

**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

In the Matter of Remedial Action at:

North Colfax Petroleum
Contamination Site

AGREED ORDER

No. 4599

TO: Colfax Grange Supply Company, Inc.
c/o Mr. Scott Zuger, General Manager
105 East Harrison Street
Colfax, WA 99111-2100

CHS, Inc.
c/o Mr. Kelly Morrow, Vice President, Transportation
5500 Cenex Drive, M.S. 506
Inver Grove Heights, MN 56077

Time Oil Company
c/o Mr. Mark Chandler, Environmental Manager
2737 West Commodore Way
Seattle, WA 98199-1233

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- Exhibit A: Site Diagram
- Exhibit B: Scope of Work and Schedule
- Exhibit C: Public Participation Plan

I. INTRODUCTION

The mutual objective of the State of Washington Department of Ecology (Ecology) and Colfax Grange Supply Company, Inc., CHS, Inc., and Time Oil Co. under this Agreed Order (Order) is to provide for remedial action at a facility where there has been a release or threatened release of hazardous substances. This Order requires Colfax Grange Supply Company, Inc., CHS, Inc., and Time Oil Co. to conduct a Remedial Investigation and Feasibility Study (RI/FS) for the petroleum releases at the North Colfax Petroleum Contamination Site (Site). Ecology believes the actions required by this Order are in the public interest.

II. JURISDICTION

This Agreed Order is issued pursuant to the authority of the Model Toxics Control Act (MTCA), Revised Code of Washington (RCW) 70.105D.050(1).

III. PARTIES BOUND

This Agreed Order shall apply to and be binding upon the Parties to this Order, their successors and assigns. The undersigned representative of each party hereby certifies that he or she is fully authorized to enter into this Order and to execute and legally bind such party to comply with the Order. Colfax Grange Supply Company, Inc., CHS, Inc., and Time Oil Co. agree to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter the responsibility of Colfax Grange Supply Company, Inc., CHS, Inc., and Time Oil Co. under this Order. Colfax Grange Supply Company, Inc., CHS, Inc., and Time Oil Co. 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 complies with this Order.

IV. DEFINITIONS

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

A. Site: This Site is referred to as the North Colfax Petroleum Contamination (NCPC) Site (the Site). The Site includes:

1. The Time Oil Co. Facility (Food Mart 041) located at 804 N. Main Street.
2. The Colfax Grange Supply Company, Inc. property located at 105 E. Harrison Street, including the cardtrol fueling facility located at the southeast corner of Tyler and N. Main Streets which has the address of 102 E. Tyler Street.

The Site is defined by the extent of contamination caused by the release of hazardous substances at the Site. Based upon factors currently known to Ecology, the Site is more particularly described in Exhibit A to this Order. Should additional information be discovered through the Remedial Investigation (RI) process that other facilities and/or areas are involved the Site boundaries will be changed accordingly. The Site constitutes a Facility under RCW 70.105D.020(4).

B. Parties: Refers to the State of Washington Department of Ecology, Colfax Grange Supply Company, Inc. (Colfax Grange), CHS, Inc. (CHS), and Time Oil Co.

C. PLPs: Refers to Colfax Grange, CHS, and Time Oil Co.

D. Agreed Order (Order): Refers to this Order and each of the exhibits to the Order. All exhibits are integral and enforceable parts of this Order. The terms “Agreed Order” or “Order” shall include all exhibits to the Order.

V. FINDINGS OF FACT

Ecology makes the following findings of fact without any express or implied admissions of such facts by the PLPs:

A. The North Colfax Petroleum Contamination Site is located within Whitman County, in Colfax, Washington, approximately 1,000 feet south of the Palouse River and east of the South Fork of the Palouse River. The Site includes two facilities with known petroleum releases.

B. Time Oil Co. owns the Food Mart 041 facility located at 804 N. Main Street (State Route 195) in Colfax, WA. The facility is an active gasoline convenience store.

C. Time Oil Co. upgraded the facility in 1999 and found petroleum-impacted soils and ground water. Time Oil Co. installed seven monitoring wells on their property in 2001. Additional ground water monitoring wells were installed at the facility in 2002, including up-gradient wells located in Tyler Street. Some of the wells have detected petroleum contamination in ground water beyond the boundaries of the Time Oil facility.

D. Ground water flow direction is generally believed to be toward the north-northwest.

E. Colfax Grange owns the property located at 105 E. Harrison Street in Colfax, WA. The property includes a cardtrol fueling facility located on the southeast corner of Tyler and Main Streets (State Route 195) which has the address of 102 E. Tyler.

F. In two letters dated July 1, 2004 and August 5, 2004, Ecology requested that Colfax Grange install ground water monitoring wells and conduct a Site Check in accordance with WAC 173-360-365.

G. Colfax Grange complied and installed monitoring wells at the cardtrol facility during October 2004.

H. Prior to collecting ground water samples from Colfax Grange's newly installed monitoring wells, CHS overfilled the underground unleaded fuel tank with an unspecified amount of fuel during the delivery to the site on October 15, 2004.

I. Ecology was notified of the release by Colfax Grange on November 8, 2004 via phone and fax from Colfax Grange.

J. The fax consisted of a handwritten note from the delivery driver to Colfax Grange documenting the release.

K. The fax also included a letter addressed to CHS from Colfax Grange, dated October 19, 2004, referencing the release of the fuel at Colfax Grange's cardtrol facility.

L. On November 15, 2004, Doug Ladwig, Ecology's Leaking Underground Storage Tank (LUST) Site Manager, visited the Site during an initial response to the release by the involved parties. During the visit, Mr. Scott Zuger with Colfax Grange and Mr. Kenny Evans

with CHS were present for their companies. Petroleum odors and discolored backfill materials were observed during the initial response being conducted by Colfax Grange.

Colfax Grange removed some of the concrete pad and vacuum removed some of the contaminated soil from around tank vaults and tops of tanks. In December of 2004, Colfax Grange installed two additional groundwater monitoring wells on the down gradient (north) side of the tank installation. Monitoring of these new down gradient wells confirmed the presence of groundwater contamination.

In the fall of 2006, Colfax Grange removed tanks, piping, and associated contaminated soil from its property. Contaminated soil was stockpiled and covered for later land farm treatment. Piping for future remediation efforts, new tanks, new piping, and new dispensers were installed and the site was backfilled. Monitoring of groundwater wells on Colfax Grange's property has continued for two quarterly sampling events since tank/soil removal in the fall of 2006.

VI. ECOLOGY DETERMINATIONS

A. Colfax Grange, CHS, and Time Oil Co. are "owners or operators" as defined in RCW 70.105D.020 (12).

B. Time Oil Co. owns the Food Mart 041 facility located at 804 N. Main Street (State Route 195).

C. Colfax Grange owns the property at 105 E. Harrison Street in Colfax, WA. The property includes the cardtrol fueling facility located on the southeast corner of Tyler and Main Streets (State Route 195), which has the address of 102 E. Tyler Street.

D. CHS is responsible for the October 15, 2004 release of an unspecified amount of hazardous materials at the Colfax Grange cardtrol facility.

E. Colfax Grange's cardtrol fueling facility and Time Oil Co.'s Food Mart 041 facility comprise the Site, based on current information known to Ecology.

F. Based upon all factors known to Ecology, a “release” or “threatened release” of “hazardous substances” as defined in RCW 70.105D.020(20) and RCW 70.105D.020(7), respectively, has occurred at the Site.

G. Based upon credible evidence, Ecology issued potentially liable person (PLP) status letters to Colfax Grange Supply Company, Inc. and Time Oil Co. dated August 25, 2006, pursuant to RCW 70.105D.040, .020(16) and WAC 173-340-500. After providing for notice and opportunity for comment, reviewing any comments submitted, and concluding that credible evidence supported a finding of potential liability, Ecology issued a determination that Colfax Grange Supply Company, Inc. is a potentially liable person under RCW 70.105D.040 and notified Colfax Grange of this determination by letter dated October 4, 2006. By letter dated September 21, 2006, Time Oil Co. voluntarily waived its rights to notice and comment and accepted Ecology’s determination that Time Oil Co. is a potentially liable person under RCW 70.105D.040. Time Oil Co. was notified that it is a PLP by letter on October 4, 2006.

CHS was issued a potentially liable person status letter on October 3, 2006, pursuant to RCW 70.105D.040, .020(16), and WAC 173-340-500. CHS requested a 30-day extension to comment. The extension was granted on October 26, 2006. In a letter dated November 17, 2006, CHS disputed Ecology’s determination that CHS was a PLP. CHS disputes Ecology’s characterization of CHS as an “owner or operator.” Ecology determined that credible evidence existed for the responsibility of the release of petroleum at Colfax Grange’s cardtrol facility on October 15, 2004. Ecology issued a letter of Determination of Potential Liable Person status to CHS on November 30, 2006.

H. Pursuant to RCW 70.105D.030(1) and .050(1), Ecology may require PLPs to investigate or conduct other remedial actions with respect to any 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 actions required by this Order are in the public interest.

VII. WORK TO BE PERFORMED

Based on the Findings of Fact and Ecology Determinations, it is hereby ordered that the PLPs take the following remedial actions at the Site, and that these actions be conducted in accordance with Chapter 173-340 WAC unless otherwise specifically provided for herein:

A. The work to be performed includes the planning, implementation, and reporting for a Remedial Investigation and Feasibility Study (RI/FS). Attached hereto as Exhibit B is the Scope of Work and Schedule for the RI/FS. Exhibit B is incorporated by reference as an integral and enforceable part of the Order.

B. The PLPs shall submit all necessary items of the Scope of Work to Ecology for review and approval in accordance with Exhibit B. Upon approval by Ecology, the Work Plan shall become an integral and enforceable part of this Order. After approval, the PLPs will proceed with field implementation of the Work Plan in accordance with the agreed upon schedule.

C. Written progress reports shall be completed every second month and shall be submitted by the tenth day of the month beginning the month following the effective date of this Order. The reports shall address and describe the previous full two months' progress toward completion of the Order including work in progress, problem areas, key activities, deliverables submitted, field work and data generated, subcontracting, analytical services performed and key staff changes.

D. If, at any time after the first exchange of comments on drafts, Ecology determines that insufficient progress is being made in the preparation of any of the deliverables required by this section, Ecology may complete and issue the final deliverable.

VIII. TERMS AND CONDITIONS OF THE ORDER

A. 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.

B. Remedial Action Costs

The PLPs shall pay to Ecology costs incurred by Ecology pursuant to this Order and consistent with WAC 173-340-550(2). These costs shall include work performed by Ecology or its contractors for, or on, the Site under Chapter RCW 70.105D RCW, including remedial actions and Order preparation, negotiation, oversight, and administration. These costs shall include work performed both prior to and subsequent to the issuance of the Order. Ecology's cost shall include costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2). The PLPs 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 statement of work performed will be provided upon request. Itemized statements shall be prepared quarterly. Pursuant to WAC 173-340-550(4), failure to pay Ecology's costs within ninety (90) days of receipt of the itemized statement of costs will result in interest charges at the rate of twelve percent (12%) per annum, compounded monthly.

Pursuant to RCW 70.105D.055, Ecology has authority to recover unreimbursed remedial action costs by filing a lien against real property subject to the remedial actions.

C. Implementation of Remedial Action

If Ecology determines that the PLPs have failed without good cause to implement the remedial action, in whole or in part, Ecology may, after notice to the PLPs, perform any or all portions of the remedial action that remain incomplete. If Ecology performs all or portions of the remedial action because of the PLPs' failure to comply with their obligations under this Order, the PLPs shall reimburse Ecology for the costs of doing such work in accordance with Section VIII.B, provided that the PLPs are not obligated under this Section to reimburse Ecology for costs incurred for work inconsistent with or beyond the scope of this Order.

Except where necessary to abate an emergency situation, the PLPs shall not perform any remedial actions at the Site outside those remedial actions required by this Order, unless Ecology concurs, in writing, with such additional remedial actions.

D. Designated Project Coordinators

The project coordinator for Ecology is:

Douglas Ladwig
WA Dept. of Ecology
4601 N. Monroe
Spokane, WA 99205

The project coordinator for the PLPs is:

Ryan K. Bixby, L.G.
Sound Environmental Strategies
2400 Airport Way South, Ste. 200
Seattle, WA 98134-2020

Each project coordinator shall be responsible for overseeing the implementation of this Order. Ecology's project coordinator will be Ecology's designated representative for the Site. To the maximum extent possible, communications between Ecology and the PLPs, 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. The project coordinators may designate, in writing, working level staff contacts for all or portions of the implementation of the work to be performed required by this Order.

Any party may change their respective project coordinator. Written notification shall be given to the other party at least ten (10) calendar days prior to the change.

E. Performance

All geologic and hydrogeologic work performed pursuant to this Order shall be under the supervision and direction of a geologist licensed in the state of Washington or under the direct supervision of an engineer registered in the state of Washington, except as otherwise provided for by Chapters 18.220 and 18.43 RCW.

All engineering work performed pursuant to this Order shall be under the direct supervision of a professional engineer registered in the state of Washington, except as otherwise provided for by RCW 18.43.130.

All construction work performed pursuant to this Order shall be under the direct supervision of a professional engineer or a by qualified technician under the direct supervision of a professional engineer. The professional engineer must be registered in the state of Washington, except as otherwise provided for by RCW 18.43.130.

Any documents submitted containing geologic, hydrologic or engineering work shall be under the seal of an appropriately licensed professional as required by Chapter 18.220 RCW or RCW 18.43.130.

The PLPs shall notify Ecology in writing of the identity of any engineer(s) and geologist(s), contractor(s) and subcontractor(s), and others to be used in carrying out the terms of this Order, in advance of their involvement at the Site.

F. Access

Ecology or any Ecology authorized representative shall have the full authority to enter and freely move about all property at the Site that the PLPs either own, control, or have access rights to 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 PLPs' progress in carrying out the terms of this Order; conducting such tests or collecting such samples as Ecology 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 PLPs. The PLPs shall make all reasonable efforts to secure access rights for those properties within the Site not owned or controlled by the PLPs where remedial activities or investigations will be performed pursuant to this Order. Ecology or any Ecology authorized representative shall give reasonable notice before entering any Site property owned or controlled by the PLPs unless an emergency prevents such notice. All persons who access the Site pursuant to this paragraph shall comply with any applicable Health and Safety Plans. Ecology employees

and their representatives shall not be required to sign any release or waiver as a condition of Site property access.

G. Sampling, Data Submittal, and Availability

With respect to the implementation of this Order, the PLPs shall make the results of all sampling, laboratory reports, and/or test results generated by it or on its behalf available to Ecology. Pursuant to WAC 173-340-840(5), all sampling data shall be submitted to Ecology in both printed and electronic formats in accordance with Section VII (Work to be Performed), Ecology's Toxics Cleanup Program Policy 840 (Data Submittal Requirements), and/or any subsequent procedures specified by Ecology for data submittal.

If requested by Ecology, the PLPs shall allow Ecology and/or its authorized representative to take split or duplicate samples of any samples collected by the PLPs pursuant to implementation of this Order. The PLPs shall notify Ecology seven (7) days in advance of any sample collection or work activity at the Site. Ecology shall, upon request, allow the PLPs and/or their authorized representatives to take split or duplicate samples collected by Ecology pursuant to the implementation of this Order, provided it does not interfere with Ecology's sampling. Without limitation on Ecology's rights under Section VIII.F (Access), Ecology shall notify the PLPs prior to any sample collection activity unless an emergency prevents such notice.

In accordance with WAC 173-340-830(2)(a), all hazardous substance analyses shall be conducted by a laboratory accredited under Chapter 173-50 WAC for the specific analyses to be conducted, unless otherwise approved by Ecology.

H. Public Participation

A Public Participation Plan is required for this Site. A Public Participation Plan has been developed for this Site, and is attached hereto as Exhibit C.

Ecology shall review any existing public participation plan to determine its continued appropriateness and whether it requires amendment, or if no plan exists, Ecology shall develop a public participation plan alone or in conjunction with the PLPs.

Ecology shall maintain the responsibility for public participation at the Site. However, the PLPs shall cooperate with Ecology, and shall:

1. If agreed to by Ecology, develop appropriate mailing list, prepare drafts of public notices and fact sheets at important stages of the remedial action, such as the submission of work plans, remedial investigation/feasibility study reports, cleanup action plans, and engineering design reports. As appropriate, Ecology will edit, finalize, and distribute such fact sheets and prepare and distribute public notices of Ecology's presentations and meetings;

2. Notify Ecology's project coordinator prior to the preparation of all press releases and fact sheets and before major meetings with the interested public and local governments. Likewise, Ecology shall notify the PLPs prior to the issuance of all press releases and fact sheets, and before major meetings with the interested public and local governments. For all press releases, fact sheets, meetings, and other outreach efforts by the PLPs that do not receive prior Ecology approval, the PLPs shall clearly indicate to its audience that the press release, fact sheet, meeting, or other outreach effort was not sponsored or endorsed by Ecology;

3. When requested by Ecology, participate in public presentations on the progress of the remedial action at the Site. Participation may be through attendance at public meetings to assist in answering questions, or as a presenter;

4. When requested by Ecology, arrange and/or continue information repositories to be located at the following locations:

- (a) Whitman County Library
102 S. Main Street
Colfax, WA 99111
- (b) WA Dept. of Ecology
Eastern Regional Office
4601 N. Monroe
Spokane, WA 99205

At a minimum, copies of all public notices, fact sheets, and documents associated with the public comment periods relating to performance of the remedial action required by this Order shall be promptly placed in these repositories.

I. Retention of Records

During the pendency of this Order and for ten (10) years from the date of completion of work performed pursuant to this Order, the PLPs shall preserve all records, reports, documents, and underlying data in their possession relevant to the implementation of this Order and shall insert a similar record retention requirement into all contracts with project contractors and subcontractors. Upon request of Ecology, the PLPs shall make all records available to Ecology and allow access for review within a reasonable time.

J. Resolution of Disputes

1. In the event a dispute arises as to an approval, disapproval, proposed change, or other decision or action by Ecology's project coordinator, or an itemized billing statement under Section VIII.13 (Remedial Action Costs), the Parties shall utilize the dispute resolution procedure set forth below.

(a) Upon receipt of the Ecology project coordinator's decision or the itemized billing statement, the PLPs have fourteen (14) days within which to notify Ecology's project coordinator of its objection to the decision or itemized statement.

(b) The Parties' project coordinators shall then confer in an effort to resolve the dispute. If the project coordinators cannot resolve the dispute within fourteen (14) days, Ecology's project coordinator shall issue a written decision.

(c) The PLPs may then request Ecology management review of the decision. This request shall be submitted in writing to the Eastern Regional Office Toxics Cleanup Section Manager within seven (7) days of receipt of Ecology's project coordinator's decision.

(d) The Section Manager shall conduct a review of the dispute and shall endeavor to issue a written decision regarding the dispute within sixty (60) days of the

PLPs' request for review. The Section Manager's decision shall be Ecology's final decision on the disputed matter.

2. The Parties agree to only utilize the dispute resolution process in good faith and agree to expedite, to the extent possible, the dispute resolution process whenever it is used.

3. Implementation of these dispute resolution procedures shall not provide a basis for delay of any activities required in this Order, unless Ecology agrees in writing to a schedule extension.

K. Extension of Schedule

1. An extension of schedule shall be granted only when a request for an extension is submitted in a timely fashion, generally at least thirty (30) days prior to expiration of the deadline for which the extension is requested, and good cause exists for granting the extension. All extensions shall be requested in writing. The request shall specify the reason(s) the extension is needed. The request shall specify:

- (a) The deadline that is sought to be extended.
- (b) The length of the extension sought.
- (c) The reason(s) for the extension.
- (d) Any related deadline or schedule that would be affected if the extension were granted.

2. The burden shall be on the PLPs to demonstrate to the satisfaction of Ecology that the request for such extension has been submitted in a timely fashion and that good cause exists for granting the extension. Good cause includes, but is not limited to:

- (a) Circumstances beyond the reasonable control and despite the due diligence of the PLPs including delays caused by unrelated third parties or Ecology, such as (but not limited to) delays by Ecology in reviewing, approving, or modifying documents submitted by the PLPs.
- (b) Acts of God, including fire, flood, blizzard, extreme temperatures, storm, or other unavoidable casualty.

- (c) Endangerment as described in Section VIII.M. (Endangerment).

However, neither increased costs of performance of the terms of this Order nor changed economic circumstances shall be considered circumstances beyond the reasonable control of the PLPs.

3. Ecology shall act upon any written request for extension in a timely fashion. Ecology shall give the PLPs written notification in a timely fashion of any extensions granted pursuant to the Order. A requested extension shall not be effective until approved by Ecology. Unless the extension is a substantial change, it shall not be necessary to amend this Order pursuant to Section VIII.L (Amendment of Order) when a schedule extension is granted.

4. An extension shall only be granted for such period of time as Ecology determines is reasonable under the circumstances. Ecology may grant schedule extensions exceeding ninety (90) days only as a result of:

- (a) Delays in the issuance of a necessary permit which was applied for in a timely manner.
- (b) Other circumstances deemed exceptional or extraordinary by Ecology.
- (c) Endangerment as described in Section VIII.M (Endangerment).

L. Amendment of Order

The project coordinators may verbally agree to minor changes to the work to be performed without formally amending this Order. Minor changes will be documented in writing by Ecology within seven (7) days of verbal agreement.

Except as provided in Section VIII.N (Reservation of Rights), substantial changes to the work to be performed shall require formal amendment of this Order. This Order may only be formally amended by the written consent of both Ecology and the PLPs. The PLPs shall submit a written request for amendment to Ecology for approval. Ecology shall indicate its approval or disapproval in writing and in a timely manner after the written request for amendment is received. If the amendment to the Order represents a substantial change, Ecology will provide additional public notice and opportunity to comment. If Ecology does not agree to a proposed

amendment, the disagreement may be addressed through the dispute resolution procedures described in Section VIII.J (Resolution of Disputes).

M. Endangerment

In the event Ecology determines that any activity being performed at the Site is creating or has the potential to create a danger to human health or the environment on or surrounding the Site, Ecology may direct the PLPs to cease such activities for such period of time as it deems necessary to abate the danger. The PLPs shall immediately comply with such direction.

In the event the PLPs determine that any activity being performed at the Site is creating or has the potential to create a danger to human health or the environment, the PLPs may cease such activities. The PLPs shall notify Ecology's project coordinator as soon as possible, but no later than twenty-four (24) hours after making such determination or ceasing such activities. Upon Ecology's direction the PLPs shall provide Ecology with documentation of the basis for the determination or cessation of such activities. If Ecology disagrees with PLPs' cessation of activities, it may direct the PLPs to resume such activities.

If Ecology concurs with or orders a work stoppage pursuant to Section VIII.M (Endangerment), the PLPs' obligations with respect to the ceased activities shall be suspended until Ecology determines the danger is abated, and the time for performance of such activities, as well as the time for any other work dependent upon such activities, shall be extended in accordance with Section VIII.K (Extension of Schedule) for such period of time as Ecology determines is reasonable under the circumstances.

Nothing in this Order shall limit the authority of Ecology, its employees, agents, or contractors to take or require appropriate action in the event of an emergency.

N. Reservation of Rights

This 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 PLPs to recover remedial action costs paid to and received by Ecology under this Order. In addition, Ecology will not take

additional enforcement actions against the PLPs regarding remedial actions required by this Order, provided the PLPs comply with this Order.

Ecology nevertheless reserves its rights under Chapter 70.105D RCW including the right to require additional or different remedial actions at the Site should it deem such actions necessary to protect human health and the environment, and to issue orders requiring such remedial actions. 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 at the Site.

O. Transfer of Interest in Property

No voluntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Site shall be consummated by the PLPs 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 any of the PLPs' transfer of any interest in all or any portion of the Site, and during the effective period of this Order, the PLPs shall provide a copy of this Order upon any prospective purchaser, lessee, transferee, assignee, or other successor in said interest; and, at least thirty (30) days prior to any transfer, the PLPs shall notify Ecology of said transfer. Upon transfer of any interest, PLPs shall restrict uses and activities to those consistent with this Order and notify all transferees of the restrictions on the use of the property.

P. Compliance with Applicable Laws

1. All actions carried out by the PLPs pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements, including requirements to obtain necessary permits, except as provided in RCW 70.105D.090. At this time, no federal, state, or local requirements have been identified as being applicable to the actions required by this Order.

2. Pursuant to RCW 70.105D.090(1), the PLPs are exempt from the procedural requirements of Chapters 70.94, 70.95, 70.105, 77.55, 90.48, and 90.58 RCW and of any laws

requiring or authorizing local government permits or approvals. However, the PLPs shall comply with the substantive requirements of such permits or approvals. At this time, no state or local permits or approvals have been identified as being applicable but procedurally exempt under this section.

The PLPs have a continuing obligation to determine whether additional permits or approvals addressed in RCW 70.105D.090 (1) would otherwise be required for the remedial action under this Order. In the event either Ecology or the PLPs determine that additional permits or approvals addressed in RCW 70.105D.090 (1) would otherwise be required for the remedial action under this Order, it shall promptly notify the other party of its determination. Ecology shall determine whether Ecology or the PLPs shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, the PLPs shall promptly consult with the appropriate state and/or local agencies and provide Ecology with written documentation from those agencies of the substantive requirements those agencies believe are applicable to the remedial action. Ecology shall make the final determination on the additional substantive requirements that must be met by the PLPs and on how the PLPs must meet those requirements. Ecology shall inform the PLPs in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. The PLPs shall not begin or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination.

3. Pursuant to RCW 70.105D.090(2) in the event Ecology determines that the exemption from complying with the procedural requirements of the laws referenced in RCW 70.105D.090(1) would result in the loss of approval from a federal agency that is necessary for the State to administer any federal law, the exemption shall not apply and the PLPs shall comply with both the procedural and substantive requirements of the laws referenced in RCW 70.105D.090(1), including any requirements to obtain permits.

Q. Indemnification

The PLPs agree to indemnify and save and hold the state of Washington, its employees, and agents harmless from any and all claims or causes of action for death or injuries to persons or for loss or damage to property arising from or on account of acts or omissions of the PLPs, its officers, employees, agents, or contractors in entering into and implementing this Order. However, the PLPs shall not indemnify the state of Washington nor save nor hold its employees and agents harmless from any claims or causes of action arising out of the negligent acts or omissions of the state of Washington, or the employees or agents of the State, in implementing the activities pursuant to this Order.

IX. SATISFACTION OF ORDER

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

X. 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 remedial actions and orders related to the Site.

C. In the event the PLPs refuse, without sufficient cause, to comply with any term of this Order, the PLPs will be liable for:

1. Up to three (3) times the amount of any costs incurred by the State of Washington as a result of their refusal to comply; and

2. Civil penalties of up to \$25,000 per day for each day they refuse 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: Sept. 6, 2007

COLFAX GRANGE SUPPLY CO., INC.

**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

Scott Zuger, General Manager
105 East Morrison Street
Colfax, WA 99111-2100
(509) 397-4324



Flora Goldstein, Section Manager
Toxics Cleanup Program
Eastern Regional Office
(509) 329-3400

CHS, INC.

Kelly Morrow, Vice President, Transportation
5500 Cenex Drive, M.S. 506
Inver Grove Heights, MN 56077
(651) 355-6000

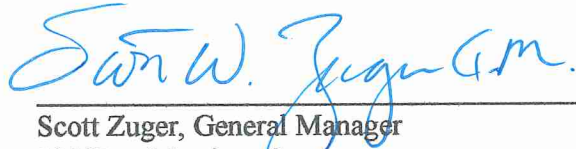
TIME OIL CO.

H. Roger Holliday, President
2737 West Commodore Way
Seattle, WA 98199-1233
(206) 285-2400

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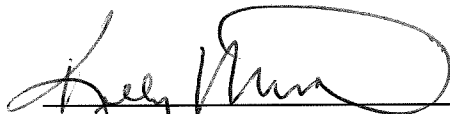
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6-28 7/1/07
Walter Szymon 7-26-07
Mark Chandler 7-26-07

