STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

In the Matter of Remedial Action at: Landsburg Mine Sections 24 and 25, T22N, R6E Ravensdale, Washington	)))))))	Landsburg Mine Phase I RI/FS AGREED ORDER No. DE 983TC-N273

TO: POTENTIALLY LIABLE PERSONS

Robert K. Butler
PACCAR, Inc.
P.O. Box 1518
Bellevue, Wa 98009

Richard Gordon
Time Oil Company
P.O. Box 24447
Seattle, WA 98124-0447
2732 W. Commodore Way
Seattle, WA 98199

Donna Kolar
Browning-Ferris Industries
of Illinois, Inc.
757 N. Eldridge
Houston, TX 77079

William Kombol
Palmer Coking Coal Company
P.O. Box 10
31407 Highway 169
Black Diamond, Washington
98010

Marlys Palumbo
Burlington Environmental Inc.
Park 90/5, Suite 400
2203 Airport Way South
Seattle, WA 98134

Bruce A. Sheppard
Burlington Northern Railroad
200 First Interstate Center
999 Third Avenue Seattle, WA
98104-1105

James C. Kraft
Plum Creek Timber Company,
L.P.
999 Third Avenue
Seattle, WA 98104

I.

Jurisdiction

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

II.

Findings of Fact

Ecology makes the following Findings of Fact, without admission of such facts by the above listed Potentially Liable Persons, referred to hereinafter as "the PLP's".

1. Palmer Coking Coal Company, Inc. operated an underground coal mine known as the Landsburg Mine from the late 1940's until approximately 1975. Mining was conducted on two coal seams, the Landsburg Seam and the Rogers Seam.

2. Mining began on the Landsburg Seam in the late 1940's and continued until 1959. In 1959, mining of the Landsburg seam ceased and mining began on the Rogers Seam. The Rogers seam was mined from 1959 until 1975.

3. As a result of underground mining of the Rogers Seam of the Landsburg Mine, a subsidence trench developed on the land surface above the mined out workings.

4. Based on current information, industrial wastes were placed in the subsidence trench beginning in 1969 and continuing until at least 1978. Evidence of such placement is contained in records obtained from the King County Building and Lands

Department (See Ecology Landsburg file SIT2.3, BALD file), in enforcement actions taken by Ecology (See Ecology Landsburg file SIT2.3, PCHB Hearing, 1978), and in invoice records provided by Palmer Coking Coal Company (See Ecology Landsburg file SIT1.2, letter from Mr. William Kombol, Palmer Coking Coal Company, to David L. South dated May 15, 1991). These industrial wastes contain substances subsequently defined as "hazardous substances" in RCW 70.105D.020(5).

5. The presence of hazardous substances which have been released or threaten to be released to the environment has been confirmed by Ecology as reported in "Site Hazard Assessment Report for Landsburg Mine, Ravensdale, Washington", dated May 1991 (See Ecology Landsburg File SIT2.1) and in "Report on the Landsburg Mine Drum Removal Project", dated December 10, 1991 (See Ecology Landsburg File SIT 5.1.2).

6. Burlington Northern Railroad is a former owner of portions of the Landsburg Mine site and owned these portions at the time industrial waste disposal was occurring.

7. Burlington Environmental Inc. is a successor corporation to Chemical Processors, Inc., a generator of industrial wastes disposed of at the site. Burlington Environmental, Inc. is the parent corporation of Resource Recovery Corporation, who transported industrial wastes to the Landsburg Mine site.

8. Meridian Oil Company is a current owner of oil and gas rights at the Landsburg Mine site and is a successor corporation of Burlington Northern Railroad.

9. PACCAR, Inc. is a generator of industrial wastes transported to the site by Valley Disposal.

10. Palmer Coking Coal Company is a current owner of portions of the Landsburg Mine site and owned these portions during part of the time industrial waste disposal was occurring. Prior to ownership by Palmer Coking Coal Company (a partnership) the land was owned by Palmer Coking Coal Company, Inc. (a corporation, now dissolved).

11. Plum Creek Timber Company, L.P. is a current owner of portions of the Landsburg Mine site..

12. Time Oil Company is a generator of industrial wastes disposed of at the site.

13. Browning-Ferris Industries of Illinois, Inc. merged with National Disposal, Inc. in 1976. National Disposal transported industrial wastes to the Landsburg Mine site.

By execution of this Agreed Order the Companies agree to be bound by the terms thereof and not to contest the same, but they do not admit any act, responsibility, fault or liability, or waive any other right, claim, privilege, or defense.

III.

Ecology Determinations

1. The PLP's are either an "owner or operator" or a "transporter/generator/manufacturer" as defined at RCW 70.105D.020(6) of a "facility" as defined at RCW 70.105D.020(3).

2. The facility is known as the Landsburg Mine and is located in Sections 24 and 25, T22N, R6E, near Ravensdale, Washington.

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

4. Based on the presence of these hazardous substances at the facility and all factors known to the Department, there is a release or threatened release of hazardous substances from the facility, as defined at RCW 70.105D.020(10).

5. Ecology notified each PLP of their status as a "potentially liable person" under RCW 70.105D.040 after notice and opportunity for comment. Notification was provided by letters dated as follows:

Burlington Northern Railroad - February 16, 1990

Burlington Environmental Inc. - February 16, 1990 (Successor to Chemical Processors, Inc.)

Meridian Oil Company - April 3, 1990

PACCAR, Inc. - March 19, 1990

Palmer Coking Coal Company - February 16, 1990

Plum Creek Timber Company - February 16, 1990

Resource Recovery Corporation - February 16, 19910
(Burlington Environmental is the parent corporation of Resource Recovery Corporation)

Time Oil Company - February 7, 1992

Browning-Ferris Industries of Illinois, Inc. - February 7, 1992

6. Pursuant to RCW 70.105D.030(1) and 70.105D.050, the Department may require potentially liable persons to investigate or conduct other remedial actions with respect to the release or threatened release of hazardous substances, whenever it believes such action to be in the public interest.

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

IV.

Work to be Performed

Based on the foregoing Facts and Determinations, it is hereby ordered that the PLP's take the following remedial actions.

1. Conduct Phase I of a Remedial Investigation/Feasibility Study (RI/FS) in accordance with WAC 173-340-350 as more specifically set forth in Exhibit A of this Order, "Landsburg Phase I Remedial Investigation/Feasibility Study (RI/FS) Work Plan" (the Phase I RI/FS Work Plan"). The Phase I RI/FS Work Plan is attached hereto and is incorporated herein by reference

as an integral and enforceable part of thie Order. The work to be performed under this Agreed Order is limited to Phase I.

If Phase II of the RI/FS is necessary, Ecology and the PLP's agree to negotiate in good faith a Phase II RI/FS work plan. Negotiations regarding the development of the Phase II RI/FS work plan shall commence at the end of a 30-day public comment period on the Phase I Interim RI/FS Report or as otherwise mutually agreed upon by Ecology and the PLP's. Negotiations on the development of the Phase II RI/FS Work Plan shall not exceed sixty (60) days unless Ecology determines that continued negotiations are in the public interest. Any work to be performed under Phase II is not covered by this Agreed Order and this Agreed Order does not obligate the PLP's to perform such work. Phase II, if necessary, will be implemented through a new order, Agreed Order, or Consent Decree, or an amendment to this Agreed Order mutually agreed upon by Ecology and the PLP's.

2. Execution of the Phase I RI/FS work plan shall commence no later than 30 days following the date of signature of this Agreed Order by Ecology and shall be conducted according to the schedule presented in Chapter 4 of Exhibit A.

3. Monthly progress reports shall be submitted to Ecology by the 15th of the month following the reporting month. The first report shall be due on the 15th of the month following the first full reporting month period, and shall include any partial

month time between project commencement and the beginning of the first full reporting month.

The monthly report will list work plan activities for which data were collected during the previous month. Data packages for which Quality Assurance/Quality Control validation were completed during the previous month shall be submitted with the monthly report. Data shall be submitted on computer disk where applicable. Data submitted on computer disk shall be compatible with Ecology data requirements as discussed in Attachment C of Exhibit A. A hard copy of data submitted on computer disk shall be submitted upon Ecology request.

Pursuant to WAC 173-340-800(5), Ecology shall have the right to inspect all documents, including raw data records, relating to the technical investigation at the location where they are archived. Copies of these documents shall be furnished to Ecology upon request.

4. Monthly meetings shall be held between Ecology and the Potentially Liable Parties to discuss progress and direction of the investigation. The frequency of these meetings may be changed by mutual consent of Ecology and the Potentially Liable Parties.

5. Submittals shall be made in accordance with WAC 173-340-840(5). One copy of the monthly report shall be submitted; however, Ecology may request more. Three Draft Interim Phase I RI/FS reports (two bound and one unbound) shall be submitted to

Ecology for review. The number of Draft Interim Reports to Public will be set by Ecology.

V.

Terms and Conditions of Order

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

2. Public Notices. WAC 173-340-600(10)(c) requires a 30-day public comment period before this agreed order on a state RI/FS becomes effective. Ecology shall be responsible for providing such public notice and reserves the right to modify or withdraw any provisions of this Order should public comment disclose facts or considerations which indicate to Ecology that the Order is inadequate or improper in any respect.

3. Remedial Action Costs. The PLP's agree to pay to Ecology costs incurred by Ecology pursuant to this Agreed Order. These costs shall include work performed by Ecology or its contractors for investigations, site hazard assessments, remedial actions, and Order preparation, negotiations, oversight, and administration. Ecology costs shall include costs of direct activities; e.g., employee salary, laboratory costs, travel costs, contractor fees, and employee benefit packages; and agency indirect costs of direct activities.

The PLP's agree to pay for past site management costs incurred between March 1, 1990, and September 30, 1992, in the amount of $34,023.04. The PLP's agree to pay for ongoing costs incurred between October 1, 1992, and completion of remedial activity required by this Order, as amended by any modifications, and all other provisions of this Agreed Order. Additional past costs incurred by Ecology between March 1, 1990, and September 30, 1992, in the amount of $73,509.93 will be addressed in the terms of future orders, agreements, and/or consent decrees regarding the Landsburg Mine site.

The PLP's agree to pay the required amount within 90 days of receiving from Ecology an itemized statement of costs that includes a summary of costs incurred, an identification of involved staff, and the amount of time spent by involved staff members on the project. A general description of work performed will be provided upon request. Failure to pay Ecology's costs within 90 days of receipt of the itemized statement of costs may result in interest charges.

4. Designated Project Coordinators. The project coordinator for Ecology is:

Name: Dr. David L. South

Address: Washington State Department of Ecology
Northwest Regional Office
3190 160th Avenue NE
Bellevue, WA 98008-5452
Telephone: (206) 649-7200
FAX: (206) 649-7098

The PLP's will name a project coordinator within 15 days of Ecology signature of the Agreed Order, and notify Ecology's project coordinator in writing, including a contact address, telephone number, and FAX number.

The PLP's project coordinator(s) shall be responsible for coordinating the implementation of this Order among Ecology, the PLP's, and the PLP's contractors. To the maximum extent possible, communications between Ecology and PLP's, and all documents, including reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order, shall be directed through the project coordinator(s). Should Ecology or PLP's change project coordinator(s), written notification shall be provided to Ecology or the PLP's at least ten (10) calendar days prior to the change.

5. Performance. All work performed pursuant to this Order shall be under the direction and supervision, as necessary, of a professional engineer or hydrogeologist, or similar expert, with appropriate training, experience and expertise in hazardous

waste site investigation and cleanup. The PLP's shall notify Ecology as to the identity of such engineer(s) or hydrogeologist(s), and of any contractors and subcontractors to be used in carrying out the terms of this Order, in advance of their involvement at the Site.

Except where necessary to abate an emergency situation, the PLP's shall not, during the term of this Order, perform any remedial actions at the Landsburg Mine site outside that required by this Order unless Ecology concurs, in writing, with such additional remedial actions.

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

6. Access. Ecology or any Ecology authorized representative shall have the authority to enter and freely move about the Site at all reasonable times for the purposes of, inter alia: inspecting records, operation logs, and contracts related to the work being performed pursuant to this Order; reviewing the progress in carrying out the terms of this Order; conducting such tests or collecting samples as Ecology or the project coordinator may deem necessary; using a camera, sound recording, or other documentary type equipment to record work done pursuant to this Order; and verifying the data submitted to Ecology by the PLP's. By signing this Agreed Order, the PLP's agree that this Order constitutes reasonable notice of access, and agrees to allow

access to the Site at all reasonable times for purposes of overseeing work performed under this Order. Ecology shall allow split or replicate samples to be taken by the PLP's during an inspection unless doing so interferes with Ecology's sampling. The PLP's shall allow split or replicate samples to be taken by Ecology and shall provide seven (7) days notice before any sampling activity.

7. Public Participation. Ecology shall prepare a public participation plan for the site and shall maintain responsibility for public participation at the site.

The PLP's shall help coordinate and implement public participation for the site. The PLP's will provide a contact person for Ecology's public involvement officer.

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

9. Reservation of Rights/No Settlement. This Agreed Order is not a settlement under ch. 70.105D RCW. Ecology's signature

on this Order in no way constitutes a covenant not to sue or a compromise of any Ecology rights or authority. Ecology will not, however, bring an action against the PLP's to recover remedial action costs paid to and received by Ecology under this Agreed Order. In addition, Ecology will not take additional enforcement actions against the PLP's to require those remedial actions required by this Agreed Order, provided the PLP's comply with this Agreed Order. Ecology reserves the right, however, to require additional remedial actions at the Site should it deem such actions necessary.

Ecology also reserves all rights regarding the injury to, destruction of, or loss of natural resources resulting from the releases or threatened releases of hazardous substances from the Landsburg Mine site.

In the event Ecology determines that conditions at the Site are creating or have the potential to create a danger to the health or welfare of the people on the Site or in the surrounding area or to the environment, Ecology may order the PLP's to stop further implementation of this Order for such period of time as needed to abate the danger.

10. Transference of Property. No voluntary or involuntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Site shall be consummated by the PLP's without provision for continued implementation of all

requirements of this Order and implementation of any remedial actions found to be necessary as a result of this Order.

Prior to transfer of any legal or equitable interest the PLP's may have in the site or any portions thereof, the PLP's shall serve a copy of this Order upon any prospective purchaser, lessee, transferee, assignee, or other successor in such interest. At least thirty (30) days prior to finalization of any transfer, the PLP's shall notify Ecology of the contemplated transfer.

11. Compliance with Other Applicable Laws. All actions carried out by the PLP's pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements.

12. Revisions to the scope of work and schedule are anticipated as a result of data gathering and analyses. Requests for changes to the scope of work and schedule shall be documented with written justification for the change and provided to Ecology for approval prior to implementing the change.

VI.

Satisfaction of this Order

The provisions of this Order shall be deemed satisfied upon the PLP's receipt of written notification from Ecology that the PLP's have completed the remedial activity required by this

Order, as amended by any modifications, and that all other provisions of this Agreed Order have been complied with.

VII.

Enforcement

1. Pursuant to RCW 70.105D.050, this Order may be enforced as follows:

   A. The Attorney General may bring an action to enforce this Order in a state or federal court.

   B. The Attorney General may seek, by filing an action, if necessary, to recover amounts spent by Ecology for investigative and remedial actions and orders related to the Site.

   C. In the event the PLP's refuse, without sufficient cause, to comply with any term of this Order, the PLP's will be liable for:

      (1) up to three times the amount of any costs incurred by the state of Washington as a result of its refusal to comply; and

      (2) civil penalties of up to $25,000 per day for each day it refuses to comply.

   D. This Order is not appealable to the Washington Pollution Control Hearings Board. This Order may be reviewed only as provided under RCW 70.105D.060.

Effective date of this Order: July 26, 1993

Washington State
Department of Ecology

By Michael J. Gallagher
Michael J. Gallagher
Section Manager, Northwest
Region, Toxics Cleanup
Program

Potentially Liable Person

By Robert K. Butler 5/18/93
Robert K. Butler
Title: Corporate Environmental Manager
PACCAR, Inc.

Potentially Liable Person

TIME OIL CO.

By Terrill L. Henderson

~~Richard Gordon~~ Terrill L. Henderson

Title: Vice President

Time Oil Company

ORIGINAL

Potentially Liable Person

By: _____
Gerald K. Burger
Title: Vice President & Secretary
Browning-Ferris Industries of Illinois, Inc.

Potentially Liable Person

By _____
William Kombol
Title: _____
Palmer Coking Coal Company

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MAY 24 1993
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Potentially Liable Person

By Marlys Palumbo
Marlys Palumbo
Title: Counsel for
Burlington Environmental Inc.

Potentially Liable Person

By B A Sheppard
Bruce A. Sheppard
Title: Mgr. Environ. Projects
Burlington Northern Railroad

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Potentially Liable Person

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By _____
James A. Kraft
Title: Vice President, Law and Corporate Affairs
Plum Creek Timber Company, L.P.
By Plum Creek Management Company, L.P.,
general partner