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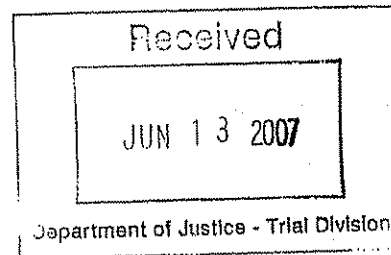
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IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MULTNOMAH

GASP, *et al*  
Petitioners,  
v  
ENVIRONMENTAL QUALITY  
COMMISSION, *et al*,  
Respondents,  
and  
UNITED STATES ARMY, and  
WASHINGTON DEMILITARIZATION  
COMPANY,  
Intervenor-Respondents.

Case No. 9708-06159

**STIPULATED  
GENERAL JUDGMENT**



Petitioners have brought a Petition for Review against the State of Oregon Environmental Quality Commission ("EQC") and the State of Oregon Department of Environmental Quality ("DEQ") to require that Air Contaminant Discharge Permit #25-004 ("ACDP") issued by DEQ and Hazardous Waste Permit I.D. No. OR6 213 820 817 ("HWP") issued by EQC be reversed and or remanded; and

The United States Army ("Army") and Washington Demilitarization Company ("WDC"), both named permittees on these permits, having intervened as intervenor-respondents and joined the state in opposing the Petition for Review; and

This Court having dismissed the petition for review as to the ACDP by Order dated June

9001-70

1 14, 2006; and

2

3 This Court having issued its Opinion and Order dated April 17, 2007 granting in part and  
4 denying in part the petition as to the HWP;

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6 It is ADJUDGED that the OREGON EQC'S determinations made pursuant to ORS  
7 466.055 as to whether the Umatilla Chemical Agency Disposal Facility uses the best available  
8 technology and has no major adverse impact on public health or the environment in regard to (a)  
9 destruction of any mustard in any ton container that contains significantly higher mercury levels  
10 than previously reported; (b) the destruction of hazardous waste originally intended for the  
11 dunnage incinerator; and (c) the role of PFS carbon filters; are remanded to the State of Oregon  
12 Environmental Quality Commission for consideration and further proceedings consistent with  
13 the court's opinion of April 17, 2007.

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15 The petition regarding the HWP is granted in regard to the above referenced findings that  
16 are remanded to the EQC. The petition regarding the HWP is otherwise denied.

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18 DATED this \_\_\_\_ day of June, 2007.

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
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\_\_\_\_\_  
Michael H. Marcus  
Circuit Court Judge

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Submitted by: Stuart A. Sugarman   
Of Attorneys for Petitioners GASP et al

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Marc Abrams   
Senior Assistant Attorney General  
Of Attorneys for Respondents DEQ and EQC

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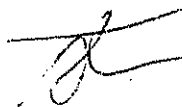
### CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Stipulated General Judgment was served on the following parties, this 11<sup>th</sup> day of June, 2007, by electronic mail, and no later than the 12<sup>th</sup> day of June, 2007 by first class mail:

Marc Abrams  
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Environmental Defense Section  
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Denver, CO 80294  
Attorney for Intervenor  
United States Army



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Stuart A. Sugarman

**BEFORE THE ENVIRONMENTAL QUALITY COMMISSION  
OF THE STATE OF OREGON**

In the Matter of	)	Final Order Determining
Umatilla Chemical Demilitarization	)	Best Available Technology
Facility Hazardous Waste	)	For Mustard Agent Containing
Permit No. ORQ 000 009 431	)	Higher than Anticipated
		Levels Of Mercury


1. This matter came before the Environmental Quality Commission (EQC) on August 21, 2008.
2. In an Opinion And Order dated April 17, 2007 Judge Michael Marcus of the Multnomah County Circuit Court remanded the EQC's original Order issuing the hazardous waste treatment facility permit for destruction of chemical agent, UMCDF ORQ 000 009 431, for further proceedings regarding statutorily required Best Available Technology (BAT) and No Major Adverse Effect determinations. GASP et al v. Environmental Quality et al case No. 9708-06159, April 17, 2007 (GASP IV).
3. Judgment was entered in GASP IV on June 12, 2007.
4. The Court Judgment directed the EQC to reassess BAT and No Major Adverse Effect determinations in light of certain changes in facility design and new evidence. In particular, the Court directed the EQC to reassess BAT for certain secondary wastes and mustard agent containing mercury at higher levels than anticipated. And the Court required the EQC to determine the role of the carbon pollution filter system (PFS) in relation to BAT.
5. This EQC Order issued today constitutes the EQC's final BAT Order pertaining to Mustard containing higher than anticipated levels of mercury as required by the Court.
6. In making its specific findings below, the EQC incorporates the analysis and recommendations in the Staff Report, agenda Item D, dated August 19, 2008. The EQC has reviewed the record, including the Department's responses to public comments.

**FINDINGS**

1. The EQC finds that incineration in the liquid incinerator (LIC) and metal parts furnace (MPF) with the addition of sulfur impregnated carbon filters to the pollution filtration system of the MPF is the best available technology (BAT) for treatment of mustard agent containing mercury in ton containers.
2. The EQC finds that incineration of mustard agent containing mercury in the UMCDF furnaces in accordance with permit conditions to be specified by the Department will not produce a major adverse impact to health or the surrounding environment.

3. The EQC finds that alternative technologies as described and evaluated in the August 19, 2008 Department staff report have not been demonstrated as viable for effective treatment of mustard containing mercury in ton containers.
4. The EQC finds that neutralization technology would generate effluent and residue that would not meet RCRA land disposal restrictions and would likely require additional treatment by incineration.
5. The EQC finds that the DAVINCH process has not been demonstrated in application for ton containers containing heterogeneous materials.
6. The EQC finds that, assuming either or both of the alternative mustard treatment processes evaluated could eventually be determined safe and effective, a substantial delay in destroying mustard agent, with no increased benefit to public health or the environment, would be necessary before either a neutralization or DAVINCH system could be demonstrated and brought on line at Umatilla.
7. The EQC finds that processing of mustard containing mercury in the LIC and MPF will result in generation of a mercury contaminated spent carbon secondary waste stream. The EQC will require that the spent carbon be stored at Umatilla until such time as the EQC issues a further BAT determination for ultimate treatment or disposal of the spent carbon.

Dated this 4<sup>th</sup> day of September, 2008.

  
William R. Blosser, Chairman  
On behalf of the  
Environmental Quality Commission