

FS 035

DEPARTMENT OF ECOLOGY

August 10, 1990

|                                       |                |
|---------------------------------------|----------------|
| In the Matter of Remedial Action by ) | ORDER          |
| The 205 Group )                       |                |
| 2408 Northeast 121st Street )         |                |
| Vancouver, Washington 98686 )         | No. DE 90-S138 |

To: Mr. Richard Johnson  
 The 205 Group  
 2408 Northeast 121st Street  
 Vancouver, Washington 98686

JURISDICTION

This Order is issued pursuant to the authority of RCW 70.105D.030(1), the Model Toxics Control Act.

FINDINGS OF FACT

1. The 205 Group is the owner of the facility known as the L and C Deli, a gasoline service station, located at 13908 Northeast 20th Avenue, Vancouver, Washington
2. The source of petroleum fuel contamination in a sewer was traced to this site during a spill response by the Department of Ecology on September 18, 1987.
3. Subsequent investigation by Crowley Environmental Services established that both soil and ground water contamination existed on this site. The investigation also revealed that there was free petroleum product on the ground water table on the site.
4. A free product collection system was installed and operated, which appears to have reduced the amount of free product floating on the ground water table.
5. Nothing has been done to remediate the soil and dissolved-in-ground water contamination which remains at this site. This residual contamination has been documented by the Crowley Environmental Services investigation to exceed state guidelines for acceptable levels of petroleum product constituent(s). The areal extent of the residual contamination is unknown, as no remedial investigation has been conducted to date.

ECOLOGY DETERMINATIONS

1. The 205 Group is an "owner or operator," as defined in RCW 70.105D.020(6), of a "facility" as defined in RCW 70.105D.020(3).
2. The facility is a gasoline service station located at 13908 Northeast 20th Avenue in Vancouver, Washington.

3. Petroleum or petroleum products are "Hazardous Substances" as defined in RCW 70.105D.020(5)(d).
4. The presence of petroleum in the soil and ground water of the facility constitutes a "release" as defined in RCW 70.105D.020(10)
6. Pursuant to RCW 70.105D.030(1) and RCW 70.105D.050, Ecology may require potentially liable parties to investigate and 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. Based on the foregoing facts, Ecology believes the remedial action required by this Order is in the public interest.

#### ORDER

Based on the foregoing Facts and Determinations, it is hereby Ordered that The 205 Group take the following remedial actions:

1. A qualified environmental remediation consulting firm is to begin a remedial investigation/feasibility study (RI/FS) no later than August 21, 1990. A work plan for the RI/FS shall be submitted to Ecology's project coordinator prior to beginning the field work. The purpose of this RI/FS is to collect, develop, and evaluate sufficient information about the site to enable the selection of a cleanup action which will achieve a degree of cleanup which is protective of human health and the environment, complies with local, state and federal law, is a permanent solution (to the extent practicable), and provides adequate monitoring to ensure the effectiveness of the cleanup action. This RI/FS shall be completed and submitted to Ecology in written form no later than October 31, 1990.
2. At a minimum, this RI/FS shall develop the following information (reference WAC 173-340-350):
  - a. Facility information, and a site conditions map.
  - b. Sufficient field investigations to characterize the ground water gradient, and the distribution, concentration, and extent of the hazardous substances present in the ground water, both on and off the site.
  - c. Sufficient field investigations to characterize the distribution, concentration, and extent of the hazardous substances present in the soil on the site, and the properties of the subsurface soils which are likely to influence the type and rate of hazardous substance migration, or which will influence the feasibility of alternative cleanup actions.

- d. Information characterizing human populations exposed or potentially exposed to the hazardous substances released from the facility.
  - e. Information to determine the impact or potential impact of the hazardous substances released from the facility on the natural resources and ecology of the area.
  - f. Copies of original laboratory reports of results of all tests conducted in regard to this site.
  - g. A description and evaluation of alternative cleanup actions.
3. A full and complete written report containing the information described above shall be submitted to Ecology by October 31, 1990.
  5. If The 205 Group does not intend to comply with all requirements of this Order, The 205 Group shall notify Ecology's project coordinator no later than three (3) days from receipt of this Order.
  6. The Department of Ecology reserves the right to modify or withdraw any provision of this Order, to issue other Orders in regards to this facility, and to respond to emergencies as necessary.

#### TERMS AND CONDITIONS OF ORDER

##### Public Notice

RCW 70 105D (and rules adopted thereunder, WAC 173-340) require that, at a minimum, this Order be subject to concurrent public notice (70.105D.030(2)(a)(iii)). 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 consideration which indicate to Ecology that the Order is inadequate or improper in any respect.

##### Oversite Costs

The 205 Group shall pay those costs reasonably attributed to the site which are incurred by Ecology for investigations, remedial actions and Orders, and including costs incurred in the oversight or administration of this Order. The 205 Group shall pay the required amount within 21 days of receiving the summary statement of Ecology's expenses, payable to the State Toxics Control Account.

##### Designated Project Coordinators

Within ten (10) days of the effective date of this Order, The 205 Group shall designate a project coordinator. The project coordinator shall be responsible for overseeing the implementation of this Order. To the extent possible, communications between Ecology and The 205 Group 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 coordinators. Should the 205 Group change its project coordinator, written notification shall be given to Ecology at least ten (10) calendar days prior to the change.

Ecology's project coordinator is Dick Walker, who may be reached by telephone at (206) 586-5562, or by mail at Department of Ecology, 7272 Cleanwater Lane, Mail Stop LU-11, Olympia, Washington 98504.

#### Performance

All remedial work performed pursuant to this Order shall be under the direction and supervision, as necessary, of a professional engineer or certified hydrogeologist, or equivalent, with experience and expertise in hazardous waste site investigation and cleanup. The 205 Group 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. Selection of such person or contractor shall be subject to Ecology approval.

#### Access

Ecology or any Ecology authorized representative shall have the authority to enter and freely move about all property at the site at all reasonable times for the purposes of, inter alia: inspecting records, operations logs, and contracts related to the work being performed pursuant to 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 205 Group. Ecology shall provide reasonable notice before entering the site, unless an emergency prevents notice. The 205 group shall allow split samples to be taken by Ecology and shall provide seven (7) days notice prior to any sampling activity.

#### Retention of Records

The 205 Group 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 205 Group, a record retention requirement meeting the terms of this paragraph shall be required of such contractors and/or agents.

Dispute Resolution

The 205 Group may request that Ecology resolve factual or technical disputes which may arise during the implementation of this Order. Such requests shall be in writing and directed to the signatory of the Order. Ecology resolution of the dispute shall be binding and final. The 205 Group is not relieved of any requirement of this Order during the pendency of the dispute and remains responsible for timely compliance with the terms of the Order unless otherwise provided by Ecology in writing.

Reservation of Rights

Ecology reserves all rights to issue additional Orders or take any action authorized by the law in the event or upon discovery of a release or threatened release of hazardous substances not addressed by this Order and/or upon discovery of any factors not known at the time of issuance of this Order or in order to abate an emergency, or under any other circumstances deemed appropriate by Ecology.

In the event Ecology determines or concurs in a determination by another local, state, or federal agency that activities implementing or in noncompliance with this Order, or any other circumstances or activities, 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 the environment, Ecology may order The 205 Group to stop further implementation of this Order for such period of time as needed to abate the danger.

Compliance with Other Applicable Laws

All actions carried out by The 205 Group pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements, including requirements to obtain necessary state or local permits.

**ENFORCEMENT**

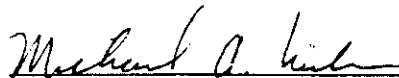
In the event The 205 Group refuses, without sufficient cause, to comply with any term of this Order, this Order will be enforced pursuant to 70 105D 050, as follows:

- a. The Attorney General may bring an action to enforce this Order in state court.
- b. In any such action, The 205 Group may be liable for up to three times the amount of any costs incurred by the State of Washington as a result of the refusal to comply, including amounts spent by Ecology for investigative and remedial action and Orders related to this site.

- c. Additionally, in any such action the 205 Group may be liable for civil penalties of up to \$25,000 per day for each day the Respondent refuses to comply.
- d. Should Ecology conduct or provide for conducting the remedial action, the Attorney General will bring an action to recover those costs reasonably attributable to the site which are incurred by Ecology for such action.
- e. This Order is not appealable to the Pollution Control Hearings Board.

Effective date of this Order: August 10, 1990.

Dated this 10 day of August, 1990, at Olympia, Washington.

  
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Michael A. Wilson  
Southwest Region Supervisor  
Toxics Cleanup Program