

May 25, 1988

INTRODUCED BY: PAUL BARDEN
RON SIMS
PROPOSED NO. 88-406 1

MOTION NO. 7208

1
2 A MOTION authorizing the executive to enter into a consent
3 agreement with the United States Environmental Protection Agency
4 concerning a remedial investigation/feasibility study in the matter
of Queen City Farms.

5 WHEREAS, the United States Environmental Protection Agency is concerned
6 about the possible movement of environmental contamination in either
7 direction between the Cedar Hills Landfill and the Queen City Farms Superfund
8 site, and

9 WHEREAS, the Remedial Investigation/Feasibility Study is designed to
10 gather sufficient information in order to adequately assess and address such
11 environmental impacts, and

12 WHEREAS, the Boeing Company has been named by the Environmental
13 Protection Agency as a potentially responsible party to the contamination of
14 the Queen City Farms and has entered into an administrative order on consent
15 with the Environmental Protection Agency to perform a Remedial Investiga-
16 tion/Feasibility Study at that site, and

17 WHEREAS, King County has also been named by the Environmental Protection
18 Agency as a potentially responsible party because of the possible movement of
19 contamination between the Cedar Hills Landfill and the Queen City Farms
20 Superfund Site, and

21 WHEREAS, the results of the work described in the Remedial
22 Investigation/Feasibility Study will enhance the understanding of the impacts
23 of the Cedar Hills Landfill on the surrounding environment and the Remedial
24 Investigation portion of this work will be conducted regardless of status of
25 the administrative order on consent, and

26 WHEREAS, the Environmental Protection Agency deems this Remedial
27 Investigation/Feasibility Study to be required by the Comprehensive
28 Environmental Response, Compensation, and Liability Act of 1980,
29 42 U.S.C. § 9601 et seq., as amended by the Superfund Amendments and
30 Reauthorization Act of 1986, Public Law No. 99-499, and
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1 WHEREAS, an administrative order on consent is the preferred
2 Environmental Protection Agency mechanism for performing the Remedial
3 Investigation/Feasibility Study in accordance with this federal law, and

4 WHEREAS, if King County does not enter into an administrative order on
5 consent, the Environmental Protection Agency has the option of issuing a
6 unilateral order or filing a civil action to require the county to undertake
7 the order, undertaking the order itself and later seeking to recover the
8 costs incurred from the county, or requesting other potentially responsible
9 parties to conduct the Remedial Investigation/Feasibility Study;

10 NOW, THEREFORE, BE IT MOVED by the Council of King County:
11 The executive is authorized to sign an administrative order on consent,
12 entering into an agreement with the United States Environmental Protection
13 Agency, which will enable a Remedial Investigation/Feasibility Study to be
14 conducted in the Matter of the Queen City Farms Superfund Site and the Cedar
15 Hills Landfill.

16 PASSED this 13th day of June, 19 88.

18 KING COUNTY COUNCIL
19 KING COUNTY, WASHINGTON

20 *Gary Grant*
21 Chairman

22 ATTEST:

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24 *Dorothy M. Owens*
25 Clerk of the Council
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BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
EPA Region 10, 1200 Sixth Avenue
Seattle, Washington

IN THE MATTER OF:)	
)	
KING COUNTY,)	Docket No. 1088-01-05-106
)	
Respondent.)	ADMINISTRATIVE ORDER ON
)	CONSENT
Proceedings under 42 U.S.C.)	
§ 9601 <u>et seq.</u> , as amended.)	
_____)	

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1 jurisdiction and general authority of EPA to issue or enforce this Consent
2 Order.

3 IV. Judicial Review

4 Nothing in this Consent Order shall make a matter judicially
5 reviewable prior to the commencement of judicial proceedings by or on behalf
6 of EPA.

7
8 V. Purposes and Objectives of Consent Order

9 A. In entering into this Consent Order, the mutual purposes and
10 objectives of EPA and King County are:

11 1. To determine thoroughly the nature and extent of the danger
12 or threat to public health or welfare or to the environment, if any, caused by
13 the release or the substantial threat of release, if any, of hazardous
14 substances, pollutants, or contaminants from the Cedar Hills Landfill to the
15 Queen City Farms site and vice-versa. All activity toward this objective is
16 called a Remedial Investigation or "RI"; and

17 2. To evaluate the alternatives currently available for
18 remedial action which will, to an appropriate extent, prevent and/or
19 ameliorate the effects of the release or further release of such hazardous
20 substances, pollutants, and contaminants. All activity toward this objective
21 is called a Feasibility Study or "FS".

22 B. King County is required to accomplish the foregoing purposes and
23 objectives in a manner not inconsistent with the National Contingency Plan
24 (NCP), 40 C.F.R. Part 300 published in 47 Fed. Reg. 31180 on July 16, 1982 and
25 as revised at 48 Fed. Reg. 40658 published on Sept. 8, 1983, and 50 Fed. Reg.
26 47912 published on November 20, 1985.

27 ADMINISTRATIVE ORDER ON CONSENT - Page 2
28

1 VI. Findings of Fact, Conclusions of Law, and Determinations

2 Based upon information available to it, and for purposes of this
3 agreement, EPA makes the following Findings of Fact, Conclusions of Law, and
4 Determinations:

5 A. The Queen City Farms site is a 320-acre parcel of land ("Site")
6 which is wholly owned by Queen City Farms, Inc. ("OCF") and is located
7 approximately 2 1/2 miles due north of the town of Maple Valley (S. 1/2
8 Sec.28, T.23N, R.6E, WM) and immediately south of King County's Cedar Hills
9 Landfill. Prior to October 1985, the Site included a wooded area, a seasonal
10 lake known as Queen City Lake, six ponds, a gravel pit, an airstrip, and
11 several residences. The lake and ponds cover approximately eight acres of the
12 property. At least three of the six ponds on the Queen City Farms property
13 were used for the disposal of industrial wastes with most of such disposal
14 occurring from approximately 1955 to 1964. These three ponds were the subject
15 of an Initial Remedial Measure (IRM) described in paragraph G below.

16 B. In October and November of 1980, the six waste ponds at the Site
17 were sampled by EPA contractors. Water and sludge samples were taken at Ponds
18 1, 2, and 3, and sediment samples were taken at the dry ponds 4, 5, and 6.
19 See map on Attachment A. These samples were analyzed for EPA's 129 priority
20 pollutants. The analyses identified the presence of 44 of these priority
21 pollutants in one or more of the six ponds. See the list on Attachment B which
22 also sets forth the highest concentration of each of these priority pollutants
23 found in the samples. The acid extractibles are considered somewhat soluble
24 in water. Several of these 44 pollutants are either known or suspected
25 carcinogens. Priority pollutants are hazardous substances under Section
26 101(14) of CERCLA, 42 U.S.C. § 9601(14).

1 C. From June through September of 1983, QCF's consultant, Hart
2 Crowser and Associates (HCA), conducted an initial field investigation of the
3 Site. This investigation included the installation of test pits and 10
4 monitoring wells in the shallow and intermediate groundwater zones, and the
5 taking of hand auger borings. The locations of the wells, test pits and hand
6 auger borings, and other details regarding this investigation are presented in
7 the December 13, 1983 HCA report entitled "Assessment of Hydrogeology and
8 Ground Water Quality, Surficial Aquifer, Queen City Farms." Of the original
9 44 priority pollutants found in the ponds, 24 were identified in the analyses
10 of either soil or groundwater samples taken during this investigation.

11 D. The findings from the 1983 QCF investigation suggest that a
12 significantly contaminated shallow groundwater aquifer beneath the waste ponds
13 is perched on a layer of silt and glacial till stratum at a depth of from 16
14 to more than 50 feet. However, approximately 200 feet south of the ponds,
15 drilling to date has not encountered this confining layer of till, and this
16 area is underlain by 75 to 100 feet or more of dry sand and gravel. Deeper
17 on-site wells have shown the underlying intermediate aquifer to be
18 contaminated. Potential sources for this contamination include not only the
19 waste disposal areas on the QCF property, but also the south surface
20 impoundments, sludge lagoons, leachate aeration basins and other portions of
21 the Cedar Hills Landfill.

22 E. In January of 1984, EPA sampled 46 drinking water wells within a
23 3.2 mile radius of the Site. Each sample was screened with an Organic Vapor
24 Analyzer for volatile organics, but none were present in detectable levels.
25 In February of 1984, six of these wells were then sampled for a full EPA
26

1 priority pollutant scan in which only benzene was detected, at below minimum
2 quantifiable limits, in one well. Also in February, six other wells were
3 sampled for inorganic analyses only. Among constituents which may occur
4 naturally, three wells exceeded the National Secondary Drinking Water
5 Standards for iron and manganese, and one well exceeded by one part per
6 billion the Primary Standard for arsenic.

7 F. In August and September of 1984, HCA conducted a Focused
8 Remedial Investigation for QCF in the immediate vicinity of Ponds 1, 2 and 3.
9 The purpose of this investigation was to determine the volume of the
10 industrial waste sludges in the ponds and the volume of contaminated soil
11 adjacent to and beneath these ponds. The report further characterized the
12 nature of the contamination in ponds 1, 2, and 3 and verified the existence of
13 low permeability silt and glacial till beneath the ponds. The Focused
14 Remedial Investigation report was published by HCA on February 7, 1985.

15 G. Subsequent to the Focused Remedial Investigation, QCF began work
16 on a Focused Feasibility Study to examine various IRMs for the removal and/or
17 containment of the wastes in ponds 1, 2 and 3 and in the underlying and
18 adjacent soils. On June 28, 1985, QCF delivered to EPA a draft of the Focused
19 Feasibility Study report prepared by HCA. This report examined eleven initial
20 remedial alternatives under the broad categories of infiltration prevention,
21 groundwater diversion, contaminated soil isolation or removal and chemical
22 sludge stabilization, solidification, isolation or removal, and incineration.

23 H. On September 16, 1985, EPA issued 44 notice and information
24 request letters pursuant to Section 104 of CERCLA , 42 U.S.C. § 9604, to a
25 list of "Potentially Responsible Parties". These letters also requested
26 information regarding disposal activities at the Site.

1 I. In October of 1985, an Order on Consent was entered into by QCF,
2 The Boeing Company and EPA pursuant to Section 106 of CERCLA, 42 U.S.C.
3 § 9606, for the implementation of an IRM in the area of Ponds 1, 2 and 3.
4 This IRM (Option 6 in the Focused Feasibility Study) involved the on-site
5 phase separation of the pond sludge mixture, solidification of the separated
6 sludge, and disposal at a land disposal facility permitted under the Resource
7 Conservation and Recovery Act, 42 U.S.C. § 6901 et. seq., as amended.
8 Contaminated soil from the "Working faces" adjacent to Ponds 1, 2, and 3 were
9 deposited in the empty pond area and covered with a multi-layer impermeable
10 cover. An upgradient groundwater diversion system was constructed to prevent
11 groundwater migration through the contaminated soils beneath and around the
12 ponds. Eight shallow monitoring wells were installed to verify proper
13 functioning of the diversion system. This work was completed on October 31,
14 1986.

15 J. On March 26, 1986, based upon evidence presented by parties in
16 No Damaging or Unslightly Municipal Pollution, Inc. v. King County, No.
17 C82-186V, U.S. District Court Judge Donald Voorhees found that a lake on the
18 QCF property receives surface water runoff from the Cedar Hills Landfill.
19 However, Judge Voorhees did not find migration of contaminants from the Cedar
20 Hills Landfill to the QCF Site. Neither EPA nor the State of Washington was a
21 party to this litigation.

22 K. On March 27, 1987, data compiled by HCA from the eight
23 monitoring wells (referenced in paragraph I above) was submitted to EPA.
24 Measurements of the water levels in the five monitoring wells under the cap
25 indicate an increase of as much as 17.7 feet since their installation.
26

1 L. The Site is a "facility" as defined in Section 101(9) of CERCLA,
2 42 U.S.C. § 9601(9).

3 M. King County is a "person" as defined in Section 101(21) of
4 CERCLA, 42 U.S.C. § 9601(21). EPA asserts and King County denies that King
5 County is a person within the meaning of Section 106 of CERCLA, 42 U.S.C.
6 § 9606.

7 N. EPA asserts and King County denies that King County is a person
8 whose activities may have resulted in disposal of hazardous substances at the
9 Site within the meaning of Section 107(a)(3) of CERCLA, 42 U.S.C.
10 § 9607(a)(3). The purpose of the RI (as set forth in Section V, infra.) is to
11 determine whether any hazardous substances have originated from the Cedar
12 Hills Landfill and come to be located at the QCF Site or vice-versa.

13 O. Wastes or constituents thereof deposited at, disposed of at, or
14 transported to the Site, including but not limited to, polychlorinated
15 biphenyls (PCBs), trichloroethylene, vinyl chloride, chromium and lead, are
16 "hazardous substances" as defined in Section 101(14) of CERCLA, 42 U.S.C.
§ 9601(14).

17 P. The presence of hazardous substances at the Site and their
18 potential migration from the Site, constitute an actual or threatened
19 "release" as defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

20 Q. The actions required by this Consent Order are consistent with
21 the NCP, and are necessary to protect the public health, welfare, and the
22 environment.

23 R. EPA has determined that there may be an imminent and substantial
24 endangerment to the public health or welfare or the environment because of the
25

1 actual or threatened release of hazardous substances from the QCF Site to the
2 Cedar Hills Landfill or vice-versa.

3
4 VII. Directors and Contractors

5 All activity occurring pursuant to this Consent Order shall be
6 directed and supervised by qualified licensed engineers, professional
7 scientists, or hydrogeologists with experience in hazardous waste site
8 investigations. Prior to commencement of activities at the Site, King County
9 shall notify EPA in writing of the name, title, affiliations, and background
10 of the individual proposed as the director and supervisor mentioned above, and
11 the name, address, qualifications, and affiliations of all contractors and
12 sub-contractors expected to be used in performing activities to carry out the
13 provisions of this Consent Order.

14 VIII. RI and FS Work Plan

15 The remedial investigation (RI) and feasibility study (FS) work plan
16 is a part of this Consent Order, and is included hereto as Attachment C. King
17 County shall carry out the RI/FS work plan in accordance with the standards,
18 specifications, and schedule set forth therein.

19
20 IX. Consistency with National Contingency Plan

21 All actions of King County shall be consistent with Subpart F of the
22 NCP, 40 C.F.R. Sections 300.61-300.71, in effect on the date of this Consent
23 Order, and as amended. In the event amendments to the NCP are promulgated
24 after the date of this Consent Order which materially affect the rights or
25

1 obligations of any party, or the work plan or schedule of this Consent Order,
2 the parties agree to negotiate in good faith a written amendment to this
3 Consent Order to provide for such changes.
4

5 X. Progress Reports

6 King County shall deliver to EPA, and to the Washington Department of
7 Ecology (Ecology) quarterly written progress reports concerning the carrying
8 out of this Consent Order. At a minimum, these progress reports shall:
9 describe the actions which have been taken toward carrying out this Consent
10 Order; include all results of sampling and tests and all other data gathered
11 by King County during the reporting period pursuant to the requirements of
12 this Consent Order; and describe all actions scheduled for the next quarter.
13 King County shall submit these reports to EPA and Ecology in accordance with
14 the schedule contained in the RI/FS work plan. King County shall adequately
15 revise any report to which there remains any unresolved EPA objections.
16

17 XI. Preliminary and Final Reports

18 In addition to the quarterly reports described in Section X, infra.,
19 King County shall provide preliminary and final RI and FS reports according to
20 the schedule set forth in the work plan. The foregoing shall constitute the
21 "deliverables" under this Consent Order.
22

23 XII. Deviation and Delay

24 A. If any event occurs which may cause or has caused a delay in, or
25 deviation from, achievement of the requirements of this Consent Order, King
26

1 County shall promptly notify EPA's Project Coordinator orally, and shall,
2 within five (5) working days of oral notification to EPA, notify EPA in
3 writing of:

- 4 1. the anticipated duration and cause of the delay or
5 deviation;
- 6 2. the measures that have been or will be taken to prevent or
7 minimize the delay or deviation; and
- 8 3. the timetable proposed for carrying out such measures.

9 B. King County shall adopt all reasonable measures to avoid or
10 minimize deviation and delay. The burden shall be upon King County to show
11 that any delay or deviation was, or will be, caused by circumstances beyond
12 its reasonable control. Increased costs to King County of performance of the
13 terms of this Consent Order or changed economic circumstances of King County
14 shall not be considered circumstances beyond the reasonable control of King
15 County.

16 C. King County must obtain written approval from the EPA Project
17 Coordinator for any deviations from, or delays in, carrying out the
18 requirements of this Consent Order. King County shall mail to Ecology copies
19 of any written notice provided in accordance with this Section.

20 XIII. EPA Notice Regarding King County Submittals and Activities

21 A. EPA will notify King County in writing within thirty (30)
22 calendar days of receiving progress, preliminary or final reports, written
23 notification of deviation and delay, or other items described in the RI/FS
24 work plan or this Consent Order, of any objections which EPA may have with
25

1 regard to such submittals, and will provide comments and criteria to assist
2 King County in addressing EPA objections and requirements. EPA will set forth
3 in this writing its reasons regarding any such objections, deficiencies, or
4 requirements, and will be available to meet and consult with King County in an
5 effort to resolve any disputes. Failure of EPA to provide notice within 30
6 days shall constitute a delay beyond the reasonable control of King County as
7 provided in Section XII herein. No stipulated penalties shall accrue pursuant
8 to this Consent Order during any period in which King County has in good faith
9 submitted the "deliverables" in accordance with Sections X and XI; infra., and
10 EPA has failed to provide notice to King County in accordance with this
11 section.

12 B. EPA will notify King County in writing of any additional RI/FS
13 activities deemed necessary in accordance with Section XVII ("additional RI/FS
14 Activities") herein.

15 XIV. King County's Response to EPA Notice and Dispute Resolution

16 A. Not later than the 30th calendar day after of receipt of a
17 written notice provided by EPA in accordance with Section XIII, infra., King
18 County shall:

19 1. Revise the subject report to adequately address the EPA
20 objections, comments, criteria, or requirements, and deliver the revised
21 report to EPA and Ecology; or

22 2. Adequately address the objections and requirements of EPA
23 regarding any written notification of deviation and delay or other submittal;

24 or

1 3. Develop a plan for implementation and completion of
2 any additional RI/FS activities.

3 B. If King County objects to any EPA notice made pursuant to
4 Section XIII of this Consent Order, King County shall notify EPA in writing of
5 such objections not later than fourteen (14) calendar days after the date of
6 receipt of such EPA notice. EPA and King County shall then have an additional
7 seven (7) days from receipt by EPA of the King County objections in which to
8 resolve the dispute by agreement. If agreement is not reached on any issue
9 within this seven (7) day period, EPA shall provide a written statement of its
10 decision to King County.

11 C. Implementation of these dispute resolution procedures shall not
12 provide a basis for delay of any activities required in this Consent Order,
13 unless EPA agrees in writing to a schedule extension.

14 D. Penalties will continue to accrue in accordance with Section
15 XXVII, infra., while the parties pursue activities under this Section, unless
16 King County performs in accordance with all EPA requirements, criteria, and
17 decisions, or the parties reach agreement in accordance with paragraph B
18 above, in which case no stipulated penalties shall accrue.

19 XV. Delivery of Documents

20 A. Documents, including reports and other correspondence, which
21 this Consent Order requires to be submitted to EPA, shall be delivered to the
22 following addressee at the address indicated, and to such other persons as EPA
23 may specify by written notice sent to King County:

1 1. Three copies of documents to be submitted to EPA should be
2 sent to:

3 Dave Tetta, EPA Project Coordinator
4 Queen City Farms Superfund Site
5 Superfund Branch, HW-113
6 U.S. EPA, Region 10
7 1200 Sixth Avenue
8 Seattle, WA 98101

9 2. One copy of each document to be submitted to King County
10 should be sent to

11 Deborah Lambert
12 King County Solid Waste Division
13 450 King County Administration Building
14 500 4th Avenue
15 Seattle, Washington 98104

16 3. Three copies of documents to be submitted to Ecology should
17 be sent to:

18 Mike Blum
19 Department of Ecology
20 Mail Stop PV-11
21 Olympia, Washington 98504-8711

22 B. King County shall be responsible for providing copies of
23 documents to EPA and Ecology.

24 XVI. Provision of Other Documents

25 Upon EPA's request, King County shall provide EPA with copies of:
26 draft and final plans, draft and final task memoranda, including memoranda
27 recording field modifications, recommendations for further action, quality
28 assurance memoranda and audits, draft and final reports, raw data, field
notes, laboratory analytical reports and any other documents which relate in
any way to the Cedar Hills Landfill as it may impact the QCF Site or
vice-versa, including those pertaining to any studies relevant to, but not

1 specifically required by, this Consent Order. At the time of such EPA
2 requests and subject to Section XIV, infra., King County may withhold
3 documents only by asserting, with sufficient justification, that such
4 documents are legally privileged.

5
6 XVII. Additional RI/FS Activities

7 Based upon information received by EPA after the effective date of
8 this Consent Order, EPA may, as it deems necessary, perform or request King
9 County to perform RI/FS activities which are consistent with the "Scope of
10 Work" (Section 6 of King County Work Plan No. 2, December 28, 1987) and are in
11 addition to those activities required by the RI/FS work plan. Without waiving
12 any rights which may accrue under Sections XIV or XXVIII of this Consent
13 Order, King County shall perform all such additional RI/FS activities as are
14 made reasonably necessary by a release or threat of release of a hazardous
15 substance from the Cedar Hills Landfill to the QCF Site. Any such additional
16 RI/FS activities shall be commenced and completed in full compliance with
17 those standards, specifications, and schedules as may be agreed to by King
18 County and EPA.

19 XVIII. Notice to EPA of Excavation, Drilling or Sampling

20 King County shall notify EPA and Ecology of any excavation, drilling,
21 or sampling to be conducted pursuant to this Consent Order and the work plan
22 at least fourteen (14) calendar days in advance of any such activity, and
23 shall, upon verbal request, provide EPA and Ecology, or their representatives,
24 with a split or duplicate of any sample taken pursuant to this Consent Order
25 and the work plan.

1 XIX. Designation of Project Coordinators

2 Not later than five (5) calendar days after the effective date of
3 this Consent Order, King County, EPA, and Ecology shall each designate a
4 Project Coordinator and a Substitute Project Coordinator. Each Project
5 Coordinator shall be responsible for overseeing the implementation of this
6 Consent Order. To the extent possible, all communications between King
7 County, EPA and Ecology (including communication by letter, reports, notices,
8 etc.) concerning activities related to this Consent Order shall be directed
9 through the respective Project Coordinators. Responsibilities of the EPA
10 Project Coordinator may be delegated by EPA to contractor employees.

11 XX. Changing Project Coordinators

12 EPA, King County, and Ecology may change their respective Project
13 Coordinators by notifying the other parties in writing no later than five (5)
14 calendar days before the date of such change.

15 XXI. Designation of On-Scene Coordinator

16 EPA will designate one or more persons as an "On-Scene Coordinator"
17 for the Site and activities mentioned in this Consent Order, who shall have
18 the authority specified and indicated in the NCP as set out in 40 C.F.R.
19 Part 300, and any amendments thereto. Such authority includes authority to
20 halt work, to conduct any tasks required by this Consent Order, to direct any
21 tasks so required, and to take appropriate response action if the On-Scene
22 Coordinator determines that conditions may present an immediate and
23 significant risk to the public health or welfare or the environment. Nothing
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1 in this Consent Order shall be construed to diminish that authority. The
2 On-Scene Coordinator may authorize minor field deviations which shall be
3 documented in writing and signed by the Project Coordinator for King County,
4 and the EPA On-Scene Coordinator within five (5) working days of
5 authorization. The EPA Project Coordinator may be, but need not be, the
6 On-Scene Coordinator.

7
8 XXII. Absence of EPA Coordinator(s)

9 The absence of the EPA Project Coordinator and/or On-Scene
10 Coordinator from the Cedar Hills Landfill or the QCF Site shall not constitute
11 an excuse for halting the work required under this Consent Order.

12 XXIII. Quality Assurance

13 Throughout all sample collection, transportation, and analysis
14 activities, King County shall use procedures for quality assurance, quality
15 control, and chain of custody in complete accordance with the RI/FS work plan.
16

17 XXIV. EPA Oversight of Quality Assurance

18 A. With regard to all sample collection, transportation, or
19 analysis required by the RI/FS work plan, King County shall:

20 1. Conduct all sampling and analysis in accordance with the
21 specific requirements of the RI/FS work plan;

22 2. Obtain access for EPA and Ecology personnel and authorized
23 representatives (a) to each laboratory and laboratory worker employed or used
24 by King County for collection or transportation or analyses of samples, and
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26

1 (b) to every laboratory record and item of equipment used in connection with
2 collection or the analysis of samples;

3 3. Cause each laboratory used by King County for analyses to
4 perform such analyses according to the methods specified in the RI/FS work
5 plans; and

6 4. Cause each laboratory used by King County for analyses to
7 participate in an EPA quality assurance/performance and system audit
8 equivalent to that which is followed by EPA and which is consistent with EPA
9 document QAMS-005/80. As part of such a program, and upon request by EPA,
10 King County shall cause the laboratory to perform analyses of samples provided
11 by EPA according to EPA-specified methods in order to demonstrate the quality
12 of each laboratory's analytical data.

13 XXV. EPA and Ecology Activities at Site

14 EPA, Ecology, and their authorized representatives shall have the
15 authority to enter and freely move about the Cedar Hills Landfill at all
16 reasonable times for the purposes of, among other matters: inspecting
17 records, operating logs, and documents related to activities or work related
18 to the QCF Site; reviewing the progress of King County in carrying out this
19 Consent Order; conducting such tests as EPA, Ecology, or the Project
20 Coordinator deems necessary; using a camera, sound recorder, or other
21 equipment; and verifying the data submitted to EPA by King County. King
22 County shall permit such persons to inspect and copy all records, files,
23 photographs, documents, data, in any way pertaining to work undertaken

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1 pursuant to this Consent Order. At that time, King County may assert, with
 2 sufficient justification, that such records or documents are legally
 3 privileged.

4
 5 XXVI. Retention of Records

6 King County shall preserve, for a minimum of six (6) years after
 7 termination of this Consent Order, all records and documents in possession or
 8 control of: its divisions, employees, agents, accountants, contractors, or
 9 attorneys which relate in any way to the QCF Site, despite any document
 10 retention policy to the contrary. Upon request by EPA, King County shall make
 11 available to EPA such records or true copies of any such records. At the time
 12 of such EPA request, King County may assert, with sufficient justification,
 13 that such records and documents are legally privileged.

14 XXVII. Delays In Performance and Stipulated Penalties

15 A. Except for extensions agreed upon by the parties pursuant to the
 16 terms of this Consent Order, for failing to comply on time with the
 17 requirements for deliverables identified in Section XI, infra., and upon
 18 notification by EPA, King County shall pay the following stipulated penalties
 19 into the "Hazardous Substance Response Trust Fund" according to the procedures
 20 described in Section XXIX of this Consent Order:

<u>Period of Failure to Comply</u>	<u>Penalty Per Violation Per Day</u>
22 1st through 7th day	\$500
23 8th through 21st day	\$1,000
24 22nd day and beyond	\$1,500

1 B. The stipulated penalties set forth above do not preclude EPA or
2 Ecology from pursuing any other remedies or sanctions available to it as
3 relief for failure of King County to comply with any applicable requirement of
4 this Consent Order.

5
6 XXVIII. Reservation Of Rights

7 A. Notwithstanding compliance with the terms of this Consent Order,
8 including completion of an EPA approved RI/FS, King County is not released
9 from any liability, if any exists, for costs of any response actions taken by
10 the United States or State government with respect to the QCF Site. EPA and
11 Ecology reserve the right to take any action pursuant to CERCLA, or any other
12 legal authority, including but not limited to the right to seek injunctive
13 relief, statutory penalties, and punitive damages, and the right to conduct
14 investigations and to undertake removal and remedial actions. In addition,
15 King County, EPA, and Ecology expressly reserve all rights and defenses that
16 they may have, including EPA's right to disapprove of work performed by King
17 County.

18 B. This Consent Order does not constitute an admission by King
19 County that it is liable for any contamination of the QCF site. The Consent
20 Order shall have no effect other than as specifically provided herein and
21 shall not have any collateral effect on King County's rights with respect to
22 EPA or any other party. In addition, King County specifically reserves all
23 defenses and claims, including but not limited to King County's defense that
24 it is not a potentially responsible party pursuant to 42 U.S.C. § 9601 et
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1 seq., as amended, and King County's right to recover response and oversight
2 costs from potentially responsible parties for the QCF Site or the Cedar Hills
3 Landfill.

4 XXIX. Reimbursement Of Costs and Payment of Penalties

5 A. Following the end of each federal fiscal year, EPA will submit
6 to King County a statement, together with supplemental information,
7 documenting all response, oversight, and community relations costs incurred
8 during the preceding year by the United States and State governments and their
9 contractors and representatives with respect to this Consent Order and the
10 Administrative Order on Consent entered in EPA Docket No. 1088-01-04-104/122
11 (Consent Order No. 2). Such costs will be calculated beginning July 8, 1987,
12 which is the date EPA provided initial notice to King County of the need to
13 conduct RI/FS activities at the QCF site. King County shall, not later than
14 ninety (90) calendar days after the date of receipt of such a statement, pay
15 thirty-three percent (33%) of those costs by check made payable to the
16 Hazardous Substance Response Trust Fund. The remaining sixty-seven percent
17 (67%) of such costs will be paid in accordance with Consent Order No. 2. King
18 County shall not be required to pay those government costs incurred with
19 respect to Consent Order No. 2, if such costs are incurred after the date of
20 satisfaction and termination of this Consent Order in accordance with Section
21 XXXXI ("Satisfaction of Order and Termination") herein. However, if
22 termination of Consent Order No. 2 occurs prior to termination of this Consent
23 Order, King County shall reimburse the governments for all costs which are
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1 incurred with respect to this Consent Order subsequent to the date of
2 termination of Consent Order No. 2.

3 B. It is the nonbinding estimate of EPA that King County's share of
4 the response, oversight, and community relations costs should not exceed
5 \$70,000.00. However, if these costs do exceed the \$70,000.00 amount, King
6 County agrees to reimburse the United States and the State for such additional
7 costs.

8 C. King County shall pay the stipulated penalties set forth in
9 Section XXVI of this Consent Order within ninety (90) calendar days of receipt
10 of written notice from EPA.

11 D. A copy of each transmittal letter for payment of penalties and
12 reimbursements shall be sent to the Project Coordinators. Checks shall
13 specifically reference the Queen City Farms Site, note whether the payment is
14 for penalties or reimbursement, and be sent to the following address:

15
16 Mellon Bank
17 U.S. Environmental Protection Agency
18 Superfund Accounting
19 P.O. Box 371003M
20 Pittsburgh, PA 15251
21 Attention: Collection Officer for Superfund

22 XXX. Other Claims

23
24 Nothing in this Consent Order shall constitute or be construed as
25 a release from any claim, cause of action or demand in law or equity against
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1 incurred with respect to this Consent Order subsequent to the date of
2 termination of Consent Order No. 2.

3 B. The costs requiring reimbursement by King County pursuant to the
4 terms of this Consent Order are not to exceed \$150,000. However, if such
5 costs do exceed \$150,000, King County agrees to negotiate in good faith in an
6 effort to reach agreement on an amendment to this Consent Order (in accordance
7 with Section XXXIV herein) which provides for payment of these additional
8 costs by King County. In any event, EPA and Ecology reserve all rights to
9 seek to recover all response costs incurred by the governments with respect to
10 the QCF Site, including but not limited to any costs which may exceed the
11 \$150,000 amount, and this Section is not intended in any way to compromise or
12 waive such rights.

13 C. King County shall pay the stipulated penalties set forth in
14 Section XXVI of this Consent Order within ninety (90) calendar days of receipt
15 of written notice from EPA.

16 D. A copy of each transmittal letter for payment of penalties and
17 reimbursements shall be sent to the Project Coordinators. Checks shall
18 specifically reference the Queen City Farms Site, note whether the payment is
19 for penalties or reimbursement, and be sent to the following address:

20 Mellon Bank
21 U.S. Environmental Protection Agency
22 Superfund Accounting
23 P.O. Box 371003M
Pittsburgh, PA 15251
Attention: Collection Officer for Superfund

24 XXX. Other Claims

25 Nothing in this Consent Order shall constitute or be construed as
26 a release from any claim, cause of action or demand in law or equity against
27

1 any person, firm, partnership, corporation, or state or local governmental
2 entity not a signatory to this Consent Order for any liability it may have
3 arising out of or relating in any way to the generation, storage, treatment,
4 handling, transportation, release, or disposal of any hazardous substances,
5 hazardous wastes, pollutants, or contaminants found at, taken to, or taken
6 from the QCF Site. This Consent Order does not preauthorize or constitute
7 any decision on preauthorization of funds under 42 U.S.C. § 9611(a)(2).

8 XXXI. Other Applicable Laws

9 All actions required to be taken pursuant to this Consent Order
10 shall be performed in accordance with the requirements of all applicable
11 local, state, and federal laws and regulations.

12 XXXII. Exoneration/Indemnification

13 A. To the extent permitted by law, King County shall save and
14 hold harmless the United States, its agencies, officers, employees, and
15 agents (thereby exonerating the foregoing) from, and shall indemnify each of
16 the foregoing against and for, any and all claims arising from or on account
17 of acts or omissions of King County, or the officers, employees, receivers,
18 trustees, agents, or assigns of King County, relating in any way to carrying
19 out activities pursuant to this Consent Order. EPA is not a party to any
20 contract relating to the QCF Site which is made by King County.

21 B. King County shall not, however, be required to indemnify or
22 save and hold harmless the United States, its agencies, officers, agents, or
23

1 employees from any claims or causes of action arising from or on account of
2 acts or omissions of the United States, or its agencies, officers, agents,
3 or employees in carrying out activities pursuant to this Consent Order.

4
5 XXXIII. Effective Date

6 This Consent Order becomes effective on the date it is signed by
7 the EPA Hazardous Waste Division Director, Region 10.

8
9 XXXIV. Subsequent Modifications

10 This Consent Order may be amended by agreement of EPA and King
11 County. Amendments shall be in writing and shall become effective on the
12 date such amendments are signed by the EPA Hazardous Waste Division
13 Director, Region 10.

14 XXXV. Computation of Time and Form of Notices

15 A. Any time period scheduled to begin on the occurrence of an
16 act or event shall begin on the day after the act or event.

17 B. If the final day of any time period falls on a weekend or
18 legal holiday, the time period shall be extended to the next working day.

19 C. Unless otherwise specified all notifications shall be sent
20 certified mail, return receipt requested.

21
22 XXXVI. Persons Bound

23 This Consent Order shall apply to and be binding upon King County,
24 and all of King County's agents, subsidiaries, successors, assigns,
25 contractors, and subcontractors, and upon EPA, its officials and employees.

1 King County remains obligated by this Consent Order to carry out the
2 applicable terms hereof regardless of any change in legal status, and
3 regardless of any efforts made by agents, contractors, and consultants.
4

5 XXXVII. Distribution of Consent Order

6 King County shall provide a copy of this Consent Order to all
7 contractors, sub-contractors, laboratories, and consultants retained to
8 conduct any portion of the work performed pursuant to this Consent Order,
9 not later than fourteen (14) calendar days after the effective date of this
10 Consent Order or date of such retention, whichever is later.

11 XXXVIII. Notice to the State

12 The State of Washington, through its Department of Ecology, has
13 been notified of this Consent Order.
14

15 XXXIX. Community Relations

16 Community relations during the time period in which this Consent
17 Order is in effect, and which relate to the RI/FS, shall be conducted by and
18 the responsibility of EPA in coordination with King County. King County
19 will have the opportunity to consult with EPA regarding such community
20 relations activities.
21

22 XXXX. Negotiation of Remedial Actions

23 Upon completion of appropriate components of the RI/FS required by
24 this Consent Order, it is the intent of EPA and King County to negotiate in
25
26

1 good faith toward implementation of remedial actions approved by EPA for the
2 QCF Site.

3
4 XXXXI. Satisfaction of Order and Termination

5 The duties of King County under this Consent Order shall be
6 satisfied upon issuance by EPA of a written notice stating that King County
7 has complied with all provisions of this Consent Order, including such
8 additional tasks as may be required by the terms and conditions of this
9 Consent Order.

10 It is so agreed:

11 _____
12 DATE

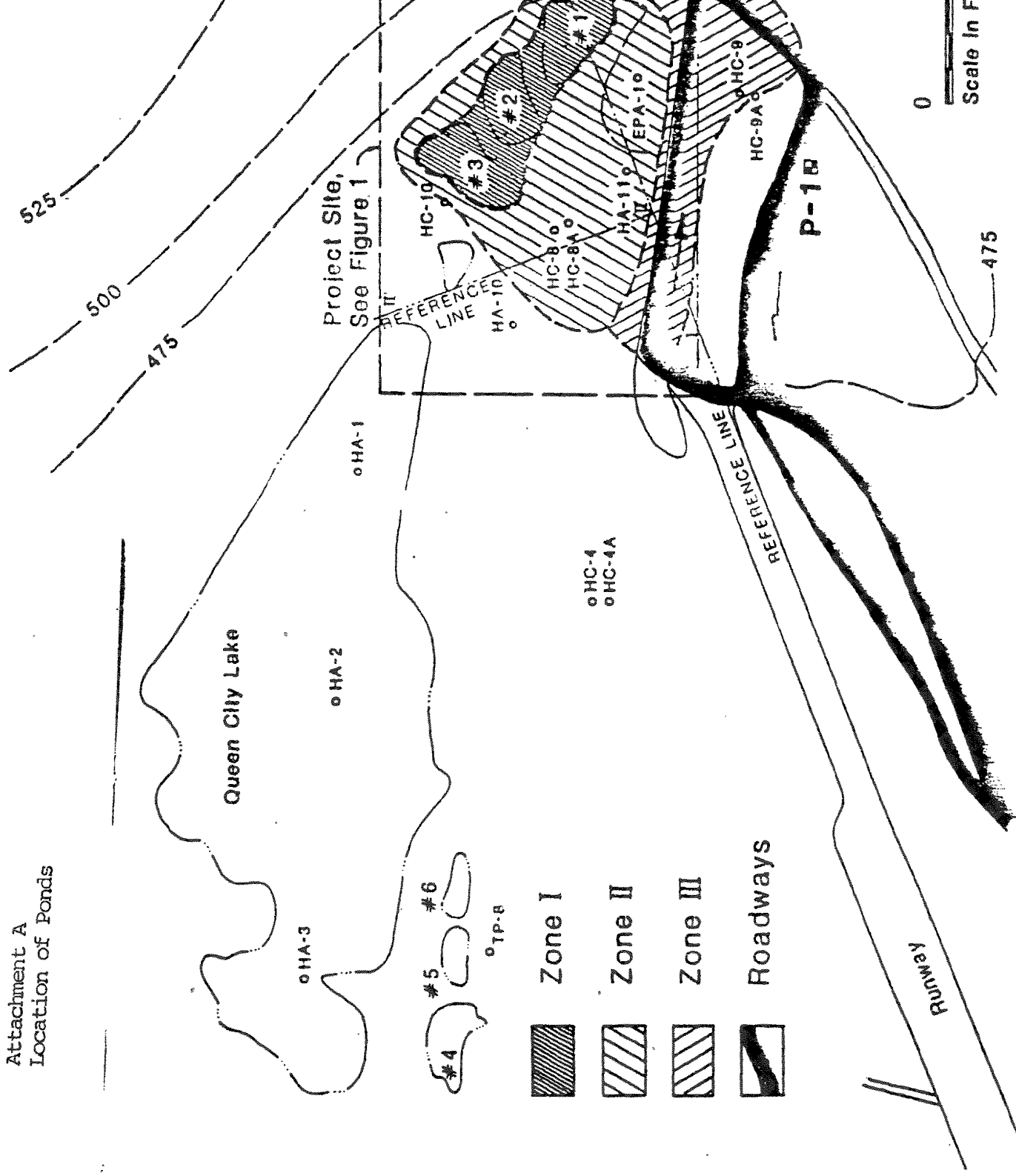
_____ KING COUNTY

13 It is so ordered:

14 _____
15 DATE OF ISSUANCE

_____ DIRECTOR, EPA HAZARDOUS WASTE DIVISION
Region 10

Attachment A
Location of Ponds



Previous Explorations

BP-1 Test Pit Location and Number

Priority Pollutants Identified in the Queen City Farms Waste Ponds

Number following chemical is highest concentration found in parts per million

<u>Metals</u>		<u>Base/Neutral Extractibles</u>	
Antimony	1.5	1,2,4-Trichlorobenzene	1.7
*Arsenic	3.5	1,2-Dichlorobenzene	12
Beryllium	0.23	1,3-Dichlorobenzene	3.5
**Cadmium	81	**Naphthalene	250
Chromium	33,800	Bis (2-Ethylhexyl) Phthalate	24
Copper	820	Diethyl Phthalate	3800
Lead	1100	**Chrysene	140
Mercury	0.01	Anthracene	790
*Nickel	236	**Pyrene	460
Selenium	2.3		
Silver	0.66	<u>Acid Extractibles</u>	
Zinc	410	2,4,6-Trichlorophenol	210
		P-Chloro-M-Cresol	90
		2,4-Dichlorophenol	140
		2,4-Dimethylphenol	261
		2-Nitrophenol	90
		Pentachlorophenol	420
		Phenol	130
		<u>Volatile Organics</u>	
		*Benzene	55
		Chlorobenzene	0.04
		1,1,1-Trichloroethane	0.41
		1,1-Dichloroethane	3.3
		*Chloroform	0.29
		1,1-Dichloroethylene	0.005
		1,2-Trans-Dichloroethylene	6.5
		CIS-1,3-Dichloropropene	0.34
		Ethylbenzene	30
		Methylene Chloride	315
		Tetrachloroethylene	13
		Toluene	625
		**Trichloroethylene	536
<u>Miscellaneous</u>			
Cyanide	34		
Phenolics	224		
<u>Pesticides</u>			
*PCP 1260	125		

*known carcinogen

**suspected carcinogen

ANDREA BEATTY RINKER
Director



Proposed Example of
Department of Ecology
Concurrence Letter

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

7208

Mail Stop PV-11 • Olympia Washington 98504-8711 • (206) 459-6000

, 1988

RECEIVED

FEB 24 1988

OFFICE OF REGIONAL COUNSEL
EPA - REGION X

Dear :

The Washington Department of Ecology ("Ecology") has reviewed the "Administrative Order on Consent" in Environmental Protection Agency Docket No. under which a number of potentially responsible parties will undertake a remedial investigation/feasibility study ("RI/FS") for the Queen City Farms site near Maple Valley, Washington.

Due to the constraints of RCW 70.105B.070(5) Ecology is unable to join in this Consent Order with EPA and the potentially responsible parties. However, you and the other parties to the Consent Order may be assured that so long as the Respondents named in the Consent Order are complying with its terms and conditions, and so long as no new information causes us to be concerned about an imminent and substantial threat to public health or the environment, Ecology will not deem it necessary or desirable to take any action duplicative of or inconsistent with the Respondents' activities under the Consent Order. At the time of implementation of any remedial action, Ecology will, of course, require that applicable, relevant and appropriate state standards are met at the site.

We will expect you to furnish us with all information delivered to EPA, and to cooperate with our representatives as you carry out your obligations under the Consent Order.

Thank you for your cooperation in this matter.

Very truly yours,

John Littler
Program Manager
Hazardous Waste Cleanup Program
Department of Ecology

JL:mk

cc: Terese Neu Richmond, Assistant Attorney General
Richard Mednick, Esq.

Mike Blum, Ecology
Nancy Ellison, Ecology