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IN THE MATTER OF) No. DE 89-S211
REMEDIAL ACTION BY)
CASCADE POLE COMPANY, INC.) O R D E R
P.O. Box 1496)
Tacoma, WA 98401-1496)

TO: Cascade Pole Company, Inc.
P.O. Box 1496
Tacoma, WA 98401-1496

I.

Jurisdiction

This Order is issued by the Washington State Department of Ecology (Ecology) pursuant to the authority of Sec. 5(1) of the Model Toxics Control Act (Initiative 97).

II.

Statement of Facts

A. The project area in this matter (the "Site") is known as the Cascade Pole Site and is situated in Olympia, Washington. The location and boundaries of the Site are depicted by the diagram that is Exhibit A to this Order.

B. Cascade Pole Company, Inc. (Cascade Pole), one of several companies doing business as McFarland Cascade, leased a portion of the Site from the Port of Olympia until 1987. The Port of Olympia is the owner of this property and has been since the 1930s.



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

1711 Cleanwater Lane, SW • Olympia, Washington 98501 • 360-357-2100

October 16, 1989

B. Corry McFarland
Cascade Pole Company
P.O. Box 1496
Tacoma, Washington 98401

Gentlemen:

Enclosed is Administrative Order No. 89-S211. All correspondence relating to this document should be directed to Philip J. Hertzog. If you have any questions concerning the content of the document, please call Mr. Hertzog at 536-5559.

Sincerely,

Michael A. Wilson
Southwest Region Supervisor
Hazardous Waste Investigations and
Cleanup

MW:th(1/5)

cc: Lynda Brothers, Heller, Erhman, White and McAuliffe
Doug Edison, Port of Olympia
Sandy Mackie, Owens, Davies and Mackie

1 After submittal of the RI report, Ecology staff identified
2 major data gaps in this investigation. On May 30, 1986,
3 because it was concerned that the RI and feasibility study
4 (FS) were not being completed in a timely manner, Ecology
5 issued an administrative order requiring completion of the
6 RI and FS. Cascade Pole appealed that order. After a
7 two-day hearing in October of 1986, the Washington State
8 Pollution Control Hearings Board issued a decision upholding
9 the administrative order in full. The Board's decision was
10 issued in January of 1987.

11 F. In February of 1987, a Consent Order was signed by
12 Ecology and Cascade Pole requiring Cascade Pole to complete
13 the RI at the Site, to fill the identified data gaps, and to
14 complete the FS at the Site. The Volume One RI report was
15 submitted to Ecology on May 11, 1986. Several major data
16 gaps were not filled, however.

17 G. The Site and adjacent areas are relatively flat
18 and lie approximately 10 feet above mean sea level. The
19 peninsula is filled land which was originally a tidal flat.
20 Sources of the fill were the east and west bays of Budd
21 Inlet, which have been periodically dredged since the 1920s.
22 Additions of dredged fill have enlarged the Cascade Pole
23 Site considerably since it was first used in 1939.
24 Unconsolidated glacial and post-glacial deposits also
25 underlie the Site. There are two aquifers underlying the
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1 Site. The upper aquifer, or fill aquifer, flows outward
2 from the central portion of the Site and discharges into
3 Budd Inlet. The upper aquifer is severely contaminated with
4 pentachlorophenol and polynuclear aromatic hydrocarbons
5 (PAHs). These contaminants migrate through the groundwater
6 and seep into the nearshore (intertidal) sediments and the
7 waters of Budd Inlet. The lower aquifer appears to be
8 separated from the upper aquifer by an impervious layer or
9 aquatard. However, data gaps still exist regarding the
10 water quality of the lower aquifer. Verification of
11 non-contamination of the lower aquifer has not been
12 accomplished.

13 H. In February and August of 1985, Ecology performed
14 two studies at and in the vicinity of the Site. The
15 specific purpose of these studies was to locate the sources
16 of and gather information regarding the concentration of
17 suspected contamination in the vicinity of the Site. Soil,
18 intertidal sediment, and groundwater analysis data obtained
19 as of the effective date of this Order reveals that
20 hazardous substances have been and continue to be released
21 from the Cascade Pole Site. Concentrations of some of these
22 chemicals are at levels which would be regulated as
23 hazardous wastes under both ch. 70.105 RCW and the Resource
24 Conservation and Recovery Act, 42 U.S.C. § 6961, et seq.
25 For example, soil samples have revealed concentrations of
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1 pentachlorophenol at 400 parts per million (ppm) and PAHs at
2 40,000 ppm (4%). Groundwater samples have revealed
3 concentrations of pentachlorophenol at 9300 ppm,
4 tetrachlorophenol at 740 ppm, and PAHs at 20,000 ppm (2%).
5 These levels are well above concentration levels necessary
6 to render the material an extremely hazardous waste under
7 the state hazardous waste program (ch. 70.105 RCW and ch.
8 173-303 WAC).

9 I. Land use on adjacent properties consists of
10 recreational (East Bay Marina) and industrial (log storage)
11 to the south, and industrial and commercial (restaurant,
12 marine products outlet, and a radio station) to the west and
13 northwest. The public is at risk via: surface water
14 contamination, ingestion of contaminated marine fauna,
15 contact with soils at the Site, contact with contaminated
16 seeps emanating from the Site and flowing into Budd Inlet,
17 and contact with wind blown dust or air emissions at the
18 Site.

19 J. Cascade Pole has completed a feasibility study for
20 the Site. The final feasibility study was submitted on
21 August 26, 1988. The feasibility study discusses various
22 alternative remedial actions at the Site, their
23 environmental protectiveness, and the cost of such
24 alternatives. Ecology has not approved the FS on the basis
25 that it is incomplete, omits information requested by
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1 Ecology, biases the conclusion and promotes a preferred
2 alternative which fails to protect human health and the
3 environment and is inconsistent with state and federal laws.
4 Ecology has developed its own remedial action proposal for
5 the Site based on the FS and information not included in the
6 FS. A portion of the remedial action required by Ecology
7 will be implemented as per the terms of this Order.

8 K. The structures and equipment associated with the
9 closed wood treatment plant remain at the Site. Many of
10 these structures and much of the equipment is contaminated
11 with hazardous substances. Moreover, the structures and
12 equipment are a significant hindrance to ongoing and planned
13 remedial activities, both investigations and cleanup
14 activity.

15 L. Based on the above facts, Ecology has determined
16 that the release or threat of release of hazardous
17 substances from the Site requires remedial action to protect
18 the public health, welfare and the environment.

19 III.

20 Ecology Determinations

- 21 1. The Cascade Pole site is a "facility" as defined in the
22 Model Toxics Control Act (MTCA).
- 23 2. The Cascade Pole Company, Inc. is an "owner or
24 operator" as defined in the MTCA.

- 1 3. Pentachlorophenol and PAHs are "hazardous substances"
2 as defined in the MTCA.
- 3 4. The presence of pentachlorophenol and PAHs in the soil
4 and ground water of the facility constitutes a
5 "release" as defined in the MTCA.
- 6 5. Ecology has found Cascade Pole Company, Inc. to be a
7 potentially liable party under Sec. 4 of the MTCA,
8 after notice and opportunity to comment.
- 9 6. Ecology has issued this MTCA Order as an interim
10 measure to prevent or mitigate the continued release of
11 hazardous substances to the groundwater at the Site and
12 to the surface waters of Budd Inlet.
- 13 7. Pursuant to Sec. 3(1) and Sec. 5 of the MTCA, Ecology
14 may require potentially liable parties to investigate
15 or conduct remedial actions with respect to the release
16 or threatened release of hazardous substances. Based
17 on the foregoing facts, Ecology believes remedial
18 action, as required by this Order, is in the public
19 interest.

20 IV.

21 Order

22 Based on the foregoing Facts and Determinations, it is
23 hereby Ordered that Cascade Pole take the following remedial
24 actions:
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1. Remove all structures from the Site within two hundred and ten (210) days of the effective date of this Order. For purposes of this Order, the term structure includes buildings, appurtenances, accessories, equipment, supplies, debris, and solid waste (not including soils).

2. Within twenty (20) days of the effective date of this Order, submit to Ecology an itemized list of structures to be removed from the Site. For each item identified, the list shall note quantity, size, estimated volume, estimated weight, and degree of contamination. This itemized list shall constitute the Detailed Structures/Equipment Inventory List.

3. Prepare and submit to Ecology for review, comment, and approval a Structures/Equipment Removal Plan within forty-five (45) days of the effective date of this Order. The plan will detail the removal methods including decontamination procedures and schedules. The plan shall include, but is not limited to:
a. A detailed list of procedures for removal and

1 decontamination of structures and contents. Each
2 item identified in the detailed Structures/
3 Equipment Inventory shall be placed into a
4 category that identifies future use and present
5 relative degree and type of contamination.
6 Procedures for removal, disposal and
7 decontamination of debris or salvage materials
8 shall be developed for each category in accordance
9 with the Dangerous Waste Regulations (ch. 173-303
10 WAC) and state Solid Waste Regulations (ch.
11 173-304 WAC).

- 12 b. Procedures for designation of hazardous waste and
13 testing the effectiveness of decontamination prior
14 to removal and disposal of debris and salvage
15 material.
- 16 c. Interim protection and stabilization of soils
17 prior to final cleanup consistent with Dangerous
18 Waste Regulations (ch. 173-303 WAC).
- 19 d. Construction of berms to minimize contamination
20 and offsite release of surface and storm water.
- 21 e. Identification of structures proposed to be
22 allowed by Ecology to remain on site. The plan
23 shall include the rationale for leaving any
24 structures on site. This identification shall
25 include a consultation with the Port of Olympia to
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1 hazardous substances occurs during transport of
2 structures off-site. Cascade Pole retains
3 liability for any such release.

4 h. Identification of all applicable permits for
5 conducting work under this Order.

6 4. Submit to the appropriate agencies within sixty (60)
7 days of the effective date of this Order completed
8 applications for all applicable permits related to the
9 structures removal project.

10 5. Remove any remaining asbestos on-site in accordance
11 with Ecology Administrative Order DE 89-S159.

12 6. Implement the Structures/Equipment Removal Plan
13 approved by Ecology within twenty-one (21) days of 1.)
14 Ecology approval of the Structures/Removal Plan, for
15 those structures and equipment which may be removed
16 without obtaining a permit; or 2.) receipt of all
17 necessary permits for those structures which require a
18 permit prior to removal. An extension for completion
19 of the removal project may be granted by Ecology if
20 Cascade Pole has demonstrated that all due and diligent
21 efforts were made to obtain applicable permits and the
22 untimely issuance of permits results in project
23 schedule delays.

24 7. Prior to initiation of work, provide documentation to
25 the Washington State Department of Labor and Industries
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1 for review, comment, and approval that all personnel
2 involved in the structures/equipment removal project
3 have complied with all applicable Federal Occupational
4 Health and Safety Administration and State of
5 Washington regulations for hazardous waste sites.

6 8. During the structures removal, all applicable
7 requirements shall be complied with including the
8 Federal Occupational Health and Safety Administration
9 (OSHA) and Washington Industrial Safety and Health Act
10 (WISHA) regulations.

11 9. Prior to initiation of any structures/equipment
12 removal, Cascade Pole shall provide Ecology at least
13 seven (7) calendar day's notice and allow Ecology
14 personnel on-site to observe the work and to take
15 samples as such Ecology personnel deem appropriate.

16 10. Prior to final transport of any structures/equipment
17 debris or salvage material off-site, this material will
18 be batched to allow visual inspection by Ecology. No
19 material shall be removed from the site until Ecology
20 has given written approval. Ecology's written approval
21 will be contingent upon verification and documentation
22 that final disposal of the materials is in accordance
23 with the Structures/Equipment Removal Plan and all
24 applicable regulations.

Terms and Conditions of Order

1. Public Notice. The MTCA requires that, at a minimum, this order be subject to concurrent public notice. Sec. 3(2)(a). 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 the order is inadequate and improper in any respect.
2. Oversight Costs. Cascade Pole shall pay to Ecology those costs incurred by Ecology for investigative, remedial actions and orders, including costs incurred by Ecology in the oversight or administration of this Order.
3. Designated Project Coordinators. Within 10 days of the effective date of this Order, Cascade Pole shall designate a project coordinator and notify Ecology as to the project coordinator's identity, mailing address and phone number. The project coordinator shall be responsible for overseeing the implementation of this Order. To the maximum extent possible, communications between Ecology and Cascade Pole 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

1 through the project coordinators. Should Cascade Pole
2 change its project coordinator, written notification
3 shall be given to Ecology, in writing, at least ten
4 (10) calendar days prior to the change.

5 4. Performance. All response work performed pursuant to
6 this Order shall be under the direction and
7 supervision, as necessary, of a professional engineer
8 or certified hydrogeologist, or equivalent, with
9 experience and expertise in hazardous waste site
10 investigation and cleanup. Cascade Pole shall notify
11 Ecology as to the identity of such engineer(s) or
12 hydrogeologist(s), and of any contractors and
13 subcontractors to be used in carrying out the terms of
14 this Order, in advance of their involvement at the
15 site. Selection of such person or contractor shall be
16 subject to Ecology approval.

17 5. Access. Ecology or any Ecology authorized
18 representative shall have the authority to enter and
19 freely move about all property at the site at all
20 reasonable times for the purposes of, inter alia:
21 inspecting records, operation logs, and contracts
22 related to the work being performed pursuant to this
23 Order; reviewing the progress in carrying out the terms
24 of this Order; conducting such tests or collecting
25 samples as Ecology or the project coordinator may deem
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1 necessary; using a camera, sound recording, or other
2 documentary type equipment to record work done pursuant
3 to this Order; and verifying the data submitted to
4 Ecology by Cascade Pole. Ecology shall provide
5 reasonable notice before entering property unless an
6 emergency prevents notice. Ecology shall, upon request
7 and if feasible, split any samples taken during an
8 inspection unless Cascade Pole fails to make available
9 a representative for the purpose of splitting samples.

10 6. Retention of Records. Cascade Pole shall preserve in a
11 readily retrievable fashion, during the pendency of
12 this Order and for ten (10) years from the date of
13 completion of the work performed pursuant to this
14 Order, all records, reports, documents, and underlying
15 data in its possession relevant to this Order. Should
16 any portion of the work performed hereunder be
17 undertaken through contractors or agents of Cascade
18 Pole, a record retention requirement meeting the terms
19 of this paragraph shall be required of such contractors
20 and/or agents.

21 7. Dispute Resolution. Cascade Pole may request Ecology
22 to resolve only those factual or technical disputes
23 which may arise during the implementation of this
24 Order. Such request shall be in writing and directed
25 to the signatory of the Order. Ecology resolution of
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1 the dispute shall be binding and final. Cascade Pole
2 is not relieved of any requirement of this Order during
3 the pendency of the dispute and remains responsible for
4 timely compliance with the terms of the Order unless
5 otherwise provided by Ecology in writing.

6 8. Reservation of Rights. Ecology reserves all rights to
7 issue additional orders or take any action authorized
8 by law in the event or upon the discovery of a release
9 or threatened release of hazardous substances not
10 addressed by this Order or upon discovery of any
11 factors not known at the time of issue of this Order or
12 in order to abate an emergency.

13 9. Endangerment. In the event Ecology determines or
14 concurs in a determination by another local, state, or
15 federal agency that activities implementing or in
16 noncompliance with this Order, or any other
17 circumstances or activities, are creating or have the
18 potential to create a danger to the health or welfare
19 of the people on the site or in the surrounding area or
20 to the environment, Ecology may order Cascade Pole to
21 stop further implementation of this Order for such
22 period of time as needed to abate the danger.

23 10. Compliance with Other Applicable Laws. All actions
24 carried out by Cascade Pole pursuant to this Order
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1 shall be done in accordance with all applicable
2 federal, state, and local requirements.

3 VI.

4 Satisfaction of This Order

5 The provisions of this Order shall be deemed satisfied upon
6 Cascade Pole's receipt of written notice from Ecology that
7 the program outlined in this Order has been completed.

8 VII.

9 Enforcement

10 In the event Cascade Pole refuses, without sufficient
11 cause, to comply with any term of this Order, this Order
12 will be enforced as follows:

13 a. The Attorney General will bring an action to
14 enforce this Order in state or federal court.

15 b. In any such action, Cascade Pole may be liable for
16 up to three times the amount of any costs incurred by
17 the State of Washington as a result of the refusal to
18 comply.

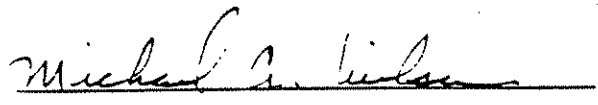
19 c. Additionally, in any such action McFarland Cascade
20 may be liable for civil penalties of up to \$25,000 per
21 day for each day Cascade Pole refuses to comply.

22 d. Should Ecology conduct or provide for conducting
23 the remedial action, the Attorney General will bring an

1 action to recover all costs incurred by the state for
2 such action.

3 e. This Order is not appealable to the Pollution
4 Control Hearings Board.

5 Effective date of this Order: OCTOBER 17, 1989.

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10 Michael A. Wilson
11 Southwest Region Supervisor
12 Hazardous Waste Investigation
13 and Cleanup
14 Department of Ecology
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