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FS 554

STATE OF WASHINGTON  
DEPARTMENT OF WASHINGTON

In the Matter of Remedial	)	Enforcement Order
Action by:	)	
	)	NO. DE 95TC-C103
Richard F. Hahn	)	
Fifth Wheel Truck Repair	)	
307 E Arlington Street	)	
Yakima, WA 98901	)	

To: Richard Hahn  
 C/O Jim Adams  
 Attorney at Law  
 411 North Second Street  
 Yakima, WA 98901

I.

Jurisdiction

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

II.

Introduction

2.1 This Enforcement Order is issued by the Washington State Department of Ecology ("Ecology") in the interest of expediting the Remedial Investigation required herein, and not because of recalcitrance on the part of Richard F. Hahn, the recipient of the Order.

II.

Statement of Facts

1. The facility, Fifth Wheel Truck Repair, is located at 307 East Arlington Street, Yakima, Washington. The facility is located in the NW 1/4 of the NW 1/4 of Section

31, Township 13 North, Range 19 E.W.M. The parcel number is 191330-12008.

2. A soil sample taken on November 19, 1990 on the site detected perchloroethylene (PCE) at a concentration of 265 parts per billion. Documentation regarding this sample is contained in the document Engineering Report on Intermediate Cleanup and Site Closure for Fifth Wheel Truck Repair; 307 East Arlington Street, Yakima, WA. prepared by PLSA Engineering & Surveying. Information presented in this report does not indicate that the PCE contamination was addressed in the Intermediate Cleanup activities at this site.

3. On April 23, 1993 Ecology issued a final determination of Potentially Liabile Person status for the Yakima Railroad Area to Richard F. Hahn.

### III.

#### Ecology Determinations

1. Richard F. Hahn is an "owner or operator" as defined in RCW 70.105D.020(6) of a "facility" as defined in RCW 70.105D.020(3).

2. The facility is known as Fifth Wheel Truck Repair and is located at 307 East Arlington Street, Yakima, Washington.

3. The substances found at the facility as described above are "hazardous substances" as defined in RCW 70.105D.020(5).

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 in RCW 70.105D.020(10).

5. By letter dated October 24, 1991, Ecology notified Richard F. Hahn of his status as a "potentially liable person" under RCW 70.105D.040 after notice and opportunity for comment.

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 Richard F. Hahn 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. Richard F. Hahn will perform the Remedial Investigation/Feasibility Study ("RI/FS") actions set forth and described in the attached Work Plan and Schedule. The Work Plan and Schedule are attached to this Order as Attachment A. Attachment A is incorporated by this reference and is an integral and enforceable part of this Order.

The RI/FS will collect, develop, and evaluate sufficient information regarding the site to enable the selection of a cleanup action under WAC 173-340-360. The RI/FS will be implemented to meet the requirements of WAC 173-340-350.

The facility history investigation will be completed and submitted to Ecology for review and approval prior to the commencement of any field investigations.

At any point within the field investigations, Richard F. Hahn may propose, based on field data/information collected at the facility, to alter or eliminate portions of the work defined in the Scope of Work, Attachment A.

The Order in which Richard F. Hahn chooses to undertake the tasks identified in Attachment A, except for the Faulty History Investigation, is at the discretion of Richard F. Hahn.

2a. Results from sampling shall be provided to Ecology's project coordinator upon receipt from the laboratory by Richard F. Hahn or his consultants and or representatives.

2b. Written progress reports shall be submitted to Ecology by Richard F. Hahn at least monthly during the RI phase of the investigation. The intent of these monthly reports is to provide a brief update of activities and results undertaken at the facility. Richard F. Hahn shall immediately notify Ecology by telephone of any unexpected delays in work.

3. In accordance with WAC 173-340-840(5), ground water sampling data shall be submitted according to Attachment B: GROUND WATER SAMPLING DATA SUBMITTAL REQUIREMENTS.

Attachment B is incorporated by this reference and is an integral and enforceable part of this order.

4. Richard F. Hahn shall notify Ecology of his intent to proceed or not to proceed with workplan activities within 30 days of the date of this Order.

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 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

Richard F. Hahn 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). Richard F. Hahn 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:

Name: Rick Roeder, Site Manager

Address: 106 S 6th Avenue  
Yakima, WA 98908

Richard F. Hahn will notify Ecology of his project coordinator within 10 days of the date of this Order.

The project coordinator(s) shall be responsible for overseeing the implementation of this Order. To the maximum extent possible, communications between Ecology and Richard F. Hahn 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 Richard F. Hahn change project coordinator(s), written notification shall be provided to Ecology or Richard F. Hahn 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. Richard F. Hahn 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. Richard F. Hahn 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 when necessary to abate an emergency situation, Richard F. Hahn shall not perform any remedial actions at Fifth Wheel Truck Repair outside that required by this Order unless Ecology concurs, in writing, with such additional remedial actions.

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 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 Richard F. Hahn. When entering the Site under ch. 70.105D RCW, Ecology shall provide reasonable notice prior to entering the Site unless an emergency prevents notice. Ecology shall allow split or replicate samples to be taken by Richard F. Hahn during an inspection unless doing so would interfere with Ecology's sampling. Richard F. Hahn shall allow split or replicate samples to be taken by Ecology and shall provide Ecology seven (7) days notice before any sampling activity.

7. Public Participation

Richard F. Hahn shall prepare and/or update a public participation plan for the Site. Ecology shall maintain the responsibility for public participation at the Site. Richard F. Hahn shall help coordinate and implement public participation for the Site.

8. Retention of Records

Richard F. Hahn 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 Richard F. Hahn, a record retention requirement meeting the terms of this paragraph shall be required of such contractors and/or agents.

9. Dispute Resolution

Richard F. Hahn may request Ecology to resolve factual or technical 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), of this Order. Ecology resolution of the dispute shall be binding and final. Richard F. Hahn 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

Ecology reserves all rights to issue additional orders or take any action authorized by law in the event or upon the discovery of a release or threatened release of hazardous substances not addressed by this Order, upon discovery of any

factors not known at the time of issuance of this Order, in order to abate an emergency, or under any other circumstances deemed appropriate by Ecology.

Ecology also reserves all rights regarding the injury to, destruction of, or loss of natural resources resulting from the release or threatened release of hazardous substances from Fifth Wheel Truck Repair.

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 Richard F. Hahn 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 Richard F. Hahn 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 Richard F. Hahn may have in the Site or any portions thereof, Richard F. Hahn 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, Richard F. Hahn shall notify Ecology of the contemplated transfer.

12. Compliance With Other Applicable Laws

All actions carried out by Richard F. Hahn 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 Richard F. Hahn's receipt of written notification from Ecology that Richard F. Hahn 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

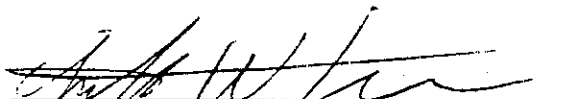
related to the Site.

C. In the event Richard F. Hahn refuses, without sufficient cause, to comply with any term of this Order, Richard F. Hahn 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 RCW 70.105D.060.

Effective date of this Order: JAN 13 1995.

  
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Anthony W. Grover  
Section Manager  
Toxics Cleanup Program  
Central Regional Office

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