

***SAFCO ENVIRONMENTAL
PROPERTY***

ENFORCEMENT ORDER

1993

**COMMENT PERIOD
JANUARY 6 - FEBRUARY 5, 1993**

STATE OF WASHINGTON
DEPARTMENT OF WASHINGTON

In the Matter of Remedial) Model Enforcement Order
Action by:) No. DE 92TC-N336

SAFCO Corporation, and
SAFCO ENVIRONMENTAL, and
SAFCO Safe Transport, aka SST, and
SAFCO Waste Management and
Seattle Automotive Fastener Company and
Hazco and
Hazco International and
James E. Johnson
1255 S. 188th St.
Sea-Tac, WA 98148

and

Robert (Bj) Bjerneby, and
Bjerneby Auto Rebuild, Inc.
1265 South 188th St.
Sea-Tac, WA 98148

and

TAM Engineering
c/o James M. Will, President and Ali Kandi, Ecology Manager
3033 S. Lawrence
Tacoma, WA 98409

and

ACPC Inc.
c/o Alfredo Rivera, President and Wendy A. Langhans, Q.A. Manager
P.O. Box 9801
5019 N.W. Lower River Road
Vancouver, WA 98660-1030

To: SAFCO ENVIRONMENTAL, and SAFCO Corporation, and SAFCO Safe Transport (aka
SST), and SAFCO Waste Management and James E. Johnson and Seattle Automotive
Fastener Company and Hazco and Hazco International (hereinafter SAFCO)

and

Robert Bjerneby and Bjerneby Auto Rebuild, Inc.

and

TAM Engineering

and

ACPC Inc.

I.

Jurisdiction

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

II.

Statement of Facts

1. SAFCO is a notifying hazardous waste transporter and burner/blender, and has been issued WAD No. 981766884, and WAD No. 980974869 and ORD No. 982654899 to engage in the business of transporting and blending/burning hazardous waste, dangerous waste and extremely hazardous waste by the U.S. EPA and the states of Washington and Oregon.

2. SAFCO was issued a Certificate of Incorporation on September 30, 1986, as Seattle Automotive Fastener Company, a for-profit corporation, Corporation Number 2-378356-6, by the Secretary of State of Washington. SAFCO, in its Articles of Incorporation, states that the purposes for which the corporation is organized are: "Auto parts, supply, chemical sales & hazardous waste disposal & management under the names SAFCO Waste Management, SAFCO, SAFCO, Inc., HAZCO, HAZCO International and any other lawful business allowed under the Washington Business Corporation Act. The Registered Agent, incorporator and President are James E. Johnson.

3. On December 24, 1990 the Seattle Automotive Fastener Company was dissolved by issuance of a Certificate of Administrative Dissolution by the Secretary of State of Washington in accordance with ch 23A.28.125 R.C.W. for failure to file an annual list of officers/license renewal.

4. On March 24, 1988 SAFCO was issued Water Quality Order DE 88-N135 requiring spill prevention measures to be taken at the facility, including provision of cover and containment of hazardous waste handling and storage areas and producing a spill contingency plan.

5. SAFCO was issued Dangerous Waste Order DE 87-N273 and Notice of Penalty DE 87-N279 on April 5, 1988 to correct violations of ch 70.105 RCW and ch 173-303 WAC, including covering the original labels on hazardous waste drums, receiving undated drums of hazardous waste, receiving regulated quantities of hazardous waste from generators without proper documentation, changing the designation of wastes, representing itself as a small-quantity generator, violating the requirements for generators and violating transportation and Dangerous Waste Management Facilities.

6. On June 28, 1989 the Pollution Control Hearings Board in a Settlement Agreement for PCHB NOS. 88-58, 88-65 and 88-66, consolidated from DE 88-N273 and -N279, and DE 88-S220 and-221 (SAFCO and Ecology, Ltd. appeals) ordered that SAFCO pay \$10,000.00 in assessed penalties immediately, and defer \$27,000.00 in penalties for a three-year probationary period, provided those monies were spent on site and waste handling practices improvements at the SAFCO Site, provided such actions were approved by the Department of Ecology. Approval by the Department of Ecology of any required plans by SAFCO to recycle wastes or install improvements at the site were also ordered. Safco was prohibited from operating a Hazardous Waste Treatment, Storage and Disposal Facility without proper permits, and allowed to operate as a designated facility only for specific, Department of Ecology approved wastes. SAFCO was also prohibited from repeating the violations specified in Order DE 88-N273. SAFCO was also ordered to provide verification to the Department of Ecology of proper waste tracking and disposal, and was prohibited from storing dangerous wastes more than 10 (ten) days on site.

7. On May 12, 1992 the Department of Ecology conducted a follow-up inspection to assess compliance with the Settlement Agreement (above). The SAFCO Facility was found to be out of compliance with the provisions of that agreement.

8. On October 21-23, 1992 the Department of Ecology and the City of Sea-Tac conducted site inspection, inventoried and numbered drums at the site and conducted preliminary site sampling. Visual observations and sample results indicate release of metals and petroleum from containers at the site. Several drums at the site exhibit bulging, a condition caused by exceedance of design pressure, not consistent with normal storage of waste oils and other non-hazardous waste. Exceedance of design pressure is a dangerous condition indicative of incipient drum failure. It calls into question the contents of the drums. Bulging is most often caused by presence of volatile organic chemicals or other chemicals that produce high vapor pressures at normal or slightly elevated temperatures. (See photos, Attachment A.)

9. SAFCO has caused or allowed releases, or has allowed conditions which cause threatened releases of petroleum, corrosive wastes, solvents and flammable liquids and heavy metals at the SAFCO Site. (See photos, Attachment A. and Analytical Results, Attachment D.)

10. The SAFCO Site is located at 1255 S. 188th St., in Seatac, WA, a property owned by Robert (Bj) Bjorneby.

11. 1255 S. 188th St. is adjacent to the approach path to the south end of the main runway at SeaTac International Airport.

12. The Sea-Tac Fire Department has determined that SAFCO, by its actions and inactions at the SAFCO Site, poses an imminent threat to the public health and safety of the City of Sea-Tac and to Sea-Tac International Airport.

13. The Sea-Tac Fire Department issued a compliance order to SAFCO on November 3, 1992 requiring actions to abate the threat posed by the SAFCO Site and SAFCO activities at that site.

14. The Sea-Tac Fire Department has determined that SAFCO has failed to abate that threat by its failure to comply with the November 3, 1992 Fire Department order.

15. Bjerneby Auto Rebuild, Inc. is a notifying hazardous waste Generator, WAD No. 045327335, and has shipped waste to the SAFCO Site as indicated by Uniform Hazardous Waste Manifest No. 04150 (Attachment C) and others.

16. TAM Engineering is a notifying large quantity hazardous waste Generator, WAD No. 009281403, and has shipped waste to the SAFCO Site as indicated by Non-Hazardous Waste Manifest No. 03706 (Attachment C) and others, and numerous marked waste containers on site which exhibit compromised integrity. (See photos, Attachment A.)

17. ACPC Inc. is a notifying hazardous waste Generator, WAD No. 180638850, and has shipped waste to the SAFCO Site as indicated by Non-Hazardous Waste Manifest No. 03380 (Attachment C) and others. Drums of waste from ACPC are on site and bulging.

III.

Ecology Determinations

1. SAFCO is an "owner or operator or transporter" as defined in RCW 70.105D.020(6) and -.040(1) of a "facility" as defined in RCW 70.105D.020(3).

2. SAFCO, SAFCO ENVIRONMENTAL, SAFCO Corporation, SAFCO Safe Transport (aka SST), SAFCO Waste Management, Seattle Automotive Fastener Company, Hazco and Hazco International are dba(s) of James E. Johnson, and are not registered corporations in the State of Washington.

3. Robert (Bj) Bjerneby is an "owner" as defined in RCW 70.105D.020(6) and -.040(1) of a "facility" as defined in RCW 70.105D.020(3).

4. Bjerneby Auto Rebuild, Inc. is a "generator" as defined in RCW 70.105D.040(1).

5. TAM Engineering, Inc. is a "generator or manufacturer" as defined in RCW 70.105D.040(1).

6. ACPC, Inc. is a "generator" as defined in RCW 70.105D.040(1).

7. The facility is known as the SAFCO Site and is located at 1255 S. 188th Street, Sea-Tac, WA, 98148.

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

9. 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).

10. The generators described above are Potentially Liable Persons as defined in RCW 70.105D.020(8).

11. By letters dated January 4, 1993, Ecology notified SAFCO et.al., and Robert Bjerneby., and Bjerneby Auto Rebuild, Inc., and TAM Engineering, and ACPC, Inc., hereinafter collectively referred to as "the PLP Group", each of its status as a "potentially liable person" under RCW 70.105D.040 after notice and opportunity for comment. The PLP Group includes, without limitation or reservation, all individual PLPs and any combination of PLPs that does not constitute the entire PLP Group as herein described. Exclusion of any member or members of the PLP Group does not relieve the remaining PLPs of liability or responsibility for complying with this Order.

12. 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.

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

14. This Order is an Emergency Order issued to mitigate an imminent threat to Public Health and Safety and the environment.

IV.

Work to be Performed

Based on the foregoing Facts and Determinations, it is hereby ordered that the PLP Group take the following remedial actions and that these actions be conducted in accordance with Chapter 173-340 WAC unless otherwise specifically provided for herein.

1. Any and all incompatible wastes and hazardous substances at the SAFCO Site shall be segregated and provided with secondary containment on site, or disposed of in a legal manner on or before January 15, 1993. A work plan for actions specified in this section IV(1), and acceptable to the Department of Ecology and to the Sea-Tac Fire Department shall be delivered to both departments on or before January 11, 1993. The PLP Group is responsible for assuring that this plan is acceptable to the Department of Ecology prior to the required delivery date.

2. All drums, tanks, buckets and any and all other containers at the SAFCO Site which contain hazardous substances or hazardous wastes or unknown contents, and which are bulging, leaking, deteriorated, excessively corroded, dented, punctured, incapable of being properly closed or exhibit any other condition which compromises the integrity of the container or the fitness of the container for transport or otherwise poses a threat of release, or is releasing, contents to the environment (air, soil, surface water, ground water, sanitary sewer, storm water conveyance system or secondary containment structure) shall be repacked, overpacked or otherwise placed in a secure container suitable for legal interstate transport on or before January 29, 1992. Containers affected by this section include, but are not limited to, those identified by the Department of Ecology as B-10, B-18, B-78, C-77, C-90, C-118, C-120, C-154, D-2, D-11, D-16, D-26, D-27, D-28, D-29, D-34, D-36, D-37, D-39, D-40, D-41, D-42, D-43, D-46, D-49, D-51, D-54, D-55, D-62, D-63, D-

64, open drums in the "D" area, open 5 (five) gallon containers in the "F" area, G-26 and G-29. See photos, Attachment "A". The letter prefix of each drum number indicates the area designated by letter in Attachment "B", the number is the number affixed to the drum itself. A work plan for the actions specified in this section IV(2), and acceptable to the Department of Ecology shall be delivered to the Department on or before January 20, 1993. The PLP Group is responsible for assuring that this plan is acceptable to the Department of Ecology prior to the required delivery date.

3. Each and every container referenced in Section IV(2), above, shall, on or before January 19, 1993, be sampled in such a way as to obtain a sample representing the entire contents of the container, including each phase or material within the container in approximately the proportions in which those phases or materials are found in the container. These samples shall be submitted to a laboratory certified by the U.S. Environmental Protection Agency and/or the Department of Ecology to perform the analysis required to characterize container contents as required by WAC 173-303 and such other laws or regulations as may apply to determine, in the case of each container, that contents of each container are or are not a hazardous waste, dangerous waste, extremely hazardous waste, hazardous substance or are otherwise regulated with regards to transportation or disposal, for each sample. The Department of Ecology shall be provided opportunity to obtain a split or duplicate of each sample collected under the requirements of this section. A site container sampling plan to accomplish the sampling specified in this section IV(3), and acceptable to the Department of Ecology shall be delivered to the Department of Ecology on or before January 15, 1993. The PLP Group is responsible for assuring that this plan is acceptable to the Department of Ecology prior to the required delivery date. Samples shall be transported to the laboratory in a verifiable chain of custody. Sample results and Quality Assurance and

Quality Control documentation shall be delivered to the Department of Ecology on or before January 29, 1993.

4. All containers and/or contents referenced in Section IV(2), above, shall be transported to a permitted Hazardous Waste Treatment, Storage and Disposal Facility or other disposal, treatment or reclamation facility acceptable to the Department of Ecology and the Sea-Tac Fire Department on or before February 15, 1993. A disposal plan for actions specified in this section (IV(4)), and acceptable to the Department of Ecology and the Sea-Tac Fire Department shall be delivered to the Department of Ecology and to the Sea-Tac Fire Department on or before February 5, 1993. The PLP Group is responsible for assuring that this plan is acceptable to the Department of Ecology prior to the required delivery date.

5. Any and all soil, water, sediments, debris, vegetation and other materials contaminated by any hazardous substances from the containers referenced in Section IV(2), above, shall be isolated from the environment and contained in drums, water-tight containers or in lined, covered containment areas acceptable to the Department of Ecology on or before February 26, 1993. A site contaminant containment plan, detailing the means of accomplishing the actions specified in this section (IV(5)), and acceptable to the Department of Ecology shall be delivered to the Department of Ecology on or before February 12, 1993. The PLP Group is responsible for assuring that this plan is acceptable to the Department of Ecology prior to the required delivery date.

6. Exhibits and Attachments are incorporated by reference and are integral and enforceable parts of the Order.

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 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 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 Group 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 PLP Group shall 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. Itemized statements shall be prepared quarterly. Failure to pay Ecology's costs within 90 days of receipt of the itemized statement of costs will result in interest charges.

4. Designated Project Coordinators.

The project coordinator for Ecology is:

Name: Don Seeberger, Solid and Hazardous Waste Program

Address: Northwest Regional Office

Department of Ecology

3190-160th Avenue N.E.

Bellevue, WA 98008-5452

The project coordinator for the PLP Group shall be designated by the PLP Group and communicated to the Department of Ecology not later than January 8, 1993.

The project coordinator(s) shall be responsible for overseeing the implementation of this Order. To the maximum extent possible, communications between Ecology and the PLP 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 coordinator(s). Should Ecology or the PLP Group change project coordinator(s), written notification shall be provided to Ecology or the PLP Group 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 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. The PLP Group shall provide a copy of this Order to all agents, contractors and subcontractors retained to perform work required by this Order and shall ensure that all work undertaken by such agents, contractors and subcontractors will be in compliance with this Order.

Except when necessary to abate an emergency situation, the PLP Group and/or any of its members, agents, contractors, subcontractors or employees shall not perform any remedial actions at the SAFCO 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 to practice in the State of Washington.

6. 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, 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 Group. When entering the Site under ch. 70.105D RCW, Ecology shall provide reasonable notice pursuant to ch 173-340-800(1) WAC prior to entering the Site unless an emergency prevents notice. Ecology shall allow split or replicate samples to be taken by the PLP Group during an inspection unless doing so would interfere with Ecology's sampling. The PLP Group shall allow split or replicate samples to be taken by Ecology and shall provide Ecology seven (7) days notice before any sampling activity.

7. Public Participation

Ecology shall maintain the responsibility for public participation at the Site.

The PLP Group shall help coordinate and implement public participation for the Site as requested by Ecology.

8. Retention of Records

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

9. Dispute Resolution

The PLP Group 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, or his/her successor(s), of this Order. Ecology resolution of the dispute shall be binding and final. The PLP 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.

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.

Ecology also reserves all rights regarding the injury to, destruction of, or loss of natural resources resulting from the release or threatened release of hazardous substances from the SAFCO 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 Group to stop further implementation of this Order for such period of time as needed to abate the danger.

11. 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 any member of the PLP Group 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 any member of the PLP Group may have in the Site or any portions thereof, the PLP Group 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 Group shall notify Ecology of the contemplated transfer.

12. Compliance With Other Applicable Laws

All actions carried out by the PLP Group pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements.

VI.

Satisfaction of this Order

The provisions of this Order shall be deemed satisfied upon the PLP Group's receipt of written notification from Ecology that the PLP Group has 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. Failure to comply with the terms and conditions of this Order without the express written concurrence of the Department of Ecology shall be construed as refusal to comply with this Order.

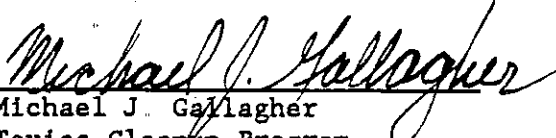
VII.

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 Group refuses, without sufficient cause, to comply with any term of this Order, the PLP Group and each individual PLP 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 of refusal 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: January 4, 1993.


Michael J. Gallagher
Toxics Cleanup Program
Section Supervisor, NWRO