

**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

In the Matter of Remedial Action at: New City Cleaners Richland, Washington	AGREED ORDER No. DE 6558
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TO: Paul and Bettie Haverluk and HLH Inc. d/b/a New City Cleaners
 c/o James S. Crane
 Landye Bennett Blumstein LLP
 1300 SW Fifth Avenue Suite 3500
 Portland, OR 97201

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I. INTRODUCTION

The mutual objective of the State of Washington, Department of Ecology (Ecology) and Paul and Bettie Haverluk and HLH Inc. d/b/a New City Cleaners (collectively, HLH) under this Agreed Order (Order) is to provide for remedial actions at a Site where there has been a release or threatened release of hazardous substances. This Order requires HLH to conduct a supplemental Remedial Investigation/Feasibility Study (RI/FS) and to prepare a preliminary draft Cleanup Action Plan to address the release of hazardous substances at the New City Cleaners Site. Ecology believes the actions required by this Order are in the public interest.

II. JURISDICTION

This Agreed Order is issued pursuant to the Model Toxics Control Act (MTCA), RCW 70.105D.050(1).

III. PARTIES BOUND

This Agreed Order shall apply to and be binding upon the Parties to this Order, their successors and assigns. The undersigned representative of each party hereby certifies that he or she is fully authorized to enter into this Order and to execute and legally bind such party to comply with this Order. HLH agrees to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter the responsibility of HLH under this Order. HLH shall provide a copy of this Order to all agents, contractors, and subcontractors retained to perform work required by this Order, and shall ensure that all work undertaken by such agents, contractors, and subcontractors complies with this Order.

IV. DEFINITIONS

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

- A. Site: The Site is referred to as the "New City Cleaners Site" and is generally located at 747 Stevens Drive, Richland, WA. The Site is defined by the area(s) where contamination caused by releases of hazardous substances at the Site has come to be located. Based upon factors currently known to Ecology, the Site is described in the Site Diagram attached hereto as Exhibit A. The Site constitutes a Facility under RCW 70.105D.020(5).
- B. Parties: Refers to Ecology and HLH.
- C. Potentially Liable Person (PLP): Refers to HLH for purposes of this Order. As described below, the Parks and the Chas have also been named as PLPs for the Site but are not signing on to this Order. Additional PLPs may be identified pursuant to WAC 173-340-500(6).

- 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 PLPs:

- A. The property located at 747 Stevens Drive in Richland includes Parcel ID Number 110981020600018 (HLH Property). The property includes approximately 0.5 acre of land on which a one-level block building is located.
- B. Dry cleaning operations began on the HLH Property in approximately 1950 and continue as of the current date. Until 1974, the dry cleaning process at the Site used Stoddard solvent, a petroleum-based fluid also known as mineral spirits, as the primary cleaning agent. In 1974, an additional dry cleaning process using tetrachloroethene, also known as tetrachloroethylene, perchloroethylene, "perc", or PCE (collectively, PCE), was introduced.
- C. The Stoddard solvent was reportedly stored in two underground storage tanks (USTs) located near the southwestern corner of the HLH Property. Originally, the PCE was delivered and stored in 55-gallon drums located outside on a rack near the southwestern corner of the HLH Property. In early 1975 there was a release of an unknown quantity of PCE to the ground. Paul and Bettie Haverluk contend that this release was caused by an act of vandalism, and that after the release the drum rack was moved inside the dry cleaning facility.
- D. Two 1,200-gallon Stoddard solvent USTs were removed from the Site on or about April 21, 1992. In addition, one 10,000-gallon UST (reportedly containing Bunker C fuel) and one 500-gallon UST, were removed on or about April of 1992. Some soil was excavated and stored on the property during the excavation of the USTs.
- E. Sampling conducted in association with the UST removal revealed the presence of the following hazardous substances in soil and groundwater on the property: PCE, trichloroethene (TCE), 1,2-dichloroethane, benzene, toluene, ethylbenzene, xylenes (BTEX), and total petroleum hydrocarbons (TPH).
- F. On July 22, 1996, Ecology issued Enforcement Order No. DE 96TC-C180 to Paul and Bettie Haverluk requiring a Remedial Investigation.

- G. On October 6, 1999, Ecology issued the first amendment to Enforcement Order No. DE 96TC-C180 to Paul and Bettie Haverluk requiring implementation of an Interim Cleanup Action Plan.
- H. In 2000, an Interim Cleanup Action Plan (ICAP) was developed and implemented on the HLH Property. The ICAP was implemented in two phases between February 2000 and August 2000, and included: (1) removal of overlying structures (wood storage sheds, landscaping, fences, and asphalt); (2) excavation of approximately 5,000 tons of contaminated soil; (3) backfilling and compacting of the remedial excavation with clean fill; (4) limited on-site treatment of soil; and (5) offsite soil disposal. The interim cleanup action is described in "Report of Interim Cleanup Action, Tetrachloroethylene and Petroleum Contaminated Soil, New City Cleaners, Richland, Washington" by GeoEngineers, Inc., June 26, 2001. Soil was not excavated if it was below the water table or if excavation would threaten the structural integrity of the building or two utility poles on the HLH Property.
- I. Subsequent to the completion of the interim action, HLH has performed independent investigative actions. Samples collected at the HLH Property since the Interim Cleanup Action indicate that levels of PCE in groundwater remain above the MTCA Method A cleanup level of 5.0 micrograms per liter (ug/l). Additionally, samples collected since the Interim Cleanup Action indicate that levels of trichloroethene (TCE) in groundwater remain above the MTCA Method A cleanup level of 5.0 micrograms per liter (ug/l) in some monitoring wells. Samples collected since the Interim Cleanup Action indicate the presence of vinyl chloride in groundwater, potentially above MTCA cleanup levels.
- J. Additional independent investigation activities were performed in 2008, focusing predominantly on sampling and analysis of soil and groundwater at locations to the west, south, and east of the HLH Property. Samples taken during the 2008 investigation efforts indicate that PCE, TCE, vinyl chloride, and chloroform are present in groundwater on the HLH Property, and that PCE and TCE are present in groundwater on the properties located to the south and east of the HLH Property. Specifically, the groundwater beneath the property to the east (an Albertson's supermarket with an associated parking lot) contains PCE and TCE above MTCA cleanup levels. Additionally, the groundwater beneath the property to the south (a Richland School District Maintenance Center, which has been included on the Hazardous Sites List - Facility ID #44976422) contains chloroform, PCE and TCE above MTCA cleanup levels. 1,2-dichloroethane, BTEX, and TPH were either not detected or were detected at levels below the cleanup levels in both on-site and off-site wells during the sampling events of 2008.
- K. On or about April 17, 2007, HLH sold the HLH Property to Choon Kun Cha and Bok N. Cha (Cha) and Hong Min Park and Geum Soo Park (Park). Upon information and belief, Cha and Park are the current owners of the HLH Property and/or the operators of the dry cleaning operations on the HLH Property.

VI. ECOLOGY DETERMINATIONS

- A. Cha and Park are "owners or operators" as defined in RCW 70.105D.020(17).

- B. HLH owned and operated the HLH Property at the time of the release of hazardous substances, as defined in RCW 70.105D.040(1)(b).
- C. Based upon all factors known to Ecology, a "release" or "threatened release" of "hazardous substance(s)" as defined in RCW 70.105D.020(10) and -.020(25), respectively, has occurred at the Site.
- D. Based upon credible evidence, Ecology issued a PLP status letter to Paul and Bettie Haverluk dated May 2, 1996, 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 Paul and Bettie Haverluk are PLPs under RCW 70.105D.040 and notified Paul and Bettie Haverluk of this determination by letter dated June 10, 1996.
- E. Based upon credible evidence, Ecology issued PLP status letters to Cha and Park dated August 28, 2007, 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 determinations that Cha and Park are PLPs under RCW 70.105D.040. Cha and Park were notified of these determinations by letters dated October 24, 2007.
- F. Pursuant to RCW 70.105D.030(1) and -.050(1), Ecology may require PLPs to investigate or conduct remedial actions with respect to any release or threatened release of hazardous substances whenever Ecology 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.
- G. This Order supersedes Enforcement Order No. DE 96TC-C180 and Enforcement Order No. DE 96TC-C180, First Amendment. The provisions of Enforcement Order No. DE 96TC-C180 and Enforcement Order No. DE 96TC-C180, First Amendment, are hereby rescinded and are no longer in effect as of the effective date 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 be conducted in accordance with Chapter 173-340 WAC unless otherwise specifically provided for herein:

- A. The PLPs shall submit to Ecology a Data Gap Investigation Work Plan in the format and according to the procedures set forth in Paragraph I of this Section. The Data Gap Investigation Work Plan shall be designed to complete the remedial investigation of the

Site, including but not limited to the delineation of the nature and extent of contamination that has migrated to the east and to the south of the HLH Property.

- B. The PLPs shall submit to Ecology for review a draft supplemental remedial investigation report in accordance with applicable sections of WAC 173-340-350. The report may integrate, by reference, previous investigations and sampling and analysis results, as well as past reports submitted to Ecology. The report shall include, but not be limited to, the following:
- a. A complete characterization of the lateral and vertical extent of the hazardous substances at the Site in both soil and groundwater.
 - b. A discussion of the site geology and hydrogeology as it relates to the current and future distribution of contaminants. Include information on groundwater gradient, confirmation of both upgradient and downgradient groundwater conditions, and public and private well locations within one half mile of the Site.
 - c. A terrestrial ecological evaluation or a demonstration that the Site meets the conditions for an exclusion from a terrestrial ecological evaluation as specified in WAC 173-340-7491.
 - d. A summary of work completed since the submittal of the "Report of Interim Cleanup Action, Tetrachloroethylene and Petroleum Contaminated Soil, New City Cleaners, Richland, Washington" by GeoEngineers, Inc., June 26, 2001. This shall include groundwater monitoring, additional sampling, site characterization or assessment, as well as any other activities that assist in defining the nature and extent of contamination at the Site.
- C. Upon receipt of Ecology's comments on the draft supplemental remedial investigation report, the PLPs shall incorporate Ecology's comments into a draft final supplemental remedial investigation report and submit the same to Ecology for review and approval. Such report shall not be deemed final until after the public comment period. If Ecology has additional comments after the public comment period, the PLPs shall incorporate those comments into the final supplemental remedial investigation report. If additional investigative work is required for the draft final supplemental remedial investigation report, the PLPs shall submit a Work Plan as set forth in paragraph H and I of this section.
- D. Upon receipt of Ecology's comments on the draft supplemental remedial investigation report, the PLPs shall submit to Ecology for review a draft Feasibility Study Report in accordance with the requirements of Chapter 173-340-350. The Feasibility Study shall evaluate the feasibility and effectiveness of implementing alternate cleanup actions. The report shall include, but not be limited to:
- a. Detailed identification of contamination to be remediated
 - b. Identification and evaluation of cleanup alternatives protective of human health and the environment, including terrestrial ecological receptors by eliminating, reducing, or otherwise controlling risks posed through each exposure pathway and migration route.

- Cleanup levels or remediation levels, and points of compliance shall be identified, as outlined per the requirements of WAC 173-340-360. In accordance with WAC 173-340-140(7) and WAC 173-340-350-(8)(a), Ecology shall select the cleanup action.
- c. A reasonable number and type of alternative approaches shall be evaluated, taking into account the characteristics and complexity of the facility, including current site conditions, and physical constraints.
 - d. The identification of at least one permanent cleanup action alternative, as defined in WAC 173-340-200, to serve as a baseline against which other alternatives, shall be evaluated for the purpose of determining whether the cleanup action selected is permanent to the maximum extent practicable.
 - e. The Feasibility Study shall include an alternative that will bring the site into compliance at standard points of compliance with a cleanup level of 5.0 ug/l for tetrachloroethene in groundwater and a cleanup level of 5.0 ug/l for trichloroethene in groundwater.
 - f. Additional sampling and/or laboratory testing, if necessary, to evaluate remedial alternatives
 - g. Recommendation of a preferred cleanup alternative
- E. Upon receipt of Ecology's comments on the draft Feasibility Study Report, the PLPs shall submit to Ecology for review and approval a draft final Feasibility Study Report that has incorporated Ecology comments and recommendations. Such report shall not be deemed final until after the public comment period. If Ecology has additional comments after the public comment period, the PLPs shall incorporate those comments into the final Feasibility Study Report.
- F. Upon receipt of Ecology's comments on the draft Feasibility Study Report, the PLPs shall submit to Ecology for review a draft Cleanup Action Plan that meets the requirements of WAC 173-340-380. In accordance with WAC 173-340-140(7) and WAC 173-340-350-(8)(a), Ecology shall select the cleanup action.
- G. The work to be performed at the site shall be completed according to Exhibit B, Work Schedule, which is hereby incorporated by reference and is an integral and enforceable part of this Order.
- H. All deliverables, once approved by Ecology, become integral and enforceable parts of this Order.
- I. Prior to any sampling or on-site assessment or investigative work at the Site, the PLPs shall prepare the following for Ecology review and approval:
- a. A Draft Work Plan identifying the specific work to be completed on-site
 - b. Sampling and Analysis Plan (SAP)
In accordance with WAC 173-340-820 and Ecology's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies (February 2001), the SAP

shall contain site maps with the proposed number and locations of soil sampling points and groundwater monitoring wells as well as the other requirements of WAC 173-340-820. No sampling may be conducted prior to Ecology approval of the SAP. All samples must be analyzed using a laboratory accredited by Ecology.

c. Site Health and Safety Plan (HASP)

The Health and Safety Plan will address potential exposure pathways for those conducting the investigation in accordance with WAC 173-340-810.

d. Quality Assurance Plan (QAP)

The QAP shall identify and describe measures that will be undertaken during the performance of all sampling and analysis tasks to ensure the fulfillment of data quality objectives. The QAP shall be developed in accordance with WAC 173-340-830.

Upon receipt of Ecology's comments on the Draft Work Plan, the PLPs shall submit Final Work Plan to Ecology that incorporates Ecology's comments for Ecology's review and approval.

J. In accordance with WAC 173-340-840(5), electronic sampling data shall be submitted with all reports containing new data. Soil and groundwater sampling data shall be submitted in hard copy and entered electronically into Ecology's Environmental Information Management System (EIM). EIM information can be located on Ecology's web page at http://www.ecy.wa.gov/programs/tcp/data_submittal/Data_Requirements.htm. The electronic data shall have, at a minimum, the following fields: latitude and longitude of the well or sampling location (in decimal degrees), date sample taken, sample ID, water level altitude, sample depth, ground surface altitude, chemical constituent name, concentration result, units of measurement, data qualifier, and MTCA cleanup level. Data shall be submitted in hard copy to the Ecology project coordinator and electronically to the Ecology Electronic Information Management (EIM) system in accordance with the EIM data submittal protocols listed on the EIM web site: <https://fortress.wa.gov/ecy/eimimport/submit.htm>.

K. All reports shall be submitted in accordance with WAC 173-340-840.

L. If, at any time after the first exchange of comments on drafts, Ecology determines that insufficient progress is being made in the preparation of any of the deliverables required by this Section, Ecology may complete and issue the final deliverable.

M. After the completion of work required under this Order, Ecology and the PLPs intend to negotiate a Consent Decree that will require the PLPs to implement a final CAP.

VIII. TERMS AND CONDITIONS OF ORDER

A. Public Notice

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

B. Remedial Action Costs

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). The PLPs 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 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. Pursuant to RCW 70.105D.055, Ecology has authority to recover unreimbursed remedial action costs by filing a lien against real property subject to the remedial actions.

C. Implementation of Remedial Action

If Ecology determines that the PLPs have failed without good cause to implement the remedial actions required by this Agreed Order, in whole or in part, Ecology may, after notice to the PLPs, perform any or all portions of the remedial activities required by this Agreed Order that remain incomplete. Except in emergency situations, Ecology shall endeavor, where practicable, to provide the PLPs this notice in writing and a thirty (30) day opportunity to cure. If Ecology performs all or portions of the actions required by this Agreed Order because of the PLPs' failure to comply with their obligations under this Order, the PLPs shall reimburse Ecology for the costs of doing such work in accordance with Section VIII.B (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.

D. Designated Project Coordinators

The project coordinator for Ecology is:

Valerie Bound
Toxics Cleanup Program
Department of Ecology
15 W Yakima Avenue, Suite 200
Yakima, WA 98902
Telephone: (509) 454-7886
Email: vdre461@ecy.wa.gov

The project coordinator for the PLPs is:

William "Chip" Goodhue, LHG
Aspect Consulting
179 Madrone Lane North
Bainbridge Island, Washington 98110
Telephone: (206) 780-9370
Fax: (206) 780-9438
www.aspectconsulting.com

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 Decree.

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

E. Performance

All geologic and hydrogeologic work performed pursuant to this Order shall be under the supervision and direction of a geologist licensed in the State of Washington or under the

direct supervision of an engineer registered in the State of Washington, except as otherwise provided for by Chapters 18.220 and 18.43 RCW.

All engineering work performed pursuant to this Order shall be under the direct supervision of a professional engineer registered in the State of Washington, except as otherwise provided for by RCW 18.43.130.

All construction work performed pursuant to this Order shall be under the direct supervision of a professional engineer or a qualified technician under the direct supervision of a professional engineer. The professional engineer must be registered in the State of Washington, except as otherwise provided for by RCW 18.43.130.

Any documents submitted containing geologic, hydrologic or engineering work shall be under the seal of an appropriately licensed professional as required by Chapter 18.220 RCW or RCW 18.43.130.

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.

F. Access

Ecology or any Ecology authorized representative shall have the full authority to enter and freely move about all property at the Site that 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 that are not owned or controlled by the PLPs and 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.

G. 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 their 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.F (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.

H. Public Participation

A Public Participation Plan is required for this Site. Ecology shall review any existing Public Participation Plan to determine its continued appropriateness and whether it requires amendment, or if no plan exists, Ecology shall develop a Public Participation Plan alone or in conjunction with 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 list, prepare drafts of public notices and fact sheets at important stages of the remedial action, such as the submission of work plans, remedial investigation/feasibility study reports, cleanup action plans, and engineering design reports. As appropriate, Ecology will edit, finalize, and distribute such fact sheets, and prepare and distribute public notices of Ecology's presentations and meetings.

2. Notify Ecology's project coordinator prior to the preparation of all press releases and fact sheets, and before major meetings with the interested public and local governments. Likewise, Ecology shall notify 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. Richland Public Library
955 Northgate Drive
Richland, WA 99352
 - b. Ecology's Central Regional Office
15 West Yakima Ave Suite 200
Yakima, WA 98902

At a minimum, copies of all public notices, fact sheets, and press releases; all quality assured monitoring data; remedial action plans and reports, supplemental remedial planning documents, and all other similar documents relating to performance of the remedial action required by this Order shall be promptly placed in these repositories.

I. Retention of Records

During the pendency of this Order, and for ten (10) years from the date of completion of work performed pursuant to this Order, 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.

J. Resolution of Disputes

1. In the event a dispute arises as to an approval, disapproval, proposed change, or other decision or action by Ecology's project coordinator, or an itemized billing statement

under Section VIII.B (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 of receipt of the objection, 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.

K. Extension of Schedule

1. An extension of schedule shall be granted only when a request for an extension is submitted in a timely fashion, generally at least thirty (30) days prior to expiration of the deadline for which the extension is requested, and good cause exists for granting the extension. All extensions shall be requested in writing. The request shall specify:
 - a. The deadline that is sought to be extended;
 - b. The length of the extension sought;
 - c. The reason(s) for the extension; and
 - d. Any related deadline or schedule that would be affected if the extension were granted.
2. The burden shall be on 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.M (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.L (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.M (Endangerment).

L. Amendment of Order

The project coordinators may verbally agree to minor changes to the work to be performed without formally amending this Order. Minor changes will be documented in writing by Ecology within seven (7) days of verbal agreement.

Except as provided in Section VIII.N (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.J (Resolution of Disputes).

M. Endangerment

In the event Ecology determines that any activity being performed at the Site is creating or has the potential to create a danger to human health or the environment on or surrounding the Site, Ecology may direct 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 determine that any activity being performed at the Site 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.M (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.K (Extension of Schedule) for such period of time as Ecology determines is reasonable under the circumstances.

Nothing in this Order shall limit the authority of Ecology, its employees, agents, or contractors to take or require appropriate action in the event of an emergency.

N. Reservation of Rights

This Order is not a settlement under Chapter 70.105D RCW. Ecology's signature on this Order in no way constitutes a covenant not to sue or a compromise of any of Ecology's rights or authority. Ecology will not, however, bring an action against 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 are in compliance with this Order.

Ecology reserves its rights under Chapter 70.105D RCW, including the right to require additional or different remedial actions at the Site should it deem such actions necessary to protect human health and the environment, and to issue orders requiring such remedial

actions. Ecology also reserves all rights regarding the injury to, destruction of, or loss of natural resources resulting from the release or threatened release of hazardous substances at the Site.

O. Transfer of Interest in Property

No voluntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Site shall be consummated by 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 restrict uses and activities to those consistent with this Order and notify all transferees of the restrictions on the use of the property.

P. Compliance with Applicable Laws

1. All actions carried out by 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, but such requirements may be identified when specific remedial techniques are proposed and chosen.
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, but such requirements may be identified when specific remedial techniques are proposed and chosen.

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.

Q. 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 for death or injuries to persons or for loss or damage to property to the extent arising from or on account of acts or omissions of 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 in part or in whole 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. In the event the PLPs refuse, without sufficient cause, to comply with any term of this Order, the PLPs 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.

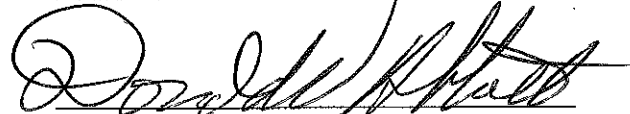
Effective date of this Order: April 22, 2009

**PAUL & BETTIE HAVERLUK
HLH INC. d/b/a NEW CITY CLEANERS**

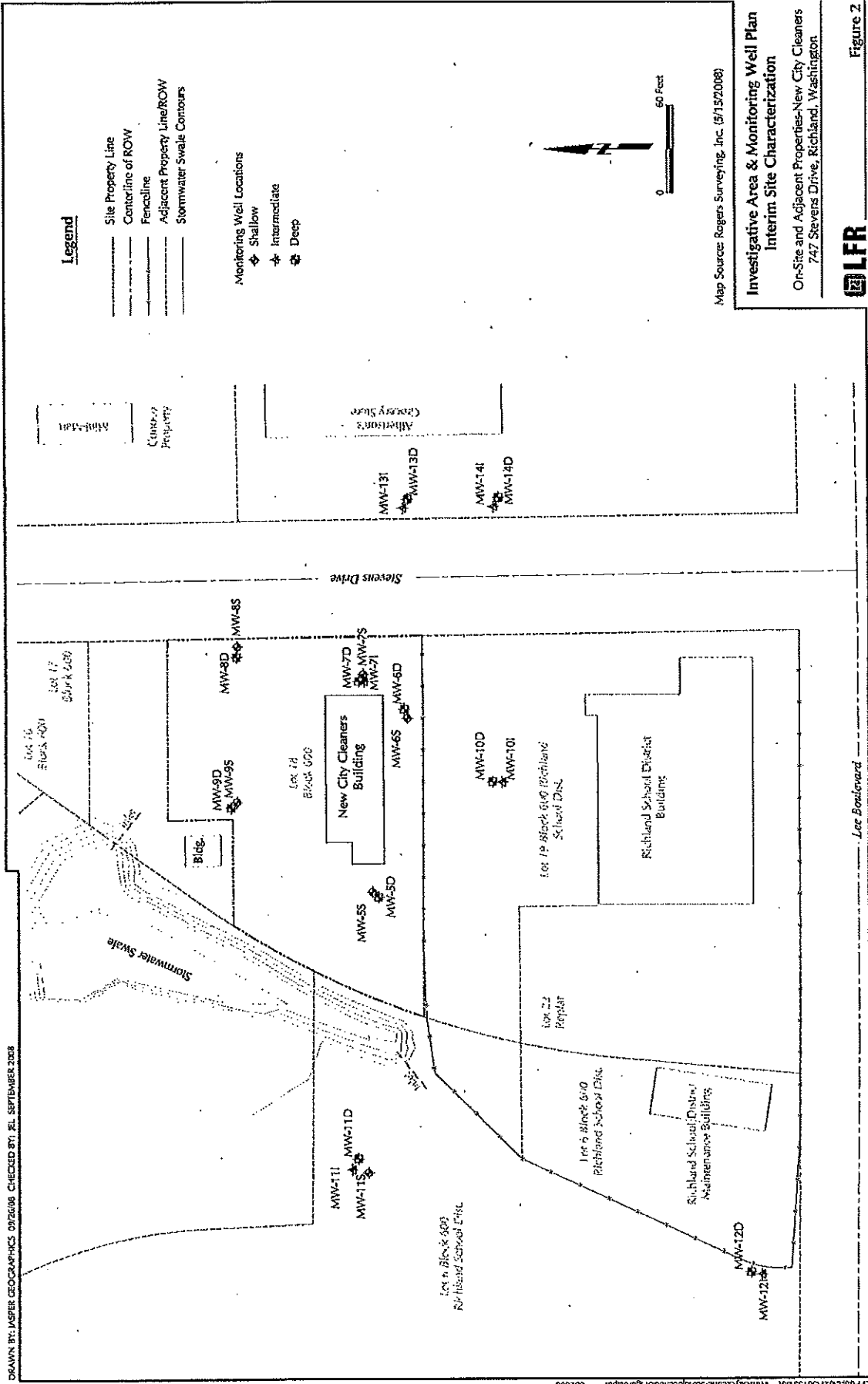
Paul & Bettie Haverluk and
HLH Inc. d/b/a New City Cleaners
c/o James Crane
Landye Bennett & Blumstein
1300 SW 5th Avenue, Suite 3500
Portland, OR 97201
Telephone: (503) 224-4100

**STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY**



Donald W. Abbott
Section Manager
Toxics Cleanup Program
Central Regional Office
Telephone: (509) 454-7838

DRAWN BY: JASPER GEOGRAPHICS, DATE: 08/26/08, CHECKED BY: JEL, SEPTEMBER 2008



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EXHIBIT B

Schedule for Work New City Cleaners

Deliverable	Completion Date <i>(all days are calendar days unless otherwise specified)</i>
<p>Draft Data Gap Investigation Work Plan <i>(including SAP, QAP, and Site Health and Safety Plan as needed)</i>*</p> <p>Final Data Gap Investigation Work Plan <i>(including SAP, QAP, and Site Health and Safety Plan as needed)</i></p>	<p>Within 30 days after the effective date of the Order.</p> <p>30 days after receipt of Ecology written comments on the Draft Data Gap Investigation Work Plan, <u>and</u> at least 30 days prior to the completion of any sampling or investigative work</p>
Draft Supplemental RI Report	120 days after the completion of all sampling and investigative work under the Final Data Gap Investigation Work Plan
<p>Draft* Final Supplemental RI Report</p> <p>Final Supplemental RI Report</p>	<p>45 days after receipt of Ecology written comments on the Draft Supplemental RI Report</p> <p>45 days after receipt of Ecology written comments on the Draft Final Supplemental RI Report (post public comment)</p>
Draft Feasibility Study	90 days after receipt of Ecology approval of Final Supplemental RI Report
<p>Draft* Final Feasibility Study</p> <p>Final Feasibility Study</p>	<p>60 days after receipt of Ecology written comments on the Draft Feasibility Study</p> <p>45 days after receipt of Ecology written comments on the Draft Final Feasibility Study (post public comment)</p>
Draft Cleanup Action Plan	90 days after receipt of Ecology written comments on the Draft Feasibility Study

Work Plans for Additional
Investigative Work*

*Draft Work Plan, SAP, QAP,
and Site Health and Safety Plan
(if necessary)*

*Final Work Plan, SAP, QAP,
and Site Health and Safety Plan
(if necessary)*

*20 days after receipt of Ecology written comments on the
Draft Site Characterization Work Plan, and 30 days prior
to the completion of any sampling or investigative work*

*The parties anticipate that the Draft Final and the Final deliverables may be substantially the same.