

NORTH MARINA AMERON/HULBERT
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SITE MGR: ANDY KALLUS
CSID 3546 HQ

FILED

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STATE OF WASHINGTON
SNOHOMISH COUNTY SUPERIOR COURT

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

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.

NO. 15 2 01720-7

JOINT MOTION FOR ENTRY OF
CONSENT DECREE

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

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

3 **II. RELIEF REQUESTED**

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

9 **III. AUTHORITY**

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

15 **IV. AGENCY DETERMINATIONS SUPPORTING ENTRY OF DECREE**

16 A. Ecology has determined that a release or threatened release of hazardous
17 substances has occurred at the Site that is the subject of this Decree. Declaration of Barry
18 Rogowski (Rogowski Decl.) ¶ 4.

19 B. Ecology has determined that contamination at the Site presents a threat to
20 human health and the environment. Rogowski Decl. ¶ 6.

21 C. Ecology has given notice to the Port, Ameron, Oldcastle, and the Hulberts of
22 Ecology's determination that they are PLPs for the Site, as required by RCW 70.105D.020(26)
23 and WAC 173-340-500. Rogowski Decl. ¶ 7.

24 D. The actions to be taken pursuant to this Decree are necessary to protect public
25 health and the environment. Rogowski Decl. ¶ 9.

26

1 E. This Decree has been subject to public notice and comment. Rogowski Decl.
2 ¶ 10. Ecology considered all comments received, and determined that no additional public
3 comment was required. Rogowski Decl. ¶ 11.

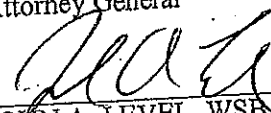
4 F. Ecology has determined that this Decree will lead to a more expeditious cleanup
5 of hazardous substances at the Site in compliance with cleanup standards established under
6 RCW 70.105D.030(2)(e) and WAC 173-340. Rogowski Decl. ¶ 9.

7 **V. CONCLUSION**

8 The Parties believe it is appropriate for the Court to exercise its discretion and approve
9 the Decree, and hereby request that the Court enter the attached Order. The Parties further
10 request that the Court retain jurisdiction to enforce the terms of the Decree.

11 DATED this 30th day of December 2014.

12 ROBERT W. FERGUSON
13 Attorney General

14 
15 JOHN A. LEVEL, WSBA #20439
16 Assistant Attorney General
17 Attorneys for Plaintiff
18 State of Washington, Department of Ecology
19 (360) 586-6753


20 DAVIS WRIGHT TREMAINE LLP

21 LYNN T. MANOLOPOULOS, WSBA #21069
22 Attorney for Defendant
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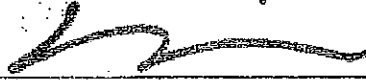
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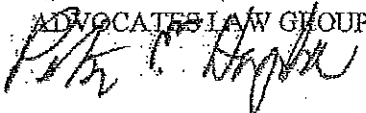
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