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**SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR KING COUNTY**

STATE OF WASHINGTON, )  
DEPARTMENT OF ECOLOGY, )  
  
Plaintiff, )  
  
v. )  
  
KUK JIN CHOUNG, )  
  
Defendant. )

NO.

**CONSENT DECREE**

*AG # 92-11762*

**TABLE OF CONTENTS**

	Page
I. <u>INTRODUCTION</u> .....	2
II. <u>JURISDICTION</u> .....	2
III. <u>PARTIES BOUND</u> .....	4
IV. <u>DEFINITIONS</u> .....	4
V. <u>STATEMENT OF FACTS</u> .....	5
VI. <u>WORK TO BE PERFORMED</u> .....	6
VII. <u>DESIGNATED PROJECT COORDINATOR</u> .....	8
VIII. <u>REIMBURSEMENT OF ECOLOGY'S COSTS</u> .....	8
IX. <u>ACCESS</u> .....	11
X. <u>TRANSFERENCE OF PROPERTY</u> .....	11
XI. <u>DISPUTE RESOLUTION</u> .....	12
XII. <u>AMENDMENT OF CONSENT DECREE</u> .....	12
XIII. <u>INDEMNIFICATION</u> .....	12
XIV. <u>PUBLIC NOTICE AND PARTICIPATION</u> .....	13
XV. <u>SATISFACTION OF THIS DECREE</u> .....	13
XVI. <u>EFFECTIVE DATE</u> .....	13
XVII. <u>PUBLIC NOTICE AND WITHDRAWAL OF CONSENT</u> ..	13

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I. INTRODUCTION

A. In entering into this Consent Decree (Decree), the mutual objective of the Washington State Department of Ecology (Ecology) and Mr. Kuk Jin Choung (Defendant), is to provide for reimbursement for costs incurred by Ecology in remediating a release or threatened release of hazardous substances at the Circle K Station #1461 site.

B. The complaint in this action is being filed simultaneously with this Decree. An answer has not been filed, and there has not been a trial on any issue of fact or law in this case. The parties wish to resolve the issues raised by Ecology's complaint and agree that settlement of these matters without litigation is reasonable and in the public interest and that entry of this Decree is the most appropriate means of resolving these matters.

C. In signing this Decree, the Defendant agrees to its entry and agree to be bound by its terms.

D. The court is fully advised of the reasons for entry of this Decree, and good cause having been shown: IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

II. JURISDICTION

A. This court has jurisdiction over the subject matter and personal jurisdiction over the parties pursuant to the Model Toxics Control Act (ch. 70.105D RCW).

1 B. Ecology has authority pursuant to RCW 70.105D.040(4)  
2 to file this Consent Decree with the appropriate superior  
3 court after appropriate public notice and comment.

4 C. On the basis of the testing and analysis described  
5 in the Statement of Facts, Section V, and Ecology files and  
6 records, Ecology has determined that a release of hazardous  
7 substances has occurred at the site.

8 D. Ecology has determined that the Defendant is a  
9 potentially liable person for the site pursuant to RCW  
10 70.105D.040. The Defendant has been given notice of Ecology's  
11 determination, and has had opportunity to comment thereon.

12 E. The Defendant has applied to Ecology for financial  
13 assistance under WAC 173-340-560. Based on the Defendant's  
14 application, Ecology has determined the Defendant is eligible  
15 for mixed funding. Ecology has also determined that making  
16 available mixed funding under the circumstances described in  
17 Section V of this Decree will achieve a more expeditious or  
18 enhanced cleanup than would otherwise occur and will prevent  
19 or mitigate unfair economic hardship.

20 F. Entering this Decree will result in a more  
21 expeditious cleanup of the site and is appropriate given the  
22 use of mixed funding at the site.

23 G. The actions to be taken pursuant to this Decree are  
24 necessary to protect the public health, welfare and the  
25 environment.

26 **CONSENT DECREE**

-3-

1 III. PARTIES BOUND

2 This Decree shall apply to and be binding upon  
3 Mr. Kuk Jin Choung and his marital community and Ecology and  
4 their successors and assigns. The undersigned representative  
5 of each party hereby certifies that he/she is fully authorized  
6 to enter into this Decree and to execute and legally bind such  
7 party to comply with the Decree. The parties agree to  
8 undertake all actions required by the terms and conditions of  
9 this Decree and the Defendant agrees not to contest state  
10 jurisdiction regarding this Decree. No change in ownership  
11 or corporate status shall alter the responsibility of the  
12 Defendant under this Decree.

13 IV. DEFINITIONS

14 A. "Site" refers to the property and business located  
15 at 2350 24th Ave. East, Seattle, Washington.

16 B. "Remedial action" refers to the work performed by  
17 Ecology to clean up the site.

18 C. "Remedial action costs" refer to those direct and  
19 indirect costs incurred by Ecology under this Consent Decree.  
20 Such costs include work performed by Ecology or its  
21 contractors for investigations, remedial actions, and order  
22 preparation, negotiations, oversight, and administration.  
23 Ecology costs shall also include costs of direct activities;  
24 e.g., employee salary, laboratory costs, travel costs,  
25

26 **CONSENT DECREE**

-4-

1 contractor fees, and employee benefit packages; and agency  
2 indirect costs of direct activities.

3 D. "Days" refers to calendar days unless specified  
4 otherwise.

5 E. "Parties" refers to the Department of Ecology and  
6 Mr. Kuk Jin Choung and his marital community.

7 F. The definitions set forth in ch. 70.105D RCW and  
8 ch. 173-340 WAC shall control the meanings of the terms used  
9 in this Decree.

10 V. STATEMENT OF FACTS

11 Ecology makes the following findings of fact:

12 A. Site Location and Status

13 The Circle K Station #1461 site is located at 2350 24th  
14 Ave. East, Seattle, Washington. The site is currently being  
15 operated as a dry cleaning business.

16 B. Facility History and Operations

17 The Circle K Station #1461 site was purchased by George  
18 Renale of San Francisco, California in 1968. The site was  
19 operated as a Stop-N-Go gasoline and convenience store until  
20 1981. From 1981 until July of 1990 Mr. Renale leased the site  
21 to the now bankrupt Circle K Corporation who operated the site  
22 as a convenience store and gasoline station. The underground  
23 storage tanks used to store gasoline were removed by the  
24 Circle K Corporation on or around July 1990. The present  
25

1 owner, Kuk Jin Choung, purchased the site from George Renale  
2 in November of 1990.

3 C. Previous Site Investigations

4 Geo Engineers and Glacier Environmental conducted tank  
5 removal and partial site remediation at the direction of  
6 Circle K Corporation. Tank removal was completed but site  
7 remediation was not due to a filing of bankruptcy by the  
8 Circle K Corporation. Two Geo Engineers' reports (#1780-001-  
9 B04 and #1780-002-B04) document the previous work. These  
10 reports indicate petroleum releases at the site.

11 VI. WORK TO BE PERFORMED

12 A. Scope of Work

13 Ecology shall direct the remedial action at the site  
14 according to the following scope of work:

15 1. Assess the extent and degree of contamination. This  
16 includes evaluating existing information, and gathering  
17 additional information if necessary.

18 2. Develop and recommend method(s) for additional  
19 cleanup of soil and groundwater contamination if necessary.  
20 Cleanup may involve excavation of contaminated soils or an  
21 alternative treatment technology such as a vapor extraction  
22 system, or a combination thereof. The extent of excavation  
23 shall be the limits of contamination, or such other limits as  
24 determined by Ecology in accordance with WAC 173-340. Ecology  
25 shall coordinate treatment of the excavated soils. On-site or

1 off-site treatment of the soils may prove impracticable, and  
2 Ecology shall then coordinate proper disposal of the soil.  
3 Alternative treatment technology may be employed if that  
4 technology is determined to be the most suitable for the  
5 situation, in the professional judgment of the designated  
6 project coordinator (see Part VII of this document). Cleanup  
7 shall continue until cleanup standards in accordance with WAC  
8 173-340 Part VII are achieved. Ecology may determine that  
9 cleanup requires groundwater treatment.

10 3. Conduct a remedial investigation to assess the  
11 potential for on-site and off-site environmental and human  
12 health impacts of identified contamination. If groundwater  
13 contamination is found, a more extensive remedial investiga-  
14 tion, including a groundwater study, and also a feasibility  
15 study may be required to assess the extent of contamination  
16 and propose methods of remediation.

17 4. Develop a Cleanup Action Plan as soon as possible  
18 after the remedial investigation and, if necessary, the  
19 feasibility study have been completed. Ensure the Cleanup  
20 Action Plan is or has been properly implemented.

21 5. Document all observations, conditions, and results  
22 in a final report with at least four copies, one for the  
23 property owner and three for the Ecology site inspector.

1 VII. DESIGNATED PROJECT COORDINATOR

2 The project coordinator for Ecology is:

3 Joe Hickey (206) 649-7202  
4 Department of Ecology  
5 Northwest Regional Office  
3190 - 160th Avenue S.E.  
Bellevue, WA 98008-5452

6 The project coordinator shall be responsible for overseeing  
7 the implementation of this Decree. To the maximum extent  
8 possible, communications between Ecology and the Defendant,  
9 and all documents, including reports, approvals, and other  
10 correspondence concerning the activities performed pursuant to  
11 the terms and conditions of this Decree, shall be directed  
12 through the project coordinator. Should Ecology change  
13 project coordinator, written notification shall be provided by  
14 Ecology at least ten (10) calendar days prior to the change.

15 VIII. REIMBURSEMENT OF ECOLOGY'S COSTS

16 1. Ecology has determined that the Defendant is  
17 eligible for mixed funding. The Defendant agrees to reimburse  
18 Ecology for the costs Ecology incurs in remediating the  
19 release and/or threatened release of hazardous substances at  
20 the site, including future monitoring (if any), up to a  
21 maximum dollar amount of fifty thousand dollars (\$50,000)  
22 including interest if applicable. In the event Ecology incurs  
23 remedial action costs exceeding \$50,000, payment of such costs  
24 shall be satisfied by use of funds from the Toxics Control  
25 Account.



1           2.     Payment of Ecology's remedial action costs shall be  
2 due on the first (1st) of each calendar month commencing upon  
3 receipt of billing from Ecology. Ecology shall provide the  
4 Defendant itemized quarterly statements describing the  
5 remedial action costs incurred at the site.

6           3.     During the reimbursement period, the Defendant  
7 agrees to make monthly payments of not less than three hundred  
8 (\$300) dollars. The Defendant shall be notified in writing  
9 when its obligation to reimburse Ecology under this Decree has  
10 been satisfied.

11           4.     Monthly payments not received by Ecology within  
12 thirty (30) days of the date due shall be considered late  
13 payments and bear interest at a rate of one percent (1%) per  
14 month, or fraction thereof.

15           5.     Ecology's determination regarding mixed funding  
16 applies only to the Defendant and is not transferable. In the  
17 event the Defendant sells, assigns, or otherwise transfers any  
18 or all interest in the site while this Decree is in effect,  
19 the new owner may be liable for remedial action costs incurred  
20 by Ecology at the site. If the Defendant sells, assigns, or  
21 otherwise transfers its interest in the site while this Decree  
22 is in effect, the remedial action costs incurred by Ecology up  
23 to the date of such sale, assignment, or transfer shall,  
24 subject to paragraph 1 above, become immediately due and  
25 payable regardless of whether the payment period described in

1 paragraph 3 above has commenced. Unless the immediate payment  
2 required under this paragraph fully satisfies the Defendant's  
3 obligation under Section VIII, paragraph 1 of this Decree, the  
4 Defendant shall remain liable for payment of Ecology's future  
5 remedial action costs at the site according to the terms of  
6 this agreement.

7 6. The Defendant consents to the immediate filing of a  
8 special lien in the amount of fifty thousand dollars (\$50,000)  
9 on the property located at 2350 - 24th Avenue East, Seattle,  
10 Washington to secure the Defendant's performance under this  
11 Decree. Once the Defendant's obligation to reimburse Ecology  
12 under this Decree has been satisfied, the Defendant may  
13 request in writing that Ecology file a lien termination  
14 statement with the court.

15 7. The Defendant agrees that if it fails to fully  
16 reimburse Ecology for its share of remedial action costs or  
17 refuses to make the monthly payments required under this  
18 Decree after receiving thirty (30) days written demand,  
19 Ecology may pursue any means authorized by law including but  
20 not limited to foreclosure of its lien to satisfy the  
21 Defendant's obligation under this Decree. If foreclosure of  
22 the lien occurs but fails to satisfy the Defendant's  
23 obligation under this Decree, the Defendant shall remain  
24 liable to reimburse Ecology for any outstanding balance owing.

1 Foreclosure proceedings will be in accordance with all  
2 applicable Washington State laws and regulations.

3 IX. ACCESS

4 Ecology or any Ecology authorized representative or  
5 contractor hired by Ecology, shall have the authority to enter  
6 and freely move about the site at all reasonable times for the  
7 purposes of performing remedial action at the site.

8 X. TRANSFERENCE OF PROPERTY

9 A. No voluntary conveyance or relinquishment of  
10 Defendant's title, easement, leasehold, or other interest in  
11 any portion of the site shall be consummated without provision  
12 for continued performance of all of Defendant's obligations  
13 under this Decree. If an involuntary conveyance or  
14 relinquishment of such interest occurs, the Defendant shall,  
15 if possible, give prior written notice of this Decree to the  
16 transferee.

17 B. Within 90 days of entry of this Decree, the  
18 Defendant shall record a notice in the title records to that  
19 portion of the property underlying the site over which  
20 Defendant holds fee title. The notice shall state that a  
21 Consent Decree entered in the above-captioned proceeding  
22 imposes certain restrictions on the use and improvement of the  
23 site, and that said restrictions run with the land. Within 30  
24 days of filing the notice with the King County Auditor, the  
25 Defendant shall forward a copy of the notice to Ecology.

1 XI. DISPUTE RESOLUTION

2 The Defendant may request Ecology to resolve disputes  
3 which may arise during the implementation of this Consent  
4 Decree. Such request shall be in writing and directed to the  
5 signatory of this Consent Decree. Ecology resolution of the  
6 dispute shall be binding and final. The Defendant is not  
7 relieved of any requirement of this Consent Decree during the  
8 pendency of the dispute and remains responsible for timely  
9 compliance with the terms of the Consent Decree unless  
10 otherwise provided by Ecology in writing.

11 XII. AMENDMENT OF CONSENT DECREE

12 Any Amendment to this Decree must be in writing and  
13 signed by the parties. Such amendment shall become effective  
14 when entered by the court.

15 XIII. INDEMNIFICATION

16 The Defendant agrees to indemnify and save and hold the  
17 State of Washington, its employees, and agents harmless from  
18 any and all claims or causes of action for death or injuries  
19 to persons or for loss or damage to property arising from or  
20 on account of acts or omissions of the Defendant, its  
21 officers, employees, agents, or contractors in entering into  
22 and implementing this Decree; provided, however, that the  
23 Defendant shall not indemnify the State of Washington nor save  
24 nor hold its employees and agents harmless from any claims or  
25 causes of action brought by third parties arising out of the

26 **CONSENT DECREE**

1 negligent acts or omissions of the State of Washington, or the  
2 employees or agents of the state, in implementing the  
3 activities pursuant to this Decree.

4 XIV. PUBLIC NOTICE AND PARTICIPATION

5 Ecology shall be the lead for public notice and  
6 participation at the site. If requested, Ecology shall allow  
7 the Defendant to review fact sheets, press releases, and  
8 public notices prior to issuance.

9 XV. SATISFACTION OF THIS DECREE

10 The provisions of this Decree shall be deemed satisfied  
11 upon the Defendant's reimbursement to Ecology of all  
12 reasonable costs incurred by Ecology in performing remedial  
13 action at the site.

14 XVI. EFFECTIVE DATE

15 This Decree is effective upon the date it is entered by  
16 the court.

17 XVII. PUBLIC NOTICE AND WITHDRAWAL OF CONSENT

18 This Decree will be subject to public notice and comment  
19 under RCW 70.105D.040(4)(a). Ecology reserves the right to  
20 withdraw or withhold its consent to the proposed final Decree  
21 as the comments received by Ecology disclose facts or  
22 considerations which indicate that the proposed Decree is  
23 inappropriate, improper, or inadequate.

24 If the court withholds or withdraws its consent, this  
25 Decree shall be null and void at the option of any party and

1 the accompanying complaint shall be dismissed without cause  
2 and without prejudice. In such an event, no party shall be  
3 bound by the requirements of this Decree.

4  
5 Carol L. Fleskes  
6 CAROL FLESKES, Program Manager  
7 Hazardous Waste Cleanup  
8 Washington State  
9 Department of Ecology

2/19/92  
Date

10 Choung Khyun  
11 KUK JIN CHOUNG  
12 Owner and Operator  
13 Circle K Station #1461

2-18-92  
Date

14 E. Christina Beusch  
15 E. CHRISTINA BEUSCH, WSBA #18226  
16 Assistant Attorney General  
17 Ecology Division  
18 Washington State  
19 Office of Attorney General

April 1, 1992  
Date

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26 **CONSENT DECREE**

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SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR KING COUNTY

STATE OF WASHINGTON,  
DEPARTMENT OF ECOLOGY,  
  
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KUK JIN CHOUNG,  
  
Defendant.

92-2-08095 8

No.

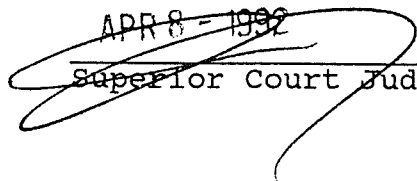
ORDER ENTERING  
CONSENT DECREE

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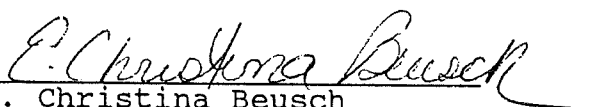
Having reviewed the Consent Decree signed by the parties to this matter, the Joint Motion for Entry of the Consent Decree, the Affidavit of E. Christina Beusch, and the file herein, it is hereby

ORDERED AND ADJUDGED that the Consent Decree in this matter is Entered and that the Court shall retain jurisdiction over the Consent Decree to enforce its terms.

Signed this \_\_\_\_\_ day of April, 1992,  
JACK A. RICHEY  
COURT COMMISSIONER

APR 8 - 1992  
  
Superior Court Judge

Presented by:

  
E. Christina Beusch  
Assistant Attorney General

EXP01

JOINT MOTION FOR ENTRY  
OF CONSENT DECREE