

3 IN THE MATTER OF)
4 REMEDIAL ACTION BY) O R D E R
5 CASCADE POLE COMPANY, INC.) No. DE 89-S211
6 Post Office Box 1496) Second Amendment
7 Tacoma, WA 98401-1496)
8
9

10 TO: Cascade Pole Company, Inc.
11 Post Office Box 1496
12 Tacoma, WA 98401-1496
13
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15 I.

16 Jurisdiction

17 This Order is issued by the Washington State Department of Ecology
18 (Ecology) pursuant to the authority of Sec. 5(1) of the Model Toxics Control
19 Act (Initiative 97).
20

21 II.

22 Statement of Facts

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

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

31 C. The leased area of the Site has been utilized as a wood treating
32 facility for more than forty (40) years. Various other operators, which are
33 no longer in business, utilized this Site prior to Cascade Pole. Cascade
34 Treating Company, which merged with Cascade Pole in 1967, began operating a
wood treatment facility on the Site in 1957. Prior to the early 1960s.

1 creosote was the chemical used for treating wood at the Site. In the early
2 1960s pentachlorophenol became the primary treatment chemical used at the
3 Site. However, creosote remained in use at the Site until it closed in 1987.

4 D. In December 1982, an environmental complaint was filed with
5 Ecology regarding a discharge of oily material from the storm drain which
6 discharges to Budd Inlet southwest of the Site, and the presence of similar
7 oily material in the soils at the border of the Cascade Pole site. A
8 preliminary investigation showed contamination of soils and ground water along
9 the southern boundary of the site. Cascade Pole performed further
10 investigation to determine the extent of the problem. Several backhoe pits
11 and wells installed by Cascade Pole revealed a layer of oily liquid floating
12 on the ground water at the Site.

13 E. Between 1983 and May of 1986 Cascade Pole conducted a partial
14 remedial investigation (RI) at the Site. After submittal of the RI report,
15 Ecology staff identified major data gaps in this investigation. On May 30,
16 1986, because it was concerned that the RI and feasibility study (FS) were not
17 being completed in a timely manner, Ecology issued an administrative order
18 requiring completion of the RI and FS. Cascade Pole appealed that order.
19 After a two-day hearing in October of 1986, the Washington State Pollution
20 Control Hearings Board issued a decision upholding the administrative order in
21 full. The Board's decision was issued in January of 1987.

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

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

17 H. In February and August of 1985, Ecology performed two studies at
18 and in the vicinity of the Site. The specific purpose of these studies was to
19 locate the sources of and gather information regarding the concentration of
20 suspected contamination in the vicinity of the Site. Soil, intertidal
21 sediment, and ground water analysis data obtained as of the effective date of
22 this Order reveals that hazardous substances have been and continue to be
23 released from the Cascade Pole Site. Concentrations of some of these
24 chemicals are at levels which would be regulated as hazardous wastes under
25 both ch. 70.105 RCW and the Resource Conservation and Recovery Act, 42 U.S.C.
§ 6961, et seq. For example, soil samples have revealed concentrations of

1 pentachlorophenol at 400 parts per million (ppm) and PAHs at 40,000 ppm (4%).
2 Ground water samples have revealed concentration of pentachlorophenol at 9,300
3 ppm, tetrachlorophenol at 740 ppm, and PAHs at 20,000 ppm (2%). These levels
4 are well above concentration levels necessary to render the material an
5 extremely hazardous waste under the state hazardous waste program (ch. 70.105
6 RCW and ch. 173-303 WAC).

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

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

1 K. The structures and equipment associated with the closed wood
2 treatment plant remain at the Site. Many of these structures and much of the
3 equipment is contaminated with hazardous substances. Moreover, the structures
4 and equipment are a significant hindrance to ongoing and planned remedial
5 activities, both investigations and cleanup activity.

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

9 III.

10 Ecology Determinations

- 11 1. The Cascade Pole site is a "facility" as defined in the Model Toxics
12 Control Act (MTCA).
- 13 2. The Cascade Pole Company, Inc. is an "owner or operator" as defined in
14 the MTCA.
- 15 3. Pentachlorophenol and PAHs are "hazardous substances" as defined in the
16 MTCA.
- 17 4. The presence of pentachlorophenol and PAHs in the soil and ground water
18 of the facility constitutes as "release" as defined in the MTCA.
- 19 5. Ecology has found Cascade Pole Company, Inc. to be a potentially liable
20 party under Sec. 4 of the MTCA, after notice and opportunity to comment.
- 21 6. Ecology has issued the MTCA Order as an interim measure to prevent or
22 mitigate the continued release of hazardous substances to the ground
23 water at the Site and to the surface waters of Budd Inlet.

1 7. Pursuant to Sec. 3(1) and Sec. 5 of the MTCA, Ecology may require
2 potentially liable parties to investigate or conduct remedial actions
3 with respect to the release or threatened release of hazardous
4 substances. Based on the foregoing facts, Ecology believes remedial
5 action, as required by this Order, is in the public interest.

6 IV.

7 Order

8 Based on the foregoing Facts and Determinations, it is hereby Ordered
9 that Cascade Pole take the following remedial actions:

- 10 1. Remove all structures from the Site within three hundred forty-eight
11 (348) days of the effective date of this Order. For purposes of this
12 Order, the term structure includes buildings, appurtenances,
13 accessories, equipment, supplies, debris, and solid waste (not including
14 soils).
- 15 2. Within twenty (20) days of the effective date of this Order, submit to
16 Ecology an itemized list of structures to be removed from the Site. For
17 each item identified, the list shall note quantity, size, estimated
18 volume, estimated weight, and degree of contamination. This itemized
19 list shall constitute the Detailed Structures/Equipment Inventory List.
- 20 3. Prepare and submit to Ecology for review, comment, and approval a
21 Structures/Equipment Removal Plan within forty-five (45) days of the
22 effective date of this Order. The plan will detail the removal methods
23 including decontamination procedures and schedules. The plan shall
24 include, but is not limited to:

- 1 a. A detailed list of procedures for removal and decontamination of
2 structures and contents. Each item identified in the detailed
3 Structures/Equipment Inventory shall be placed into a category
4 that identifies future use and present relative degree and type of
5 contamination. Procedures for removal, disposal, and
6 decontamination of debris or salvage materials shall be developed
7 for each category in accordance with the Dangerous Waste
8 Regulations (ch. 173-303 WAC) and state Solid Waste Regulations
9 (ch. 173-304 WAC).
- 10 b. Procedures for designation of hazardous waste and testing the
11 effectiveness of decontamination prior to removal and disposal of
12 debris and salvage material.
- 13 c. Interim protection and stabilization of soils prior to final
14 cleanup consistent with Dangerous Waste Regulations (ch. 173-303
15 WAC).
- 16 d. Construction of berms to minimize contamination and off-site
17 release of surface and storm water.
- 18 e. Identification of structures proposed to be allowed by Ecology to
19 remain on site. The plan shall include the rationale for leaving
20 any structures on Site. This identification shall include a
21 consultation with the Port of Olympia to determine which
22 structures have a viable future use at the Site. Any structures
23 related to the recovery and treatment of hazardous materials shall
24 be included in the proposal.
- 25

1 f. Procedures for decontamination of any structures proposed to be
2 left on-site. The plan shall include measures for observing
3 indications of hazardous substances below or adjacent to any
4 remaining structures. Any remaining drums and chemicals shall be
5 analyzed, designated, and disposed of in accordance with the
6 Dangerous Waste Regulations (ch. 173-303 WAC) and 40 CFR Parts
7 261-270.

8 g. Procedures for documenting the transport and final deposition of
9 all structures removed from the Site. Equipment may be reused at
10 other facilities provided it is used for similar purposes with the
11 same type of products used at Cascade Pole. At a minimum,
12 documentation for transport and disposal of reused equipment shall
13 consist of a notarized letter and receipt from the receiving
14 facility that notes the facility permit number and states how the
15 equipment will be used. Cascade Pole shall ensure, through
16 cleaning, decontamination and transport practices, that no release
17 of hazardous substances occurs during transport of structures
18 off-site. Cascade Pole retains liability for any such release.

19 h. Identification of all applicable permits for conducting work under
20 this Order.

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

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

- 1 6. Implement the Structures/Equipment Removal Plan approved by Ecology
2 within twenty-one (21) days of receipt of all necessary permits for
3 those structures which require a permit prior to removal. An extension
4 for completion of the removal project may be granted by Ecology if
5 Cascade Pole has demonstrated that all due and diligent efforts were
6 made to obtain applicable permits and the untimely issuance of permits
7 results in project schedule delays.
- 8 7. Prior to initiation of work, provide documentation to the Washington
9 State Department of Labor and Industries for review, comment, and
10 approval that all personnel involved in the structures/equipment removal
11 project have complied with all applicable Federal Occupational Health
12 and Safety Administration and State of Washington regulations for
13 hazardous waste sites.
- 14 8. During the structures removal, all applicable requirements shall be
15 complied with including the Federal Occupational Health and Safety
16 Administration (OSHA) and Washington Industrial Safety and Health Act
17 (WISHA) regulations.
- 18 9. Prior to initiation of any structures/equipment removal, Cascade Pole
19 shall provide Ecology at least seven (7) calendar days's notice and
20 allow Ecology personnel on-site to observe the work and to take samples
21 as such Ecology personnel deem appropriate.
- 22 10. Prior to final transport of any structures/equipment debris or salvage
23 material off-site, this material will be batched to allow visual
24 inspection by Ecology. No material shall be removed from the site until
25 Ecology has given written approval. Ecology's written approval will be
contingent upon verification and documentation that final disposal of

1 the materials is in accordance with the Structures/Equipment Removal
2 Plan and all applicable regulations.

3 11. Water used in the decontamination of structures and equipment shall be
4 recycled to the maximum extent practicable.

5 12. Wastewater generated during the decontamination of the structures and
6 equipment at the site and during field investigations required by the
7 May 1990 Consent Decree may be discharged under the following
8 conditions:

9 a. Permits. Cascade Pole Company may discharge decontamination water
10 and wastewater generated during required field investigations
11 under the existing NPDES permit for the outfall at the site
12 provided all other conditions of this Order have been met.

13 Discharges at other locations may also be allowed, provided all
14 applicable permits are obtained and the conditions of this Order
15 have been met.

16 b. Interim Discharge Limits. During the Structures/ Equipment
17 removal required by this Order and subsequent field investigations
18 required under the May 1990 Consent Decree, the following
19 discharge limits shall apply. These limits shall be considered
20 interim and apply only to the discharges resulting from work
21 performed in accordance with this Order. Total discharge volume
22 shall not exceed two hundred thousand (200,000) gallons and the
23 duration of the discharge shall not exceed ninety (90) days.

<u>Parameter</u>	<u>Maximum Contaminant Concentration</u>	<u>Minimum Frequency</u>	<u>Sample Type</u>	<u>Reported Value(s)</u>
Total of 16 EPA Priority Pollutant				
PAHs	100 ug/l	Once/Batch*	Grab	ug/l
Benzene	110 ug/l	Once/Batch*	Grab	ug/l
Ethyl Benzene	100 ug/l	Once/Batch*	Grab	ug/l
Pentachlorophenol	13 ug/l	Once/Batch*	Grab	ug/l
pH	6.0-9.0	Once/Batch*	Grab	ug/l
Discharge Flow	N/A	Once/Batch*	Batch Volume	gallons
Total Suspended Solids (TSS)	N/A	Once/Batch*	Grab	mg/l
Total Dissolved Solids (TDS)	N/A	Once/Batch*	Grab	mg/l
Temperature	N/A	Once/Batch*	Grab	° C

* A batch is defined as one 5,000 to 15,000 gallon Baker tank.

c. Monitoring and Reporting. Cascade Pole Company shall monitor the operation and efficiency of all treatment and control facilities and quantity and quality of the waste discharged. A record of all such data shall be maintained. Cascade Pole shall monitor the parameters as specified in (b) above. Effluent from the on-site water treatment system shall be stored in a 5,000 to 15,000 gallon Baker tank or equivalent. Prior to discharge, the stored water in the Baker tank shall be tested. If the effluent meets all the interim discharge limits, the water may be discharged via the NPDES outfall (WA-000101-5). If the interim discharge limits are not met, the water shall be retreated until the limits are met.

- 1 d. Reporting. Monitoring results shall be reported verbally to the
2 Ecology project coordinator, Department of Ecology, or their
3 representative, prior to the discharge of the treated water.
4 Written laboratory analytical results for the monitoring shall be
5 provided to Ecology within five (5) days after Cascade Pole
6 Company receives these from the laboratory. The written results
7 shall be sent to: Charles F. Pitz, Department of Ecology,
8 Southwest Regional Office, Mail Stop LU-11, Olympia, Washington
9 98504. Monitoring shall be started immediately upon operation of
10 the wastewater treatment system.
- 11 e. Records Retention. Cascade Pole Company shall retain for ten (10)
12 years all records of monitoring activities and results.
- 13 f. Record of Results. For each measurement or sample taken, Cascade
14 Pole Company shall record the following information: (1) the
15 date, exact place and time of sampling; (2) the dates and the
16 analyses that were performed; (3) who performed the analyses; (4)
17 the analytical technique or method used; and (5) the results of
18 the analyses.
- 19 g. Representative Sampling. Samples and measurements taken to meet
20 the requirements of this agreement shall be representative of the
21 volume and nature of the monitored discharge, including
22 representative sampling of any unusual discharge or discharge
23 condition, including upsets and maintenance-related conditions
24 affecting effluent quality. Each batch of water placed into a
25 5,000 to 15,000 gallon Baker tank, or equivalent, will be sampled.
26 Each sample will consist of one grab sample from the tank.

1 h. Test Procedures. All sampling and analytical methods used to meet
2 the monitoring requirements specified in this order shall, unless
3 approved otherwise in writing by the Department, conform to the
4 Guidelines Establishing Test Procedures for the Analysis of
5 Pollutants, contained in 40 CFR Part 136, as published in the
6 Federal Register on October 26, 1984, or the latest revision
7 thereof; or to Test Methods for Evaluating Solid Wastes (SW-846),
8 contained in 40 CFR Part 261, Appendix X, as revised.

9 i. Solid and Liquid Waste Disposal. Cascade Pole Company shall
10 handle and dispose of all solid and liquid waste material in such
11 a manner as to prevent its entry into state ground or surface
12 waters except as authorized herein.

13 j. Spent Granulated Activated Carbon - Spent Granulated Activated
14 Carbon shall be disposed in accordance with all applicable federal
15 and state regulations. Copies of any test results required by
16 these regulations shall be provided to Ecology as specified in (d)
17 above.

18 13. If, for any reason, Cascade Pole Company does not comply with the
19 interim discharge limitations or other conditions specified in this
20 order, Cascade Pole Company shall, at a minimum, provide Ecology with
21 the following information.

22 a. A description of the nature and cause of noncompliance including
23 the quantity and quality of any unauthorized waste discharges.

24 b. The period of noncompliance, including exact dates and times,
25 and/or the anticipated time when Cascade Pole Company will return
26 to compliance;

1 c. The steps taken, or to be taken, to reduce, eliminate, and prevent
2 recurrence of the noncompliance.

3 In addition, Cascade Pole Company shall take immediate action to
4 stop, contain, and clean up any unauthorized discharges and take all
5 reasonable steps to minimize any adverse impacts to waters of the state
6 and correct the problem. In the event of noncompliance, Cascade Pole
7 Company shall notify the Department by telephone immediately so that an
8 investigation can be made to evaluate any resulting impacts and the
9 corrective actions taken and to determine if additional action should be
10 taken.

11 In case of any discharge subject to any applicable toxic pollutant
12 effluent standard under Section 307(a) of the Clean Water Act, or which
13 could constitute a threat to human health, welfare, or the environment,
14 WAC 173-303-145 requires that the information specified in items 13 a,
15 b, and c, above, shall be provided immediately from the time that
16 Cascade Pole Company becomes aware of the circumstances. If this
17 information is provided orally, a written submission covering these
18 points shall be provided within five days of the time Cascade Pole
19 Company becomes aware of the circumstances, unless the Department waives
20 or extends this requirement on a case-by-case basis. Compliance with
21 these requirements does not relieve the defendants from responsibility
22 to maintain continuous compliance with the conditions of this agreement
23 or the resulting liability for failure to comply.

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 ten (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 through the project coordinators. Should Cascade Pole change its project coordinator, written notification shall be given to Ecology, in writing, at least ten (10) calendar days prior to the change.
4. Performance. All response work performed pursuant to this Order shall be under the direction and supervision, as necessary, of a professional engineer or certified hydrogeologist, or equivalent, with experience and

1 expertise in hazardous waste site investigation and cleanup. Cascade
2 Pole shall notify Ecology as to the identity of such engineer(s) or
3 hydrogeologist(s), and of any contractors and subcontractors to be used
4 in carrying out the terms of this Order, in advance of their involvement
5 at the site. Selection of such person or contractor shall be subject to
6 Ecology approval.

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

21 6. Retention of Records. Cascade Pole shall preserve in a readily
22 retrievable fashion, during the pendency of this Order and for ten (10)
23 years from the date of completion of the work performed pursuant to this
24 Order, all records, reports, documents, and underlying data in its
25 possession relevant to this Order. Should any portion of the work
26 performed hereunder by undertaken through contractors or agents of

1 Cascade Pole, a record retention requirement meeting the terms of this
2 paragraph shall be required of such contractors and/or agents.

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

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

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

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

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VI.

Satisfaction of This Order

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

VII.

Enforcement

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

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

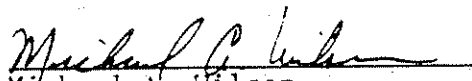
b. In any such action, Cascade Pole may be liable for up to three times the amount of any costs incurred by the State of Washington as a result of the refusal to comply.

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

d. Should Ecology conduct or provide for conducting the remedial action, the Attorney General will bring an action to recover all costs incurred by the state for such action.

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

Effective date of this Order: February 22, 1991


Michael A. Wilson
Southwest Region Supervisor
Toxics Cleanup Program
Department of Ecology