



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

N. 4601 Monroe, Suite 202 • Spokane, Washington 99205-1295 • (509) 456-2926

STATE OF WASHINGTON
DEPARTMENT OF WASHINGTON

In the Matter of Remedial)	Enforcement Order
Action at:)	
)	
Greenacres Landfill)	
_____)	No. DE 94TC-E101

To: Spokane County
Liberty Lake Investments, Inc.

Together referred to herein as the Potentially Liable Parties ("the PLPs").

I.

Jurisdiction

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

II.

Statement of Facts

1. The site, referred to as Greenacres Landfill, is located within Section 16, Township 25 North, Range 45 East, W.M., Spokane County, Washington. The landfill identified in Exhibit A of this Order, covers approximately 50 acres and is situated in a former ravine that flattens to the north and merges with the Spokane Valley. Underlying the Spokane Valley is the Spokane Valley-Rathdrum Prairie Aquifer, which is the sole source of drinking water for approximately 350,000 people.

2. In 1951 the Site was deeded to Greenacres Township for use as a municipal dump. The Township was dissolved in 1967 at which time Spokane County assumed responsibility for operations at the Site. Spokane County continued to operate the Site until 1972 when the Site was filled to capacity and



closed. In 1971 Spokane County transferred a portion of the Site to Holiday Hills Recreation Center, Inc., the trustee of which was Wells B. McCurdy. In 1972, Spokane County sold the remaining Site property to Holiday Hills Recreation Center, Inc. Liberty Lake Investments, Inc., obtained title to the property through foreclosure in 1977.

3. During a ground water quality monitoring survey in 1978, a nearby residential well, located approximately 600 feet downgradient from the Site and owned by Mrs. Ruth Jeffers was found to be contaminated. Additional testing done in 1980 indicated the presence of volatile organic compounds in Mrs. Jeffers' well. The Spokane County Health District subsequently advised Mrs. Jeffers to procure an alternative water supply.

4. In 1984 the U.S. Environmental Protection Agency (EPA) placed the Site on the National Priorities List (NPL). Mrs. Jeffers then filed suit against Spokane County alleging a release of contaminants from the Site. Spokane County arranged for an alternative water supply to the Jeffers residence and the suit was subsequently settled after a monetary payment.

5. In 1985 EPA conducted a preliminary investigation of the Site at which time three ground water monitoring wells were installed. The monitoring data from EPA and the Department of Ecology (Ecology) confirmed the site as the source of contamination in Mrs. Jeffers' well and the two downgradient monitoring wells. These contaminants include volatile and semi-volatile organic compounds and metals.

6. EPA notified Spokane County and Holiday Hills Development, Inc., of their potential liability under the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) in 1985. EPA and Ecology agreed in 1985 that Ecology would assume lead agency status of the site. A Memorandum of Agreement (1989) between the EPA and Ecology gave Ecology responsibility for all aspects of the remedial investigation, feasibility study, remedial design, remedial action and community relations activities at state lead NPL sites. The agreement specified that all activities at state lead NPL sites would be done under state authorities.

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evaluate concentration of gases migrating in surface soils from the site 4) long term ground water monitoring to evaluate contaminant concentrations, 5) institutional controls that limit site access and use.

III.

Ecology Determinations

1. Spokane County and Liberty Lake Investments, Inc., are "owner(s) or operator(s)" as defined at RCW 70.105D.020(6) of a "facility" as defined at RCW 70.105D.020(3).

2. The facility, or site, is known as Greenacres Landfill and is located within Section 16, Township 25 North, Range 45 East, W.M., Spokane County, Washington.

3. The substances found at the facility as described above are "hazardous substances" as defined at RCW 70.105D.020(5).

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 at RCW 70.105D.020(10).

5. By letter dated September 30, 1985, EPA notified Spokane County of its "potential liability" under CERCLA. Subsequently, by letter dated February 9, 1987, Ecology requested Spokane County, as an owner and operator, to take a response action at the site.

6. By letter dated February 22, 1993 Ecology notified Liberty Lake Investments, Inc., of its status as a "potentially liable person" under RCW 70.105D.040 after notice and opportunity for comment.

7. By letter dated February 22, 1993 Ecology requested that Spokane County and Liberty Lake Investments, Inc., begin formal negotiations with Ecology for a Consent Decree to implement cleanup actions at the Greenacres Landfill.

8. Formal negotiations for a Consent Decree to implement cleanup actions at the Greenacres Landfill were

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begun on April 14, 1993. Subsequent negotiations have failed to reach conclusion.

9. 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.

10. 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 the PLPs take the following remedial actions and that these actions be conducted in accordance with Chapter 173-340 WAC unless otherwise specifically provided for herein.

1. Conduct indoor air sampling of occupied and unoccupied residences located directly north/northeast of the landfill for volatile organics compounds.
2. Conduct ground water sampling in the period May 1994 to January 1, 1997. In accordance with WAC 173-340-840(5), ground water sampling data shall be submitted according to Exhibit E: GROUND WATER SAMPLING DATA SUBMITTAL REQUIREMENTS.
3. Design and construct a landfill cover in accordance with the State of Washington's Minimum Functional Standards (MFS) (Chapter 173-304 WAC), if the criteria for a "No Further Action" determination, as defined in Exhibit C, are not met. Stormwater run on/run off and gas collection and control systems shall be included in the cover design.
4. Implement institutional controls, consistent with WAC 173-340-440, to restrict extraction and use of

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contaminated ground water, to restrict development of area covered by refuse and other areas to be covered by a low permeability landfill cover, and to insure continued inspection and maintenance of the cover and related systems to maintain the integrity of landfill cover. Specific institutional controls are identified in Exhibits B and C.

- 5. Conduct long-term ground water monitoring to demonstrate compliance with cleanup standards.

The Scope of Work and Schedule (Exhibit D) to this order, implements the FCAP (Exhibit B) and Technical Memorandum (Exhibit C). These exhibits are incorporated by reference and are integral and enforceable parts of this Order.

Ecology has determined that these actions are necessary to protect public health and the environment. PLPs shall not perform any remedial actions at the site outside the scope of this Order unless approved by Ecology. All work conducted under this Order shall be done in accordance with Chapter 173-340 WAC and all other applicable state and federal laws unless otherwise provided herein.

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 Notice

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.

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3. Remedial Action 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, and Order preparation, oversight and administration. For work performed prior to January 1, 1994 the amount of \$16,805.00 shall be paid to Ecology within 30 days of the effective date of this order. For work commencing on January 1, 1994 Ecology costs shall include costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2) and interest charges for delayed payments, as defined in WAC 173-340-550(4).

The PLPs 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:

Roxane Broadhead
Department of Ecology
4601 N. Monroe, Suite 100
Spokane, WA 99205-1295

The project coordinator for the PLPs is:

Dennis Scott
Spokane County Public Works
N. 811 Jefferson
Spokane, WA 99260-0810

The project coordinator(s) shall be responsible for overseeing the implementation of this Order. To the maximum extent possible, communications between Ecology and the PLPs, and all documents, including reports, approvals, and other correspondence concerning the activities performed pursuant

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to the terms and conditions of this Order, shall be directed through the project coordinator(s). Should Ecology or the PLPs change project coordinator(s), written notification shall be provided to Ecology or the PLPs 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. The PLPs 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. 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 when necessary to abate an emergency situation, the PLPs shall not perform any remedial actions at Greenacres Landfill 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 all property at 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. When entering the Site under ch. 70.105D RCW, Ecology shall provide reasonable notice prior to entering the Site unless

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an emergency prevents notice. Ecology shall allow split or replicate samples to be taken by the PLPs during an inspection unless doing so would interfere with Ecology's sampling. The PLPs shall allow split or replicate samples to be taken by Ecology and shall provide Ecology seven (7) days notice before any sampling activity.

7. Public Participation

The PLPs shall prepare and/or update 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 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 the PLPs, a record retention requirement meeting the terms of this paragraph shall be required of such contractors and/or agents.

9. Dispute Resolution

The PLPs may request Ecology to resolve factual or technical 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), of this Order. Ecology resolution of the dispute shall be binding and final. 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 the Order unless otherwise provided by Ecology in writing.

10. Reservation of Rights

Ecology reserves all rights to issue additional orders or take any action authorized by law in the event or upon the discovery of a release or threatened release of hazardous substances not addressed by this Order, upon discovery of any

factors not known at the time of issuance of this Order, in order to abate an emergency, or under any other circumstances deemed appropriate by Ecology.

Ecology also reserves all rights regarding the injury to, destruction of, or loss of natural resources resulting from the release or threatened release of hazardous substances from Greenacres Landfill.

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.

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 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 portions thereof, the PLPs 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

All actions carried out by the PLPs pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements.

VI.

Satisfaction of this Order

The provisions of this Order shall be deemed satisfied upon the PLPs receipt of written notification from Ecology

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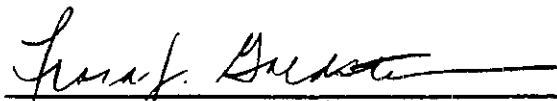
that the PLPs have completed the remedial activity required by this Order, as amended by any modifications, and that all other provisions of this Order have been complied with.

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 the PLPs refuse, without sufficient cause, to comply with any term of this Order, the PLPs will be liable for:
 - (1) up to three times the amount of any costs incurred by the state of Washington as a 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 RCW 70.105D.060.

Effective date of this Order: April 18, 1994



Flora J. Goldstein
Section Manager
Toxics Cleanup Program

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