

In the Matter of Remedial Action by:

AGREED ORDER

and

AND TO: CASCADE POLE COMPANY
P. O. Box 1496
Tacoma, WA 98401-1496

This Agreed Order ("Order") is issued pursuant to the authority of Sec. 5(1) of the Model Toxics Control Act (Initiative 97).

Ecology makes the following Findings of Fact without admission of any such facts by McFarland Cascade Holdings, Inc., or Cascade Pole Company.

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Waterway at 2502 Marine View Drive; Tacoma, Washington ("Cascade Timber No. 1 site" or "the site"). The site was formerly owned by Cascade Pole Company who leased it to unrelated Cascade Timber Company from 1977 to 1981, who used the property as a log sort yard. Cascade Pole Company transferred the property to MCHI in 1986.

2. Slag, a sandlike material produced at the ASARCO facility in Tacoma, Washington, was placed on the Cascade Timber No. 1 site as ballast.

3. The Department of Ecology ("Ecology") conducted a surface water investigation at the Cascade Timber No. 1 site between November 1983 and June 1984. The study found elevated levels of several metals in surface water runoff from the site which discharged to the Hylebos waterway. Metals included arsenic, copper, lead, and zinc which were found at concentrations as high as 7280, 695, 710, and 3000 ppb, respectively. Marine acute ambient water quality criteria for arsenic (trivalent), copper, lead, and zinc are 69, 3, 140, and 95 ppb, respectively. The study concluded that the arsenic, copper, lead and zinc in runoff from the log sort yards studied were primarily from the slag present on the yards. (Norton, D. and Johnson, A. 1985. Completion Report on WQIS Project 1 for the Commencement Bay Nearshore/Tideflats Remedial Investigation; Assessment of Log Sort Yards as Sources of Metals to Commencement Bay

Waterways. Washington Department of Ecology Memorandum, Olympia, Washington.)

4. Further investigation conducted by MCHI's contractor, Applied Geotechnology, Inc., found arsenic, copper, lead, and zinc at concentrations up to 1200, 2600, 15, and 6200 ppb, respectively, in surface water on site. (Applied Geotechnology, Inc. 1988. Surface Water Investigation Cascade Timber Yard 1, Tacoma, Washington, Bellevue, Washington).

5. Between August 1986 and April 1987, the U.S. Environmental Protection Agency's contractor, Ecology and Environment, Inc., conducted a site inspection of the Cascade Timber No. 1 site. The inspection involved installation and sampling of four groundwater monitoring wells on the site. One well was sampled on three occasions and the remaining three wells were sampled once. Results from this limited groundwater investigation showed that concentrations of metals in filtered groundwater samples were generally low. However, lead was measured on two occasions in one well at concentrations up to 1407 ppb. Lead was undetected in samples from the other three wells. Zinc was detected in samples from two wells at concentrations up to 152 ppb. Zinc was undetected in samples from the other two wells. (Ecology and Environment, Inc. 1987. Site Inspection Report for Commencement Bay

Nearshore/Tideflats, Tacoma, Washington. Volumes 1 and 2. TDD F10-8612-12. Seattle, Washington.)

III. ECOLOGY DETERMINATIONS

1. The Cascade Timber No. 1 site is a "facility" as defined in the Model Toxics Control Act ("MTCA").

2. MCHI is an "owner or operator" as defined in the MTCA.

3. Cascade Pole Company owned the site at a time of disposal or release of hazardous substance(s).

4. The arsenic, copper, lead, and zinc found in surface water at the Cascade Timber No. 1 site are "hazardous substances" as defined in the MTCA.

5. The presence of arsenic, copper, lead, and zinc in the surface water at the facility constitutes a "release" as defined in the MTCA.

6. By letter of October 21, 1989, MCHI voluntarily waived its rights to notice and comment and accepted Ecology's determination of the status of MCHI as a "potentially liable person" under Section 4 of the MTCA. By letters of June 30, 1989, Ecology notified McFarland Cascade, Cascade Timber Company, and Cascade Pole Company, of their status as "potentially liable persons" under Section 4 of the MTCA, after notice and opportunity for comment.

7. Pursuant to Sec. 3(1) and Sec. 5 of the MTCA, Ecology may require MCHI and Cascade Pole Company ("the parties") to investigate or conduct remedial actions with respect to the release or threatened release of hazardous substances.

Based on the foregoing facts and in the best interests of the public, Ecology has determined that the parties must take remedial actions, as set forth below, on the Cascade Timber No. 1 site.

IV. ORDER

Based on the foregoing Facts and Determinations, it is hereby Ordered and Agreed that the parties take the remedial actions set forth below and as described in the work plan included in this Order as Attachment A. Attachment A is incorporated by this reference and also includes the schedule for activities.

1. Submit Health and Safety and Quality Assurance Project Plans.

2. Conduct trimesterly groundwater monitoring rounds of sampling of the four wells existing on-site. The parties shall conduct at least two of the trimesterly rounds of sampling but after the two required rounds of sampling, the monitoring shall not be required beyond the shorter of either the duration of this Order or one year.

3. Sample on-site soils to assess vertical extent and magnitude of soil contamination associated with the slag present on-site. In addition, evaluate the lateral extent of soil contamination on-site and conduct designation procedures on contaminated materials (soil and slag) in accordance with Chapter 173-303 WAC.

4. Submit a state remedial investigation which incorporates and summarizes the previous investigations on the site.

5. Submit a draft state feasibility study of site cleanup alternatives for Ecology approval. A final, approvable feasibility study which addresses Ecology's comments shall be submitted within 30 days after receipt of Ecology's comments on the draft document.

6. Completion of the requirements of this order is a temporary measure designed to meet immediate demands. A proposal for a cleanup action plan will be submitted to Ecology by the parties subsequent to Ecology's approval of the parties' feasibility study.

V. TERMS AND CONDITIONS OF ORDER

Public Notices. 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, after notification of the

parties, should public comment disclose facts or considerations which indicate to Ecology that the order is inadequate or improper in any respect.

Remedial Action Costs. The parties agree to pay to Ecology costs of direct activities, employee benefit package, and agency indirect costs of direct activities incurred by Ecology pursuant to this Agreed Order. These costs shall include work performed for investigations, remedial actions, and order preparation, negotiations, and administration. These costs will be no greater than \$5,000 per quarter. The parties agree to pay the required amount within 30 days of receiving from Ecology quarterly bills that describe the action taken, identify the staff member, and list the amount of time per activity. Payments shall be made payable to the State of Washington Toxic Control Account.

Designated Project Coordinators. The project coordinator for Ecology is:

Megan White
7272 Cleanwater Lane
Mailstop: LU-11
Olympia, WA 98504-6811

The project coordinator for the parties is:

Les D. Lonning
McFarland Cascade
P. O. Box 1496
Tacoma, WA 98401

The project coordinator(s) shall be responsible for overseeing the implementation of this Order. To the maximum extent possible, communications between Ecology and the parties, 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 coordinator(s). Should Ecology or the parties change project coordinator(s), written notification shall be provided to Ecology or the parties at least ten (10) calendar days prior to the change.

Performance. All work performed pursuant to this Order shall be under the direction and supervision, as necessary, of a professional engineer or certified hydrogeologist, or similar expert, with experience and expertise in hazardous waste site investigation and cleanup. The parties shall notify Ecology as to the identity of such engineer(s) or hydrogeologist(s), and of any contractors and subcontractors to be used in carrying out the terms of this Order, in advance of their involvement at the site. Selection of such person or contractor shall be subject to Ecology approval, but Ecology approval shall in no way make Ecology a party to or in any other way liable for the contract between the parties and such person or contractor.

Access. Ecology or any Ecology authorized representative shall have the authority to enter and freely

move about the site at all reasonable times for the purposes of, inter alia: inspecting records, operation logs, and contracts related to the work being performed pursuant to this Order; reviewing the progress in carrying out the terms of this Order; conducting such tests or collecting samples as Ecology or the project coordinator may deem necessary; using a camera, sound recording, or other documentary type equipment to record work done pursuant to this Order; and verifying the data submitted to Ecology by the parties. Ecology shall provide reasonable notice before entering property unless an emergency prevents notice. Ecology shall split any samples taken during an inspection unless the parties fail to make available a representative for the purpose of splitting samples.

Retention of Records. The parties shall preserve in a readily retrievable fashion, during the pendency of this Order and for ten (10) years from the date of completion of the work performed pursuant to this Order, all records, reports, documents, and underlying data in its possession relevant to this Order. Should any portion of the work performed hereunder be undertaken through contractors or agents of the parties, then the parties agree to include in their contract with such contractors or agents a record retention requirement meeting the terms of this paragraph.

Dispute Resolution. The parties may request Ecology to resolve disputes which may arise during the implementation of this Order. Such request shall be in writing and directed to the signatory of the Order who may consult with the program manager. Ecology resolution of the dispute shall be binding and final. The parties are not relieved of any requirement of this Order during the pendency of the dispute and remain responsible for timely compliance with the terms of the Order unless otherwise provided by Ecology in writing.

Reservation of Rights/No Settlement. This Agreed Order is not a settlement under the MTCA. Ecology's signature on this Order in no way constitutes a covenant not to sue or a compromise of any Ecology rights or authority except that Ecology will not bring an action against the parties to recover remedial action costs paid to and received by Ecology under this Agreed Order. Ecology reserves the right to take any enforcement action it deems appropriate in addition to this Order to address the release of hazardous substances at the Cascade Timber No. 1 site.

Ecology reserves all rights to issue additional orders or take any action authorized by law in the event or upon the discovery of a release or threatened release of hazardous substances not addressed by this Order or upon

discovery of any factors not known at the time of issuance of this Order or in order to abate an emergency.

In the event Ecology determines that activities pursuant to this Order are creating or have the potential to create a danger to the health or welfare of the people on the site or in the surrounding area or to the condition of the environment, Ecology may order the parties to stop further implementation of this Order for such period of time as needed to abate the danger.

By entering into this Agreed Order, the parties agree to perform the tasks required by this Agreed Order and not to contest state jurisdiction over the site. However, the parties enter into this Agreed Order making no admission of liabilities, violations of law, or factual or legal determinations.

Compliance with Other Applicable Laws. All actions carried out by the parties pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements.

Modification. Ecology and the parties may modify this Order by mutual written agreement.

VI. SATISFACTION OF THIS ORDER

The provisions of this Order shall be deemed satisfied upon the parties' receipt of written notice from Ecology that the program outlined in this Order, as amended by any

modifications made pursuant to Part V above of this Order, has been completed.

VII. ENFORCEMENT

In the event the parties refuse, without sufficient cause, to comply with any term of this Order, this Order may be enforced as follows:

1. The Attorney General may bring an action to enforce this Order in state court.
2. In any such action, the parties 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.
3. Additionally, in any such action, the parties may be liable for civil penalties of up to \$25,000 per day for each day they refuse to comply.
4. 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.
5. This Order is not appealable to the Pollution Control Hearings Board.

Effective date of this Order: NOVEMBER 6, 1989

McFARLAND CASCADE HOLDINGS,
INC.

By B. Corry McFarland
B. Corry McFarland
Its President

CASCADE POLE COMPANY

By B. Corry McFarland
B. Corry McFarland
Its President

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

By Michael A. Wilson
Michael A. Wilson
Southwest Region Supervisor
Hazardous Waste
Investigations & Cleanup

Attachment A

WORK PLAN

Purpose:

The purpose of the proposed work is to complete the evaluation of the nature and extent of possible site contamination and evaluate remedial alternatives. The following tasks will complete the work necessary for selection of the remedial action.

The work will be conducted in general accordance with the Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA, Interim Final, October 1988 OSWER 9355.301, and Washington Model Toxics Control Act, Initiative 97.

TASK 1 -- Health and Safety Plan.

A site-specific Health and Safety Plan will be prepared. The plan will include a detailed site description and map, and summarize the results of previous sampling activities. The Health and Safety Plan will be prepared in general accordance with EPA's Guidance on Remedial Investigations under CERCLA (June 1985), Standard Operating Safety Guides (November 1984), and the Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities (NIOSH/OSHA/USCG/USEPA, October 1985), and with 29 CFR Part 1910, Hazardous Waste Operations Occupational Safety and Health Standards. Specifically, the plan will include the following elements:

- Site Description
- Application of the Plan
- Work Activities
- Hazard Assessment
- General Safety Directives
- Site-Specific Safety Directives
- Personnel Protection
- Monitoring Requirements
- Authorized Personnel/Team Member Responsibilities
- Decontamination Procedures
- Emergency/Accident Information
- Maps: Site Location, Hospital

Quality Assurance Project Plan (QAPP). A Quality Assurance Project Plan will be developed so that the entire project and its individual components are conducted in a technically correct and defensible manner. The Plan will encompass the review of the existing data, field program development and implementation, sampling techniques, instrument calibration, laboratory analysis, and data interpretation.

The Health and Safety Plan and QAPP will be submitted to Ecology for review within 15 days of the effective date of the Agreed Order. The Health and Safety Plan and QAPP will be revised and submitted to Ecology within 10 days of receipt of Ecology's comments, if any.

TASK 2 -- Groundwater Monitoring.

Four groundwater monitoring wells were installed and sampled by the EPA contractor, Ecology & Environment, Inc. (EEI), in 1986. Two sets of groundwater samples from these wells were collected and analyzed. Samples were analyzed for Target Compound List (TCL) organics, and dissolved and total TCL metals. Arsenic, cadmium, copper, lead and zinc were detected in all unfiltered samples and in some filtered samples. Butylbenzylphthalate, a common plasticizer, was the only organic detected in groundwater.

Under the proposed work, the wells will be used to measure present groundwater conditions. Water levels in all wells will be measured during each site visit during the investigation. Water levels will be measured to the nearest 0.01 foot using a calibrated water level sounder.

Additional groundwater sampling will be conducted on a trimesterly basis for at least two rounds of sampling, and thereafter for the shorter of either one year or the duration of this Agreed Order. Each sampling round will include analyses for both total and dissolved metal concentrations. The first round will include all priority pollutant metals and the second round will include selected metals based on the results of the first analyses. One groundwater sample (well EE15) will be analyzed for priority pollutant organics (excluding pesticides and polychlorinated biphenyls). Appropriate field duplicates and equipments rinsates will be collected as specified in the QAPP and in accordance with EPA's Groundwater Monitoring Technical Enforcement Guidance Document, Sept. 1986. Groundwater samples will be submitted to Analytical Technologies Inc. (ATI) of Renton, Washington, an EPA Contract Laboratory Program (CLP) participant.

The groundwater monitoring will be conducted within 15 days of final Ecology approval of the QAPP. Ecology will be notified five days prior to sampling. The results will be submitted to Ecology as part of the feasibility study required by Task 5 of work Plan.

TASK 3 -- Soil Contamination.

The extent and magnitude of arsenic contamination associated with slag will be assessed by collecting soil samples from five (5) test pits at selected locations across the site. These soil samples will be collected at approximately the following intervals: 0.5, 1.5, and 3 feet below ground surface. These samples

will be submitted to ATI for analysis for total arsenic. All concentrations will be referenced on dry soil weight basis.

Surface soil sampling will be conducted at not more than 20 locations based on an approximately 100- by 150-foot grid. Two samples will be analyzed for priority pollutant metals, two samples will be analyzed for arsenic, copper, lead and zinc, and the remaining samples for arsenic.

Representative samples of slag from the site will be collected for analysis. The purpose of the analysis is to determine if the slag were a solid waste whether it could be designated a dangerous waste under Ch. 173-303 WAC. The dangerous waste designation typically includes assessing the ignitability, corrosivity and reactivity, and EP toxicity of the waste. Due to the nature of the slag, ignitability, corrosivity and reactivity will not be evaluated. Slag and representative samples of soil/slag/bark mixture will be characterized using the Extraction Procedure Test Methods, 1981. These results will be compared to the EP Toxicity List in WAC-173-303-090.

The results of Tasks 2 and 3 will be included in the State Feasibility Study Report required by Task 5 of this work Plan.

TASK 4 -- State Remedial Investigation.

A state Remedial Investigation Report (RI) will be prepared which summarizes all of the data collected to date for the site. The draft state RI will be forwarded to Ecology within thirty (30) days of the effective date of this Agreed Order. A final state RI will be submitted no later than 30 days after receipt of Ecology's comments, if any, on the draft state RI. The report will summarize findings at the Cascade Timber No. 1 site. The RI report will only include data collected to date and not the data collected under Tasks 2 and 3 of this work Plan.

TASK 5 -- State Feasibility Study.

Data collected under Tasks 2 and 3 will be incorporated into and submitted with a State Feasibility Study Report. The state feasibility study (FS) will evaluate potential remedial alternatives on four technical criteria: (1) technical feasibility; (2) environmental assessment; (3) institutional requirements; and (4) cost analyses. Based on a preliminary screening, the following alternatives will be evaluated: (1) no-action plan; (2) excavation and removal; (3) on-site stabilization via capping; and (4) on-site stabilization via removal and partial capping. These remedial action alternatives will be discussed and evaluated in detail in the state Feasibility Study report.

The draft state FS report will be submitted not later than sixty (60) days after the first round of ground water sampling.

The final state FS will be submitted not later than thirty (30) days after receipt of Ecology's comments, if any, on the draft state FS.

TASK 6 -- Clean-Up Action Plan.

A clean-up action plan will be drafted incorporating the approved remedial alternative, after completion of the final state FS. The clean-up action plan shall set forth the approved alternative, clean-up goals and a time schedule for implementation. The parties anticipate negotiation of a Consent Decree for the clean-up of the site.

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