

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

In the Matter of
Interim Actions at:

Pasco Sanitary Landfill
Pasco, Washington

NO. DE 00TCPER-1327

ENFORCEMENT ORDER

IO:
Basin Disposal Company
John and Marjorie Dietrich
United States Department of Interior, Bureau of Reclamation

Collectively referred to herein as the Potentially Liable Persons ("PLPs") or PLP Group.

I. JURISDICTION

This Enforcement Order ("Order") is issued pursuant to the authority of RCW 70.105D.050(1). This is an Order to implement interim actions for the Sanitary Landfill Area at the Pasco Landfill Site ("Site"). Implementation of interim actions for the Industrial Waste Area and Groundwater Plume Area at the Site will be addressed in a separate Order(s). Division of work for purposes of interim actions does not constitute division of the Site or creation of separate operable units. The division of work is for the purpose of commencing interim actions in an expeditious manner.

II. FINDINGS OF FACT

Ecology makes the following findings of fact, without admission of such facts by the PLPs.

A. Site Location

The Pasco Sanitary Landfill is located approximately 1.5 miles northeast of the City of Pasco, Washington, in the southwest quarter of Section 15, and the northwest quarter of Section 22, Township 9 North, Range 30 East, Willamette Meridian, in Franklin County, Washington. The site is near the intersection of Kahlotus Road with United States Routes 12 and 395, at latitude 46 degrees, 15' 07" North and longitude 119 degrees, 03' 13" West. The approximate location and boundaries of the Site are depicted by the diagram that is Attachment A to this Order, which is hereby incorporated by reference and is an integral part of this Order. The Site consists of the area illustrated and extends laterally and vertically as far as the plume of contamination which exceeds applicable cleanup levels in groundwater resulting from onsite contamination.

1. The Industrial Waste Area ("IWA") as this term is used in this Order is described on Attachment B.

2. The Groundwater Plume Area ("GPA") as this term is used in this Order is described on Attachment C.

3. The Sanitary Landfill Area ("SLA") as this term is used in this Order is described on Attachment D.

Attachments B, C, and D are hereby incorporated by this reference and are integral parts of this Order.

B. Site History and Operations

1. In 1958, the Franklin County Planning Commission authorized John Dietrich, d/b/a Pasco Garbage Service, to establish and operate a garbage disposal facility at this Site. The facility operated as a burning dump until 1971 when it converted to a sanitary landfill.

2. Chemical Processors, Inc. ("Chempro") and John and Marjorie Dietrich, d/b/a Basin Disposal Co., Inc. ("Basin"), agreed in 1972 to form a third company, Resource Recovery Corporation ("CR2"), to operate the landfill. CR2 was incorporated in Washington on August 8, 1972. The Resource Recovery Corporation Operational Plan, dated August 28, 1972, envisioned the development of a landfill for both drummed and liquid wastes. Drummed wastes were to be buried, and bulk liquids were to be discharged to lagoons and evaporated.

3. The Washington State Department of Ecology ("Ecology") issued an industrial waste discharge permit, No. 5301, to CR2 on March 21, 1973, to govern the operation of the disposal facility according to the operational plan. CR2 operated the industrial waste lagoons and drum disposal sites until 1974.

4. Following expiration of the permit, CR2 continued to operate the sanitary landfill portion of the facility, accepting local solid and industrial waste under permit from the Benton-Franklin District Health Department. In 1981, Pasco Sanitary Landfill, Inc. ("PSL") was formed to operate the landfill. PSL currently owns the Pasco Sanitary Landfill Property, which is depicted in Attachment A.

C. Previous Site Investigation Results

1. In February 1990, the Pasco Sanitary Landfill was listed as a National Priority List ("NPL") site by the United States Environmental Protection Agency ("EPA"). Ecology has been established as the lead agency for the cleanup investigations and remedial actions taken at the site. Ecology has consulted EPA regarding the interim actions to be performed pursuant to this Order. EPA has not objected to the proposed interim actions.

2. In 1992, a Phase I Remedial Investigation was begun by a group of PLPs. That group, including past and present owners/operators and generators, were signatories to Order DE 92TC-E105. The purpose of the Phase I Remedial Investigation was to gain additional information on the nature and extent of contamination in the air, soil, and ground water near potential contaminant sources at the site. The Phase I Remedial Investigation Report was accepted as final by Ecology in March 1994, following public notice and opportunity to comment.

3. In 1994, A Phase II Remedial Investigation ("RI") began at the Site. This work was completed by Philip Environmental Services Corporation ("Philip") on behalf of the Pasco Landfill Potentially Liable Person Group in accordance with Enforcement Order DE94TC-E103 and amendments issued by Ecology. The objective of the report was to document the Phase II RI activities and present an evaluation of the nature and extent of contamination at the Site. The Phase II RI report incorporated the findings presented in the Phase I RI report (Burlington Environmental Inc., 1994). The Phase II RI report was dated March 13, 1998, and was accepted as final by Ecology in October, 1999 following public notice and opportunity to comment.

Results of the Phase II RI report are documented in Section 3.0 of the report. Monitoring results to date indicate a release of hazardous substances to the environment, within the meaning of RCW 70.105D.020(20), has occurred at the Site.

D. Feasibility Study and Interim Actions

1. The PLP Group has completed a Feasibility Study ("FS") for the Site in accordance with WAC 173-340-350 and Enforcement Order DE94TC-E103. The FS report was dated April 23, 1999, and was accepted as final by Ecology in October 1999 after public notice and opportunity to comment.

2. Pursuant to Enforcement Order DE94TC-E103, as amended, the PLP Group has implemented certain interim actions at the Site. The Order describes further interim actions required by Ecology for the Site.

E. Conclusion

Based upon the facts set forth herein, Ecology has determined that the release and potential release of hazardous substances from the facility require interim actions to protect the public health, welfare, and the environment. This Order sets forth the interim actions necessary to protect public health, welfare, and the environment.

III. ECOLOGY DETERMINATIONS

Ecology determines, without admission on the part of any PLP, that:

1. Each PLP is potentially liable pursuant to RCW 70.105D.040 for the Pasco Sanitary Landfill, a "facility" as defined in RCW 70.105D.020(4). By letters issued pursuant to WAC 173-340-500(4), Ecology notified each of the PLPs of its status as a PLP under RCW 70.105D.040 after notice and opportunity for comment. The basis for each PLP's potential liability is set forth in those letters.

2. The facility is known as the Pasco Sanitary Landfill and is located approximately 1.5 miles northeast of the City of Pasco, Washington, in the southwest quarter of Section 15, and the northwest quarter of Section 22, Township 9 North, Range 30 East, Willamette Meridian, in Franklin County, Washington. The site is near the intersection of Kahlotus Road with United States Routes

12 and 395, at latitude 46 degrees, 15' 07" North and longitude 119 degrees, 03' 13" West. The approximate location and boundaries of the Site are depicted by the diagram that is Attachment A to this Order, which is hereby incorporated by reference and is an integral part of this Order. The Site consists of the area illustrated and extends laterally and vertically as far as the plume of contamination which exceeds applicable cleanup levels in groundwater resulting from onsite contamination.

3. The substances found at the facility as described above are "hazardous substances" as defined in RCW 70.105D.020(7).

4. Based on the presence of these hazardous substances at the facility and all factors known to Ecology, there is a release or threatened release of hazardous substances from the facility, as defined in RCW 70.105D.020(20).

5. Pursuant to RCW 70.105D.030(1) and 70.105D.050, Ecology may require potentially liable persons to investigate or conduct other remedial actions with respect to the release or threatened release of hazardous substances whenever it believes such action to be in the public interest.

6. Pursuant to WAC 173-340-430, interim actions may occur prior to the selection and completion of a cleanup action if the interim action is technically necessary to reduce a threat to human health and the environment by eliminating or substantially reducing one or more pathways of exposure to a hazardous substance at a facility or is necessary for design of the cleanup action. The interim action must be approved in writing by Ecology prior to initiation of such action(s) by the PLP Group.

7. Based on the foregoing facts, Ecology believes the interim actions required by this Order are in the public interest.

IV. WORK TO BE PERFORMED

Based on the foregoing facts and determinations, it is hereby ordered that the PLP Group take the following interim actions and that these actions be conducted in accordance with Chapter 173-340 WAC unless otherwise specifically provided for herein. This Order requires the implementation and completion of the interim actions in the Scope of Work for Interim Actions at the SLA (Attachment E). Attachment E is hereby incorporated by this reference and is an integral part of this Order. These interim actions shall be conducted according to the schedule set forth in Attachment E. The reference in the schedule set forth in Attachment E to "effective date" is the effective date of Agreed Order DE 00TCPER-1326.

V. TERMS AND CONDITIONS OF ORDER

1. Definitions. Unless otherwise specified, the definitions set forth in Chapter 70.105D RCW and Chapter 173-340 WAC shall control the meaning of the terms used in this Order.

2. Public Notices. WAC 173-340-600(10)(c) requires a thirty (30) day public comment period before this Enforcement Order becomes effective. Ecology shall be responsible for providing such public notice and reserves the right to withdraw this Order should public comment disclose facts or considerations which indicate to Ecology that the Order is inadequate or improper in any respect.

3. Ecology's Costs. The PLPs shall pay to Ecology costs incurred by Ecology pursuant to this Order. These costs shall include work performed by Ecology or its contractors for investigations, remedial actions, preparation of this Order, oversight, and administration. Ecology costs shall be limited to remedial costs as defined in WAC 173-340-550(2). The PLPs shall pay the required amount within ninety (90) days of receiving from Ecology an itemized statement of costs that includes a summary of costs incurred, an identification of involved staff, and the amount of time spent by involved staff members on the project. A general description of work performed will be

provided. Itemized statements shall be prepared quarterly. Failure to pay Ecology's costs within ninety (90) days of receipt of the itemized statement of costs will result in interest charges.

4. Designated Project Coordinators

The project coordinator for Ecology is:

Name: Guy J. Gregory
Address: Senior Hydrogeologist
Toxics Cleanup Program
Washington State Department of Ecology
4601 N. Monroe, Suite 202
Spokane, WA 99205-1295
Tel: (509) 456-6387
Fax: (509) 456-6175

The project coordinator for the PLP Group is:

Name: Marlys Palumbo
Address: Philip Services Corp.
955 Powell Avenue S.W.
Renton, WA 98055
Tel: (425) 227-0311
Fax: (425) 227-6191

The project coordinator(s) shall be responsible for oversight of the implementation of this Order. To the maximum extent possible, communications between Ecology and the PLP Group and all documents, including reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order, shall be directed through the project coordinator(s). Should Ecology or the PLP Group change project coordinator(s), written notification shall be provided to Ecology or the PLP Group at least ten (10) days prior to the change.

5. Performance. All work performed pursuant to this Order shall be under the direction and supervision, as necessary, of a professional engineer or hydrogeologist, or similar expert, with appropriate training, experience, and expertise in hazardous waste site investigation and cleanup.

The PLPs shall notify Ecology as to the identity of the company or firm of any such engineers or

hydrogeologists, and of any contractors and subcontractors to be used in carrying out the terms of this Order, in advance of their involvement at the Site. Upon request, the PLPs shall provide the names of individual engineers or similar experts used to carry out the terms of this Order. The PLPs shall provide a copy of this Order to all agents, contractors, and subcontractors retained to perform work required by this Order and shall ensure that all work undertaken by such agents, contractors, and subcontractors will be in compliance with this Order. Except where necessary to abate an emergency situation, the PLPs shall not perform any remedial actions at the Pasco Site outside those required by this Order unless Ecology concurs, in writing, with such additional remedial actions.

If any event occurs that is beyond the PLPs' reasonable control and that causes or might cause a delay or deviation in performance of the requirements of this Order, the PLPs shall promptly notify Ecology's Project Coordinator in writing of the cause of the delay or deviation, anticipated duration, the measures that have been or will be taken to prevent or minimize the delay or deviation, and the timetable by which the PLPs propose to carry out such measures. If the PLPs demonstrate to the satisfaction of Ecology's Project Coordinator that the delay or deviation has been or will be caused by circumstances beyond the control and despite the due diligence of the PLPs, Ecology shall extend times for performance of related activities under this Order as appropriate. Increased cost of performance or changed business or economic circumstances shall be presumed not to be circumstances beyond the PLPs' control. Disputes under this paragraph will be resolved pursuant to the terms of paragraph 9 of this section.

6. Access. To the extent the PLPs can provide access, Ecology or any Ecology authorized representative shall have the authority to enter and freely move about the Site at all reasonable times for the purposes of, *inter alia*: inspecting records, operation logs, and contracts related to the work being performed pursuant to this Order; reviewing the progress in carrying out the terms of this Order; conducting such tests or collecting samples as Ecology or the project

coordinator may deem necessary; using a camera, sound recording, or other documentary type equipment to record work done pursuant to this Order; and verifying the data submitted to Ecology by the PLPs. This Order constitutes reasonable notice of access, and the PLPs, to the extent that they can provide access, shall allow access to the Pasco Site at all reasonable or necessary times for purposes of overseeing work performed under this Order and assuring compliance with this Order. Ecology shall allow split or replicate samples to be taken by the PLPs during an inspection unless doing so interferes with Ecology's sampling. Ecology will give the PLPs seven (7) days' notice before any sampling activities. The PLPs shall allow split or replicate samples to be taken by Ecology and shall provide seven (7) days' notice before any sampling activity.

7. Public Participation. The PLPs shall prepare a Public Participation Plan for the Site. Ecology shall maintain the responsibility for public participation at the Site. The PLPs shall help coordinate and implement public participation for the Site.

8. Retention of Records. The PLPs shall preserve in a readily retrievable fashion, during the pendency of this Order and for ten (10) years from the date of completion of compliance monitoring for the facility, all submittals to Ecology, QA/QC memoranda and audits, final work plans, final reports, field notes, and laboratory or testing reports and data in its possession relevant to this Order. Should any portion of the work performed hereunder be undertaken through contractors or agents of the PLPs, then the PLPs agree to include in their contract with such contractors or agents a record retention requirement meeting the terms of this paragraph.

9. Dispute Resolution. The PLPs may request Ecology to resolve disputes that may arise during the implementation of this Order. Such request shall be in writing and directed to the signatory, or his/her successor(s), to this Order. Ecology resolution of the dispute shall be final. However, nothing in this Order shall be construed as a waiver of any rights or defenses the PLPs may have under RCW 70.105D.060. Ecology agrees to use best efforts to resolve the dispute in a timely

fashion. The PLPs are not relieved of any requirement of this Order during the pendency of the dispute and remain responsible for timely compliance with the terms of this Order unless otherwise provided by Ecology in writing. Failure by any PLP to comply with this Order does not relieve any other PLP from the requirement and obligation to comply with same.

10. Reservation of Rights -- No Settlement.

a. This Order is not a settlement under Chapter 70.105D RCW. Ecology's signature on this Order in no way constitutes a covenant not to sue or a compromise of any Ecology rights or authority. Ecology will not, however, bring an action against the PLPs to recover remedial action costs paid to and received by Ecology under this Order.

b. In addition, Ecology will not take additional enforcement actions against the PLPs to require those interim actions required by this Order, provided the PLPs comply with this Order. Ecology reserves the right, however, to require additional remedial actions at the Site should it deem such actions necessary to protect human health and the environment. Substantial changes to the interim actions to be performed under this Order will require an amendment mutually agreed to by the PLPs and Ecology. Ecology reserves all of its enforcement authority in the event that proposed amendments are not mutually agreed to by Ecology and the PLPs. In the event Ecology determines that conditions at the Site are creating or have the potential to create a danger to the health or welfare of the people on the Site or in the surrounding area or to the environment, Ecology may order the PLPs to stop further implementation of this Order for such period of time as needed to abate the danger.

c. Ecology also reserves all rights regarding the injury to, destruction of, or loss of natural resources resulting from the releases or threatened releases of hazardous substances from the Site.

d. This Order shall not be construed as proof of liability or responsibility for any releases of hazardous substances or costs for remedial actions or as an admission by any PLP of any legal conclusion or such liability or responsibility provided, however, that the PLPs shall not challenge the jurisdiction of Ecology in any proceeding to enforce this Order.

11. Transference of Property. To the extent that the PLPs hold or retain any property rights at the Site, no voluntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Site shall be consummated or allowed by the PLPs without provision for continued implementation of all requirements of this Order and implementation of any remedial actions found to be necessary as a result of this Order. Prior to transfer of any legal or equitable interest the PLPs may have in the Site or any portion thereof, the PLPs, to the extent that the PLPs hold or retain any property rights at the Site, shall serve a copy of this Order upon any prospective purchaser, lessee, transferee, assignee, or other successor in such interest. At least thirty (30) days prior to finalization of any transfer, the PLPs shall notify Ecology of the contemplated transfer.

12. Compliance with Other Applicable Laws.

a. All actions carried out by the PLPs pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements, including requirements to obtain necessary permits, except as provided in paragraph b of this section.

b. Pursuant to RCW 70.105D.090(I), the substantive requirements of chapters 70.94, 70.95, 70.105, 75.20, 90.48, and 90.58 RCW and of any laws requiring or authorizing local government permits or approvals for the interim actions under this Order that are known to be applicable at the time of issuance of this Order are attached hereto as Attachment F and are binding and enforceable requirements of this Order. The PLPs have a continuing obligation to determine whether additional permits or approvals addressed in RCW 70.105D.090(I) would otherwise be required for the interim actions under this Order. In the event the PLPs determine that additional

permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the interim actions under this Order, they shall promptly notify Ecology of this determination. Ecology shall determine whether Ecology or the PLPs shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, the PLPs shall promptly consult with the appropriate state and/or local agencies and provide Ecology with written documentation from those agencies of the substantive requirements those agencies believe are applicable to the interim actions. Ecology shall make the final determination on the additional substantive requirements that must be met by the PLPs and on how the PLPs must meet those requirements. Ecology shall inform the PLPs in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. The PLPs shall not begin or continue the interim actions potentially subject to the additional requirements until Ecology makes its final determination. Ecology shall ensure that notice and opportunity for comment is provided to the public and appropriate agencies prior to establishing the substantive requirements under this section.

c. Pursuant to RCW 70.105D.090(2), in the event Ecology determines that the exemption from complying with the procedural requirements of the laws referenced in RCW 70.105D.090(1) would result in the loss of approval from a federal agency which is necessary for the State to administer any federal law, the exemption shall not apply, and the PLPs shall comply with both the procedural and substantive requirements of the laws referenced in RCW 70.105D.090(1), including any requirements to obtain permits.

VI. SATISFACTION OF THIS ORDER

The provisions of this Order shall be deemed satisfied upon receipt by the PLPs of written notification from Ecology that the PLPs have completed the interim actions required by this Order, as amended by any modifications, and that all other provisions of this Order have been complied

with. Ecology shall make best efforts to respond to the PLPs within a reasonable time of receiving a request from the PLPs for notice of completion.

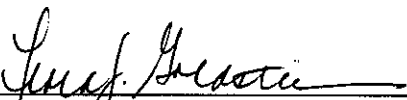
VII. ENFORCEMENT

Pursuant to RCW 70.105D.050, this Order may be enforced as follows:

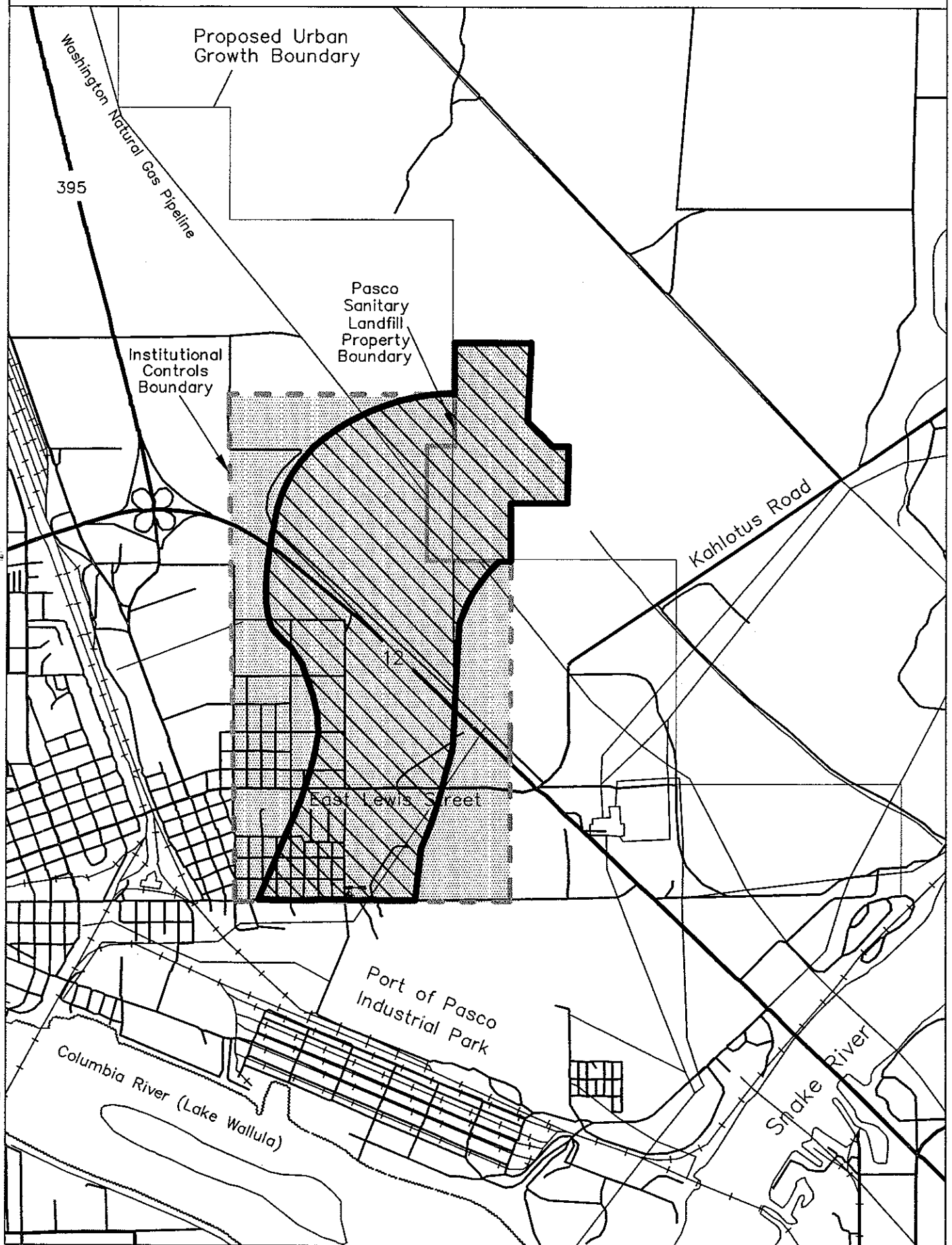
1. The Attorney General may bring an action to enforce this Order in a state or federal court.
2. The Attorney General may seek, by filing an action if necessary, to recover amounts spent by Ecology for investigative and remedial actions and orders related to the Site.
3. In the event the PLPs refuse, without sufficient cause, to comply with any term of this Order, the PLPs and each individual PLP who refuses, without sufficient cause to comply will be liable for:
 - a. up to three times the amount of any costs incurred by the state of Washington as a result of its refusal to comply; and
 - b. civil penalties of up to \$25,000 per day for each day it refuses to comply.
4. This Order is not appealable to the Washington State Pollution Control Hearings Board. This Order may be reviewed only as provided under RCW 70.105D.060.
5. Each PLP named in this Order is individually responsible for compliance with the terms and conditions of this Order. Compliance with this Order by any PLP is not conditioned on the performance of any other PLP or group of PLPs. Similarly, the right of Ecology to enforce this Order against any PLP is not conditioned on the performance or enforcement against any PLP or group of PLPs.

Effective date of this Order: June 30, , 2000

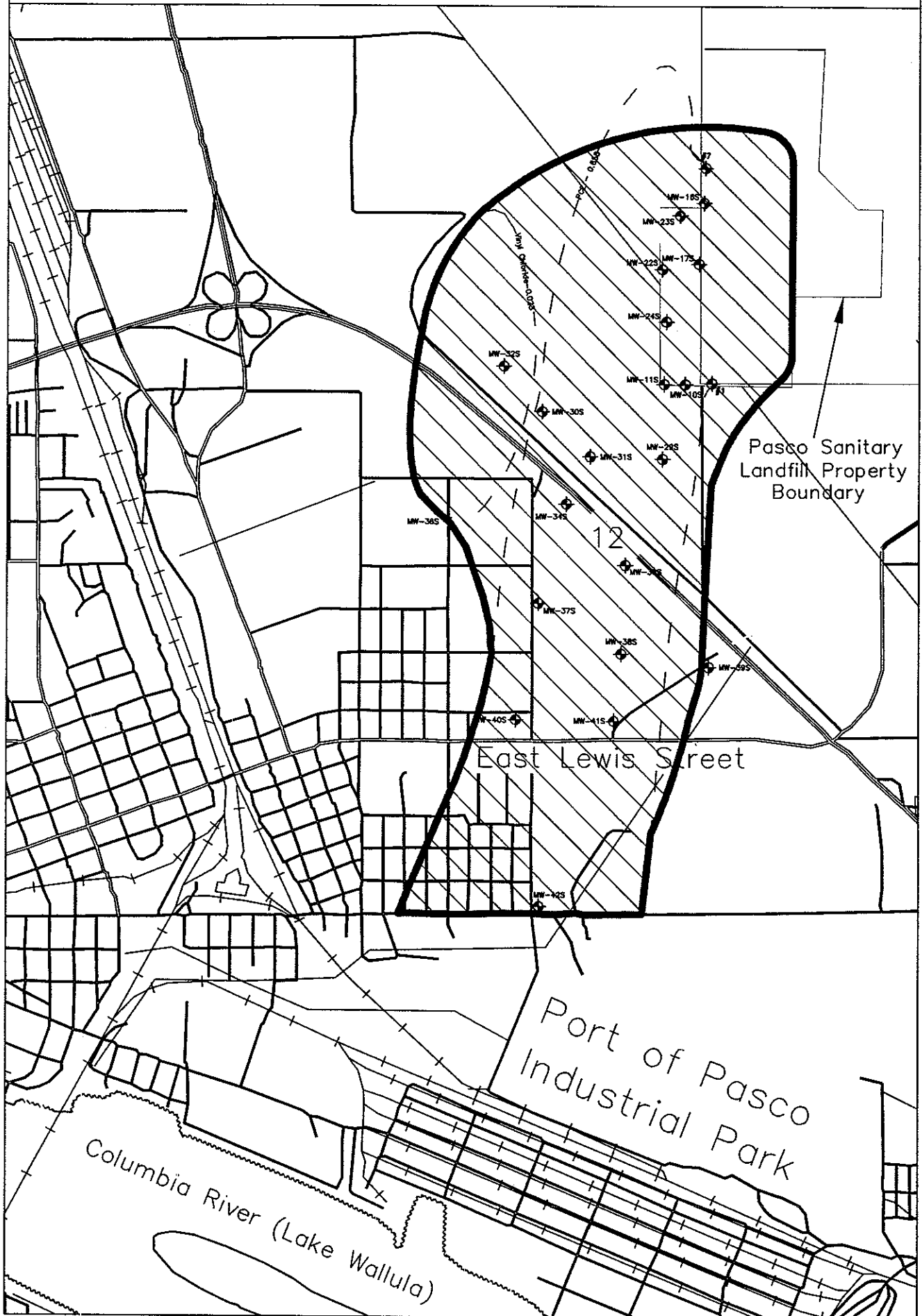
**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

By 
Flora J. Goldstein
Section Manager
Toxics Cleanup Program
Eastern Regional Office

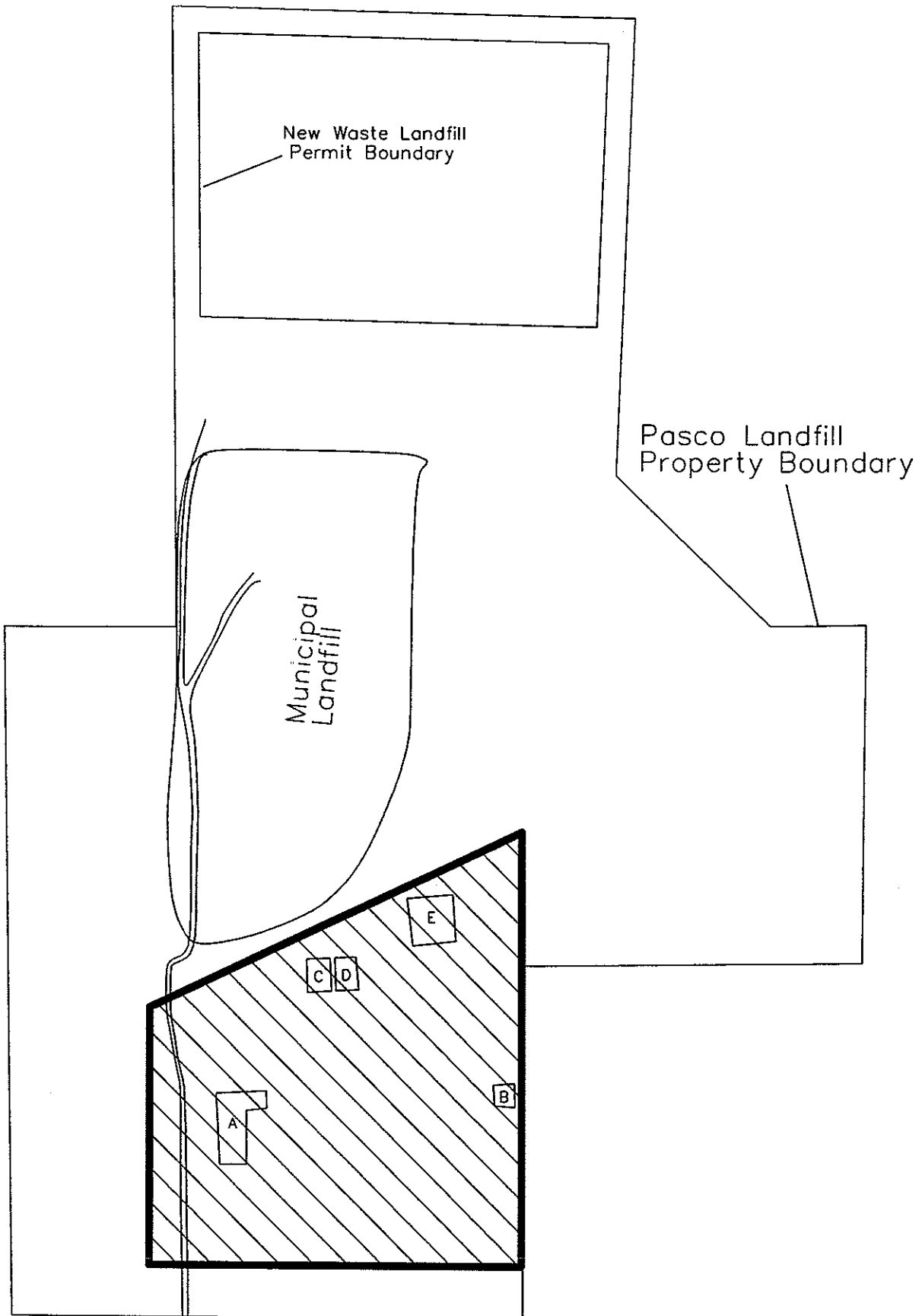
ATTACHMENT A PASCO SANITARY LANDFILL SITE



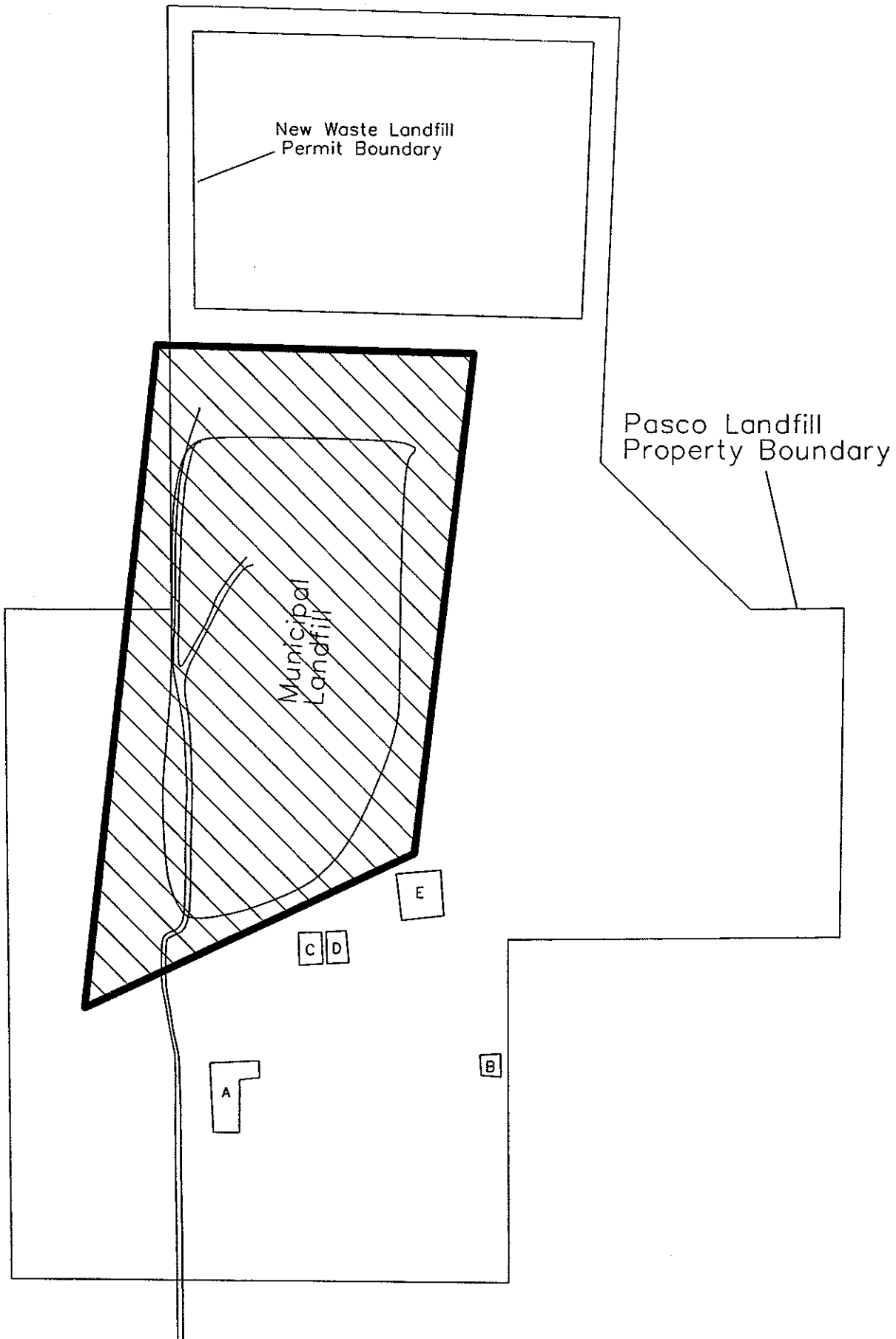
ATTACHMENT B
GROUND WATER PLUME AREA



ATTACHMENT C
INDUSTRIAL WASTE AREA



ATTACHMENT D
SANITARY LANDFILL AREA



Attachment E
Pasco Sanitary Landfill
Municipal Solid Waste Landfill Closure
Interim Action Scope of Work

Task I: Municipal Closure Cap System

Elements

Pre-Closure Site Investigations
Landfill Cover System-WAC 173-351
Landfill Gas Collection System
Landfill Runoff Control System
Construction Quality Assurance, Operation, and Maintenance Plans

Deliverables:

Pre-Closure MSW Site Investigation Work Plan
60% and 100% Closure System Design Documents
Construction Quality Assurance Plan (MSW CQAP)
Health and Safety Plan (MSW HSP)
Operations and Maintenance Plan (MSW OMP)
Landfill Gas Control Operation, and Maintenance Plan, including monitoring
Public Participation Plan
Monthly Progress Reports

A. The Pre-Closure Site Investigation Work Plan shall outline all activities necessary to define the extent of municipal solid waste to be covered, and appropriate gas collection and treatment systems to be employed at the Pasco Sanitary Landfill.

B. Design of the Municipal Closure Cap System will follow that described in the approved 1997 Pasco Sanitary Landfill Final Closure Plan and WAC 173-351. The Municipal Solid Waste Closure Cap System design documents will include all requirements of WAC 173-351-500(1), including:

- 1: Background, including goals of the action and specific performance requirements, existing and expected site conditions, and location of the action;
2. Characterization of the waste and quantity of materials to be contained and/or managed;
3. Engineering justification for design and operation parameters, including general material specifications, design criteria, assumptions and calculations; expected hydraulic efficiency.
4. General Site Plan

5. Geomembrane Grading Plan
6. Survey Control Plan
7. Site Cross Sections
8. Stormwater Control Plan
9. Landfill Gas Control Design
10. Construction Considerations
11. Schedule
12. Additional information, as needed, regarding applicable state, federal and local requirements, and property access issues.

The PLPs shall consult with state and local government agencies and shall obtain a written determination of the applicable substantive requirements of chapters 70.94, 70.95, 70.105, 75.20, 90.48 and 90.58 RCW and the substantive provisions of any laws requiring or authorizing local government permits or approvals for remedial actions.

- C. A Post-Closure Inspection and Maintenance, and Operations Plan is required to ensure the long-term integrity of the landfill cover and associated systems. This Plan will comply with the requirements of WAC 173-351-500(2) and include a Landfill Gas Control Operations and Maintenance Plan, including monitoring.

Health and Safety Plans

Health and Safety Plans will contain:

1. Design of special features for the control of hazardous substance spills or discharge, including air emissions;
2. Health and Safety feature design, including monitoring device specifications;

3. Additional information, as needed, regarding health and safety requirements to meet or exceed the hazardous waste operations and emergency response requirements of Occupational Safety and Health Act of 1970 (29 U.S.C. Sec. 651 et seq.) as well as requirements of the Washington Industrial Safety and Health Act (Chapter 49.17 RCW) and the regulations promulgated thereto.

Construction Quality Assurance Plans

The CQAP and OMP documents will address all elements required by applicable regulation and relevant and appropriate guidance for construction quality assurance procedures.

Public Participation Plan

A Public Participation Plan shall be prepared to address Interim Action activities. It shall be consistent with the requirements of WAC 173-340-600.

Monthly Progress Reports

Progress Reports shall be completed on a monthly basis. They shall contain:

1. A list of on-site activities that has taken place during the period;
2. A detailed description of any deviations from required tasks not otherwise documented in project plans;
3. Descriptions of all deviations from the schedule, and planned deviations in the upcoming month;
4. Work in progress;
5. A list of deliverables for the upcoming month.

Municipal Landfill Closure Completion Report

Following completion of construction of the Municipal Landfill Closure Cap System, a report is required. The report will be prepared by the engineer responsible for the supervision of the construction and will include:

As-Built drawings of the facility

A report documenting all aspects of facility construction;

Compliance monitoring data to date;

A statement from the engineer, based upon testing results and inspections, as to whether the interim action was performed in substantial compliance with the plans and specifications and related documents;

Certified copies of property deeds, or ordinances and other instruments which document operational institutional controls.

Final Post-Closure Inspections, Operations and Maintenance Plans, including Landfill Gas Control Operations and Maintenance Plan, including monitoring.



Schedule

Pre-Closure Site Investigation Work Plan (PSIWP), including Gas Modeling Plan,
Waste Location Investigation Plan, Conceptual Landfill Closure Plan, and Site Health
and Safety Plan; SEPA checklist 45 Days after effective Date
of Order

60% Design of Municipal Solid Waste Landfill Closure Cap System
90 Days after approval of
PSIWP

100% Design of Municipal Solid Waste Landfill Closure Cap System,
Draft Post-Closure Inspection, Maintenance, and Operations Plan 60 Days after
60% Design
Approval)

Monthly Progress Reports

Beginning on the 10th day of the month following the effective date of the order,
continuing monthly through Ecology approval of the Municipal Landfill Closure
Completion Report

Municipal Landfill Closure Completion Report
Final Post-Closure Inspection, Maintenance and Operations Plan 330 Days after 100%
Design Approval

Attachment F
Identified Substantive Requirements and other Applicable Rules

Substantive Requirements

RCW 70.94 Clean Air Act

WAC 173-400 General Regulations for Air Pollution Sources

WAC 173-460 Controls for New Sources of Toxic Air Pollutants

WAC 173-490 Emission Standards and Controls for Sources Emitting Volatile Organic Compounds (VOCs)

RCW 70.95 Solid Waste Management Act

WAC 173-351 Criteria for Municipal Solid Waste Landfills

WAC 173-304 Minimum Functional Standards for Solid Waste Handling

RCW 70.105 Hazardous Waste Management Act

WAC 173-303 Dangerous Waste Regulations

RCW 70.105D Model Toxics Control Act

WAC 173-340 Model Toxics Control Act Cleanup Regulation

Action-specific applicable or relevant and appropriate requirements: The following, in addition to the above, may be applicable or relevant and appropriate to individual actions taken under this order:

RCW 90.48 Water Pollution Control Act

WAC 173-216 State Waste Discharge Program

WAC 173-200 Ground Water Quality Standards for the state of Washington

RCW 18.104 Water Well Construction

WAC 173-160, Minimum Standards For Construction And Maintenance Of Wells

**PROSECUTING ATTORNEY
FRANKLIN COUNTY, WASHINGTON**

**STEVE M. LOWE
PROSECUTING ATTORNEY**

**PAIGE L. SULLY
CHIEF CRIMINAL DEPUTY**

**DARIN R. CAMPBELL
CHIEF CIVIL DEPUTY**

*1016 North 4th Avenue
Pasco, WA 99301
Criminal Division (509) 545-3543
Fax (509) 545-2135*

DEPUTIES:

**JAMES P. BELL
FRANK W. JENNY
DAVID W. CORKRUM
ALEXANDER C. EKSTROM
MICHELLE M. ALEXANDER
MIA S. DANIELSON
HEIDI M. ELLERD**

June 14, 2002

Mr. John Brasino
10940 NE 33rd Place Suite 110
Bellevue WA 98004

RE: Franklin County Ordinance Number 14-2000

Dear Mr. Brasino:

Enclosed please find a certified copy of Franklin County Ordinance 14-2000 which Darin Campbell requested me to forward to you.

Very truly yours,


Deborah L. Ford
Legal Secretary

Enclosure: One



FRANKLIN COUNTY

COMMISSIONERS

Courthouse - 1016 North 4th
Pasco, Washington 99301
(509) 545-3535

ORDINANCE NUMBER 14-2000

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF FRANKLIN COUNTY,
WASHINGTON:

IN THE MATTER OF COUNTY PLANNING – RE: A text amendment to the Franklin
County Development Regulations Ordinance #02-99, Chapter 27, Sections 27.1.0 and
27.4.0.

APPLICANT: Franklin County, 1016 North 4th Avenue, Pasco, WA 99301.

WHEREAS, on November 27, 2000 the Clerk of the Board did set this date for a public meeting
to consider the positive recommendation of the Franklin County Planning Commission to amend
the Franklin County Development Regulations (Zoning) Ordinance #02-99, Chapter 27, Sections
27.1.0 and 27.4.0.

WHEREAS, at the public meeting the Board has found as follows:

1. The County Planning Commission, after public hearing and consideration
on ZC 2000-12 did recommend approval of said text amendment, and
2. That this application is in compliance with the intent and spirit of the Franklin
County Development Regulations.
3. That this application is in compliance with the Franklin County Comprehensive
Plan.
4. This application is in compliance RCW 36.70A the Growth Management Act.

WHEREAS, it appears to be in the public use and interest to approve said zone change (text
amendment) to Chapter 27, Sections 27 1.0 and 27.4.0 – (I-3) Heavy Industrial District.

NOW, THEREFORE, BE IT RESOLVED that the text amendment described above (Chapter
27, Sections 27.1.0 and 27.4.0) be implemented in accordance with the Franklin County
Development Regulations (Zoning) Ordinance #02-99 and be amended to read as follows:

CHAPTER 27 I-3 HEAVY INDUSTRIAL DISTRICT

Sections:

- 27 1.0 Purpose
- 27 2 0 Permitted uses
- 27.3 0 Prohibited uses
- 27.4 0 Development standards

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Page 2

Zone Change 2000-12

27.1.0 PURPOSE. The Heavy Industrial District is established to provide areas in the county where heavy industrial, manufacturing, processing, assembly, fabricating and ancillary activities can occur while being protected from encroachment of commercial and residential uses. This district is intended to permit high intensity land uses that would be termed obnoxious due to noise, glare and other emissions resulting from the manufacturing process. ~~This district is intended to apply only to Port owned lands.~~ **Heavy Industrial activities shall occur within designated Urban Growth Area Boundaries where adequate municipal water services are available.**

27.2.0 PERMITTED USES. The following shall be permitted in the I-3 zone:

- (1) All other industrial uses not otherwise prohibited by law.

27.3.0 PROHIBITED USES. The following uses shall be prohibited in the I-3 district.

- (1) Single-family dwellings
- (2) Multiple family dwellings
- (3) Public and private schools except for apprenticeship and vocational training programs
- (4) Community Service Facilities

27.4.0 DEVELOPMENT STANDARDS.**(1) Potable water:**

(a) A municipal water supply is required for activities that occur within the Heavy Industrial District.

(b) Domestic wells are not allowed within the Heavy Industrial District.

- (2) Minimum lot area:
 - (a) None required.
- (3) Lot Coverage:
 - (a) Dictated by parking requirements, setbacks and landscaping.
- (4) Minimum Yard Setbacks:
 - (a) None required, except as required where the industrial zone adjoins a residential district.
- (5) Maximum building height:

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Zone Change 2000-12

- (a) No restrictions.
- (6) Fences and hedges:
 - (a) None required
- (7) Parking: *(See Chapter 37, Off-Street Parking).*
- (8) Landscaping:
 - (a) None required

SIGNED AND DATED THIS 27th DAY OF NOVEMBER 2000.

BOARD OF COUNTY COMMISSIONERS
FRANKLIN COUNTY, WASHINGTON

Lee Miller
CHAIRMAN

absent
MEMBER

Neil Jackson
MEMBER

ATTEST:

Mary Wickes
CLERK OF THE BOARD

ORDINANCE NO. 3469**AN ORDINANCE OF THE CITY OF PASCO,
WASHINGTON, AMENDING SECTION 16.06.040 "WAIVER-
CRITERIA" LIMITING WAIVERS IN GROUND WATER
PROTECTION AREA.**

WHEREAS, the Washington State Department of Ecology has identified an area within the City of Pasco that may be subject to ground water contamination; and

WHEREAS, sanitary water services are available and do serve this area from the City of Pasco and to insure the health, safety and welfare of the citizens of the City of Pasco, it has been determined that withdrawal of ground water from this area should not be subject to a waiver; **NOW, THEREFORE,**

**THE CITY COUNCIL OF THE CITY OF PASCO, WASHINGTON, DO
ORDAIN AS FOLLOWS:**

Section 1. That Section 16.06.040 entitled "Waiver-Criteria" of the Pasco Municipal Code shall be and hereby is amended and shall read as follows:

16.06.040 WAIVER-CRITERIA. Any determination to grant, deny, or grant with conditions an application for a waiver described in Section 16.06.030 shall be based upon the following criteria:

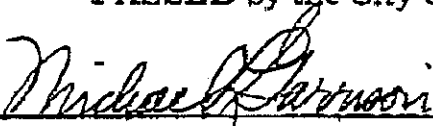
- 1) Special circumstances applicable to the property in question or to the intended use that do not generally apply to other properties or classes of use in the same vicinity or zoning classification;
- 2) A waiver is necessary for the preservation and enjoyment of a substantial property right or use possessed by other property in the same vicinity and in zoning classification, which because of special circumstances is denied to the property in question;
- 3) The granting of the waiver will not be detrimental to the public welfare or injurious to any person, property or improvements thereon in such vicinity and zoning classification in which the subject property is located;
- 4) The granting of a waiver will not conflict with the general intent of this chapter;
- 5) Except as provided below, no waiver shall be granted for any property lying within the boundaries of the Pasco Landfill ground water protection area (the Protection Area) as delineated on the official map designating said area on file at the City of Pasco Public Works Department. If the City of Pasco receives a waiver request, it shall notify the Department of Ecology of such request, and shall provide the Department of Ecology all relevant information regarding such request. (Ord. 2303 Sec. 4, 1981.)

6) If the residual hazardous substances in the groundwater remaining within the entirety of the Protection Area are subsequently reduced in concentration such that the method A or method B cleanup levels, as applicable, established under WAC 173-340-700 through 173-340-760 are met, then Section 5 hereof shall be of no further force and effect, if the Department of Ecology, after public notice and opportunity for comment, concurs.

Section 2. The City of Pasco shall not amend or repeal this Ordinance without providing the Department of Ecology with 30 days prior written notice of the City of Pasco's intent to amend or repeal this Ordinance.

Section 3. This Ordinance shall take full force and effect five days after its approval, passage and publication as required by law.

PASSED by the City Council of the City of Pasco this 7th Day of May, 2001.



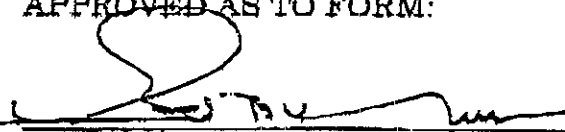
Michael L. Garrison, Mayor

ATTEST:



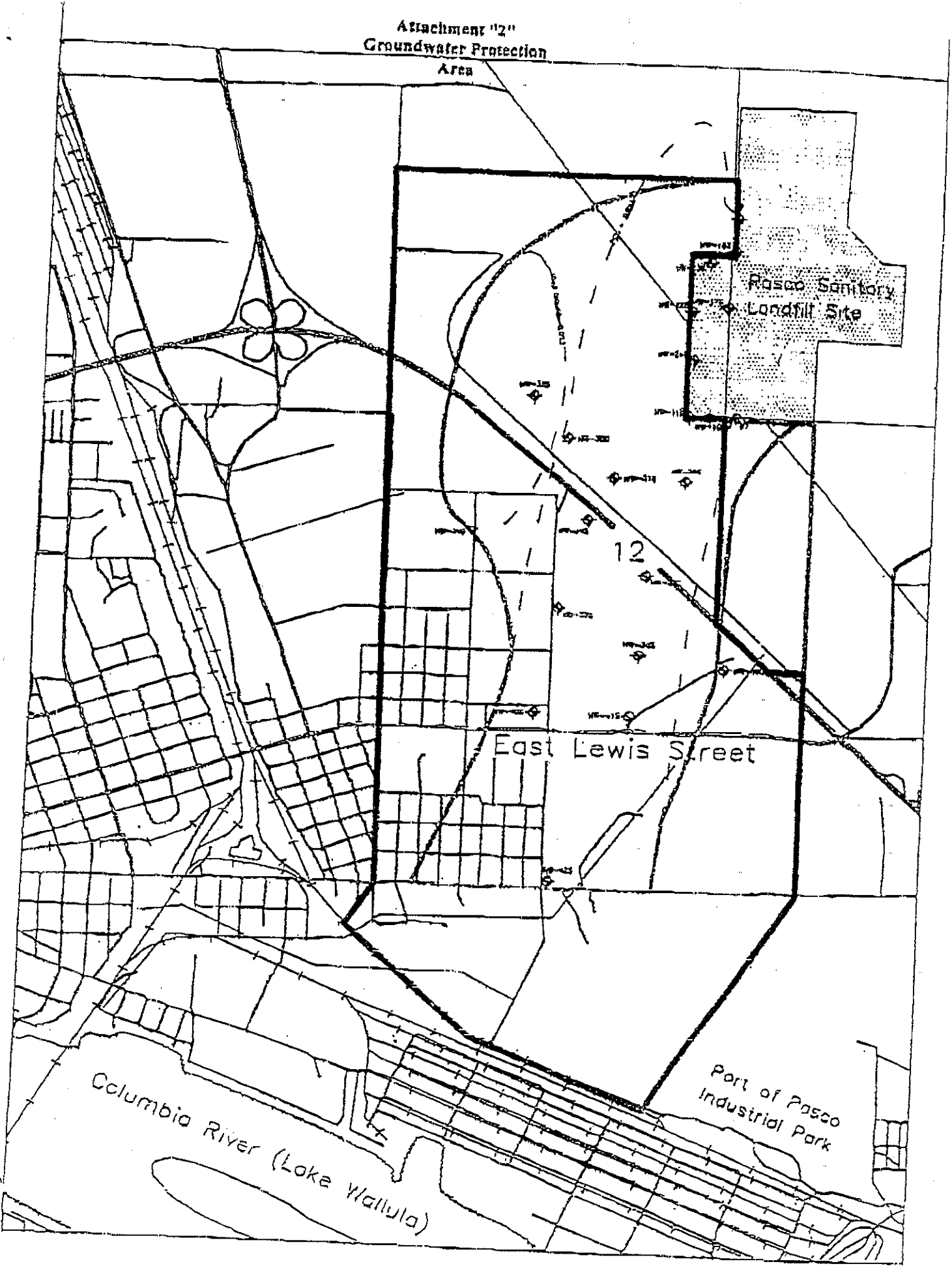
Catherine D. Seaman, Deputy City Clerk

APPROVED AS TO FORM:



Leland B. Kerr, City Attorney

Attachment "2"
Groundwater Protection
Area



Pasco Sanitary
Landfill Site

East Lewis Street

Columbia River (Lake Wallula)

Port of Pasco
Industrial Park

12

Marlys S. Palumbo
Attorney at Law
955 Powell Avenue S.W.
Renton, Washington 98055
Tel 425/204-7130
Fax 425/204-7088

July 16, 2002

Guy J. Gregory
Senior Hydrogeologist
Toxics Cleanup Program
Washington Department of Ecology
4601 North Monroe Street
Spokane, Washington 99205-1295

RE: Pasco Sanitary Landfill Completion Report
Task VI - Institutional Controls Documentation

Dear Guy:

In accordance with **Task VI (Interim Action Construction Completion Report)** and the requirement for "certified copies of property deeds, or ordinances and other instruments which document operational institutional controls," Philip Services Corporation is submitting the following documents.

- 1 Franklin County Ordinance Number 14-2001 (certified as of June 13, 2002);
- 2 Franklin County Ordinance Number 14-2000 (certified as of June 14, 2002); and
- 3 Ordinance No. 3469 of the City of Pasco, Washington (relating to the "Protection Area" as defined therein)(executed copy provided).

We understand that Larry Dietrich has not received final approval of draft institutional controls language for the deed restrictions to be recorded in the City and County for the Pasco Landfill Site. Apparently, Craig Trueblood is working with you and the Attorney General's office on the final language and the amount of property subject to restricted use. We anticipate that these institutional control documents will be completed and recorded as soon as practicable.

Very truly yours,

Marlys S. Palumbo

Attachments

**PROSECUTING ATTORNEY
FRANKLIN COUNTY, WASHINGTON**

**STEVE M. LOWE
PROSECUTING ATTORNEY**

**PAIGE L. SULLY
CHIEF CRIMINAL DEPUTY**

**DARIN R. CAMPBELL
CHIEF CIVIL DEPUTY**

*1016 North 4th Avenue
Pasco, WA 99301
Criminal Division (509) 545-3543
Fax (509) 545-2135*

DEPUTIES:

**JAMES F. BELL
FRANK W. JENNY
DAVID W. CORKRUM
ALEXANDER C. EKSTROM
MICHELLE M. ALEXANDER
MIA S. DANIELSON
HEIDI M. ELLERD**

June 13, 2002

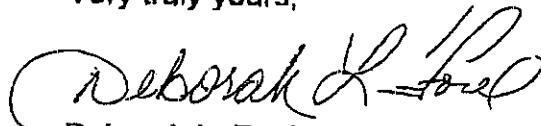
Mr. John Brasino
10940 NE 33rd Place Suite 110
Bellevue WA 98004

RE: Franklin County Ordinance Number 14-2001
Rezone 130 acres from medium industrial (I-3) to Heavy Industrial (I-3)

Dear Mr. Brasino:

Pursuant to Darin Campbell's directive enclosed please find a certified copy of the Franklin County Ordinance Number 14-2001 rezoning 130 acres from medium industrial (I-2) to heavy industrial (I-3).

Very truly yours,

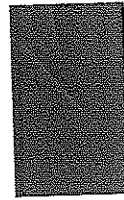


Deborah L. Ford
Legal Secretary

Enclosure: One



FRANKLIN COUNTY



COMMISSIONERS
Courthouse - 1016 North 4th
Pasco, Washington 99301
(509) 545-3535

ORDINANCE NUMBER 14-2001

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF FRANKLIN COUNTY,
WASHINGTON:

IN THE MATTER OF COUNTY PLANNING - RE: REZONE 130 ACRES FROM
MEDIUM INDUSTRIAL (I-2) TO HEAVY INDUSTRIAL (I-3).

APPLICANT: Franklin County, 1016 North 4th Avenue, Pasco, WA 99301

WHEREAS, on June 27, 2001 the Clerk of the Board did set this date for a public meeting to consider the positive recommendation of the Franklin County Planning Commission to amend the Franklin County Zoning Map and rezone 130 acres of land from Medium Industrial (I-2) to Heavy Industrial (I-3).

WHEREAS, at the public meeting the Board has found as follows:

- (1) The application (Planning Case-file ZC-2001-08) to rezone this property from Medium Industrial (I-2) to Heavy Industrial (I-3) is in accordance with the goals, policies, and Future Land Use Map of the Comprehensive Plan.
 - a. The land to be rezoned is currently zoned Medium Industrial (I-2).
 - b. The Urban Area Comprehensive Plan designates this area for Industrial development in the future.
 - c. A zone change to Heavy Industrial (I-3) is consistent with the Comprehensive Plan.
 - d. The Department of Ecology (DOE) has determined that there is a potential groundwater problem within certain areas surrounding the Pasco Sanitary Landfill. As part of this determination, DOE is requiring that Franklin County restrict the use of groundwater for domestic potable drinking water within these designated areas. The Heavy Industrial (I-3) Zoning District restricts the use of groundwater for domestic potable drinking water, and requires a municipal water hookup for those specific instances that require domestic potable drinking water.
 - e. The need exists to restrict the use of groundwater for domestic potable drinking water for the protection of the public health, safety and general welfare within these designated areas. The DOE has determined that the use of groundwater within these designated areas can continue for agricultural activities including irrigation and animal consumption. The DOE is trying to prevent the long-term consumption of groundwater by humans within these designated areas.

Ordinance Number 14-2001

Zone Change 2001-08

Page 2

- (2) The effect of the proposal on the immediate vicinity **WILL NOT** be materially detrimental;
- (3) There **IS** merit and value in the proposal for the community as a whole;
- (4) Conditions should **NOT** be imposed in order to mitigate any significant adverse impacts from the proposal;
- (5) A concomitant agreement between the County and the petitioner is **NOT** required for this application.

WHEREAS, it appears to be in the public use and interest to approve said zone change.

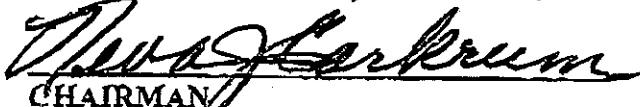
NOW, THEREFORE, BE IT ORDAINED that the rezone described above be implemented to allow for a change in zoning from Medium Industrial (I-2) to Heavy Industrial (I-3) in accordance with the provisions of the Franklin County Development Regulations (Zoning) on the following described property(s):

LEGAL DESCRIPTION: 130 acres--Parcel #'s 113-580-037, 113-590-044, 113-590-044, 113-590-035, 113-590-026, and 113-720-117.

NON-LEGAL DESCRIPTION: That property located north of SR 12, west of the Pasco-Kahlotus Road, north and east of Commercial Avenue, and south of the Pasco Sanitary Landfill. The property is also located east, north and adjacent to the City of Pasco city limits, within the City of Pasco's Urban Growth Area Boundary.

SIGNED AND DATED THIS 27th DAY OF JUNE 2001.

**BOARD OF COUNTY COMMISSIONERS
FRANKLIN COUNTY, WASHINGTON**


CHAIRMAN
ABSENT

ATTEST:

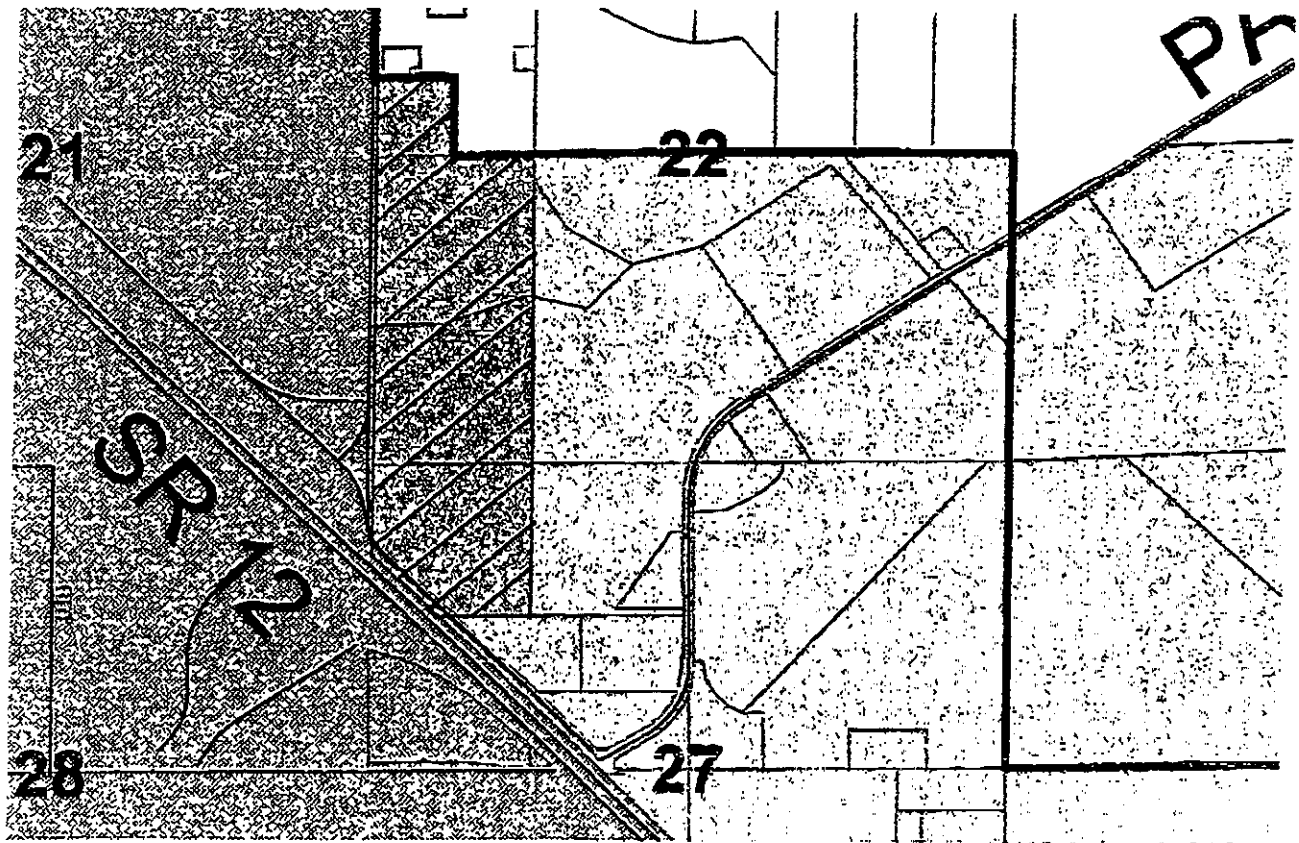

CLERK OF THE BOARD

MEMBER


MEMBER

Ordinance Number 14-2001
Zone Change 2001-08
Page 3

A rezone from Medium Industrial (I-2) to Heavy Industrial (I-3)



I, Zona G. Lenhart, Auditor of Franklin County, State of Washington do hereby certify that the foregoing instrument is a true and correct copy of the original thereof now on file in my office.

Dated this 13th day of June 2002

Zona G. Lenhart, Auditor
Franklin County, Washington

By [Signature]
Deputy

Task VI. **Risk Assessment/Cleanup Levels Analysis**

The PLPs shall prepare a Risk Assessment Report for known or potential hazards and risks to public health and the environment, including physical hazards. The Risk Assessment shall include:

The report shall be submitted in compliance with the Schedule of Submittals, Exhibit C.

- A. Hazardous substance identification;
- B. Exposure assessment;
- C. Toxicity assessment; and
- D. Risk characterization, to include discussion of applicable state, federal, and local standards.
- E. Identification of Cleanup Levels for all hazardous substances in all media per the Model Toxics Control Act Cleanup Regulation.

Task VII. **Feasibility Study**

The PLPs will conduct a Feasibility Study and will prepare a Feasibility Study Report. The PLPs shall furnish all personnel, materials, and services necessary for, or incidental to, performing the Feasibility Study for the facility. The report shall be submitted in compliance with the Schedule of Submittals, Exhibit C.

The Feasibility Study will serve to evaluate the feasibility and effectiveness of implementing alternative cleanup actions (as required by WAC 173-340-360). It shall include:

- A. Detailed identification of contamination to be remediated and physical hazards to be removed;
- B. Identification of remedial alternatives that will:
 - 1. Protect public health, welfare, safety and the environment;
 - 2. Reduce the toxicity, mobility, and volume through treatment;
 - 3. Eliminate or remove all physical hazards;
 - 4. Meet all federal and state laws and rules designated to be applicable or relevant and appropriate by Ecology; and
 - 5. Provide a permanent remedial action for the site.
- C. Identification of additional sampling and/or laboratory testing necessary to evaluate remedial alternatives;
- D. An evaluation of alternatives based on cost, technical feasibility, environmental effects, and effectiveness in accomplishing the five requirements specified in Task VII.B.1. through 5., above;