

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

In the Matter of Remedial Action by: )  
GACO Western, Inc )  
18700 Southcenter Parkway )  
Tukwila, Washington )

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AGREED ORDER

No. DE 92 HS - N28S

TO: GACO Western, Inc.  
18700 Southcenter Parkway  
Tukwila, Washington

I.

Jurisdiction

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

II.

Findings of Fact

The mutual objectives of the parties in entering into this Order are to prevent the release of hazardous substances from the Site, to prevent contamination of the waters of the state, and to protect the public health, welfare and environment. To accomplish these objectives and to resolve the matter constructively and without litigation, GACO Western, Inc. (GACO Western) agrees to perform the remedial investigations required by this Order. Based upon the information available to it and without adjudication of any facts or legal issues, and without admission of any facts by GACO Western, the Washington State

AGREED ORDER

Department of Ecology (Ecology) finds that the following facts exist for the purpose of issuance of this Order:

A. GACO Western Inc. is a manufacturing facility located at 18700 Southcenter Parkway, Tukwila, WA. GACO Western's EPA/State hazardous/dangerous waste identification number is "WAD 009241027". GACO Western is an active Medium Quantity Generator of dangerous wastes (less than 2200 lb/yr and greater than 220 lb/yr). The company manufactures liquid rubber coatings used for industrial tank liners, roof coatings, and general waterproofing. There is approximately 33,000 square feet of manufacturing area and approximately 13,000 square feet of office space. The Site occupies an area of approximately three acres. North of the Site is the Segale Asphalt Plant and south of the Site is the Mitchell Moving/Storage Warehouse. A residential property is located west of the Site (and across Southcenter Parkway); however, none of the surrounding area is zoned residential for a radius of approximately one-half mile. The Green River is approximately 70' east of the GACO facility and 150' from any production areas of the plant. The GACO Western property eastern boundary is the high-water mark of the Green River. The GACO Western facility has been in commercial operation in Tukwila, Washington since 1968.

B. Until no later than September 1991, GACO Western operated 14 underground storage tanks (USTs), located on the west side of the above referenced Site. These USTs were organized in two groups: three USTs were clustered on the southwest side of

the facility and 11 USTs were clustered on the northwest side of the facility. The two UST groups were approximately 50 feet apart. These USTs contained the following product materials: xylenes, toluene, methyl-ethyl ketone, and ethylbenzene, chlorinated paraffins, cyclolube, trimethyl benzene, propanol, and naphtha. These products were pumped through an underground piping system into the facility building for manufacturing processes.

C. In mid-1991, GACO Western decided to have the 14 USTs removed and convert to a "just-in-time" system of production materials delivery. In September 1991, Northwest EnviroService, as a subcontractor to Envirocon, Inc., removed and disposed of the 14 USTs. Two pits were opened to remove the 14 USTs and associated piping. Solvents were detected under some of the tanks upon removal. Approximately seven yards of soil was removed from the excavated pits during UST removal and stockpiled near the excavation. GACO Western covered the two open pits with a high density polyethylene (HDPE) liner. Rain water on the surface of the HDPE liner was pumped out as necessary. Although GACO Western provided prior notice to Ecology of intent to remove its underground storage tanks, Ecology was unable to be present during tank removal operations.

D. Also, in September 1991, GACO Western hired ENVIROCON, Inc. as their environmental consultant to characterize the soil and ground water contamination suspected to be present after tank removal. ENVIROCON recommended the installation of four resource

protection wells located on the west side of the GACO Western facility. According to GACO Western records, these resource protection wells were screened over a clay-silt layer separating two water-bearing zones. Ground water samples taken from the four resource protection wells confirmed the presence of benzene, ethyl benzene, xylenes, and toluene in the ground water. In February 1992, while making water level measurements in the four resource protection wells, GACO Western personnel detected approximately 3/8"-1/2" of free product on top of the ground water table in resource protection well MW-3. Subsequent laboratory analysis identified this product as gasoline or a gasoline-like substance. At this time GACO Western does not have sufficient information to determine the amount of product released into the surrounding soils.

E. According to GACO Western, the water table fluctuates between 2-3 feet below ground surface in the winter and between 17-20 feet below ground surface in the summer.

F. Based on the chemical analyses of soil samples taken at the bottom of the two excavations and from soil borings, preliminary data indicated the following hazardous substances are present in the soils at the Site:

Methyl-Ethyl Ketone

Ethyl Benzene

Xylene (ortho, meta, para)

Toluene

Preliminary data indicated the following hazardous substances present in groundwater:

Benzene

Ethyl Benzene

MIBK

Methylene Chloride

Toluene

Xylene

Chloroform

1-1-2-2-Tetrachloroethane

Tetrachloroethene

Trichloroethene

1-2 Dichloroethene (Total)

1-1-1 Trichloroethane

G. On October 21, 1991 GACO Western and ENVIROCON representatives met with staff from the Department of Ecology to discuss the situation at the Site and to seek Ecology's advice about remedial measures. The company and its consultant speculated that the contamination found after tank removal may have been due to leaks from the underground piping system, or to unreported overfills, or a combination of both. The contractual agreement between GACO Western and ENVIROCON Inc. expired March 30, 1992. The contract was not renewed. ENVIROCON last performed work for GACO Western in November 1991. GACO Western hired Hart Crowser, Inc. (Hart Crowser) as their environmental consultant on November 8, 1991.

H. GACO Western recommended and was given permission by Ecology on February 19, 1992 to abandon the four existing resource protection wells to eliminate the possible threat of cross-contamination of the lower water-bearing zone as described in the Work Plan attached as Exhibit A. These wells were abandoned during the week of 2/24/92 through 2/28/92. Five resource protection wells (HC-1S, HC-2S, HC-3S, HC-4S, and HC-5S) were installed in the upper water-bearing zone during the week of 2/24/92. Two resource protection wells were installed in the lower water-bearing zone on April 13, 1992. All resource protection wells were installed as described in the Workplan attached as Exhibit A.

### III.

#### Ecology Determinations

A. GACO Western is an "owner or operator" as defined at RCW 70.105D.020(6) of a "facility" as defined in RCW 70.105D.020(3).

B. The facility is known as GACO Western, Inc. and is located at 18700 Southcenter Parkway, Tukwila, Washington.

C. The substances found at the facility as described in Section II. Findings of Fact are "hazardous substances" as defined at RCW 70.105D.020(5).

D. 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(10).

E. By a letter of March 24, 1992, GACO Western voluntarily waived its rights to notice and comment and accepted Ecology's determination that GACO Western is a "potentially liable person" under RCW 70.105D.040.

F. 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.

G. Based on the foregoing facts, Ecology believes the remedial investigations required by this Order are in the public interest.

#### IV.

##### Work to be Performed

Based on the foregoing Facts and Determinations, it is hereby agreed that GACO Western take the following remedial actions as more fully described in the Workplan attached to this Agreed Order as Exhibit A. These actions shall be conducted in accordance with Chapter 173-340 WAC unless otherwise specifically provided for herein. Exhibit A is incorporated by this reference and is an integral and enforceable part of this Agreed Order.

All work described in Tasks 1 through 5 shall be performed as soon as possible, but no later than seventy-five (75) days from the effective date of this Agreed Order, and in accordance with the Workplan attached as Exhibit A.

- \* Task 1: Within 30 days of the effective date of this Order, GACO Western will provide Ecology with the results of the most recent UST integrity certification report for all 14 USTs removed from the GACO Western facility. A safety and health plan meeting requirements of WAC 173-340-810 is required (WAC 173-340-430(6)(e)) and shall be submitted to Ecology within five (5) days of the effective date of this Order.
- \* Task 2: Abandonment of the four existing 4-inch diameter resource protection wells, installation of eight new resource protection wells, and collection of a 2.0 foot section of the clay-silt layer as discussed in Exhibit A. The locations of the eight new resource protection wells and clay-silt (Shelby Tube) soil sample are described in Exhibit A.
- \* Task 3: Soil sampling and chemical analyses, groundwater sampling and chemical analyses, dangerous waste material handling and disposal in accordance with applicable dangerous waste and MTCA regulations, excavation and management of contaminated soil at the south tank excavation, soil vapor survey, in-situ air permeability testing, in-situ vapor extraction system design and final report submittal.
- \* Task 4: Tank excavation backfilling and compaction, and horizontal soil venting system installation activities.



- \* Task 5: Hydrogeological characterization of the Site and identification of the horizontal and vertical extent of soil and ground water contamination at the Site.
- \* Task 6: GACO Western shall submit to Ecology within thirty (30) calendar days of completion of Tasks 1-5 a draft written report that completely describes the work performed pursuant to Section IV of this Agreed Order. This draft report will include all soil and ground water data obtained throughout the duration of the investigation. This report shall meet the general submittal requirements of WAC 173-340-840. GACO Western shall submit a final written report to Ecology within fifteen (15) days of receipt of Ecology's comments on the draft report.
- \* Task 7: After completion of Task 6, Ecology will determine whether GACO Western will be required to complete (1) a site specific baseline risk assessment in accordance with WAC 173-340-350(6)(d) and/or (2) a feasibility study of cleanup actions for environmental problems identified in the Remedial Investigation. If Ecology so requires, then GACO Western agrees to submit a draft Workplan for a complete feasibility study and/or site specific risk assessment to Ecology in accordance with WAC 173-340-350 within 30 days after receiving written notice from Ecology. If Ecology requires a feasibility study, then it shall include estimated costs and potential effectiveness of the proposed final cleanup action. Within 15 days of receipt of

Ecology's comments on the draft Workplan submitted by GACO Western, GACO Western shall submit a final Workplan.

- \* Task 8: Within 90 days after Ecology gives written approval of the Workplan as described in Task 7, GACO Western shall submit a draft report describing the results of implementation of the Task 7 Workplan. Within 15 days of receipt of Ecology's comments on the draft report, GACO Western shall submit a final report to Ecology in accordance with WAC 173-340-840.

V.

Terms and Conditions of Order

A. 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.

B. Public Notices. WAC 173-340-600(10)(c) requires a 30 day public comment period before this Agreed Order on a state RI/FS becomes effective. 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.

C. Remedial Action Costs. GACO Western 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. GACO Western 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 may result in interest charges.

D. Designated Project Coordinators. The project coordinators for Ecology are:

Dean D. Yasuda  
Department of Ecology  
3190 160th Ave. SE, MS-NB81  
Bellevue, Washington 98008-5452 (206) 649-7264

and

Robin D. Harrover  
Department of Ecology  
3190 160th Ave. SE, MS-NB81  
Bellevue, Washington 98008-5452 (206) 649-7232

The project coordinators for GACO Western are:

James P. Hazard, President (206) 575-0450  
GACO Western, Inc.  
Post Office Box 88698  
Seattle, Washington 98138-2698

and

Adrian L. Jenkins,  
International Sales Manager Services  
GACO Western, Inc.  
Post Office Box 88698  
Seattle, Washington 98138-2698

(206) 575-0450

The project coordinators shall be responsible for overseeing the implementation of this Order. To the maximum extent possible, communications between Ecology and GACO Western, 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 or GACO Western change project coordinator(s), written notification shall be provided to Ecology or GACO Western at least ten (10) calendar days prior to the change. The project coordinators may make modifications to the Workplan, provided there is mutual agreement of the parties evidenced by written documentation.

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

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

F. 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 GACO Western. Ecology and its authorized representatives agree to comply with applicable health and safety standards when entering the Site. By signing this Agreed Order, GACO Western agrees that this Order constitutes reasonable notice of access, and agrees to allow access to the Site during regular business hours, 8:00 a.m. to 5:00 p.m. Monday through Friday, or at any time at which remedial actions pursuant to this Order are underway, or by appointment. Ecology shall allow split or replicate samples to be taken by GACO Western during an inspection, provided GACO Western has personnel readily available on-site to perform such sampling. GACO Western shall allow split or replicate samples to be taken by Ecology. Both Ecology and GACO Western shall make

best efforts to provide at least five (5) working days' advance notice to each other before any sampling activity.

G. Public Participation Plan. GACO Western shall prepare and/or update a public participation plan for the Site. Ecology shall maintain the responsibility for public participation at the Site. GACO Western shall help coordinate and implement public participation for the Site.

H. Retention of Records. GACO Western 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 GACO Western, then GACO Western agrees to include in their contract with such contractors or agents a provision requiring submittal of applicable records, reports, documents and underlying data to GACO Western for record retention.

I. Dispute Resolution record retention requirement meeting the terms of this paragraph. GACO Western 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 to this Order. Ecology resolution of the dispute shall be binding and final. GACO Western 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.

J. 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 GACO Western 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 GACO Western to require those remedial actions required by this Agreed Order, provided GACO Western 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 GACO Western.

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 GACO Western to stop further implementation of this Order for such period of time as needed to abate the danger.

K. 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 GACO Western 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 GACO Western may have in the Site or any portions thereof, GACO Western 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, GACO Western shall notify Ecology of the contemplated transfer.

L. Compliance with Other Applicable Laws. All actions carried out by GACO Western pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements.

M. Modification. Ecology and GACO Western may modify this Order by mutual written agreement. Substantial modification may require additional public notice and opportunity to comment.

## VI.

### Satisfaction of this Order

The provisions of this Order shall be deemed satisfied upon GACO Western's receipt of written notification from Ecology that GACO Western 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 completed.

VII.

Enforcement

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

1. The Attorney General may bring an action to enforce this Order in a state or federal court.
2. 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.
3. In the event GACO Western refuses, without sufficient cause, to comply with any term of this Order, GACO Western will be liable for:
  - a. up to three times the amount of any costs incurred by the state of Washington as a result of its refusal to comply; and
    - (1) civil penalties of up to \$25,000 per day for each day it refuses to comply.

4. 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: November 16, 1992

GACO WESTERN, INC.

James P. Hazard  
James P. Hazard  
President

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

Julie Sellick  
Julie Sellick  
Section Supervisor  
Solid & Hazardous Waste Section  
Northwest Regional Office

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AGREED ORDER