joint Motion for Entry of the Prospective Purchaser Consent Decree, it is hereby ORDERED AND ADJUDGED that the Prospective Purchaser Consent Decree in this matter is entered and that the Court shall retain jurisdiction over the Prospective Purchaser Consent Decree to enforce its terms.

DATED this 14th day of January 2015.

SUSAN K. COOK

Judge/Commissioner
Skagit County Superior Court

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1 Presented by:

2 ROBERT W. FERGUSON
Attorney General

SKAGIT COUNTY PROSECUTING
ATTORNEY'S OFFICE

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5 ANNE M. POWELL, WSBA #42934
Assistant Attorney General
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Deputy Prosecuting Attorney
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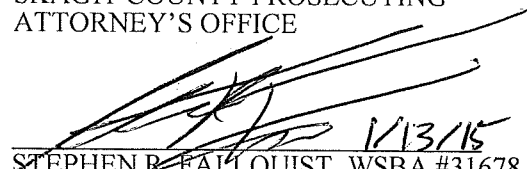
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Presented by:

ROBERT W. FERGUSON
Attorney General

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