

**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

In the Matter of Remedial Action by:

<b>City of Raymond</b>	)	MODEL
<b>230 Second Street</b>	)	AGREED ORDER
<b>Raymond, WA 98577-4100</b>	)	No. DE 03TCPSR-5501

TO: Ms. Rebecca Chaffee  
City of Raymond  
230 Second Street  
Raymond, WA 98577-4100

***I.***  
**Jurisdiction**

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

***II.***  
**Findings of Fact**

The Department of Ecology (Ecology) makes the following Findings of Fact, without admission of such facts by the City of Raymond (the City).

1. The City's Pacific Wholesale Site (the Site) is located on a 3+ acre parcel in downtown Raymond at 147 South 3<sup>rd</sup> Street, along the south fork of the Willapa River. The property is bounded to the north by the former Burlington Northern Railroad (now a walking trail) and by Alder Street. The east boundary is State Route 101 with the south boundary the Willapa River. To the west is a public park and boardwalk with kiosks depicting salmon recovery and the nearby estuary. This property, which includes the Site, is described in Schedule A which is attached. This property is generally described as tax parcels numbered 140819 102 R, 140819 67 R, 140819 078 R and 140819 040 R, by Pacific County and is located in the NW ¼ of the SW ¼ quarter of Section 19, Township 14 North, Range 8 West, W.M., in Pacific County, Washington, along the south fork of the Willapa River.

2. The Site was previously occupied by several buildings, including a large warehouse formerly used as a warehouse and wholesaler for industrial and building supply goods. Other buildings on the Site included two adjoining aluminum sided structures.

3. The property has been subdivided a number of times and various uses such as a lumber company, automobile dealership, foreign car auto repair shop, and power saw retail and repair have occurred.

4. In 1992, during a walk-through of the building, numerous 50-gallon barrels of various solvents were found, as well as barrels of what appeared to be waste oil. While the barrels were full or had some product, none appeared to be leaking at that time. The barrels do not appear on the Site at this time. The central portion of the building also housed a boiler room or oil furnace.

5. A paint-mixing vat was also identified in the center building subsequently used for automobile repair. While not tested, it was noted that hard, resin-like green crusts were present below the center building. Beneath the layer, the soil appeared to have possible hydrocarbon and/or solvent contamination.

6. Just east of the former building locations are remains of scrap metal scattered throughout the area. A raised gravel bed alongside the structure indicates a former above-ground petroleum tank. In the same area, several firmly implanted vertical pipes appear, possibly as a vent for an underground tank.

7. A Level II Environmental Audit was conducted for the City in 1992 indicating petroleum hydrocarbons and the potential for VOCs and heavy metals. Follow-up soil sampling in 1992 and 1993 indicated elevated levels of petroleum hydrocarbons from less than 29 mg/Kg to 6800 mg/Kg from the surface to 24 inches deep. Other contamination may exist but either analysis was not performed, in part due to the presence of large buildings, or results were not elevated.

8. On March 17, 2003, an arson fire consumed most of the buildings, leaving partially burned wood, metal, pilings, and other debris. Based on previous investigations of the Site, petroleum hydrocarbons as well as possible other contamination exists in the soil at levels exceeding the MTCA Method A cleanup levels.

### **III.**

#### **Ecology Determinations**

1. The City of Raymond is an “owner and operator” as defined at RCW 70.105D.020(6) of a “facility” as defined in RCW 70.105D.020(3).

2. The facility is known as Pacific Wholesale and is located at 147 South 3<sup>rd</sup> Street, Raymond, 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 Ecology, there is a release or threatened release of hazardous substances from the facility, as defined at RCW 70.105D.020(10).

5. By a letter of May 28, 2003, the City voluntarily waived its rights to notice and comment and accepted Ecology’s determination that the City is a “potentially liable person” under RCW 70.105D.040.

6. Pursuant to RCW 70.105D.030(1) and 70.105D.050, Ecology 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 City perform a remedial investigation/feasibility study and that these actions be conducted in accordance with Chapter 173-340 Washington Administrative Code (WAC) unless otherwise specifically provided for herein.

1. Within sixty (60) days of the effective date of this Order, submit to Ecology for review and approval a draft remedial investigation (RI) work plan for determining the nature and extent of the soil contamination, potential groundwater contamination, potential sediment contamination within the Willapa River, and provide steps to initiate interim actions, such as debris removal, as provided in WAC 173-340-350. The work plan shall also include:

- A draft sampling and analysis plan, which includes quality assurance/quality control activities prepared per the requirements of WAC 173-340-820. Proposed analytical procedures shall be in accordance with WAC 173-340-830.
- A draft health and safety plan. All work performed at the Site shall be in accordance with the provisions specified in WAC 173-340-810(1). A health and safety plan shall be prepared per WAC 173-340-810(2). Although the health and safety plan must be submitted to Ecology for review and comment, Ecology does not have authority to approve the plan.

Ecology's comments on the draft work plan shall be incorporated into the final work plan, which shall be submitted to Ecology within thirty (30) days of receipt of such comments. The implementation

of the final RI work plan shall be in accordance with the schedule approved in the final RI work plan or as modified, in writing, with the agreement of all parties.

2. The work plan shall provide the steps planned to perform building debris removal, including the proper disposition of removed debris, as well as to determine the nature and extent of contamination and potential contamination in the sediments within the Willapa River and the Site soils and groundwater both on-site and off-site. The work plan shall include steps to assess seasonal variation in the groundwater contamination levels, groundwater flow direction, and tidal influence. This shall include monthly measurements of water levels in the Site aquifer(s) for a minimum of one (1) year. Ecology may review the frequency of water level measurements at its discretion or at the request of the City.

If groundwater contamination is detected, the work plan shall focus and schedule the site investigation work such that interim measures can be designed and implemented to stop the migration of contaminated groundwater off-site as soon as possible. The work plan shall provide for other interim actions, which can correct problems that may become substantially worse or cost substantially more if action is delayed. An example of such an interim action would be removal of contaminated soils before a larger area becomes contaminated, as provided in WAC 173-340-430. The work plan shall include a schedule for all activities and for submittal of a final remedial investigation report.

3. The RI work plan shall describe analytical methods, parameters, and detection limits in addition to all quality assurance/quality control details needed as described in the most recent publication *Test Methods for Evaluation Solid Waste, Physical/Chemical Methods (SW-846)*.

4. All sediment sampling and analysis shall follow methodologies described in the Draft Sediment Sampling and Analysis Plan Appendix (Ecology 1995) and Recommended Guidelines for Conducting Laboratory Bioassays on Puget Sound Sediment (PSEP 1995).

5. Within ninety (90) days of receiving all analytical data, submit to Ecology for review a draft remedial investigation report. Ecology's comment on the draft report shall be incorporated into a Final Remedial Investigation report within thirty (30) days of the comments.

6. Within sixty (60) days of the approval of the remedial investigation report, the City will be required to submit a work plan for a feasibility study (FS), per the requirements of Chapter 173-340 WAC. Upon approval by Ecology of the FS work plan, the FS shall be performed and a FS report will be submitted for Ecology's review and approval. Ecology's comment on the draft FS report shall be incorporated into a Final FS Report within thirty (30) days of the comments.

7. Sixty (60) days after completion and approval of the FS, the City shall draft a Cleanup Action Plan (CAP) to satisfy the requirements of WAC 173-340-400.

8. After public review and comment, the draft CAP will be finalized by Ecology. Ecology and the City will enter into discussions for a Consent Decree or Agreed Order as determined by the parties hereto or an enforcement Administrative Order as determined by Ecology to design, construct, operate, and monitor the selected cleanup.

9. In accordance with WAC 173-340-840(5), environmental sampling data shall be submitted on paper and in electronic form capable of being transferred into Ecology's data management system within ten (10) working days of receipt from the laboratory.

10. Once approved, or modified and approved in writing by Ecology, all Ecology-approved submittals are incorporated by reference and become enforceable parts of this Order as if fully set forth herein.

11. The City shall provide a bi-monthly [every two (2) months] progress report, which will include the following:

- activities planned for the next two (2) months;
- a written summary of all lab data required by the order; and
- all lab data required by this Order or requested by Ecology shall be provided in an Ecology-approved electronic format.

This progress report frequency may be revised by Ecology if adequate justification is provided by the City, or if Ecology provides justification for a change.

**V.**  
**Terms and Conditions of Order**

1. Definitions

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

2. Public Notices

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 notice and reserves the right to modify or withdraw any provisions of the 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 City 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 and support costs of direct activities as defined in WAC 173-340-550(2). The City shall pay the required amount within ninety (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 ninety (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	Guy Barrett 360-407-7115 gbar461@ecy.wa.gov
Address	Department of Ecology Southwest Regional Office P.O. Box 47775 Olympia, WA 98504-7775

The project coordinator for the City is:

Name	Rebecca Chaffee 360-942-4108 RaymondPW@WillapaBay.Org
Address	City of Raymond Public Works Department 230 Second Street Raymond, WA 98577-4100

The project coordinator(s) shall be responsible for overseeing the implementation of this Order. To the maximum extent possible, communications between Ecology and the City, 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 City change project coordinator(s), written notification shall be provided to Ecology or the City 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 City 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 City 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 where necessary to abate an emergency situation, the City shall not perform any remedial actions at the Site outside that required by this Order unless Ecology concurs, in writing, with such additional remedial actions. WAC 173-340-400(6)(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 City. By signing this Agreed Order, the City agrees 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 City during an inspection unless doing so interferes with Ecology's sampling. The City 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: The City shall prepare and/or update a public participation plan for the Site. Ecology shall maintain the responsibility for public participation at the Site. The City shall help coordinate and implement public participation for the Site.

8. Retention of Records: The City 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 City, then the City agrees to include in their contract with such contractors or agents a record retention requirement meeting the terms of this paragraph.

9. Dispute Resolution: The City may request Ecology to resolve 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), to this Order. Ecology resolution of the dispute shall be binding and final. The City 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 this Order unless otherwise provided by Ecology in writing.

10. Reservation of Rights/No Settlement: This Agreed Order is not a settlement under Chapter 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 City 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 City to require those remedial actions required by this Agreed Order, provided the City complies 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 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 Site 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 the City 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 City may have in the Site or any portions thereof, the City 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 City shall notify Ecology of the contemplated transfer.

12. Compliance with Other Applicable Laws: All actions carried out by the City 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 City's receipt of written notification from Ecology that the City has 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.

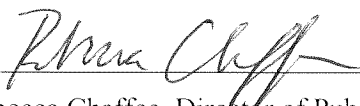
**VII.**  
**Enforcement**

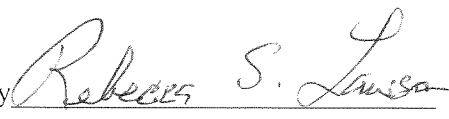
Pursuant to RCW 70.105D.050, this Order may be enforced as follows:

- 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 City refuses, without sufficient cause, to comply with any term of this Order, the City 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 Section 6 of Chapter 70.105D RCW.

Effective date of this Order: May 30, 2003

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

By   
Rebecca Chaffee, Director of Public Works  
City of Raymond  
230 Second Street  
Raymond, WA 98577-4100

By   
Rebecca S. Lawson, P.E.  
Regional Section Manager  
Toxics Cleanup Program  
Southwest Regional Office