# NORTH MARINA AMERON/HULBERT

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### STATE OF WASHINGTON SNOHOMISH COUNTY SUPERIOR COURT

STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY,

Plaintiff,

NO.

15 2 01720

JOINT MOTION FOR ENTRY OF CONSENT DECREE

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AMERON INTERNATIONAL,
OLDCASTLE PRECAST, INC., PORT
OF EVERETT, DAVID F. HULBERT,
TANA MARTIN GREENBERG,
WILLIAM G. HULBERT III, the
WILLIAM HULBERT MILL
COMPANY LIMITED PARTNERSHIP,
and the WILLIAM G. HULBERT, JR
AND CLARE MUMFORD HULBERT
REVOCABLE LIVING TRUST,

Defendants.

I. INTRODUCTION

Plaintiff, State of Washington, Department of Ecology (Ecology), and Defendants, the Port of Everett (the Port), Ameron International (Ameron), Oldcastle Precast, Inc. (Oldcastle), and William G. Hulbert III, Mr. David F. Hulbert, Ms. Tana Martin Greenberg, The William G. Hulbert, Jr. and Claire Mumford Hulbert Revocable Living Trust, and the William Hulbert Mill Company Limited Partnership (the Hulberts), bring this motion seeking entry of the Consent Decree (Decree) in the above captioned matter. This motion is based upon the

pleadings filed in this matter, including the Declaration of Barry Rogowski, a Section Manager with Ecology's Toxics Cleanup Program.

#### II. RELIEF REQUESTED

The Parties request that the Court approve and enter the Decree, which governs the cleanup of contamination at the North Marina Ameron/Hulbert Site (Site) in Everett, Washington, pursuant to the Model Toxics Control Act (MTCA), RCW 70.105D. The Parties also request that the Court retain jurisdiction over this action until the work required by the Decree is completed and the Parties request a dismissal of this action.

#### III. AUTHORITY

Authority is conferred upon the Washington State Attorney General by RCW 70.105D.040(4)(a) to agree to a settlement with any potentially liable person (PLP) if, after public notice and any required hearing, Ecology finds the proposed settlement would lead to a more expeditious cleanup of hazardous substances. RCW 70.105D.040(4)(b) requires that such a settlement be entered as a consent decree issued by a court of competent jurisdiction.

## IV. AGENCY DETERMINATIONS SUPPORTING ENTRY OF DECREE

- A. Ecology has determined that a release or threatened release of hazardous substances has occurred at the Site that is the subject of this Decree. Declaration of Barry Rogowski (Rogowski Decl.) ¶ 4.
- B. Ecology has determined that contamination at the Site presents a threat to human health and the environment. Rogowski Decl. ¶ 6.
- C. Ecology has given notice to the Port, Ameron, Oldcastle, and the Hulberts of Ecology's determination that they are PLPs for the Site, as required by RCW 70.105D.020(26) and WAC 173-340-500. Rogowski Decl. ¶ 7.
- D. The actions to be taken pursuant to this Decree are necessary to protect public health and the environment. Rogowski Decl. ¶ 9.

	notice and comment. Rogowski Decl.		
1	E. This Decree has been subject to public notice and comment. Rogowski Decl.		
	¶ 10. Ecology considered all comments received, and determined that no additional public		
3	Rogowski Decl. ¶11.		
.	Delegation of the determined that this Decree will lead to a more experiment		
4	of hazardous substances at the Site in compliance with cleanup standards established under		
5	RCW 70.105D.030(2)(e) and WAC 173-340. Rogowski Decl. ¶ 9.		
6	V CONCLUSION		
7	and approve the court to exercise its discretion and approve		
8	The Parties believe it is appropriate that the Court enter the attached Order. The Parties further the Decree, and hereby request that the Court enter the attached Order.		
9	the Decree, and hereby request that the Ostar		
10	request that the Court retain jurisdiction to enforce the terms of the Decree.		
11	DATED this _30 day of December 2014.		
12	ROBERT W. FERGUSON STOEL RIVES LLP		
13	Attorney General		
14	STEVEN J. THIELE, WSBA #20275		
15	Actioney for Defendant  Actioney for Defendant  Action of Everett		
16	Assistant Attorneys for Plaintiff Attorneys for Plaintiff State of Washington, Department of Ecology (206) 386-7530		
	(360) 586-6733		
17	DAVIS WRIGHT TREMAINE LLP ADVOCATES LAW GROOT 1221		
18	Won 4 #02150		
19	LYNN T. MANOLOPOULOS, WSBA #21069  Attorney for Hulbert Defendants		
20	Attorney for Defendant (206) 714-6444  Ameron International		
21	(425) 646-6146		
22	VAN NESS FELDMAN LLP		
23			
24	KEITH MOXON, WSBA #15361 Attorney for Defendant Oldcastle Precast, Inc.		
25	Attorney for Defendant Orders (206) 623-9372		
	II ·		

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	1	E. This Decree has been subject to public notice and comment. Rogowski Decl.				
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12	IF T	ROBERT W. FERGUSON	STOEL RIVES LLP			
13	3 1	Attorney General	Jan Van Ben			
14	- 11 -		·			
15		OHN A. LEVEL, WSBA #20439 Assistant Attorney General	STEVEN J. THIELE, WSBA #20275			
16	$\parallel E$	Attorneys for Plaintiff tate of Washington, Department of Ecology	Attorney for Defendant Port of Everett			
17	11 1 1	360) 586-6753	(206) 386-7530			
18	11	AVIS WRIGHT TREMAINE LLP	ADVOCATES LAW GROUP PLLC			
19		Van VIllerlâle Voz				
20	M	YNN T. MANOLOPOULOS WSBA #21069 ttorney for Defendant	PETER HAPKE, WSBA #23159 Attorney for Hulbert Defendants			
21	(4)	neron International 25) 646-6146	(206) 714-6444			
22	VA	IN NESS FELDMAN LLP				
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24	KE	ITH MOXON, WSBA #15361				
25	Att	orney for Defendant Oldcastle Precast, Inc. 6) 623-9372				
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12	ROBERT W. FERGUSON STOEL RIVES LLP Attorney General				
13					
14	JOHN A. LEVEL, WSBA #20439 STEVEN J. THIELE, WSBA #20275				
15.	Assistant Attorney General Attorney for Defendant Attorneys for Plaintiff Port of Everett				
16	State of Washington, Department of Ecology (206) 386-7530 (360) 586-6753				
17	DAVIS WRIGHT TREMAINE LLP ATWOCATES LAW GROUP PLLC				
18	FIR DAND				
19	LYNN T. MANOLOPOULOS, WSBA #21069 PETER HAPKE, WSBA #23159				
20	Attorney for Defendant Attorney for Hulbert Defendants Ameron International (206) 714-6444				
21	(425) 646-6146 VAN NESS FELDMAN LLP				
23	VAN NESS FELDIMAN CLF				
24	KEFTH MOXON, WSBA #15361				
25	Attorney for Defendant Oldcastle Precast, Inc. (206) 623-9372				
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12	ROBERT W. FERGUSON	STOEL RIVES LLP		
13	Attorney General			
14	TOTAL A LEGIEL WIND A #20/20	COUNTY FOR THE TENTE TO TAKED A #00075		
15	JOHN A. LEVEL, WSBA #20439 Assistant Attorney General	STEVEN J. THIELE, WSBA #20275 Attorney for Defendant Port of Everett		
16	Attorneys for Plaintiff State of Washington, Department of Ecology (360) 586-6753	Port of Everett (206) 386-7530		
17	(360) 586-6753  DAVIS WRIGHT TREMAINE LLP	PRIOCEMENT AND ODDINE BLIC		
18	DAVIS WRIGHT TREMAINE DEL	ADVOCATES LAW GROUP PLLC		
19	LYNN T. MANOLOPOULOS, WSBA #21069	PETER HAPKE, WSBA #23159		
20	Attorney for Defendant  Ameron International	Attorney for Hulbert Defendants (206) 714-6444		
21	(425) 646-6146	(200) /14-0444		
22	VAN NESS FELDMAN LLP			
23	Kitz. My			
24	KEITH MOXON, WSBA #15361 Attorney for Defendant Oldcastle Precast, Inc.			
25	5 (206) 623-9372			
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7	STATE OF WASHINGTON SNOHOMISH COUNTY SUPERIOR COURT			
8 9	STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY,	NO.		
10	Plaintiff,	AFFIDAVIT OF JOHN A. LEVEL		
11	ν.	RE: FACSIMILES OF STEVEN THIELE, LYNN MANOLOPOULOS,		
12	AMERON INTERNATIONAL, OLDCASTLE PRECAST, INC., PORT	PETER HAPKE AND KEITH MOXON		
13	OF EVERETT, DAVID F. HULBERT, TANA MARTIN GREENBERG,			
14	WILLIAM G. HULBERT III, the WILLIAM HULBERT MILL			
15	COMPANY LIMITED PARTNERSHIP, and the WILLIAM G. HULBERT, JR			
16	AND CLARE MUMFORD HULBERT REVOCABLE LIVING TRUST,			
17	Defendants.			
18				
19	STATE OF WASHINGTON )			
20	, ss.	•		
21	County of THURSTON )			
22	I, JOHN A. LEVEL, being first duly sworn upon oath, deposes and says:			
23	1. I am over the age of 18, competent to be a witness herein, and make this			
24	affidavit in that capacity. I state the following based upon my personal knowledge and			
25	pursuant to the provisions of GR 17.			
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- 2. I received the foregoing facsimiles for filing. I have examined the facsimiles and determined that the facsimiles of the Joint Motion for Entry of Consent Decree signed by Steven J. Thiele and received on December 22, 2014, signed by David Ubaldi for Lynn T. Manolopoulos and received on December 29, 2014, signed by Peter Hapke and received on December 23, 2014, and signed by Keith Moxon and received on December 23, 2014, consists of eight pages (including this Affidavit) and that it is complete and legible.
- My address is 2425 Bristol Court SW, Olympia, WA 98502. My phone number is (360) 586-6753. The facsimile address where I received the document is john13@atg.wa.gov.

I declare under penalty of perjury of the laws of the state of Washington that to the best of my knowledge the foregoing statement is true and correct.

SUBSCRIBED AND SWORN to before me this 30 day of December

NOTARY PUBLIC in and for the State of Washington, residing at Pierce Court

My Commission Expires: June

