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STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

In the Matter of Remedial)
Action at:)
Corner Express)
1131 Morgan Street)
Davenport, Washington 99122)

EMERGENCY ENFORCEMENT ORDER
No. DE 00TCPER-1901

To: Mr. Marvin Bain
%Pipeline Distributing
Route 2 Box 19
Potlatch, Idaho 83855

I.

Jurisdiction

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

II.

Statement of Facts

1. Marvin Bain is the owner of the Corner Express facility (the Site) located at 1131 Morgan Street, Davenport, Washington, in Lincoln County. This facility is located on the southwest

corner of Morgan Street (Highway 2) and 12th Street. It is bounded by Morgan Street on the north and 12th Street on the west. (Figure 1.)

2. According to Washington State Department of Ecology (Ecology) records, the facility was operated as a retail gas station until approximately July 18, 2000. The station remains closed as of this date.
3. The underground storage tank(UST)system at this facility includes two 5,000-gallon capacity diesel tanks and three 8,000-gallon capacity gasoline tanks.
4. In certified letters dated June 26 and July 20, 2000, Ecology provided Marvin Bain, as owner/operator of Corner Express, Notification of Correction regarding observed violations of the UST Regulations. Specific violations pursuant to Chapter 90.76 RCW and Chapter 173-360 WAC. Those violations included the following:
 - A. The automatic tank gauge was not functional. As a result there was no leak detection in place to detect a leak from the USTs.
 - B. The Site's UST permit expired as of June 30, 2000. The facility continued to operate after this date.
 - C. One of the turbine pumps was not equipped with a line leak detector as required.
 - D. Water was found in turbine sumps, in effect disabling the line leak detection function of the sump sensors.
 - E. Failure to provide documentation to verify that the

corrosion protection system was functional.

5. Marvin Bain was provided opportunity to respond to and correct the noted UST violations. Ecology has not received a response to the June 26 or the July 20, 2000 Notices of Correction.
6. Gasoline, as free product, has been found in a groundwater monitoring well located less than 100 feet to the northwest and hydraulically downgradient of the Corner Express site. Laboratory analysis of the gasoline found in this monitoring well characterized it as "...consistent with a "fresh" gasoline, that is, one which has not been subjected to evaporative loss or biological degradation."
7. In a certified letter dated December 14, 2000, Ecology advised Marvin Bain of heightened concerns regarding this site due to the continued failure to comply with the previously cited UST violations and the discovery of gasoline in the above-referenced monitoring well. In this letter Marvin Bain was also advised that, based on these findings, he was required to conduct a site investigation as provided for under WAC 173-360-370. Ecology has not received a response to the letter of December 14, 2000.
8. Ecology has received no documentation regarding the current status of the USTs or of any investigative work performed or planned by Marvin Bain as required under WAC 173-360-365.

III.

Ecology Determinations

1. Marvin Bain is an "owner or operator" as defined at RCW 70.105D.020(6) of a "facility" as defined in RCW 70.105D.020(3).
2. The facility is known as Corner Express and is located at 1131 Morgan Street, Davenport, Washington, in Lincoln County. This facility is located on the southwest corner of Morgan Street (Highway 2) and 12th Street. It is bounded by Morgan Street on the north and 12th Street on the west.
3. The substances found at the facility as described above are "hazardous substances" as defined at RCW 70.105D.020(5).
4. Based on the presence of these hazardous substances adjacent to and immediately hydraulically downgradient of 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(10).
5. Ecology has determined, in accordance with WAC 173-340-540, that due to the presence of gasoline, as free product, in a monitoring well adjacent to and hydraulically downgradient from this site, along with the lack of documentation concerning the current status of the USTs, there exists an emergency that requires a remedial action.
6. Pursuant to RCW 70.105D.040 Ecology will provide Marvin Bain notice and opportunity for comment on Ecology's

determination that he is "potentially liable party". This notice and opportunity for comment will take place concurrently with the issuance of this Order, in accordance with WAC 173-340-540.

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 Determination, it is hereby ordered that Marvin Bain take the following remedial actions.

1. Within ten (10) calendar days from the effective date of this Order complete the following:

Close each UST system on this site. This will include the removal of all product from the tanks using commonly employed practices so that no more than 2.5 centimeters (one inch) of residue remain in the system.

Documentation of this work will include an evaluation of the quantity of product and water, if any, in each tank prior to emptying the tanks.

2. Within thirty (30) calendar days of the effective date of this Order complete the following:

Conduct a site assessment in a manner consistent with the requirements of WAC 173-360-390 to identify the source of any release at this site. This work will

include, but not be limited to, the following:

Conduct a line tightness test on each product line in a manner consistent with WAC 173-360-350(2)(b).

Review all inventory records from January 1, 2000 to date, including all automatic tank gauge system printouts and tightness tests.

3. A tank status report, documenting the removal of any product and all additional information obtained during the closure process, will be provided to Ecology within 24 hours of completion of the work. This report may be submitted verbally. Written documentation of this work will be submitted within ten (10) calendar days.
4. A site assessment report will be submitted to Ecology, in writing, within thirty (30) calendar days of completion of the fieldwork.

V.

Terms and Conditions of Order

1. Definitions

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

2. Public Notice

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

Marvin Bain 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; e.g., employee salary, laboratory costs, travel costs, contractor fees, and employee benefit packages; and agency indirect costs of direct activities as defined in WAC 173-340-550(2).

Marvin Bain shall pay the required amount within 90 days of receiving from Ecology an itemized statement of costs that includes a summary of costs incurred, a general description of work performed, an identification of involved staff, and the amount of time spent by involved staff members on the project. Failure to pay Ecology's costs within 90 days of receipt of the itemized statement of costs may result in interest charges.

4. Designated Project Coordinators

The project coordinator for Ecology is:

Michael Boatsman
Department of Ecology
N 4601 Monroe
Spokane, WA 99205
Phone: (509) 456-4457

The project coordinators shall be responsible for overseeing the implementation of this Order. To the maximum extent possible, communications between Ecology 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 coordinators. Should Ecology change project coordinators, written notification shall be provided by Ecology 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 licensed UST service provider or registered UST site assessor as appropriate. Ecology is to be notified as to the identity of such service providers 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.

6. Access

Ecology or any Ecology authorized representative shall have the authority to enter and freely move about all property at the Site at all reasonable time 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. Ecology shall provide reasonable notice before entering property unless an emergency prevents notice. Ecology shall be given the opportunity to split or replicate samples taken during the course of any investigation performed pursuant to this Order.

7. Public Participation

Ecology shall maintain the responsibility for public participation at the Site.

8. Retention of Records

Marvin Bain 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.

9. Transference of Property

No voluntary or involuntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Site shall not be consummated 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 in the Site or any portions thereof, Marvin Bain shall serve a copy of this Order upon any prospective purchaser, lessee, transferee, assignee, or other successor in such interest.

10. Compliance with Other Applicable Laws

All actions carried out pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements.

VI.

Satisfaction of this Order

The provisions of this Order shall be deemed satisfied upon Marvin Bain's receipt of written notice from Ecology that he has completed the remedial activity required by this Order, as amended by any modifications, and that all other provisions of this 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 Marvin Bain refuses, without sufficient

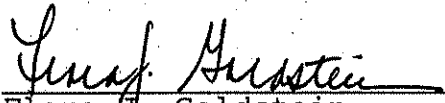
cause, to comply with any term of this Order, he will be liable for:

- (1) up to three times the amount of any costs incurred by the State of Washington as a result of his refusal to comply; and
- (2) civil penalties of up to \$25,000 per day for each day he 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 RCW 70.105D.060.

Effective date of this Order:

December 26, 2000



Flora J. Goldstein
Section Manager
Toxics Cleanup Program
Eastern Regional Office

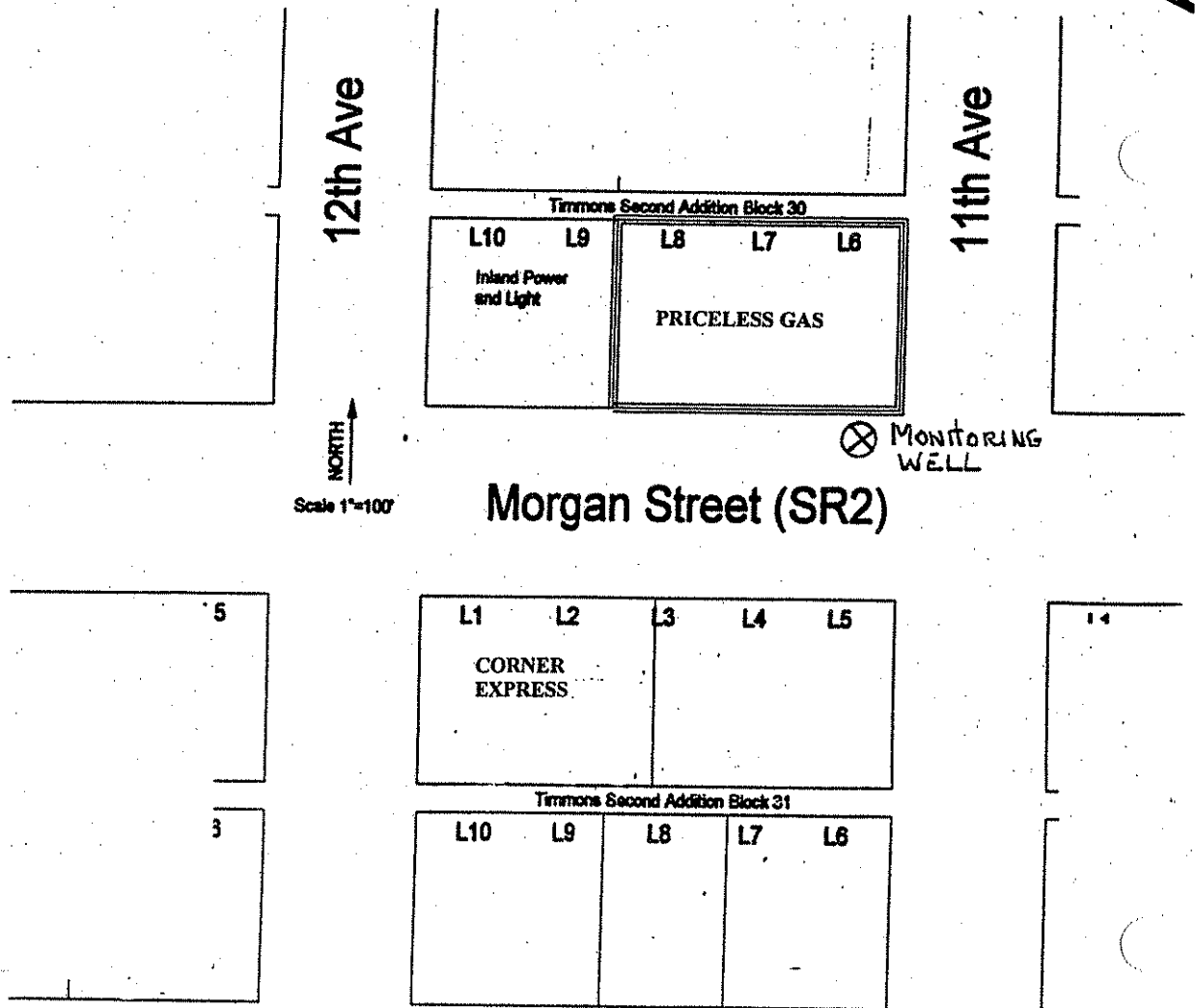
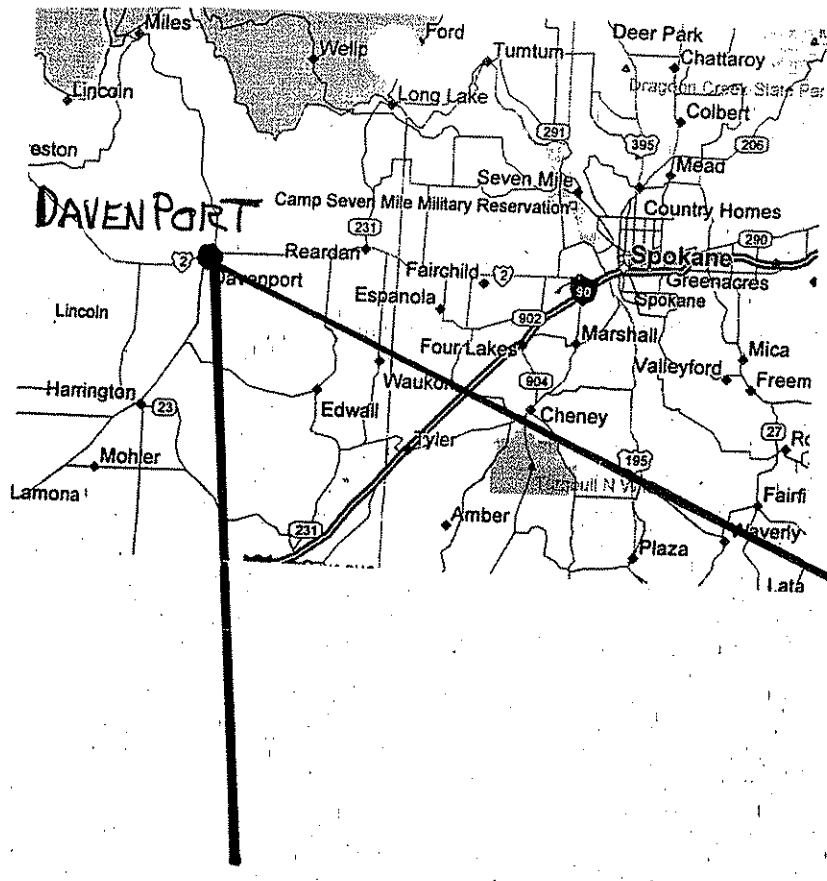


FIGURE 1