

Support Terminals  
FS 1026

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

In the Matter of Remedial Action by: )  
 )  
Support Terminals Operating Partnership L.P. )  
(ST Services) )  
 )  
 )

**AGREED ORDER**

No. DE 98-TC-5338

TO:

Support Terminals Operating Partnership L.P.  
2435 North Central Expressway  
Suite 700  
Richardson, Texas

I.

JURISDICTION

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

II.

FINDINGS OF FACT

Ecology makes the following Findings of Fact, without admission of such facts by Support Terminals Operating Partnership L.P. ("ST Services").

1. ST Services currently owns and operates a bulk liquid storage terminal located at the Port of Vancouver, Terminal No. 2, in Vancouver, Washington. The terminal was purchased from GATX by ST Services on September 1, 1998. The property is leased from the Port of Vancouver.
3. The terminal is bounded on the south by the Columbia River, and on remaining sides by various industries at the Port of Vancouver.
4. The bulk liquid storage terminal formerly handled chlorinated solvents (prior to 1994), including perchloroethylene (tetrachloroethene), methylene chloride, and 1,1,1-

trichloroethane. Products are received and shipments occur by maritime vessel, railroad tank car, and tank truck. Blending, packaging, and warehousing operations are conducted at the facility.

5. Evidence of releases of hazardous substances has been found in operational areas of the terminal. Soil and groundwater contamination has been found in these areas. A Site Hazard Assessment was conducted by Ecology in June of 1991 for the purpose of evaluating actual or potential environmental or public health hazards. Several surface and subsurface soil samples were collected and one groundwater monitoring well (EW-1) was installed and sampled. Chlorinated compounds were detected in the soil samples taken in the tank area and in the soil sample from the soil boring. Compounds detected in the soil samples include tetrachloroethene (PCE), trichloroethene (TCE), total xylenes and toluene. Analytical results of the groundwater sample collected from EW-1 identified the presence of PCE, TCE, benzene, chloroform, cis-1,2-dichloroethene (cis-1,2-DCE), trans-1,2-dichloroethene (trans-1,2-DCE), 1,1-dichloroethane (1,1-DCA), 1,2-dichloroethane (1,2-DCA), 1,1-dichloroethene (1,1-DCE), 1,2-dichloropropane, 1,1,1-trichloroethane (TCA), and vinyl chloride (VC).

6. The Site Hazard Assessment was used by Ecology to determine the hazard ranking of the site. A number one ranking has the greatest risk, while a five has the lowest risk. The site was ranked by Ecology in 1991 as a one.

7. Between 1993 and 1997, GATX further characterized the site by collecting various surface and subsurface soil samples, completing a soil gas survey and numerous hand auger and geoprobe borings, and installing and sampling a total of 17 groundwater monitoring wells. Hazardous substances, including TCE and PCE, were found to exceed certain MTCA cleanup levels. Specifics on the investigations can be found in the reports entitled, "Groundwater Monitoring Report, November 6, 1995", "1996 Site Characterization Activity Report, June 13, 1997", and "1997 Site Characterization and Assessment Activities Summary Report, December 10, 1997."

### III.

#### ECOLOGY DETERMINATIONS

1. ST Services is an "owner or operator" as defined at RCW 70.105D.020(12) of a "facility" as defined in RCW 70.105D.020(4).

2. The facility is known as the ST Services Vancouver Terminal Site and is located at Port of Vancouver Terminal #2, Lower River Road, Vancouver, Washington, and any other areas, if any, where hazardous substances associated with this property have come to be located.

3. The substances found at the facility as described above are "hazardous substances" as defined at RCW 70.105D.020(7).

4. Based on the presence of these hazardous substances at the facility, and all factors known to Ecology, there has been a release of hazardous substances at the facility, as defined in RCW 70.105D.020(20).

5. By a letter dated March 4, 1998, Ecology notified GATX of its status as a "potentially liable person" under RCW 70.105D.040 after notice and opportunity for comment.

6. By a letter dated September 1, 1998, Ecology notified ST Services of its status as a "potentially liable person" under RCW 70.105D.040 after notice and opportunity for comment.

7. 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.

8. Based on the foregoing 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 ST Services take the following remedial actions and that these actions be conducted in accordance with Chapter 173-340 WAC unless otherwise specifically provided herein. These actions are more specifically described in the Scope of Work to Be Performed attached as Exhibit A and hereby incorporated by reference as an integral and enforceable part of this Agreed Order. Ecology approved workplans listed below will be incorporated by reference and will be an integral and enforceable part of this order. In summary, the Scope of Work to Be Performed will include the following:

## TASK 1: INTERIM ACTION

Task 1A: Interim Action Pilot Study Work Plan

Task 1 B: Interim Action Pilot Study

Task 1 C: Interim Action Work Plan

Task 1 D: Interim Action

## TASK 2: REMEDIAL INVESTIGATION AND FEASIBILITY STUDY

Task 2A: Remedial Investigation Work Plan

Task 2B: Remedial Investigation

Task 2C: Feasibility Study Work Plan

Task 2D: Feasibility Study

## V.

### TERMS AND CONDITIONS OF ORDER

#### 1. Definitions.

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

#### 2. Public Notices.

RCW 70.105D.030(2)(a) requires that, at a minimum, the interim action required under this Order be subject to concurrent public notice. WAC 173-340-600(10)(c) requires a 30-day public comment period before the state RI/FS required under this Order becomes effective. 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.

#### 3. Remedial Action Costs.

ST Services 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, 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). ST Services shall pay the required amount within 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.

4. Designated Project Coordinators.

The project coordinator for Ecology is:

Lin Bernhardt  
Department of Ecology  
Vancouver Field Office  
2108 Grand Blvd, MS:S-70  
Vancouver, WA 98661-4622

The project coordinator for ST Services is:

James Siciliano  
ST Services  
17304 Preston Road, Suite 1000  
Dallas, Texas 75252

The project coordinator(s) shall be responsible for overseeing the implementation of this Order. To the maximum extent possible, communications between Ecology and ST Services, 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 ST Services change project coordinator(s), written notification shall be provided to Ecology or ST Services prior to the change if possible, but no more than ten (10) calendar days following the change.

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 materials site investigation and cleanup. ST Services 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. ST Services 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, ST Services shall not perform any remedial actions at the site outside that required by this Order unless Ecology concurs, in writing, with such additional remedial actions.

WAC 173-340-400(7)(b)(i) requires that "construction" performed on the site must be under the supervision of a professional engineer registered in Washington.

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 ST Services. Ecology shall give reasonable notice before entering property unless an emergency prevents such notice.

To the extent that the site or any other property for which access is required for the implementation of this Agreed Order is owned or controlled by persons other than ST Services, ST Services shall use best efforts to secure from such persons an agreement to provide ST Services access to the property for the purpose of conducting activities related to this Agreed Order. If such agreement is not obtained within a reasonable period of time, ST Services shall notify Ecology in writing, and shall include in the notification a summary of the steps ST Services has taken to attempt to obtain the agreement. Ecology will then, as it deems appropriate, assist ST Services in obtaining such agreement.

Ecology shall allow split or replicate samples to be taken by ST Services during an inspection unless doing so interferes with Ecology's sampling. ST Services shall allow split or replicate samples to be taken by Ecology and shall provide seven (7) days written advance notice before any sampling activity.

7. Public Participation.

ST Services shall prepare and/or update a public participation plan for the site. Ecology shall maintain the responsibility for public participation at the site. ST Services shall help coordinate and implement public participation for the site.

8. Retention of Records.

ST Services 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 ST Services then ST Services agrees to include in its contract with such contractors or agents a record retention requirement meeting the terms of this paragraph.

9. Dispute Resolution.

ST Services 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 a final decision by Ecology. ST Services 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.

10. Reservation of Rights/No Settlement.

This Order is not a settlement under ch. 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 ST Services or GATX to recover remedial action costs paid to and received by Ecology under this Order. In addition, Ecology will not take additional enforcement actions against ST Services to require those remedial actions required by this Order, provided ST Services complies with this 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 the

Vancouver Terminal 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 ST Services to stop further implementation of this Order for such period of time as needed to abate the danger.

This order shall not be construed as proof of liability or responsibility for any releases of hazardous substances or an admission of any facts; provided, however, that ST Services shall not challenge the jurisdiction of Ecology in any proceeding to enforce this Order.

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 ST Services 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 ST Services may have in the site or any portions thereof, ST Services 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, ST Services shall notify Ecology of the contemplated transfer.

12. Compliance With Applicable Laws.

A. All actions carried out by ST Services 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 paragraph B of this section.

B. Pursuant to RCW 70.105D.090(1), the substantive requirements of chapters 70.94, 70.95, 70.105, 75.20, 90.48 and 90.58 RCW and of any laws requiring or authorizing local government permits or approvals for the remedial action under this Order that are known to be applicable at the time of issuance of the Order have been included in the Scope of Work to Be Performed and are binding and enforceable requirements of the Order.

ST Services 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 that ST Services 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 Ecology of this determination. Ecology shall determine whether Ecology or ST Services shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, ST Services 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 ST Services and on how ST Services must meet those requirements. Ecology shall inform ST Services in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. ST Services shall not begin or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination.

Ecology shall ensure that notice and opportunity for comment is provided to the public and appropriate agencies prior to establishing the substantive requirements under this section.

C. 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 which is necessary for the state to administer any federal law, the exemption shall not apply and ST Services 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.

## VI.

### SATISFACTION OF THIS ORDER

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

VII.

ENFORCEMENT

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 ST Services refuses, without sufficient cause, to comply with any term of this Order, ST Services 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 Ch. 70.105D RCW.

VIII.

EFFECTIVE DATE

The portions of this Order relating to the interim actions required by this Order shall become effective immediately. All other portions of this order become effective upon ST Services's receipt of a letter from Ecology indicating that the public comment period is over and the order is effective.

Support Terminals Operating Partnership L.P.

State of Washington  
Department of Ecology

By *Ronald A. [Signature]*

By *[Signature]*

Date 8/27/98

Date 9/1/98

## EXHIBIT A

### WORK TO BE PERFORMED UNDER SECTION IV OF AGREED ORDER

The scope of work to be performed under Section IV of the Agreed Order is based on the Findings of Fact as listed under Section II and shall be completed in accordance with Washington Administrative Code (WAC) Chapter 173-340 unless specifically provided herein. The Scope of Work has been divided into two tasks in order to provide clear definitions of the work items to be completed. These two tasks are:

- Task 1: Interim Action
- Task 2: Remedial Investigation and Feasibility Study

A detailed description of the work to be performed in each of the two tasks is presented below. The tentative schedule for completion of the two tasks is discussed in each section and a summary of the tentative schedule is illustrated in Figure 1. The schedule may be modified during completion of the work due to changes in conditions or time required for document review. Changes in schedule will be documented in writing, but will not require public review and comment.

#### TASK 1: INTERIM ACTION

An Interim Action is appropriate under WAC 173-340-430(1)(b). The action proposed pursuant to this scope of work will meet the general requirements of an Interim Action by providing a partial cleanup of hazardous substances which provides information on how to achieve cleanup standards (WAC 173-340-430(2)(a)(iii)). The Interim Action will be completed in accordance with WAC 173-340-430. The Scope of Work to be performed under Task 1 is subdivided into four tasks as described below.

##### *Task 1A: Interim Action Pilot Study Work Plan*

An Interim Action Pilot Study Work Plan (IAPS) will be prepared in a manner which provides a brief site description, states the purpose and objectives, incorporates the site investigation history by reference and details of the IAPS activities. The purpose of the IAPS is to collect site specific data that will enable final design of the Interim Action. The IAPS will not focus on collection of additional data that will define the magnitude and extent of impacted soil and groundwater. This data will be collected under Task 2 as required by the completion of the Remedial Investigation (RI). The data collected from the IAPS will be included in the completion of the Feasibility Study to be completed under Task 3. The IAPS Work Plan will provide a detailed description of the IAPS, but is not intended to provide the information required in the Interim Action Work Plan prepared in accordance with WAC 173-340-430. The Interim Action Work Plan will be completed under Task 1C. A draft of the IAPS Work Plan will be submitted to Ecology for review and approval in accordance with the schedule illustrated in Figure 1.

A Health and Safety Plan (HSP) will be completed in accordance with WAC 173-340-810. The HSP will be a stand alone document that will be amended as necessary to include future field and monitoring activities. A draft of the HSP will be submitted to Ecology for review and comment in accordance with the schedule illustrated in Figure 1.

A Sampling and Analysis Plan (SAP) will be completed in accordance with WAC 173-340-820. The SAP will be a stand alone document that will be amended as necessary to include future field and monitoring activities. A draft of the SAP will be submitted to Ecology for review and approval in accordance with the schedule illustrated in Figure 1.

### ***Task 1B: Interim Action Pilot Study***

The IAPS will be conducted in accordance with the approved Work Plan as outlined in Task 1A. Ecology will assist in the permitting process in order to complete the IAPS. Following completion of the field activities and receipt of the analytical results, a brief report will be prepared documenting the study results. A draft summary report of the IAPS will be submitted to Ecology for review and approval in accordance with the schedule illustrated in Figure 1.

### ***Task 1C: Interim Action Work Plan***

An Interim Action (IA) Work Plan will be prepared in accordance with WAC 173-340-430 following completion of the IAPS summary report. The lateral area over which the IA is anticipated to occur is illustrated in Figure 2. The vertical extent to which the IA will occur is not anticipated to exceed a depth of 100 feet below ground surface. The lateral and vertical extent of the IA are based on the site characterization data collected at the site to date. Within the boundaries of this area, an IA is appropriate under WAC 173-340-430(1)(b). Furthermore, the IA will meet the general requirements of providing a partial cleanup of hazardous substances which provides information on how to achieve cleanup standards (WAC 173-340-430 (2) (a)(iii)).

One deep well will be installed as the first phase of the IA. The intent of the deep well is to collect additional site characterization data which will be useful in completion of the RI to be completed under Task 2 and which will provide a monitoring point to measure the progress of the IA. Details of the field methods used to collect soil and groundwater data during installation of the deep well and well construction details will be included in the IA Work Plan.

The IA will simultaneously use two remedial technologies, with the priority to be placed on areas adjacent to the river. The application of an in-situ advanced oxidation technique will be used in areas with the highest contaminant concentrations while air sparging and vapor extraction will be used in areas of lower contaminant concentrations and in areas immediately adjacent to the Columbia River. A conceptual layout of the in-situ advanced oxidation treatment area and the air sparging and vapor extraction treatment area will be presented in the IA Work Plan. Provisions for modifying the layout based on observations during installation of the wells to be used in the treatment process will also be presented in the IA Work Plan.

The duration of the in-situ advanced oxidation technology is anticipated to be between 6 to 12 months. After the in-situ advanced oxidation technology phase is completed, air sparging with vapor extraction will be initiated in this area in addition to the area already being treated by air sparging with vapor extraction. The anticipated boundaries of the IA is illustrated in Figure 2. The HSP and SAP will be updated to incorporate the activities included in the IA. A draft IA Work Plan and revised SAP will be submitted to Ecology for review and approval in accordance with the schedule illustrated in Figure 1. A draft revised HSP will be submitted for review and comment by Ecology.

### ***Task 1D: Interim Action***

The IA will be conducted in accordance with the approved Work Plan as outlined in Task 1C. Ecology will assist in the permitting process in order to complete the IA. Monthly progress reports will be submitted during the IA to document the results. Ecology will be notified of the completion of the in-situ advanced oxidation phase of the IA. The decision to discontinue the in-situ advanced oxidation phase will be made by Kaneb in conjunction with Ecology. The IA will proceed in accordance with the schedule illustrated in Figure 1.

## **TASK 2: REMEDIAL INVESTIGATION AND FEASIBILITY STUDY**

A Remedial Investigation and Feasibility Study (RI/FS) will be completed in accordance with WAC 173-340-350. The Scope of Work to be performed under Task 2 is subdivided into four tasks as described below.

### ***Task 2A: Remedial Investigation Work Plan***

A RI Work Plan will be prepared in a manner which outlines the objectives of the RI work, describes the methods and procedures to be implemented during investigation work, and incorporates by reference the revised HSP and SAP. Further definition of the lateral and vertical extent of impacted groundwater will be completed in the RI. The lateral migration of contaminants in the direction of the Columbia River will be approximated using on-site data such as hydraulic conductivity, hydraulic gradient and river stage coupled with historical hydrologic records of river flow and regional studies of groundwater/surface water interaction. A detailed description of the data collection and evaluation methodologies will be included in the RI Work Plan. A draft RI Work Plan and revised SAP will be submitted to Ecology for review and approval in accordance with the schedule illustrated in Figure 1. A draft revised HSP will be submitted for review and comment by Ecology.

### ***Task 2B: Remedial Investigation***

The RI will be conducted in accordance with the approved Work Plan as outlined in Task 2A. Ecology will assist Kaneb in obtaining any required permits. Following completion of the field activities and receipt of the analytical results, an RI report will be prepared documenting the RI results. A draft RI report will be submitted to Ecology for review and approval in accordance with the schedule illustrated in Figure 1.

### ***Task 2C: Feasibility Study Work Plan***

A Feasibility Study (FS) Work Plan will be prepared in a manner which outlines the objectives of the FS work, describes the methods and procedures to be implemented during feasibility work and incorporates by reference the revised HSP and SAP. A detailed description of the data collection and evaluation methodologies will be included in the FS Work Plan. A draft FS Work Plan and revised SAP will be submitted to Ecology for review and approval in accordance with the schedule illustrated in Figure 1. A draft revised HSP will be submitted for review and comment by Ecology.

### ***Task 2D: Feasibility Study***

The FS will be conducted in accordance with the approved Work Plan as outlined in Task 2C. Ecology will assist Kaneb in obtaining any required permits as appropriate. Following completion of the field activities and receipt of the analytical results, an FS report will be prepared documenting the FS results.

As necessary, a site specific risk assessment will be performed to set cleanup levels, remedial action levels, and/or in making action decisions for the site. A draft FS report will be submitted to Ecology for review and approval in accordance with the schedule illustrated in Figure 1.