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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

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WESTERN DISTRICT OF WASHINGTON  
DEPUTY

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BY UNITED STATES OF AMERICA, )  
THE STATE OF WASHINGTON, AND THE )  
TULALIP TRIBES OF WASHINGTON )  
 )  
 ) Plaintiffs, )  
 )  
 ) v. )  
 )  
 ) THE BOEING COMPANY, GOODWILL INDUSTRIES )  
 ) INC., KAISER CEMENT CORP. f/k/a KAISER )  
 ) CEMENT & GYPSUM, KAISER GYPSUM CO., )  
 ) INC., MANSON CONSTRUCTION CO., R.W. )  
 ) RHINE, INC., RICHARD HALFFMAN d/b/a )  
 ) HALFFMAN TRUCKING, R.M. HALFFMAN, )  
 ) INC. d/b/a HALFFMAN TRUCKING, SAFEWAY )  
 ) INC. and WASHINGTON IRON WORKS, et al., )  
 )  
 ) Defendants. )

CIVIL ACTION NO.  
C97-1648-WD

RELATED CASE:  
NO. C97-152-D

DE MINIMIS CONSENT DECREE FOR NATURAL RESOURCE DAMAGES  
WITH GOODWILL INDUSTRIES, INC.

This Consent Decree is made and entered into by the United States of America, the Washington Department of Ecology on behalf of the State of Washington, and the Tulalip Tribes of Washington, as their respective interests appear in the complaint, including as trustees for natural resources (collectively referred to as "Plaintiffs") and defendant Goodwill Industries, Inc. ("Goodwill").

I. INTRODUCTION

1. The Plaintiffs allege that the Tulalip Landfill is located on Ebey Island between Steamboat Slough and Ebey Slough in the snohomish River delta system between Everett and

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Decree for  
Natural Resource  
Damages

U.S. Dept. of Justice  
c/o NOAA DARC - DOJ  
7600 Sand Point Way, NE  
Seattle, WA 98115  
(206) 526-6617

U.S. Dept. of Justice  
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1 Marysville, Washington. Ebey Island is located in Snohomish  
2 County, Township 30N, Range 5E, Section 32. The Tulalip Landfill  
3 Superfund Site ("the Site"), located within the Tulalip Indian  
4 Reservation, occupies approximately 147 acres of the western  
5 portion of Ebey Island, just to the west of Interstate 5 and the  
6 Burlington Northern Railroad. The landfill area ("the Tulalip  
7 Landfill") is bordered by a berm and is surrounded primarily by  
8 wetlands in the form of freshwater and brackish water marshes.  
9 To the west of the landfill area are approximately 160 acres of  
10 salt marsh.

11 2. The Plaintiffs allege that in 1964, The Tulalip Tribes,  
12 a Section 17 Corporation federal corporation chartered pursuant  
13 to Section 17 of the Indian Reorganization Act, as amended, 25  
14 U.S.C. § 477, leased the Site to Seattle Disposal Company for a  
15 period of 10 years. From 1964 to 1979, Seattle Disposal Company,  
16 its general partners J. Razore, J. Banchemo, and other partners,  
17 and Marine Disposal Company, operated the Site, then known as the  
18 "Big Flats Landfill," as a disposal site for commercial and  
19 industrial waste. The Plaintiffs allege that waste material  
20 collected in King County, Snohomish County, and communities in  
21 and around the Puget Sound region, including waste materials  
22 containing hazardous substances generated or transported by  
23 Goodwill, was delivered to the Site by a variety of methods.  
24 Seattle Disposal Company and other parties, including entities  
25 now operated by Washington Waste Hauling and Recycling, Inc. and

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1 Waste Management Inc., transported waste material using barges  
2 and other vessels directly from Seattle to the Site by way of  
3 Puget Sound. Other parties, including Rubatino Refuse Removal,  
4 Inc., directly delivered waste material to the Site. In 1979,  
5 the landfill was closed and capped pursuant to the Rivers and  
6 , Harbors Act of 1899, 33 U.S.C. §§ 403 and 407, and the Federal  
7 Water Pollution Control Act, 33 U.S.C. §§ 1311, 1319, 1342, and  
8 1344, pursuant to a consent decree entered in the United States  
9 District Court for the Western District of Washington on October  
10 19, 1977, No. C77-721M. Additional capping materials, including  
11 construction debris and earthen materials, were placed on the  
12 source area by other parties after the 1979 consent decree  
13 closure, pursuant to the NPDES permit.

14 3. The Plaintiffs allege that hazardous substances within  
15 the definition of Section 101(14) of the Comprehensive  
16 Environmental Response, Compensation and Liability Act  
17 ("CERCLA"), 42 U.S.C. § 9601(14), have been released into the  
18 environment from the Site as a result of Goodwill's disposal  
19 activities. Hazardous substances have been found in soils in and  
20 around the Site, in sediments around the Site, in leachate  
21 emanating from the Site, and in ground water at the Site.  
22 Hazardous substances of concern found in soils and sediments  
23 include benzo(a)anthracene, benzo(a)pyrene, benzo(b)flouranthene,  
24 benzo(k)flouranthene, bis(2-ethylhexyl)phthalate, chrysene, 1,4-  
25 dichlorobenzene, flouranthene, fluorine, naphthalene, N-nitroso-

1 di-n-propylamine, polychlorinated biphenyls (PCBs), and pyrene.  
2 Metals were also found at the Site, including arsenic, lead, and  
3 chromium. Samples of leachate flowing from the Site have shown  
4 levels of arsenic, barium, cadmium, iron, zinc, manganese,  
5 toluene, ethylbenzene, PCBs, and acenaphthene.

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

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

18 6. Information currently known to the Plaintiffs, and the  
19 United States Environmental Protection Agency ("EPA"), indicates  
20 that the amount of hazardous substances contributed to the Site  
21 by Goodwill is minimal when compared to the total amount of the  
22 hazardous substances at the Site, and that the toxic or other  
23 hazardous effects of the substances contributed by Goodwill to  
24 the Site do not contribute disproportionately to the cumulative  
25 toxic or other hazardous effects of the hazardous substances at

1 the Site. Attachment A to this Consent Decree lists the volume  
2 of wastes contributed to the Site by Goodwill based on available  
3 information.

4 7. The Purposes of this Consent Decree are to resolve the  
5 liability of Goodwill for claims for Natural Resource Damages  
6 resulting from releases of hazardous substances at or from the  
7 Tulalip Landfill, to resolve all counter-claims and cross-claims  
8 which may arise out of or relate to such claims, and to protect  
9 Goodwill against claims for contribution regarding Covered  
10 Matters.

11 8. The parties recognize, and this Court finds, that the  
12 parties have negotiated this Consent Decree in good faith, and  
13 that implementation of this Consent Decree will avoid lengthy and  
14 protracted litigation, is fair, equitable, and in the public  
15 interest, and will expedite restoration of natural resources.

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

18 **II. PARTIES**

19 **A. Plaintiffs**

20 9. "United States" means the United States of America, in  
21 all its capacities, including inter alia all departments,  
22 administrations, natural resource trustees, and agencies of the  
23 Federal Government.

24 10. The "Tulalip Tribes of Washington" is a federally  
25 recognized Indian tribe organized under Section 16 of the Indian

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1 Reorganization Act of 1934, as amended, 25 U.S.C. § 476, and is  
2 the successor in interest to the Snohomish, Snoqualmie, Skykomish  
3 and other tribes and bands party to the Treaty of Point Elliot.

4 11. The "Department of Ecology" means the Washington  
5 Department of Ecology as designated state trustee pursuant to  
6 Section 107(f) of CERCLA, and 40 C.F.R. Part 300, Subpart G, and  
7 in its statutory role under MTCA, Ch. 70.105D, RCW.

8 12. "The State of Washington" or "the State" means the  
9 State of Washington, including inter alia all departments,  
10 administrations, natural resource trustees and agencies thereof.

11 B. Goodwill

12 13. "Goodwill" means defendant Goodwill Industries, Inc.

13 III. JURISDICTION

14 14. This Court has jurisdiction over this Consent Decree  
15 under Sections 107(a) and 113(b) of CERCLA, 42 U.S.C. §§ 9607(a)  
16 & 9613(b), 28 U.S.C. §§ 1331 & 1345, and supplemental  
17 jurisdiction over state law claims as set forth in 28 U.S.C. Sec.  
18 1367.

19 IV. DEFINITIONS

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

22 a. "Final Approval" shall mean the earliest date on  
23 which all of the following have occurred: (1) the Court has  
24 approved and entered the Consent Decree as a judgment, without  
25 modifying the Consent Decree prior to or at the time of approval

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1 in a manner inconsistent with the parties' intentions; and (2)  
2 the time for appeal from that judgment has expired without the  
3 filing of an appeal, or the judgement has been upheld on appeal  
4 and either the time for further appeal has expired without the  
5 filing of a further appeal or no further appeal is allowed.

6           b. "Natural Resources" include land, fish, wildlife,  
7 biota, air, water, groundwater, drinking water supplies, and  
8 other such resources belonging to, managed by, held in trust by,  
9 appertaining to, or otherwise controlled by the United States  
10 (including the resources of the exclusive economic zone), the  
11 State of Washington or the Tulalip Tribes of Washington.

12           c. "Natural Resource Damages" means compensatory and  
13 remedial relief recoverable by the Federal, State and Tribal  
14 Trustees of Natural Resources on behalf of the public or tribal  
15 members for injury to, destruction of, or loss of use of any and  
16 all Natural Resources resulting from the release of hazardous  
17 substances, including (1) costs of damage assessment; (2)  
18 compensation for loss, injury, impairment, damage or destruction  
19 of Natural Resources, whether temporary or permanent, or for loss  
20 of use value, non-use value, passive value, option value, amenity  
21 value, bequest value, existence value, consumer surplus, economic  
22 rent, or any similar value of Natural Resources; (3) any  
23 diminution in value of Natural Resources pending restoration; and  
24 (4) costs of restoring, rehabilitating, replacing, or acquiring  
25 the equivalent of the Natural Resources.

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1           d. "Covered Matters" means any civil or  
2 administrative liability Goodwill may have to the United States,  
3 the State of Washington (including the Washington Department of  
4 Ecology), the Tulalip Tribes of Washington, or any other  
5 individual or entity for any claim under 42 U.S.C. §§  
6 9607(a)(4)(c) & 9607(f), 33 U.S.C. § 1321, 33 U.S.C. Secs. 2702,  
7 2706, chapter 70.105D RCW, chapter 90.48 RCW, or any other  
8 federal, state, tribal or common law, for Natural Resource  
9 Damages resulting from releases of hazardous substances at or  
10 from the Tulalip Landfill.

11                           V. PAYMENT AND RELATED MATTERS

12           16. Within 30 days of receiving written notice of the entry  
13 of this Consent Decree, Goodwill shall deliver a certified check  
14 in the amount of \$19,102.00 payable to Clerk, United States  
15 District Court, Western District of Washington, to:

16   Attn: Financial Deputy  
17   United States District Court  
18   Western District of Washington  
19   1010 Fifth Ave., Room 215  
20   Seattle, WA 98103

21           The certified check shall reference the "Tulalip Landfill de  
22 minimis NRD Settlement," and the court registry account  
23 established pursuant to the related civil action United States v.  
24 Ace Galvanizing, et al., No. C94-152-Z (W.D. Wash.).



1           17. Within 5 days of making the payment specified in  
2 Paragraph 16, Goodwill shall provide written notification to the  
3 persons designated in Paragraph 30.

4           18. The Clerk of the Court shall deposit the payments  
5 referred to in Paragraph 16 into the Registry of the Court in  
6 accordance with the accompanying Order Directing the Deposit of  
7 Funds into the Registry of the Court. (Attachment B).

8           19. All funds paid by Goodwill shall remain in the Court  
9 Registry until used by Plaintiffs in accordance with Paragraph 20  
10 and shall not be returned to Goodwill unless Final Approval of  
11 this Consent Decree does not occur. If Final Approval of this  
12 Consent Decree does not occur, all sums paid into the Court  
13 Registry by Goodwill shall, immediately upon the date of maturity  
14 of any securities purchased with such funds by the Clerk of the  
15 Court, be returned to Goodwill after deductions for Goodwill's  
16 share of any administrative costs for maintaining the account.

17           20. The amount deposited into the Registry of the Court  
18 shall be managed pursuant to the Order Directing Deposit of Funds  
19 into the Registry of the Court (Attachment B), which is hereby  
20 incorporated into this Decree. These funds shall be used by  
21 Plaintiffs only for assessing, restoring, rehabilitating,  
22 replacing or acquiring the equivalent of the natural resources  
23 injured, destroyed, or lost as a result of releases at or from  
24 the Site, as provided in 42 U.S.C. § 9607(f)(1).

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1 21. If Goodwill fails to timely make any payment required  
2 under this Consent Decree, it shall be liable, commencing the day  
3 after payment is due, for interest on the unpaid balance at the  
4 federal judgment interest rate computed in accordance with 28  
5 U.S.C. § 1961 as of the date payment is due, and, if incurred,  
6 the costs of enforcement and collection pursuant to the Federal  
7 Debt Collection Procedure Act, 28 U.S.C. § 3001 et seq.

8 **VI. COVENANTS NOT TO SUE**

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

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

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

3 **VII. CONTRIBUTION PROTECTION**

4 24. Subject to the Reservation of Rights in Section VIII of  
5 this Consent Decree, Plaintiffs agree that by entering into this  
6 Consent Decree, Goodwill will have resolved its liability for  
7 Covered Matters, as described in Paragraphs 15(d) and 22 of this  
8 Consent Decree, pursuant to Sections 122(g)(5) and 113(f)(2) of  
9 CERCLA, 42 U.S.C. § 9622(g)(5) and 9613(f)(2), Chapter 70.105D  
10 RCW and Chapter 90.48 RCW, and shall be protected against claims  
11 for contribution regarding Covered Matters as provided in  
12 Sections 122(g)(5) and 113(f)(2) of CERCLA, 42 U.S.C. §§  
13 9622(g)(5) and 9613(f)(2), Chapter 70.105D RCW, and Chapter 90.48  
14 RCW. Contribution protection shall extend to, and inure to the  
15 benefit of, Goodwill and its past, present and future directors,  
16 officers, agents, and its successors and assigns.

17 **VIII. RESERVATION OF RIGHTS**

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

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

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

5           c. Any criminal liability.

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

21           27. Nothing in this Consent Decree constitutes a covenant  
22 not to sue or to take action or otherwise limit the ability of  
23 the Plaintiffs to seek or obtain further relief from Goodwill,  
24 and the covenant not to sue in Section VI of this Consent Decree  
25 is null and void, if information not known at the time of entry

1 of the Consent Decree is discovered which indicates that Goodwill  
2 contributed hazardous substances to the Site in such greater  
3 amount or of such greater toxic or other hazardous effects that  
4 Goodwill no longer qualifies as a de minimis party at the Site  
5 because it contributed more than a minimal amount of the  
6 hazardous substances at the Site or contributed hazardous  
7 substances which contributed disproportionately to the cumulative  
8 toxic or other hazardous effects of the hazardous substances at  
9 the Site.

10 **IX. DISCLAIMER OF LIABILITY**

11 28. Neither entry of this Consent Decree nor any action in  
12 accordance with this Consent Decree shall constitute an admission  
13 of liability under any federal, state, tribal or local statute,  
14 regulation, ordinance, general maritime law or common law by  
15 Goodwill, its present or former officers, members, directors,  
16 trustees, shareholders, insurers, agents, representatives,  
17 employees, subsidiaries, successors, assigns or affiliates, for  
18 any fine, penalty, response costs, damages, or claims or any  
19 issues of fact or law for releases of hazardous substances at the  
20 Site.

21 29. The parties further agree that none of the provisions  
22 of this Consent Decree or evidence of negotiations shall be  
23 offered or received in evidence in this action or any other  
24 action or proceedings by any other party for any purpose, except  
25

1 for enforcement of this Consent Decree or except as specifically  
2 provided herein.

3 X. NOTICES AND SUBMISSIONS

4 30. Whenever, under the terms of this Consent Decree,  
5 written notice is required to be given or a report or other  
6 document is required to be sent by one party to the other, it  
7 shall be directed to individuals at the addresses specified  
8 below, unless those individuals or their successors give written  
9 notice of a change. All notices and submissions shall be  
10 considered effective upon receipt, unless otherwise provided.

11 As to the United States:

12 Chief  
13 Environmental Enforcement Section  
14 Environment and Natural Resources Division  
15 U.S. Department of Justice  
16 P.O. Box 7611  
17 Ben Franklin Station  
18 Washington, D.C. 20044

16 As to the State of Washington:

17 Fred Gardner  
18 Toxics Cleanup Program  
19 State of Washington  
20 P.O. Box 47600  
21 Olympia, Washington 98504-7600

20 As to the Tulalip Tribes of Washington:

21 Tom McKinsey  
22 Tulalip Tribes of Washington  
23 6326 33rd Ave., N.E.  
24 Marysville, Washington 98271

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XI. ENTRY OR DISAPPROVAL OF DECREE

31. This Consent Decree shall be lodged with the Court for a period of not less than thirty (30) days and shall be made available for public notice and comment in accordance with Section 122(d)(2) of CERCLA, 42 U.S.C. § 9622(d)(2), 28 C.F.R. § 50.7, and RCW 70.105D.040(4)(a). The United States, the State of Washington and the Tulalip Tribes of Washington intend to defend the settlement embodied in this Consent Decree, unless comments regarding the Consent Decree disclose facts or considerations that indicate that the Consent Decree is not fair, reasonable or in the public interest, in which case the United States and the Tulalip Tribes of Washington reserve the right to withdraw or withhold their consent to the Consent Decree. The State of Washington reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations that demonstrate that the proposed settlement would not lead to a more expeditious restoration of natural resources. Goodwill consents to the entry of this Consent Decree without further notice.

32. After Final Approval of this Consent Decree, this Consent Decree shall be considered an enforceable judgement for purposes of post-judgement collection in accordance with Rule 69 of the Federal Rules of Civil Procedure and other applicable federal statutory authority.

1 33. Goodwill hereby waives the 60-day notice requirement  
2 applicable to the State of Washington and the Tulalip Tribes of  
3 Washington by virtue of Section 113(g)(1) of CERCLA, 42 U.S.C. §  
4 9613(g)(1), and agrees that any failure by Plaintiffs to give the  
5 notice required by that section shall not constitute a deficiency  
6 in the Complaint or in this Consent Decree.

7 34. This Court retains jurisdiction over both the subject  
8 matter of this Consent Decree and Parties hereto for the duration  
9 of the performance of the terms and conditions of this Consent  
10 Decree solely for the purpose of enforcing those terms and  
11 conditions.

12 35. In the event this Consent Decree is not given Final  
13 Approval, this Consent Decree and all agreements contained herein  
14 shall become null and void and of no further force and effect,  
15 and shall not be used or referred to for any purpose whatsoever.  
16 In such event, this Consent Decree and all negotiations and  
17 proceedings relating thereto shall be deemed to be without  
18 prejudice to the rights of the parties, who shall be restored to  
19 their respective positions immediately prior to the lodging of  
20 this Consent Decree in Court, and shall retain all legal rights,  
21 remedies and defenses that otherwise would have existed.

22 **XII. MISCELLANEOUS**

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

9       37. Goodwill shall not reference or rely upon its payment  
10 under this Consent Decree in any application for dredged or fill  
11 material under Section 404 of the Federal Water Pollution Control  
12 Act, 33 U.S.C. § 1344, or in any proceeding arising out of  
13 Goodwill's application, or failure to apply, for such a permit.

14       38. This Consent Decree shall not affect any party's  
15 rights against any person or entity not a party to this Consent  
16 Decree, except for the contribution protection provisions of  
17 Section VII and the provisions of Paragraph 43. No person or  
18 entity other than the parties hereto shall have the authority to  
19 seek to enforce the terms of this Consent Decree.

20       39. This Consent Decree constitutes the entire agreement  
21 among the parties with regard to the subject matter hereof and  
22 can be modified or amended only with the express written consent  
23 of all the parties to this Consent Decree.

24       40. Each of the undersigned representatives of Plaintiffs  
25 and of Goodwill certifies that he or she is fully authorized to

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1 enter into the terms and conditions of this Consent Decree and to  
2 execute and legally bind the party whom he or she represents to  
3 this Consent Decree. The Tulalip Tribes of Washington's joinder  
4 to this Decree is solely in its capacity as a trustee for natural  
5 resources and constitutes a limited waiver of the Tulalip Tribes  
6 of Washington's sovereign immunity for the sole and limited  
7 purpose of enforcing the terms of this Consent Decree; provided  
8 that, this Consent Decree shall not act as a general waiver of  
9 sovereign immunity nor shall it in any way impair treaty-reserved  
10 hunting and fishing rights.

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

15 42. Except as otherwise provided herein each party to this  
16 Consent Decree shall bear his, her or its own costs, attorneys  
17 fees and disbursements.

18 43. Goodwill shall identify, on the attached signature  
19 page, the name, address and telephone number of an agent who is  
20 authorized to accept service of process by mail on behalf of  
21 Goodwill with respect to all matters arising under or relating to  
22 this Consent Decree. Goodwill hereby agrees to accept service in  
23 that manner and to waive the formal service requirements set  
24 forth in Rule 4 of the Federal Rules of Civil Procedure and any  
25

26  
27 De Minimis Consent  
Decree for Natural  
28 Resource Damages

U.S. Dept. of Justice  
NOAA DARC/DOJ  
7600 Sand Point Way, NE  
Seattle, WA 98115  
(206) 526-6617

1 applicable local rules of this Court, including, but not limited  
2 to, service of a summons.

3  
4 SO ORDERED THIS 20<sup>th</sup> DAY OF Jan., 1997<sup>8</sup>.

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6   
7 United States District Judge

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27 De Minimis Consent  
28 Decree for Natural  
Resource Damages

U.S. Dept. of Justice  
NOAA DARC/DOJ  
7600 Sand Point way, NE  
Seattle, WA 98115  
(206) 526-6617

1  
2 We hereby consent to the entry of the foregoing Consent  
3 Decree:

4 FOR THE UNITED STATES OF AMERICA:  
5

6  
7 7/15/97  
8 Date

Lois J. Schiffer  
9 LOIS J. SCHIFFER  
10 ASSISTANT ATTORNEY GENERAL  
11 ENVIRONMENT AND NATURAL RESOURCES  
12 DIVISION  
13 U.S. DEPARTMENT OF JUSTICE  
14 WASHINGTON, DC 20530

15  
16 May 8, 1997  
17 Date

Sean Carman  
18 SEAN CARMAN  
19 Trial Attorney  
20 Environmental Enforcement Section  
21 United States Department of Justice  
22 NOAA DARC - DOJ  
23 7600 Sand Point Way, N.E.  
24 Seattle, Washington 98115-0070  
25 (206) 526-6617

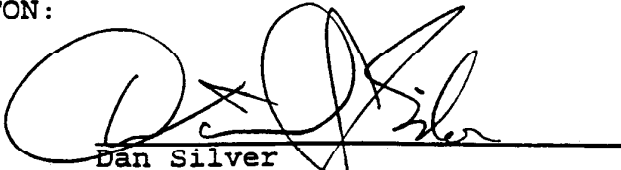
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27 De Minimis Consent  
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Resource Damages

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FOR THE STATE OF WASHINGTON:

10/28/97  
Date



Dan Silver  
Deputy Director  
Operations  
Washington Department of Ecology  
P.O.Box 47600  
Olympia, Washington 98504-7600

10/16/97  
Date



Mary McCrea  
Assistant Attorney General  
Ecology Division  
629 Woodland Square Loop, S.E.  
P.O.Box 40117  
Olympia, Washington 98504-0117

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FOR THE TULALIP TRIBES OF WASHINGTON:

10-16-1997  
Date

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

De Minimis Consent  
Decree for Natural  
Resource Damages

U.S. Dept. of Justice  
NOAA DARC/DOJ  
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(206) 526-6617

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

May 1, 1997  
Date

Jill Jones

Agent for Service of Process:

Scott Missall

Short Crossman \* Burgess Inc

999 Third Avenue Suite 3000

Seattle, WA 98104-4088

Attachment ~~B~~ A

TULALIP LANDFILL SUPERFUND SITE  
VOLUMETRIC INFORMATION REPORT

04-Apr-96

04/04/96 10:00 AM

GENERATOR NAME	WMX AMOUNT (Tons)	RRR AMOUNT (Tons)	SDC AMOUNT (Tons)	TOTAL AMOUNT (Tons)	TOTAL PERCENT
Note: WMX, RRR and SDC as transporters remain jointly and severally liable for waste volumes allocated to customers.					
NOTE: THIS IS PRELIMINARY AND POTENTIALLY INCOMPLETE. INCLUSION ON THIS LIST DOES NOT INDICATE STATUS AS A PRP.					
					PAGE 1 of 2
1 SEATTLE DISPOSAL COMPANY (a)	0.00	0.00	519,167.93	519,167.93	25.1358
2 WASTE MANAGEMENT (b)	0.00	0.00	338,173.26	338,173.26	16.2760
3 MONSANTO COMPANY	0.00	0.00	105,159.25	105,159.25	5.0913
4 NATIONAL DISPOSAL (WMX/BFI)	4,925.73	0.00	62,129.29	67,055.02	3.2465
5 QUEMETCO	41,235.33	0.00	0.00	41,235.33	1.9994
6 U.S. NAVY/SANDPT. NAVAL BASE/PIERS 36,37,90,&91	0.00	0.00	40,663.72	40,663.72	1.9888
7 UNIVERSITY OF WA. (VAR. LOC.)/HARBORVIEW HOSPITAL	34,318.00	0.00	6,193.03	40,511.03	1.9814
8 GENERAL DISPOSAL COMPANY	0.00	0.00	39,001.75	39,001.75	1.8983
9 SEATTLE SCHOOL DISTRICT	0.00	0.00	29,058.69	29,058.69	1.4089
10 SEARS & ROEBUCK	23,706.00	0.00	4,181.84	27,887.84	1.3502
11 LOCKHEED SHIP BUILDING	24,547.00	0.00	0.00	24,547.00	1.1885
12 PORT OF SEATTLE	278.53	0.00	23,533.54	23,812.07	1.1529
13 TODD'S SHIPYARDS	21,422.00	0.00	0.00	21,422.00	1.0372
14 ASSOCIATED GROCERS/THRIFTWAY STORES	19,128.00	0.85	822.82	20,051.77	0.9706
15 SAFEWAY STORES	0.00	1,540.94	18,428.62	19,969.56	0.9688
16 KAISER GYPSUM	19,142.00	0.00	698.82	19,841.82	0.9607
17 GOODWILL INDUSTRIES	0.00	0.00	18,770.53	18,770.53	0.9088
18 WASHINGTON IRON WORKS	0.00	0.00	18,070.94	18,070.94	0.8749
19 R.M. HALFFMAN TRUCKING	0.00	0.00	12,769.08	12,769.08	0.6182
20 BOEING COMPANY	27.08	12,459.33	280.90	12,747.31	0.6172
21 SALVATION ARMY	0.00	0.00	11,722.96	11,722.96	0.5676
22 SCOTT PAPER COMPANY (c)	0.00	8,379.21	1,801.99	10,181.20	0.4829
23 CRAFTSMAN PRESS (c)	7,560.00	0.00	1,128.47	8,688.47	0.4204
24 SKYWAY, CITY OF	7,498.19	0.00	0.00	7,498.19	0.3630
25 NW INDUSTRIES	0.00	0.00	6,418.29	6,418.29	0.3107
26 MARCO (c)	5,540.00	0.00	0.00	5,540.00	0.2682
27 HOFFMAN CONSTRUCTION	0.00	1,092.10	3,871.07	4,963.17	0.2403
28 MCFARLAND, DON/MCFARLAND WRECKING (c)	0.00	0.00	4,101.72	4,101.72	0.1986
29 CROW ROOFING (c)	0.00	0.00	4,041.50	4,041.50	0.1957
30 MODEL CITY	0.00	0.00	3,899.05	3,899.05	0.1791
31 CUDAHY FOODS (c)	0.00	0.00	2,911.84	2,911.84	0.1410
32 EAGLE PATTERN	2,798.00	0.00	0.00	2,798.00	0.1355
33 R.W. RHINE, INC.	0.00	0.00	2,747.52	2,747.52	0.1330
34 FOGTITE METER SEAL, INC. (c)	2,621.00	0.00	0.00	2,621.00	0.1259
35 CROWLEY MARITIME/PUGET SOUND TUG & BARGE (c)	0.00	0.00	2,437.60	2,437.60	0.1180
36 KMART (c)	0.00	1,382.74	1,029.06	2,411.80	0.1168
37 RAINIER ICE & COLD STORAGE (c)	0.00	0.00	2,165.61	2,165.61	0.1048
38 GAI'S BAKERY	0.00	0.00	2,111.02	2,111.02	0.1022
39 VERMICULITE	0.00	0.00	2,017.04	2,017.04	0.0977
40 NORWEST GYPSUM	2,007.95	0.00	0.00	2,007.95	0.0972
41 VALUE VILLAGE	0.00	0.00	1,939.68	1,939.68	0.0939
42 PEOPLES NATIONAL BANK (c)	0.00	0.00	1,607.36	1,607.36	0.0778
43 CITY SANITARY SERVICE COMPANY/RABANCO, INC.	0.00	0.00	1,582.06	1,582.06	0.0766
44 PAYLESS DRUGS/PAY N SAVE (c)	4.29	0.00	1,577.43	1,581.72	0.0766
45 SHILSHOLE BAY	0.00	0.00	1,412.97	1,412.97	0.0684
46 SHAFFER CRANE & RIGGING SERVICE (c)	0.00	1,390.52	0.00	1,390.52	0.0673
47 GREAT AMERICAN FOOD & BEVERAGE	0.00	0.00	1,324.44	1,324.44	0.0641
48 CENTER DOZING	0.00	0.00	1,211.96	1,211.96	0.0587
49 CASES, INC. (c)	0.00	0.00	1,211.31	1,211.31	0.0586
50 PLAZA 600 (c)	0.00	0.00	1,164.20	1,164.20	0.0564
51 PUGET SOUND SALVAGE	0.00	0.00	1,142.70	1,142.70	0.0553
52 MCABEE CONSTRUCTION (c)	0.00	0.00	981.61	981.61	0.0475
53 QUEEN CITY ROOFING (c)	0.00	0.00	978.68	978.68	0.0474
54 CX PROCESSING (c)	0.00	0.00	923.12	923.12	0.0447
55 SATO CORPORATION (c)	13.61	0.00	845.89	859.50	0.0416
56 EVERGREEN WASHELLI (c)	0.00	0.00	815.55	815.55	0.0395
57 BACON, HENRY (c)	0.00	0.00	693.62	693.62	0.0336
58 PIRATES PLUNDER (c)	0.00	0.00	668.08	668.08	0.0323
59 ALASKA MARINE SHIPPING	0.00	0.00	650.53	650.53	0.0315
60 LIGHTHOUSE FOR THE BLIND	0.00	0.00	568.96	568.96	0.0275
61 BENTON, HUGH	0.00	0.00	565.42	565.42	0.0274
62 WEST COAST CONSTRUCTION (c)	0.00	0.00	536.17	536.17	0.0260
63 MEHRER DRYWALL (c)	0.00	0.00	508.99	508.99	0.0246



UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA, AND  
THE TULALIP TRIBES OF WASHINGTON

Plaintiff,

v.

THE BOEING COMPANY, GOODWILL INDUSTRIES  
INC., KAISER CEMENT CORP. f/k/a KAISER  
CEMENT & GYPSUM, KAISER GYPSUM CO.,  
INC., MANSON CONSTRUCTION CO., R.W.  
RHINE, INC., RICHARD HALFFMAN d/b/a  
HALFFMAN TRUCKING, R.M. HALFFMAN,  
INC. d/b/a HALFFMAN TRUCKING, SAFEWAY  
INC. and WASHINGTON IRON WORKS,  
et al.,

Defendants.

CIVIL ACTION  
NO.

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

RELATED CASE:  
NO. C97-152-D

This case arose out of the release of hazardous substances at the Tulalip Landfill Superfund Site ("the Site"), located within the Tulalip Indian Reservation, which occupies approximately 147 acres of the western portion of Ebey Island, just to the west of Interstate 5 and the Burlington Northern Railroad.

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

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

1 This Order is entered pursuant to and in furtherance of the  
2 Consent Decree for Natural Resource Damages (the "Consent Decree")  
3 between Plaintiffs United States of America, State of Washington  
4 and the Tulalip Tribes of Washington, and defendants the Boeing  
5 Company, Goodwill Industries, Inc., Kaiser Cement Corp. f/k/a  
6 Kaiser Cement & Gypsum, Kaiser Gypsum Co., Inc., Manson  
7 Construction Co., Richard Halfman d/b/a Halfman Trucking, R.M.  
8 Halfman, Inc. d/b/a Halfman Trucking, R.W. Rhine, Inc., Safeway  
9 Inc., and Washington Iron Works, et al. (collectively referred to  
10 as "Participating Parties").

11 Under the De Minimis Natural Resource Damages Consent Decree  
12 in United States v. Ace Galvanizing, et al., No. C97-152-Z, entered  
13 by this Court on August 15, 1997, an account titled the "Tulalip  
14 Landfill NRD Settlement Account" ("the Account") was established in  
15 the Registry of the United States District Court for the Western  
16 District of Washington for payments received in that action and all  
17 related actions, including this one.

18 Under the Consent Decree, the Participating Parties have  
19 agreed to pay to the Account their share of Natural Resource  
20 Damages resulting from the release of hazardous substances at or  
21 from the Site, which Natural Resource Damages have been estimated  
22 for purposes of this de minimis settlement to be \$6.6 million.

23 Under the Consent Decree, Participating Parties will pay their  
24 respective shares of this de minimis settlement amount to the  
25 Account established by the Registry of the United States District

26  
27 Order Directing the  
Deposit of Funds  
Into the Registry  
28 of the Court

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

1 Court for the Western District of Washington. The funds will  
2 thereafter remain in the Registry for use by the Natural Resource  
3 Trustees (National Oceanic and Atmospheric Administration of the  
4 U.S. Department of Commerce, the U.S. Department of the Interior,  
5 the Washington Department of Ecology on behalf of the State of  
6 Washington, and the Tulalip Tribes of Washington) for assessing,  
7 restoring, rehabilitating, replacing or acquiring the equivalent of  
8 natural resources injured, destroyed, or lost as a result of  
9 releases of hazardous substances at or from the Site. This Order  
10 addresses handling and investment of these funds by the Registry of  
11 the Court.

12 Pursuant to Rule 67 of the Federal Rules of Civil Procedure,  
13 28 U.S.C. § 2041, and Local Rule GR 6, and in accordance with the  
14 terms of the Consent Decree, it is hereby ORDERED that:

15 i. All funds received by the Clerk of the Court pursuant to  
16 the Consent Decree shall be deposited to the Account and  
17 administered by the Clerk of the Court as follows:

18 a) The funds shall be used to purchase 91-day government  
19 securities, at the highest prevailing interest rate available for  
20 such securities;

21 b) upon maturity of the securities referred to in  
22 subparagraph a), the Clerk shall consult with counsel for the  
23 United States regarding the purchase of additional short-term  
24 securities. Counsel for the United States shall consult with  
25 representatives of the Natural Resource Trustees and, depending  
26

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

U.S. Department of Justice  
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7600 Sand Point Way, NE  
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1 upon the Natural Resource Trustees' anticipated funding needs,  
2 shall advise the Clerk regarding the desired reinvestment in  
3 government securities. The Clerk may make any such allocations of  
4 funds as directed by counsel for the United States without further  
5 Order of the Court.

6 ii. All income earned as interest on funds so invested or  
7 deposited shall be credited to the Account.

8 iii. The Natural Resource Trustees may apply to the Court for  
9 an Order establishing an investment procedure or vehicle  
10 alternative to that identified in paragraph (ii) above that  
11 provides a comparable level of security and earnings potential,  
12 which application may be acted upon by the Court without notice to  
13 or consent by the Participating Parties.

14 iv. The Clerk shall prepare quarterly reports on the status  
15 and activity of the Account showing payments received,  
16 disbursements made, income earned, maturity dates of securities  
17 held, and principal balance, and shall distribute the reports to  
18 the following to counsel for the United States, the State of  
19 Washington and the Tulalip Tribes of Washington at the following  
20 addresses:

21 Ms. Kirsten Erickson  
22 National Oceanic and Atmospheric Administration  
23 Damage Assessment Center  
24 7600 Sand Point Way, NE  
25 Seattle, Washington 98115

26  
27 Order Directing the  
28 Deposit of Funds  
Into the Registry  
of the Court

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

1 Ms. Colleen Kelley  
2 Office of the Regional Solicitor  
3 United States Department of the Interior  
4 500 NE Multnomah Street, Suite 607  
5 Portland, Oregon 97232

6 Ms. Mary McCrea  
7 Assistant Attorney General  
8 Office of the Attorney General  
9 P.O. Box 40117  
10 Olympia, Washington 98504-0117

11 Mr. Keith Moxon  
12 Buck & Gordon  
13 1011 Western Avenue, Suite 902  
14 Seattle, Washington 98104

15 v. Funds in the Account shall remain in the Registry until  
16 further order of this Court.

17 vi. Applications for orders for disbursements from the  
18 Account shall be made by the United States on behalf of the Natural  
19 Resource Trustees, upon certification by each of the Natural  
20 Resource Trustees that their determination to make such  
21 disbursement was in compliance with the terms of the Decree,  
22 applicable law and such other decision making procedures as the  
23 Natural Resource Trustees may adopt. Such applications may be  
24 acted upon by the Court without notice to or consent by the  
25 Participating Parties.

26 vii. Funds deposited in the Account pursuant to this Order are  
27 subject to the assessment of fees as authorized at 56 Federal  
28 Register 53656 (November 4, 1991). In cases where the U.S.  
Government is a party to the action, the fees so deducted from the  
Account for this purpose may be restored to the Account upon

Order Directing the  
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of the Court

U.S. Department of Justice  
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(206) 526-6617

1 application filed with the Court by counsel for the United States.  
2 The Motion by the United States to enter the Consent Decree and  
3 this Order herein constitutes such an application and the Court  
4 hereby directs the Clerk to exempt the Tulalip Landfill NRD  
5 Settlement Account from the assessment of the fees described above.

6 viii. A certified copy of this Order shall be served upon  
7 the Clerk of this Court.

8  
9 Dated \_\_\_\_\_

\_\_\_\_\_  
United States District Judge

10  
11 Presented by:  
12 Sean Carman  
13 U.S Department of Justice  
14 c/o NOAA Damage Assessment  
15 7600 Sand Point Way, NE  
Seattle, WA 98115  
(206) 526-6617

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