

Westco Martinizing
FS 536

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

In the Matter of Remedial)
Investigation by:)
)
WESTCO MARTINIZING)

AGREED ORDER
No. DE 94TC-C434

TO: Westco Martinizing
3430 Americana Terrace
Boise, ID 83760

I.

Jurisdiction

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

II.

Findings of Fact

Ecology makes the following Findings of Fact, without admission of such facts by Westco Martinizing.

2.1 The Facility, Westco Martinizing, is located at 812 Summitview Avenue in Yakima, Washington. The Facility has been owned and operated as a dry cleaning business since at least 1953. Westco Martinizing has occupied the Facility since 1965.

Westco Martinizing is a dry cleaning business. Tetrachloroethylene (PCE) is utilized as part of the process.

2.2 In November, 1993, the Department of Ecology (Ecology) conducted soil sampling at the Westco Martinizing Facility as part of the "Investigation of Potentially Liable Persons (PLPs) Soil and Groundwater Contamination, Yakima Railroad Area,

Yakima, Washington" study. PCE was detected at 3.4 ug/kg (ppb).

2.3 On May 12, 1994, Ecology, at the request of Westco Martinizing conducted follow-up sampling to confirm the presence of PCE at the Facility. PCE was found at levels as high as 34 ug/kg (ppb).

2.4 An April 6, 1994 Preliminary Site Investigation Report, completed by CH²M-HILL for Westco Martinizing, presented sampling results from a soil gas survey and the installation of groundwater monitoring wells. PCE in soil gas was detected at the Facility. PCE in groundwater was found at levels as high as 17 ug/kg.

III.

Ecology Determinations

3.1. Westco Martinizing 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 Westco Martinizing and is located at 812 Summitview Avenue in Yakima, Washington.

3.3. The substance found at the Facility as described above is a "hazardous substance" as defined in RCW 70.105D.020(5).

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

3.5. By letter dated July 27, 1993, Ecology notified Westco Martinizing 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 facts, Ecology believes the remedial investigation required by this Order is in the public interest.

IV.

Work to be Performed

Westco Martinizing hereby agrees to undertake the following remedial investigation and that this investigation will be conducted in accordance with Chapter 173-340 of the Washington Administrative Code (WAC) unless otherwise specifically provided for herein.

4.1 Westco Martinizing will perform a Remedial Investigation/Feasibility Study (RI/FS) per the requirements of WAC 173-340-350. Said RI/FS shall provide sufficient information to support the selection of a cleanup action under Chapter 173-340-360 WAC and meet all other appropriate requirements of WAC 173-340, the Model Toxics Control Act.

The following steps will occur in the completion of the RI/FS:

a. Westco Martinizing will perform the work identified in attachment A, the "Draft Workplan for Soil Sampling and Supplementary Groundwater Well Installation, WESTCO Dry Cleaning Facility" prepared by CH2MHill, dated June 1994. In addition to tasks identified in the workplan Westco Martinizing will prepare a facility history, a schedule for implementation of the Work Plan, and a map of the Facility showing all features (including property ownership, tanks, piping, known contamination areas, etc.). One map must include the latitude and longitude for five (5) surveyed locations along the Facility boundary.

b. Upon approval of the implementation schedule by Ecology, Westco will proceed with the Work Plan per the implementation schedule.

c. Westco will submit a draft RI/FS report to Ecology. The draft RI/FS report will be submitted to Ecology no later than twelve (12) months from the date of this Order.

d. Upon receipt and incorporation of Ecology comments, Westco will prepare and submit to Ecology a final RI/FS report.

4.2 Results from sampling shall be provided to Ecology's project coordinator upon receipt from the laboratory.

4.3 Written progress reports shall be submitted to Ecology by Westco Martinizing at least monthly from the date of this Agreed Order to completion of the work under this Agreed Order. The intent of these reports is to provide a brief summary to Ecology of activities/results of work at the facility. Westco Martinizing shall immediately notify Ecology, in writing, of any unexpected delays in the work required as part of this Agreed Order.

4.4. In accordance with WAC 173-340-840(5), groundwater sampling data shall be submitted according to Attachment B: SAMPLING DATA SUBMITTAL REQUIREMENTS. Attachment B is incorporated by this reference and is an integral and enforceable part of this Agreed Order. All soil and groundwater data will be provided to Ecology on diskette and as hard copy in the RI.

4.5 All documents submitted must meet the general submittal requirements of Chapter 173-340 WAC.

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. Ecology and Westco Martinizing reserve the right to modify or withdraw any provisions of this Order should public comment disclose facts or considerations which indicate that the Order is inadequate or improper in any respect. If Ecology modifies or withdraws any provision of this Order, Westco Martinizing Facility reserves the right to withdraw.

5.3. Remedial Action Costs

Westco Martinizing shall pay to Ecology costs incurred by Ecology pursuant to this Order. These costs shall include work performed by Ecology or its contractors at the Facility under Chapter 70.105D RCW both prior to and subsequent to the issuance of this Order for investigations, remedial actions, and Order preparation, oversight and administration. Ecology costs shall include costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2). Westco Martinizing 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, a general description of work performed and the amount of time spent by involved staff members on the project. Itemized statements shall be prepared quarterly. Failure to pay Ecology's costs within ninety (90) days of receipt of an itemized statement of costs will result in interest charges pursuant to WAC 173-340-550(4).

5.4. Designated Project Coordinators

The project coordinator for Ecology is:

Rick Roeder
Site Manager
Department of Ecology
106 South 6th Avenue
Yakima, WA 98902

The project coordinator for Westco Martinizing is:

Name P. Dennis Smith
Address CH2M Hill
700 Clearwater Lane
Boise, Idaho 83712

The project coordinator(s) shall be responsible for overseeing the implementation of this Order. To the maximum extent possible, communications between Ecology and Westco Martinizing, 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 Westco Martinizing change project coordinator(s), written notification shall be provided to Ecology or Westco Martinizing 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. Westco Martinizing 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 Facility. Westco Martinizing 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, Westco Martinizing shall not perform any remedial actions at the Facility 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 Facility 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 Westco Martinizing. By signing this Agreed Order, Westco Martinizing agrees that this Order constitutes reasonable notice of access, and agrees to allow access to the Facility at all reasonable times for purposes of overseeing work performed under this Order. Ecology shall allow split or replicate samples to be taken by Westco Martinizing during an inspection unless doing so interferes with Ecology's sampling. Westco Martinizing 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

Westco Martinizing shall prepare and/or update a public participation plan for the Facility. This public participation plan shall be coordinated with the public participation plan being developed for the Yakima Railroad Area. Ecology shall maintain the responsibility for public participation at the Facility. Westco Martinizing shall help coordinate and implement public participation for the Facility. Westco Martinizing shall designate a point of contact for the development and implementation of the public participation plan.

A draft public participation plan shall be submitted to Ecology within sixty (60) days of the date of this Order. A final public participation plan shall be submitted for approval within thirty (30) days of receipt of Ecology comments on the draft.

5.8. Retention of Records

Westco Martinizing 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 Westco Martinizing, then Westco Martinizing 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

Westco Martinizing may request Ecology to resolve disputes which may arise during the implementation of this Order. Such request shall be in writing and directed to the signatory, or his/her successor(s), to this Order. Ecology resolution of the dispute shall be binding and final. Westco Martinizing 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 Westco Martinizing to recover remedial investigation costs paid to and received by Ecology under this Agreed Order. In addition, Ecology will not take additional enforcement actions against Westco Martinizing to require those remedial investigations required by this Agreed Order, provided Westco Martinizing complies with this Agreed Order.

Ecology reserves the right, however, to require additional remedial investigations or actions at the Facility should it deem such actions necessary. Ecology also reserves all rights regarding the injury to, destruction of, or loss of natural resources resulting from the releases or threatened releases of hazardous substances from the Westco Martinizing Facility.

In the event Ecology determines that conditions at the Facility are creating or have the potential to create a danger to the health or welfare of the people on the Facility or in the surrounding area or to the environment, Ecology may order Westco Martinizing 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 Facility shall be consummated by Westco Martinizing without provision for continued implementation of all requirements of this Order and implementation of any remedial investigations found to be necessary as a result of this Order. Prior to transfer of any legal or equitable interest Westco Martinizing may have in the Facility or any portions thereof, Westco Martinizing 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, Westco Martinizing shall notify Ecology of the contemplated transfer.

5.12. Compliance with Other Applicable Laws

All actions carried out by Westco Martinizing 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 Westco Martinizing's receipt of written notification from Ecology that Westco Martinizing has completed the remedial investigations 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 Agreed 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 Facility.
- C. In the event Westco Martinizing refuses, without sufficient cause, to comply with any term of this Order, Westco Martinizing 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 13 1995

WESTCO MARTINIZING

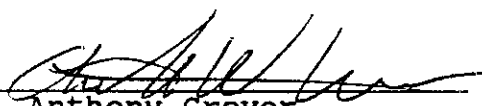
STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

BY



William F. Winkle
Westco Martinizing

BY



Anthony Grover
Section Manager
Washington State
Department of Ecology



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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March 11, 1996

CERTIFIED MAIL
Z 350 869 099

Mr. William Winkle
Westco Martinizing
PO Box 8224
Boise, ID 83707

Dear Mr. Winkle

RE: Amendment to Order No. DE 94TC-C434 to include Task 4.6 in Section IV

Amendment to Order No. DE 94TC-C434 to add Task 4.6 to section IV follows. Please review the amendment, sign on the acceptance line, complete the SEPA Checklist and return to Ecology. Ecology will then sign, send you a final copy, and issue the necessary public notice for the amendment and the SEPA documentation. All other sections of the Order remain unchanged by this amendment.

Section IV, Task 4.6: "Work to be Performed" add:

"4.6 Westco Martinizing may choose to undertake Interim Actions to address known PCE contamination. Such Interim Actions must be proposed by Westco Martinizing to Ecology for review and approval. Any such actions will be limited to soil remediation through soil removal and proper disposal.

If you have any questions please feel free to contact me.

Sincerely,

Rick Roeder
Site Manager
Toxics Cleanup Program

Accepted

William Winkle, Westco Martinizing

Accepted

Anthony Grover, Section Manager
Toxics Cleanup Program
Washington State Department of Ecology

cc: Steve Thiele, AAG
Dennis Smith, CH2M Hill



