

Chevron-Chelan

Facility ID No.
77751227

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

In the Matter of Remedial Action by:)

Chevron Products Company,)
a division of Chevron U.S.A., Inc.)

AGREED ORDER
No. DE 02TCPCR-4905

RE: Chevron Service Station #9-6590)
232 Woodin Avenue)
Chelan, WA 98816)

I.

Jurisdiction

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

II.

Findings of Fact

Ecology makes the following Findings of Fact, without admission of such facts by Chevron Products Company, a division of Chevron U.S.A. Inc. ("Chevron"):

1. Chevron Service Station #9-6590 (referred to as Chelan Chevron) is an active gasoline service station and food mart located at 232 Woodin Avenue, Chelan, Washington (the "Site"). It is currently operated by an independent owner/operator (Mr. Martin Wason).
2. Chevron leased the Site, which it subleased to its Dealer, who operated Chelan Chevron until January 1988. In November 1987, Chevron conducted a preliminary subsurface exploration program as part of the selling process, which consisted of five soil borings. A second phase of exploratory borings were drilled and completed as monitoring wells (MW-1 through MW-3) in December 1987.

3. According to a January 13, 1988 telephone report from Chevron Oil Co. to Ecology, three Underground Storage Tank (UST) systems failed a petrotite leak test on October 29, 1987. On November 3, 1987, excavators exposed leaking vent lines.
4. On January 13, 1988, six inches of free product were discovered in MW-2. Chevron collected a sample of the product and sent it to their lab in San Francisco for "fingerprint" identification. Chevron's intent was to compare the product sample to three Chevron reference gasolines and three Shell reference gasolines. Fingerprinting, completed on February 18, 1988, indicated the product was old gasoline, probably regular grade and "must have been underground for more than a year. The leaked gasoline contained no Techroline or F310 detergent additive, which are additives typically present in Chevron refined gasoline products. This does not rule out Chevron as a possible source, as detergent additives are often removed from gasolines by contact with the soil."
5. On August 14, 1988, a sample of the free-phase petroleum hydrocarbons taken from MW-3 was collected and fingerprinted by Chevron Research Laboratories. The results indicated the "product to be at least three years old."
6. On January 21, 1988, Ecology listed the Chelan Chevron as a Leaking Underground Storage Tanks site, based on an Environmental Complaint Report submitted by the field engineer who discovered the six inches of free product in MW-2.
7. Groundwater monitoring shows that petroleum products are present on and off Chelan Chevron property. The January 2002 Groundwater Monitoring Report indicates that six monitoring wells (MW-7, MW-9, MW-10, MW-12, MW-15, and MW-16) contain free product ranging from 0.03 to 6.89 feet thick. In addition, analytical results of groundwater sampled in January 2002 revealed the following contaminants are present at levels that exceed the Model Toxics Control Act Method A cleanup levels established in WAC 173-340-740.
 - (a) Gasoline-range Hydrocarbons – 8,860 ppb (Method A cleanup level is 800 ppb)
 - (b) Diesel-range Hydrocarbons – 836 ppb (Method A cleanup level is 500 ppb)
 - (c) Benzene – 1,520 ppb (Method A cleanup level is 5 ppb)

III.

Ecology Determinations

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

2. The facility is known as Chevron Service Station #9-6590 is located at 232 Woodin Avenue, Chelan, Washington. The "Site" includes all soil and groundwater that have come to be contaminated due to the operation of Chelan Chevron. Petroleum contamination extends beyond the boundaries of the Chelan Chevron property. At this time, the Site does not have definitive boundaries because the extent of contamination is unknown.
3. The substances found at the facility as described above are "hazardous substances" as defined at RCW 70.105D.020(7).
4. Based on the presence of these hazardous substances at the facility and all factors known to the Department, there is a release or threatened release of hazardous substances from the facility, as defined at RCW 70.105D.020(20).
5. By letter dated April 24, 2002, Chevron Products Company accepted the status as a "Potentially Liable Person" for the release of hazardous substances at Chelan Chevron.
6. By letter dated May 2, 2002, Ecology notified Chevron Products Company of its status as a "Potentially Liable Person" under RCW 70.105D.040 after notice and opportunity for comment.
7. Pursuant to RCW 70.105D.030(1) and 70.105D.050, the Department may require potentially liable persons to investigate or conduct other remedial actions with respect to the release or threatened release of hazardous substances, whenever it believes such action to be in the public interest.
8. Based on the foregoing facts, Ecology believes the remedial action required by this Order is in the public interest.

IV.

Work to be Performed

Based on the foregoing Facts and Determinations, it is hereby ordered that Chevron Products Company take the following remedial actions and that these actions be conducted in accordance with Chapter 173-340 WAC unless otherwise specifically provided for herein.

1. Chevron shall develop a Scope of Work and Work Plan for a Remedial Investigation/ Feasibility Study (RI/FS). The Scope of Work and Work Plan shall contain the elements outlined lined in WAC 173-340-350, -355, and -357. The RI/FS is designed to determine the horizontal and vertical extent and magnitude of all hazardous substances released at the site.

2. Upon Ecology approval of the Scope of Work, Chevron shall implement this Work Plan and prepare a Draft RI/FS that complies with WAC 173-340-350 through 370 for Ecology review and public comment.
3. Upon Ecology approval of the Draft RI/FS and incorporation of public comment, Chevron shall deliver three copies of the Final RI/FS to Ecology.
4. Chevron shall continue free product recovery at the site during the work plan and RI/FS development. The current method of extraction (product bailing) is acceptable unless sampling and analysis shows that the free product/dissolved phase of petroleum is an immediate threat to public water supplies or Lake Chelan.
5. Groundwater sampling data shall be submitted in accordance with WAC 173-340-840(5). This submittal shall be provided to Ecology as required under the schedule established.
6. In accordance with WAC 173-340-600, Chevron shall submit to Ecology for review and approval a Public Participation Plan.
7. In accordance with WAC 173-340-810, Chevron shall submit to Ecology for review a Worker Safety and Health Plan with the Work Plan.
8. In accordance with WAC 173-340-820, Chevron shall submit to Ecology for review and approval a Sampling and Analysis Plan with the Work Plan.
9. Chevron shall submit a monthly progress report documenting work accomplished, any initial sample results received during the month, and identification of problems encountered. The monthly report is to be submitted by the second Friday following the month for which it documents.

The work required under the Order shall be completed in such a manner to meet the schedule on the following page.

| Deliverable or Action Required | Completion or Date Due to Ecology |
|--|--|
| Draft Scope of Work and Work Plan for the Remedial Investigation/Feasibility Study (RI/FS) | Due 45 days after the issue date of the Agreed Order |
| Final Scope of Work and Work Plan for RI/FS | Due 14 days after receipt of Ecology written comments on Draft Scope of Work and Work Plan |
| Implementation of tasks described in Work Plan | Within 30 days of approval of Final Work Plan |
| Draft RI/FS | Due 90 days after implementation of tasks described in the Final Work Plan |
| Final RI/FS | Due 30 days after receipt of public and Ecology comments on Draft RI/FS |
| Monthly Progress Report | Due by the second Friday following the month for which it documents |

V.

Terms and Conditions of Order

1. Definitions. Unless otherwise specified, the definitions set forth in Ch. 70.105D RCW and Ch. 173-340 WAC shall control the meanings of the terms used in this Order.
2. Public Notices. RCW 70.105D.030(2)(a) requires that, at a minimum, 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 the Order is inadequate or improper in any respect.
3. Remedial Action Costs. Chevron shall pay to Ecology costs incurred by Ecology as defined in WAC 173-340-550(2) pursuant to this Order. These costs shall include work performed by Ecology or its contractors for investigations, remedial actions, Order preparation, oversight and administration. Ecology costs shall include costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2). Chevron shall pay the required amount within 90 days of receiving from Ecology an itemized statement of costs that includes a summary of costs incurred, an identification of involved staff, and the amount of time spent by involved staff members on the project. A general description of

work performed if requested by Chevron will be provided. Itemized statements shall be prepared quarterly. Failure to pay Ecology's costs within 90 days of receipt of the itemized statement of costs will result in interest charges.

4. Designated Project Coordinators.

The project coordinator for Ecology is:

Krystal Rodriguez
15 West Yakima Avenue
Yakima, WA 98902
(509) 454-7842
Fax: (509) 575-2809

The project coordinator for Chevron is:

Brett Hunter
6001 Bollinger Canyon Rd., Rm. L4064
PO Box 6004
San Ramon, CA 94583-0904
(925) 842-8695
Fax: (925) 842-8370

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

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

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

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

6. Access. Ecology or any Ecology authorized representative have the authority to enter and freely move about the Site at all reasonable times for the purposes of, inter alia: inspecting records, operation logs, and contracts related to the work being performed pursuant to this Order; reviewing the progress in carrying out the terms of this Order; conducting such tests or collecting samples as Ecology or the project coordinator may deem necessary; using a camera, sound recording, or other documentary type equipment to record work done pursuant to this Order; and verifying the data submitted to Ecology by Chevron Products Company. By signing this Agreed Order, Chevron agrees, that this Order constitutes reasonable notice of access, and agrees to allow access to the Site at all reasonable times for purposes of overseeing work performed under this Order. Ecology shall allow split or replicate samples to be taken by Chevron Products Company during an inspection unless doing so interferes with Ecology's sampling. Ecology shall provide seven (7) days notice to Chevron before any sampling activity. Chevron Products Company shall allow split or replicate samples to be taken by Ecology and shall provide seven (7) days notice before any sampling activity.
7. Public Participation. Chevron shall prepare and/or update a public participation plan for the site. Ecology shall maintain the responsibility for public participation at the Site.

Chevron shall help coordinate and implement public participation for the site.

8. Retention of Records. Chevron shall preserve in a readily retrievable fashion, during the pendency of this Order and for ten (10) years from the date of completion of the work performed pursuant to this Order, all records, reports, documents, and underlying data in its possession relevant to this Order. Should any portion of the work performed hereunder be undertaken through contractors or agents of Chevron, then Chevron agrees to include in their contract with such contractors or agents a record retention requirement meeting the terms of this paragraph.
9. Dispute Resolution. Chevron may request Ecology to resolve disputes which may arise during the implementation of this Order. Such request shall be in writing and directed to the signatory or his/her successor(s), to this Order. Ecology resolution of the dispute shall be binding and final. Chevron is not relieved of any requirement of this Order during the pendency of the dispute and remains responsible for timely compliance with the terms of the Order unless otherwise provided by Ecology in writing.
10. Reservation of Rights/No Settlement. This Agreed Order is not a settlement under Ch. 70.105D RCW. Ecology's signature on this Order in no way constitutes a covenant not to

sue or a compromise of any Ecology rights or authority. Ecology will not, however, bring an action against Chevron to recover remedial action costs paid to and received by Ecology under this Agreed Order. In addition, Ecology will not take additional enforcement actions against Chevron to require those remedial actions required by this Agreed Order, provided Chevron complies with this Agreed Order.

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

Ecology also reserves all rights regarding the injury to, destruction of, or loss of natural resources resulting from the releases or threatened releases of hazardous substances from Chelan Chevron.

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

11. Transference of Property. No voluntary or involuntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Site shall be consummated by Chevron without provision for continued implementation of all requirements of this Order and implementation of any remedial actions found to be necessary as a result of this Order.

Prior to transfer of any legal or equitable interest Chevron may have in the site or any portions thereof, Chevron shall serve a copy of this Order upon any prospective purchaser, lessee, transferee, assignee, or other successor in such interest. At least thirty (30) days prior to finalization of any transfer, Chevron shall notify Ecology of the contemplated transfer.

12. Compliance with Other Applicable Laws
 - A. All actions carried out by Chevron pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements, including requirements to obtain necessary permits, except as provided in paragraph B of this section.
 - B. Pursuant to RCW 70.105D.090(1), the substantive requirements of chapters 70.94, 70.95, 70.105, 75.20, 90.48, and 90.58 RCW and of any laws requiring or authorizing local government permits or approvals for the remedial action under this Order that are known to be applicable at the time of issuance of the Order have been included in Section IV, the Work to be Performed/Attachment A and are binding and enforceable requirements of the Order.

Chevron has a continuing obligation to determine whether additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order. In the event Chevron determines that additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order, it shall promptly notify Ecology of this determination. Ecology shall determine whether Ecology or Chevron shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, Chevron 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 Chevron and on how Chevron must meet those requirements. Ecology shall inform Chevron in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. Chevron shall not begin or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination.

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

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

VI.

Satisfaction of this Order

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

VII.

Enforcement

1. Pursuant to RCW 70.105D.050, this Order may be enforced as follows:
 - A. The Attorney General may bring an action to enforce this Order in a state or federal court.
 - B. The Attorney General may seek, by filing an action, if necessary, to recover amounts spent by Ecology for investigative and remedial actions and orders related to the Site.
 - C. In the event Chevron Products Company refuses, without sufficient cause, to comply with any term of this Order, Chevron Products Company will be liable for:
 - (1) up to three times the amount of any costs incurred by the state of Washington as a result of its refusal to comply; and
 - (2) civil penalties of up to \$25,000 per day for each day it refuses to comply.
 - D. This Order is not appealable to the Washington Pollution Control Hearings Board. This Order may be reviewed only as provided under Section 6 of ch. 70.105D RCW.

Effective date of this Order: October 28, 2002

CHEVRON

By David C. Wickland
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DEPARTMENT OF ECOLOGY

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