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DET. J. COLE, CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR THURSTON COUNTY

STATE OF WASHINGTON,  
DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

MOBIL OIL CORPORATION,  
SHELL OIL COMPANY, UNION  
OIL COMPANY OF CALIFORNIA  
d/b/a UNOCAL,

Defendants.

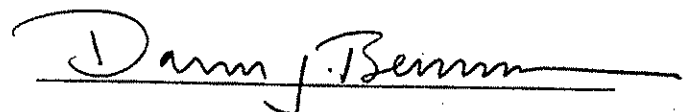
No. 91 2 2012 1

ORDER ENTERING  
CONSENT DECREE

Having reviewed the Consent Decree signed by the parties to this matter, the Joint Motion for Entry of the Consent Decree, the Affidavit of Mary Sue Wilson, and the file herein, it is hereby

ORDERED AND ADJUDGED that the Consent Decree in this matter is Entered and that the Court shall retain jurisdiction over the Consent Decree to enforce its terms.

Signed this 3 day of September, 1991.



Superior Court Judge

DANIEL J. BERSCHAUER

151\mobil.ord

ORDER ENTERING CONSENT DECREE - 1

OFFICE OF THE ATTORNEY GENERAL  
Ecology Division  
4407 Woodview Drive S.E.  
QA-44  
Olympia, WA 98504-8077

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Presented by:

KENNETH O. EIKENBERRY  
Attorney General

*Mary Sue Wilson*  
MARY SUE WILSON  
Assistant Attorney General  
WSBA #19257

ORDER ENTERING CONSENT DECREE - 2

A G # 9113899

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

IN THE MATTER OF:

No. 91 2 02012 1

MOBIL OIL CORPORATION;

SHELL OIL COMPANY;

UNION OIL COMPANY OF

CALIFORNIA d/b/a UNOCAL.

CONSENT DECREE

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4		Exhibit B - CAP (Cleanup Action Plan)	
5		Exhibit C - Right of Entry Agreement	

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1 This Decree is entered into between the Respondents named  
2 herein and the State of Washington, Department of Ecology  
3 (Ecology) pursuant to ch. 70.105D RCW.

#### 4 INTRODUCTION

5 A. In entering into this Consent Decree, the mutual  
6 objective of the Washington State Department of Ecology, and  
7 Mobil Oil Corporation, Shell Oil Company, Union Oil Company of  
8 California dba Unocal, referred to as "Respondents," as  
9 provided in Section II, is to continue a phased approach to  
10 correct certain conditions at the Site commonly known as "D"  
11 Street Petroleum, described in Attachment A to Consent Order  
12 No. 88-S345 (Exhibit A to this Decree). Phase I, which has  
13 been completed, consisted of (a) free product recovery; (b) an  
14 assessment of the nature and extent of the release of  
15 hazardous substances or contaminants at the Site (the Remedial  
16 Investigation or RI) and the nature and extent of the risks or  
17 threats (the Risk Assessment) to human health or welfare or  
18 the environment; (c) evaluation of alternative remedial  
19 solutions (the Feasibility Study or FS) and (d) selection and  
20 preliminary design of a preferred remedial alternative.  
21 Phase I activities were conducted pursuant to Consent Order  
22 No. 88-S345, attached as Exhibit A and incorporated into this  
23 document by this reference. From these documents and studies  
24 Ecology and the Respondents have agreed to a Cleanup Action  
25 Plan (CAP). See WAC 173-340-360(10) and (12). The final

26 **CONSENT DECREE**

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1 phase of site work is to be undertaken in accordance with the  
2 CAP and this Consent Decree and shall consist of:

- 3 (a) Remedial Design (RD); (b) Remedial Action (RA); and  
4 (c) Long Term Monitoring.

5 B. In signing this Decree, the Respondents do not  
6 accept or intend to acknowledge any liability or fault with  
7 respect to any matters arising out of or relating to this  
8 Decree nor to a violation of any law. With the exception of  
9 Ecology's actions to enforce this Decree, this Decree shall  
10 not be proof of liability or an admission of any fact in any  
11 other proceeding.

12 C. In signing this Decree, Ecology and the Respondents  
13 do not intend to discharge nonsettling parties from any  
14 liability they may have with respect to matters covered by  
15 this Decree. Respondents also reserve all rights among  
16 themselves with respect to matters covered by this Decree.  
17 Respondents expressly disclaim the contribution protection of  
18 RCW 70.105D.040(4)(d) as between each of the Respondents, but  
19 not as to non-settling parties. Respondents do agree to the  
20 entry of this Decree and agree not to contest the Court's  
21 authority or jurisdiction to enter and enforce this Decree.  
22 By entering into this Decree, Respondents agree not to  
23 challenge Ecology's authority or jurisdiction to enforce this  
24 Decree, but reserve their rights to challenge Ecology's  
25 interpretation of the requirements of this Decree.

26 CONSENT DECREE

1 D. The scope of this Decree consists of the Remedial  
2 Design, Remedial Actions and Long Term Monitoring as set out  
3 in Section IV, Work to be Performed.

4 E. Therefore, the parties being fully advised and  
5 agreed as to the basis for entry of this Consent Decree, it is  
6 hereby agreed as follows:

7 I. JURISDICTION

8 A. This Consent Decree (Decree) is issued pursuant to  
9 the authority vested in the State of Washington, Department of  
10 Ecology (Ecology) by:

11 Ch. 70.105D RCW, the Model Toxics Control Act.

12 B. Authority is conferred upon the Washington State  
13 Attorney General by RCW 70.105D.040(4)(a) to agree to a  
14 settlement with any potentially liable person if, after public  
15 notice and hearing, Ecology finds the proposed settlement  
16 would lead to a more expeditious cleanup of hazardous  
17 substances in compliance with cleanup standards under RCW  
18 70.105D.030(2)(d). RCW 70.105D.040(4)(b) requires that such a  
19 settlement be entered as a consent decree issued by a court of  
20 competent jurisdiction.

21 C. On the basis of the results of testing and analysis,  
22 and inspection described in the Statement of Facts, infra, and  
23 Ecology files and records, Ecology has determined that there  
24 has been a release of petroleum products at the Site which is  
25 the subject of this Decree, located at Tacoma, Washington, as

26 CONSENT DECREE

1 described below. Ecology contends that the release has caused  
2 ground water and surface water contamination and soil  
3 contamination, which will remain unless the release is abated  
4 or mitigated.

5 D. Subject to paragraph B of the Introduction, the  
6 Respondents are potentially liable parties for the releases,  
7 pursuant to ch. 70.105D RCW, as owning or controlling the  
8 material released and/or as owners and/or operators, or former  
9 owners and/or operators, of the various facilities which  
10 comprise the Site, and are liable pursuant to state law.

11 E. Ecology has given notice to the Respondents as set  
12 forth in RCW 70.105D.020(8) of Ecology's determination that  
13 they are potentially liable persons for the Site and each has  
14 been given notice of the release of hazardous substances at  
15 the Site. None of the three Respondents raised any objections  
16 to their status as PLPs during the comment period.

17 F. The actions to be taken pursuant to this Decree are  
18 reasonable and necessary to protect the human health and/or  
19 welfare and/or the environment and/or in the public interest.

20 G. A reasonable time for beginning and completing the  
21 actions required by this Decree has been provided for.

22 H. The Respondents have agreed to undertake the actions  
23 specified in this Decree.

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1 Respondents shall provide a copy of Exhibit B and  
2 Section IV (Work to be Performed) of this Decree to all  
3 contractors and subcontractors retained by Respondents to  
4 perform work required by this Decree and shall institute their  
5 best efforts to assure that all work undertaken by such  
6 contractors and subcontractors will be in compliance with this  
7 Decree.

### 8 III. STATEMENT OF FACTS

9 Respondents Mobil Oil Corporation, Shell Oil Company, and  
10 Unocal, have operated petroleum bulk storage and distribution  
11 facilities at the "D" Street Site or "the Site." Globe  
12 Machinery Corporation owns and operates a manufacturing  
13 facility on property formerly owned by Shell, located at the  
14 Site. BP Oil purchased the Mobil Oil property in 1989, and  
15 has entered into a private agreement with Mobil, wherein Mobil  
16 will continue to assume liability with respect to site  
17 investigation and cleanup actions related to releases occurring  
18 or commencing prior to the transfer of ownership. The Site is  
19 located within the area bounded by City Waterway and "F"  
20 Street from 3rd Street South to the platted location of 9th  
21 Street as described in Attachment A to Consent Order No. 88-  
22 S345 (Exhibit A). The exact boundary of the Site may be  
23 adjusted by written agreement of the parties during the  
24 conduct of the RD/RA.

25  
26 **CONSENT DECREE**

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1        Seepage of petroleum product from the Site into Thea Foss  
2 Waterway has intermittently been observed by Ecology  
3 inspectors since 1971. Since that time the Respondents have  
4 made and continue to make efforts to rectify the problem  
5 through a number of means, including deployment of retaining  
6 booms in Thea Foss Waterway in front of property owned by  
7 Shell (now Globe) and Unocal; petroleum product removal from  
8 the ground by ground water pumping from extraction wells at  
9 Unocal, Mobil and Shell; petroleum product removal from two  
10 product removal trenches installed on the site parallel with  
11 and adjacent to the Thea Foss Waterway shoreline; a network of  
12 approximately 78 monitoring wells have been installed on the  
13 site. More than 89,000 gallons of petroleum product have been  
14 recovered as of April 30, 1991. However, these efforts have  
15 not resulted in full Site cleanup, although the visible sheen  
16 appearing in Thea Foss Waterway has been eliminated  
17 downgradient of the trench.

18        A study conducted by the Respondents' consultant (Hart-  
19 Crowser Associates) has discovered and mapped a plume of  
20 petroleum product floating on the ground water under the Site.  
21 The Respondents submitted a report to Ecology in March 1987  
22 entitled "Current Situation Report," which maps out the extent  
23 and thickness of the plume of petroleum free product floating  
24 on the ground water in the monitoring wells.

25  
26        **CONSENT DECREE**

1       The presence of petroleum product floating on the ground  
2 water has resulted in the presence of petroleum constituents  
3 dissolved in the ground water, including benzene, toluene,  
4 xylene, polynuclear aromatic hydrocarbons (PNAs) and lead.  
5 These constituents also adhere to the soil on the Site. The  
6 extent of soil and ground water contamination in the upper  
7 sand unit at the Site was fully investigated and characterized  
8 during the RI phase. Further investigation and  
9 characterization of the ground water in the lower sand unit  
10 will occur after the upper sand unit has been sufficiently  
11 remediated to prevent cross-contamination.

12       The presence of petroleum product contamination at the  
13 Site is considered by Ecology to be a "release" as defined in  
14 ch. 70.105D RCW.

15       In 1980, Calvin Bamford purchased property owned by Shell  
16 Oil on the Thea Foss Waterway side of "D" Street. A product  
17 removal system has been installed on Bamford's property. The  
18 removal system is designed to:

- 19       1. Intercept petroleum product flow to Thea Foss  
20 Waterway on Bamford's property.
- 21       2. Separate and recover petroleum product from water  
22 pumped from the trench.

23       The existing petroleum product removal trenches are not  
24 able to remove the entire plume of petroleum. Additional or  
25 alternative means of petroleum product removal are required.

1       The existing trench system was not designed to mitigate  
2 all ground water contamination or any soil borne contamination  
3 on-site. These problems will persist if additional  
4 remediation is not undertaken. The existing FS has evaluated  
5 a set of alternatives to clean up site soil, surface water and  
6 ground water. A preferred alternative has been selected.  
7 Detail of this preferred alternative has been provided in the  
8 Preliminary Design Report. Based on the Preliminary Design,  
9 Ecology has prepared a Cleanup Action Plan (CAP). The CAP and  
10 other supporting documentation found in Exhibit B form the  
11 Work Plan, which is to be performed pursuant to this Decree  
12 per Section IV below.

#### 13                   IV. WORK TO BE PERFORMED

14       The purpose of the remedial actions set forth herein is  
15 to:

- 16       1. Stop the seepage of petroleum to Commencement Bay.
- 17       2. Insure the plume of floating petroleum product is  
18 removed and recovered.
- 19       3. Detect and report any ongoing petroleum leakage.
- 20       4. Expand the existing site work to include:
  - 21       (a) Removal of all free petroleum product to the extent  
22 practicable by continued groundwater pumping,  
23 separation and treatment per Exhibit B (Cleanup  
24 Action Plan).

1 (b) Pumping and treatment of site groundwater to remove  
2 aqueous phase petroleum product contamination per  
3 Exhibit B.

4 (c) Operation of a vacuum soil vapor extraction and  
5 treatment system, per Exhibit B, to remove volatile  
6 petroleum constituents from residual free phase  
7 petroleum product, soil and groundwater.

8 5. Soil and groundwater monitoring systems will be  
9 developed and executed per Exhibit B. These systems will  
10 monitor the petroleum hydrocarbon concentration in surface  
11 water samples, groundwater samples from monitoring wells,  
12 water samples from the water treatment system influent and  
13 effluent, vapor samples from the soil vapor extraction system  
14 influent and effluent. The data from the monitoring systems  
15 will be used to indicate that either: cleanup standards  
16 specified in Exhibit B have been attained per ch. 173-304 WAC;  
17 or that soil and/or groundwater contaminants are no longer  
18 being reduced by the continued operation of the remediation  
19 systems.

20 If the cleanup levels specified in Exhibit B have been  
21 attained for groundwater, surface water, and soil, then the  
22 Respondents may shut down all the treatment systems and will  
23 monitor groundwater samples from the compliance monitoring  
24 wells for two years following system shutdown. Monitoring  
25 will be done monthly for the first quarter, then quarterly

26 **CONSENT DECREE**

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1 thereafter. Soil contaminant concentrations will be monitored  
2 in soil samples obtained from borings placed throughout the  
3 Site at statistically justifiable locations. The Respondents  
4 will then submit to Ecology ground water and soil confirmation  
5 data that the remedial action has attained the cleanup goals  
6 specified in Exhibit B, and will request a Notice of  
7 Completion.

8 If, however, the cleanup levels specified in Exhibit B  
9 have not been reached and contaminant levels have effectively  
10 leveled off, the Respondents may choose to show that the  
11 remedial action has attained the lowest technically achievable  
12 contaminant concentrations and request Ecology approval to  
13 shut down all treatment systems. Ground water samples from  
14 the compliance monitoring wells will be monitored for five  
15 years following system shutdown. Monitoring will be done  
16 monthly for the first quarter, quarterly for the remainder of  
17 the first year, and annually thereafter. Periodic review  
18 shall continue per WAC 173-340-420 until cleanup levels listed  
19 in Exhibit B have been attained. Soil contaminant  
20 concentrations will be monitored in soil samples obtained from  
21 borings placed throughout the Site at statistically  
22 justifiable locations. The Respondents will submit to Ecology  
23 soil and groundwater confirmation data that show the remedial  
24 action has attained the lowest technically achievable  
25 contaminant concentrations. The Respondents must show that

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1 the lowest technically achievable concentrations protect human  
2 health and the environment for specified Site uses and comply  
3 with applicable State and Federal laws; that all practical  
4 methods of treatment are utilized; and institutional controls  
5 are implemented (WAC 173-340-706(1)). The Respondents will  
6 then submit to Ecology ground water and soil confirmation data  
7 that show the remedial action has attained the lowest  
8 technically achievable concentrations, and may request a  
9 Notice of Completion.

10 If the lowest technically achievable concentration  
11 exceeds cleanup standards required under WAC 173-340-720, 730,  
12 or 745 Method C, then additional and/or alternative  
13 remediation may be required. If this situation arises, a  
14 meeting between Ecology and Respondents will be held to  
15 determine whether system shutdown is appropriate or whether  
16 additional and/or alternative remediation is needed. System  
17 shutdown is subject to written Ecology approval.

18 The lowest technically achievable concentrations shall  
19 represent a leveled-off value of concentration versus time.  
20 "Leveling off" shall mean that the graph of the petroleum  
21 hydrocarbon concentrations in the samples versus time fit a  
22 curve generally defined by the equation  $C = C_f + C_0 e^{(-kt)}$ , and  
23 that the slope of the lower limb of the curve approaches zero  
24 for a minimum of 365 days. In the above equation the symbols  
25 are defined as follows:

1           C       =     Concentration at time t.  
2           Cf      =     Coefficient representing final concentration  
3                      which the curve approaches asymptotically.  
4           C<sub>0</sub>     =     Coefficient representing concentration  
5                      difference between the final concentration and  
6                      the concentration at time zero.  
7           e       =     2.718, the base of natural logarithms.  
8           k       =     Coefficient representing exponential factor  
9                      which indicates how fast concentration  
10                     approaches Cf.  
11          t       =     Time in days from some fixed starting point.

12          This Consent Decree contains a program designed to  
13          protect the human health and welfare and the environment from  
14          the known release, or threatened releases, of contaminants and  
15          pollutants, including petroleum at, on, or from the Site. The  
16          work to be performed by the Respondents is set forth in the  
17          Work Plan. Exhibit B (Cleanup Action Plan) is made an  
18          integral and enforceable part of this Consent Decree. The  
19          term Work Plan shall include this Section IV (Work to be  
20          Performed) as well as Exhibit B (Cleanup Action Plan) whenever  
21          used in this document. Respondents shall implement the tasks  
22          detailed in the Work Plan in accordance therewith and the  
23          deadlines specified or as those deadlines may be modified in  
24          accordance with any extensions of schedules, including but not  
25

1 limited to providing Ecology with the following data  
2 (deliverables):

3  
4 Workplan Deliverables

5		
6	Phase 1 - Continued Operation and Monitoring	Deliverable
7	of Free Product Recovery System.	Due Date
8		Ongoing
9	Phase 2 - Engineering Design Report	Deliverable
10	(combined Preliminary and Final	Due Date
11	Design)	six months
12		from Consent
13		Decree
14		Effective
15		Date

16 The report shall include<sup>1</sup>:

- 17 a. Goals of the cleanup action, including specific
- 18 cleanup or performance requirements;
- 19 b. General information on the facility, including a
- 20 summary of information in the state remedial investigation/
- 21 feasibility study updated as necessary to reflect the current
- 22 conditions;
- 23 c. Identification of who will own, operate, and
- 24 maintain the cleanup action during and following construction;

25 <sup>1</sup> Some of this information has already been provided to  
26 Ecology and may be incorporated by reference.

- 1       d.    Facility maps showing existing site conditions and  
2 proposed location of the cleanup action;
- 3       e.    Location of materials to be treated or otherwise  
4 managed, including areas of contaminated groundwater and soil;
- 5       f.    A schedule for construction, monitoring, system  
6 start-up, and proposed system operational lifetime(s);
- 7       g.    A description and conceptual plan of the actions,  
8 treatment units, facilities, and processes required to  
9 implement the cleanup action, including flow diagrams;
- 10      h.    Engineering justification for design and operation  
11 parameters, including: Design criteria, assumptions, and  
12 calculations for all components of the cleanup action;  
13 expected treatment efficiencies and documentation on how that  
14 degree of effectiveness is determined; demonstration that the  
15 cleanup action will achieve compliance with cleanup  
16 requirements by citing pilot or treatability test data,  
17 results from similar operations, or scientific evidence from  
18 the literature;
- 19      i.    Design features for control of hazardous materials  
20 spills and accidental discharge (for example, containment  
21 structures, leak detection devices, run-on and run-off  
22 controls);
- 23      j.    Design features to assure long-term safety of  
24 workers and local residences as applicable (for example,  
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1 hazardous substances monitoring devices, pressure valves,  
2 bypass systems, safety cutoffs);

3 k. A discussion of methods for management or disposal  
4 of any treatment residual and other waste materials containing  
5 hazardous substances generated as a result of the cleanup  
6 action;

7 l. Facility specific characteristics which may affect  
8 design, construction, or operation of the selected cleanup  
9 action, including: Relationship of the proposed cleanup  
10 action to existing facility operations; probability of  
11 flooding, probability of seismic activity, temperature  
12 extremes, local planning and development issues; soil  
13 characteristics and ground water system characteristics;

14 m. A general description of construction testing which  
15 will be used to demonstrate adequate quality control as  
16 applicable;

17 n. A general description of compliance monitoring which  
18 will be performed during and after construction as applicable  
19 to meet the requirements of WAC 173-340-410;

20 o. A general description of construction procedures  
21 proposed to assure that the safety and health requirements of  
22 WAC 173-340-810 are met;

23 p. Any information not provided in the state remedial  
24 investigation/feasibility study needed to fulfill the  
25

1 applicable requirements of the State Environmental Policy Act  
2 (Chapter 43.21C RCW);

3 q. Any additional information needed to address the  
4 applicable state, federal, and local requirements; and  
5 property access issues which need to be resolved to implement  
6 the cleanup action;

7 r. A copy of all required permits;

8 s. Detailed plans and procedural material  
9 specifications necessary for construction of the cleanup  
10 system prepared in conformance with currently accepted  
11 engineering practices and techniques;

12 t. Specific quality control tests to be performed to  
13 document the construction as applicable, including  
14 specifications for the testing or reference to specific  
15 testing methods, frequency of testing, acceptable results, and  
16 other documentation methods;

17 u. Start-up procedures and criteria to demonstrate the  
18 cleanup system is prepared for routine operation;

19 v. A compliance monitoring plan prepared under WAC  
20 173-340-410 describing monitoring to be performed during  
21 construction, as applicable, and a sampling and analysis plan  
22 meeting the requirements of WAC 173-340-820;

23 w. Provisions to assure safety and health requirements  
24 of WAC 173-340-810 are met; and  
25

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1       x.    Operation and maintenance plan.  An operation and  
2 maintenance plan which presents technical guidance and  
3 regulatory requirements to assure effective operations under  
4 both normal and emergency conditions.  The operation and  
5 maintenance plan shall include the following elements, as  
6 appropriate;

7       i.    Name and phone number of the responsible  
8            individuals;

9       ii.   Process description and operating principles;

10      iii.  Design criteria and operating parameters and limits;

11      iv.   General operating procedures, including start-up,  
12           normal operations, operation at less than design  
13           loading, shutdown, procedures for detecting and  
14           remedying biofouling of cleanup system components,  
15           and emergency or contingency procedures;

16      v.    A discussion of the detailed operation of individual  
17           treatment units, including a description of various  
18           controls, recommended operating parameters, safety  
19           features, and any other relevant information;

20      vi.   Procedures and sample forms for collection and  
21           management of operating and maintenance records;

22      vii.  Spare part inventory, addresses of suppliers of  
23           spare parts, equipment warranties, and appropriate  
24           equipment catalogues;

- 1 viii. Equipment maintenance schedules incorporating  
2 manufacturers' recommendations;
- 3 ix. Contingency procedures for spills, releases, and  
4 personnel accidents;
- 5 x. A compliance monitoring plan prepared under WAC  
6 173-340-410, describing monitoring to be performed  
7 during operation, designed to track compliance with  
8 remedial action objectives and to determine when  
9 cleanup stages are complete. Sampling and analysis  
10 plan meeting the requirements of WAC 173-340-820;
- 11 xi. Description of procedures which assure that the  
12 safety and health requirements of WAC 173-340-810  
13 are met, including specification of contaminant  
14 action levels and contingency plans, as appropriate;
- 15 xii. Procedures for the maintenance of the facility after  
16 completion of the cleanup action, including  
17 provisions for removal of unneeded appurtenances,  
18 and the maintenance of covers, caps, containment  
19 structures, and monitoring devices.
- 20 y. Plans for lower sand aquifer monitoring well  
21 construction and locations to be added after reduction of  
22 contaminants in the upper unit. Methodology for deciding when  
23 these wells will be installed.
- 24  
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2. Methodology for determining if or when additions or modifications to the extraction or treatment systems are needed.

Phase 3 - Construction of Remedial Action System.

Deliverable	Due Date
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Two months  
from Ecology  
approval of  
the  
Engineering  
Design  
Report

Construction shall be performed in conformance with Engineering Design Report.

All aspects of construction shall be performed under the supervision of a professional engineer registered in the State of Washington or a qualified technician, under the direct supervision of a professional engineer registered in the State of Washington. During construction detailed records shall be kept of all aspects of the work performed, including construction techniques and materials used, items installed, and tests and measurements performed.

As-built reports. At the completion of construction, the engineer responsible for the supervision of construction shall prepare as-built drawings and a report documenting all aspects of facility construction.

The report shall also contain an opinion from the engineer, based on testing results and inspections, as to

1 whether the cleanup action has been constructed in substantial  
2 compliance with the plans and specifications and related  
3 documents.

4 Phase 4 - Operation of Remedial Action System. Deliverable  
5 Due Date  
6 Upon Ecology  
7 approval of  
8 system  
9 construction

10 Operation and maintenance of the remedial action system  
11 shall be in conformance with the Engineering Design Report.

12 Phase 5 - Compliance Monitoring. Deliverable  
13 Due Date  
14 Due at  
15 system  
16 startup

17 To be performed in conformance with the Compliance  
18 Monitoring Plan (a part of the Engineering Design Report).

19 **V. DESIGNATED PROJECT COORDINATORS**

20 On or before the entry of this Decree, Ecology and the  
21 Respondents shall each designate one project coordinator with  
22 appropriate address and phone number. Each project  
23 coordinator shall be responsible for overseeing the  
24 implementation of this Decree and be considered by the parties  
25 designated representative at the Site. Communications between  
26 the Respondents and Ecology, and all documents, including  
reports, approvals, and other correspondence concerning the



1 activities performed pursuant to the terms and conditions of  
2 this Decree, shall be directed through the project  
3 coordinators.

4 Either party may change its respective project  
5 coordinator by notifying the other party, in writing, at least  
6 ten (10) calendar days prior to the change. Project  
7 coordinators are as follows:

8 Ecology:

9 Dom Reale, P.E.  
10 Remedial Action Engineer  
11 Southwest Regional Office  
12 7272 Cleanwater Lane  
Olympia, WA 98504  
(206) 753-6949  
FAX (206) 753-8531

Mobil:

T.C. Felt  
Mobil Oil Corporation  
3800 W. Alameda Avenue,  
Suite 2000  
Burbank, CA 91505-4331  
(818) 953-2587  
FAX (818) 953-2587

13 Shell:

14 Ron Jack  
15 Shell Oil Company  
16 511 North Brookhurst Street  
17 P.O. Box 4848  
Anaheim, CA 92803  
(714) 520-3586  
FAX (714) 520-3419

Unocal:

Dave Keith  
P.O. Box 76  
Portland, OR 97207  
(503) 248-1530  
FAX (503) 248-1522

18 VI. ACCESS

19 Ecology or any Ecology authorized representative  
20 ("Ecology representative") shall have the authority to enter  
21 and freely move about all property at the Site at all  
22 reasonable times for the purposes of, inter alia: inspecting  
23 records, operation logs, and contracts related to work  
24 undertaken under the Work Plan regarding the Site; reviewing  
25 the progress in carrying out the terms of this Decree;

26 CONSENT DECREE

1 conducting such tests or collecting samples as Ecology or the  
2 project coordinator may deem necessary; using a camera, sound  
3 recording, or other documentary type equipment (consistent  
4 with Site safety procedures) to record work done pursuant to  
5 this Decree; and verifying the data submitted to Ecology by  
6 the Respondents. Ecology will endeavor to give reasonable  
7 prior notice for all routine non-emergency inspections.  
8 Ecology shall split any samples taken during an inspection  
9 unless the Respondents fail to make available a representative  
10 for the purpose of splitting samples. Respondents shall allow  
11 such Ecology representative to inspect and copy all records,  
12 files, photographs, documents, and other writings, including  
13 all sampling and monitoring data, excluding privileged  
14 attorney-client communications or attorney work product, in  
15 any way pertaining to work undertaken pursuant to this Decree.  
16 All parties with access to the Site pursuant to this paragraph  
17 shall comply with approved health and safety plans.  
18 Respondents shall have the right to accompany any Ecology  
19 employees or representatives or other Respondents' employees  
20 or representatives at the Site. Unwillingness or inability to  
21 accompany any Ecology employee shall not preclude Ecology's  
22 access to the Site. No Respondent shall impede the access of  
23 other Respondents or authorized contractor(s) to their  
24 respective properties for purposes of carrying out the terms  
25 of this Decree.

26 **CONSENT DECREE**

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1 Access to property not owned or controlled by  
2 Respondents, necessary for remedial activities, must be  
3 identified in draft and final work plans. Fully executed  
4 access agreements between other site owners and Respondents  
5 shall be appended to final work plans. Pursuant to the  
6 Agreement for Right of Entry (Exhibit C) between Respondents,  
7 Globe Manufacturing Co., Calvin Bamford, and Joanne Bamford,  
8 Respondents have the right to carry out investigation and  
9 cleanup efforts detailed in Exhibit A and Exhibit B on the  
10 property described therein (commonly known as the "Expansion  
11 Site"). Petroleum product removal on the Manufacturing Site  
12 is not anticipated at this time. Respondents will negotiate  
13 in good faith for access for petroleum product removal if such  
14 removal is required by this Decree, provided, that if after  
15 good faith efforts Respondents are unable to obtain access at  
16 any time to a site property not owned or controlled by  
17 Respondents, Ecology will assist in gaining such access,  
18 including taking appropriate legal action to secure access.

#### 19 VII. PERFORMANCE

20 All work performed pursuant to this Decree shall be under  
21 the direction and supervision, as necessary, of a professional  
22 engineer, certified hydrogeologist, or equivalent, with  
23 experience and expertise in hazardous waste site investigation  
24 and cleanup of contamination associated with petroleum product  
25 releases. The Respondents shall notify Ecology as to the

1 identity of such engineer(s) or hydrogeologist(s), and of any  
2 contractors or subcontractors to be used in carrying out the  
3 terms of this Decree, in advance of their involvement at the  
4 Site. Such notice shall include a summary of qualifications  
5 of such engineer, hydrogeologist, etc. to perform the work.

6 **VIII. DATA REPORTING/AVAILABILITY, SAMPLING, CONSTRUCTION**

7 The Respondents shall make the final results of all  
8 sampling, laboratory reports, and/or initial test results  
9 generated by them, or on their behalf with respect to the  
10 implementation of this Decree, available to Ecology and shall  
11 submit these results in progress reports submitted in  
12 accordance with Section X herein.

13 At the request of Ecology, Respondents shall allow split  
14 or duplicate samples to be taken by Ecology and/or its  
15 authorized representatives of any samples collected by  
16 Respondents, pursuant to the implementation of this Decree.  
17 The Respondents shall notify Ecology at least two (2) working  
18 days in advance of any site remediation system installation  
19 activity pursuant to this Decree, and any compliance sample  
20 collection activity, excluding NPDES sampling, unless Ecology  
21 specifically requests such sampling. Ecology shall allow  
22 split or duplicate samples to be taken by the Respondents or  
23 their authorized representatives of any samples collected by  
24 Ecology pursuant to the implementation of this Decree. Ecology  
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26 **CONSENT DECREE**

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1 shall endeavor to notify the Respondents two (2) working days  
2 prior to any sample collection activity.

3 **IX. CONFIDENTIALITY**

4 Pursuant to RCW 43.21A.160, Respondents may assert a  
5 confidentiality claim covering all or part of the information  
6 developed or submitted under this Decree and any documents  
7 subject to inspection or retention under Section IV or X.  
8 Analytical data shall not be claimed as confidential.  
9 Information claimed to be confidential will be afforded  
10 protection against disclosure to the fullest extent allowed by  
11 law.

12 **X. PROGRESS REPORTS**

13 The Respondents shall submit to Ecology written  
14 quarterly progress reports which describe the actions taken  
15 during the previous quarter to implement the requirements of  
16 this Decree. Progress reports shall also describe the  
17 activities scheduled to be taken during the next quarter. The  
18 first report shall be due 30 days after the effective date of  
19 this Decree, and subsequent quarterly reports shall be due  
20 either January 15, April 15, July 15, or October 15. The  
21 progress reports shall include a detailed statement of the  
22 manner and extent to which the requirement and time schedules  
23 set out in the Decree are being met. Progress reports shall  
24 include all final data (including laboratory analyses)  
25 received by Respondents during the past quarter, and an

1 identification of the source of the samples. Unless otherwise  
2 specified, progress reports and any other documents submitted  
3 pursuant to this Decree shall be sent by mail to Ecology's  
4 project coordinator.

#### 5 XI. RETENTION OF RECORDS

6 The Respondents shall preserve, during the pendency of  
7 this Decree and for ten (10) years from the date of completion  
8 of the remedial program described herein, one copy of all  
9 records, reports, documents, and underlying data in its  
10 possession, or in the possession of its employees, agents, or  
11 contractors, relevant to the implementation of this Decree  
12 despite any document retention policy to the contrary.

13 Respondents shall not be required to retain records that  
14 duplicate other records being retained. Upon request of  
15 Ecology, the Respondents shall make all records available to  
16 Ecology and allow access for review, excluding attorney-client  
17 work product, within a reasonable period of time.

#### 18 XII. INDEMNIFICATION

19 Insofar as the Constitution and the laws of the State of  
20 Washington allow, the Respondents agree to indemnify and save  
21 and hold Ecology, its agents and employees, harmless from any  
22 and all claims or causes of action for death or injuries to  
23 persons or for loss or damage to property arising from or on  
24 account of acts or omissions of the Respondents, their  
25 officers, employees, agents, or contractors in entering into

1 and implementing this Decree. The Respondents also agree to  
2 indemnify and save harmless Ecology from claims or causes of  
3 action arising out of or based on the failure of, or defect in  
4 the remedial program described in Section IV of this Consent  
5 Decree, or the implementation of the remedial program. The  
6 Respondents shall not, however, indemnify Ecology nor save nor  
7 hold its employees and agents harmless from any claims or  
8 causes of action arising out of the negligent acts or  
9 omissions of Ecology, or its employees or agents.

10 **XIII. RESOLUTION OF DISPUTES**

11 In the event that Respondents object to any Ecology  
12 notice of approval, disapproval, proposed modification, or  
13 other decision made pursuant to this Decree, they shall  
14 utilize the dispute resolution procedure set forth below:

- 15 (1) Notify Ecology's project coordinator in writing of  
16 their objections within fourteen (14) calendar days  
17 of receipt of such notice.
- 18 (2) Thereafter, Ecology's project coordinator and  
19 Respondents shall confer in an effort to resolve the  
20 dispute. If agreement cannot be reached on the  
21 dispute within fourteen (14) calendar days after  
22 receipt by Ecology of such objections, Ecology's  
23 project coordinator shall promptly provide a written  
24 statement of its decision to Respondents.

- 1 (3) Respondents may then request Ecology management  
2 review of the decision. This request shall be  
3 submitted in writing to Ecology's Toxics Cleanup  
4 Program Manager within fourteen (14) calendar days  
5 of receipt of Ecology's project coordinator's  
6 decision.
- 7 (4) Ecology's Toxics Cleanup Program Manager shall  
8 conduct a review of the dispute and shall issue a  
9 written decision regarding the dispute within thirty  
10 (30) days of the Respondent's request for review.
- 11 (5) If Ecology's written decision is unacceptable to the  
12 Respondents, they have the right to submit the  
13 dispute to the Court for resolution. Ecology and  
14 Respondents agree to request that the court assign  
15 one judge to retain jurisdiction over this case and  
16 to, as necessary, resolve any dispute arising under  
17 this Decree. The Court shall review the actions or  
18 decisions of Ecology on the basis of whether such  
19 action or decision was arbitrary and capricious.  
20 Interpretation of laws and regulations will be  
21 according to general principles of administrative  
22 law.

23 The parties agree to only utilize the dispute resolution  
24 process in good faith and not as a delay tactic, and agree to  
25

1 resolve the dispute and to expedite to the extent possible the  
2 dispute resolution process whenever it is used.

3 **XIV. ENDANGERMENT**

4 In the event Ecology determines or concurs in a  
5 determination by another local, state, or federal agency that  
6 activities implementing or in noncompliance with this Decree,  
7 or any other circumstances or activities, are creating an  
8 imminent and substantial endangerment to the health or welfare  
9 of the people on the Site or in the surrounding area or to the  
10 environment, Ecology may order Respondents to stop further  
11 implementation of this Decree for such period of time as  
12 needed to abate the danger, issue an order to Respondents to  
13 take immediate action, or may petition a court for an order as  
14 appropriate. During any stoppage of work under this section,  
15 Respondents' obligations with respect to the work ordered to  
16 be stopped shall be suspended and the time periods for  
17 performance of that work, as well as the time period for any  
18 other work dependent upon the work which is stopped, shall be  
19 extended, pursuant to Section XV of this Decree, for such  
20 period of time as Ecology determines is reasonable under the  
21 circumstances, but not less than the length of the stoppage.

22 In the event the Respondents determine that activities  
23 undertaken in furtherance of this Decree or any other  
24 circumstances or activities are creating an imminent and  
25 substantial endangerment to the people on the Site or in the

1 surrounding area or to the environment, Respondents may stop  
2 implementation of this Decree for such periods of time  
3 necessary for Ecology to evaluate the situation and determine  
4 whether the Respondents should proceed with implementation of  
5 the Decree or whether the work stoppage should be continued  
6 until the danger is abated. The Respondents shall notify  
7 either Ecology field personnel on-site or the project manager  
8 as soon as is possible, but no later than twenty-four (24)  
9 hours after such stoppage of work, and provide Ecology with  
10 documentation of its analysis in reaching this determination.  
11 If Ecology disagrees with the Respondents' determination,  
12 after concurrence by the Program or Regional Director of  
13 Ecology, it may require the Respondents to resume  
14 implementation of this Decree. If Ecology concurs in the work  
15 stoppage, the Respondents' obligations shall be suspended and  
16 the time periods for performance of that work, as well as the  
17 time period for any other work dependent upon the work which  
18 was stopped, shall be extended, pursuant to Part XV of this  
19 Decree, for such period of time as Ecology determines is  
20 reasonable under the circumstances, but not less than the  
21 period of the stoppage. Any disagreements pursuant to this  
22 clause shall be resolved through the dispute resolution  
23 procedures.

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1 caused by third parties or Ecology, such as (but not limited  
2 to) delays by Ecology in reviewing, approving, or modifying  
3 documents submitted by the Respondents and inability to obtain  
4 access to property not owned or controlled by Respondents;

5 (2) Delays which are directly attributable to any  
6 changes in permit terms or conditions or refusal to grant a  
7 permit needed to implement the requirements of this Decree, if  
8 the Respondents filed a timely application for the necessary  
9 permit;

10 (3) Acts of God, fire, flood, blizzard, extreme  
11 temperatures, or other unavoidable casualty; and

12 (4) Endangerment as described in Section XIV. However,  
13 neither increased costs of performance of the terms of the  
14 Decree nor changed economic circumstances may be considered  
15 circumstances beyond the reasonable control of the  
16 Respondents.

17 C. In addition, Ecology may extend the time schedules  
18 contained in the Decree if an extension is needed as a result  
19 of:

20 (1) Delays in the issuance of a necessary permit which  
21 was timely applied for; or

22 (2) Judicial review of the issuance, non-issuance, or  
23 reissuance of a necessary permit; or

24 (3) Other exceptional or extraordinary circumstances.  
25

1 Ecology shall give the Respondents written notice in a  
2 timely fashion of any extensions granted or denied pursuant to  
3 this Decree.

4 **XVI. AMENDMENT OF CONSENT DECREE**

5 A. Unless amended by the Court on its own motion, this  
6 Decree may only be amended by a written stipulation between  
7 the Respondents and Ecology, which is then entered by the  
8 Court. Agreement to amend shall not be unreasonably withheld  
9 by any party to the Decree.

10 B. If the Respondents wish to initiate an amendment,  
11 one or more of the Respondents shall submit any request for  
12 modifications to the remedial program or project schedule to  
13 Ecology and to the other Respondents for approval. The  
14 parties shall, within ten (10) working days of the submittal,  
15 discuss the proposed modification. Ecology shall indicate its  
16 approval or disapproval of the proposed modification in a  
17 timely manner after such discussion. Reasons for any  
18 disapproval shall be stated in writing. If Ecology  
19 disapproves a proposed modification of this Decree, then the  
20 Respondents may elect to follow the Dispute Resolution process  
21 outlined in Section XIII.

22 No guidance, suggestions, or comments by Ecology will be  
23 construed as relieving the Respondents of their obligation to  
24 obtain formal approval as may be required by this Decree. No  
25 oral communication by Ecology shall relieve the Respondents of

26 **CONSENT DECREE**

1 the obligations specified herein unless confirmed in writing  
2 thereafter.

3 C. If Ecology wishes to initiate an amendment, Ecology  
4 shall notify the Respondents in writing of any Ecology  
5 proposal for modifications to the remedial program or project  
6 schedule and the basis for such proposal. The Respondents may  
7 thereafter request a meeting to discuss the proposed  
8 modifications. Any such meeting will be held within ten (10)  
9 working days of the request. If, after such a meeting,  
10 Ecology and Respondents do not agree regarding those  
11 modifications, Ecology may elect to follow the Dispute  
12 Resolution process outlined in Section XIII.

13 **XVII. STIPULATED PENALTIES**

14 A. For delays by the Respondents in submitting a report  
15 or document or otherwise failing to achieve on time the  
16 requirements of this Decree, Ecology may require that  
17 Respondents pay the sum set forth below as stipulated  
18 penalties.

19 B. Ecology may impose stipulated penalties, upon  
20 written notice to the Respondents, for the following reasons  
21 and in the following amounts:

22 1. Failure to submit the final Remedial Design per  
23 agreed-upon schedule: Up to \$500.00 per day;

24 2. Failure to implement the Remedial Actions or any of  
25 the work plans which have been agreed to by Ecology and the

1 Respondents in the time provided under the terms of this  
2 Decree: Up to \$1,000.00 per day for the first thirty (30)  
3 days; and up to \$2,000.00 per day thereafter;

4 3. Failure to submit required data or progress reports:  
5 Up to \$500.00 per day.

6 C. The Respondents shall not be liable for any payment  
7 under this Part if they have submitted a timely request to  
8 Ecology for an Extension of Schedule under Section XV of this  
9 Decree and such request has been granted.

10 D. Upon determination by Ecology that Respondents have  
11 failed to make a submittal referenced herein or have otherwise  
12 failed to comply with this Decree, Ecology shall immediately  
13 give written notice to the Respondents of the failure,  
14 specifying the provision of the Decree which has not been  
15 complied with and specifying the amount of the specific  
16 penalty due pursuant to paragraph B above. Unless the  
17 Respondents invoke the dispute resolution provision of § XIII,  
18 the Respondents shall pay the civil penalty within thirty (30)  
19 days of receipt of notification from Ecology.

20 E. Payments required by this Section shall accrue from  
21 the date upon which written notice of the failure has been  
22 received, but need not be paid during the dispute resolution  
23 process and shall be waived if the dispute is resolved in  
24 Respondents' favor. Payment required by this Section shall  
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1 cease to accrue when Respondents deliver the required  
2 submittal to Ecology, or as otherwise provided above.

3 F. Any disagreement over the factual basis for issuance  
4 of a penalty or the appropriateness of the penalty amount  
5 under this Section shall be addressed through the dispute  
6 resolution clause.

7 G. Respondents shall pay any stipulated penalties into  
8 the state toxics control account created under RCW  
9 70.105D.070.

10 **XVIII. COVENANT NOT TO SUE; REOPENER**

11 In consideration of Respondents' compliance with  
12 provisions of this Decree, Ecology covenants not to institute  
13 legal or administrative actions against Respondents regarding  
14 matters within the scope of this Decree. This covenant is  
15 limited in its application to the Site specifically defined in  
16 Attachment A to Consent Order No. 88-S345 (Exhibit A to this  
17 Decree) and to leaded and unleaded gasoline and diesel fuel,  
18 the hazardous substances Ecology knows to be located at the  
19 Site. This covenant is not applicable to any other area or  
20 substances. This covenant does not affect Ecology's right to  
21 seek recovery for natural resource damages.

22 Reopener. Notwithstanding the covenant given above,  
23 Ecology reserves the right to institute legal or  
24 administrative actions against Respondents seeking to require  
25 them to perform additional response actions at the Site, and

1 to pursue appropriate cost recovery in accordance with  
2 provisions set out in RCW 70.105D.050, under the following  
3 circumstances:

4 (1) If Respondents fail to meet the requirements of this  
5 Decree, including, but not limited to, failure of the remedial  
6 action to meet the cleanup standards identified in the Cleanup  
7 Action Plan (Exhibit B).

8 (2) Upon Ecology's determination that action beyond the  
9 terms of this Decree is necessary to abate an imminent and  
10 substantial endangerment to public health or welfare or the  
11 environment.

12 Further, if factors or conditions at the Site, previously  
13 unknown to Ecology, are discovered after entry of this Decree,  
14 and these unknown factors or conditions indicate that the  
15 remedial action is not protective of the public health, or  
16 welfare, or the environment, or present a previously unknown  
17 threat to human health or the environment, Ecology also  
18 reserves the right to request the court to amend this covenant  
19 not to sue as required by RCW 70.105D.040(4)(c).

20 This Section does not waive any rights Respondents may  
21 have pursuant to ch. 70.105D RCW, or upon the determination  
22 that action beyond the terms of this Decree is necessary to  
23 abate an imminent and substantial endangerment to the public  
24 health or welfare or the environment that may be posed by this  
25 Site.

26 **CONSENT DECREE**

1                   **XIX. COMPLIANCE WITH APPLICABLE LAWS**

2           All actions carried out by the Respondents pursuant to  
3 this Decree shall be done in accordance with all applicable  
4 federal, state and local requirements.

5                   **XX. TRANSFER OF INTEREST IN PROPERTY**

6           No voluntary conveyance or relinquishment of title,  
7 easement, leasehold or other interest in any portion of the  
8 Site shall be consummated by Respondents without provision for  
9 continued operation and maintenance of any containment system,  
10 treatment system, and monitoring system installed or  
11 implementation of that pursuant to this Decree. This  
12 requirement shall not apply to an "involuntary" transfer of  
13 property interest. "Involuntary," for the purposes of this  
14 section, means the taking of property by condemnation or  
15 inverse condemnation, appointment of a receiver, distribution  
16 in accord with a Last Will and Testament, or an involuntary  
17 petition under the bankruptcy code.

18           Prior to transfer by Respondents of any legal or  
19 equitable interest in all or any portion of the property, the  
20 Respondents shall serve a copy of this Decree upon any  
21 prospective purchaser, lessee, transferee, assignee, or other  
22 successor in interest of the property and, at least thirty  
23 (30) days prior to any transfer, shall notify Ecology of said  
24 contemplated transfer.

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**XXI. RESERVATION OF RIGHTS**

By agreeing to the entry of this Decree, each Respondent agrees that Ecology has jurisdiction to enter into and enforce the Decree and that each Respondent will abide by its terms. The execution and performance of this Decree is not, however, an admission by any of the Respondents of any fact, conclusion, or liability relating to any issue dealt with in the Decree. Each Respondent's performance under the Decree is undertaken without waiver of or prejudice to (1) any claims or defenses that may be asserted in the event of further litigation about or relating to the Site, or (2) any rights of contribution or indemnity against any person including other Respondents. Nor is the execution or the performance of the Decree an agreement by any Respondent to take any action at the Site other than that described in Section IV.

**XXII. PUBLIC NOTICE; PUBLIC PARTICIPATION; AND WITHDRAWAL OF CONSENT**

The Respondents acknowledge the entry of this Consent Decree is subject to public notice and comment per WAC 173-340-600. Ecology reserves the right to unilaterally withdraw this Decree if (1) the comments received by Ecology disclose facts or considerations which indicate that the proposed remedial action is inappropriate, improper or inadequate, and (2) the comments disclosing such facts or considerations were

1 not considered by Ecology prior to execution of the Consent  
2 Decree.

3 If the Court withholds or withdraws its consent to this  
4 Decree, it shall be null and void and the accompanying  
5 Complaint shall be dismissed without costs and without  
6 prejudice. In such an event, no party shall be bound by the  
7 requirements of this Decree.

8 Ecology shall maintain the responsibility for public  
9 participation at the Site. However, Respondents shall  
10 cooperate with Ecology and shall:

11 A. Prepare drafts of public notices and fact sheets at  
12 important stages of the remedial action, such as the  
13 submission of work plans and the completion of engineering  
14 design. Ecology will finalize (including editing if  
15 necessary) and distribute such fact sheets and prepare and  
16 distribute public notices of Ecology's presentations and  
17 meetings;

18 B. Notify Ecology's project coordinator at least seven  
19 (7) days prior to the issuance of all press releases and fact  
20 sheets, and before major meetings with the interested public  
21 and local governments. Likewise, Ecology shall notify  
22 Respondents at least seven (7) days prior to the issuance of  
23 all press releases and fact sheets, and before major meetings  
24 with the interested public and local governments;

25  
26 CONSENT DECREE

1 C. Participate in public presentations on the progress  
2 of Remedial Action at the Site. Participation may be through  
3 attendance at public meetings to assist in answering questions  
4 or as a presenter;

5 D. In cooperation with Ecology, arrange and/or continue  
6 information repositories to be located at the Main Branch of  
7 the Tacoma Library, 1102 Tacoma Avenue South, Tacoma,  
8 Washington 98402; Citizens for a Healthy Bay, 771 Broadway,  
9 Tacoma, Washington 98402-3700; and Ecology's Southwest  
10 Regional Office in Tumwater. At a minimum, copies of all  
11 public notices, fact sheets, and press releases, all final  
12 ground water, surface water, soil sediment, and air monitoring  
13 data, remedial action plans, supplemental remedial planning  
14 documents, and all other similar documents relating to  
15 performance of the remedial action required by this Decree  
16 shall be promptly placed in these repositories.

17 **XXIII. CLAIMS AGAINST THE STATE**

18 The Respondents hereby agree that they will not seek to  
19 recover any costs accrued in implementing the remedial action  
20 plan required by this Consent Decree against the State of  
21 Washington or any of its agencies pursuant to any state or  
22 federal statute or other law or equity.

23 **XXIV. LAND USE RESTRICTION**

24 Institutional controls, including the placement of  
25 restrictive covenants on properties owned by the Respondents,

26 **CONSENT DECREE**

1 may be required by WAC 173-340-440, depending upon what  
2 cleanup levels are agreed to in Exhibit B and/or those  
3 achieved after completion of cleanup. If a restrictive  
4 covenant is required, a notice shall be recorded in the title  
5 records consistent with WAC 173-340-440. The notice shall  
6 state that a Consent Decree has been entered in the above-  
7 captioned proceeding and shall indicate what restrictions are  
8 placed on the use of the property as a result of the cleanup  
9 levels selected and/or achieved.

10 **XXV. DEFINITIONS**

11 Unless otherwise specified, the definitions set forth in  
12 ch. 70.105D RCW shall control the meaning of the terms used in  
13 this Consent Decree.

14 **XXVI. OVERSIGHT COSTS**

15 The Respondents agree to pay to Ecology costs recoverable  
16 under the MTCA incurred by Ecology, pursuant to its oversight  
17 of the implementation of this Consent Decree. These costs  
18 shall include work performed by Ecology or its contractors for  
19 investigations, remedial actions, and order preparation,  
20 negotiations, oversight and administration. Ecology costs  
21 shall include costs of direct activities; e.g., employee  
22 salary, laboratory costs, travel costs, contractor fees, and  
23 employee benefit packages; and agency indirect costs of direct  
24 activities. The Respondents agree to pay the required amount  
25 within ninety (90) days of receiving from Ecology an itemized

26 **CONSENT DECREE**

1 statement of costs that includes a summary of costs incurred,  
2 a general description of work performed, an identification of  
3 involved staff, and the amount of time spent by involved staff  
4 members on the project. The itemized statement will identify  
5 total costs by the following categories: total employee  
6 salary costs, laboratory costs, travel costs, contractor fees,  
7 employee benefit costs, and indirect costs. Failure to pay  
8 Ecology's costs within ninety (90) days of receipt of the  
9 itemized statement of costs may result in interest charges.

10 **XXVII. DURATION OF DECREE**

11 This Consent Decree shall remain in effect and the  
12 remedial program described in the Consent Decree shall be  
13 maintained and continued until the Respondents receive a  
14 written Notice of Completion from Ecology that the Cleanup  
15 Action Plan has been satisfactorily completed.

16 **XXVIII. EFFECTIVE DATE**

17 This Decree is effective upon the date it is entered by  
18 the Court.

19 This Decree may be executed in any number of counterparts  
20 required by the convenience of the parties, each of which  
21 shall be of equal force and effect with any other, but shall  
22 constitute only one Agreement. Ecology may collect the  
23 signature pages to make a fully executed document.

24  
25  
26 **CONSENT DECREE**

1 By their signatures hereon, the undersigned represent  
2 that they have authority to bind the parties they represent,  
3 their agents, contractors, and subsidiaries.

4  
5 MOBIL OIL CORPORATION

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

6  
7 By MDD: Mcg...

By \_\_\_\_\_

8 Its MGR - REAL ESTATE/ENGINEERING/PURCHASING Its \_\_\_\_\_

9  
10 Date 8/14/91

Date \_\_\_\_\_

11 SHELL OIL COMPANY

12  
13 By \_\_\_\_\_

14 Its \_\_\_\_\_

15  
16 Date \_\_\_\_\_

17 UNION OIL COMPANY OF CALIFORNIA

18  
19 By \_\_\_\_\_

20 Its \_\_\_\_\_

21  
22 Date \_\_\_\_\_

23  
24 154/WP/mobil.csd

25  
26 CONSENT DECREE

-47-

ATTORNEY GENERAL OF WASHINGTON  
Ecology Division  
4407 Woodview Drive S.E.  
QA-44  
Olympia, WA 98504-8077

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4  
5 MOBIL OIL CORPORATION

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

6  
7 By \_\_\_\_\_

By \_\_\_\_\_

8 Its \_\_\_\_\_

Its \_\_\_\_\_

9  
10 Date \_\_\_\_\_

Date \_\_\_\_\_

11 SHELL OIL COMPANY

12  
13 By \_\_\_\_\_

14 Its \_\_\_\_\_

15  
16 Date \_\_\_\_\_

17 UNION OIL COMPANY OF CALIFORNIA

18  
19 By *W. M. Muck*

20 Its General Manager Marketing Distribution

21  
22 Date July 31, 1991

23  
24 154\mobil.csd

25  
26 CONSENT DECREE

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4  
5 MOBIL OIL CORPORATION

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

6  
7 By \_\_\_\_\_

By Carol L. Flesher

8  
9 Its \_\_\_\_\_

Its Program Manager

10  
11 Date \_\_\_\_\_

Date August 16, 1991

12  
13 SHELL OIL COMPANY

14  
15 By \_\_\_\_\_

16  
17 Its \_\_\_\_\_

18  
19 Date \_\_\_\_\_

20  
21 UNION OIL COMPANY OF CALIFORNIA

22  
23 By \_\_\_\_\_

24  
25 Its \_\_\_\_\_

26  
27 Date \_\_\_\_\_

154\mobil.csd

CONSENT DECREE

-47-

OFFICE OF THE ATTORNEY GENERAL  
Ecology Division  
4407 Woodview Drive S.E.  
QA-44  
Olympia, WA 98504-8077