

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

In the Matter of Remedial Action of:)
Petroleum Reclaiming Services, Inc.) AGREED ORDER
3003 Taylor Way) No. DE 95HS-S349
Tacoma, Washington 98421)

TO: The Potentially Liable Persons (PLPs)

Petroleum Reclaiming Services, Inc.
c/o Gary Smith, President
3801 7th Avenue South
Seattle, WA 98108

Gary Smith
Petroleum Reclaiming Service, Inc.
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ATTACHMENTS

- Number 1: Facility Diagram
- Number 2: *Guidance on Sampling and Data Analysis Methods*, January 1995, Department of Ecology
Publication No. 94-49
- Number 3: *Guidelines and Specifications for Preparing Quality Assurance Project Plans*, May 1991,
Department of Ecology Publication No. 91-16
- Number 4: Substantive Requirements of Other Applicable Laws
- Number 5: RCRA Closure Plan for Petroleum Reclaiming Services, October 1995

1 I JURISDICTION

2 This Agreed Order (Order) is issued pursuant to the authority of RCW 70 105D.050(1). This
3 Order rescinds and supersedes the Stipulation and Agreed Order of Dismissal, PCHB No. 90-30, signed
4 October 30, 1990, by Petroleum Reclaiming Services, Inc. (PRSI) and the Department of Ecology
5 (Ecology), except for the outstanding portion of a potential \$5,000 penalty credit that still exists and that
6 will be managed according to the procedures outlined in "VII. Stipulated Penalties" below

7 II. DEFINITIONS

8 Unless otherwise specified, the definitions set forth in Chapter 70 105D RCW and Chapter 173-
9 340 WAC shall control the meanings of the terms used in this Order.

10 Additional definitions are as follows:

11 1. Agreed Order or Order means this Order issued under WAC 173-340-530. The term
12 includes the text of this Order, all Attachments to this Order, and all Ecology-approved submittals
13 required pursuant to this Order. Order Attachments and Ecology-approved submittals are incorporated
14 into this Order by this reference and are enforceable parts of this Order as if fully set forth herein.

15 2. Area of Concern (AOC) means any area of the facility where a release of dangerous
16 constituents (including dangerous waste and hazardous substances) has occurred, is occurring, is
17 suspected to have occurred, or threatens to occur.

18 3. Cleanup Action Plan (CAP) means the document issued by Ecology under WAC 173-
19 340-360 which selects facility specific corrective measures and specifies cleanup standards (cleanup
20 levels, points of compliance, and other requirements for the corrective measures).

21 4. Cleanup Standards means the standards promulgated under RCW 70.105D 030(2)(d) and
22 include (1) hazardous substance concentrations (cleanup levels) that protect human health and the
23 environment, (2) the location at the facility where those cleanup levels must be attained (points of
24 compliance), and (3) additional regulatory requirements that apply to a cleanup because of the type of
25 action and/or the location of the facility.

1 5. Corrective Action means any activities including investigations, studies,
2 characterizations, and corrective measures, including actions taken pursuant to Chapter 70 105D RCW
3 and Chapter 173-340 WAC, undertaken in whole or in part to fulfill the requirements of WAC 173-303-
4 646(2), as referenced in WAC 173-303-400(3)(a)(i).

5 6. Corrective Measure means any measure or action to control, prevent, or mitigate releases
6 and/or potential releases of dangerous constituents (including dangerous waste and hazardous
7 substances) reviewed and approved by Ecology for the facility and set forth in a facility specific CAP
8 prepared in compliance with the requirements of Chapter 173-340 WAC, including WAC 173-340-360.
9 Corrective measures may include interim actions as defined by Chapter 173-340 WAC. Interim actions
10 will not necessarily be set forth in a facility specific CAP.

11 7. Dangerous Constituent means any constituent identified in WAC 173-303-9905 or 40
12 CFR Part 264 Appendix IX, any constituent which caused a waste to be listed or designated as dangerous
13 under the provisions of Chapter 173-303 WAC, and any constituent defined as a hazardous substance at
14 RCW 70.105D.020(7).

15 8. Dangerous Waste means any solid waste designated in WAC 173-303-070 through 173-
16 303-100 as dangerous or extremely hazardous or mixed waste. Dangerous wastes are considered
17 hazardous substances under RCW 70.105D.020(7).

18 9. Dangerous Waste Constituent means any constituent listed in WAC 173-303-9905 and
19 any other constituent that has caused a waste to be a dangerous waste under Chapter 173-303 WAC.
20 Dangerous waste constituents are considered hazardous substances under RCW 70.105D.020(7).

21 10. Dangerous Waste Management Facility (DWMF) means all contiguous property under
22 the control of the PLPs who are seeking or required to have a permit under Chapter 173-303 WAC to
23 treat, store, recycle, incinerate, or dispose of dangerous waste.

24 11. Facility means the Petroleum Reclaiming Service, Inc., DWMF controlled by the PLPs
25 located at 3003 Taylor Way, Tacoma, Washington, all property contiguous to the DWMF also controlled

1 by the PLPs, and all property, regardless of control, affected by releases or threatened releases dangerous
2 constituents, at and from these areas.

3 12. Feasibility Study (FS) means the investigation and evaluation of potential corrective
4 measures performed in accordance with the FS requirements of WAC 173-340-350, which includes the
5 requirements for a RCRA Corrective Measures Study, and undertaken in whole, or in part, to fulfill the
6 corrective action requirements of WAC 173-303-646(2), as referenced in WAC 173-303-400(3)(a)(i).

7 13. Permit or Permitting Requirement, unless otherwise specified, means the requirements
8 of Chapter 173-303 WAC for applying for, obtaining, maintaining, modifying, and terminating
9 dangerous waste management facility permits.

10 14. RCRA Facility Assessment (RFA) means an investigation conducted by the United
11 States Environmental Protection Agency (EPA) of releases and potential releases requiring further
12 investigation at the dangerous waste management facility and the information contained in the report
13 entitled "Final RCRA Facility Assessment Report, Petroleum Reclaiming Service, Inc., Tacoma,
14 Washington, EPA I.D. WAD980511729," (RFA Report) dated July 1996.

15 15. Release means the definition of release at RCW 70.105D.020(19), which includes any
16 intentional or unintentional spilling, leaking, pouring, emitting, emptying, discharging, injecting,
17 pumping, escaping, leaching, dumping, or disposing of hazardous substances, including dangerous waste
18 and dangerous constituents into the environment. It also includes the abandonment or
19 discarding of barrels, containers, and other receptacles containing hazardous substances, including
20 dangerous waste and dangerous constituents.

21 16. Remedial Investigation (RI) means a facility wide investigation and characterization
22 performed in accordance with the requirements of Chapter 173-340 WAC, which includes the
23 requirements for a RCRA facility investigation, undertaken in whole or in part to fulfill the corrective
24 action requirements of WAC 173-303-646(2), as referenced in WAC 173-303-400(3)(a)(i).

1 2 The facility is owned by Gary Smith and Tom Smith, and is managed by the officers of
2 PRSI, namely, Gary Smith and Tom Smith. The current owners have owned the facility since on or
3 about November 1, 1987.

4 3 The PLPs owned and operated PRSI as a dangerous waste management facility on or
5 after August 9, 1982, the date which subjects facilities to permitting requirements in Chapter 173-303
6 WAC, including interim status facility standards in WAC 173-303-400 and interim status permitting
7 requirements in WAC 173-303-805.

8 4 On November 29, 1983, PRSI notified Ecology of its dangerous waste management
9 activities. In the notification, PRSI identified the facility as managing the following dangerous wastes at
10 the facility:

11 A Twenty-five (25) tons annually of American Petroleum Institute (API) separator
12 sludge from the petroleum refining industry (K051), and

13 B Three (3) tons annually of slop oil emulsions from the petroleum refining
14 industry (K049).

15 5 Pursuant to the November 29, 1983, notification, PRSI was issued identification number
16 WAD980511729 by the EPA on January 10, 1984.

17 6 Since November 29, 1983, PRSI has amended the Part A of the dangerous waste permit
18 application, identifying PRSI as managing the following dangerous wastes at the facility:

19 A slop oil emulsion solids from the petroleum refining industry (K049),

20 B API separator sludge from the petroleum refining industry (K051),

21 C leaded tank bottoms from the petroleum refining industry (K052),

22 D wastes generated from the salvaging, rebuilding, or discarding of transformers,
23 bushing, or capacitors which contain PCBs (W001),

24 E discarded chemical product phenol (U188),

- 1 F waste that exhibits the characteristic of corrosivity (D002),
2 G waste that exhibits the toxicity characteristic for cadmium (D006),
3 H waste that exhibits the toxicity characteristic for chromium (D007),
4 I waste that exhibits the toxicity characteristic for lead (D008),
5 J waste that exhibits the toxicity characteristic for benzene (D018),
6 K waste that exhibits the state toxicity criteria (WT02),
7 L extremely hazardous waste which exhibits the state persistence criteria (WP01);
8 M waste which exhibits the state persistence criteria (WP02),
9 N extremely hazardous waste that exhibits the state carcinogenic criteria (WC01),
10 and
11 O waste that exhibits the state carcinogenic criteria (WC02).

12 7. K Seiler, Ecology, stated the designations K051 and K052 were inaccurate in a letter
13 dated May 15, 1990, to Gary Smith, PRSI. Gary Smith, in a letter to K Seiler dated May 30, 1990, stated
14 that PRSI would not use the designations of K051 and K052 per Ecology's instructions and directives.

15 8. The Department of Ecology granted the PRSI facility interim status for the management
16 of dangerous waste with the WT02 designation in a letter dated November 20, 1991, from Karen
17 Michelena, Department of Ecology, to Gary Smith, PRSI. The letter also states that PRSI has the ability
18 to accept and manage wastes with the W001 designation since this waste code was included on previous
19 Part A applications.

20 9. In the most current Part A application dated November 15, 1993, PRSI stated that it has
21 the design capacity to store 149,625 gallons in tanks (S02) and 550 gallons in containers (S01), treat
22 40,000 gallons per day in tanks (T01), and recycle 3,000 gallons per hour of glycol solutions (T04). The
23 dangerous waste codes listed were W001, WT01, WT02, WP01, WP02, WC01, and WC02.

24 10. On February 2, 1995, PRSI received and processed listed hazardous waste from Lilyblad
25 Petroleum, Inc., in violation of PRSI's Part A permit application pursuant to WAC 173-303-400.

1 Ecology determined that the waste received by PRSI was listed, but acknowledged that circumstances at
2 the time of receipt may have resulted in some question on the part of PRSI's staff regarding the regulated
3 status of the Lilyblad waste. Ecology allowed the contents of the PRSI tanks which received or
4 processed the Lilyblad waste to be managed as WP02.

5 11. Evidence that the PRSI facility did not manage wastes with the codes D006, D007, and
6 D008 was included in a letter dated August 7, 1995, from Jay Johnson, Protective Environmental
7 Services, to Kaia Petersen, Ecology. The letter also stated that WP01, WC01, and WC02 were included
8 in the most current Part A application dated November 15, 1993, because plans for the PRSI facility
9 included installing treatment units capable of managing these wastes. The letter states that no wastes
10 with the codes WP01, WC01, and WC02 have been managed at the PRSI facility. The letter also states
11 that only WT02, W001, and WP02 can be documented as being handled at PRSI.

12 12. A letter dated August 23, 1995, from Jay Johnson, Protective Environmental Services, to
13 Kaia Petersen, Ecology, stated that the PRSI facility did not manage wastes with the codes K049, U188,
14 D002, and D018.

15 13. Releases and/or potential releases of hazardous substances at the DWMF include, but are
16 not limited to:

17 A. Violations of facility performance standards (WAC 173-303-283) and spills to
18 the interior of the diked secondary containment area were noted in an Order dated September 14, 1989,
19 in which Ecology issued to PRSI a penalty for violations of Chapter 173-303 WAC found during
20 inspections by Ecology personnel on May 16, May 24, and July 17, 1989. There was no safe way for
21 Ecology personnel to inspect the interior of the secondary containment area during all three inspections
22 because of the volume of spilled oil in the containment area. Equipment used at PRSI routinely tracked
23 oil around the facility on and off of containment pads, and personnel at PRSI routinely tracked waste oils
24 into areas which should be considered clean, such as the laboratory and the office.

1 B. Extensive cracking throughout the floor of the diked secondary containment area
2 was observed by Ecology personnel during inspections of PRSI on October 19, 1989, and May 3, 1990
3 None of the joints in the diked secondary containment area appeared to have been sealed, and no sealant
4 appeared to coat the concrete base or walls of the secondary containment area. Staining on the outside of
5 the containment walls indicated possible spillage over the top of the containment walls. During the May
6 1990 inspection, Ecology personnel observed evidence of leakage at a joint in the south wall on the
7 southeast corner of the containment area and from a large crack in the south wall. A void was noted in a
8 trough running the west-east length of the containment area at its west end where concrete at the bottom
9 of the void could not be found when the void was probed with a pen.

10 C. The diked secondary containment area surrounding three large vertical tanks was
11 partially full of a black viscous liquid during an inspection by Ecology personnel of the facility on
12 December 21, 1989, in response to an anonymous complaint alleging illegal discharge and/or disposal of
13 petroleum products at PRSI. Of the 20 inches of liquid in the containment area, 18.5 inches was
14 petroleum-based material. A discharge of liquid (via a crack or joint) from the containment area to the
15 ground on the east side of the containment area was observed by Ecology personnel. The liquid found in
16 the containment was "primarily composed of #2 diesel oil along with some type of heavier hydrocarbon
17 mixture, probably a lubricating oil," according to a memo dated December 28, 1989, from Bob Carell,
18 Ecology's Manchester Environmental Laboratory, to K Seiler, Ecology's Southwest Regional Office.

19 D. Holes in the bottom of the sewer discharge sump at PRSI were discovered when
20 the sump was cleaned out on December 14, 1990, according to a record dated December 20, 1990, by K
21 Seiler, Ecology, of a telephone conversation with Gary Smith, PRSI.

22 E. Holes were found in PRSI's oil-water separator during cleaning. The holes were
23 "about 6 inches in diameter - and there were two holes" according to a record dated December 31, 1990,
24 by Suzanne Powers, Ecology, of a telephone conversation with Mike Kennedy, Tacoma Sewer Utility.

1 F A strong hydrocarbon odor was noted in soils at a depth of 3.0 feet and a visible
2 hydrocarbon sheen was observed on soil from a depth of 5.0 to 5.5 feet by D. Crawford, a well logger for
3 Golder Associates, during installation of monitoring well (MW) C-03A at PRSI on August 23, 1991.

4 G. Soil and groundwater contamination at PRSI was identified during Phase 1 of a
5 site investigation in 1991 and 1992. Specific analytes found in soil included: total petroleum
6 hydrocarbons or TPH (88,000 mg/kg), arsenic (218 mg/kg), cadmium (30 mg/kg), and mercury (1.7
7 mg/kg). Specific analytes found in the shallow groundwater aquifer included: arsenic (190 µg/l),
8 trichlorethylene (32 µg/l), vinyl chloride (150 µg/l), total xylenes (34 µg/l), and TPH (3,200 µg/l). The
9 results of the Phase 1 site investigation are included in a report entitled "Phase 1 Report, Soil & Ground
10 Water Investigation of Petroleum Reclaiming Services Inc., 3003 Taylor Way, Tacoma, Washington,
11 February 6, 1992," prepared by Environmental Engineering & Consulting, Inc.

12 H. The analysis results for samples taken during quarterly groundwater monitoring
13 on September 16, 1992, indicate PCBs were not detected at or above the detection levels of 0.39 µg/l.
14 According to a letter to Gary Smith, PRSI, dated October 23, 1992, by Maura O'Brien, Ecology, these
15 results indicate non detection of PCBs in the shallow aquifer and in the intermediate aquifer under the
16 facility.

17 I. Soil and groundwater contamination at PRSI was identified during Phase 2 of a
18 site investigation in 1992 and 1993. Specific analytes found in soils included: arsenic (210 mg/kg), PCB
19 mixtures (aroclor 1260 at 15 mg/kg), TPH (48,000 mg/kg), and mercury (1.1 mg/kg). Specific analytes
20 found in the shallow groundwater aquifer included: arsenic (690 µg/l), cadmium (7 µg/l), vinyl chloride
21 (190 µg/l), and TPH (1,200 µg/l). The results of the Phase 2 site investigation are included in a report
22 entitled "Phase 2 Report, Soil and Ground Water Investigation of Petroleum Reclaiming Service, Inc.,
23 Tacoma, Washington" prepared by Environmental Engineering & Consulting, Inc., and submitted by
24 PRSI to Ecology on March 19, 1993.

1 J. Groundwater contamination at PRSI was identified during collection of
2 additional data in 1996. Two additional groundwater monitoring wells were installed to collect data on
3 the shallow aquifer. Specific analytes found in groundwater included: TPH (3.61 ppm), dissolved
4 arsenic (0.179 ppm), benzene (8.59 ug/l), tetrachloroethene (11.7 ug/l), and vinyl chloride (5.75 ug/l).
5 The results of the additional data collection are included in a letter report to PRSI entitled "Remedial
6 Investigation Addendum, Petroleum Reclaiming Service, Inc.," prepared by SECOR International
7 Incorporated, dated December 19, 1996.

8 14 Additional Findings of Fact concerning the PRSI facility include, but are not limited to:

9 A. On October 30, 1990, Ecology and PRSI signed PCHB No. 90-30 Stipulation
10 and Agreed Order of Dismissal. The Stipulation and Agreed Order of Dismissal required PRSI to
11 evaluate potential soil and groundwater contamination at the PRSI site, and define the type, and the
12 vertical and horizontal extent of soil and groundwater contamination beneath the site.

13 B. In a letter to Coastal Tank Service, dated February 28, 1991, Michael A. Wilson,
14 Ecology, reported that Ecology's Toxics Cleanup Program had calculated a hazard ranking of 2 (with 1
15 being the highest risk and 5 being the lowest risk) for the PRSI site using Ecology's Washington Ranking
16 Method (WARM) for the assessment of relative potential risk posed by a site to human health and the
17 environment.

18 C. On October 16, 1995, the PLPs submitted a plan entitled "RCRA Closure Plan
19 for Petroleum Reclaiming Services, Inc.," to Ecology for review and approval. The plan presents
20 specific details for clean closure of nine dangerous waste management units associated with waste
21 handling and antifreeze recycling at the PRSI facility. Ecology tentatively approved this closure plan
22 with an addendum on December 12, 1995.

23 D. On behalf of PRSI, SECOR International Incorporated submitted a report to
24 Ecology. The report reformatted and revised the report of the Phase 2 investigation conducted at PRSI in

1 1992 and 1993 The report is entitled "Remedial Investigation Report, Petroleum Reclaiming Service,
2 Inc., 3003 Taylor Way, Tacoma, Washington," dated October 2, 1996.

3 15. Hazardous substances have been, and may continue to be, released from the dangerous
4 waste management facility into the environment including surface water drainage areas; groundwater
5 beneath and beyond the dangerous waste management facility; air; human work areas; and floral and
6 faunal habitats.

7 IV. ECOLOGY DETERMINATIONS

8 1. PRSI is a person within the meaning of RCW 70.105D.020(13). Gary Smith is a person
9 within the meaning of RCW 70.105D.020(13). Tom Smith is a person within the meaning of RCW
10 70.105D.020(13).

11 2. Gary Smith and Tom Smith are the owners and operators of a DWMF that has operated,
12 is operating, or should have been operating under interim status subject to the permitting requirements in
13 Chapter 173-303 WAC, including the interim status facility standards in WAC 173-303-400 and the
14 interim status permitting requirements in WAC 173-303-805.

15 3. Certain waste and constituents found at the facility are dangerous wastes and/or
16 dangerous constituents as defined by Chapter 173-303 WAC, and shown in Section II of this Order.

17 4. These dangerous wastes and dangerous constituents are considered hazardous substances
18 within the meaning of RCW 70.105D.020(7).

19 5. Based on the foregoing Findings of Fact and the administrative record, Ecology believes
20 that releases and potential releases of hazardous substances at and/or from the facility present a threat to
21 human health and the environment.

22 6. By separate letters dated December 5, 1994, Ecology individually notified Gary Smith
23 and Tom Smith of their status as "potentially liable persons" under RCW 70.105D.040 after notice and
24 opportunity for comment. By a letter dated December 13, 1994, Ecology notified PRSI of its status as a
25 "potentially liable person" under RCW 70.105D.040 after notice and opportunity for comment.

1 deemed appropriate by Ecology. The monitoring plan shall include provisions for measuring water
2 levels at all wells for the site

3 B. Within 30 days after the effective date of this Order, the PLPs shall submit a
4 draft work plan for the interim action to Ecology for review and approval. The work plan shall contain:

5 (1) A description of the interim action and how it will meet the criteria
6 identified in subsections (1) and (2) of WAC 173-340-430.

7 (2) General information from investigations of the facility. This general
8 information shall include, at a minimum:

9 (a) A description of existing site conditions, including information
10 on releases at the facility,

11 (b) A summary of all available data related to the interim action,
12 and

13 (c) An evaluation of solid waste management areas and other areas
14 of concern for releases to all media and an evaluation of regulated units for releases to all media other
15 than groundwater.

16 (3) A description of interim action objective.

17 (4) A list of alternative interim actions considered and an explanation of
18 why the proposed alternative was selected.

19 (5) A scope of work and schedule for completion of the interim action

20 (6) Information from the applicable subsections of the design and
21 construction requirements of WAC 173-340-400.

22 (7) A compliance monitoring plan meeting the applicable requirements of
23 WAC 173-340-410.

24 (8) A safety and health plan meeting the requirements of WAC 173-340-
25 810.

1 (9) A soil sampling and analysis plan meeting the requirements of WAC
2 173-340-820. The sampling and analysis plan should be consistent with *Guidance on Sampling and*
3 *Data Analysis Methods*, January 1995, Ecology Publication No. 94-49 (Attachment Number 2 to this
4 Order). The sampling and analysis plan shall include a data collection QA/QC plan. The QA/QC plan
5 should be consistent with *Guidelines and Specifications for Preparing Quality Assurance Project Plans*,
6 May 1991, Ecology Publication No. 91-16 (Attachment Number 3 to this Order).

7 C. Within 15 days after receipt of written Ecology comments on the draft work
8 plan, the PLPs shall submit the final work plan which addresses all Ecology written comments regarding
9 the draft work plan.

10 D. Within 30 days of receipt of written Ecology approval of the final work plan, the
11 PLPs shall start construction of the interim action per the Ecology-approved final work plan.
12 Construction shall be completed in accordance with the Ecology-approved schedule. Construction of the
13 interim action shall be in conformance with WAC 173-340-400(7). Operation of the interim action will
14 commence according to the Ecology-approved schedule and will continue in accordance with the
15 Ecology-approved operations plan unless environmental conditions warrant, and Ecology concurs, or
16 until a CAP has been implemented and Ecology deems the corrective measures are complete.

17 2. **CONDUCT CLOSURE ACTIVITIES** - The PLPs will conduct closure activities that
18 meet the requirements of WAC 173-303-400 and 40 CFR Part 265 Subpart G. On December 12, 1995,
19 Ecology tentatively approved the RCRA Closure Plan for PRSI, dated October 1995, with an addendum.
20 (See Attachment Number 5 to this Order.) Following public review and comment on the decision to
21 tentatively approve the closure plan, Ecology will modify, if necessary, and approve the Closure Plan for
22 the facility.

23 A. In accordance with the requirements of 40 CFR § 265.113, following Ecology's
24 final approval of the closure plan and within ninety (90) days of construction of a new tank farm, the
25 PLPs will begin closure activities at the facility. Within one hundred and eighty (180) days of start of

1 closure activities, the PLPs will treat or remove all dangerous wastes from the closing units in
2 accordance with the Ecology-approved closure plan. The PLPs are allowed an additional sixty (60) days
3 (for a total of 240 days) to complete closure activities in accordance with the closure plan. If necessary,
4 the PLPs may submit a written request, and Ecology may approve additional time for closure.

5 B. Within 60 days of completion of closure activities at each dangerous waste
6 management unit and within 60 days of completion of final facility closure, the PLPs will submit a
7 closure certification to Ecology. The closure certification shall be sent by registered mail and shall
8 certify that the PRSI DWMF was closed in accordance with the requirements and specifications of the
9 Ecology-approved closure plan. The closure certification shall be signed by the PLPs, and shall be
10 signed and stamped by an independent qualified registered professional engineer as defined in WAC
11 173-303-040. Documentation supporting the closure certification shall be provided to Ecology. At a
12 minimum, Ecology will require the following documentation and information to support a clean closure
13 certification:

14 (1) All field notes related to closure activities.

15 (2) A description of any deviations from the approved closure plan and
16 justification for these deviations.

17 (3) Documentation of the final disposition of all dangerous wastes and
18 dangerous waste residues, including contaminated media, debris, and all treatment residuals.

19 (4) All laboratory and/or field data, including quality assurance/quality
20 control data, for all samples and measurements, including samples and measurements taken to determine
21 background conditions and/or to determine or confirm clean closure.

22 (5) A summary report which itemizes the data reviewed by the independent,
23 qualified, registered professional engineer and tabulates the analytical results of samples taken to
24 determine and/or confirm clean closure

1 C Following review of information submitted to support the certification, the
2 approved closure plan, any documentation or information generated by Ecology during oversight of
3 closure activities (e.g., inspection reports), and other pertinent information and documentation, Ecology
4 may verify the closure certifications. If Ecology accepts the closure certification, Ecology shall inform
5 the PLPs in writing. If Ecology is unable to verify the certification of closure and, therefore, unable to
6 accept the closure certification, Ecology may require additional sampling and monitoring to verify the
7 closure certification or may require the PLPs to submit an application for a post-closure permit. If
8 sampling and/or monitoring is required, Ecology shall extend the closure period to cover the time period
9 of the required monitoring, and the closure certification shall not be accepted until the PLPs have
10 completed the required activities.

11 3. **CONDUCT STATE FS** - The PLPs shall prepare a state FS per WAC 173-340-350 to
12 evaluate the feasibility and effectiveness of implementing alternative cleanup actions.

13 A. Within 60 days of completion of operation of the interim action, the PLPs shall
14 submit a draft work plan for a state FS for Ecology review and approval. The draft work plan shall
15 contain an identification of additional data to be collected; a draft scope of work; a schedule for
16 implementation; modifications to the current monitoring requirements; analytical methods, parameters,
17 and detection limits; a data collection QA/QC plan consistent with *Guidelines and Specifications for*
18 *Preparing Quality Assurance Project Plans*, May 1991, Ecology Publication No 91-16 (Attachment
19 Number 3 to this Order); outlines of documents to be prepared; and an outline of tasks for the completion
20 the FS.

21 The FS shall include, as a minimum:

- 22 (1) Identification of contamination to be remediated and physical hazards to
23 be removed.
- 24 (2) A listing of applicable or relevant and appropriate requirements
25 (ARARs) for the facility.

1 (3) Identification of cleanup action alternatives that will protect human
2 health and the environment by eliminating, reducing, or otherwise controlling risks posed through each
3 exposure pathway and migration route.

4 (4) Evaluation of remedial alternatives for compliance with WAC 173-340-
5 360, including:

- 6 (a) Overall protectiveness of human health and the environment;
- 7 (b) Compliance with cleanup standards;
- 8 (c) Compliance with ARARs;
- 9 (d) Short-term effectiveness;
- 10 (e) Long-term effectiveness;
- 11 (f) Permanent reduction of the toxicity, mobility, or volume of the
12 facility contaminants;
- 13 (g) Implementability/technical feasibility; and
- 14 (h) Cost.

15 (5) Recommendation of a preferred CAP for Ecology approval.

16 (6) Schedule for implementation of a preferred CAP.

17 B. Within 30 days from receipt of written Ecology comments on the draft FS work
18 plan, the PLPs shall submit a final work plan for the FS which addresses all Ecology written comments
19 regarding the draft FS work plan.

20 C. In accordance with the schedule in the Ecology-approved final FS work plan, the
21 PLPs shall submit a draft FS report which addresses all Ecology written comments regarding the FS
22 work plan.

23 D. Within 30 days from receipt of written Ecology comments on the draft FS
24 report, the PLPs shall submit a final FS report which addresses all Ecology written comments regarding
25 the draft FS report.

1 4 **PREPARE CAP** - If directed by Ecology, the PLPs shall prepare a draft CAP to satisfy
2 the requirements of WAC 173-340-400 and to concurrently satisfy the corrective action requirements of
3 WAC 173-303-646(2), as referenced in WAC 173-303-400(3)(a)(i).

4 A. Within 30 days from receipt of Ecology's written directive to prepare a draft
5 CAP, the PLPs shall submit a draft CAP for review and approval.

6 B. Within 30 days from receipt of written Ecology comments on the draft CAP, the
7 PLPs shall submit a revised CAP which addresses any Ecology written comments regarding the draft
8 CAP.

9 C. After public review and comment on the revised CAP, Ecology will modify and
10 issue a final CAP. Following Ecology issuance of the final CAP, the PLPs shall be required to design,
11 construct, operate, and monitor the selected cleanup action via a consent decree, agreed order,
12 enforcement order, or permit, as determined by Ecology.

13 5. **PREPARE PROGRESS REPORTS** - The PLPs shall submit progress reports every
14 quarter on the interim action, closure, FS, and CAP to Ecology.

15 A. Progress reports shall begin one quarter after the effective date of this Order and
16 shall continue until Ecology notifies the PLPs that this Order has been satisfied.

17 B. Progress reports shall include:

18 (1) Brief descriptions of all activities related to this Order at the facility
19 during the past quarter.

20 (2) All actions related to this Order scheduled for the next quarter.

21 (3) Any problem or other information related to this Order which may arise
22 and steps taken or being taken to correct such problems.

23 C. Progress reports shall be submitted by the fifteenth day following the end of
24 each quarter reporting period.

1 at the rate of one percent per month or fraction thereof until paid. Nothing in this Order shall preclude
2 the PLPs from paying the entire balance in full at any time.

3 For costs incurred beginning January 1, 1997, the PLPs agree to pay the required amount within
4 90 days of receiving, from Ecology, an itemized statement of costs that includes a summary of costs
5 incurred, an identification of involved staff, and the amount of time spent by involved staff members on
6 the project. A general description of work performed will be provided. Itemized statements will be
7 prepared monthly. Failure to pay Ecology's costs within 90 days of receipt of the itemized statement of
8 costs will result in interest charges at the rate of one percent per month or fraction thereof until paid.

9 3. Financial Assurance. The PLPs shall establish and maintain financial assurance by
10 either a trust fund or a financial test, in the amount necessary to implement the CAP, as provided in
11 WAC 173-340-440(6) and required by WAC 173-303-646(2), as referenced in WAC 173-303-
12 400(3)(a)(i). The PLPs shall provide Ecology's Project Coordinator documentation of this financial
13 assurance within 60 days of Ecology's issuance of the final CAP. The PLPs shall adjust the financial
14 assurance coverage for changes in cost estimates and/or for inflation within 30 days after each
15 anniversary of the date the preceding costs were first prepared, and shall provide Ecology's project
16 coordinator documentation of the updated financial assurance.

17 The PLPs shall notify Ecology's Project Coordinator, by certified mail, of the
18 commencement of a voluntary or involuntary bankruptcy proceeding under Title 11, United States Code,
19 naming the PLPs, within ten days after commencement of the proceeding. In the event of bankruptcy of
20 the trustee, or a suspension or revocation of the authority of the trustee institution to act as a trustee, the
21 PLPs must establish financial assurance (trust fund) with another authorized trustee institution within 60
22 days after such an event.

23 4. Designated Project Coordinators: The project coordinator for Ecology is:

24 Name: Kaia Petersen

1 Address: (Mailing) Department of Ecology, Southwest Regional Office, P.O. Box
2 47775, Olympia, Washington 98504-7775

3 (Street) 300 Desmond Drive Southeast, Lacey, Washington 98516-5355

4 Telephone: (360) 407-6359

5 Facsimile: (360) 407-6305

6 The project coordinator for the PLPs is:

7 Name: Gary Smith, President

8 Address: Petroleum Reclaiming Service, Inc., 3801 7th Avenue South, Seattle,
9 Washington 98108

10 Telephone: (206) 624-9843

11 Facsimile: (206) 624-9766

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

18 5. Performance: All work performed by the PLPs pursuant to this Order shall be under the
19 direction and supervision, as necessary, of a professional engineer or hydrogeologist, or similar expert,
20 with appropriate training, experience, and expertise in hazardous waste facility investigation and
21 cleanup. The PLPs shall notify Ecology as to the identity of such engineer(s) or hydrogeologist(s), and
22 of any contractors and subcontractors to be used in carrying out the terms of this Order, in advance of
23 their involvement at the facility. The PLPs shall provide a copy of this Order to all agents, contractors,
24 and subcontractors retained to perform work required by this Order and shall ensure that all work
25 undertaken by such agents, contractors, and subcontractors will be in compliance with this Order.

1 Except where necessary to abate an emergency situation, the PLPs shall not perform any
2 remedial actions at the facility outside that required by this Order, unless Ecology concurs, in writing,
3 with such additional remedial actions.

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

6 The PLPs shall provide Ecology seven days notice prior to conducting work activities
7 identified in this Order.

8 6. Access: Ecology, or any Ecology authorized representative, shall have the authority to
9 enter and freely move about the facility at all reasonable times for the purposes of, among other things,
10 inspecting records, operation logs, and contracts related to the work being performed pursuant to this
11 Order; reviewing the progress in carrying out the terms of this Order; conducting such tests or collecting
12 samples as Ecology or the project coordinator may deem necessary; using a camera, sound recording, or
13 other documentary type equipment to record work done pursuant to this Order; and verifying the data
14 submitted to Ecology by the PLPs. By signing this Agreed Order, the PLPs agree that this Order
15 constitutes reasonable notice of access and agree to allow access to the facility at all reasonable times for
16 purposes of overseeing work performed under this Order. Ecology shall allow split or replicate samples
17 to be taken by the PLPs during an inspection, unless doing so interferes with Ecology's sampling. The
18 PLPs shall allow split or replicate samples to be taken by Ecology and shall provide Ecology seven (7)
19 days notice before any sampling activity. If access to other owners' properties is required to carry out the
20 requirements of this Order, the PLPs must attempt to obtain such access in a timely fashion.

21 7. Public Participation: The PLPs shall prepare and/or update a public participation plan
22 for the facility. Ecology will review and approve the plan, and will maintain the responsibility for public
23 participation at the facility. Ecology will develop public participation materials and will maintain
24 responsibility for public participation at the facility. The PLPs shall help coordinate and implement
25 public participation for the facility, as specified in the Ecology-approved public participation plan.

1 8. Retention of Records: The PLPs shall preserve in a readily retrievable fashion, during
2 the pendency of this Order and for ten (10) years from the date of issuance by Ecology of written
3 notification, that all requirements of this Order have been satisfactorily completed, reports, documents,
4 and underlying data in its possession relevant to this Order. Should any portion of the work performed
5 hereunder be undertaken through contractors or agents of the PLPs, then the PLPs agree to include in
6 their contract with such contractors or agents a record retention requirement meeting the terms of this
7 paragraph.

8 9. Dispute Resolution: The PLPs may request Ecology to resolve disputes which may arise
9 during the implementation of this Order. Such request shall be in writing and directed to the signatory,
10 or his/her successor(s), to this Order. Ecology's resolution of the dispute shall be binding and final. The
11 PLPs are not relieved of any requirement of this Order during the pendency of the dispute and remains
12 responsible for timely compliance with the terms of the Order, unless otherwise provided by Ecology in
13 writing.

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

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

22 Ecology also reserves all rights regarding the injury to, destruction of, or loss of natural
23 resources resulting from the releases or threatened releases of hazardous substances from the PRSI
24 facility

1 In the event Ecology determines that conditions at the facility are creating, or have the
2 potential to create, a threat to the health or welfare of the people on the facility, in the surrounding area,
3 or to the environment, Ecology may order the PLPs to stop further implementation of this Order for such
4 period of time as needed to abate the threat.

5 11. Transference of Property: Prior to any voluntary, or involuntary, conveyance or
6 relinquishment of title, easement, leasehold, or other interest in any portion of the facility, the PLPs shall
7 provide for continued implementation of all requirements of this Order and implementation of any
8 remedial actions found to be necessary as a result of this Order.

9 Prior to transfer of any legal or equitable interest the PLPs may have in the facility, or
10 any portions thereof, the PLPs shall serve a copy of this Order upon any prospective purchaser, lessee,
11 transferee, assignee, or other successor in such interest. At least ninety (90) days prior to finalization of
12 any transfer, the PLPs shall notify Ecology of the contemplated transfer.

13 12. Compliance with Other Applicable Laws:

14 A. All actions carried out by the PLPs pursuant to this Order shall be done in
15 accordance with all applicable federal, state, and local requirements, including requirements to obtain
16 necessary permits, except as provided in paragraph B of this section.

17 B. Pursuant to RCW 70.105D.090(1), the substantive requirements of chapters
18 70.94, 70.95, 70.105, 75.20, 90.48, and 90.58 RCW and of any laws requiring or authorizing local
19 government permits or approvals for the remedial action under this Order have been included in
20 Attachment Number 4 to this Order and are binding and enforceable requirements of the Order.

21 The PLPs have a continuing obligation to determine whether additional permits
22 or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action
23 under this Order. In the event the PLPs determine that additional permits or approvals addressed in
24 RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order, they shall
25 promptly notify Ecology of this determination. Ecology shall determine whether Ecology or the PLPs

1 shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, the
2 PLPs shall promptly consult with the appropriate state and/or local agencies and provide Ecology with
3 written documentation from those agencies of the substantive requirements those agencies believe are
4 applicable to the remedial action. Ecology shall make the final determination on the additional
5 substantive requirements that must be met by the PLPs and on how the PLPs must meet those
6 requirements. Ecology shall inform the PLPs, in writing, of these requirements. Once established by
7 Ecology, the additional requirements shall be enforceable requirements of this Order. The PLPs shall not
8 begin or continue the remedial action potentially subject to the additional requirements until Ecology
9 makes its final determination.

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

12 C. Pursuant to RCW 70.105D.090(2), in the event that Ecology determines that the
13 exemption from complying with the procedural requirements of the laws referenced in RCW
14 70.105D.090(1) would result in the loss of approval from a federal agency which is necessary for the
15 state to administer any federal law, the exemption shall not apply and the PLPs shall comply with both
16 the procedural and substantive requirements of the laws referenced in RCW 70.105D.090(1), including
17 any requirements to obtain permits.

18 D. Some requirements herein are based on the applicable requirements of Chapter
19 70.105 RCW and Chapter 173-303 WAC.

20 VII. STIPULATED PENALTIES

21 1. PRSI has not obtained the analytical equipment it was required to acquire as part of the
22 Stipulation and Agreed Order of Dismissal, PCHB No. 90-30, signed by Ecology and PRSI on October
23 30, 1990. Within 30 days of this Order, PRSI will submit, to Ecology for approval, a description of
24 analytical equipment to be purchased for use at the Site to determine the characteristics of incoming
25 wastes. PRSI shall acquire said equipment and submit invoices of analytical equipment purchase(s) to

1 The provisions of this Order shall be deemed satisfied upon the PLPs' receipt of written
2 notification from Ecology that the PLPs have completed the corrective actions required by this Order, as
3 amended by any modifications, and that all other provisions of this Agreed Order have been complied
4 with.

5 IX. ENFORCEMENT

6 I. Pursuant to RCW 70.105D.050, this Order may be enforced as follows:

7 A. The Attorney General may bring an action to enforce this Order in a state or
8 federal court.

9 B. The Attorney General may seek to recover, by filing an action if necessary, the
10 amounts spent by Ecology for investigative and remedial actions and orders related to the facility.

11 C. In the event the PLPs refuse, without sufficient cause, to comply with any term
12 of this Order, the PLPs will be liable for:

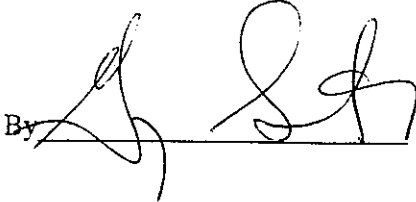
13 (1) up to three times the amount of any costs incurred by the state of
14 Washington as a result of its refusal to comply; and

15 (2) civil penalties of up to \$25,000 per day for each day it refuses to
16 comply.

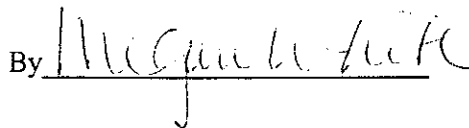
17 D. This Order is not appealable to the Washington Pollution Control Hearings
18 Board. This Order may be reviewed only as provided under RCW 70.105D.060.

19
20 Effective date of this Order: 4-2-97

21
22 PETROLEUM RECLAIMING SERVICE, INC.

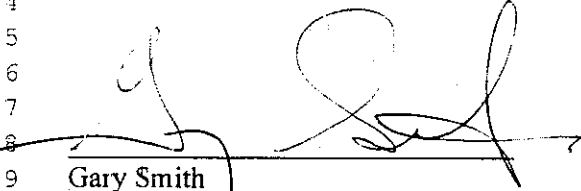
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STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

By 

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SIGNATURE PAGE FOR
GARY SMITH FOR AGREED ORDER NO. DE 95HS-S349



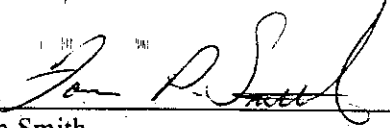
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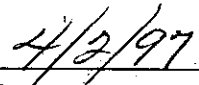
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SIGNATURE PAGE FOR
TOM SMITH FOR AGREED ORDER NO. DE 95HS-S349

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Tom Smith



Date

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

AGREED ORDER No. DE95HS-S349

Attachment Number 1:

Facility Diagram