

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

In the Matter of Remedial Action by:)	
)	AMENDMENT
The City of Everett)	TO ENFORCEMENT ORDER
ATTN: Public Works Department)	
3200 Cedar Street)	NO. DE94TC-N258
Everett, Washington 98201)	(First Amendment)

I.

Jurisdiction

This Amendment to Enforcement Order NO. DE94TC-N258 is issued pursuant to the authority of RCW 70.105D.050 (1).

II.

Introduction

1. In 1990, the City of Everett (the City), owner and operator of the Everett Landfill, and the Washington State Department of Ecology (Ecology) signed a Remedial Action Order on Consent to complete a Remedial Investigation and Feasibility Study for the Everett Tire Fire/Landfill Site. In 1994, Ecology issued Enforcement Order No. DE 94TC-N258 requiring the completion of a Supplemental Remedial Investigation and Feasibility Study and Interim Actions.
2. The purpose of this Amendment is to revise Section IV "Work to be performed" of the existing 1994 Enforcement Order, to include additional interim actions for covering the tire fire ash and relocating the West Ditch.

3. This order is an amendment of the 1994 Enforcement Order NO. DE94TC-N258, and does not relieve the City any existing requirements set forth in the 1990 Consent Order and 1994 Enforcement Order.

4. Under the 1994 Enforcement Order, the City regraded and covered the landfill (except the tire fire ash area) with two feet of clean soil to improve surface water control. This work was performed in 1995.

5. Under the 1994 Enforcement Order, the City was also required to install a leachate collection system at the eastern edge of the landfill. The system is to be constructed in the summer of 1997.

III.

Additional Work to Be Performed

1. This amendment requires that in addition to construction of the leachate collection system, the tire fire ash from the 1983 Tire Fire Site shall be excavated and moved to the 1984 Tire Fire Site. A minimum of two feet of clean soil shall be used to cover the 1983 and 1984 Tire Fire Sites, since the tire fire ash is no longer classified as dangerous waste under the new WAC 173-303 "Dangerous Waste Regulations", amended in November of 1996. Clean soil excavated for installation of the leachate collection system trench may be used as cover material for the 1984 Tire Fire Site. Any solid waste or other material excavated from the leachate collection system trench which is not clean soil, suitable for use as cover material, shall be placed on the 1984 Tire Fire Site and covered with two feet of clean soil. If any hazardous waste is encountered, it shall be disposed of off-site in accordance with all applicable laws and regulations.

2. The existing West Ditch shall be relocated during the summer of 1997 to provide a proper separation from Burlington Northern Railroad's tracks.
3. Groundwater levels in all wells on site will be measured weekly beginning with the effective date of this amendment and continuing until Ecology approves a less frequent schedule. Ecology may require more frequent water level monitoring or may approve less frequent water level monitoring, depending upon observed results.
4. A SEPA determination for the interim actions are included as Exhibit A, and are incorporated by reference, and are integral and enforceable parts of this amendment.
5. Substantive permit requirements are included as Exhibit B, and are incorporated by reference, and are integral and enforceable parts of this amendment.

IV.

Terms and Conditions of Order

Section 13 "Compliance with Other Applicable Laws" of the existing Enforcement Order NO. DE94TC-N258 of 1994 is revised as follows:

13. Compliance with Applicable Laws:

A. All actions carried out by The City of Everett and 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 paragraph B of this section.

B. Pursuant to RCW 70.105D.090(l), the substantive requirements of chapters 70.94, 70.95, 70.105, 75.20, 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 that are known to be applicable at the time of issuance of the Order have been included in Exhibit B and are binding and enforceable requirements of this Order.

The City of Everett 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 the City of Everett determines that additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order, the City shall promptly notify Ecology of this determination. Ecology shall determine whether Ecology or the City of Everett shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, the City of Everett 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 City of Everett and on how the City of Everett must meet those requirements. Ecology shall inform the City of Everett in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. The City of Everett 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.

C. 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 the City of Everett 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.

The effective date of this Amendment is after the completion of the SEPA public notice and comment period.

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

By: Michael J. Gallagher

Michael J. Gallagher
Toxics Cleanup Program
Section Supervisor, NWRO

Date: 14th July, 1997

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