

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

In the Matter of Remedial Action by:

CADET MANUFACTURING  
COMPANY

AGREED ORDER

No. DE 00 TCP VA-897

2500 W. Fourth Plain Blvd. (98660)  
PO Box 1675  
Vancouver, WA 98668-1675

TO: Cadet Manufacturing Company

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  
Cadet Manufacturing Company ("Cadet").

1. Cadet currently owns and operates a manufacturing facility located at 2500  
West Fourth Plain Boulevard in Vancouver, Washington. The facility was acquired from Swan  
Manufacturing Company in 1972, when Cadet acquired all of the assets of Swan Manufacturing.  
Swan Manufacturing operated at the above address from 1964 to 1972. The facility is bordered  
on the south by West Fourth Plain Boulevard, on the east and north by a vacant lot, and on the  
east by the Fruit Valley residential neighborhood. Figure 1 (attached) shows the site in relation  
to its surroundings. The site consists of Assessor's Tax Parcel I.D. No. 059115-055, 151956-

000. The site consists of the office and manufacturing building, paved and unpaved parking areas, and vacant ground. Before 1964 Swan Manufacturing operated at a location to the south of the present Cadet facility which is approximately 1,000-feet west of the Kotobuki Way and West Fourth Plain Boulevard intersection. That property is now owned by the Port of Vancouver (POV).

2. The former Swan Manufacturing facilities at the present Cadet facility location and at the POV property used chlorinated solvents, including (but not necessarily limited to) trichloroethylene (TCE).

3. Between March and August 1998 the POV conducted an investigation to evaluate the presence of chlorinated solvents in shallow groundwater to the east and north of the Former Swan Manufacturing site (located on POV property). TCE, tetrachloroethylene (PCE) and some associated or degradation products (1,1,1-trichloroethane [1,1,1-TCA], 1,1-dichloroethane [1,1-DCA], *cis* 1,2-dichloroethylene [*cis*-DCE], 1,1-dichloroethene [1,1-DCE] were discovered in groundwater beneath the Cadet property and in the neighborhood to the east of the Cadet facility. The results of this investigation can be found in the Final Work Plan for Remedial Investigation and Feasibility Study, Former Building 2220 Site (a.k.a. Swan Manufacturing Co. Site) prepared for the POV. TCE and PCE were found at concentrations exceeding MTCA Method A cleanup levels.

4. Cadet hired AGRA Earth & Environmental, Inc. to prepare a Phase II Environmental Site Assessment. The results of AGRA's investigation are presented in a report to Hutch Johnson of Cadet, dated March 31, 1999. The report documents concentrations of TCE and PCE in groundwater that exceed MTCA Method A cleanup levels.

5. Cadet notified Ecology of the results of the Phase II investigation, and solicited guidance from Ecology's Vancouver Field Office prior to performing additional investigation. Due to concerns about the possible extent of the contamination, as well as the need to address future investigation and remediation in the context of a Chapter 11 bankruptcy reorganization by Cadet, additional site investigation efforts were performed in advance of an

Agreed Order with the understanding that an Agreed Order would be developed as soon as possible.

On October 28, 1999 preliminary results of additional subsurface investigation work were presented to Ecology. Investigation results indicate a potential chlorinated solvent source area in soil beneath the Cadet building and confirmation of solvent contamination in shallow groundwater beneath the neighborhood to the east. The results also indicate a decrease of solvent concentrations in groundwater with depth on the Cadet property. The Scope of Work for additional on- and off-site work was discussed at this time and is presented below.

### III.

#### Ecology Determinations

1. Cadet is an "owner or operator" as defined at RCW 70.105D.020(11) of a "facility" as defined in RCW 70.105D.020(4).
2. The facility is known as the Cadet Manufacturing Site and is located at 2500 West Fourth Plain Boulevard in Vancouver, Washington.
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(19).
5. By a letter of September 17, 1999, Cadet waived its rights to notice and comment and accepted Ecology's determination that Cadet is a "potentially liable person" under RCW 70.105D.040.
6. 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.

7. 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 Cadet take the following remedial actions and that these actions be conducted in accordance with Chapter 173-340 WAC unless otherwise specifically provided for herein. These actions are more specifically described in the Scope of Work to Be Performed attached as Exhibit A and hereby incorporated by reference as an integral and enforceable part of this Agreed Order. Ecology approved work plans listed below will be incorporated by reference and will be an integral and enforceable part of this offer. In summary, the Scope of Work To Be Performed will include the following:

##### TASK 1: INTERIM ACTION

Task 1A: Source Investigation Work Plan Preparation

Task 1B: Source Investigation Work Plan Implementation and Reporting

Task 1C: Source Remediation Work Plan

Task 1D: Source Remediation Work Plan Implementation and Reporting

##### TASK 2: REMEDIAL INVESTIGATION AND FEASIBILITY STUDY

Task 2A: Remedial Investigation Work Plan

Task 2B: Remedial Investigation

Task 2C: Feasibility Study Work Plan

Task 2D: Feasibility Study

#### 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. Cadet 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). Cadet 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 will be provided upon request. 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:

Craig Rankine  
Department of Ecology  
Vancouver Field Office  
2108 Grand Blvd.  
Vancouver, WA 98661-4622

The project coordinator for Cadet is:

John Kuiper  
AGRA Earth & Environmental, Inc.  
7477 SW Tech Center Drive  
Portland, OR 97223

The project coordinator(s) shall be responsible for overseeing the implementation of this Order. To the maximum extent possible, communications between Ecology and Cadet,

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 Cadet change project coordinator(s), written notification shall be provided to Ecology or Cadet 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, geologist, or hydrogeologist, or similar expert, with appropriate training, experience and expertise in hazardous waste site investigation and cleanup. Cadet shall notify Ecology as to the identity of such engineer(s), geologist(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. Cadet 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, Cadet shall not perform any remedial actions at the Cadet Manufacturing Company 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 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 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 Cadet. By signing this Agreed Order, Cadet 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 Cadet during an inspection unless doing so interferes with Ecology's sampling. Cadet 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. Cadet shall prepare and/or update a public participation plan for the site. Ecology shall maintain the responsibility for public participation at the site. Cadet shall help coordinate and implement public participation for the site.

8. Retention of Records. Cadet 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 Cadet, then Cadet agrees to include in their contract with such contractors or agents a record retention requirement meeting the terms of this paragraph.

9. Dispute Resolution. Cadet 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. Cadet 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 Cadet 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 Cadet to require those remedial actions required by this Agreed Order, provided Cadet 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 the Cadet Manufacturing Company site.

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 Cadet 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 Cadet 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 Cadet may have in the site or any portions thereof, Cadet 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, Cadet shall notify Ecology of the contemplated transfer.

12. Compliance with Other Applicable Laws.

A. All actions carried out by Cadet 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 Exhibit A (attached) and are binding and enforceable requirements of the Order.



Cadet 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 Cadet 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 Cadet shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, Cadet 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 Cadet and on how Cadet must meet those requirements. Ecology shall inform Cadet in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. Cadet 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 Cadet 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 Cadet's receipt of written notification from Ecology that Cadet 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 Cadet refuses, without sufficient cause, to comply with any term of this Order, Cadet 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

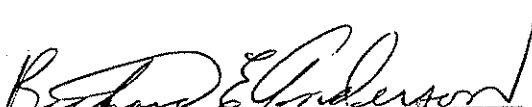
(2) civil penalties of up to \$25,000 per day for each day it refuses to comply.

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: 1/13/2000, 1999.

CADET MANUFACTURING COMPANY

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

By:   
Its: E. E. O.

By:   
Its: Section Manager