

Noel Corporation
Agreed Order
No. 95TC-C239
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2.4 The water table in the Yakima area typically occurs at depths between 8 feet and 30 feet below ground surface. Wells exist in the Yakima Basin which withdraw water used for drinking from this shallow unconfined aquifer. The area contains deep, very well-drained soils formed in mixed alluvium. These soils have moderate to high permeabilities in the surface layers and very high permeabilities in the substratum.

2.5 The foregoing information in item 2.2 through item 2.4 is contained in the following documents:

(a) Science Applications International Corporation. April 1989. "Preliminary Assessment Report, Frank Wear Cleaners." Prepared for Washington Department of Ecology.

(b) Ecology and Environment, Inc. December 10, 1989. "Final Report for Yakima Soil Gas Study, Yakima, Washington." Prepared for United States Environmental Protection Agency, Region 10.

(c) Department of Ecology letter to William Weigand, Jr. December 9, 1994.

III.

Ecology Determinations

3.1. The Noel Corporation is an "owner or operator" as defined in RCW 70.105D.020(6) of a "Facility" as defined in RCW 70.105D.020(3).

3.2. The Facility is known as Southgate Laundry and is located at 1020 South 3rd Avenue, in Yakima, Washington.

3.3. The substances found at the Facility as described in Section 2 are "hazardous substances" as defined in RCW 70.105D.020(5).

3.4. Based on the presence of these hazardous substances at the Facility and all factors known to Ecology, there is a release or threatened release of hazardous substances from the facility, as defined in RCW 70.105D.020(10).

3.5. By letter dated October 24, 1991, Ecology notified Noel Corporation of its status as a "potentially liable person" under RCW 70.105D.040 after notice and opportunity for comment.

3.6. Pursuant to RCW 70.105D.030(1) and 70.105D.050, Ecology may require potentially liable persons to investigate or conduct other remedial actions with respect to the release or threatened release of hazardous substances, whenever it believes such action to be in the public interest.

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

IV.

Work to be Performed

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

4.1 Noel Corporation shall conduct a Remedial Investigation (RI) as described in the enclosed Work Plan. The Work Plan is hereby incorporated into this Order by reference and is an integral and enforceable part of the Order.

4.2 The RI shall be based on the results of an Ecology approved Site History and Soil Vapor Assessment (as described in the Work Plan) submitted by Noel Corporation.

4.3 The results and analyses for the RI shall be submitted to Ecology for acceptance per Submittal Timelines in Figure 5 of the Work Plan. The Submittal Timelines for completion of the RI phases is hereby incorporated into this Order by reference and is an integral and enforceable part of the Order.

4.4 With Ecology's acceptance of the RI, Noel Corporation will submit to Ecology within 60 days a Scope of Work for a Feasibility Study (FS). This Scope of Work shall meet the requirements of WAC 173-340-350.

4.5 Upon Ecology approval of the FS Scope of Work, Noel Corporation shall commence FS activities as per Scope of Work.

4.6 In addition to the above, a monthly progress report on the RI must be submitted to Ecology by the last day of each month until the project is completed.

4.7 In accordance with WAC 173-340-840(5), groundwater sampling data shall be submitted according to Attachment A of the Work Plan: SITE DESCRIPTION AND SAMPLE DATA SUBMITTAL REQUIREMENTS. These submittals shall be provided to Ecology as required under the Submittal Timelines in provision 4.3.

4.8 Noel Corporation may choose to undertake Interim Actions to address known PCE contamination. Such Interim Actions must be proposed by the Noel Corporation to Ecology for review and approval. Any such actions will be limited to soil remediation though soil removal and proper disposal.

V.

Terms and Conditions of Order

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

5.2. Public Notices RCW 70.105D.030(2)(a) requires that, at a minimum, this Order be subject to concurrent public notice. Ecology shall be responsible for providing such public notice and reserves the right to modify or withdraw any provisions of this Order should public comment disclose facts or considerations which indicate to Ecology that the Order is inadequate or improper in any respect.

5.3. Remedial Action Costs Noel Corporation shall pay to Ecology costs incurred by Ecology pursuant to this Order. These costs shall include work performed by Ecology or its contractors for investigations, remedial actions, and Order preparation, oversight and administration. For work performed prior to 11/30/95 the amount \$3,958.61 shall be paid to Ecology within 30 days of the effective date of this Order. For work commencing on and thereafter, Ecology costs shall include costs of direct

activities and support costs of direct activities as defined in WAC 173-340-550(2), and interest charges for delayed payments, as defined in WAC 173-340-550(4).

Noel Corporation shall pay the required amount within ninety (90) days of receiving from Ecology an itemized statement of costs that includes a summary of costs incurred, an identification of involved staff, and the amount of time spent by involved staff members on the project. A general description of work performed will be provided upon request. Itemized statements shall be prepared quarterly. Failure to pay Ecology's costs within 90 days of receipt of the itemized statement of costs will result in interest charges.

5.4. Designated Project Coordinators

The project coordinator for Ecology is:

Mr. Rick Roeder
Department of Ecology
106 South Sixth Avenue
Yakima, WA 98902-3387

The project coordinator for Noel Corporation is:

Mr. Gary Slagle
1001 South 1st Street
Yakima, Washington 98901

The project coordinator(s) shall be responsible for overseeing the implementation of this Order. To the maximum extent possible, communications between Ecology and Noel Corporation, and all documents, including reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order, shall be directed through the project coordinator(s). Should Ecology or Noel Corporation change project coordinator(s), written notification shall be provided to Ecology or Noel Corporation at least ten (10) calendar days prior to the change.

5.5. Performance All work performed pursuant to this Order shall be under the direction and supervision, as necessary, of a professional engineer or hydrogeologist, or similar expert, with appropriate training, experience and expertise in hazardous waste site investigation and cleanup. Noel Corporation shall notify Ecology as to the identity of such engineer(s) or hydrogeologist(s), and of any contractors and subcontractors to

be used in carrying out the terms of this Order, in advance of their involvement at the Site. Noel Corporation shall provide a copy of this Order to all agents, contractors and subcontractors retained to perform work required by this Order and shall ensure that all work undertaken by such agents, contractors, and subcontractors will be in compliance with this Order.

Except where necessary to abate an emergency situation, Noel Corporation shall not perform any remedial actions at Noel Corporation site outside that required by this Order unless Ecology concurs, in writing, with such additional remedial actions.

5.6. Access Ecology or any Ecology authorized representative shall have the authority to enter and freely move about the Site at all reasonable times for the purposes of, inter alia: inspecting records, operation logs, and contracts related to the work being performed pursuant to this Order; reviewing the progress in carrying out the terms of this Order; conducting such tests or collecting samples as Ecology or the project coordinator may deem necessary; using a camera, sound recording, or other documentary type equipment to record work done pursuant to this Order; and verifying the data submitted to Ecology by Noel Corporation. By signing this Agreed Order, Noel Corporation agrees that this Order constitutes reasonable notice of access, and agrees to allow access to the Site at all reasonable times for purposes of overseeing work performed under this Order. Ecology shall allow split or replicate samples to be taken by Noel Corporation during an inspection unless doing so interferes with Ecology's sampling. Noel Corporation shall allow split or replicate samples to be taken by Ecology and shall provide seven (7) days notice before any sampling activity.

5.7. Public Participation Noel Corporation shall prepare and/or update a public participation plan for the site. Ecology shall maintain the responsibility for public participation at the site. Noel Corporation shall help coordinate and implement public participation for the site.

5.8. Retention of Records Noel Corporation shall preserve in a readily retrievable fashion, during the pendency of this Order and for ten (10) years from the date of completion of the work performed pursuant to this Order, all records, reports, documents, and underlying data in its possession relevant to this

Order. Should any portion of the work performed hereunder be undertaken through contractors or agents of Noel Corporation, then Noel Corporation agrees to include in their contract with such contractors or agents a record retention requirement meeting the terms of this paragraph.

5.9. Dispute Resolution Noel Corporation may request Ecology to resolve disputes which may arise during the implementation of this Order. Such requests shall be in writing and directed to the signatory, or his/her successor(s), to this Order. Ecology resolution of the dispute shall be binding and final. Noel Corporation is not relieved of any requirement of this Order during the pendency of the dispute and remains responsible for timely compliance with the terms of the Order unless otherwise provided by Ecology in writing.

5.10 Reservation of Rights/No Settlement This Agreed Order is not a settlement under Chapter 70.105D RCW. Ecology's signature on this Order in no way constitutes a covenant not to sue or a compromise of any Ecology rights or authority. Ecology will not, however, bring an action against Noel Corporation to recover remedial action costs paid to and received by Ecology under this Agreed Order. In addition, Ecology will not take additional enforcement actions against Noel Corporation to require those remedial actions required by this Agreed Order, provided Noel Corporation complies with this Agreed Order.

Ecology reserves the right, however, to require additional remedial actions at the Site should it deem such actions necessary.

Ecology also reserves all rights regarding the injury to, destruction of, or loss of natural resources resulting from the releases or threatened releases of hazardous substances from Noel Corporation site.

In the event Ecology determines that conditions at the Site are creating or have the potential to create a danger to the health or welfare of the people on the Site or in the surrounding area or to the environment, Ecology may order Noel Corporation to stop further implementation of this Order for such period of time as needed to abate the danger.

5.11 Transference of Property No voluntary or involuntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Site shall be consummated by Noel Corporation without provision for continued implementation of all requirements of this Order and implementation of any remedial actions found to be necessary as a result of this Order.

Prior to transfer of any legal or equitable interest Noel Corporation may have in the Site or any portions thereof, Noel Corporation shall serve a copy of this Order upon any prospective purchaser, lessee, transferee, assignee, or other successor in such interest. At least thirty (30) days prior to finalization of any transfer, Noel Corporation shall notify Ecology of the contemplated transfer.

5.12 Compliance with Other Applicable Laws All actions carried out by Noel Corporation pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements.

VI.

Satisfaction of this Order

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

VII.

Enforcement

- 7.1. Pursuant to RCW 70.105D.050, this Order may be enforced as follows:
- A. The Attorney General may bring an action to enforce this Order in a state or federal court.
 - B. The Attorney General may seek, by filing an action, if necessary, to recover amounts spent by Ecology for investigative and remedial actions and Orders related to the Site.

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

- (1) up to three times the amount of any costs incurred by the state of Washington as a result of its refusal to comply; and
- (2) civil penalties of up to \$25,000 per day for each day it refuses to comply.

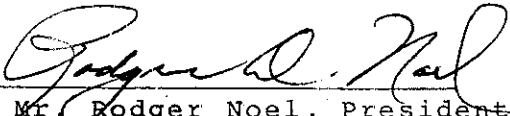
D. This Order is not appealable to the Washington Pollution Control Hearings Board. This Order may be reviewed only as provided under Section 6 of Chapter 70.105D RCW.

Effective date of this Order: JAN 05 1996

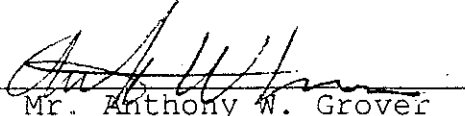
NOEL CORPORATION

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

By


Mr. Rodger Noel, President
Noel Corporation

By


Mr. Anthony W. Grover
Section Manager
Toxics Cleanup Program
Central Regional Office

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