

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

In the Matter of Remedial Action By:)

Mobil Oil Corporation)
3700 West 190th Street)
Torrance, CA 90509)

and)

American Distributing Company)
3809 Broadway)
Everett, WA 98021)

and)

Mr. A. P. Miller)
926 Grand Avenue)
Everett, WA 98201)

(AGREED ORDER)

No. DE 95TC-N402

TO:

Mobil Oil Corporation
3700 West 190th Street
Torrance, CA 90509

and

Mr. A.P. Miller, President
American Distributing Company
3809 Broadway
Everett, WA 98021

and

Mr. A. P. Miller
926 Grand Avenue
Everett, WA 98201

I.

JURISDICTION

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

II.

DEFINITIONS

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

3. The term "Attachment" means those documents that are attached to this Agreed Order.

4. The term "Miller property" means lots 1 through 9 and part of lot 10 of Block 619, Plat of Everett, Division "C", Everett, Washington, also known as 2717 Federal Avenue in Everett, Snohomish County, Washington.

5. The term "Mobil property" means lots 11 through 14 and part of lot 10 of Block 619, Plat of Everett, Division "C", Everett, Washington, also known as 2731 Federal Avenue in Everett, Snohomish County, Washington.

6. The term "Facility" or "Site" means the Miller property, the Mobil property, and any area where free-phase waste petroleum liquid and/or dissolved phase petroleum hydrocarbons and any other form or phase of petroleum or any other hazardous substance related to the operations of American or Mobil

(including Socony-Mobil and General Petroleum) from the Miller and/or Mobil properties have otherwise come to be located.

III.

FINDINGS OF FACT

Ecology makes the following Findings of Fact, without admission of such facts by the Mobil Oil Corporation, the American Distributing Company, and/or Mr. A.P. Miller, hereinafter referred to individually as potentially liable persons ("PLP" or "PLPs") or collectively as the potentially liable person group ("PLP Group").

7. The Mobil Oil Corporation ("Mobil") is the successor to Socony-Mobil Oil Company, Inc. a New York corporation, which merged in or about 1959 with General Petroleum of Delaware, successor to General Petroleum of California. General Petroleum of California leased the Mobil and Miller properties from the Great Northern Railway of Minnesota from about August 1922 until the time of sale in approximately 1927 (Attachment B). Attachment B referenced in this Order is an integral and enforceable part of this Order and is hereby incorporated by reference.

8. Mobil, and its predecessors as defined in Paragraph 7, owned and operated a bulk petroleum plant previously located on lots 1 through 14 of Block 619, Plat of Everett, Division "C", Everett, Washington from about 1927 to about 1974 (Attachments A and B). The operations of Mobil and its predecessors included

storing and distributing petroleum products at the Site from approximately 1927 to approximately 1974. Attachment A referenced in this Order is an integral and enforceable part of this Order and is hereby incorporated by reference.

9. In or about September 1974, Mobil sold to Mr. A. P. Miller ("Miller") lots 1 through 9 and part of lot 10 of Block 619, Plat of Everett, Division "C", Everett, Washington for use by the American Distributing Company (Attachment B).

10. The American Distributing Company ("American") operated those sections of the petroleum bulk plant previously located on lots 1 through 9 and part of lot 10 of Block 619, Plat of Everett, Division "C", Everett, Washington from approximately 1974 until approximately 1990 (Attachment A). The operations of American included receiving, storing and distributing bulk petroleum heating fuels at the Miller property. The plant ceased bulk petroleum operations in 1990 and some of the improvements on the Miller property including most tanks have been removed. Documents in the Snohomish County Assessors files report that tanks on site were "weeping". (Attachment B)

11. Mobil owned and operated a bulk petroleum distribution plant at the Mobil property. The operations of Mobil included receiving, storing, and distributing petroleum products at the Mobil property. The plant ceased petroleum bulk operations in 1987 and most of the improvements on the Mobil property have been removed.

12. Mobil currently owns lots 11 through 14 and part of lot 10 of Block 619, Plat of Everett, Division "C", Everett, Washington (Attachment B).

13. Miller currently owns lots 1 through 9 and part of lot 10 of Block 619, Plat of Everett, Division "C", Everett, Washington (Attachment B).

14. American currently maintains and controls access to the Miller property.

15. On or about May 9, 1988, the Washington State Department of Ecology ("Ecology") received a Rittenhouse-Zeman and Associates, Inc. ("RZA") report dated April, 1988 prepared for Mobil documenting petroleum hydrocarbon contamination of soil(s) and free-phase petroleum hydrocarbons on groundwater at and in the vicinity of the Mobil property. Ground water elevations indicate highly localized differential flow patterns of ground water at the Site. Attachment D is included as a reference document in this Order and is not an integral and enforceable part of this Order. The report indicates that a "dark petroleum sheen" was observed on groundwater in an underground storage tank removal excavation. Oil, grease, benzene, toluene, ethylbenzene and xylenes were found in soils and groundwater at most locations on the Mobil property in dissolved, vapor, adsorbed, or free phases (Attachment D).

16. On or about January 13, 1989, Ecology received a report dated August 25, 1988 prepared for Mobil by RZA proposing a scope

of work for remediation activities at the Mobil property. That report indicated that on or about May 12, 1988, an infiltration trench was installed and sumps were placed in the trench. About 300 gallons of a free-phase waste petroleum liquid was removed from the sumps. RZA recommended installation of a total fluid recovery system (Attachment D).

17. On or about November 28, 1990, Ecology received a Quarterly Update report prepared for Mobil by RZA dated September 17, 1990. That report stated that by late May 1989 no free-phase waste petroleum liquid was present in the recovery well ("RW-1") that replaced Monitoring Well 14 ("MW-14") and all other wells at the Mobil property were "...observed to be visually free of contamination". On or about August 2, 1989, free-phase waste petroleum liquid was observed in monitoring wells B-1, MW-8 and MW-18. The September 1990 RZA report also stated that a groundwater extraction system was operated in which groundwater was treated by air stripping to remove volatile hydrocarbons dissolved in that water and re-infiltrated at the Mobil property. That system was subsequently shut down because of flooding and also the potential for causing unwanted migration of free-phase waste liquid petroleum (Attachment D).

18. On or about December 10, 1990, Ecology received a report prepared for Mobil by RZA proposing additional subsurface characterization of the Mobil property and additional remedial actions. This report proposed installation of two additional

monitoring wells to the west of the Mobil property in the Federal Avenue right-of-way (Attachment D).

19. On or about June 14, 1991, Ecology received an interim letter prepared for Mobil by RZA dated April 2, 1991, describing the feasibility of ex-situ bioremediation as a method of cleaning soils at the Mobil property. An attached diagram indicated the general groundwater gradient at the Mobil property as being toward the northwest. The letter stated that free-phase waste petroleum liquid collected from unspecified monitoring wells at the Mobil property contained a mixture of #2 diesel and gasoline (Attachment D).

20. On or about June 14, 1991, Ecology received an interim status letter prepared for Mobil by RZA dated June 5, 1991, describing the location and exploratory boring and placement of monitoring points in the vicinity of a former railroad petroleum loading rack at a railroad siding about 250 feet east of the former petroleum bulk plant. The letter reported petroleum contamination in soils at that location. The letter also described the presence of free-phase waste petroleum liquid in monitoring wells B-1 and MW-8 located on the Mobil property. All wells placed on behalf of Mobil were sampled in addition to wells W-1, W-15, W-17 and AD-19 at the Miller property. Free-phase waste petroleum liquid was found in all wells sampled on the Miller property (Attachment D).

21. On or about October 1, 1995, a discharge of free-phase petroleum liquid characterized as biodegraded heavy fuel oil fractions that had been intermittent since August 1995 became a more constant discharge from the vicinity of a City of Everett combined sewer overflow discharge location into Port Gardner Bay about 200 yards northwest of the Mobil and Miller properties. On or about October 2-5, 1995 Boatswain Mate 2nd Class (BM2) Chris Scarberry of the United States Coast Guard (USCG), Marine Safety Office Puget Sound, collected free waste petroleum liquid samples from various locations at the American property including, but not limited to, a sample collected from a pipe in the garage or pumphouse structure at that property. Analytical results from the USCG analytical laboratory state that this sample is consistent with oil currently being released into Port Gardner Bay (Everett Harbor). Samples were all taken from open pipes or excavations at the property. BM2 Scarberry indicates that free-phase waste petroleum liquid was present in several locations in open trenches or holes on the American Distributing property. This information was transmitted verbally at a meeting attended by Mr. Daniel Lowman, Port of Everett Maintenance Supervisor; Norm Peck, Dick Storey and Suzanne Winter, Ecology; Gene Bennett, City of Everett Public Works Department by Boatswains Mate 2 (BM2) Chris Scarberry and Lieutenant Kristy Paquette of the U. S. Coast Guard, Marine Safety Office-Puget Sound (USCG/MSO-PS).

IV.

ECOLOGY DETERMINATIONS

22. Mobil is an "owner" and/or "operator" as defined at RCW 70.105D.020(11) of a "facility" as defined in RCW 70.105D.020(4).

23. American is an "owner" and/or "operator" as defined in RCW 70.105D.020(11) of a "facility" as defined in RCW 70.105D.020(4).

24. Miller is an "owner" and/or "operator" as defined at RCW 70.105D.020(11) of a "facility" as defined in RCW 70.105D.020(4).

25. The Facility (Site) is known as the Mobil-American Site and is located at 2717 and 2731 Federal Avenue, Everett, Washington 98201, together consisting of Lots 1-14, Block 619, Plat of Everett, Division "C", City of Everett and any area where free-phase waste petroleum liquid and/or dissolved phase petroleum hydrocarbons and any other form or phase of petroleum or any other hazardous substance related to the operations of American or Mobil from the Miller and/or Mobil properties have otherwise come to be located.

26. The substances found at the Facility (Site) are "hazardous substances" as defined at RCW 70.105D.020(7).

27. Based on the presence of these hazardous substances at the Facility (Site) and all factors known to Ecology, there is a release or threatened release of hazardous substances from the facility, as defined at RCW 70.105D.020(19).

28. By letter dated January 2, 1996, Ecology notified Mobil, American, and Miller that they were each a "potentially liable person" under RCW 70.105D.040 after notice and opportunity for comment.

29. Pursuant to RCW 70.105D.030(1) and 70.105D.050, Ecology may require potentially liable persons to investigate or conduct other remedial actions with respect to the release or threatened release of hazardous substances, whenever it believes such action to be in the public interest.

30. Based on the foregoing facts, Ecology believes the remedial action required by this Agreed Order is in the public interest.

31. This is an Emergency Order.

V.

WORK TO BE PERFORMED

Based on the foregoing Facts and Determinations, it is hereby ordered that the PLP Group take the following remedial actions and that these actions be conducted in accordance with WAC chapter 173-340 unless otherwise specifically provided for herein. Actions required by this Agreed Order are fully specified in Attachment E, which is an integral and enforceable part of the Agreed Order and is hereby incorporated by reference, and does not relieve the PLP Group from any requirements of this Section V.

32. As described in Attachment F, the PLP Group shall take necessary steps to cleanup, eliminate or/and contain petroleum releases at and near the City of Everett combined sewer overflow discharge line and/or diffuser into Port Gardener Bay located approximately 200 yards northwest of the Mobil and Miller properties and adjacent to the sheet pile bulkhead at Dunlap Towing. The PLP Group shall undertake such cleanup and containment efforts for a period of six months, beginning on January 15, 1996. Said cleanup and containment shall be to the satisfaction of the USCG/MSO-PS and Ecology. (Attachment F -- Letter from PLP Group to United States Coast Guard). Nothing in this Order shall be construed as requiring the PLP Group to replace the City of Everett CSO Line, notwithstanding that excavation of free-phase waste petroleum liquid and/or dissolved phase petroleum hydrocarbons and any other form or phase of petroleum or any other hazardous substance related to the operations of American or Mobil (including Socony-Mobil and General Petroleum) near or around the line may be required, and cleaning the interior of the line may also be required. Attachment F is an integral and enforceable part of this Agreed Order and is hereby incorporated by reference.

33. Not later than thirty (30) calendar days after the effective date of this Agreed Order the PLP Group shall perform pilot tests to evaluate reasonable alternatives for free product recovery as described in the approved Work Plan (Attachment E).

34. Not later than ninety (90) calendar days after the effective date of this Agreed Order the PLP Group shall begin characterization of the areal and vertical distribution and concentration of the free-phase waste petroleum liquid and groundwater contamination as described in the approved Work Plan (Attachment E).

35. Additional remedial action will be performed under this Agreed Order by the PLP Group at the Site if the PLP Group and Ecology agree on the conclusions of the pilot study and other work to be performed under this Agreed Order described in Attachments E and F.

VI.

REPORTING REQUIREMENTS

36. All reports required by this Agreed Order shall be completed for the Site as a whole by a single designated person, agent or firm agreed upon by the PLP Group. All analytical data shall be likewise collected and submitted for analysis to appropriate laboratories, depending on the type of analysis required or to obtain confirmation or comparative analyses, if required. Like analysis will be conducted by the same laboratory throughout the pilot study to maintain consistency and comparability of data.

37. The PLP Group shall submit the following reports to Ecology:

- a. Weekly Reports, while the pilot project is being planned and conducted which shall describe Site activities for each week, including but not limited to the following:
- i. Construction activities and maintenance activities related to, affecting or having potential to affect any aspect of remedial action pilot testing required by this Order;
 - ii. Pilot system performance information (including exceedances of any permit limits, volumes of groundwater pumped and treated, recovery volumes of free-phase waste petroleum liquid and, if known, mass of air discharges of volatiles expressed as species [for benzene, toluene, ethylbenzene and xylenes] and as gasoline and diesel); and
 - iii. Groundwater and free-phase waste petroleum liquid (if present) observations and/or elevations.
- b. Monthly reports, which shall describe Site activities for each month, including but not limited to the following:
- i. Construction activities and maintenance activities related to or affecting or having potential to affect any aspect of remedial action required by this Agreed Order;
 - ii. Pilot study results and performance evaluations, while the pilot project is being conducted;

- iii. Groundwater and free-phase waste petroleum liquid (if present) elevations for monitoring wells sampled during the previous month;
 - iv. Analytical results with supporting documentation (Lab, QA/QC results, data qualifications, if any, etc.) for monitoring wells sampled during the previous month;
 - v. Site diagrams showing each monitoring well location, groundwater elevation and localized groundwater gradient for that monitoring event, the product thickness (if applicable), and the most recent dissolved contaminant concentrations; and
 - vi. Proposed actions for the next month. Analytical results shall also be presented in tabular form.
- c. The first weekly report shall be submitted to Ecology not later than one week after the effective date of this Agreed Order. Weekly reports need not be placed in Public Repositories, but shall be provided to the City of Everett Planning and Public Works Departments and the USCG/MSO-PS.
- d. The first monthly report shall be submitted to Ecology not later than thirty (30) calendar days following the effective date of this Agreed Order. Monthly reports shall be provided to the City of Everett Planning Department and one copy of each

report shall be placed at each public repository designated in the Public Participation Plan.

38. All reports, specifications and sampling data shall be submitted to Ecology in accordance with WAC 173-340-840 unless otherwise specified in this Agreed Order including groundwater sampling data. These submittals shall be provided to Ecology as required under the schedule established in Paragraph 37(b).

39. All non-privileged historic reports, letters, notes, memos, laboratory reports or data transmittals and any other documents or information in any form about, for or relating to the Site in the possession of any PLP and/or any consultant, advisor, employee, agent or assign of any PLP and which are not identified and included in Attachment D shall be made available for inspection by the Ecology Site Coordinator within fifteen (15) calendar days of the effective date of this Order.

VII.

TERMS AND CONDITIONS OF AGREED ORDER

40. Public Notices. RCW 70.105D.030(2)(a) requires that, at a minimum, this Agreed 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 Agreed Order should public comment disclose facts or considerations which indicate to Ecology that the Agreed Order is inadequate or improper in any respect.

41. Remedial Action Costs.

a. The PLP Group shall pay to Ecology costs incurred by Ecology pursuant to this Order. These costs shall include work performed by Ecology or its contractors for investigations, remedial actions, and 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).

b. The PLP Group 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 description of work performed will be provided upon request. Itemized statements shall be prepared quarterly. Failure to pay Ecology's costs within ninety (90) days of receipt of the itemized statement of costs will result in interest charges as specified in WAC 173-340-550(4).

42. Designated Project Coordinators.

a. The project coordinator for Ecology is:

Norman D. Peck
Toxics Cleanup Program
Department of Ecology
Northwest Regional Office
3190-160th Ave. S.E.
Bellevue, WA 98008-5452

b. The project coordinator for the PLP Group shall be designated within two (2) calendar days of the effective date of this Agreed Order and Ecology shall be notified in writing on the first working day after designation is made.

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

43. Performance.

a. All work performed pursuant to this Agreed 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. The PLP Group 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 Agreed Order, in advance of their involvement at the Site. The PLP Group shall provide a copy of this Agreed Order to all agents, contractors

and subcontractors retained to perform work required by this Agreed Order and shall ensure that all work undertaken by such agents, contractors and subcontractors will be in compliance with this Agreed Order.

b. Except where necessary to abate an emergency situation, the PLP Group shall not perform any remedial actions at the Site outside that required by this Agreed 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 the state of Washington.

44. Access. Ecology or any Ecology authorized representative shall have the authority to enter and freely move about the Site at all reasonable times for the purposes of, inter alia: inspecting records, operation logs, and contracts related to the work being performed pursuant to this Agreed Order; reviewing the progress in carrying out the terms of this Agreed 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 Agreed Order; and verifying the data submitted to Ecology by the PLP Group. By signing this Agreed Order, the PLP Group agrees that this Agreed 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 Agreed Order. Ecology shall allow split or replicate samples to be taken by the PLP Group during an inspection of such sampling unless doing so interferes with Ecology's sampling. The PLP Group shall allow split or replicate samples to be taken by Ecology and shall provide seven (7) days notice before any planned sampling activity.

45. Public Participation. The PLP Group shall prepare and/or update a public participation plan for the Site. Ecology shall maintain the responsibility for public participation at the Site. The PLP Group shall help coordinate and implement public participation for the Site.

46. Retention of Records. The PLP Group shall preserve in a readily retrievable fashion, during the pendency of this Agreed Order and for ten (10) years from the date of completion of the work performed pursuant to this Agreed Order, all records, reports, documents, and underlying data in its possession relevant to this Agreed Order. Should any portion of the work performed hereunder be undertaken through contractors or agents of the PLP Group, then the PLP Group agrees to include in their contract with such contractors or agents a record retention requirement meeting the terms of this Paragraph.

47. Dispute Resolution. The PLP Group may request Ecology to resolve disputes which may arise during the implementation of this Agreed Order. Such request shall be in writing and directed to the signatory, or his/her successor(s), to this Agreed Order.

Ecology resolution of the dispute shall be binding and final. The PLP Group is not relieved of any requirement of this Agreed Order during the pendency of the dispute and remains responsible for timely compliance with the terms of the Agreed Order unless otherwise provided by Ecology in writing.

48. Reservation of Rights--No Settlement.

a. This Agreed Order is not a settlement under RCW chapter 70.105D. Ecology's signature on this Agreed Order in no way constitutes a covenant not to sue or a compromise of any Ecology rights or authority. Ecology reserves the right to bring an action against the PLP Group to recover remedial action costs not paid to or received by Ecology under this Agreed Order. In addition, Ecology will not take additional enforcement actions against the PLP Group to require those remedial actions required by this Agreed Order, provided the PLP Group complies with this Agreed Order.

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

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

d. 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 the PLP Group to stop further implementation of this Agreed Order for such period of time as needed to abate the danger.

49. Transference of Property.

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

b. Prior to transfer of any legal or equitable interest the PLP Group may have in the Site or any portions thereof, the PLP Group shall serve a copy of this Agreed 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, the PLP Group shall notify Ecology of the contemplated transfer.

50. Compliance With Applicable Laws.

a. All actions carried out by the PLP Group pursuant to this Agreed Order shall be done in accordance with all applicable federal, state, and local requirements, including requirements to obtain necessary permits, except as specified in RCW 70.105D.090(1).

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 Attachment C. Additional requirements will be added by amendment as they are identified and determined to be applicable by the Ecology Site Coordinator and are binding and enforceable requirements of the Order.

c. The PLP Group 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 Agreed Order. In the event the PLP Group determines that additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Agreed Order, it shall promptly notify Ecology of this determination. Ecology shall determine whether Ecology or the PLP Group shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, the PLP Group 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 substantive requirements

that must be met by the PLP Group and on how the PLP Group must meet those requirements. Ecology shall inform the PLP Group in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Agreed Order. The PLP Group shall not begin or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination.

d. 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.

e. 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 the PLP Group 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.

VIII.

SATISFACTION OF THIS AGREED ORDER

51. The provisions of this Agreed Order shall be deemed satisfied upon the PLP Group's receipt of written notification from Ecology that the PLP Group has completed the remedial activity required by this Agreed Order, as amended by any

modifications, and that all other provisions of this Agreed Order have been complied with. Ecology will respond within five (5) working days of receipt of requests in this matter from the PLP Group. Such requests shall be both verbal by telephone and in writing to the Ecology Site Coordinator.

IX.

ENFORCEMENT

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

a. The Attorney General may bring an action to enforce this Agreed 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 PLP Group refuses, without sufficient cause, to comply with any term of this Agreed Order, the PLP Group will be liable for:

i. up to three times the amount of any costs incurred by the state of Washington as a result of its refusal to comply; and

ii. civil penalties of up to \$25,000 per day for each day it refuses to comply.

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

53. Each PLP named in this Agreed Order is individually responsible for compliance with the terms and conditions of this Agreed Order. Any reference to or requirement of the PLP Group applies to all PLPs named. Compliance with the Agreed Order by any PLP is not conditioned on the performance of any other PLP. Similarly, the right of Ecology to enforce the Agreed Order against any PLP is not conditioned on the performance of or enforcement against any other PLP.

Effective date of this Agreed Order: April 15, 1996

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

AMERICAN DISTRIBUTING COMPANY

By: Michael J. Gallagher
Michael J. Gallagher
Section Manager
Toxics Cleanup Program
Northwest Regional Office

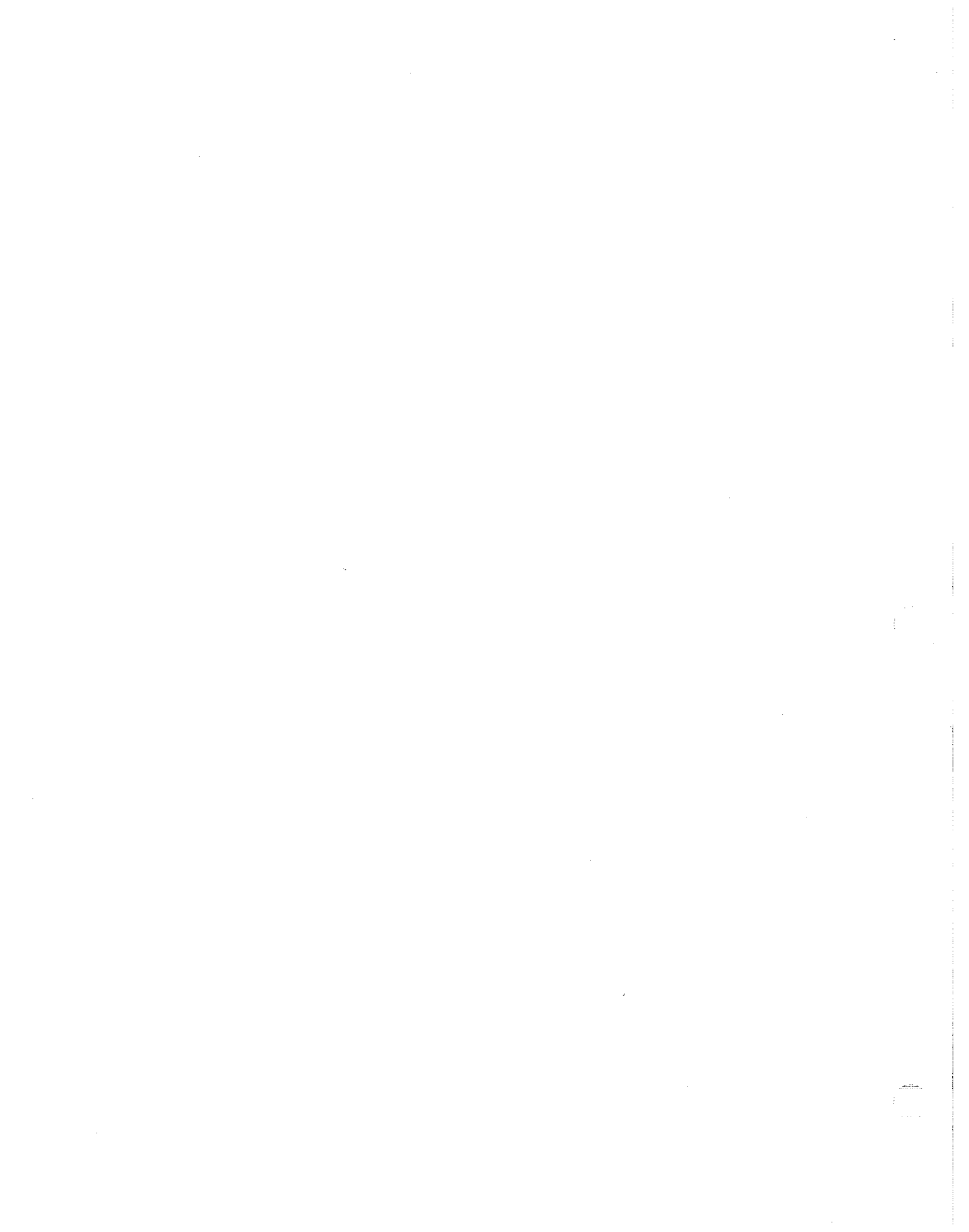
By: A. P. Miller
Title: Pres

MOBIL OIL CORPORATION

A.P. MILLER

By: Kurt Ruck
Title: FIELD ENGINEERING MANAGER

By: A.P. Miller



Attachment E
Order DE 95TC-N402
Reserved for Work Plans
to be added as approved

RECEIVED
APR 15 1996
HYDROLOG

**WORK PLAN FOR SURFACE WATER CLEANUP
COMBINED SEWER OVERFLOW DISCHARGE
PORT GARDNER (EVERETT HARBOR)
EVERETT, WASHINGTON**

Submitted To:

Mobil Oil Corporation
2063 Main Street
Box 501
Oakley, California 94561

Submitted By:

AGRA Earth & Environmental, Inc.
11335 NE 122nd Way, Suite 100
Kirkland, Washington 98034-6918

April 1996

File #11-04558-09

 **AGRA**
Earth & Environmental

AGRA Earth &
Environmental Inc
11335 NE 122nd Way
Suite 100
Clarkland, Washington
U.S.A. 98034-6918
Tel: (206) 820-4669
Fax: (206) 821-3914

4 April 1996
11-04558-09

Mobil Oil Corporation
2063 Main Street
Box 501
Oakley, California 94561

Attention: Ms. Cherine Foutch

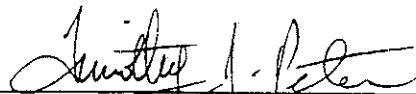
Subject: Work Plan for Surface Water Cleanup
Combined Sewer Overflow Discharge
Port Gardner (Everett Harbor)
Everett, Washington

Dear Ms. Foutch:

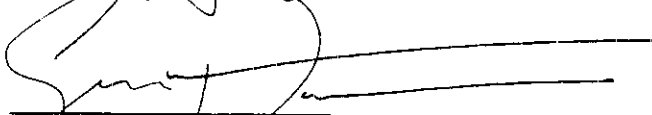
AGRA Earth & Environmental, Inc. (AEE) is pleased to present this work plan to assist in compliance with the requirements set forth in the Negotiation Draft Agreed Order issued by the Washington Department of Ecology (Ecology) for Mobil Site No. 46-108 and the adjacent American Distributing Company property. Specifically, the objective of this plan is to outline the scope of services for containment and recovery of liquid petroleum hydrocarbon (LPH) discharging from the combined sewer overflow outfall into Port Gardner Bay at the Dunlap Towing Property.

We appreciate the opportunity to be of continued service to the Mobil Oil Corporation. Should you have any questions, comments, or require additional information, please contact us at your earliest convenience.

Respectfully submitted,
AGRA Earth & Environmental, Inc.



Timothy J. Peter, P.G.
Senior Project Geologist



Sean W. Donnan, P.G.
Associate

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11-04558-09

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Figure 1 - Site Location Map

**WORK PLAN FOR SURFACE WATER CLEANUP
COMBINED SEWER OVERFLOW DISCHARGE
PORT GARDNER (EVERETT HARBOR)
EVERETT, WASHINGTON**

11-04558-09

1.0 WORK PLAN OBJECTIVES

The objective of this surface water cleanup plan is to outline the scope of services for containment and recovery of liquid petroleum hydrocarbon (LPH) discharging from the combined sewer overflow outfall into Port Gardner Bay at the Dunlap Towing Property. On behalf of the PLP group as identified in the Negotiation Draft Agreed Order dated 4 January 1996, the Mobil Oil Corporation has assumed the role of coordinating efforts as outlined in this work plan. Generally, these services will include but are not necessarily limited to the following:

- Monitoring on a pre-established frequency, the surface water in the sewer outfall area as well as the water in the manhole adjacent to the outfall;
- Maintaining appropriately selected oil recovery products and/or equipment;
- Providing data to assess the effectiveness of the combined sewer outfall, specifically the modifications performed (Standpipe Construction) to aid in the collection and/or the reduction of the discharge of petroleum products inferred to exist within this line;
- Assessing of the characteristics of the LPH discharge such as consistency, frequency, petroleum product variety, and relationship to stormwater discharge events.
- Providing guidance on the collection and interpretation of all data, to provide guidance on record keeping, determine roles and responsibilities for all involved personnel, and establish reporting protocol in the distribution of all relevant information.

2.0 PROJECT HISTORY

Two properties in the 2700 block of Federal Avenue in Everett, Washington have been identified as confirmed or suspected contaminated sites with the Department of Ecology (CSCS list). These are the former bulk petroleum storage facilities operated by the Mobil Oil Corporation and American Distributing.

According to the information provided by Ecology, "On or about October 6, 1995 a discharge of free-phase petroleum liquid characterized by biodegraded heavy fuel oil fractions that had been intermittent since August 1995 became a virtually constant discharge from the vicinity of a City of Everett combined sewer overflow discharge location into Port Gardner Bay (Everett Harbor) about 125 yards northwest of the Mobil-American Distributing Site."

The preliminary draft Agreed Order also stated that "On or about October 5, 1995 Boatswain Mate 2nd Class (BM2) Chris Scarberry of the United States Coast Guard (USCG), Marine Safety Office Puget Sound collected free waste petroleum liquid samples from various locations at the American property including but not limited to a sample collected from a pipe in the garage structure at that property. Analytical results from the USCG analytical laboratory state that this sample is consistent with oil currently being released into Port Gardner Bay (Everett Harbor). Samples were all taken from open pipes or excavations at the property. BM2 Scarberry indicates that free-phase waste petroleum liquid was present in several locations in open trenches or holes on the American Distributing property."

3.0 REGULATORY FRAMEWORK

Releases of hazardous substances into the environment in the State of Washington are regulated by the Model Toxics Control Act (MTCA), CH. 70.105D RCW, and its implementing regulation, CH. 173-340 WAC. The Clean Water Act prohibits the discharge of oil into or on navigable waters of the U.S. or adjoining shorelines in quantities that (1) exceed applicable water quality standards, (2) produce a film or sheen or discolor the surface of the water, or (3) cause a sludge or a emulsion to form in the water along the shoreline. Federal regulations codified at 40 CFR 110 establish prohibitions on discharges of oil.

4.0 ROLES AND RESPONSIBILITIES

Implementation of the provisions of this plan are being coordinated by the Mobil Oil Corporation. The Mobil Oil Corporation has retained AGRA Earth & Environmental, Inc. (AEE) to both prepare as well as apply the contents of this surface water monitoring plan. AEE and Mobil Oil have demonstrated the ability to work effectively in protecting human health and the environment by maintaining a working relationship of 12+ years. The following individuals who can be contacted in the event there are any comments, questions, or the requirement for additional information, or in the event of an emergency, include:

MOBIL OIL CORP.	Cherine Foutch 2063 Main Street Box 501 Oakley, CA 94561 Phone: (510) 625-1173 Fax: (510) 625-1187	Kurt Fischer 3700 W. 190th Street TPT-2 Torrance, CA 90509-2929 Phone: (310) 212-1858 Fax: (310) 212-1890
AGRA EARTH & ENVIRONMENTAL	Tim Peter 11335 NE 122nd Way Suite 100 Kirkland, WA 98034-6918 Phone: (206) 820-4669 Fax: (206) 821-3914	Sean Donnan 11335 NE 122nd Way Suite 100 Kirkland, WA 98034-6918 Phone: (206) 820-4669 Fax: (206) 821-3914

5.0 SCOPE OF WORK

The PLP Group has elected to assume the role of surface water cleanup for a period of six months, previously performed by the United States Coast Guard. The objective at the discharge location is the containment and recovery of LPH discharging into Port Gardner Bay. The scope of work to be employed to meet this objective is as follows:

- Monitoring the effectiveness of oil containment and recovery booms currently in place on the water in the area surrounding the outfall;
- If it is demonstrated that inadequate containment and/or recovery, is occurring with the existing boom, AEE will install an emergency spill response product with both oil spill containment as well as oil recovery capabilities in a single, easily deployed product. A sorbent boom will be selected based on specific performance criteria which will meet or exceed that of the existing boom currently in place;
- Conducting field inspections at the frequency of two visits per week. For the purposes of preparation of this plan, these visits will continue for a period of approximately six months (26 weeks);
- Documenting issues related to the effectiveness of the modifications made to the sewer outfall, specifically those to aid in the collection and/or reduction of the discharging petroleum products into the subject bay;
- Recording of data with the intent to continue assessment of the characteristics of the discharge such as consistency, frequency, product type, relationship to

significant storm water events, as well as to assess trends, if any, with respect to groundwater/stormwater communication if occurring;

- Recorded data will include at a minimum, date, time, approximate tide (from tables), weather conditions, subjective petroleum product characteristics (general appearance, odor, absence or light/heavy presence and color of any sheen), and the overall discharge location appearance and containment/recovery system performance;
- If applicable, free waste petroleum product will be sampled and forwarded to subcontract analytical laboratories for fingerprinting;
- Evaluation of the effectiveness of the sorbent booms to contain and absorb product, and if their capacity has been exceeded, the booms will be replaced as appropriate;
- The placement of oil sorbent pads strategically throughout the containment area and replaced as necessary on a per visit basis;
- The placement of spent sorbent pads and/or booms in plastic bags and disposed of these materials at a licensed facility, such as Recomp of Washington in Ferndale.
- The presentation of system performance and data evaluation in two quarterly reports provided to the coordinating party, with arrangements made for distribution of data to all interested parties including but limited to the U.S. Coast Guard, the Department of Ecology, American Distributing, the City of Everett, Snohomish County, and others as determined to be necessary.

6.0 RESPONSE TEAM/AVAILABLE EQUIPMENT

AEE has identified and assembled a spill response team for this and other related projects. The AEE program manager for all Mobil Oil Corporation projects performed in the United States is Sean Donnan. The project manager for the Mobil/American Distributing, Everett, Washington facilities addressed under the agreed order (Ecology Number DE 95TC-N402) is Tim Peter. Geoff Saunders is an AEE Project Manager who currently manages projects for Mobil Oil Corporation. Each of these individuals will serve as key points of contact. Either Mr. Donnan, Mr. Peter, or Mr. Saunders will be on location in a supervisory capacity and assume the role of response team leader. Response teams will consist of team leaders plus two additional individuals from the list below.

Each individual has been trained and is in current compliance with the OSHA requirements set forth in 29 CFR 1910.120. A minimum of three individuals will be available for any given 24-

hour period, and can be contacted at the following office, home, cellular, and/or pager telephone numbers.

Name	Project Role	Work Phone (206 Area Code)	Home Phone (206 Area Code)	Cellular Phone/ Pager (206 Area Code)
Sean Donnan	Program Mgr.	820-4669	788-2482	790-2871/991-9746
Tim Peter	Project. Mgr.	820-4669	823-0856	989-6206
Chuck Cacek	Project Scientist	820-4669	526-5548	991-8099
Geoff Saunders	Project Engineer	820-4669	364-6524	991-6641
Anders Olin	Project Scientist	820-4669	742-5726	991-9217
Patrick Stanton	Sr. Staff Engineer	820-4669	360-568-1237	559-2635
Bob Lauritzen	Sr. Staff Scientist	820-4669	781-2270	540-5719

During any given response effort, members of the team will make every reasonable effort to contact and keep informed Coast Guard and Department of Ecology representatives including but not limited to BM2 Chris Scarberry (USCG) and Mr. Norm Peck (Ecology).

Equipment available to the team includes at a minimum, the following:

- A 14-foot flat bottomed Jor boat;
- One bale of oil sorbent pads;
- A commercial oil sweep;
- Nitrile gloves;
- Tyvek personal protective suits;
- 100 feet of nylon rope;
- A role of 6 mil plastic bags for waste containment;
- Plastic electrical ties;
- Razor knives;
- Two waterproof flashlights;
- Personal flotation devices; and,
- 100 feet of oil snares.

This equipment will be on location prior to 12 April 1996, and housed in a secure, weatherproof, appropriately labeled marine storage unit.

7.0 RECORD KEEPING

A project field file will be kept active at the offices of AEE in Kirkland, Washington. Daily field reports per site visit will be prepared, reviewed by the project manager, and distributed as required. Specific reports will be prepared pertaining to significant events, such as spills or releases, which result in pollution of surface water of the United States beyond any already occurring. Any deficiencies noted in system performance will be documented in follow-up responses noted during those inspections and will describe any changes in site activities that are recommended. These reports will also be maintained at AEE's facility in Kirkland, Washington.

8.0 REVIEWS AND AMENDMENTS

A review and evaluation of this plan is recommended to be completed following the initial six month monitoring period. Within six months of the review, the plan should be amended if new, field tested technology has become available that would provide significantly more effective spill prevention, control, and monitoring.

It will be the responsibility of AEE to ensure that this plan is reviewed and evaluated at the six month operating interval. We would at that time, coordinate with representatives of the PLP Group, Ecology, and the U.S. Coast Guard in determining if the actions taken to date are effective and appropriate and whether they should continue as planned or be modified, as appropriate.

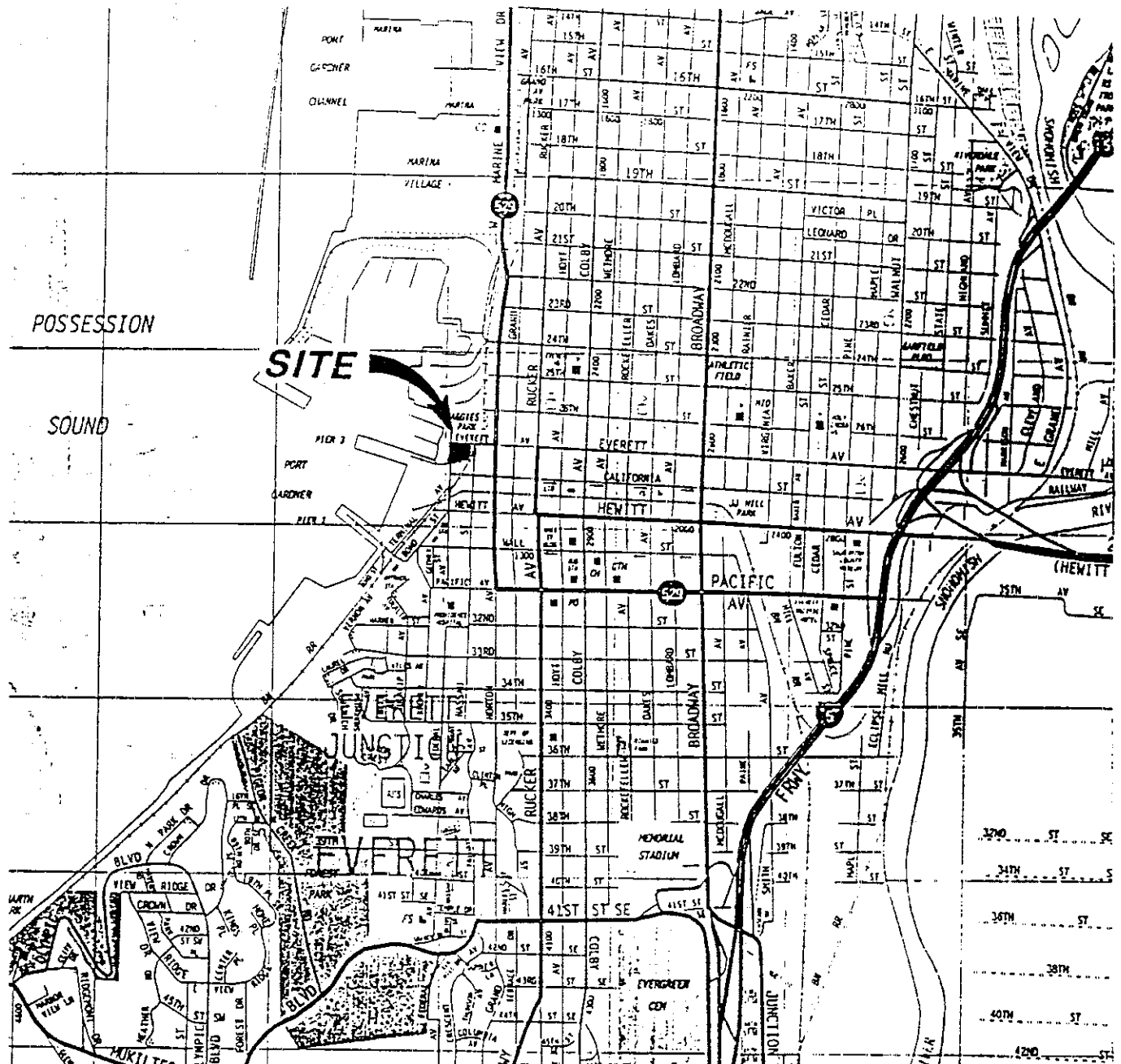


FIGURE 1

EVERETT MOBIL BULK PLANT
EVERETT, WASHINGTON

LOCATION MAP

AGRA
Earth & Environmental
11335 N.E. 122nd Way, Suite 100
Kirkland, WA, U.S.A. 98034-6918

W.O.	11-04558-09
DESIGN	TJP
DRAWN	JMR
DATE	MAR 1996
SCALE	N.T.S.