



ALCOA

Intalco Clean-up File

**Alcoa Primary Metals**

**Intalco Works**

4050 Mountain View Road  
P.O. Box 937  
Ferndale, WA 98248 USA  
Tel: 1 360 384 7061  
Fax: 1 360 384 6185

June 25, 2001

Mr. Paul Skyllingstad  
State of Washington  
Department of Ecology  
Industrial Section  
Mail Stop PV-11  
Olympia, WA 98504-8711

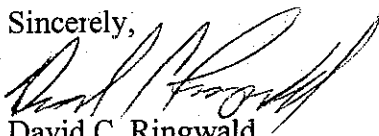
R/S

Dear Paul:

Enclosed is the signed copy of the Model Toxics Control Act Agreed Order for completion of the remedial investigation.

Please return the final copy after all signatures have been obtained.

Sincerely,

  
David C. Ringwald  
Environmental Superintendent

R01-038 doc

Intalco

N35C3

2001

RECEIVED  
JUN 28 2001

Department of Ecology  
Industrial Section

Circle:	
Air	Corr.
Water	Rpt.
DW/RCRA	Int.
HWCU	Enf.
SW	Eng.
Intalco	
Company Name	

FS 13998393

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

In the Matter of Remedial Action by:

Intalco Aluminum Corporation

)  
) AGREED ORDER  
)  
) No. DE 01 TCPIS 2949  
)

TO: Intalco Aluminum Corporation  
4050 Mountain View Road  
Ferndale, WA 98248]

I.

Jurisdiction

This Agreed Order ("Order") is issued pursuant to the authority of RCW  
70.105D.050(1).

II.

Findings of Fact

Ecology makes the following Findings of Fact, without admission of such facts by  
Intalco Aluminum Corporation ("Intalco").

1. Intalco is a primary aluminum smelting facility that processes refined alumina  
(aluminum oxide) into aluminum metal by electrolytic reduction. The facility has

been in continuous operation since 1966. On July 28, 1998, Alcoa Inc. ("Alcoa") acquired a controlling interest in Intalco in conjunction with Alcoa's acquisition of Intalco's parent company, Alumax, Inc.

2. From 1966 to 1973, Intalco generated and disposed of industrial solid waste in a historic solid waste landfill located due west of the main plant site along a bluff overlooking the Strait of Georgia (hereinafter, the "Construction Debris Landfill").
3. From 1966 to 1978, Intalco generated and disposed of industrial solid waste in a historic solid waste landfill located northwest of the main plant site along a bluff overlooking the Strait of Georgia (hereinafter, the "Beach 1 Landfill").
4. From 1971 to 1984, Intalco generated and disposed of industrial solid waste in a historic solid waste landfill located southwest of the main plant site along a bluff overlooking the Strait of Georgia (hereinafter, the "Beach 2 Landfill"). Together the Construction Debris Landfill, Beach 1 and Beach 2 Landfills shall be known herein as "historic industrial solid waste disposal units."
5. Intalco performed topographical surveys of the Beach 1 and Beach 2 landfills in December 1999. The results of these surveys are contained on the documents titled "Larry Steel and Associates drawing set 17999" and are included as Exhibit 1 to this Order.
6. General erosion and/or slumping has occurred on the western slope of both Beach 1 and Beach 2 landfills since the last placement of waste. Erosion and/or slumping

occurred on or about May 9, 2000 at Beach 2. As a result, waste material was deposited in the inter-tidal zone. The waste material was removed upon discovery.

- 7 On February 16, 2000, the Washington Department of Ecology (the "Department" or "Ecology") issued Stormwater Permit No. SO3003815 to Intalco for stormwater discharges associated with industrial activities in and around the historic industrial solid waste disposal units.
- 8 Condition S5B of NPDES Permit No. WA-000295-0 issued to Intalco requires that the "permittee shall not allow leachate from its solid waste material to enter state waters without providing all known, available and reasonable methods of treatment..."
- 9 Dry weather discharges of leachate from all three historic landfill sites contain fluoride, and cyanide. Polychlorinated biphenyls (PCBs) above MTCA limits have been detected in leachate from the Beach 1 Landfill. All discharges enter the Strait of Georgia.
10. During May 2000, Intalco investigated the Beach I & II Landfills to determine the nature and volume of waste materials, the volume and characteristics of materials that have sloughed to the bottom of the landfills, and the flow levels and water quality of observed surface water run-off/seepage. The findings of this investigation are contained in a report entitled "Field Investigation Report, Beach I and II Landfills, Intalco Aluminum" and are attached as Exhibit 2 to this order.

### III.

#### Ecology Determinations

1. Intalco is an "owner or operator" as defined at RCW 70.105D 020(11) of a "facility" as defined in RCW 70.105D 020(4).
2. The facility is known as the Intalco Historic Landfills (the "Facility") and is located within the larger Intalco property (the "Property") at 4050 Mountain View Road, Ferndale, WA 98248.
3. The substances found at the Facility as described above are "hazardous substances" as defined at RCW 70.105D.020(7).
4. Based on the presence of these hazardous substances at the Facility and all factors known to the Department, there is a release or threatened release of hazardous substances from the Facility, as defined at RCW 70.105D.020(19).
5. By a letter of October 18, 2000, Intalco voluntarily waived its rights to notice and comment and accepted Ecology's determination that Intalco is a "potentially liable person" under RCW 70.105D 040. By letter dated November 20, 2000, Ecology notified Alcoa of its determination that Alcoa is a Principally Liable Party ("PLP") with respect to the Beach 1 and Beach 2 landfills.
6. Pursuant to RCW 70.105D 030(1) and 70.105D 050, the department 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.

7. Based on the foregoing facts, Ecology believes the remedial action required by this Order is in the public interest.

#### IV.

##### Work to be Performed

Based on the foregoing Facts and Determinations, it is hereby ordered that Intalco take the following remedial actions and that these actions be conducted in accordance with Chapter 173-340-350 & 360 WAC unless otherwise specifically provided for herein. Intalco shall conduct a remedial investigation and feasibility study, prepare a final report(s), and submit the report(s) to Ecology for review and approval as described below:

1. Within 45 days of the effective date of this Order, Intalco shall initiate additional field investigations of the "Beach 1" and "Beach 2" Landfills, as necessary, to accurately define the location, quantity, aerial and vertical extent, nature of materials present in the landfill, and assess the threat to human health and the environment. A final report of data and findings shall be submitted to the Department within 90 days of completing final field data collection activities.
2. Within 45 days of the effective date of this Order, Intalco shall initiate a field investigation of the "Construction debris landfill" site to collect data to accurately define the location, quantity, aerial and vertical extent, nature of materials present in the landfill, and assess the threat to human health and the environment. A final report of data and findings shall be submitted to the Department within 90 days of completing final field data collection activities.

3. Within 45 days of the effective date of the Order, Intalco shall initiate additional investigations, as necessary, to identify sources contributing to water discharge from Beach 1, Beach 2 and the construction debris landfill, and shall identify all reasonable measures to intercept, divert, or mitigate the impacts of identified sources contributing to discharge of hazardous substances into the Strait of Georgia
4. Within 180 days of the Department's approval of the final investigation reports, Intalco shall submit an analysis of cleanup action alternatives that are protective of human health and the environment in accordance with the requirements in WAC 173-340-360. The analysis shall include an initial screening of remedial technologies and a detailed evaluation of a focused list of cleanup action alternatives

## V.

### Terms and Conditions of Order

#### 1. Definitions

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

#### 2. Public Notices

RCW 70.105D.030(2)(a) requires that, at a minimum, this Order be subject to concurrent public notice. Ecology shall be responsible for providing such public notice and reserves the right to modify or withdraw any provisions of this Order should public

comment disclose facts or considerations which indicate to Ecology that the Order is inadequate or improper in any respect.

3. Remedial Action Costs. Intalco shall pay to Ecology costs incurred by Ecology pursuant to this Order. These costs shall include work performed by Ecology or its contractors directly related to the investigations, remedial actions, and Order preparation, oversight and administration for the historic industrial solid waste disposal units at the Facility. Ecology costs shall include costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2). Intalco shall pay the required amount within 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 upon request. Itemized statements shall be prepared quarterly. Failure to pay Ecology's costs within 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: Paul Skyllingstad  
Address: Department of Ecology – Industrial Section  
P. O. Box 47706  
Olympia, WA 98504-7706

The project coordinator for Intalco is:

Charles Juges  
Intalco Aluminum Corporation  
4050 Mountain View Road  
P.O. Box 937  
Ferndale, WA 98248



The project coordinator(s) shall be responsible for overseeing the implementation of this Order. To the maximum extent possible, communications between Ecology and Intalco, 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 Intalco change project coordinator(s), written notification shall be provided to Ecology or Intalco at least ten (10) calendar 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. Intalco shall notify Ecology as to the identity of such engineer(s) or hydrogeologist(s), 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. Intalco 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, Intalco shall not perform any remedial actions at the Facility outside that required by this Order unless Ecology concurs, in writing, with such additional remedial actions.

WAC 173-340-400(7)(b)(i) requires that "construction" performed on the Site must be under the supervision of a professional engineer registered in Washington.

6. 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 Intalco. By signing this Agreed Order, Intalco agrees to allow access to the Site at all reasonable times for purposes of overseeing work performed under this Order. Ecology shall allow split or replicate samples to be taken by Intalco during an inspection unless doing so interferes with Ecology's sampling. Intalco 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 Intalco shall prepare and/or update a public participation plan for the site. Ecology shall maintain the responsibility for public participation at the site. Intalco shall help coordinate and implement public participation for the site.

8. Retention of Records Intalco shall preserve in a readily retrievable fashion, during the pendency of this Order and for ten (10) years from the date of completion of the work performed pursuant to this Order, all records, reports, documents, and underlying data in its possession relevant to this Order. Should any portion of the work performed hereunder be undertaken through contractors or agents of Intalco, then Intalco agrees to include in their contract with such contractors or agents a record retention requirement meeting the terms of this paragraph.

9. Dispute Resolution Intalco may request Ecology to resolve disputes which 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 binding and final. Intalco is not relieved of any requirement of this Order during the pendency of the dispute and remains responsible for timely compliance with the terms of the Order unless otherwise provided by Ecology in writing.

10. Reservation of Rights/No Settlement. This Agreed Order is not a settlement under ch. 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 Intalco to recover remedial action costs paid to and received by Ecology under this Agreed Order. In addition, Ecology will not take additional enforcement actions against Intalco to require those remedial actions required by this Agreed Order, provided Intalco complies with this Agreed Order.

Ecology reserves the right, however, to require additional remedial actions at the Site should it deem such actions necessary.

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 Facility.

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 Intalco to stop further implementation of this Order for such period of time as needed to abate the danger.

11. Transference of Property No voluntary or involuntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Site shall be consummated by Intalco 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 Intalco may have in the site or any portions thereof, Intalco 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, Intalco shall notify Ecology of the contemplated transfer.

12. Compliance with Other Applicable Laws

A. All actions carried out by Intalco 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(1), 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 remedial action under this Order that are known to be applicable at the time of issuance of the Order have been included in Section IV, the Work to be Performed and are binding and enforceable requirements of the Order.

Intalco has a continuing obligation to determine whether additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order. In the event Intalco determines that additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order, it shall promptly notify Ecology of this determination.

Ecology shall determine whether Ecology or Intalco shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, Intalco 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 remedial action. Ecology shall make the final determination on the additional substantive requirements that must be met by Intalco and on how Intalco must meet those requirements. Ecology shall inform Intalco in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. Intalco shall not begin or continue the remedial action 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 [PLP 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 Intalco's receipt of written notification from Ecology that Intalco has completed the remedial activity required by this Order, as amended by any modifications, and that all other provisions of this Agreed Order have been complied with.

## VII.

### Enforcement

1. Pursuant to RCW 70.105D.050, this Order may be enforced as follows:
  - A. The Attorney General may bring an action to enforce this Order in a state or federal court.
  - B. 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.
  - C. In the event Intalco refuses, without sufficient cause, to comply with any term of this Order, Intalco will be liable for:
    - (1) any investigative or remediation costs incurred by the state of Washington as a direct result of its refusal to comply; and
    - (2) civil penalties of up to \$25,000 per day for each day it refuses to comply.

D This Order is not appealable to the Washington Pollution Control Hearings Board. This Order may be reviewed only as provided under Section 6 of ch. 70.105D RCW.

Effective date of this Order: July 9, 2001

INTALCO ALUMINUM CORPORATION

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

By Jim Frederick

Jim Frederick  
Senior Vice President  
General Manager

By Carol Kraege

Carol Kraege, P E  
Industrial Section Manager  
Solid Waste & Financial  
Assistance Program