

**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

In the Matter of Remedial Action by:

Chevron U.S.A. Inc.

AGREED ORDER

No. DE 7111

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TO: Mr. Dan Carrier, Project Manager
Chevron Environmental Mangement Company
145 South State College Boulevard, Room 4086
Brea, CA 92821

SA STATE
DEPARTMENT OF ECOLOGY
SW REGIONAL OFFICE

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I. INTRODUCTION

The mutual objective of the State of Washington, Department of Ecology (Ecology) and **Chevron U.S.A Inc.** 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 **Chevron U.S.A Inc.** to **undertake a remedial investigation/feasibility study at this Site**. Ecology believes the actions required by this Order are in the public interest.

II. JURISDICTION

This Agreed Order is issued pursuant to the Model Toxics Control Act (MTCA), 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 this Order. **Chevron U.S.A Inc.** agrees to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter **Chevron U.S.A Inc.**'s responsibility under this Order. **Chevron U.S.A Inc.** 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 WAC shall control the meanings of the terms in this Order.

A. Site: The Site is referred to as **Bowman Oil & Propane** and is generally located at **1656 E. J Street, Tacoma, WA**. 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 the Site Diagram (Exhibit A). The Site constitutes a Facility under RCW 70.105D.020(5).

B. Parties: Refers to the State of Washington, Department of Ecology, **Chevron U.S.A. Inc. (Chevron), and Cornerstone Property Investments.**

C. Potentially Liable Person (PLP): Refers to **Chevron U.S.A. Inc. and Cornerstone Property Investments.**

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

E. Model Toxics Control Act (MTCA): Refers to Chapter 70.105D RCW.

V. FINDINGS OF FACT

Ecology makes the following findings of fact, without any express or implied admissions of such facts by **Chevron U.S.A Inc.:**

A. Standard Oil Company (now Chevron U.S.A Inc.) purchased this property in approximately 1905 and used it as a bulk fuel plant facility until 1988 when operations ceased. While in operation this facility had 13 above ground storage tanks and 4 underground storage tanks with capacities ranging from 10,000 to 1.6 million gallons. The tanks held gasoline, diesel, light and industrial fuel oil, aviation gasoline, stove and furnace oils, and additives.

B. The Site was sold to Bowman Propane in 1999 and was subsequently acquired by Reinhard Petroleum in 2004. Reinhard Petroleum is doing business currently as Cornerstone Property Investments. Cornerstone Property Investments is leasing to Bowman Oil and Propane.

C. In 1984 Standard Oil Company installed ten monitoring wells and hydrocarbon odors were detected in all ten wells. Light non-aqueous phase liquids (LNAPL) were measured in three of the wells. In 1984 Standard Oil changed its name to Chevron U.S.A. Inc.

D. In March 1989 two additional monitoring wells and two hand borings were installed by Chevron U.S.A Inc. Several feet of free product was encountered in monitoring well MW-4. Five additional monitoring wells were installed September 1989 and soil samples contained total petroleum hydrocarbons (TPH) and benzene, toluene, ethylbenzene, and xylene (BTEX) above MTCA Method A cleanup levels. Forty nine test pits were then installed and TPH concentrations were found in the soil above MTCA Method A cleanup levels in all but 2 of

the test pits. In early 1989 approximately 2.5 gallons of LNAPL was bailed from MW-4. An unknown quantity of LNAPL was bailed from boring C-8.

E. Five additional monitoring wells were installed in 1990 into the lower aquifer and LNAPL was detected in three of the wells. Fourteen additional hand augers were drilled and 34 test pits were excavated resulting in TPH in some of the soil samples.

F. In the early 1990's Chevron planted approximately 500 poplar trees in an effort to phytoremediate groundwater and minimize off-property migration. The trees were then removed.

G. In September 1992 twenty test pits were excavated and five shallow borings were drilled. Polynuclear aromatic hydrocarbons were found in soil samples above MTCA Method A cleanup Levels in two test pits. Lead was found above MTCA Method A cleanup levels in one soil sample. Two of the borings were converted to monitoring wells and PAHs were found in exceedance of MTCA Method A cleanup levels for groundwater in one well. Other wells had gasoline and/or diesel-range hydrocarbons above MTCA Method A cleanup levels in groundwater.

H. In 2001 approximately 58 tons of petroleum-impacted soil in the vicinity of the sewer and electrical lines were disposed of offsite.

I. Chevron has had several companies conduct pilot studies to thermally oxidize or bioremediate the soil but state cleanup levels were not attained.

J. Groundwater monitoring of the lower and upper aquifer has occurred periodically since 1984. Diesel and oil range hydrocarbons continue to exist above MTCA cleanup levels in the groundwater.

VI. ECOLOGY DETERMINATIONS

A. **Chevron U.S.A Inc.** is an "owner or operator" as defined in RCW 70.105D.020(17) of a "facility" as defined in RCW 70.105D.020(5).

B. Based upon all factors known to Ecology, a “release” or “threatened release” of “hazardous substance(s)” as defined in RCW 70.105D.020(25) and RCW 70.105D.020(10), respectively, has occurred at the Site.

C. Based upon credible evidence, Ecology issued a PLP status letter to **Chevron U.S.A Inc.** dated **July 21, 2009**, pursuant to RCW 70.105D.040, -.020(21) and WAC 173-340-500. By letter dated **August 18, 2009**, **Chevron U.S.A Inc.** voluntarily waived its rights to notice and comment and accepted Ecology’s determination that **Chevron U.S.A Inc.** is a PLP under RCW 70.105D.040.

D. Based upon credible evidence, Ecology issued a PLP status letter to **Cornerstone Property Investments** dated **July 21, 2009**, pursuant to RCW 70.105D.040, -.020(21) and WAC 173-340-500. By letter dated **August 5, 2009**, **Cornerstone Property Investments** voluntarily waived its rights to notice and comment and accepted Ecology’s determination that **Cornerstone Property Investments** is a PLP under RCW 70.105D.040.

E. 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.

F. On September 2, 2009 Ecology issued final Potentially Liable Person (PLP) determination notices to Cornerstone Property Investments and Chevron U.S.A. Inc. for the Chevron Bulk Plant USA #1328 site.

G. Under WAC 173-340-430, an interim action is a remedial action that is technically necessary to reduce a threat to human health or the environment by eliminating or substantially reducing one or more pathways for exposure to a hazardous substance, that corrects a problem that may become substantially worse or cost substantially more to address if the remedial action is delayed, or that is needed to provide for completion of a site hazard assessment, remedial investigation/feasibility study or design of a cleanup action. Since soil and

groundwater continue to be contaminated with hazardous substances, such circumstances may warrant an interim action consistent with WAC 173-340-430.

VII. WORK TO BE PERFORMED

Based on the Findings of Fact and Ecology Determinations, it is hereby ordered that **Chevron U.S.A Inc.** 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:

1. Within sixty (60) days of the effective date of this order, Chevron U.S.A Inc. shall submit to Ecology for review and approval a draft remedial investigation /feasibility study (RI/FS) work plan as outlined in WAC 173-340-350 which includes, but is not limited to, a terrestrial ecological evaluation, determining the nature and extent of soil contamination, evaluating potential groundwater contamination, and providing steps to initiate interim action as provided in WAC 173-340-350. This 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.
- 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, by Ecology.

2. The work plan shall provide a process to determine the nature and extent of contamination and potential contamination of Site soils and groundwater both on-property and off-property. The work plan shall direct RI/FS field work as scheduled in the Final RI/FS Work Plan. The work plan shall include steps to assess seasonal variation in the groundwater, contamination levels and groundwater flow direction. This shall include quarterly measurements of water levels and groundwater flow direction. This shall include quarterly measurements of water levels in affected aquifers for a minimum of one (1) year. Ecology may review the frequency of water level measurements at its discretion or at the request of Chevron U.S.A Inc.. 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 action, which can correct problems, which 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 they contaminate larger areas, 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/FS 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 Evaluating Solid Waste, Physical/Chemical Methods (SW-846).
4. The RI/FS work plan shall provide for implementation of a feasibility study (FS) per the requirements of Chapter 173-340 WAC.

5. Within sixty (60) days of receiving all analytical data, Chevron U.S.A. Inc. shall submit to Ecology for review a draft remedial investigation report. Within sixty (60) days of receiving Ecology's comments on the draft RI report, Chevron U.S.A. Inc. shall submit to Ecology for review a draft feasibility study report. Ecology's comments on the draft reports shall be incorporated into a Final RI/FS report and submitted to Ecology within thirty (30) days of receiving Ecology's comments on the draft FS report.

6. Within sixty (60) days after completion and approval of the RI/FS, Chevron U.S.A Inc. shall draft a Cleanup Action Plan (CAP) to satisfy the requirements of Chapter 173-340-380 WAC. The draft CAP will be written in accordance with WAC 173-340-380 and will detail the proposed cleanup action for addressing the contamination present on the Site. The proposed cleanup action in the CAP will be negotiated with Ecology before the draft is written. The draft CAP will address the requirements for developing a cleanup action in WAC 173-340-350 through 173-340-390, with specific attention to Ecology's expectations for cleanup alternatives in WAC 173-340-370. The draft CAP will include a general description of the proposed cleanup action, cleanup standards from the RI/FS and a rationale regarding their selection, a proposed schedule for implementation, a description of any institutional controls proposed, and a summary of federal, state and local laws that are applicable to the proposed cleanup action.

7. Preparation of a Final CAP is not part of this Order. Ecology will prepare a Final CAP in a subsequent Agreed Order or Consent Decree.

SCHEDULE OF DELIVERABLES

Deliverable

Schedule

- Draft RI/FS Work Plan, including Sampling Plan
- Final RI/FS Work Plan
- Perform RI/FS Field Work
- Complete RI/FS Field Work
- Draft RI Report
- Draft FS Report
- Final RI/FS Report
- Draft CAP
- 60 days following the effective date of the Agreed Order
- 30 days after receiving Ecology's written comments on the Draft RI/FS Work Plan
- As scheduled in Final RI/FS Work Plan
- As scheduled in Final RI/FS Work Plan
- 60 days after completion of field work and receipt of final analytical results
- 60 days after receiving Ecology's written comments on the Draft RI Report
- 30 days after receiving Ecology's written comments on the Draft FS Report
- 60 days after the Final RI/FS Report is issued

8. 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 (VII), Ecology may complete and issue the final deliverable. Ecology will endeavor to provide written comment on draft reports within 60 days of receipt.

VIII. TERMS AND CONDITIONS OF 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 this Order is inadequate or improper in any respect.

B. Remedial Action Costs

Chevron U.S.A Inc. 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 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 this Order. Ecology's costs shall include costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2). Ecology has accumulated **\$4,210.40** in remedial action costs related to this facility as of **September 30, 2009**. Payment for this amount shall be submitted within thirty (30) days of the effective date of this Order. For all costs incurred subsequent to **September 30, 2009**, **Chevron U.S.A Inc.** shall pay the required amount within thirty (30) 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 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.

In addition to other available relief, pursuant to RCW 19.16.500, Ecology may utilize a collection agency and/or, pursuant to RCW 70.105D.055, file a lien against real property subject to the remedial actions to recover unreimbursed remedial action costs.

C. Implementation of Remedial Action

If Ecology determines that **Chevron U.S.A Inc.** has failed without good cause to implement the remedial action, in whole or in part, Ecology may, after notice to **Chevron U.S.A Inc.**, perform any or all portions of the remedial action that remain incomplete. If Ecology performs all or portions of the remedial action because of **Chevron U.S.A Inc.**'s failure to comply with its obligations under this Order, **Chevron U.S.A Inc.** shall reimburse Ecology for the costs of doing such work in accordance with Section VIII. (Remedial Action Costs), provided

that **Chevron U.S.A Inc.** is 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, **Chevron U.S.A Inc.** 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:

Guy Barrett, LHg
POB 47775
Olympia, WA
360-407-7115

The project coordinator for **Chevron U.S.A Inc.** is:

Dan Carrier
Chevron Environmental Management Company
145 South State College Boulevard, Room 4086
Brea, CA 92821

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 **Chevron U.S.A. Inc.**, 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 its 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 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.

Chevron U.S.A Inc. 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 **Chevron U.S.A Inc.** either owns, controls, or has 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 **Chevron U.S.A Inc.**'s 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 **Chevron U.S.A Inc.**. **Chevron U.S.A Inc.** shall make all reasonable efforts to secure access rights for those properties within the Site not owned or controlled by **Chevron U.S.A Inc.** 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 **Chevron U.S.A Inc.** unless an emergency prevents such notice. All persons who access the Site pursuant to this

Section shall comply with any applicable Health and Safety Plan(s). Ecology employees and their representatives shall not be required to sign any liability release or waiver as a condition of Site property access.

G. Sampling, Data Submittal, and Availability

With respect to the implementation of this Order, **Chevron U.S.A Inc.** 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, **Chevron U.S.A Inc.** shall allow Ecology and/or its authorized representative to take split or duplicate samples of any samples collected by **Chevron U.S.A Inc.** pursuant to implementation of this Order. **Chevron U.S.A Inc.** shall notify Ecology seven (7) days in advance of any sample collection or work activity at the Site. Ecology shall, upon request, allow **Chevron U.S.A Inc.** and/or its authorized representative to take split or duplicate samples of any samples collected by Ecology pursuant to the implementation of this Order, provided that doing so does not interfere with Ecology's sampling. Without limitation on Ecology's rights under Section VIII. (Access), Ecology shall notify **Chevron U.S.A Inc.** 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. 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 **Chevron U.S.A Inc.**

Ecology shall maintain the responsibility for public participation at the Site. However, **Chevron U.S.A Inc.** 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 **Chevron U.S.A Inc.** 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 **Chevron U.S.A Inc.** that do not receive prior Ecology approval, **Chevron U.S.A Inc.** 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. **Tacoma Public Library**
1102 Tacoma Ave.
Tacoma, WA 98402
(253) 591-5666
- b. **Citizens for A Healthy Bay**
917 Pacific Ave. Suite 100
Tacoma, WA 98402
- c. Ecology's SWRO Regional Office
300 Desmond Drive
Lacey, WA

At a minimum, copies of all public notices, fact sheets, and press releases; all quality assured monitoring data; remedial action plans and reports, supplemental remedial planning documents, and all other similar documents 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, **Chevron U.S.A Inc.** shall preserve all records, reports, documents, and underlying data in its 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, **Chevron U.S.A Inc.** 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. (Remedial Action Costs), the Parties shall utilize the dispute resolution procedure set forth below.

a. Upon receipt of Ecology's project coordinator's written decision or the itemized billing statement, **Chevron U.S.A Inc.** has fourteen (14) days within which to notify Ecology's project coordinator in writing 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. **Chevron U.S.A Inc.** may then request regional management review of the decision. This request shall be submitted in writing to the **Southwest Region Toxics Cleanup Section Manager** within seven (7) days of receipt of Ecology's project coordinator's written decision.

d. The Section Manager shall conduct a review of the dispute and shall endeavor to issue a written decision regarding the dispute within thirty (30) days of **Chevron U.S.A Inc.**'s 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:

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

2. The burden shall be on **Chevron U.S.A Inc.** 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 may include, but may not be limited to:

a. Circumstances beyond the reasonable control and despite the due diligence of **Chevron U.S.A Inc.** 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 **Chevron U.S.A Inc.**;

b. Acts of God, including fire, flood, blizzard, extreme temperatures, storm, or other unavoidable casualty; or

- c. Endangerment as described in Section VIII. (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 **Chevron U.S.A Inc.**

3. Ecology shall act upon any written request for extension in a timely fashion. Ecology shall give **Chevron U.S.A. Inc.** written notification of any extensions granted pursuant to this 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. (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; or
- c. Endangerment as described in Section VIII. (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. (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 **Chevron U.S.A. Inc.** **Chevron U.S.A Inc.** 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 this Order represents a substantial change, Ecology will provide public notice and opportunity to comment. Reasons for the disapproval of a proposed amendment to this Order shall be stated in writing. If Ecology does not agree to a

proposed amendment, the disagreement may be addressed through the dispute resolution procedures described in Section VIII. (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 **Chevron U.S.A Inc.** to cease such activities for such period of time as it deems necessary to abate the danger. **Chevron U.S.A Inc.** shall immediately comply with such direction.

In the event **Chevron U.S.A Inc.** 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, **Chevron U.S.A Inc.** may cease such activities. **Chevron U.S.A Inc.** 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 **Chevron U.S.A Inc.** shall provide Ecology with documentation of the basis for the determination or cessation of such activities. If Ecology disagrees with **Chevron U.S.A Inc.**'s cessation of activities, it may direct **Chevron U.S.A Inc.** to resume such activities.

If Ecology concurs with or orders a work stoppage pursuant to Section VIII. M (Endangerment), **Chevron U.S.A Inc.**'s 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 of Ecology's rights or authority. Ecology will not, however, bring an action against **Chevron U.S.A Inc.** to recover

remedial action costs paid to and received by Ecology under this Order. In addition, Ecology will not take additional enforcement actions against **Chevron U.S.A Inc.** regarding remedial actions required by this Order, provided **Chevron U.S.A Inc.** complies 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 **Chevron U.S.A Inc.** 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 **Chevron U.S.A Inc.**'s transfer of any interest in all or any portion of the Site, and during the effective period of this Order, **Chevron U.S.A Inc.** shall provide a copy of this Order to any prospective purchaser, lessee, transferee, assignee, or other successor in said interest; and, at least thirty (30) days prior to any transfer, **Chevron U.S.A Inc.** shall notify Ecology of said transfer. Upon transfer of any interest, **Chevron U.S.A Inc.** 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 **Chevron U.S.A Inc.** 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.

2. Pursuant to RCW 70.105D.090(1), **Chevron U.S.A Inc.** is 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, **Chevron**

U.S.A Inc. shall comply with the substantive requirements of such permits or approvals. The permits or specific federal, state or local requirements that the agency has determined are applicable and that are known at the time of entry of this Order have been identified in Exhibit D.

Chevron U.S.A Inc. has 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 **Chevron U.S.A Inc.** determines 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 **Chevron U.S.A Inc.** shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, **Chevron U.S.A Inc.** 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 **Chevron U.S.A Inc.** and on how **Chevron U.S.A Inc.** must meet those requirements. Ecology shall inform **Chevron U.S.A Inc.** in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. **Chevron U.S.A Inc.** 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 **Chevron U.S.A Inc.** 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

Chevron U.S.A Inc. agrees 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 to the extent arising from or on account of acts or omissions of **Chevron U.S.A Inc.**, its officers, employees, agents, or contractors in entering into and implementing this Order. However, **Chevron U.S.A Inc.** shall not indemnify the State of Washington nor save nor hold its employees and agents harmless from any claims or causes of action to the extent arising out of the negligent acts or omissions of the State of Washington, or the employees or agents of the State, in entering into or implementing this Order.

IX. SATISFACTION OF ORDER

The provisions of this Order shall be deemed satisfied upon **Chevron U.S.A Inc.**'s receipt of written notification from Ecology that **Chevron U.S.A Inc.** has completed the remedial activity required by this Order, as amended by any modifications, and that **Chevron U.S.A Inc.** has 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 investigative and remedial actions and orders related to the Site.

C. In the event **Chevron U.S.A Inc.** refuses, without sufficient cause, to comply with any term of this Order, **Chevron U.S.A Inc.** will be liable for:

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

b. Civil penalties of up to twenty-five thousand dollars (\$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 RCW 70.105D.060.

Effective date of this Order: 3-1-10

Chevron U.S.A Inc.


Jacqueline McGinnis

Assistant Secretary, Chevron
U.S.A. Inc.

c/o Dan Carrier, Project Manager
Chevron Environmental Management
Company

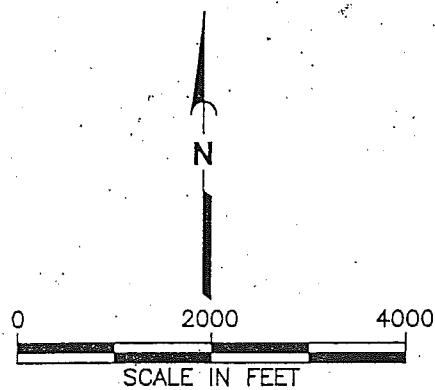
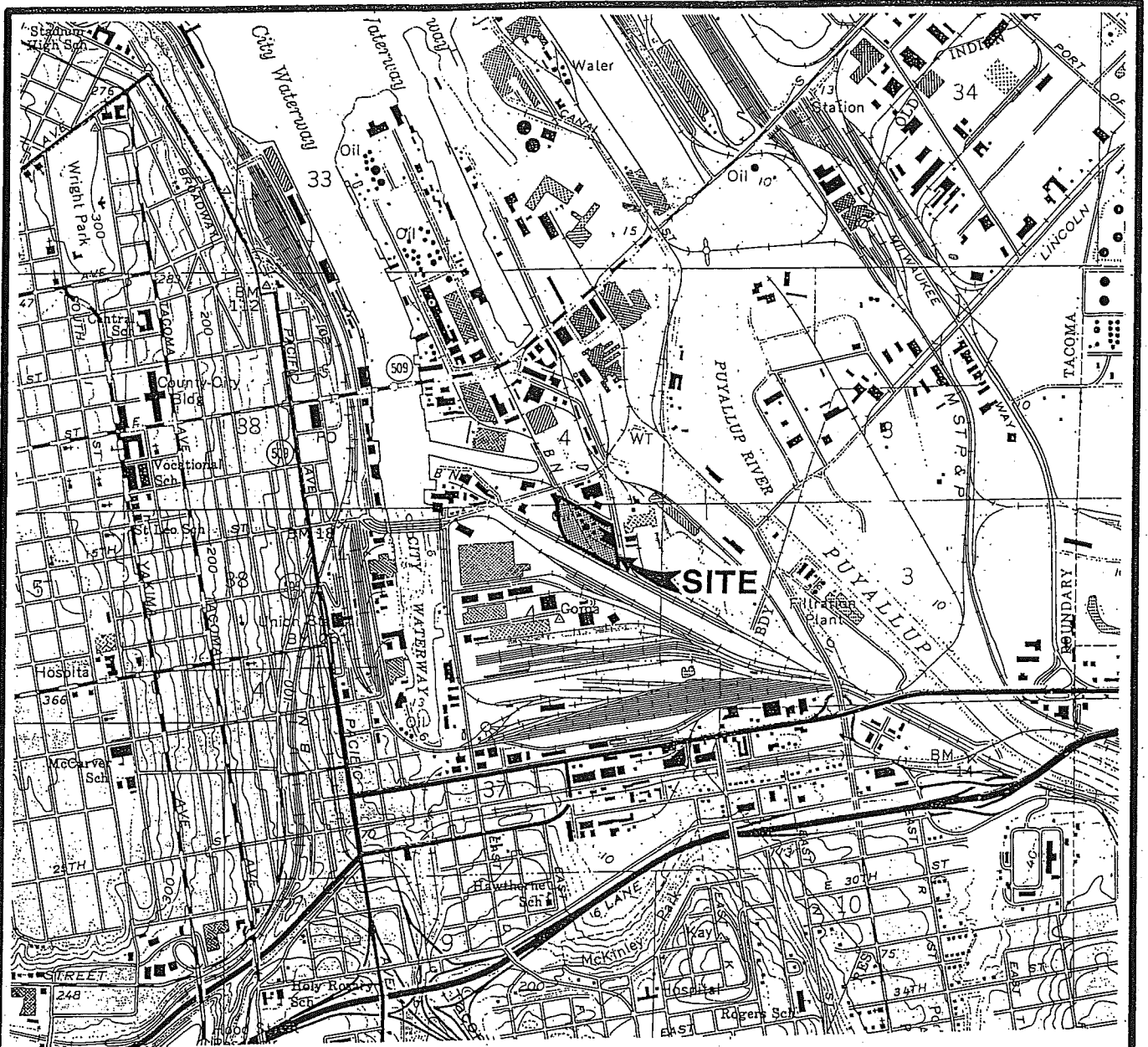
145 S. State College Blvd.
Brea, CA 92821

Telephone: 714-671-3371

**STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY**


Rebecca Lawson, P.E., L.G.

Section Manager
Toxics Cleanup Program
SWRO Regional Office
Telephone: 360-407-6241



Reference: USGS 7.5' topographic quadrangle maps "Tacoma North, Washington" and "Tacoma South, Washington" 1961, photorevised in 1981.

Pierce County Assessor-Treasurer ePIP

Recent Sales Activity for 0320044002

08/04/

Taxpayer Details

Taxpayer Name: CORNERSTONE PROPERTY INVESTMENTS
Mailing Address: 1115 S 348TH ST STE A
 FEDERAL WAY WA 98003-8317

Property Details

Parcel Number: 0320044002
Site Address: 1648 E J ST
Account Type: Real Property
Category: Land and Improvements
Use Code: 5100-WHOLESALE TRADE

Sales

Sales from 1997 to date are displayed here. However, the sales listed on this site are not complete and do not include transfer types. Recorded documents, accessed by name and date, are available on the [Pierce County Auditor's](#) web site.

ETN	Parcel Count	Grantor	Grantee	Sale Price	Sale Date	Deed Type	Validation	Exclude Reason
4061629	1	BOWMAN PROPERTIES LLC	CORNERSTONE PROPERTY INVESTMENTS	1,200,000	10/29/2004	SWD	Valid	
1001615	1	CHEVRON USA INC	BOWMAN PROPERTIES LLC	624,993	06/01/1999	SWD	Valid	

Sales history records current through 5/16/2003 are available on CD. These records were maintained as general information regarding property transfer for tax purposes only and are not an official record of sales transactions. A public records and the cost to copy of \$66.10 are required to obtain the records on CD. You may return the signed form and payment in person to the Assessor-Treasurer's Office at the address listed below.

For additional information on this issue, contact the Pierce County Assessor-Treasurer's Office Records Manager at 25

Sales Search

Search for sales with characteristics similar to this property.

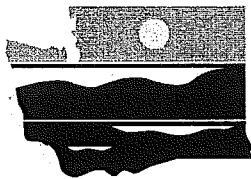
I acknowledge and agree to the prohibitions listed in RCW 42.17.260(9) against releasing and/or using lists of individual commercial purposes. Neither Pierce County nor the Assessor-Treasurer warrants the accuracy, reliability or timeliness of any information system, and shall not be held liable for losses caused by using this information. Portions of this information may not be current or a person or entity who relies on any information obtained from this system does so at their own risk. **All critical information should be independently verified.**

"Our office works for you, the taxpayer"

**Pierce County Assessor-Treasurer
Dale Washam**

2401 South 35th St Room 142
 Tacoma, Washington 98409
 (253)798-6111 or Fax (253)798-3142
www.piercecountywa.org/atr

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DEPARTMENT OF
ECOLOGY
State of Washington

PUBLIC PARTICIPATION PLAN

**Bowman Oil & Propane
(Chevron Bulk Plant #1328)
1656 East J Street
Tacoma, Washington**

Prepared by
Washington State Department of Ecology
Southwest Regional Office
Toxics Cleanup Program
PO Box 47775
Olympia, Washington 98504-7775

October / 2009

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INTRODUCTION

Department of Ecology has developed this Public Participation Plan to promote meaningful community involvement during the investigation and cleanup of the Bowman Oil & Propane site. This plan describes the tools that Ecology uses to inform the public about site activities and identify opportunities for the community involvement.

In July of 2009, Ecology notified Chevron U.S.A. Inc. (Chevron) and Cornerstone Property Investments (Cornerstone) of their status as potentially liable persons (PLPs). As of October, 2009, Chevron, Cornerstone, and Ecology are moving forward with the cleanup process. A proposed Agreed Order (legal agreement) requires the PLPs to:

- Investigate the site (Remedial Investigation);
- Evaluate cleanup options (Feasibility Study); and
- Draft a cleanup plan (Cleanup Action Plan).

Ecology will then finalize the cleanup plan and draft a new legal agreement with the PLPs to implement cleanup.

LOCATION AND SITE BACKGROUND

The Bowman Oil & Propane site (also known as Chevron Bulk Plant #1328) is generally located at 1656 East J Street in Tacoma, in the Tacoma Tideflats. It is in an industrial area, near the Tacoma Tarpits Superfund site. The site is defined by the extent of contamination, which will be determined in the Remedial Investigation. See Figure 1 on Page 7 for the site location.

Site Background

Standard Oil Company (now Chevron) purchased the property around 1905 and used it as a bulk fuel plant until 1988. Bulk fuel plants are facilities that receive and distribute petroleum products. This facility had a number of above and below ground storage tanks. The tanks held gasoline, diesel, fuel oil, aviation fuel, stove and furnace soils, and additives.

Cornerstone Property Investments currently owns the property and leases it to Bowman Oil and Propane. Cornerstone is a potentially liable person (PLP) because it owns the property, while Chevron is a PLP due to their past ownership and operations.

Description of Contamination

In 1984, Standard Oil Company began monitoring groundwater on the property. Over the next few years, they found several contaminants above state cleanup levels. Contaminants included petroleum hydrocarbons, and benzene, toluene, ethylbenzene, and xylene (BTEX). These are all chemicals commonly found in petroleum products.

In the early 1990s, Chevron tried to clean up the groundwater using poplar trees, which can draw contaminants out of the ground and break them down. However, testing in 1992 still showed petroleum-related contamination in groundwater. Soil testing in 1992 showed additional contamination—lead and polynuclear aromatic hydrocarbons.

Cleanup Activities

In 2001, Chevron removed around 58 tons of petroleum-contaminated soils and disposed of them off-site. Chevron has tried several methods for clean up the remaining soils, but contamination is still above state cleanup levels. Chevron and Cornerstone are now beginning a formal cleanup under Washington's Model Toxics Control Act (MTCA). MTCA has procedures for the cleanup of contaminated sites to standards that are safe for both human health and the environment. Ecology is responsible for implementing and enforcing MTCA. For more information on MTCA, please visit Ecology's Web site at <http://www.ecy.wa.gov/biblio/ftc94129.html>.

SITE CLEANUP PROCESS

Toxic sites are cleaned up in stages, described below. Each stage has a related report or plan that the public is welcome to review and comment on.

Remedial Investigation & Feasibility Study (RI/FS) - The RI/FS looks at the extent and type of pollution on the site. It is used to evaluate possible human health and environmental impacts, and to find cleanup alternatives.

Interim Actions - Ecology may sometimes take Interim Actions to partially clean up a site before the final cleanup plan is complete.

Cleanup Action Plan (CAP) - The CAP describes the cleanup methods and how they will meet Ecology's cleanup standards.

Cleanup - Toxic substances are removed from the site, contained on the site, or treated to make them less toxic. Ecology will make sure that the CAP has been followed and can require that the site be monitored. Major changes to the CAP require a public notice before they can be finalized.

Delisting - Ecology keeps track of toxic cleanup sites on the Hazardous Sites List. Once cleanup is complete, the public will have a chance to comment before a site is taken off the list.

More information about toxic cleanups is available on Ecology's Web site:
http://www.ecy.wa.gov/programs/tcp/cu_support/cu_process_steps_defns.htm.

PUBLIC PARTICIPATION ACTIVITIES AND RESPONSIBILITIES

The purpose of this Public Participation Plan is to promote public understanding and participation in the cleanup activities planned for this site. This section of the plan describes how Ecology will share information and receive public comments on the site activities. The following is a list of the public involvement activities that Ecology will use, their purposes, and descriptions of when and how they will be used during cleanup of the Bowman Oil & Propane site.

Formal Public Comment Periods

Comment periods are the main way Ecology gets feedback from the public on proposed cleanup decisions. They usually last 30 days and are required at key points during the investigation and cleanup process before final decisions are made. During a comment period, the public can comment in writing. Verbal comments are taken if a public hearing is held. After comment periods, Ecology reviews all comments received and may respond in a document called a Responsiveness Summary. Ecology considers the need for changes or revisions to a document or decision based on input from the public. If significant changes are made, a second comment period may be held. If no significant changes are made, the draft document(s) will be finalized.

Public Meetings and Hearings

Public meetings may be held at key points during the investigation and cleanup process. Ecology also may offer public meetings for actions expected to be of particular interest to the community. These meetings will be held at locations convenient to the community. A public meeting will also be scheduled if ten or more people request one.

Information Repositories

Information repositories are places where the public may read and review site information, including documents that are the subject of public comment. Ecology has three repositories for the Bowman Oil & Propane cleanup:

- Tacoma Public Library – 1102 Tacoma Ave. S, Tacoma, WA 98402. (253) 591-5666.
- Citizens for a Healthy Bay – 917 Pacific Ave. S, Suite 100, Tacoma, WA 98402. (253) 383-2429.
- Washington State Department of Ecology, 300 Desmond Drive, Lacey, WA 98516. Please call (360) 407-6045 for an appointment.

Site information also will be posted on Ecology's Web site:

http://www.ecy.wa.gov/programs/tcp/sites/BowmanOil/BowmanOil_hp.html

Site Register

Ecology's Toxics Cleanup Program uses its bimonthly Site Register to announce all of its public meetings and comment periods, as well as many other activities. To receive the Site Register in electronic or hard copy format, contact Linda Thompson at (360) 407-6069 or by e-mail at Ltho461@ecy.wa.gov. It is also available on Ecology's Web site: http://www.ecy.wa.gov/programs/tcp/pub_inv/pub_inv2.html.

Mailing List

Ecology has compiled a mailing list for the site. It includes neighbors, public agencies, and other known interested parties. The list will be maintained at Ecology's Southwest Regional Office and will be updated as needed. Please contact Hannah Aoyagi at (360) 407-6790 or by e-mail at haoy461@ecy.wa.gov if you would like to be involved or have your address added to or deleted from this mailing list.

Fact Sheets

Ecology will mail fact sheets to persons and organizations interested in the Bowman Oil & Propane site cleanup to inform them of public meetings and comment opportunities and important site activities. Ecology also may mail fact sheets about cleanup progress.

Newspaper Display Ads

Ecology will place ads in the Tacoma News Tribune to announce public comment periods and public meetings or hearings for the site.

Plan Update

This Public Participation Plan may be updated as the project proceeds. If an update is necessary, the revised plan will be submitted for public comment.

Contacts

If you have questions or need more information about this plan or the Bowman Oil & Propane cleanup, please contact:

Guy Barrett, Site Manager
Washington State Department of Ecology
PO Box 47775
Olympia, WA 98504-7775
Tel: (360) 407-7115
Email: gbar461@ecy.wa.gov

Hannah Aoyagi, Public Involvement Coordinator
Washington State Department of Ecology
Tel: (360) 407-6790
Email: haoy461@ecy.wa.gov

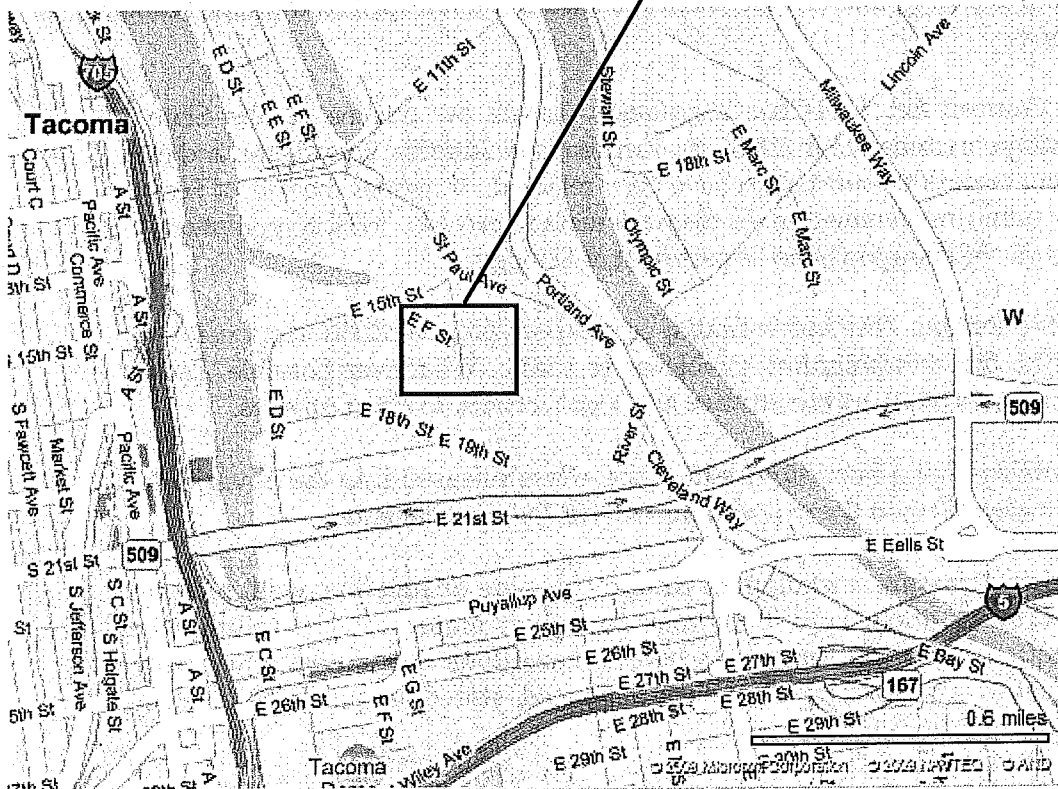
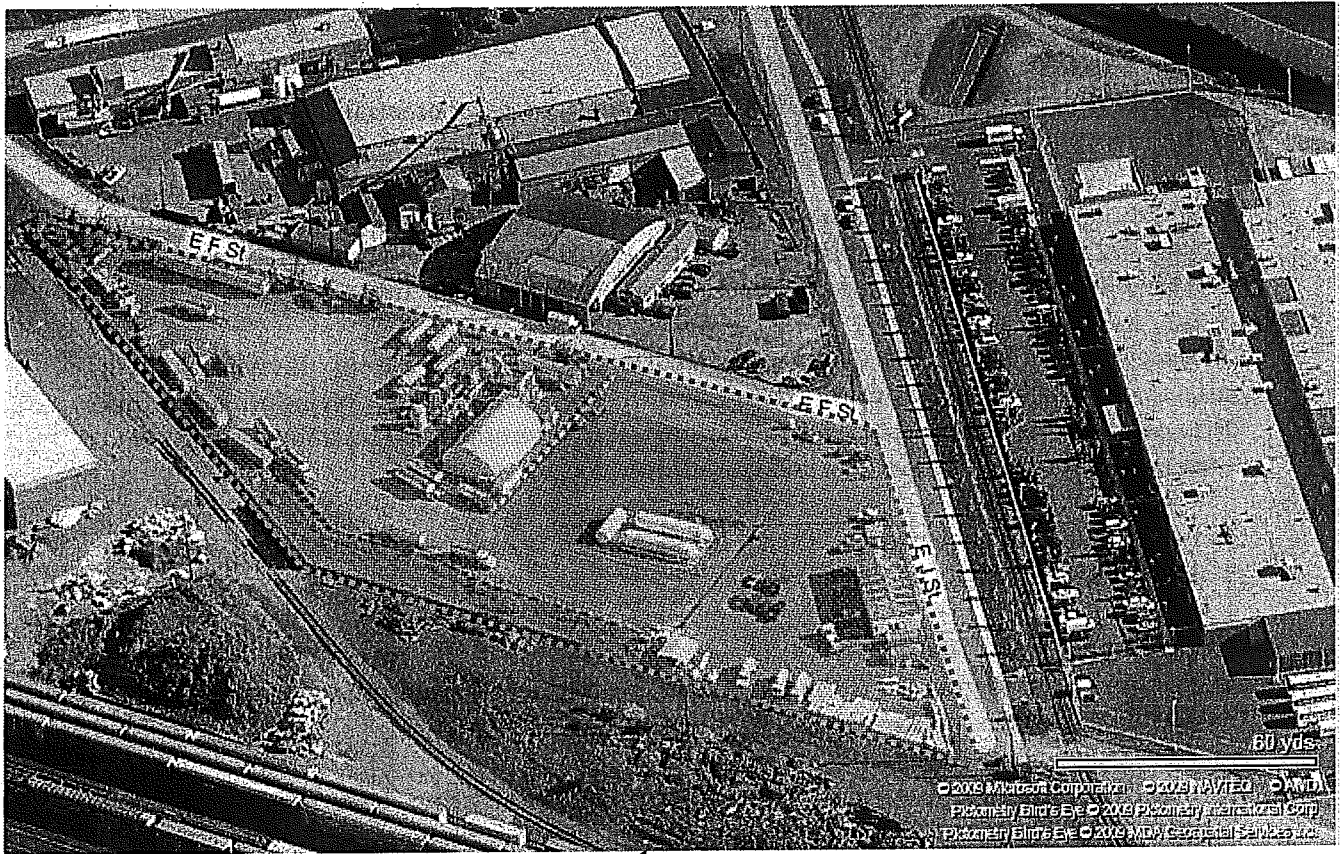


Figure 1. Bowman Oil & Propane Map
1656 East J Street,
Tacoma, WA

(Approximate
property boundary
in orange)

GLOSSARY

Agreed Order: A legal agreement between Ecology and a potentially liable person to conduct work toward a cleanup.

Cleanup: Actions taken to deal with a release, or threatened release of hazardous substances that could affect public health or the environment. The term "cleanup" is often used broadly to describe various response actions or phases of cleanup.

Cleanup Action Plan (CAP): A document that explains which cleanup alternative(s) will be used at sites for the cleanup. The cleanup action plan is based on information and technical analysis generated during the remedial investigation/feasibility study and consideration of public comments and community concerns.

Contaminant: Any hazardous substance that does not occur naturally or occurs at greater than natural background levels

Groundwater: Water found beneath the earth's surface that fills pores between materials such as sand, soil, or gravel. In some aquifers, ground water occurs in sufficient quantities that it can be used for drinking water, irrigation and other purposes.

Information Repository: A file containing current information, technical reports, and reference documents available for public review. The information repository is usually located in a public building that is convenient for local residents such as a public school, city hall, or library.

Model Toxics Control Act (MTCA): Legislation passed by citizens of the State of Washington through an initiative in 1988. Its purpose is to identify, investigate, and clean up facilities where hazardous substances have been released. It defines the role of Ecology and encourages public involvement in the decision making process. MTCA regulations are administered by the Washington State Department of Ecology.

Potentially Liable Person: Any individual(s) or company(s) potentially responsible for, or contributing to, the contamination problems at a site. Whenever possible, Ecology requires these PLPs, through administrative and legal actions, to clean up sites.

Risk: The probability that a hazardous substance, when released into the environment, will cause an adverse effect in the exposed humans or living organisms.

Site: Any building, structure, installation, equipment, pipe or pipeline, well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, vessel, or aircraft; or any site or area where a hazardous substance, other than a consumer product in consumer use, has been deposited, stored, disposed of, or placed, or otherwise come to be located.

Toxicity: The degree to which a substance at a particular concentration is capable of causing harm to living organisms, including people, plants and animals.

EXHIBIT – D

SITE NAME: BOWMAN OIL & PROPANE

APPLICABLE, RELEVANT AND APPROPRIATE REQUIREMENTS

- Model Toxics Control Act (Chapter 70.105D RCW), and Model Toxics Control Act Regulation (Chapter 173-340 WAC).
- Minimum Standards for Construction and Maintenance of Wells (Chapter 173-160 RCW).
- Occupational Safety and Health Act (OSHA), 29 CFR Subpart 1910.120.
- Washington Industrial Safety and Health Act (WISHA).
- Chapter 43.21C RCW (State Environmental Policy Act), and Chapter 197-11 WAC (State Environmental Policy Act Rules).
- City of Tacoma Municipal Code – Chapter 70 (Uniform Building Code – Excavation and Grading).
- City of Tacoma Municipal Code – Chapter 12.08 City Code (Provisions for Acceptance for Discharges to Sewer System).
- Tacoma Pierce County Health Department (Waste Disposal Authorization).

