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**STATE OF WASHINGTON
SKAGIT COUNTY SUPERIOR COURT**

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

PORT OF SKAGIT COUNTY, a
municipal corporation

Defendant.

NO. 11-2-01536-2

JOINT MOTION TO DISMISS
CONSENT DECREE

COMES NOW Plaintiff, the State of Washington, Department of Ecology (Ecology), by and through its attorney, Ivy Anderson, Assistant Attorney General, and Defendant, Port of Skagit County, by and through its attorney, Steven J. Thiele, of Thiele Law Firm PLLC, and jointly move the Court to dismiss the above-captioned action. This action involved the implementation of a Consent Decree originally entered by the Court on August 1, 2011. The Decree governed remedial action at a site located adjacent to Taxiway F near the western edge of the Skagit Regional Airport in Skagit County, Washington, pursuant to Washington State's Model Toxics Control Act, RCW 70.105D.

Ecology has determined that the Defendant has completed the remedial action described in the Decree, including each of the tasks set forth in Section VI (Work to Be Performed). In compliance with the requirement of Section XXV (Duration of Decree),

1 Ecology has provided Defendant with written notification of that determination on June 6,
2 2019. See Exhibit A.

3 The remedial work having been completed, the parties therefore stipulate to dismissal
4 of this action and seek an Order of Dismissal from the Court pursuant to Section XXV
5 (Duration of Decree). The parties recognize and intend that dismissal of this action shall not
6 alter the binding effect of any and all continuing rights and duties of the parties under the
7 Decree, including but not limited to the provisions of: Section XII (Retention of Records);
8 Section XVIII (Covenant Not to Sue); Section XIX (Contribution Protection); Section XX
9 (Indemnification); and Section XXVI (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 3rd day of July 2019.

13 ROBERT W. FERGUSON
14 Attorney General

STEVEN J. THIELE
Thiele Law Firm PLLC

15 



16 IVY ANDERSON, WSBA #30652
17 Assistant Attorney General
18 Attorneys for Plaintiff
19 State of Washington
20 Department of Ecology
21 360-586-4619

STEVEN J. THIELE, WSBA #20275
Attorney for Defendant
Port of Skagit County
206-697-0994



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

June 6, 2019

Patricia H. Botsford-Martin
Executive Director
Port of Skagit County
Skagit Regional Airport – Administration Building
15400 Airport Drive
Burlington, WA 98233-5306

Re: Satisfaction of Consent Decree No. 11 2 01536 2 and No Further Action at the following Contaminated Site:

- **Site Name:** Skagit County Port - Taxiway F Skagit County Regional Airport
- **Site Address:** 15400 Airport Drive, Burlington, WA 98233-5306
- **Cleanup Site ID:** 1671
- **Facility/Site ID:** 67457634

Dear Ms. Botsford-Martin:

Thank you for working with the Washington State Department of Ecology (Ecology) on Skagit County Port - Taxiway F Skagit County Regional Airport (Site). This letter provides written notification that the remedial actions required by Consent Decree No. **11 2 01536 2** (Decree) have been satisfactorily completed and that no further remedial action is necessary to clean up contamination at the Site under the Model Toxics Control Act (MTCA), Chapter 70.105D RCW. The Decree became effective on August 1, 2011.

Satisfaction of Decree

Ecology has determined the requirements of the Decree have been satisfied. Ecology made this determination pursuant to Section XXV (Duration of Decree).

The remedial actions required by the Decree are specified in Section VI (Work to Be Performed) and detailed in the Cleanup Action Plan (Exhibit B). Port of Skagit County was required to conduct the remedial action described in the Cleanup Action Plan, which included excavation and off-site disposal of all Site soils exceeding cleanup levels in the vicinity of Taxiway F at the Skagit County Regional Airport.

Exhibit A

Patricia H. Botsford-Martin

June 6, 2019

Page 2

Confirmation sampling and monitoring was required to demonstrate that local groundwater quality and wetland habitat was restored following the contaminated soil removal. After inspecting the Site and reviewing the supporting documentation, Ecology has determined that the remedial actions required by the Decree have been satisfactorily completed.

No Further Action Determination

Ecology has determined that no further remedial action is necessary to clean up contamination at the Site under MTCA. Ecology has also determined that no post-cleanup controls or monitoring are necessary under MTCA.

Dismissal of the Decree

Based on the above determinations, Ecology has decided to dismiss the Decree. The Attorney General's Office will seek joint dismissal of the Decree in Skagit County Superior Court.

Upon dismissal of the Decree, Section XII (Retention of Records) will remain in effect for ten years from the date the Decree is no longer in effect. Sections XIX (Contribution Protection), XVIII (Covenant Not to Sue) Section XX (Indemnification), and Section XXVI (Claims Against the State) will remain in effect in perpetuity.

Thank You

Thank you for cleaning up the Site. Should you have any questions, please do not hesitate to contact Ecology's cleanup project manager for this Site, Ronald W. Timm, at (425) 649-7185 or Ronald.Timm@ecy.wa.gov.

Sincerely,



James Pendowski, Program Manager
Toxics Cleanup Program

cc: Heather Rogerson, Planning and Environmental Manager, Port of Skagit County
Ivy Anderson, Office of the Attorney General
Bob Warren, TCP, Ecology
Joanna Richards, Ecology
Ecology Site File