

SIGNED 10/2/87 BY PAUL JOHNSON

PSN 631

ACCEPTANCE OF SERVICE

CLERK'S STAMP

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

IN THE MATTER OF:

No. DE 87-0926

GREENACRES LANDFILL,
SPOKANE COUNTY, WASHINGTON,

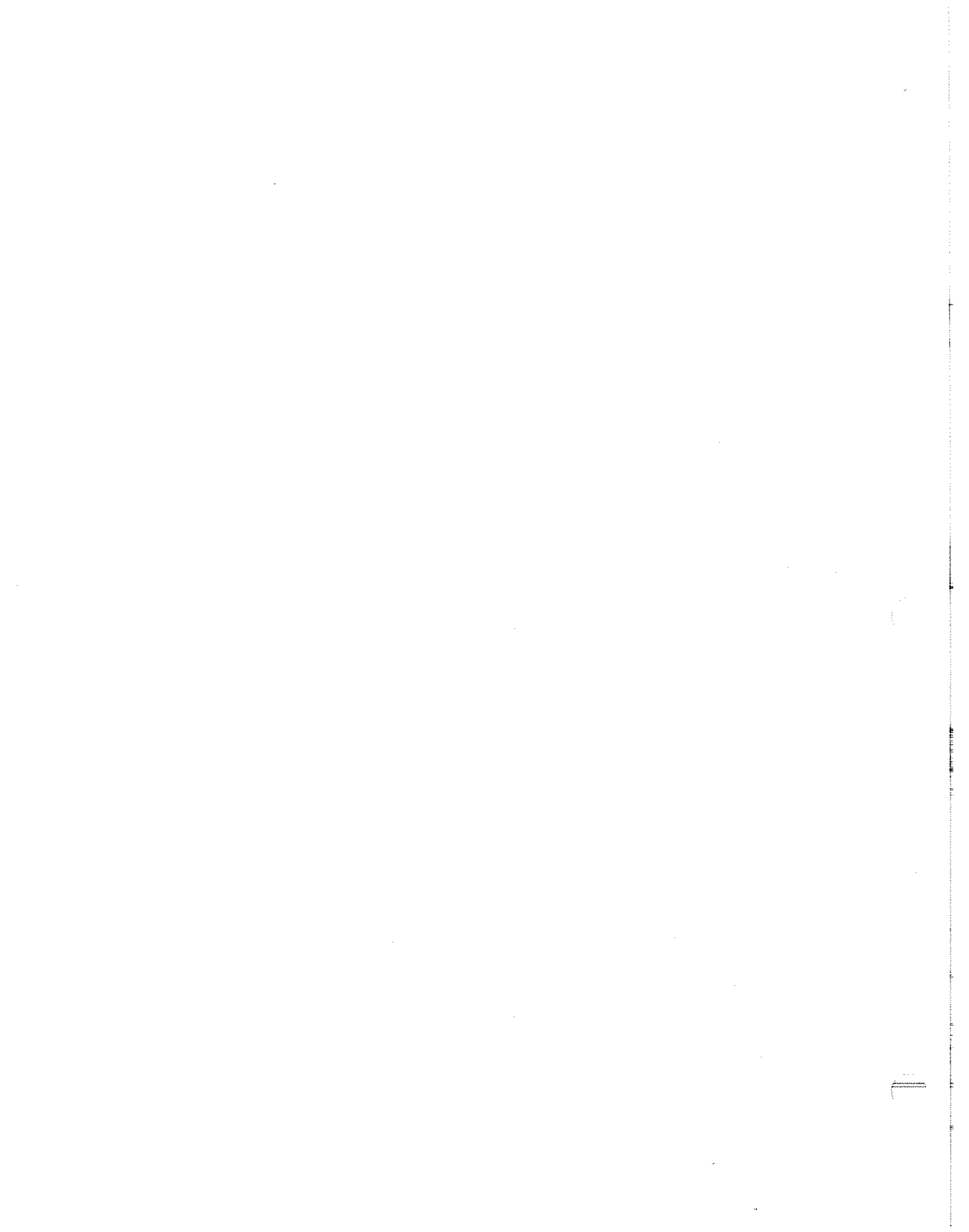
CONSENT ORDER

Table of Contents

		<u>Page</u>
I.	JURISDICTION	2
II.	PARTIES BOUND.	3
III.	STATEMENT OF PURPOSE	4
IV.	STATEMENT OF FACTS	4
V.	SCOPE OF ORDER	7
VI.	COMMUNITY RELATIONS.	10
VII.	DESIGNATED PROJECT MANAGERS.	11
VIII.	ACCESS	12
IX.	PERFORMANCE.	13
X.	SAMPLING AND DATA AVAILABILITY	14
XI.	PROGRESS REPORTS	15
XII.	RECOVERY OF EXPENSES	15
XIII.	RESOLUTION OF DISPUTES	17
XIV.	ENDANGERMENT	18
XV.	EXTENSION OF SCHEDULES	19
XVI.	AMENDMENTS	21
XVII.	PENALTIES.	21
XVIII.	INDEMNIFICATION.	22
XIX.	OTHER ACTIONS.	22
XX.	OTHER CLAIMS	23
XXI.	COVENANT NOT TO SUE	23
XXII.	COMPLIANCE WITH APPLICABLE LAWS.	25
XXIII.	NO ADMISSION OF LIABILITY.	26
XXIV.	EFFECTIVE DATE	27

KENNETH O. EIKENBERRY, ATTORNEY GENERAL

Assistant Attorney General



1 I.

2 JURISDICTION

3 A. This Consent Order (Order) is issued pursuant to the
4 authority vested in the State of Washington Department of Ecology
5 (Ecology) by state and federal environmental laws including, but
6 not limited to the following:

7 Chapter 90.48 RCW, Water Pollution Control;

8 Chapter 70.105 RCW, Hazardous Waste Management;

9 Chapter 70.105A RCW, Hazardous Waste Fees;

10 42 U.S.C. § 6901 et seq., Resource Conservation and
11 Recovery Act (RCRA);

12 42 U.S.C. § 9601 et seq., Comprehensive Environmental
13 Response, Compensation and Liability Act (CERCLA).

14 [As amended by the Superfund Amendments and
15 Reauthorization Act of 1986.]

16 On the basis of the results of the testing and analysis
17 described in the Statement of Facts, infra, and Ecology files and
18 records, Ecology has determined that the disposal or management
19 practices at the Greenacres Landfill (the Site) have given rise
20 to a release or threat of release of hazardous substances,
21 pollutants or contaminants, that the release or threat of release
22 is causing ground water contamination, and that the release or
23 threat of release will continue to cause contamination of ground
24 water unless the release or threat of release is abated. Ecology
25 has also determined that:

1 (1) Spokane County is one of the persons responsible for the
2 site within the meaning of chapter 90.48 RCW, chapter 70.105 RCW,
3 chapter 70.105A RCW, and chapter 70.95 RCW, 42 U.S.C. § 6901 et
4 seq., and 42 U.S.C. § 9601 et seq.;

5 (2) the Site is a facility within the meaning of chapter
6 70.105 RCW, chapter 70.105A RCW, 42 U.S.C. § 6901 et seq., and 42
7 U.S.C. 9601 et seq.;

8 (3) the actions to be taken pursuant to this Order are
9 reasonable and necessary to protect the public health or welfare
10 or the environment;

11 (4) a reasonable time for beginning and completing the
12 actions required by this Order has been provided for; and

13 (5) Spokane County has agreed to undertake the actions
14 specified in the Order.

15 II.

16 PARTIES BOUND

17 This Order shall apply to and be binding upon Spokane County
18 and Ecology, their agents, successors, and assigns, and upon all
19 persons, contractors, and consultants acting under or for either
20 Spokane County, Ecology or both. Spokane County agrees both to
21 undertake all actions required of it by the terms and conditions
22 of this Order and not to contest Ecology jurisdiction regarding
23 this Order.

1 III.

2 STATEMENT OF PURPOSE

3 In entering into this Order, the mutual objective of Ecology
4 and Spokane County is to prevent or mitigate the release of
5 hazardous substances, pollutants or contaminants from the Site
6 and/or the contamination of the waters of the state. To accom-
7 pany this objective and to resolve the matter constructively and
8 without litigation, Spokane County and Ecology consents to the
9 actions required by this Order.

10 IV.

11 STATEMENT OF FACTS

12 A. The Greenacres Landfill is located mostly within the
13 southwest quarter of the southwest quarter of Section 16,
14 Township 25 North, Range 45 East in Spokane County, Washington.
15 The Site covers approximately 50 acres and is situated in a
16 filled ravine that drains into the Spokane Valley-Rathdrum
17 Prairie aquifer, which is the sole source of drinking water for
18 approximately 350,000 people.

19 B. In 1951 the Site was deeded to Greenacres Township for
20 use as a municipal dump. The township governmental structure in
21 Spokane County was dissolved in 1967 at which time Spokane County
22 assumed responsibility for operations at the Site. Spokane
23 County continued to operate the Site until 1972 when the Site was
24 filled to capacity and closed. In 1971 Spokane County
25 transferred a portion of the Site to Holiday Hills Recreation
26 Center, Inc., the trustee of which is Wells B. McCurdy. In 1972

1 Spokane County sold the remaining Site property to Holiday Hills
2 Recreation Center, Inc.

3 During a ground water quality monitoring survey in 1978, a
4 nearby residential well, located approximately 600 feet downgrad-
5 ient from the Site and owned by Mrs. Ruth Jeffers was found to be
6 contaminated. Testing done in 1980 indicated the presence of
7 volatile organic compounds in Mrs. Jeffers' well. Followup moni-
8 toring indicated increasing levels of contamination in the well.
9 The Spokane County Health District subsequently advised
10 Mrs. Jeffers to procure an alternative water supply.

11 In 1983 the Site was placed on the National Priorities List.
12 Mrs. Jeffers then filed suit against Spokane County alleging a
13 release of contaminants from the Site. Spokane County arranged
14 for an alternative water supply to the Jeffers residence and the
15 suit was subsequently settled after a monetary payment.

16 C. In 1985 the United States Environmental Protection
17 Agency (EPA) conducted a preliminary investigation of the Site at
18 which time three ground water monitoring wells were installed--
19 one upgradient from the Site and two downgradient between the
20 Site and Mrs. Jeffers' well. EPA and Ecology monitoring data
21 indicate that the Site is the source of contamination observed in
22 Mrs. Jeffers' well and the two downgradient monitoring wells.
23 This data further indicates that hazardous substances or pollut-
24 ants or contaminants are being released into the ground waters of
25 the state. These substances include, but are not limited to:
26

1 1,1-dichloroethane (<0.5-4.0)¹, trans-1,2,-dichloroethylene
2 (<0.2-392), 1,2-dichloroethane (1.0-21), trichloroethylene
3 (<0.1-14), tetrachloroethylene (<0.5-83), dichloromethane
4 (<1.14), benzene (<0.1-.57), toluene (<0.5-.68), chromium
5 (<1-38), zinc (32-2380), lead (<5-67), copper (<1-24), nickel
6 (<1-43), mercury (<0.09-2.35), 2,4,5-trichlorophenoxyacetic acid
7 (<0.005-0.58), 2,4-dichlorophenoxyacetic acid (<0.01-2.5),
8 2,4,5-trichlorophenoxypropionic acid (0.05-0.49), and
9 pentachlorophenol (0.006-0.04).

10 D. In 1985 EPA and Ecology entered into a cooperative
11 agreement authorizing Ecology to implement response actions at
12 the Site financed by the Hazardous Substance Response Trust Fund.
13 EPA notified Spokane County and Holiday Hills Recreation Center,
14 Inc. of their potential liability under CERCLA. EPA had docu-
15 mented the release or threatened release of hazardous substances
16 at the Site, and of the cooperative agreement with Ecology.

17 In 1985 Ecology initiated remedial investigation activities
18 at the Site, undertaking and completing a community relations
19 plan, a seismic refraction survey, a hydrologic budget, and a
20 detailed remedial investigation work plan. Ecology has continued
21 to do ground water monitoring at the Site. In 1987 Ecology noti-
22 fied Spokane County and Holiday Hills Recreation Center, Inc., of

23
24
25 1 Range of concentrations observed in samples of the two
26 downgradient monitoring wells and the Jeffers well in parts
per billion (ppb).

1 their potential liability under state and federal law and
2 requested that each party assume responsibility for the necessary
3 response actions at the Site.

4 E. Based on the above facts, Ecology has determined that a
5 hazardous substance response program, consistent with the
6 requirements of the National Oil and Hazardous Substances
7 Pollution Contingency Plan, 40 CFR Part 300 (the NCP), is
8 necessary at the Site to investigate and study the release of
9 hazardous substances, pollutants or contaminants and to take any
10 appropriate action to prevent, abate, minimize, stabilize,
11 mitigate, or eliminate such release or threat of release, or the
12 threat to the public health or welfare or the environment
13 resulting from such release or threat of release.

14 V.

15 SCOPE OF ORDER

16 A. Remedial Investigation. Spokane County shall plan,
17 propose, initiate, complete, and report upon a remedial investi-
18 gation of the Site. Such plans, proposals, and reports shall be
19 subject to the approval of Ecology. The purpose of the remedial
20 investigation is to: (1) determine the nature and extent of the
21 release or threatened release of hazardous substances or pollut-
22 ants or contaminants at the Site; and (2) characterize the Site
23 to provide sufficient information to determine the necessity for
24 and the proposed extent of remedial action, if any.

1 The remedial investigation shall be conducted in accordance
2 with the requirements of CERCLA, NCP, federal and state laws and
3 regulations, and all applicable EPA guidance documents relating
4 to remedial investigations, including document EPA/540-G-85/002,
5 "Guidance on Remedial Investigations Under CERCLA."

6 Spokane County shall, subject to the approval of Ecology,
7 incorporate all procedural and technical documents in the above
8 guidance and regulation required to implement the remedial
9 investigation into this Order as numbered attachments within four
10 (4) months of the date that this Order becomes effective.
11 Spokane County shall submit the final report for the remedial
12 investigation no later than eighteen (18) months from that
13 effective date.

14 B. Feasibility Study. Spokane County shall plan, propose,
15 initiate, complete, and report upon a feasibility study for the
16 Site. Such plans, proposals, and reports shall be subject to the
17 approval of Ecology's project manager. The purpose of the feasi-
18 bility study is to identify, develop, evaluate, and select reme-
19 dial action alternatives which are consistent with a permanent
20 remedy to prevent or minimize the release or threatened release
21 of hazardous substances, pollutants or contaminants from the
22 Site, as identified through the remedial investigation conducted
23 pursuant to Section A above, so that they do not migrate to cause
24 substantial danger to present or future public health or welfare
25 or the environment. The feasibility study shall be conducted in
26 accordance with CERCLA, the NCP, federal and state laws and

1 regulations, and all applicable EPA guidance documents relating
2 to feasibility studies, including document EPA/540/G-85/003,
3 "Guidance on Feasibility Studies Under CERCLA" and document
4 EPA/625/G-85/006, "Handbook of Remedial Action at Waste Disposal
5 Sites (Revised)."

6 Spokane County shall, subject to the approval of Ecology,
7 incorporate all procedural and technical documents in the above
8 guidance and regulation required to implement the feasibility
9 study into this Order as numbered attachments within eighteen
10 (18) months of the date that this Order becomes effective.

11 Spokane County shall submit the final report for the feasibility
12 study no later than twenty-four (24) months from the effective
13 date. Nothing in this Consent Order is intended to preclude
14 Spokane County from attempting to delist the Greenacres Site
15 from the NPL.

16 C. Removal Action. In the event that Ecology, during the
17 term of this Order, determines that there is a threat to public
18 health or welfare or the environment based upon the factors in
19 the 40 CFR Part 300.65(b)(2) of the NCP, Ecology may require
20 Spokane County to conduct an appropriate removal action to abate,
21 minimize, stabilize, mitigate, or eliminate the release or threat
22 of release of hazardous substances, pollutants or contaminants,
23 or the threat resulting from such release or threat of release.
24 All removal actions shall be conducted in accordance with the NCP
25 federal and state laws and regulations, and all applicable EPA
26 guidance documents relating to removal actions.

1 (3) Participating in public meetings related to the
2 activities taken under this Order; and

3 (4) Providing extra copies of appropriate documents and
4 information for the three information repositories. They are:
5 the downtown Spokane Library, Spokane Office of the Dept. of
6 Ecology, and the Spokane Valley Branch of the county library.

7 Spokane County and Ecology shall make reasonable efforts to
8 accommodate each other's concerns with regard to all fact sheets,
9 press releases, and public notices issued. Each party shall
10 communicate the contents of the fact sheets, press releases, and
11 public notices to the other party forty-eight (48) hours,
12 exclusive of weekends and holidays, prior to the release of such
13 information.

14 Nothing provided in this section shall prevent Spokane
15 County from developing or conducting its own community relations
16 program consistent with the terms of this Order.

17 VII.

18 DESIGNATED PROJECT MANAGERS

19 Ecology and Spokane County shall each designate a project
20 manager. Each project manager shall be primarily responsible for
21 overseeing the implementation of this Order. The project
22 managers shall, at a minimum, have the authority to:

- 23 (1) coordinate the activities of their respective project and
24 contractual staffs to ensure the implementation of this Order;
25 (2) coordinate amendments pursuant to Clause XVI of this Order;
26 (3) extend schedules pursuant to Clause XV of this Order;

1 (4) delegate their authority to members of their respective
2 project and contractual staffs to fulfill their obligations as
3 specified above and elsewhere in this Order; and (5) make or
4 authorize modifications in all technical and procedural documents
5 submitted pursuant to Clause V of this Order, which are necessary
6 to the successful completion of the project. Any such
7 modifications shall be approved orally by both project managers.
8 Within seventy-two (72) hours following any modification, the
9 project manager who requested the modification shall prepare a
10 memorandum detailing the modification and shall provide or mail a
11 copy of the memorandum to the other project manager.

12 To the maximum extent possible, communications between
13 Spokane County and Ecology, and all documents and other corres-
14 pondence concerning the activities performed pursuant to the
15 terms and conditions of this Order, shall be directed through the
16 project managers. The Ecology project manager, Marsha A. Beery,
17 will be Ecology's designated representative at the Site who has
18 final approval authority by signature. Spokane County's project
19 manager is William Dobratz. Either party may change their
20 respective project manager by notifying the other party, in
21 writing, at least ten (10) days prior to the change.

22 VIII.

23 ACCESS

24 Ecology or any state-authorized representative shall have
25 the authority to enter and freely move about all property at the
26 Site at all reasonable times for the purposes of, among other

1 things, inspecting records, operation logs, and contracts related
2 to the Site; reviewing the progress in carrying out the terms of
3 this Consent Order; conducting such tests as the state or the
4 project coordinator may deem necessary; using a camera, sound
5 recording, or other documentary-type equipment; and verifying the
6 data submitted to Ecology by Spokane County. Spokane County
7 shall permit such persons to inspect and copy all records, files,
8 photographs, documents, and other writings, including all
9 sampling and monitoring data, in any way pertaining to work
10 undertaken pursuant to this Consent Order within its control or
11 possession.

12 To the extent that access to or easements over the Site or
13 property other than the Site is not authorized by this Order or
14 is not otherwise available to the state, the responsible party,
15 Spokane County, shall use their best efforts to obtain the access
16 or easements to effect the purpose of this Consent Order. If
17 Spokane County is unable to obtain access or easements under
18 reasonable terms and conditions, including costs, then Spokane
19 County shall provide assistance, consistent with their authority,
20 including but not limited to, any authority under its eminent
21 domain powers as provided in chapter 8.08 RCW to gain access to
22 or easements over such property for the purposes of accomplishing
23 the requirements of this Order.

1 IX.

2 PERFORMANCE

3 All work performed pursuant to this Order shall be under the
4 direction and supervision of a qualified professional scientist
5 or licensed engineer with experience in hazardous substance
6 release response actions. Spokane County shall notify Ecology as
7 to such qualified individuals, and of any contractors and
8 subcontractors, to be employed in carrying out the terms of this
9 Order in advance of their involvement at the Site.

10 X.

11 SAMPLING AND DATA AVAILABILITY

12 Spokane County shall make the results of all sampling and
13 testing, and all other data generated by Spokane County or on
14 Spokane County's behalf with respect to the implementation of
15 this Order, available to Ecology and shall submit these results
16 in progress reports as described in Clause XI of this Order.
17 Ecology will make available to Spokane County the results of any
18 sampling and testing, and other data similarly generated by
19 Ecology or on Ecology's behalf. Each party shall conduct all
20 sampling consistent with the quality assurance protection plan
21 for the site.

22 Each party to this Order, at the request of the other party,
23 shall allow split or replicate samples to be taken, by the
24 requesting party and/or its contractor or consultant, of any
25 samples collected pursuant to the implementation of this Order.
26 Each party shall notify the other party not less than five

1 (5) days in advance of any sample collection activity. A summary
2 of all analytical results from sampling and testing performed
3 pursuant to this Order shall also be included in these progress
4 reports.

5 XI.

6 PROGRESS REPORTS

7 Spokane County shall submit to Ecology written monthly
8 progress reports which describe the actions Spokane County has
9 taken during the previous month to implement the requirements of
10 this Order. In addition, progress reports shall also describe
11 the activities scheduled to be undertaken during the next month.
12 All progress reports shall be submitted by the tenth (10th) day
13 of each month after the effective date of this Order. The
14 progress reports shall include a detailed statement of the manner
15 and extent to which the requirement and time schedules set out in
16 the Order are being met. Progress reports and any other
17 documents submitted pursuant to this Consent Order shall be
18 addressed to:

19 Marsha A. Beery, Project Manager
20 Washington State Department of Ecology
21 Hazardous Waste Cleanup Program
22 Mail Stop PV-11
23 Olympia, Washington 98504-8711

24 Ecology shall submit to the county project manager any comments
25 to the progress reports within thirty (30) days of the receipt of
26 said report.

XII.

RECOVERY OF EXPENSES

1
2
3 A. Spokane County agrees to reimburse the General Fund of
4 the Treasury of the State of Washington for reasonable and
5 appropriate costs associated with Ecology activities at the Site
6 conducted during the implementation of this Order. Within ninety
7 (90) days of the end of each fiscal quarter, Ecology will submit
8 to Spokane County an itemized statement of Ecology's expenses for
9 the previous quarter. Following receipt of the itemized
10 statement, Spokane County shall pay, within ninety (90) days, in
11 to the General Fund of the Treasury of the State of Washington,
12 the required sum which shall not exceed a total of 12 percent of
13 Spokane County's contractual costs incurred in relation to
14 fulfill this Order.

15 B. Spokane County agrees to reimburse the General Fund of
16 the Treasury of the State of Washington for all reasonable and
17 appropriate costs associated with Ecology's response activities
18 at the Site conducted prior to the implementation of this Order.
19 Ecology will submit to Spokane County an itemized statement of
20 Ecology's expenses incurred prior to the implementation of this
21 Order. Within 90 days after receipt of Ecology's itemized state-
22 ment Spokane County shall pay, into the General Fund of the
23 Treasury of the State of Washington, the required sum.

24 C. This Order shall not be construed in any way as a
25 waiver of Ecology's or Spokane County's right to seek reimburse-
26 ment from any responsible party, including entities not a signa-

1 tory to this Order, for recovery of response costs incurred by
2 Ecology or Spokane County in conjunction with activities con-
3 ducted at the Site.

4 D. The initial payments pursuant to this Clause are not
5 due until July 1, 1988.

6 XIII.

7 RESOLUTION OF DISPUTES

8 Spokane County does not object to the Scope of Order clause
9 (Clause V). If Spokane County objects to any subsequent Ecology
10 action or decision not otherwise provided for herein, Spokane
11 County shall notify Ecology in writing of its objections within
12 fourteen (14) days from receipt of such notice. Thereafter, the
13 parties shall confer in an effort to resolve the dispute. If
14 agreement cannot be reached on the dispute within fourteen (14)
15 days after receipt by Ecology of such objections, Ecology shall
16 promptly provide a written statement of its decision to Spokane
17 County.

18 Any decision of Ecology pursuant to this dispute resolution
19 procedure, including penalties assessed for violations of this
20 order, shall be appealable to a tribunal of competent jurisdic-
21 tion for appropriate relief. Either party may apply to a tri-
22 bunal of competent jurisdiction for appropriate relief under this
23 clause or to enforce the terms of this Order.

1 should proceed with implementation of the Order or whether the
2 work stoppage should be continued until the danger is abated.
3 Spokane County shall notify either Ecology field personnel
4 on-site or the project manager as soon as is possible but no
5 later than twenty-four (24) hours after such stoppage and provide
6 Ecology with documentation of its analysis in reaching this
7 determination. If Ecology disagrees with such determination, it
8 may order Spokane County to resume implementation of this Order.
9 If Ecology concurs in the work stoppage, the obligations of
10 Spokane County shall be suspended and the time period for
11 performance of that work, as well as the time period for any
12 other work dependent upon the work which was stopped, shall be
13 extended, pursuant to the Extensions of Schedule clause of this
14 Order, for such period of time as Ecology determines is
15 reasonable under the circumstances. Any disagreements pursuant
16 to this clause shall be resolved through the Resolution of
17 Disputes clause.

18 XV.

19 EXTENSIONS OF SCHEDULES

20 A. Extensions of time schedules shall be granted only when
21 requests for such extensions are submitted fourteen (14) days
22 prior to deadline date and good cause exists for granting the
23 extension. Good cause shall mean reasons acceptable to a reason-
24 ably prudent county under the same or similar circumstances. All
25 extensions shall be requested in writing. The request shall
26 specify the reason(s) the extension is needed. Extensions shall

1 only be granted for such period of time as Ecology determines is
2 reasonable under the circumstances. A requested extension shall
3 not be effective until approved by Ecology in writing.

4 B. The burden shall be on Spokane County to demonstrate to
5 the satisfaction of Ecology that the request for the extension
6 has been submitted in a timely fashion and that good cause exists
7 for granting the extension. Good cause may include, but not be
8 limited to, the following:

9 (1) Circumstances beyond the reasonable control and despite
10 the due diligence of Spokane County, including delays caused by
11 Ecology. Ecology review periods in excess of thirty (30) days
12 will be regarded as delays caused by Ecology.

13 (2) Delays which are directly attributable to any changes
14 in permit terms or conditions or refusal to grant a permit needed
15 to implement the requirements of this Order if the responsible
16 party has filed a timely application for the necessary permit;
17 and

18 (3) Act of God, fire, flood, blizzard, weather extremes
19 which prevent reasonable performance of scheduled activities.

20 However, neither increased costs of performance of the terms
21 of this Order nor changed economic circumstances may be consid-
22 ered circumstances beyond the reasonable control of Spokane
23 County.

24 C. Ecology may extend the time schedules contained in this
25 Order for a period not to exceed ninety (90) days only, except if
26

1 an extension is needed as a result of: (1) delays in the issu-
2 ance of a necessary permit which was timely applied for, or
3 (2) judicial review of the issuance, non-issuance, or reissuance
4 of a necessary permit, or (3) other circumstances deemed excep-
5 tional or extraordinary by Ecology, or (4) changes in work plans.

6 D. Only one request for extension of the time schedule for
7 the same reason on any particular item shall be considered in
8 good faith, except for permits issued by Ecology.

9 XVI.

10 AMENDMENTS

11 A. Consent Order. This Order may only be amended by a
12 written agreement between Spokane County and Ecology. Such
13 amendment shall become effective upon signature of Ecology's
14 Hazardous Waste Cleanup Program Manager and Spokane County.

15 B. Hazardous Substance Response Program. Spokane County
16 shall submit any request for amendment of the hazardous substance
17 response program to Ecology's Project Manager for approval.
18 Ecology shall indicate its approval or disapproval of such
19 request within ten (10) days after the request for amendment is
20 received. Any such disapproval shall state reasons for the
21 disapproval.

22 No guidance, suggestions, or comments by Ecology will be
23 construed as relieving Spokane County of its obligation to obtain
24 formal approval as may be required by this Order. No verbal
25 communication by Ecology shall relieve Spokane County of the
26 obligations specified herein.

1 XVII.

2 PENALTIES

3 Spokane County understands that according to RCW 90.48.144,
4 Spokane County can incur a penalty of up to \$10,000 per day for
5 violations of this Order, or for violations of Ch. 90.48 RCW.

6 The state recognizes that Spokane County does not waive any
7 right it may have to assert legitimate defense(s), including a
8 statute of limitations defense, in a penalty proceeding brought
9 to enforce the provisions of chapter 90.48 RCW.

10 XVIII.

11 INDEMNIFICATION

12 Spokane County agrees to indemnify and save and hold
13 Ecology, its agents, employees, and contractors, harmless from
14 any and all claims or causes of action arising from, or on
15 account of, acts or omissions of Spokane County, its officers,
16 employees, agents, or contractors in entering into and
17 implementing this Order; provided, however, that Spokane County
18 shall not indemnify Ecology, nor save nor hold its employees,
19 contractors, and agents, harmless from any claims or causes of
20 action arising out of the acts or omissions of Ecology, or the
21 employees, and contractors, and agents of Ecology, in
22 implementing the activities pursuant to this Order.

23 XIX.

24 OTHER ACTIONS

25 In the event that Spokane County fails to adhere to any
26 requirement of this Order; or, notwithstanding compliance with

1 the terms of this Order, upon the occurrence or discovery of a
2 situation to which Ecology would be empowered to take any further
3 response measure including but not limited to removal action; or
4 in the event of a release or threatened release not addressed by
5 this Order; or upon the determination that action beyond the
6 terms of this Order is necessary to abate, control, or mitigate
7 an imminent and substantial endangerment to the public health,
8 welfare or the environment that may be posed by this facility; or
9 under any other circumstances authorized by law, Ecology may,
10 after notice to Spokane County, institute response measures and
11 subsequently pursue cost recovery action available, and/or
12 Ecology may issue orders to Spokane County pursuant to available
13 statutory authority.

14 XX.

15 OTHER CLAIMS

16 Nothing herein is intended to release any claims, causes of
17 action or demands in law or equity by any party against any
18 person, entity, firm, partnership or corporation not a signatory
19 to this Order for any liability arising out of, or relating in
20 any way to, the disposal of waste at, or the release of any
21 substance at, to, or from the Greenacres Landfill.

22 XXI.

23 COVENANT NOT TO SUE

24 In consideration for Spokane County's performance of the
25 terms and conditions of this Order, Ecology agrees that during
26 the period of performance of the terms and conditions of this

1 Order compliance with this Order shall stand in lieu of any and
2 all administrative, legal, and equitable remedies available to
3 Ecology to respond to any release or threatened release of
4 hazardous substances at the Site.

5 Nothing in this Order shall preclude Ecology from exercising
6 any administrative, legal, or equitable remedies available to it
7 to require, during the time period covered by this Order, addi-
8 tional actions by Spokane County to be taken to remedy the follow-
9 ing circumstances: (1) the presence of hazardous substances not
10 evident on the effective date of this Order; or (2) a threat or
11 potential threat to the public health or welfare or the environ-
12 ment not evident on the effective date of this Order.

13 Ecology reserves the right to bring an action against
14 Spokane County pursuant to all applicable federal and state law
15 for recovery of all response costs, other than those covered by
16 Part XX of this Order, incurred by Ecology in responding to the
17 presence of hazardous substances not evident on the effective
18 date of this Order; and in responding to a threat or potential
19 threat to the public health or welfare or the environment not
20 evident on the effective date of this Order; and in the event
21 that Spokane County fails to adhere to any requirement of this
22 Order; and for activities not covered by implementation of this
23 Order. Spokane County reserves all rights to contest any claims
24 made by Ecology regarding (1) the presence of hazardous
25 substances not evident on the effective date of this Order or
26

1 (2) a threat or potential threat to the public health or welfare
2 or the environment not evident on the effective date of this
3 Order.

4 Nothing in this Order shall preclude Ecology from asserting
5 a cross-claim, third-party claim, counterclaim or contribution
6 claim against Spokane County in the event that Ecology is sued
7 over any matter related to the Site.

8 Nothing herein shall waive Ecology's right to enforce this
9 Order under chapter 90.48 RCW or any and all other applicable
10 state and federal laws, or to take any action authorized by
11 chapter 90.48 RCW or any and all other applicable state and
12 federal laws should Spokane County fail to maintain compliance
13 with this Order.

14 Nothing herein shall waive Ecology's right to act under
15 chapter 90.48 RCW or any other applicable state and federal law
16 or to take action against Spokane County pursuant to state or
17 federal law for environmental problems which arise outside the
18 scope of this Order.

19 State law shall govern and control the interpretation of
20 this Order.

21 XXII.

22 COMPLIANCE WITH APPLICABLE LAWS

23 All actions carried out by Spokane County pursuant to this
24 Order shall be done in accordance with all applicable federal,
25 state, and local requirements, including requirements to obtain
26 necessary permits.

1 XXIII.

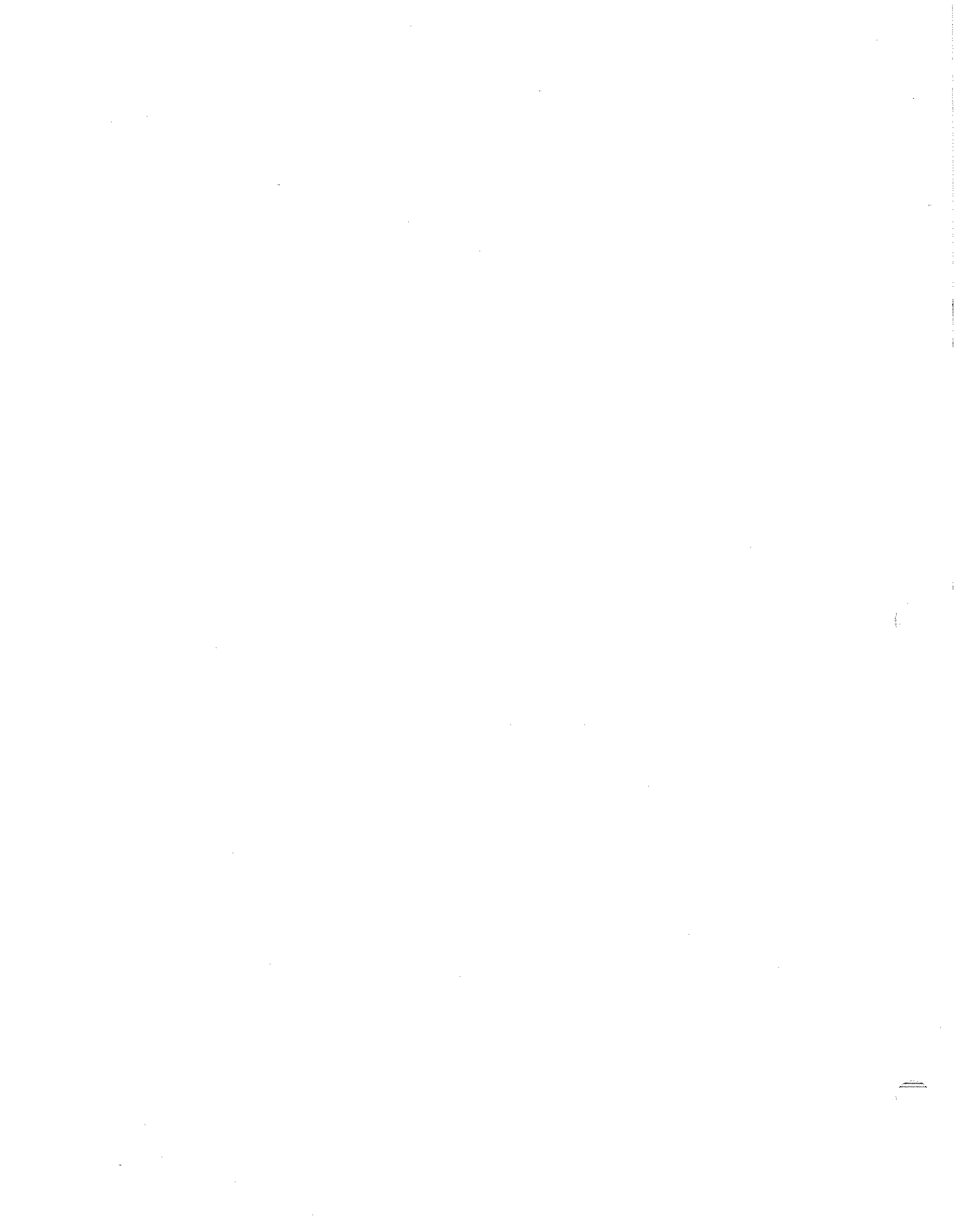
2 NO ADMISSION OF LIABILITY

3 The County, in entering into this Consent Decree, does not
4 admit, accept, or intend to acknowledge any liability or fault
5 with respect to any matters arising out of or relating to this
6 Order, nor to a violation of any law. The County does not
7 contest Ecology's authority or jurisdiction to issue and enforce
8 this Order. However, by not contesting any factual or legal
9 findings, conclusions, or determinations made by Ecology, the
10 County does not admit the same.

11 The County reserves the rights and defenses which it may
12 have regarding liability or responsibility in any subsequent
13 proceedings.

14 Ecology and the County agree this Order is intended to be
15 used by the signatory parties for the purposes set forth herein
16 only and is not intended to be used by a non-party for the
17 purpose of establishing fault or liability on the part of any
18 party.

19 Nothing in this Order shall be construed as preventing the
20 County from exercising its rights under 42 U.S.C. § 9613(f) to
21 seek contribution under the Uniform Contribution Among
22 Tortfeasors Act, any other applicable law, or from any person who
23 is liable or potentially liable under 42 U.S.C. § 9606 or 42
24 U.S.C. § 9607 or to seek indemnification from any person other
25 than the Fund.



1 XXIV.

2 EFFECTIVE DATE

3 This Order is effective upon the date that Ecology executes
4 this Order.

5 By their signatures hereon, the undersigned represent that
6 they have authority to bind the parties they represent.

7
8 FOR SPOKANE COUNTY

9
10 BY _____ Date _____
11 F. Keith Shepard
12 Chairman of the Board
13 Spokane County Commissioners

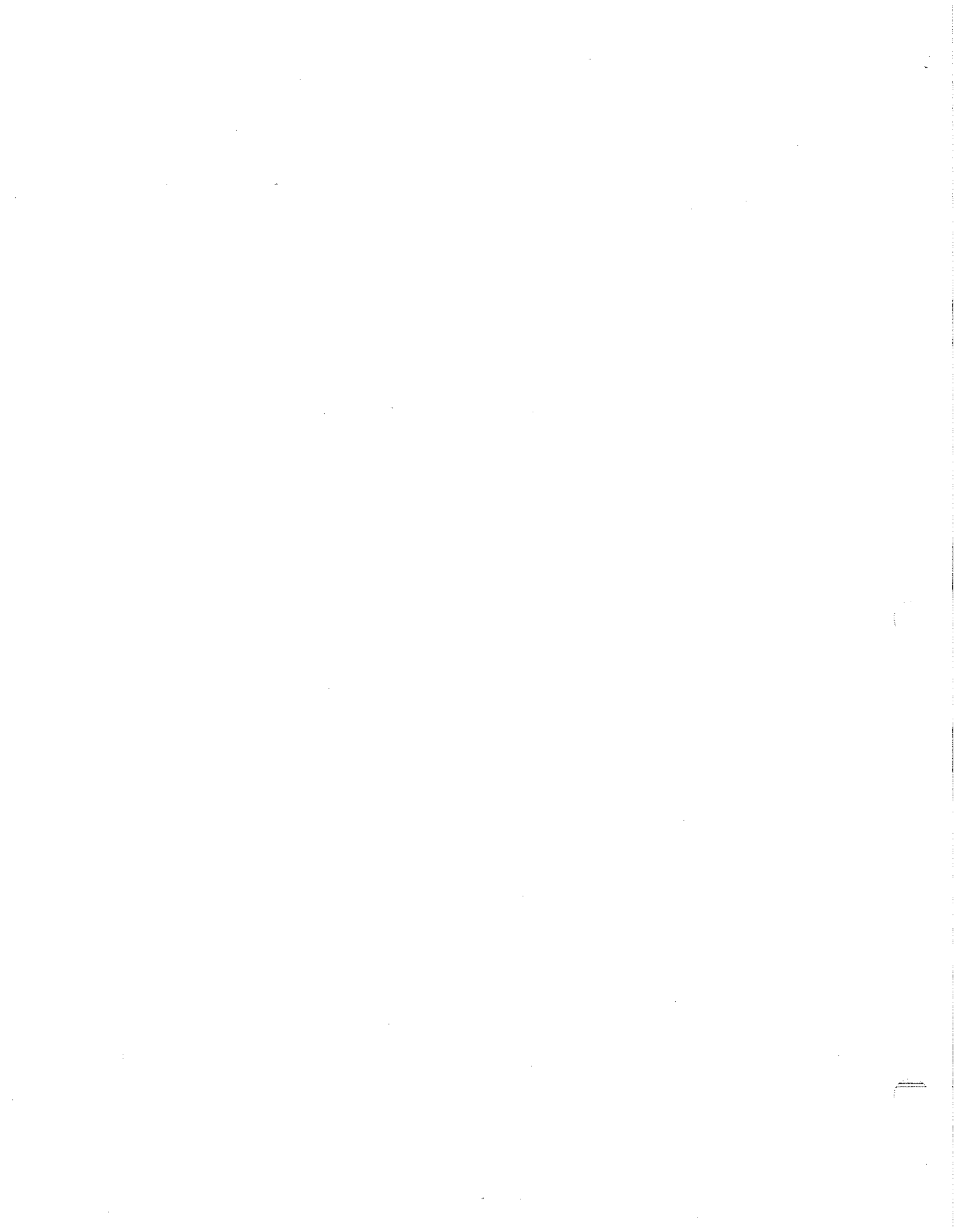
14 BY _____ Date _____
15 John R. McBride
16 Spokane County Commissioner

17 BY _____ Date _____
18 Patricia A. Mumme
19 Spokane County Commissioner

20 ATTEST: _____ Date _____
21 Clerk of the Board

22 FOR STATE OF WASHINGTON
23 DEPARTMENT OF ECOLOGY

24 BY _____ Date _____
25 John D. Littler
26 Program Manager
27 Hazardous Waste Cleanup Program



1 XXIV.

2 EFFECTIVE DATE

3 This Order is effective upon the date that Ecology executes
4 this Order.

5 By their signatures hereon, the undersigned represent that
6 they have authority to bind the parties they represent.

7
8 FOR SPOKANE COUNTY

9
10 BY *F. Keith Shepard*
11 F. Keith Shepard
12 Chairman of the Board
13 Spokane County Commissioners

SEP 22 1987
Date

14 BY *John R. McBride*
15 John R. McBride
16 Spokane County Commissioner

SEP 22 1987
Date

17 BY _____
18 Patricia A. Mummey
19 Spokane County Commissioner

SEP 22 1987
Date

20 ATTEST: *Loraine Gortner*
21 Clerk of the Board

SEP 22 1987
Date

22 FOR STATE OF WASHINGTON
23 DEPARTMENT OF ECOLOGY

24 BY _____
25 John D. Littler
26 Program Manager
27 Hazardous Waste Cleanup Program

Date