

**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

In the Matter of Remedial Action by:

AGREED ORDER

Derek & Associates Properties, LLC

No. DE 10361

Mr. Brad Tidrick

Tidrick's Quality Transmissions, Inc.

TO: Derek & Associates Properties, LLC  
261 Douglas Ln, Wapato WA 98951

Mr. Brad Tidrick & Tidrick's Quality Transmissions, Inc.  
920 W Ahtanum Rd, Union Gap WA 98903

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## I. INTRODUCTION

The mutual objective of the State of Washington, Department of Ecology (Ecology); Derek & Associates Properties, LLC; Mr. Brad Tidrick and Tidrick's Quality Transmissions, 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. Specifically, this Order will require: development of a remedial investigation work plan for the Site; implementation of the remedial investigation work plan; completion of a remedial investigation report; completion of a feasibility study; and submittal of monthly progress reports. 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. The PLPs agree to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter the PLPs' responsibility under this Order. The PLPs 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 RCW 70.105D.020 and Chapter 173-340-200 WAC shall control the meanings of the terms in this Order.

A. Site: The Site is referred to as Tidrick's Quality Transmissions, Inc. and is generally located at 1802 S 1st St, Yakima Washington. The Site constitutes a Facility under

RCW 70.105D.020(5). The Facility/Site ID number is 543 and the Cleanup Site ID number is 6350 as listed in Ecology's Integrated Site Information System (ISIS).

B. Parties: Refers to the State of Washington, Department of Ecology; Derek & Associates Properties, LLC; Mr. Brad Tidrick, and Tidrick's Quality Transmissions, Inc.

C. Potentially Liable Persons (PLPs): Refers collectively to Derek & Associates Properties, LLC, Mr. Brad Tidrick, and Tidrick's Quality Transmissions, Inc.

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.

## V. FINDINGS OF FACT

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

A. A complaint of oil dumping was received by Ecology on July 21, 1992. Following the complaint and after receiving verbal permission to access the site, Ecology completed an Initial Investigation on August 12, 1992. This investigation confirmed a release of hazardous substances had occurred. Four areas of concern were noted on the property: 1) two floor drains in the detail shop, 2) outside pavement drains, 3) an oil/water separator, and 4) an area exhibiting overflow spillage surrounding an underground storage tank fill port. An Early Notice letter addressed to Charles Chambers, the site contact for Carlos Motors, was issued on October 13, 1992. The then-owner of the property, Mr. Frank Paganelli, was informed in March 1994 that the site was to undergo a Site Hazard Assessment (SHA). The SHA was completed on June 30, 1994, with the site being ranked a "1," and Mr. Paganelli was informed by letter on July 25, 1994.

B. An independent cleanup action occurred on September 1994 when three underground storage tanks (USTs) and two drywells were removed. Further cleanup action was performed in October and November 1994 to overexcavate the areas near UST #3, and the two drywells. Approximately 700 tons of petroleum contaminated soil (PCS) were excavated and

disposed at the Rabanco Landfill, though there is no receipt recording this transfer or verifying the volume transported.

The cleanup action and supporting confirmational sampling were insufficient. Chemical analyses of the soil initially excavated in the vicinity of waste oil UST #3 and dry well #2 exhibited concentrations of chlorinated solvents including tetrachloroethene (PCE) and trichloroethene (TCE) above MTCA cleanup levels. However, the soils from the overexcavation in the vicinity of the waste oil tank #3 and drywell #2 were not further assessed for chlorinated solvents. Additionally, an undetermined quantity of PCS was left intact under the former garage/paint shop building during removal of the waste oil tank (UST #3).

The soils from the excavation of gasoline USTs #1 and #2 were not screened for the gasoline additives: benzene, toluene, ethylbenzene, and xylenes (BTEX). Also, the soils from the excavation for drywell #1 were not assessed for chlorinated solvents.

C. A Dangerous Waste Compliance Inspection was completed by Ecology's Hazardous Waste and Toxics Reduction Program on March 6, 2007. Photographs and notes from the compliance inspection indicated improper storage and handling of generated waste streams. The waste streams consisted primarily of used oil but may also have included sludge from a parts washer as well as carburetor cleaner and petroleum solvents which were observed on the premises as recorded in the inspection notes. The photographic evidence showed numerous examples of releases what appears to be used oil to the ground with resultant contamination of the soil and conveyance to a stormwater drain. Subsequent written confirmation and description of the Dangerous Waste Compliance Inspection was documented in a certified letter to Mr. Brad Tidrick, dated March 23, 2007. A duplicate copy of the same letter was sent to Mr. Thompson.

D. A concurrent investigation was conducted by Brian Deeken of Ecology's Toxics Cleanup Program, also on March 6, 2007. The results of the investigation were documented in a letter to Mr. Derick (*sic*) Thompson, dated April 30, 2007. The letter stated that two grab samples of soil were collected and the analyses of these samples showed their measured soil concentrations exceeded the MTCA Method A soil cleanup level for heavy oil. Analytical results of these two samples indicated concentrations at 2,200 mg/kg and 6,300 mg/kg which are above the regulatory limit of 2,000 mg/kg. Other contaminants detected in the soil samples include metals, e.g., lead @ 480 mg/kg. Volatile organic compounds were also positively identified at this site and these compounds include toluene, tetrachloroethene (PCE), naphthalene, n-Propylbenzene; 1,3,5-Trimethylbenzene; 1,2,4-Trimethylbenzene, Sec-Butylbenzene, and p-Isopropyltoluene. The detections shown by the laboratory analyses of these two samples are consistent with the types of waste streams observed in the field notes that day.

E. The Site had two drywells that were impacted by the release of hazardous substances based on the soil analytical results provided during the initial cleanup. In addition, an exterior drain and associated oil/water separator existed on the Site. The oil/water separator was connected to the city sanitary sewer system; however, Mr. Tidrick stated in 2007 and again in 2012 that the oil/water separator had been plugged for approximately ten years so that during heavy rains, the drain would back up with standing water on the Site.

F. Derek & Associates Properties, LLC is the current owner of the property located within the Site. Ownership of the property transferred from Mr. Frank Paganelli to Derek & Associates, LLC on August 29, 2005. Derek & Associates Properties, LLC was established in August 2005 and Mr. Derek Thompson is listed as a governing person; more specifically, as the managing member of this corporation. Based on the contents of the Ecology site files, Mr. Thompson was aware of the environmental conditions associated with Tidrick's Quality Transmissions, Inc. as early as March 2007.

G. Tidrick's Quality Transmissions, Inc. operated as an automotive transmission repair business at property located within the Site from 1993 to 2007.

H. Mr. Brad Tidrick is the president of Tidrick's Quality Transmissions, Inc., and had control over the day-to-day management and administration of the company. Mr. Brad Tidrick had oversight of storage and handling of generated waste streams at Tidrick's Quality Transmissions, Inc. during its operations from 1993 to 2007.

## VI. ECOLOGY DETERMINATIONS

Ecology makes the following determinations, without any express or implied admissions of such determinations (and underlying facts) by the PLPs.

A. Derek & Associates Properties, LLC is an "owner or operator" as defined in RCW 70.105D.020(17) of a "facility" as defined in RCW 70.105D.020(5). Derek & Associates Properties, LLC currently own property that is part of the Site.

B. Mr. Brad Tidrick was an "owner or operator" as defined in RCW 70.105D.020(17) of a "facility" as defined in RCW 70.105D.020(5) at the time of disposal or release of a hazardous substance. Brad Tidrick was president of Tidrick's Quality Transmissions, Inc. at the Site during the period of time when a release of a hazardous substance is known to have occurred. In his position, Mr. Tidrick had control over the activities of Tidrick's Quality Transmissions, Inc.

C. Tidrick's Quality Transmissions, Inc., was an "owner or operator" as defined in RCW 70.105D.020(17) of a "facility" as defined in RCW 70.105D.020(5) at the time of disposal or release of a hazardous substance. Tidrick's Quality Transmissions, Inc. has operated at property which is part of the Site from 1993 to 2007. During its operations at the Site, there were numerous releases of liquid wastes consisting of petroleum hydrocarbons and possibly other hazardous substances to the ground with resultant contamination of the soil and conveyance to a stormwater drain.

D. 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.

E. Based upon credible evidence, Ecology issued a PLP status letter to Derek & Associates Properties, LLC dated February 8, 2013 pursuant to RCW 70.105D.040, -.020(21) 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 Derek & Associates Properties, LLC is a PLP under RCW 70.105D.040 and notified Derek & Associates Properties, LLC by letter dated April 24, 2013.

F. Based upon credible evidence, Ecology issued a PLP status letter to Mr. Brad Tidrick dated July 24, 2012, pursuant to RCW 70.105D.040, -.020(21) 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 Mr. Brad Tidrick is a PLP under RCW 70.105D.040 and notified Mr. Tidrick of this determination by letter dated November 29, 2012.

G. Based upon credible evidence, Ecology issued a PLP status letter to Tidrick's Quality Transmissions, Inc. dated December 6, 2012 pursuant to RCW 70.105D.040, -.020(21) 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 Tidrick's Quality Transmissions, Inc. is a PLP under RCW 70.105D.040 and notified Tidrick's Quality Transmissions, Inc. of this determination by letter dated March 5, 2013.

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.

I. 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. Ecology or the PLPs may propose interim actions at the Site. After consulting with the PLPs, Ecology will determine if the interim action(s) are warranted under WAC 173-340-430. Any interim action must be approved by Ecology under Section VII (F) of this Order.

## **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 are to be conducted in accordance with Chapter 173-340 WAC unless otherwise specifically provided for herein. Attached as Exhibit C is a Schedule. Exhibit C is incorporated by reference as an integral and enforceable part of the Order.

A. Within 60 days of the issuance of this Order, the PLPs must submit a draft Remedial Investigation (RI) Work Plan including a combined draft Sampling and Analysis Plan (SAP) / Quality Assurance Project Plan (QAPP), and a site Health and Safety Plan (HASP) for Ecology's review per WAC 173-340-350(7)(c)(iv). The documents must conform to the requirements specified in WAC 173-340-810, worker safety and health, and 173-340-820, sampling and analysis plans.

B. The revised RI Work Plan and associated documents are due within 30 days of PLPs' receipt of Ecology's comments on the draft documents. Upon approval by Ecology, the RI Work Plan, SAP/QAPP and HASP are considered final and become integral and enforceable parts of this Order.

C. The RI field work shall begin within 30 days, and be completed within 60 days, of Ecology's written approval of the final RI Work Plan and associated SAP/QAPP and HASP.

D. A draft RI Report and draft Feasibility Study will be submitted to Ecology within 60 days of the receipt of the final analytical data for Ecology's review and approval. The draft



RI Report and draft Feasibility Study must conform to WAC 173-340-350, remedial investigation and feasibility study. Within 30 days of receipt of comments from Ecology, the PLPs must deliver to Ecology a revised RI Report and revised Feasibility Study that incorporate Ecology's comments on the draft RI Report and draft Feasibility Study.

E. Monthly progress reports will be submitted to Ecology's Project Coordinator via email. The first progress report shall be submitted to Ecology on or by 15th of the month for work performed the previous month. Progress reports shall continue to be submitted on a monthly basis until the full nature and extent of the contaminant(s) are described, documented, and submitted in a final RI Report. Document submissions must be approved by Ecology and are not final until approved. Emergency situations and any conditions significantly delaying work must be reported to Ecology within 24 hours.

F. If Ecology determines an interim action is warranted under Section VI (I), the PLPs shall prepare and submit to Ecology an Interim Action Work Plan, including a scope of work and schedule, by the date determined by Ecology. Ecology will provide public notice and opportunity to comment on the Interim Action Work Plan in accordance with WAC 173-340-600(16). The PLPs shall not conduct the interim action until Ecology approves the Interim Action Work Plan. Upon approval by Ecology, the Interim Action Work Plan becomes an integral and enforceable part of this Order, and the PLPs are required to conduct the interim action in accordance with the approved Interim Action Work Plan.

G. 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 or completion of any work required by this Section, Ecology may complete and issue the final deliverable or work to be performed.

## **VIII. TERMS AND CONDITIONS OF ORDER**

### **A. 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 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). Payment for this amount shall be submitted within thirty (30) days of the effective date of this Order. For all costs incurred subsequent to the issuance of this Order, the PLPs 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.

**B. 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 its obligations under this Order, the PLPs shall reimburse Ecology for the costs of doing such work in accordance with Section VIII (Remedial Action Costs), 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.

**C. Designated Project Coordinators**

The project coordinator for Ecology is:

John Mefford  
15 W Yakima Ave, Yakima WA 98902  
509-454-7836  
john.mefford@ecy.wa.gov

The project coordinator for the PLPs is:

Mr. Derek Thompson  
261 Douglas Ln, Wapato WA 98951  
509-961-5955

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

**D. Performance**

All geologic and hydrogeologic work performed pursuant to this Order shall be under the supervision and direction of a geologist or hydrogeologist 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 Chapters 18.220 RCW and 18.43 RCW.

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.

**E. Access**

Ecology or any Ecology authorized representative shall have access 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 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.

**F. 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 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 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.

**G. 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 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 lists, 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. Yakima Central Library  
102 N 3rd St, Yakima WA 98901
- b. Ecology's Central Regional Office  
15 W Yakima Ave, Ste 200, Yakima WA 98902

At a minimum, copies of all public notices, fact sheets, and documents relating to public comment periods shall be promptly placed in these repositories. A copy of all documents related to this site shall be maintained in the repository at Ecology's Central Regional Office in Yakima Washington.

#### **H. 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 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, the PLPs shall make all records available to Ecology and allow access for review within a reasonable time.

Nothing in this Order is intended by the PLPs to waive any right they may have under applicable law to limit disclosure of documents protected by the attorney work-product privilege and/or the attorney-client privilege. If the PLPs withhold any requested records based on an assertion of privilege, the PLPs shall provide Ecology with a privilege log specifying the records withheld and the applicable privilege. No Site-related data collected pursuant to this Order shall be considered privileged.

**I. 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, the PLPs have 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. The PLPs may then request regional management review of the decision. This request shall be submitted in writing to the Central 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 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.

**J. 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 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 may include, but may not be 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; 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 the PLPs.

3. Ecology shall act upon any written request for extension in a timely fashion. Ecology shall give the PLPs 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).

#### **K. 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 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 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).

**L. Endangerment**

In the event Ecology determines that any activity being performed at the Site under this Order 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 determines that any activity being performed at the Site under this Order 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 the 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 (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 (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.

**M. 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 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 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.

By entering into this Order, the PLPs do not admit to any liability for the Site. Although the PLPs is committing to conducting the work required by this Order under the terms of this Order, the PLPs expressly reserves all rights available under law, including but not limited to the right to seek cost recovery or contribution against third parties, and the right to assert any defenses to liability in the event of enforcement.

**N. 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 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 to 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, the PLPs shall notify all transferees of the restrictions on the activities and uses of the property under this Order and through the appropriate transfer mechanism, assure that any activities and uses inconsistent with this Order are prohibited.

**O. 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.

**P. 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 (1) for death or injuries to persons or (2) for loss or damage to property, to the extent arising from or on account of acts or omissions of the PLPs, their 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 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 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 investigative and remedial actions and orders related to the Site.

C. A liable party, who refuses without sufficient cause to comply with any term of this Order 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

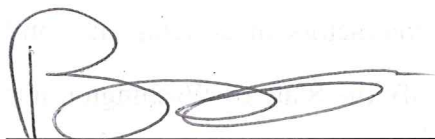
b. Civil penalties of up to twenty-five thousand dollars (\$25,000) per day for each day it refuses to comply.

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.

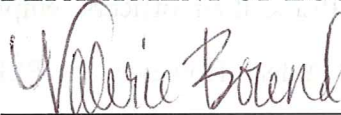
Effective date of this Order: November 22, 2013

**MR. BRAD TIDRICK**



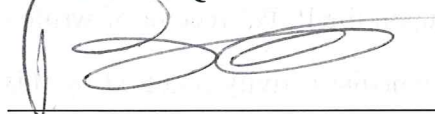
Mr. Brad Tidrick  
920 W Ahtanum Rd, Union Gap WA 98903  
509-248-0474

**STATE OF WASHINGTON,  
DEPARTMENT OF ECOLOGY**



Valerie Bound  
Section Manager  
Toxics Cleanup Program  
Central Regional Office  
Telephone: 509-454-7886

**TIDRICK'S QUALITY TRANSMISSIONS, INC.**



Mr. Brad Tidrick for Tidrick's Quality Transmissions, Inc.  
920 W Ahtanum Rd, Union Gap WA 98903  
509-248-0474

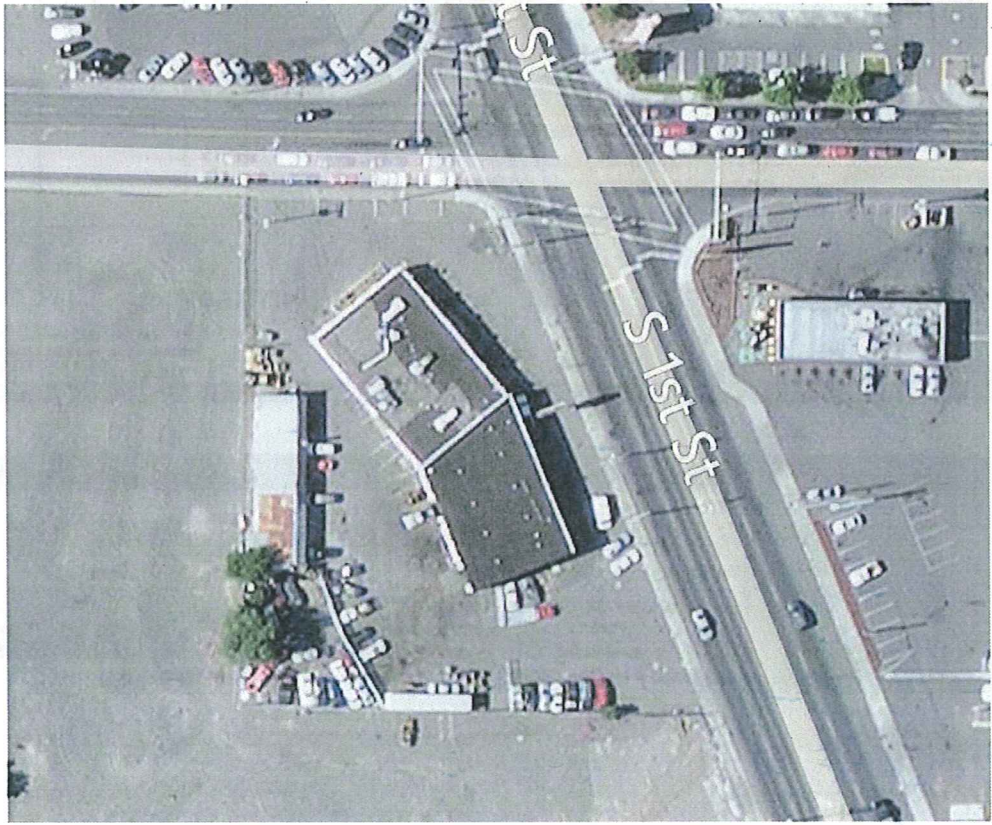
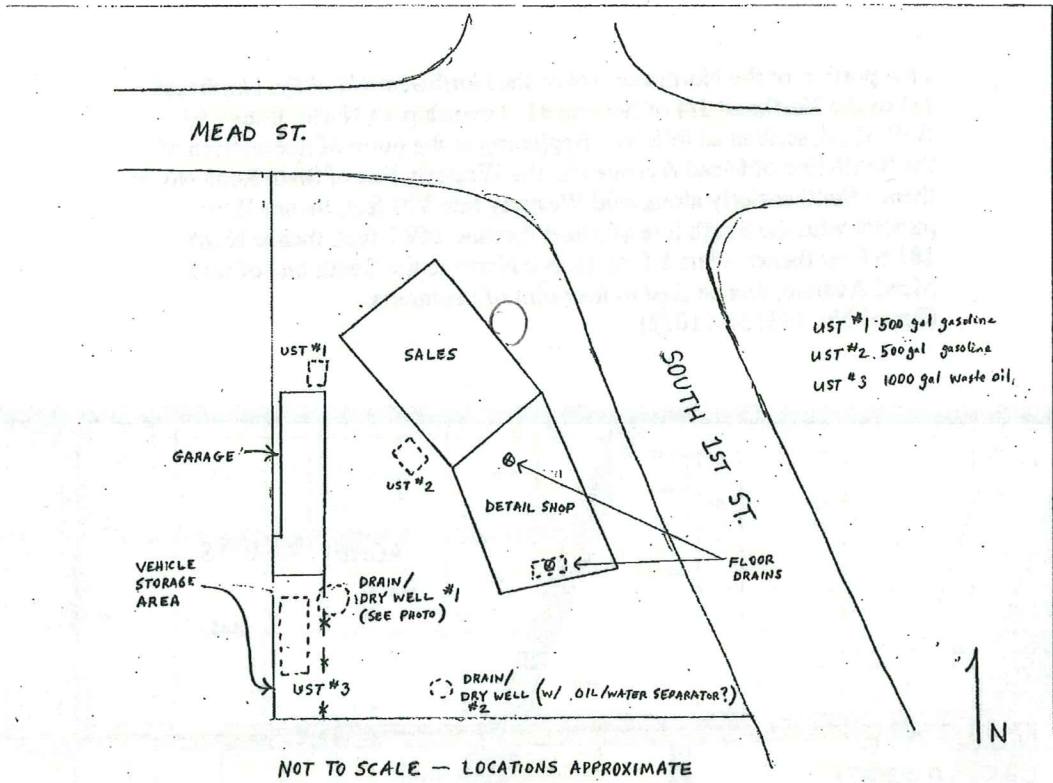
**DEREK & ASSOCIATES PROPERTIES, LLC**



Mr. Derek Thompson for Derek & Associates Properties, LLC.  
261 Douglas Ln, Wapato WA 98951  
509-961-5955

# EXHIBIT A

## Site Diagrams




## EXHIBIT B

### Legal Description of the Property

That portion of the Northwest 1/4 of the Northwest 1/4 of the Northeast 1/4 of the Northeast 1/4 of Section 31, Township 13 North, Range 19, E.W.M., described as follows: Beginning at the point of intersection of the South line of Mead Avenue and the Westerly line of State Road No. 3; thence Southeasterly along said Westerly line 300 feet; thence West parallel with the South line of Mead Avenue 249.2 feet; thence North 183.6 feet; thence West 1 foot; thence North to the South line of said Mead Avenue; thence East to the point of beginning. (Parcel No. 191331-11012)



PROPERTY PHOTO	PROPERTY INFORMATION
	Parcel Address: 1802 S 1ST ST, YAKIMA ,WA 98903
	Parcel Owner(s): DEREK DEREK & ASSOCIATES PROPERTIES LLC
	Parcel Number: <u>19133111012</u> Parcel Size: 1.57 Acre(s)
	Property Use: 64 Service Repair
TAX AND ASSESSMENT INFORMATION	
Tax Code Area (TCA): <u>333</u>	Tax Year: 2013



## EXHIBIT C

### Schedule of Deliverables or Action Required

<b>Deliverable or Action Required</b>	<b>Completion/Due to Ecology</b>
Draft RI Work Plan including SAP/QAPP and HASP.	Due within 60 days after the issue date of this Order
Final RI Work Plan including SAP/QAPP and HASP.	Due within 30 days after receipt of Ecology's written comments on Draft RI Work Plan.
Perform RI field work	Begin within 30 days, and complete within 60 days, after Ecology's written approval of the Final RI Work Plan.
Monthly reports on the progress of the RI	Monthly progress reports will be submitted to Ecology via email. The first progress report shall be submitted to Ecology on or by 15 <sup>th</sup> of the month for work performed the previous month.
Draft RI Report and Draft Feasibility Study	Due within 60 days of receipt of the final analytical data.
Revised RI Report and Revised Feasibility Study	Due within 30 days of receipt of Ecology's comments on the Draft RI report and Draft Feasibility Study.

This table is a summary of the requirements of the Order. In the event of any conflict or perceived conflict between the contents of this table and the text of the Order, the text of the Order shall prevail.