



Bob Ferguson

# ATTORNEY GENERAL OF WASHINGTON

Ecology Division

2425 Bristol Court SW 2nd Floor • Olympia WA 98502  
PO Box 40117 • Olympia WA 98504-0117 • (360) 586-6770

March 20, 2018

Alison H. Sonntag, Clerk  
Kitsap County Superior Court  
614 Division Street, MS 24  
Port Orchard, WA 98366

RE: ***Dep't of Ecology v. Endsley***  
**Kitsap County Superior Court No. 90-2-01914-6**

Dear Ms. Sonntag:

Enclosed for ex parte presentation is the original and one copy of the parties' Joint Motion to Dismiss and Order of Dismissal, together with a state invoice voucher for payment of the \$30 ex parte fee. Please return the signed voucher along with the conformed copies of the motion and order in the postage-paid envelope provided.

Thank you for your assistance with this matter and if you should have any questions regarding the enclosed, please do not hesitate to call me.

Sincerely,

DANIELLE E. FRENCH  
Legal Assistant for  
ANDREW A. FITZ  
Senior Counsel  
360-586-8171

Enclosures

cc: Peter E. Hapke



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6 **STATE OF WASHINGTON**  
**KITSAP COUNTY SUPERIOR COURT**

7 STATE OF WASHINGTON,  
8 DEPARTMENT OF ECOLOGY,

9 Plaintiff,

10 v.

11 PETE ENDSLEY and JOHN ENDSLEY,

12 Defendants.

NO. 90-2-01914-6

JOINT MOTION TO DISMISS

13  
14 COMES NOW Plaintiff, the State of Washington, Department of Ecology (Ecology),  
15 by and through its attorney, Andrew A. Fitz, Senior Counsel, and Defendants, Pete Endsley  
16 and John Endsley, by and through their attorney, Peter E. Hapke, of Hapke Law Office PLLC,  
17 and jointly move the Court to dismiss this action. This action involved the implementation of a  
18 Consent Decree originally entered by the Court in this matter on August 17, 1990 (Decree),  
19 which was superseded by a Second Amended Consent Decree entered on August 2, 2010. The  
20 Decree governed remedial action at the County Junction Store Site generally located at 5310  
21 S.E. Highway 160, in Port Orchard, Washington, at the southwest corner of S.E. Mile Hill  
22 Drive and Long Lake Road S.E., pursuant to Washington State's Model Toxics Control Act,  
23 RCW 70.105D. Ecology has completed the remedial actions described in Tasks 1-7 in  
24 Section VI.A of the Decree (Work to be Performed), and the Defendants have satisfied the  
25 obligation described in the Section VI.B of the Decree. In compliance with the requirement of  
26

1 Section XVII (Duration of Decree), Ecology has provided Defendants with written notification  
2 of that determination. *See* Exhibit A.

3 Both parties' obligations under the Decree having been completed, the parties therefore  
4 stipulate to dismissal of this action and seek an Order of Dismissal from the Court pursuant to  
5 Section XVII (Duration of Decree). The parties recognize and intend that dismissal of this  
6 action shall not alter the binding effect of any and all continuing rights and duties of the parties  
7 under the Decree, including but not limited to the provisions of: Section IX (Retention of  
8 Records); Section XIII (Covenant Not to Sue); Section XIV (Contribution Protection); Section  
9 XV (Indemnification); and Section XVIII (Claims Against the State).

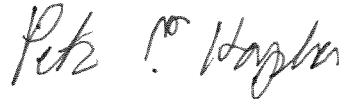
10 Therefore, the parties now move for dismissal of this action with prejudice and without  
11 costs to either party.

12 DATED this 8<sup>th</sup> day of March, 2018.

13 ROBERT W. FERGUSON  
14 Attorney General

15 

HAPKE LAW OFFICE PLLC



16 ANDREW A. FITZ, WSBA #22169  
17 Senior Counsel  
18 Attorneys for Plaintiff  
19 State of Washington, Department of  
20 Ecology  
21 T: 360-586-6752

PETER E. HAPKE, WSBA #23159  
Attorney for Defendants  
Pete Endsley and John Endsley  
T: 206-714-6444

## **EXHIBIT A**



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000

711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

March 14, 2018

Mr. Pete Endsley  
Mr. John Endsley  
6740 Regency Drive Southwest  
Port Orchard, WA 98367

Re: Satisfaction Letter for Consent Decree No. 90-2-01914-6  
Facility Site ID #2610; Cleanup Site ID #5164  
Country Junction Store Site, 5310 SE Mile Hill Drive, Port Orchard, WA

Dear Gentlemen:

Thank you for working with the Department of Ecology (Ecology) and for your efforts to help clean up the above mentioned Site.

This letter is provided pursuant to Section XVII of the Second Amended Consent Decree in *State of Washington, Department of Ecology v. Pete Endsley and John Endsley*, Kitsap County Superior Court No. 90-2-01914-6; entered August 2, 2010. As provided in that section, Ecology confirms that on December 6, 2017, you submitted all required reimbursement under Section VI.B of the Decree (as amended by letter agreement of the parties on December 19, 2016), and have satisfactorily completed those obligations of the Decree.

With your obligations satisfied, and Ecology having satisfied Tasks 1-7 of Decree Section VI.A, the Attorney General's Office will work with your attorney to dismiss the Consent Decree. The Second Amended Consent Decree outlined a number of actions for Ecology to undertake that, while substantial, constituted interim actions under the Model Toxics Control Act. A final cleanup action has not yet been implemented at the Country Junction Store Site. However, your obligations under the Model Toxics Control Act, have been resolved.

Again, thank you for working with Ecology to clean up the contamination at this Site.

Sincerely,

A handwritten signature in black ink, appearing to read "James J. Pendowski", written over a horizontal line.

James J. Pendowski, Program Manager  
Toxics Cleanup Program

cc: Peter E. Hapke, Hapke Law Office PLLC

STATE OF WASHINGTON,  
DEPARTMENT OF ECOLOGY,

Plaintiff,

V.

PETE ENDSLEY and JOHN  
ENDSLEY,

Defendants.

1 Presented by:

2 ROBERT W. FERGUSON  
3 Attorney General



4 ANDREW A. FITZ, WSBA #22169  
5 Senior Counsel  
6 Attorneys for Plaintiff  
7 State of Washington, Department of Ecology  
8 T: 360-586-6752

9 HAPKE LAW OFFICE PLLC



10 PETER E. HAPKE, WSBA #23159  
11 Attorney for Defendants  
12 Pete Endsley and John Endsley  
13 T: 206-714-6444  
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AGENCY USE ONLY			
AGENCY NO.	LOCATION /FILING CODE	AGENCY P.R./AUTH #	USE TAX
1000			

<b>AGENCY NAME</b>
<b>Attorney General's Office Ecology PO Box 40117 Olympia, WA 98504</b>
<b>VENDOR OR CLAIMANT (Warrant is to be payable to)</b>
<b>KITSAP COUNTY SUPERIOR COURT 614 DIVISION ST MS24 PORT ORCHARD, WA 98337</b>

**INSTRUCTIONS TO VENDOR:** Submit this form to claim payment for materials, merchandise, or services. Show complete detail for each item.

**VENDOR'S CERTIFICATE:** I hereby certify under penalty of perjury that the items and totals listed herein are proper charges for materials, merchandise, or services furnished to the State of Washington, and that all goods furnished and/or services rendered have been provided without discrimination because of age, sex, marital status, race, creed, color, national origin, handicap, religion, or Vietnam era or disabled veterans status.

PAYMENT TYPE	
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VENDOR NO (FED ID, SOC SEC, or SWW #)	OMWBE Code	DIVISION CONTACT	VOUCHER ID
SWV000894902		Carol A Carney	79299

[illegible]

DIVISION USE	Vendor Selected by: AGO		Other	X	TOTAL	30.00	
	Div Code: 4E001405	Matter Number: 9066666			Case or Docket No:	90-2-01914-6	
	Case Name: ECY v. ENDSLEY, PETE			Client Agency Code (3-digit): 461		Location Code (4-digit): E410	

<u>Prepared by:</u>	<u>Phone Number</u>	<u>Agency Approval - Print Name</u>	<u>Signature</u>	<u>Date</u>
Danielle E French	(360) 586-8171			

<u>Current Document No</u>	<u>Reference Document No</u>	<u>Account Number</u>	<u>Vendor Message</u>

[illegible]

Accounting approval for payment	Date	Warrant Total	Warrant Number