

FILED

JUL 10 2013

SONYA KRASKI
COUNTY CLERK
SNOHOMISH CO. WASH.

STATE OF WASHINGTON

SNOHOMISH COUNTY SUPERIOR COURT

STATE OF WASHINGTON, DEPARTMENT
OF ECOLOGY,

Plaintiff,

v.

CITY OF EVERETT and
OM EVERETT, INC.

Defendants.

No. 01-2-03640-6

AMENDMENT NO. 2 TO CONSENT
DECREE RE: EVERETT LANDFILL /
TIRE FIRE SITE

TRANSFER OF INTEREST AND
OBLIGATIONS FROM OM EVERETT
INC. TO PNW RIVERFRONT, LLC

WHEREAS, OM Everett Inc. and the City of Everett are parties to a Consent Decree and Amendment No. 1 to Consent Decree for the Everett Landfill / Tire Fire Site (Site); and

WHEREAS, OM Everett Inc. wishes to transfer its interest in that portion of the real property located within the boundaries of the Site more fully described in Exhibit A to this Amendment No. 2 (the "Transferred Property") to PNW Riverfront, LLC ("Riverfront"); and

WHEREAS, OM Everett Inc. and the City of Everett have provided notice to Ecology of OM Everett Inc.'s intent to transfer its fee interest in the Transferred Property to Riverfront, and have provided notice regarding the City of Everett's release to OM Everett to transfer its fee interest in the Transferred Property; and

WHEREAS, as a condition of the transfer of the Transferred Property, Riverfront has agreed to assume responsibility for and accept liability for all of OM Everett's continuing

AMENDMENT NO. 2 TO CONSENT DECREE - 1

FOSTER PEPPER PLLC
1111 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299
PHONE (206) 447-4400 FAX (206) 447-9700

1 obligations under the Consent Decree for the Transferred Property, including operations,
2 maintenance, monitoring and reporting of any remedial action systems associated with the
3 Transferred Property as set forth in the Consent Decree and Amendment No. 1 to Consent
4 Decree; and

5 WHEREAS, both the City of Everett and the Department of Ecology approve of the
6 transfer of all interest and obligations under the Consent Decree and Amendment No. 1 to
7 Consent Decree from OM Everett to Riverfront for the Transferred Property; and

8 WHEREAS, Riverfront approves of the assumption of all interest and obligations under
9 the Consent Decree and Amendment No. 1 to Consent Decree from OM Everett to Riverfront for
10 the Transferred Property; and

11 WHEREAS, both the City of Everett and the Department of Ecology agree that OM
12 Everett shall be released from all further liability under this Decree related to the Transferred
13 Property for the period of time after the date of closing for the transfer of the Transferred
14 Property to Riverfront, but not pertaining to the performance of any obligations prior to the
15 closing date;

16 NOW THEREFORE, the City of Everett, the Department of Ecology, Riverfront and OM
17 Everett Inc. hereby amend this Consent Decree, and substitute Riverfront for OM Everett Inc. for
18 all obligations and liabilities existing after the closing date related the Transferred Property.

1 RIVERFRONT COMMERCIAL, L.L.C., a OM EVERETT INC.
2 Washington limited liability company

3 By: PNW HOMEBUILDERS NORTH,
4 L.L.C., a Washington limited liability company
5 Its: Manager

RICHARD PAUL BUSS
President
(619) 321-1111

5 By: PNW HOME BUILDERS, L.L.C., a
6 Washington limited liability company
7 Its: Sole Member

Dated: _____

7 By: PNW HOME BUILDERS GROUP, INC.,
8 a Washington corporation
9 Its: Manager

10 _____
11 GARY A. YOUNG
12 Executive Vice-President
13 (425) 586-7700

CITY OF EVERETT

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

14 



15 RAY STEPHANSON
16 Mayor of Everett
17 425-257-7115

JAMES PENDOWSKI
Program Manager
Toxics Cleanup Program
(360) 407-7177

Dated: 6-25-2013

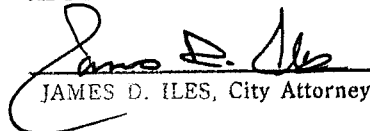
Dated: 7/1/13

18 **ATTEST:**

19 
20 Shannon Julla
City Clerk

APPROVED AS TO FORM

21 ROBERT W. FERGUSON
22 Attorney General


JAMES D. ILES, City Attorney

23 _____
24 ANDREW A. FITZ
25 Senior Counsel
26 (360) 586-6752

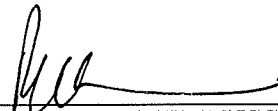
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AMENDMENT NO. 2 TO CONSENT DECREE - 3

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8 Its: Sole Member

Dated: 6/14/13

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11 Its: Manager

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19 Mayor of Everett
20 425-257-7115

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22 JAMES PENDOWSKI
23 Program Manager
24 Toxics Cleanup Program
25 (360) 407-7177

26 Dated: _____

Dated: _____

ROBERT W. FERGUSON
Attorney General

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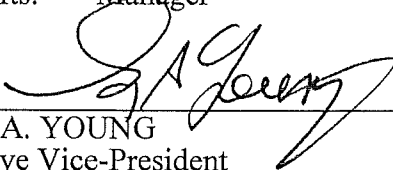
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JUL 08 2013

So ordered this ____ day of June, 2013.

Arden J. Beale
Court Commissioner

JUDGE / COMMISSIONER