



1 complaint, including as trustees for natural resources  
2 (collectively referred to as "Plaintiffs") and defendant  
3 Quemetco, Inc. (hereinafter "Settling Defendant").

4 **I. INTRODUCTION**

5 1. The Plaintiffs allege that the Tulalip Landfill is  
6 located on Ebey Island between Steamboat Slough and Ebey Slough  
7 in the Snohomish River delta system between Everett and  
8 Marysville, Washington. Ebey Island is located in Snohomish  
9 County, Township 30N, Range 5E, Section 32. The Tulalip Landfill  
10 Superfund Site ("the Site"), located within the Tulalip Indian  
11 Reservation, occupies approximately 147 acres of the western  
12 portion of Ebey Island, just to the west of Interstate 5 and the  
13 Burlington Northern Railroad. The landfill area ("the Tulalip  
14 Landfill") is bordered by a berm and is surrounded primarily by  
15 wetlands in the form of freshwater and brackish water marshes.  
16 To the west of the landfill area are approximately 160 acres of  
17 salt marsh.

18 2. The Plaintiffs allege that in 1964, The Tulalip Tribes,  
19 a Section 17 Corporation federal corporation chartered pursuant  
20 to Section 17 of the Indian Reorganization Act, as amended, 25  
21 U.S.C. § 477, leased the Site to Seattle Disposal Company for a  
22 period of 10 years. The lease was renewed in 1972. From 1964 to  
23 1979, Seattle Disposal Company, its general partners J. Razore,  
24 J. Banchemo, and other partners, and Marine Disposal Company,  
25 operated the Site, then known as the "Big Flats Landfill," as a

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1 disposal site for commercial and industrial waste. The  
2 Plaintiffs allege that waste material collected in King County,  
3 Snohomish County, and communities in and around the Puget Sound  
4 region, including waste materials containing hazardous substances  
5 generated or transported by the Settling Defendant, was delivered  
6 to the Site by a variety of methods. In 1979, the landfill was  
7 closed and capped pursuant to the Rivers and Harbors Act of 1899,  
8 33 U.S.C. §§ 403 and 407, and the Federal Water Pollution Control  
9 Act, 33 U.S.C. §§ 1311, 1319, 1342, and 1344, pursuant to a  
10 consent decree entered in the United States District Court for  
11 the Western District of Washington on October 19, 1977, No. C77-  
12 721M. Additional capping materials, including construction  
13 debris and earthen materials, were placed on the source area by  
14 other parties after the 1979 consent decree closure, pursuant to  
15 the NPDES permit.

16 3. The Plaintiffs allege that hazardous substances within  
17 the definition of Section 101(14) of the Comprehensive  
18 Environmental Response, Compensation and Liability Act  
19 ("CERCLA"), 42 U.S.C. § 9601(14), MTCA, RCW 70.105D.020(7), have  
20 been released into the environment from the Site. Hazardous  
21 substances have been found in soils in and around the Site, in  
22 sediments around the Site, in leachate emanating from the Site,  
23 and in ground water at the Site. Hazardous substances of concern  
24 found in soils and sediments include benzo(a)anthracene,  
25 benzo(a)pyrene, benzo(b)flouranthene, benzo(k)flouranthene,

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1 bis(2-ethylhexyl)phthalate, chrysene, 1,4-dichlorobenzene,  
2 flouranthene, fluorine, naphthalene, N-nitroso-di-n-propylamine,  
3 polychlorinated biphenyls (PCBs), and pyrene. Metals were also  
4 found at the Site, including arsenic, lead, and chromium.  
5 Samples of leachate flowing from the Site have shown levels of  
6 arsenic, barium, cadmium, iron, zinc, manganese, toluene,  
7 ethylbenzene, PCBs, and acenaphthene.

8 4. The Plaintiffs allege that, as a result of these  
9 releases of hazardous substances, injuries to, destruction or  
10 losses of natural resources have occurred at the Site, and that  
11 such injuries, destruction or losses are compensable under  
12 Section 107(a)(4)(C) of CERCLA, 42 U.S.C. § 9607(a)(4)(C), and  
13 the Model Toxics Control Act ("MTCA"), Ch. 70.105D RCW.

14 5. Plaintiffs have filed, contemporaneously with the  
15 lodging of this Consent Decree, a civil complaint alleging that  
16 Settling Defendant is liable under Section 107 of CERCLA, 42  
17 U.S.C. § 9607, and MTCA Ch. 70.105D RCW, to the Plaintiffs for  
18 damages for the injury to, destruction of or loss of natural  
19 resources caused by the release of hazardous substances at or  
20 from the Site.

21 6. The Settling Defendant denies the allegations in the  
22 complaint in this action, including any and all allegations of  
23 liability and dispute the waste volumes attributed to it in EPA's  
24 volumetric report.

25 7. The purposes of this Consent Decree are to resolve the  
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1 liability of the Settling Defendant for claims for Natural  
2 Resource Damages resulting from releases of hazardous substances  
3 at or from the Tulalip Landfill and to protect the Settling  
4 Defendant against claims for contribution regarding Covered  
5 Matters.

6 8. The parties recognize, and this Court finds, that the  
7 parties have negotiated this Consent Decree in good faith, and  
8 that implementation of this Consent Decree will avoid lengthy and  
9 protracted litigation, is fair, equitable, and in the public  
10 interest, and will expedite restoration of natural resources.

11 NOW, THEREFORE, the parties agree, and it is hereby ORDERED  
12 ADJUDGED, AND DECREED as follows:

13 **II. PARTIES**

14 9. "United States" means the United States of America, in  
15 all its capacities, including inter alia all departments,  
16 instrumentalities, administrations, natural resource trustees,  
17 and agencies of the Federal Government.

18 10. The "Tulalip Tribes of Washington" is a federally  
19 recognized Indian tribe organized under Section 16 of the Indian  
20 Reorganization Act of 1934, as amended, 25 U.S.C. § 476, and is  
21 the successor in interest to the Snohomish, Snoqualmie, Skykomish  
22 and other tribes and bands party to the Treaty of Point Elliot.

23 11. The "Department of Ecology" means the Washington  
24 Department of Ecology as designated state trustee pursuant to  
25 Section 107(f) of CERCLA, and 40 C.F.R. Part 300, Subpart G, and

1 in its statutory role under MTCA, Ch. 70.105D, RCW.

2 12. "The State of Washington" or "the State" means the  
3 State of Washington, including inter alia all departments,  
4 administrations, natural resource trustees and agencies thereof.

5 13. "Settling Defendant" means defendant and signatory to  
6 this Consent Decree Quemetco, Inc.

7 **III. JURISDICTION**

8 14. This Court has jurisdiction over this Consent Decree  
9 under Sections 107(a) and 113(b) of CERCLA, 42 U.S.C. §§ 9607(a)  
10 & 9613(b), 28 U.S.C. §§ 1331 & 1345, and supplemental  
11 jurisdiction over state law claims as set forth in 28 U.S.C. Sec.  
12 1367.

13 **IV. DEFINITIONS**

14 15. Whenever the following capitalized terms are used in  
15 this Consent Decree, they shall have the following meaning:

16 a. "Natural Resources" include land, fish, wildlife,  
17 biota, air, water, groundwater, drinking water supplies, and  
18 other such resources belonging to, managed by, held in trust by,  
19 appertaining to, or otherwise controlled by the United States  
20 (including the resources of the exclusive economic zone), the  
21 State of Washington or the Tulalip Tribes of Washington.

22 b. "Natural Resource Damages" means compensatory and  
23 remedial relief recoverable by the Federal, State and Tribal  
24 Trustees of Natural Resources on behalf of the public or tribal  
25 members for injury to, destruction of, or loss of use of any and

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1 all Natural Resources resulting from the release of hazardous  
2 substances, including (1) costs of damage assessment; (2)  
3 compensation for loss, injury, impairment, damage or destruction  
4 of Natural Resources, whether temporary or permanent, or for loss  
5 of use value, non-use value, passive value, option value, amenity  
6 value, bequest value, existence value, consumer surplus, economic  
7 rent, or any similar value of Natural Resources; (3) any  
8 diminution in value of Natural Resources pending restoration; and  
9 (4) costs of restoring, rehabilitating, replacing, or acquiring  
10 the equivalent of the Natural Resources.

11 c. "Covered Matters" means any civil or  
12 administrative liability Settling Defendant may have to the  
13 United States, the State of Washington (including the Washington  
14 Department of Ecology), the Tulalip Tribes of Washington, or any  
15 other individual or entity for any claim under 42 U.S.C. §§  
16 9607(a)(4)(c) & 9607(f), 33 U.S.C. § 1321, 33 U.S.C. §§ 2702,  
17 2706, chapter 70.105D RCW, chapter 90.48 RCW, or any other  
18 federal, state, tribal or common law, for Natural Resource  
19 Damages resulting from releases of hazardous substances at or  
20 from the Tulalip Landfill.

21 **V. PAYMENT AND RELATED MATTERS**

22 16. Within 30 days of receiving notice of the entry of  
23 this Consent Decree, Settling Defendant shall deliver to:

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1 Registry of the U.S. District Court  
2 c/o Clerk, United States District Court  
3 Western District of Washington  
4 1010 Fifth Avenue, Room 215  
5 Seattle, WA 98104

6 a certified check payable to the Clerk of the United States  
7 District Court for the Western District of Washington in the  
8 amount of THIRTY-NINE THOUSAND EIGHT HUNDRED AND THIRTY-NINE  
9 DOLLARS AND NO CENTS (\$39,839.00). The certified check submitted  
10 by Settling Defendant shall reference the "Tulalip Landfill NRD  
11 Settlement" and the civil action number assigned to this case.

12 17. Within 5 business days of making the payment specified  
13 in Paragraph 16, Settling Defendant shall provide written  
14 notification of the aforesaid delivery to the persons designated  
15 in Paragraph 27.

16 18. The amount deposited into the Registry of the Court  
17 shall be managed pursuant to the Order Directing the Deposit of  
18 Funds into the Registry of the Court issued by Judge Dimmick in  
19 United States v. Ace Galvanizing, Inc., No. C97-152D (Attachment  
20 A hereto), which is hereby incorporated into this Decree. These  
21 funds shall be used by Plaintiffs only for assessing, restoring,  
22 rehabilitating, replacing or acquiring the equivalent of the  
23 natural resources injured, destroyed, or lost as a result of  
24 releases at or from the Site, as provided in 42 U.S.C. §  
25 9607(f)(1).

26 19. If Settling Defendant fails to timely make any payment  
27 required under this Consent Decree, it shall be liable,

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1 commencing the day after payment is due, for interest on the  
2 unpaid balance at the federal judgment interest rate computed in  
3 accordance with 28 U.S.C. § 1961 as of the date payment is due,  
4 and, if incurred, the costs of enforcement and collection  
5 pursuant to the Federal Debt Collection Procedure Act, 28 U.S.C.  
6 § 3001 et seq.

7 **VI. COVENANTS NOT TO SUE**

8 20. In consideration of the Settling Defendant's timely  
9 compliance with the terms of this Consent Decree, the United  
10 States, the State of Washington (including the Washington  
11 Department of Ecology) and the Tulalip Tribes of Washington  
12 covenant not to sue or take any other civil or administrative  
13 action, after entry of this Consent Decree, against Settling  
14 Defendant for Covered Matters. This covenant not to sue shall  
15 extend to, and inure to the benefit of, the Settling Defendant  
16 and its past, present and future directors, officers, employees,  
17 acting in those capacities, and its successors and assigns. This  
18 covenant not to sue is subject to the reservations in Section  
19 VIII of this Decree.

20 21. In consideration of the Plaintiffs' covenants not to  
21 sue in this Section VI of this Consent Decree, Settling Defendant  
22 agrees not to assert any claim or cause of action against any of  
23 the Plaintiffs arising out of injuries to Natural Resources  
24 resulting from releases of hazardous substances at or from the  
25 Site, or to seek any costs, damages or attorneys' fees from any

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1 Plaintiff in connection with injuries to natural resources  
2 resulting from releases of hazardous substances at or from the  
3 Site.

4 **VII. CONTRIBUTION PROTECTION**

5 22. Subject to the Reservation of Rights in Section VIII of  
6 this Consent Decree, Plaintiffs agree that by entering into this  
7 Consent Decree, Settling Defendant will have resolved its  
8 liability for Covered Matters, as described in Paragraphs 15(c)  
9 and 20 of this Consent Decree, pursuant to Sections 122(g)(5) and  
10 113(f)(2) of CERCLA, 42 U.S.C. § 9622(g)(5) and 9613(f)(2), MTCA,  
11 RCW Chapter 70.105D.040(1), (2) and RCW 90.48.142, and shall be  
12 protected against claims for contribution regarding Covered  
13 Matters as provided in Sections 122(g)(5) and 113(f)(2) of  
14 CERCLA, 42 U.S.C. §§ 9622(g)(5) and 9613(f)(2), RCW  
15 70.105D.040(d). Contribution protection shall extend to, and  
16 inure to the benefit of, the Settling Defendant and its past,  
17 present and future directors, officers, employees, to the extent  
18 they were acting in those capacities, and successors and assigns.

19 **VIII. RESERVATION OF RIGHTS**

20 23. Nothing in this Consent Decree is intended to be nor  
21 shall it be construed as a release or covenant not to sue for any  
22 claim or cause of action, administrative or judicial, civil or  
23 criminal, past or future, at law or in equity, which the  
24 Plaintiffs may have against Settling Defendant for:

25 a. Any claims and liability as a result of failure to  
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1 make the payments required by this Consent Decree;

2           b. Any liability arising from the past, present, or  
3 future disposal, release, or threat of release of any hazardous  
4 substance, hazardous waste, or solid waste other than releases or  
5 threats of releases at or from the Site; or

6           c. Any criminal liability.

7           24. As required by MTCA, RCW 70.105D.040(4)(c), nothing in  
8 this Consent Decree is intended to be nor shall it be construed  
9 as a release or covenant not to sue by the State of Washington  
10 for any claim or cause of action, administrative or judicial,  
11 civil or criminal, past or future, at law or in equity, which the  
12 State of Washington may have against Settling Defendant for  
13 factors not known to EPA at the time of entry of the decree that  
14 are discovered and present a previously unknown threat to human  
15 health or the environment. Factors known and threats known at  
16 the time of the entry of the Consent Decree include all facts,  
17 documents, evidence and data in the possession of EPA at the time  
18 of entry of the Consent Decree, including but not limited to all  
19 of the facts set forth in documents in EPA's administrative  
20 record for the Site, EPA's Risk Assessment for the Site and EPA's  
21 Proposed Plan for Interim Remedial Action for the Site.

22   **IX. DISCLAIMER OF LIABILITY**

23           25. Neither entry of this Consent Decree nor any action in  
24 accordance with this Consent Decree shall constitute an admission  
25 of liability under any federal, state, tribal or local statute,

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1 regulation, ordinance, general maritime law or common law by  
2 Settling Defendant, its present or former officers, members,  
3 directors, trustees, shareholders, insurers, agents,  
4 representatives, employees, subsidiaries, successors, assigns or  
5 affiliates, for any fine, penalty, response costs, damages, or  
6 claims or any issues of fact or law for releases of hazardous  
7 substances at the Site.

8 26. The parties further agree that none of the provisions  
9 of this Consent Decree or evidence of negotiations shall be  
10 offered or received in evidence in this action or any other  
11 action or proceedings by any other party for any purpose, except  
12 for enforcement of this Consent Decree or except as specifically  
13 provided herein.

14 **X. NOTICES AND SUBMISSIONS**

15 27. Whenever, under the terms of this Consent Decree,  
16 written notice is required to be given or a report or other  
17 document is required to be sent by one party to the other, it  
18 shall be directed to individuals at the addresses specified  
19 below, unless those individuals or their successors give written  
20 notice of a change. All notices and submissions shall be  
21 considered effective upon receipt, unless otherwise provided.

22 As to the United States:

23 Chief  
24 Environmental Enforcement Section  
25 Environment and Natural Resources Division  
26 U.S. Department of Justice  
P.O. Box 7611  
Ben Franklin Station

27 U.S. Dept. Justice  
c/o NOAA DARC  
7600 Sand Point Way, NE  
Seattle, WA 98115  
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1 Washington, D.C. 20044

2 As to the State of Washington:

3 Michelle Wilcox  
4 Toxics Cleanup Program  
5 State of Washington  
6 P.O. Box 47600  
7 Olympia, Washington 98504-7600

8 As to the Tulalip Tribes of Washington:

9 Tom McKinsey  
10 Tulalip Tribes of Washington  
11 6326 33rd Ave., N.E.  
12 Marysville, Washington 98271

13 **XI. ENTRY OR DISAPPROVAL OF DECREE**

14 28. This Consent Decree shall be lodged with the Court for  
15 a period of not less than thirty (30) days and shall be made  
16 available for public notice and comment in accordance with  
17 Section 122(d)(2) of CERCLA, 42 U.S.C. § 9622(d)(2), 28 C.F.R. §  
18 50.7, and RCW 70.105D.040(4)(a). The United States, the State of  
19 Washington and the Tulalip Tribes of Washington intend to defend  
20 the settlement embodied in this Consent Decree, unless comments  
21 regarding the Consent Decree disclose facts or considerations  
22 that indicate that the Consent Decree is not fair, reasonable or  
23 in the public interest, in which case the United States and the  
24 Tulalip Tribes of Washington reserve the right to withdraw or  
25 withhold their consent to the Consent Decree. The State of  
26 Washington reserves the right to withdraw or withhold its consent  
27 if the comments regarding the Consent Decree disclose facts or  
28 considerations that demonstrate that the proposed settlement  
would not lead to a more expeditious restoration of natural

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1 resources. Settling Defendant consents to the entry of this  
2 Consent Decree without further notice.

3 29. After its entry by the Court, this Consent Decree shall  
4 be considered an enforceable judgement for purposes of post-  
5 judgement collection in accordance with Rule 69 of the Federal  
6 Rules of Civil Procedure and other applicable federal statutory  
7 authority.

8 30. Settling Defendant hereby waives the 60-day notice  
9 requirement applicable to the trustees by virtue of Section  
10 113(g)(1) of CERCLA, 42 U.S.C. § 9613(g)(1), and agrees that any  
11 failure by Plaintiffs to give the notice required by that section  
12 shall not constitute a deficiency in the Complaint or in this  
13 Consent Decree.

14 31. This Court retains jurisdiction over both the subject  
15 matter of this Consent Decree and the Parties hereto for the  
16 duration of the performance of the terms and conditions of this  
17 Consent Decree solely for the purpose of enforcing those terms  
18 and conditions.

19 **XII. MISCELLANEOUS**

20 32. In any subsequent administrative or judicial proceeding  
21 initiated by the United States for injunctive relief, recovery of  
22 response costs, or other appropriate relief relating to the Site,  
23 Settling Defendant shall not assert, and may not maintain, any  
24 defense or claim based upon the principles of waiver, res  
25 judicata, collateral estoppel, issue preclusion, claim-splitting,  
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1 or other defenses based upon any contention that the claims  
2 raised by the United State in the subsequent proceeding were or  
3 should have been brought in the instant case; provided, however,  
4 that nothing in this paragraph affects the enforceability of the  
5 covenants not to sue set forth in Section VI.

6 33. Settling Defendant shall not reference or rely upon its  
7 payment under this Consent Decree in any application for dredged  
8 or fill material under Section 404 of the Federal Water Pollution  
9 Control Act, or in any proceeding arising out of the Settling  
10 Defendant's application, or failure to apply, for such a permit.

11 34. This Consent Decree shall not affect any party's rights  
12 against any person or entity not a party to this Consent Decree,  
13 except for the contribution protection provisions of Section VII.  
14 No person or entity other than the parties hereto shall have the  
15 authority to seek to enforce the terms of this Consent Decree.

16 35. This Consent Decree constitutes the entire agreement  
17 among the parties with regard to the subject matter hereof and  
18 can be modified or amended only with the express written consent  
19 of all the parties to this Consent Decree.

20 36. Each of the undersigned representatives of Plaintiffs  
21 and Settling Defendant certifies that he or she is fully  
22 authorized to enter into the terms and conditions of this Consent  
23 Decree and to execute and legally bind the party whom he or she  
24 represents to this Consent Decree.

25 37. The Tulalip Tribes of Washington's joinder to this  
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1 Decree is solely in its capacity as a trustee for natural  
2 resources and constitutes a limited waiver of the Tulalip Tribes  
3 of Washington's sovereign immunity for the sole and limited  
4 purpose of enforcing the terms of this Consent Decree; provided  
5 that, this Consent Decree shall not act as a general waiver of  
6 sovereign immunity nor shall it in any way impair treaty-reserved  
7 hunting and fishing rights.

8       38. This Consent Decree may be executed in several  
9 counterparts and by facsimile and, as executed, shall constitute  
10 one agreement, binding on all parties hereto, even though all  
11 parties do not sign the original or the same counterpart.

12       39. Except as otherwise provided herein each party to this  
13 Consent Decree shall bear his, her or its own costs, attorneys  
14 fees and disbursements.

15       40. Settling Defendant shall identify, on the attached  
16 signature page, the name, address and telephone number of an  
17 agent who is authorized to accept service of process by mail on  
18 its behalf with respect to all matters arising under or relating  
19 to this Consent Decree. Settling Defendant hereby agrees to  
20 accept service in that manner and to waive the formal service  
21 requirements set forth in Rule 4 of the Federal Rules of Civil  
22 Procedure and any applicable local rules of this Court,

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1 including, but not limited to, service of a summons.

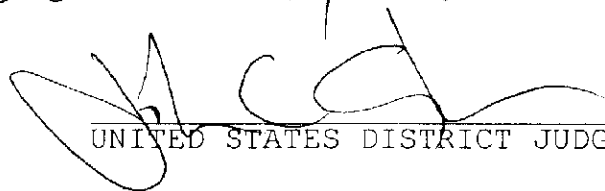
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SO ORDERED THIS 20 DAY OF May, 2002

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UNITED STATES DISTRICT JUDGE

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Seattle, WA 98115  
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1 We hereby consent to the entry of the foregoing Consent  
2 Decree:

3 FOR THE UNITED STATES OF AMERICA:  
4

5 1.20.02  
6 Date:

Tom Sansonetti  
THOMAS L. SANSONETTI  
Assistant Attorney General  
Environment and Natural Resources  
Division  
United States Department of Justice  
Washington, D.C.


10 1-23-02  
11 Date

Sean Carman  
SEAN CARMAN  
Trial Attorney  
Environmental Enforcement Section  
United States Department of Justice  
NOAA DARC - DOJ  
7600 Sand Point Way, N.E.  
Seattle, Washington 98115-0070  
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FOR THE STATE OF WASHINGTON:

1-28-02  
Date

  
Thomas C. Fitzsimmons  
Director  
Washington Department of Ecology  
P.O. Box 47600  
Olympia, Washington 98504-7600

1-30-02  
Date

  
Steven J. Thiele  
Assistant Attorney General  
Ecology Division  
2425 Bristol Court SW  
P.O. Box 40117  
Olympia, Washington 98504-0117

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FOR THE TULALIP TRIBES OF WASHINGTON:

Feb 16, 01  
Date

By: Stanley G. Jones Sr  
Stanley G. Jones  
Chairman  
Board of Directors

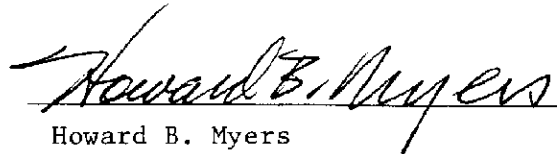
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By the signature on this page, Quemetco, Inc. agrees to be bound by the terms of this Consent Decree

March 12, 2001  
Date

  
Howard B. Myers  
General Counsel and Secretary

Agent for Service of Process: Hackett Beecher & Hart  
any partner of the firm  
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Seattle, Washington 98101-1625

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*C to C, CRD, Carey (cont)*

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AUG -5 1997 SS  
AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON DEPUTY  
BY

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AT SEATTLE  
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WESTERN DISTRICT OF WASHINGTON DEPUTY  
BY

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA, AND  
THE TULALIP TRIBES OF WASHINGTON

Plaintiff,

v.

ACE GALVANIZING, INC., et al.,

Defendants.

CIVIL ACTION  
NO. C97-152-D

ORDER DIRECTING THE  
DEPOSIT OF FUNDS  
INTO THE REGISTRY  
OF THE COURT

This case arises out of the release of hazardous substance at the Tulalip Landfill Superfund site ("the Site"), located within the Tulalip Indian Reservation, which occupies approximately 100 acres of the western portion of Ebey Island, just to the west of Interstate 5 and the Burlington Northern Railroad. This Order is entered pursuant to and in furtherance of Consent Decrees for Natural Resource Damages (the "Consent Decree") between Plaintiff United States of America, State of Washington and the Tulalip Tribes of Washington, and the defendants who have signed the

Order Directing the  
Deposit of Funds  
Into the Registry  
of the Court

U.S. Department of  
c/o NOAA DARC - DC  
7600 Sand Point Way  
Seattle, WA 98115  
(206) 526-6617

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Consent Decrees in this and all related cases (hereinafter "the Participating Parties").

Under the Consent Decrees, the Participating Parties have agreed to pay their share of Natural Resource Damages (resulting from the release of hazardous substances at or from the Site, have been estimated for purposes of this de minimis settlement to be \$6.6 million.

Participating Parties and certain agencies of the United States Government will pay their respective shares of this de minimis settlement amount to the Registry of the United States District Court for the Western District of Washington, which hold the funds pending Final Approval of the Consent Decrees, defined in the Consent Decrees. Upon Final Approval of the Consent Decrees, the funds will remain in the Registry for use by the Natural Resource Trustees (National Oceanic and Atmospheric Administration of the U.S. Department of Commerce, the U.S. Department of the Interior, the Washington Department of Ecology on behalf of the State of Washington, and the Tulalip Tribes of Washington) for assessing, restoring, rehabilitating, replacing or acquiring the equivalent of natural resources injured, destroyed or lost as a result of releases of hazardous substances at or from the Site. This Order addresses handling and investment of the funds by the Registry of the Court.

Order Directing the Deposit of Funds Into the Registry of the Court

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1 Pursuant to Rule 67 of the Federal Rules of Civil Procedure  
2 28 U.S.C. § 2041, and Local Rule GR 6, and in accordance with  
3 terms of the Consent Decree, it is hereby ORDERED that:

4 i. An account shall be established in the Registry of the  
5 United States District Court for the Western District of Washi  
6 for payments received in this and all related cases, and that  
7 account shall be titled the "Tulalip Landfill NRD Settlement  
8 Account."

9 ii. The Clerk of the Court shall administer all funds  
10 received and deposited to the account as follows:

11 a) Prior to notification by counsel for the United States  
12 of Final Approval of the Decree, the funds received shall be  
13 to purchase seven-day government securities, at the highest  
14 prevailing interest rate available for such securities;

15 b) After notification by counsel for the United States  
16 of Final Approval of the Decree, the funds shall be used to purchase  
17 91-day government securities, at the highest prevailing interest  
18 rate available for such securities;

19 c) upon maturity of the securities referred to in  
20 subparagraph b), the Clerk shall consult with counsel for the  
21 United States regarding the purchase of additional short-term  
22 securities. Counsel for the United States shall consult with  
23 representatives of the Natural Resource Trustees and, depending  
24 upon the Natural Resource Trustees' anticipated funding needs,  
25 shall advise the Clerk regarding the desired reinvestment in

26  
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1 government securities. The Clerk may make any such allocatio  
2 funds as directed by counsel for the United States without fu  
3 Order of the Court.

4 iii. All income earned as interest on funds so invested  
5 deposited shall be credited to the Tulalip Landfill NRD Sett  
6 Account.

7 iv. The Natural Resource Trustees may apply to the Cou  
8 an Order establishing an investment procedure or vehicle  
9 alternative to that identified in paragraph (ii) above that  
10 provides a comparable level of security and earnings potenti  
11 which application may be acted upon by the Court without not  
12 or consent by the Participating Parties.

13 v. The Clerk shall prepare quarterly reports on the s  
14 and activity of the Tulalip Landfill NRD Settlement Account  
15 payments received, disbursements made, income earned, maturi  
16 dates of securities held, and principal balance, and shall  
17 distribute the reports to the following to counsel for the U  
18 States, the State of Washington and the Tulalip Tribes of  
19 Washington at the following addresses:

20 Robert Taylor, Esq.  
21 National Oceanic and Atmospheric Administration  
22 Damage Assessment Center  
23 7600 Sand Point Way, NE  
24 Seattle, Washington 98115

25 Colleen Kelley, Esq.  
26 Office of the Regional Solicitor  
27 United States Department of the Interior  
28 500 NE Multnomah Street, Suite 607  
Portland, Oregon 97232

Order Directing the  
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1 Mary McCrea, Esq.  
 2 Assistant Attorney General  
 3 Office of the Attorney General  
 4 P.O. Box 40117  
 5 Olympia, Washington 98504-0117

6 Keith Moxon, Esq.  
 7 Buck & Gordon  
 8 1011 Western Avenue, Suite 902  
 9 Seattle, Washington 98104

10 vi. Funds in the Tulalip Landfill NRD Settlement Account  
 11 shall remain in the Registry until further order of this Court

12 vii. Applications for orders for disbursements from the  
 13 Tulalip Landfill NRD Settlement Account shall be made by the  
 14 States on behalf of the Natural Resource Trustees, upon  
 15 certification by each of the Natural Resource Trustees that the  
 16 determination to make such disbursement was in compliance with  
 17 terms of the Decree, applicable law and such other decision making  
 18 procedures as the Natural Resource Trustees may adopt. Such  
 19 applications may be acted upon by the Court without notice to  
 20 consent by the Participating Parties.

21 viii. Funds deposited in the Registry Account to this Order  
 22 subject to the assessment of fees as authorized at 56 Federal  
 23 Register 53656 (November 4, 1991). In cases where the U.S.  
 24 Government is a party to the action, the fees so deducted from  
 25 the Registry Account for this purpose may be restored to the Registry  
 26 Account upon application filed with the Court by counsel for  
 27 the United States. The Motion by the United States to enter the  
 28 Consent Decree and this Order herein constitutes such an

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1 application and the Court hereby directs the Clerk to exempt th  
2 Tulalip Landfill NRD Settlement Account from the assessment of  
3 fees described above.

4 ix. A certified copy of this Order shall be served upon t  
5 Clerk of this Court.

6  
7 Dated July -15, 1997  
8

*Carolyn R. Amick*  
United States District Judge

9  
10 Presented by:  
11 *Sean Carman*  
12 Sean Carman  
13 U.S Department of Justice  
14 c/o NOAA DARC  
15 7600 Sand Point Way, NE  
16 Seattle, WA 98115  
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