

Tiger Oil
FSN 469

MTCA

ENFORCEMENT ORDER

In the Matter of Remedial)	Enforcement Order
Action by: TIGER OIL)	No. DE 90-C140
CORPORATION, TIGER OIL)	SECOND AMENDMENT
COMPANY, AND FEDERATED MUTUAL)	
INSURANCE COMPANY)	

To: Tiger Oil Corporation
c/o Mr. Chuck Conley, President
P.O. Box 2578
Boise, Idaho 83701

Tiger Oil Company
c/o Marc Elrod
3219 Alki Avenue SW
Seattle, Washington 98116

Federated Mutual Insurance Company
c/o Debra ReMine
129 East Broadway
Owatonna, Minnesota 55060

I.

Summary of Second Amendment

Order Docket No. DE 90-C140, is amended in the text of this document, for the following purposes:

- 1.1. To include additional PLPs as identified above;
- 2.1 To create a schedule for preparation and completion of a Remedial Investigation/Feasibility Study.

II.

Jurisdiction

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

Tiger Oil Corporation
Tiger Oil Company
Federated Mutual Insurance Company
MTCA Enforcement Order
Second Amendment
No. DE 90-C140
Page 2

III.

Statement of Facts

3.1 Petroleum releases from underground tanks have occurred at 2312 West Nob Hill Boulevard, Yakima, Washington 98902. These releases have resulted in contamination of groundwater and soil extending beyond the boundaries of 2312 West Nob Hill, Yakima. The Facility that is the subject of the remedial action includes all that contaminated area (the "Facility, as defined by RCW 70.105D.020(3)).

3.2 The Facility is described as being within the NW1/4 SE1/4 of Section 26, Township 13 North, Range 18 E.W.M., in Yakima County.

3.3 Tiger Oil Corporation presently owns property, a portion of the facility, located at 2312 West Nob Hill Boulevard, Yakima, Washington 98902. Tiger Oil Company is a past owner of this property. Federated Mutual Insurance Company, by virtue of its control and management of the remedial actions that occurred between 1982-1985 at the Facility, is a past operator of the Facility at the time of release of contaminated material. (Tiger Oil Corporation, Tiger Oil Company, and Federated Mutual Insurance Company shall hereinafter be referred to collectively as "the Respondents".)

3.4 There are Orders other than this one that apply to the Facility: Order Docket No. DE 82-517, which the Washington State Department of Ecology (Ecology) issued to Tiger Oil Company; and Order Docket No. 90-C140, both the original and first amendment, which Ecology issued to Tiger Oil Corporation.

3.5 Initial investigations of the Facility were conducted by Ecology and the City of Yakima, between December 1980 and September 1982. These investigations resulted in locating a release of petroleum products. Federated Mutual Insurance Company contracted for further investigation and fuel recovery by Crowley (September 1982 to March 1983) Fuel

Tiger Oil Corporation
Tiger Oil Company
Federated Mutual Insurance Company
MTCA Enforcement Order
Second Amendment
No. DE 90-C140
Page 3

Recovery Company (April 1983 to April 1985), and Soil Exploration Company (May 1985 to September 1985). In 1982, the estimated petroleum product released to the soil and/or groundwater was estimated at 20,000 gallons.

3.6 Remediation activities, as identified in the proceeding paragraph, included installation of recovery wells, monitoring wells, free product removal, and installation and operation of a soil venting system.

3.7 In winter 1989, Riebe Well Drilling notified Ecology that they had discovered free petroleum product in monitoring wells at the Facility. In July 1989, during an Ecology investigation free petroleum product was found in MW-9, MW-11, MW-13, and MW-15.

3.8 Additional investigations have been conducted at the facility by the firms of Kleinfelder, a contractor to Tiger Oil Corporation, and GeoTech Consultants, a contractor M and E Company (a neighboring property owner). The reports from these investigations, in Ecology's files, are referenced as follows:

Kleinfelder: Draft Work Plan for Site Stabilization, dated 8/90; Final Work Plan for Site Stabilization, dated 9/90; Draft Site Stabilization Report, dated 2/91.

GeoTech Consultants: Preliminary Environmental Study, dated 8/89; Final Report Environmental Study, dated 9/89; Test Results--Supplemental Groundwater Sampling, dated 4/90; and Conceptual Approach to Site Remediation, dated 4/90.

In early 1991, Federated Mutual Insurance Company retained the services of Burlingame, Bosworth, Sikes and Company as engineering consultants, to review the work completed to date. This report is available in Ecology's file and is referenced as follows: Draft Work Plan for Hydrocarbon Contamination Remediation, dated 3/91.

Tiger Oil Corporation
Tiger Oil Company
Federated Mutual Insurance Company
MTCA Enforcement Order
Second Amendment
No. DE 90-C140
Page 4

3.9 The Department of Ecology (Ecology) has provided notice to the Respondents, (Tiger Oil Corporation, Tiger Oil Company, Federated Mutual Insurance Company) that they are potentially liable persons after public notice and opportunity for comment, that a release or threatened release of a hazardous substance has occurred at the Facility, and that remedial action is required.

IV.

Ecology Determinations

4.1 The Respondents are identified as "owners or operators" as defined at RCW 70.105D.020(6) of a "facility" as defined in RCW 70.105D.020(3).

4.2 The Facility is located at 2312 West Nob Hill Boulevard, Yakima, Washington 98902, and includes the "Tiger Mini Mart", the underground storage tanks and connected piping, monitoring wells, recovery wells located at the Facility, "and all property that has been contaminated by the release of hazardous substances."

4.3 The petroleum products found in the monitoring wells at the Facility as described above, and in monitoring wells throughout the Facility, are "hazardous substances" as defined at RCW 70.105D.020(5).

4.4 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).

4.5 By letter, Ecology has notified the following of their status as a "potentially liable person" under RCW 70.105D.040 after notice and opportunity for comment:

- o Tiger Oil Corporation by letter dated June 28, 1989.

Tiger Oil Corporation
Tiger Oil Company
Federated Mutual Insurance Company
MTCA Enforcement Order
Second Amendment
No. DE 90-C140
Page 5

- o Tiger Oil Company by letter dated April 11, 1991.
- o Federated Mutual Insurance Company by letter dated April 11, 1991.

4.6 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.

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

V.

Work to be Performed

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

5.1 No later than thirty (30) days after issuance of this Enforcement Order, the Respondents shall submit to Ecology for review and approval, a draft plan for completion of a Facility Remedial Investigation/Feasibility Study (RI/FS). This draft plan shall include a detailed plan for work which, at a minimum, shall include hydrogeologic characterization, plume characterization, sampling and analysis, expected time required to complete the RI/FS, and analysis of alternative cleanup methods. The RI/FS shall be completed in compliance with WAC 173-340-350.

5.2 Ten (10) days after receipt of Ecology's comments on the draft plan, the Respondents shall submit a final plan for approval by Ecology.

5.3 No later than twenty (20) days after receipt of Ecology's written approval of the draft plan, the Respondents

Tiger Oil Corporation
Tiger Oil Company
Federated Mutual Insurance Company
MTCA Enforcement Order
Second Amendment
No. DE 90-C140
Page 6

shall begin the RI/FS work described in the plan. The RI/FS work shall be completed within the time frame described in the approved plan.

VI.

Terms and Conditions of Order

6.1 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.

6.2 Public Notice.

RCW 70.105D.030(2)(a) requires that, at a minimum, this Order be subject to concurrent public notice. Ecology shall be responsible for providing such public notice of this Order and reserves the right to modify or withdraw any provisions of this Order should public comment disclose facts or considerations that indicate to Ecology that the Order is inadequate or improper in any respect.

6.3 Remedial Action Costs.

The Respondents shall pay to Ecology costs incurred by Ecology pursuant to this Order. These costs shall include work performed by Ecology or its contractors for investigations, remedial actions, and Order preparation, 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 Respondents shall pay the required amount within 90 days of receiving from Ecology an itemized statement of costs that includes a summary of costs incurred, a general description of work performed, an identification of involved staff, and the amount of time spent by involved staff members on the project. Failure to pay Ecology's costs within 90 days of receipt of the itemized statement of costs may result in interest charges.

Tiger Oil Corporation
Tiger Oil Company
Federated Mutual Insurance Company
MTCA Enforcement Order
Second Amendment
No. DE 90-C140
Page 7

6.4 Designated Project Coordinators.

The project coordinator for Ecology is:

John Wietfeld
Department of Ecology - CRO
106 South 6th Avenue,
Yakima, Washington 98902-3387
509-454-7836

The project coordinator for the Respondents is:

Rory L. Galloway
Kleinfelder, Inc.
100 - 122nd Avenue NE, Suite C226
Bellevue, Washington 98004

The project coordinator(s) shall be responsible for overseeing the implementation of this Order. To the maximum extent possible, communications between Ecology and the Respondents, 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 the Respondents change project coordinator(s), written notification shall be provided to Ecology or the Respondents at least ten (10) calendar days prior to the change.

6.5 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 Respondents 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 Facility.

Tiger Oil Corporation
Tiger Oil Company
Federated Mutual Insurance Company
MTCA Enforcement Order
Second Amendment
No. DE 90-C140
Page 8

6.6 Access.

Ecology or any Ecology authorized representative shall have the authority to enter and freely move about all property at the Facility 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 Respondents. Ecology shall provide reasonable notice before entering the Facility unless an emergency prevents notice. Ecology shall allow split or replicate samples to be taken by the Respondents during an inspection unless doing so would interfere with Ecology's sampling. The Respondents shall allow split or replicate samples to be taken by Ecology and shall provide Ecology seven (7) days notice before any sampling activity.

6.7 Public Participation.

The Respondents shall prepare for Ecology review and comment a public participation plan for the Facility. Ecology shall maintain the responsibility for public participation at the Facility.

The Respondents shall help coordinate and implement public participation for the Facility.

6.8 Retention of Records.

The Respondents 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. The Respondents shall notify Ecology of the location of this information. Should any portion of the work performed hereunder be undertaken through contractors or agents of

Tiger Oil Corporation
Tiger Oil Company
Federated Mutual Insurance Company
MTCR Enforcement Order
Second Amendment
No. DE 90-C140
Page 9

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

6.9 Dispute Resolution.

The Respondents may request Ecology to resolve factual or technical disputes which may arise during the implementation of this Order. Such request shall be in writing and directed to the signatory of this Order. Ecology resolution of the dispute shall be binding and final.

The Respondents are not relieved of any requirement of this Order during the pendency of the dispute and remain responsible for timely compliance with the terms of the Order unless otherwise provided by Ecology in writing.

6.10 Reservation of Rights.

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

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

6.11 Transference of Property.

No voluntary or involuntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Facility shall be consummated by Tiger Oil Corporation, Tiger Oil Company, or Federated Mutual Insurance Company without provision for continued implementation of all requirements of this Order and implementation of any remedial

Tiger Oil Corporation
Tiger Oil Company
Federated Mutual Insurance Company
MTCA Enforcement Order
Second Amendment
No. DE 90-C140
Page 10

actions found to be necessary as a result of this Order.

Prior to transfer of any legal or equitable interest Tiger Oil Corporation, Tiger Oil Company, or Federated Mutual Insurance Company may have in the Facility or any portions thereof, the transferring party 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 transferring party shall notify Ecology of the contemplated transfer.

6.12 Compliance With Other Applicable Laws.

All actions carried out by Tiger Oil Corporation, Tiger Oil Company, or Federated Mutual Insurance Company pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements.

VII.

Satisfaction of this Order

The provisions of this Order shall be deemed satisfied upon the Respondents receipt of written notice from Ecology that the Respondents have completed the remedial activity required by this Order, as amended by any modifications, and that all other provisions of this Order have been complied with.

VIII.

Enforcement

8.1 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

Tiger Oil Corporation
Tiger Oil Company
Federated Mutual Insurance Company
MTCA Enforcement Order
Second Amendment
No. DE 90-C140
Page 11

for investigative and remedial actions and Orders related to the Facility.

- C. If the Respondents refuse, without sufficient cause, to comply with any term of this Order, the Respondents will be liable for:
- (1) up to three times the amount of any costs incurred by the State of Washington as a result of the Respondents refusal to comply; and
 - (2) civil penalties of up to \$25,000 per day for each day the Respondents 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: OCT 31 1991



ANTHONY W GROVER
Section Manager
Toxics Cleanup Program
Central Region

AWG\JOW:vw
October 29, 1991
g:tiger.ord

