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7 **IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON**
8 **IN AND FOR THE COUNTY OF KING**

9 STATE OF WASHINGTON,
10 DEPARTMENT OF ECOLOGY,

11 Plaintiff,

12 v.

13 CITY OF BOTHELL, BOTHELL
14 SERVICE CENTER ASSOCIATES,
15 NORMAN OLSEN, NANCY OLSEN,
16 LANCE CROSS, ANITA CROSS, ROSS
17 LUNDE, and ESTATE OF MERCER
18 RHODES,

19 Defendants.

NO. 18-2-02852-3 SEA

COMPLAINT

20 Plaintiff, State of Washington, Department of Ecology (Ecology) alleges as follows:

21 **I. DESCRIPTION OF ACTION**

22 1. This action is brought on behalf of the State of Washington, Department of
23 Ecology (Ecology) to enter a settlement agreement known as a Consent Decree (Decree),
24 which requires remedial action at a facility where there has been a release and/or threatened
25 release of hazardous substances.

26 2. The Complaint and settlement are limited to the scope of the Decree. The
facility, or Site, is referred to as the Bothell Service Center Simon & Sons (BSCSS) Site (Site).
The Site is located in Bothell, Washington.

1 time period that BSCA owned the real property and leased a portion of the property to the
2 business that operated dry cleaning operations at the Site.

3 10. The City, BSCA, Norman Olsen, Nancy Olsen, Lance Cross, Anita Cross, Ross
4 Lunde, and the Estate of Mercer Rhodes have voluntarily waived the requirement in
5 RCW 70.105D.020(26) and WAC 173-340-500 that Ecology provide notice of its
6 determination that they are potentially liable persons (PLPs) for the Site, as permitted by WAC
7 173-340-500(5).

8 11. A series of investigations have been performed by BSCA and the City,
9 including the Remedial Investigation/Feasibility Study (RI/FS). The RI/FS identified dry
10 cleaning-related contamination in soil and groundwater at the Site at concentrations above
11 applicable standards as set forth in the MTCA Cleanup Regulation, WAC 173-340.

12 12. Soil, groundwater, and soil vapor samples have been collected at the Site and
13 chlorinated solvents, such as PCE, have been detected at levels that represent a risk to human
14 health and the environment and require remedial action.

15 13. The contaminants of concern at the Site that exceed MTCA cleanup levels are
16 chlorinated solvents, i.e., Tetrachloroethene (PCE), Trichloroethene (TCE), Cis-1,2
17 Dichloroethene (DCE), and Vinyl Chloride (VC) in soil and groundwater. Ecology has not
18 assigned the Site an overall priority ranking pursuant to MTCA.

19 14. Ecology has determined that contamination at the Site presents a threat to
20 human health and the environment, and that a final cleanup is necessary to remedy
21 contamination.

22 15. Ecology developed a draft Cleanup Action Plan (CAP) for the Site and
23 negotiated a draft Decree with the Defendants for implementation of the CAP.

24 16. As documented in the CAP (Exhibit C to the Decree), the cleanup action to be
25 implemented at the Site includes a combination of electrical resistance heating, soil vapor
26

1 extraction, biological groundwater treatment and circulation, monitoring, targeted soil removal,
2 and institutional controls as required by WAC 173-340-360(8)(b).

3 17. The draft CAP and draft Decree were subject to public notice and comment
4 from November 17, 2017, through December 18, 2017.

5 18. Ecology reviewed and considered all comments received and has determined
6 that no modification of the CAP or Decree is required, and that no additional public comment
7 is required. After consideration, Ecology issued a final CAP.

8 19. Ecology and the Defendants have now entered into the final Decree requiring
9 cleanup of the Site. The final CAP is an integral and enforceable exhibit to the Decree.

10 **V. CAUSES OF ACTION**

11 20. Ecology realleges all preceding paragraphs.

12 21. Ecology alleges that the Defendants are responsible, jointly and severally, for
13 remedial action at the Site, pursuant to RCW 70.105D.

14 **VI. PRAYER FOR RELIEF**

15 22. Ecology requests that the Court approve and order entry of the proposed
16 Decree.

17 23. Ecology further requests that the Court retain jurisdiction to enforce the terms of
18 the Decree.

19 DATED this 1st day of February 2018.

20
21 ROBERT W. FERGUSON
Attorney General

22 

23 ANN C. ESSKO, WSBA #15472
24 Senior Counsel
25 Attorneys for Plaintiff
26 State of Washington
Department of Ecology
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