

Cenex
Auburn
FS2487

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

In the Matter of Remedial Action by)
CENEX Supply and Marketing, Inc.) AGREED ORDER
(hereinafter, CENEX)) No.DE 94 TC-N396

TO: CENEX Supply and Marketing, Inc.
P.O. Box 64089
St. Paul, MN 55165-0089

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 CENEX. Attachments referenced in this Order are incorporated by reference and are integral and enforceable parts of the Order. Report excerpts shall be construed to include the data contained in such reports in its entirety.

1. CENEX Supply and Marketing, Inc. (herein after CENEX) is a registered, for-profit corporation headquartered in the state of Minnesota.
2. CENEX is the owner of the property located at 238 - 8th Street S.E., Auburn, WA, 98002, (herein after the CENEX Property) located in the City of Auburn, King County, Washington.
3. The Site affected by the release of petroleum from the CENEX Property (herein after the Site) is any area found to have soil and groundwater affected by released

petroleum hydrocarbons, whether dissolved in groundwater, free-phase on groundwater, associated with soil(s) or in air, that is demonstrably contiguous with the petroleum release(s) identified in soil and groundwater at the CENEX Property. Areas identified as being affected by the release and which are therefor part of the site include, but are not limited to, the CENEX Property and properties generally to the northeast extending to the identified distal end of the dissolved gasoline constituent plume in groundwater (which is yet to be identified). Attachment A identifies the known areas of contamination contiguous and associated with the gasoline release identified at the CENEX Property.

4. CENEX purchased the CENEX Property from the Valley Supply Coop in 1985 and did not conduct an environmental assessment at the site at the time of purchase. The property has operated as a petroleum sales facility since about 1920.
5. The business at the property is a wholesale and retail sales business engaging in the sale of petroleum products, including but not limited to diesel fuel, stove oil, regular gasoline and unleaded gasoline, which are stored in above-ground and underground storage tanks, and are received in bulk and dispensed in bulk and at retail sale at various locations at the property.
6. In or about mid-May through July, 1994, CENEX identified petroleum hydrocarbons in soil and groundwater at the CENEX Property, and subsequently in adjacent areas. A leaking pipe associated with the above-ground bulk fuel storage tanks was identified as a potential source. Current estimates of the volume of the release range from 400 gallons to 12,000 gallons. Actual volumes of petroleum product released at the property cannot be accurately verified.

7. In or about February through August 1987 the Department of Ecology was involved in the removal of several underground storage tanks at 700 Auburn Way South when the City of Auburn closed a city property used as a fire station. Ecology provided technical advice to the City of Auburn during this tank removal process. A soil cleanup was conducted and groundwater monitoring was initiated. Benzene, toluene, ethyl benzene and xylenes (BTEX) were found in the groundwater. That property is now known (and is herein after referred to) as the Hillman Property.
8. The groundwater flow direction in the vicinity of the Site is generally northeast as established by monitoring well elevation readings taken periodically between 1987 and the present at the CENEX and Hillman Property monitoring wells by Earth Consultants, Inc., Converse Consultants NW (Converse GES), GeoEngineers, Inc. and Summit EnviroSolutions (See Attachment A).
9. On or about August 18, 1994, free phase, waste petroleum product consisting primarily of gasoline was recovered from CENEX Monitoring Wells #1 and #2 (CMW-1 and CMW-2), and on or about August 25, 1994, gasoline (hereinafter plume, or the free waste product plume) was detected at CMW-1 and 2 and at Hillman Property monitoring well No. 11 and 13 (HMW-11 and HMW-13). CMW-1 is adjacent to the above-ground bulk fuel tanks at the CENEX Property, CMW-2 is located near the American Legion Hall, HMW-13 is in 8th Street just north of the CENEX property and HMW-11 is located immediately northeast of Auburn Way South. (See Attachment A)
10. On or about August 29, 1994, CENEX installed an Air Sparging and Soil Vapor Extraction Well system at the Northeast periphery of their property and began

installation of the associated control mechanisms and management manifolds at their property. Installation of that system was scheduled for completion on September 16, 1994, and was installed on or about September 20, 1994. Full scale testing of that system began on or about September 28, 1994, with full-scale operation scheduled for November 1994 upon receipt of Puget Sound Air Pollution Control Agency clearance.

11. On or about September 27, 1994, Summit EnviroSolutions (hereinafter Summit), the environmental consultant and contractor acting on behalf of CENEX, agreed to install a groundwater drawdown and plume recovery well. Wastewater discharge requirements were discussed for METRO and National Pollutant Discharge Elimination System (NPDES) surface discharges. That well was installed on September 28-30, 1994. Due to equipment limitations and wastewater treatment system requirements, pump testing occurred on or about October 21, 1994. Delays have been encountered during the process of well placement and pump testing.
12. City of Auburn Public Water Supply Wells are located downgradient of the Site, and may be impacted by the release from the CENEX Property. There may be other potential impacts to the groundwater and wells in the Auburn area.

III.

Ecology Determinations

1. CENEX Supply and Marketing, Inc. 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 (s/k/s the Site) is known as CENEX and is located at 238 Eighth Street S.E., Auburn, King County, Washington, 98002-0518 as specified in Sec. II(3) of

this Order.

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 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).
5. By execution of this Agreed Order CENEX voluntarily waived its rights to notice and comment and accepted Ecology's determination that CENEX 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. It is the opinion of the Department of Ecology that a contiguous plume of free waste petroleum product extends from the vicinity of the above-ground tanks at the CENEX Property to the vicinity of HMW-11. That plume may have also affected areas not yet identified.
8. Based on the foregoing facts, Ecology believes the remedial action required by this Order is in the public interest.
9. This is an Emergency Order.

IV.

Work to be Performed

Based on the foregoing Facts and Determinations, it is hereby ordered that CENEX take the following remedial actions and that these actions be conducted in accordance with Chapter 173-340 WAC unless otherwise specifically provided for herein. Actions required by this Order are summarized in Attachment B, which is provided as a guide and does not relieve CENEX from any requirements of this Section IV. In the event of any conflict between this section and the summary, this section shall govern.

1. That CENEX immediately take necessary steps to identify and control the source(s) of the release(s) of petroleum at the CENEX property or demonstrate that no ongoing release is occurring at the property to the satisfaction of the Department of Ecology. Control of source(s) or release(s) includes, but is not limited to operation of the soil vapor extraction/air sparging system and/or groundwater extraction and treatment system at the site until such demonstration that no ongoing release is present is made and it is demonstrated that continued operation of the systems is no longer efficient or effective to the satisfaction of the Department of Ecology.
2. That CENEX begin continuous operation of the well known as CENEX Recovery Well #1 (CRW-1) to achieve optimal free waste petroleum product recovery and maintenance of a cone of depression in groundwater at the Site not later than November 4, 1994 or on the first day after that date CENEX receives permission from the City of Auburn to discharge to the sanitary sewer controlled by the city, or, in the event that the groundwater infiltration system is completed first, on the first day after Ecology approves discharge to groundwater in lieu of a State Waste Discharge

Permit. Such operations shall continue until the system is no longer efficient and effective, to the satisfaction of the Department of Ecology, and shall include:

- a. Groundwater drawdown, treatment of drawdown water to the satisfaction of the Department of Ecology, the Municipality of Metropolitan Seattle/King County and the City of Auburn using all known, available and reasonable treatment to achieve effluent limitations specified for each discharge prior to discharge to sanitary or storm sewers, or re-infiltration into the ground at the CENEX Property and Site as set forth in Attachment C as finally amended; and
 - b. Free waste petroleum product recovery at the maximum rate practicable for the duration of operations as specified above; and
 - c. Soil vadose zone petroleum vapor monitoring, and recovery where warranted by detection of contamination by vapors associated with the release at the CENEX Property, within the cone of depression, to be initiated not later than November 30, 1994. Ecology shall determine when vapor recovery is warranted in consultation with the City of Auburn Public Works Department, the Fire Marshall and CENEX. Vapor recovery may also be required at such time as free waste petroleum product has been recovered to the maximum extent practicable and groundwater remedial action is completed if vapor recovery is determined to be the most effective soil cleanup technology, but is not required at this time by this Order.
3. CENEX shall install and operate a second groundwater withdrawal and free waste product recovery well (CRW-2) in the vicinity of HMW-11. Installation shall begin

not later than November 9, 1994, and full scale testing phasing immediately into operation shall begin not later than November 16, 1994. That recovery well shall be operated to achieve optimal free waste product recovery and maintenance of a cone of depression in groundwater at the Site to insure capture of the distal end of the free waste product plume, and shall be operated until all practical free waste product is recovered, to the satisfaction of the Department of Ecology, and shall include:

- a. Groundwater drawdown, treatment of drawdown water to the satisfaction of the Department of Ecology, the Municipality of Metropolitan Seattle/King County and the City of Auburn using all known, available and reasonable treatment to achieve effluent limitations specified for each discharge prior to discharge to sanitary or storm sewers, or re-infiltration into the ground at the CENEX Property and Site as set forth in Attachment C as finally amended; and
- b. Free waste petroleum product recovery at the maximum rate practicable for the duration of operations as specified above; and
- c. Soil vadose zone petroleum vapor monitoring, and recovery where warranted by detection of contamination by vapors associated with the release at the CENEX Property, within the cone of depression, to be initiated not later than November 30, 1994. Ecology shall determine when vapor recovery is warranted in consultation with the City of Auburn Public Works Department, the Fire Marshall and CENEX. Vapor recovery may be required at such time as free waste petroleum product has been recovered to the maximum extent practicable and groundwater remedial action is completed if vapor recovery is

determined to be the most effective soil cleanup technology but is not required at this time by this Order..

4. Not later than January 10, 1995, CENEX shall install an Air Sparging and Vapor Extraction System (AS/VES) or other demonstrably effective and proven groundwater remediation system at, near or capturing the distal end of the dissolved petroleum plume, and not later than January 20, 1995, shall begin test scale operation of this groundwater treatment phase of the CENEX/Auburn Remedial Action. Full-scale operations of this phase shall begin not later than February 10, 1995 and continue until dissolved petroleum components in groundwater upgradient of the treatment system described in this section remain below cleanup levels described in Chapter 173-340-720 for at least three (3) months during which groundwater is tested for benzene, ethyl benzene, toluene and xylenes (BETX), and Washington Total Petroleum Hydrocarbons as Gasoline (WTPH/G) on a weekly basis.
5. Monitoring wells, Vapor extraction wells and recovery wells, groundwater elevations, free waste product thickness, dissolved BTEX and WTPH/G in groundwater and wastewater discharge from treatment systems and soil vapor concentrations of BTEX and explosivity shall be sampled at least monthly during the remediation, and results shall be reported within 10 (ten) working days of the end of each month to the Department of Ecology. Reports shall identify the source of each sample, type of sample, contaminants present and concentration of contaminants, and a diagram indicating location of sample source. Lab results may be submitted quarterly, provided they correlate to the monthly reports, unless specifically requested, in writing, by the Department of Ecology. In addition, utility vaults, storm sewers and

basements and crawlspaces under residences and buildings overlaying the free waste product plume shall be sampled with hand-held instruments, and at least four (4) locations shall be sampled for laboratory analysis, to include the four highest reading locations if any hand-held instruments detect the presence of vapors, in December and February of each year detectable free waste product remains above the groundwater at the Site, and the results of such sampling reported to Ecology with other results for those months. Ecology may modify the specific sampling frequency and/or locations based on changes in site conditions and new information. Such changes shall not be deemed substantive changes to this Order. Monthly reports shall also be submitted by the 10th calendar day of each month for the previous month summarizing operations, remedial action results and progress, discharge monitoring results, and any other relevant occurrences for the previous month of operations, for each remedial action activity at the site.

6. Following completion of each remedial action requirement described above, monthly monitoring of the medium being treated shall be completed on a monthly basis for at least one (1) calendar year following completion of that part or phase of remedial action. The renewed presence of the contamination being treated at or above the action level or cleanup standard shall result in resumption of remedial action immediately, and shall continue until compliance is demonstrated, at which time monitoring shall begin again. Previous monitoring shall not be considered part of the new monitoring phase. If, after one year, monitoring indicates that no exceedances of cleanup standards exist, sampling frequency may be decreased to quarterly for not less than two (2) additional years. Exceedances shall result in the reversion to actions

described for the first year, above. If, after one year of monthly monitoring and two additional years of quarterly monitoring (three (3) years total) indicate no exceedances of cleanup standards, monitoring frequency may be decreased to twice annually for an additional two (2) years, with exceedances resulting in the reversion to same action required for the first year above. If all monitoring for each remedial action required in this Order is completed without exceedances of cleanup standards, the cleanup required by this Order shall be deemed complete and Ecology shall provide CENEX with notice referenced in Section VI of this Order. Written reports of monitoring required in this section shall be delivered to Ecology within 15 (fifteen) working days of the end each quarter for the first three years, and annually thereafter within 30 (thirty) days of the second annual sampling, except that exceedances shall be reported immediately upon becoming known to CENEX, it's agents, employees or contractors.

7. At least 10 (ten) working days prior to all installation of remedial action devices or systems required above, and required after the issuance date of this Order, CENEX shall submit to the Department of Ecology reasonably complete plans, specifications and installation and maintenance schedules for such devices or systems. Such documents shall be to the satisfaction of the Department of Ecology or shall be deemed unsatisfactory to the terms of this Order, except that plan submission requirements for CRW-2 shall be met by submission of conceptual diagrams and a decision schema encompassing reasonable constructions specification options and rationale for same not later than November 7, 1994. CENEX shall make modifications to plans deemed unacceptable to Ecology before proceeding with construction or operation of the planned item(s), and shall not be excused from

required actions by such delays. Ecology will notify CENEX as soon as practical, and generally within five (5) working days of identified shortcomings or deficiencies in proposed plans. As-built engineering drawings and specifications shall be submitted to Ecology fifteen (15) working days after construction for each requirement of this Order, and after each significant modification to any remedial action structure or system previously constructed. Submission of draft plans five working days prior to final plan submission dates is strongly suggested to avoid delays.

8. All other requirements of this Order notwithstanding, discovery of new information or significant changes in site conditions, or any conditions which may constitute an eminent threat to human health or the environment, shall be immediately reported to the Department of Ecology and to the City of Auburn. Such reporting shall be verbal within two (2) hours of discovery or receiving information indicating the strong possibility of a change or threat, and in writing within one (1) working day of same. Examples include, but are not limited to, discovery of free waste product in additional wells, rapid increases in dissolved phase petroleum levels in groundwater monitoring wells, particularly previously uncontaminated wells, air releases of high vapor levels, exceedances of discharge limits or conditions, and potential violations of any specified condition of operation or Order. Such reporting shall be in addition to any other reporting required by this Order.
9. Ecology will accept credible evidence which identifies other PLPs or third parties contributing to the contamination at the site, and will prevent such contribution to the extent practical, or include such parties in this or an equivalent order, or take other

appropriate action to remedy such contribution to the extent practical. Nothing in the paragraph excuses CENEX from compliance with this Order.

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 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

CENEX 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). CENEX 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 an itemized statement of costs will result in interest charges.

4. Designated Project Coordinators

The project coordinator for Ecology is:

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

The project coordinator for CENEX is:

Mr. Peter Mutschler
Compliance Specialist
Cenex Supply and Marketing, Inc.
5500 Cenex Drive
Inver Grove Heights, MN 55077

cc: Tim McCormack
Summit EnviroSolutions
14205 S.E. 36th Street, Suite 100
Seattle, WA 98006

The project coordinator(s) shall be responsible for overseeing the implementation of this Order. To the maximum extent possible, communications between Ecology and CENEX, 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 CENEX change project coordinator(s), written notification shall be provided to Ecology or CENEX 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. CENEX 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. CENEX 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, CENEX shall not perform any remedial actions at the CENEX 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 property and remedial action locations to which CENEX has legitimate access 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 CENEX. By signing this Agreed Order, CENEX agrees that this Order constitutes reasonable notice of access, and agrees to allow access to the property and remedial action locations at the Site to which CENEX has legitimate access at all reasonable times for purposes of overseeing work performed under this Order. Ecology shall allow split or replicate samples to be taken by CENEX during an inspection unless doing so interferes with Ecology's sampling. CENEX shall allow split or replicate samples to be taken by Ecology and shall provide seven (7) days notice before any routine sampling activity.

7. Public Participation

CENEX shall prepare and/or update a public participation plan for the site. Ecology shall maintain the responsibility for public participation at the site. CENEX shall help coordinate and implement public participation for the site.

8. Retention of Records

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

9. Dispute Resolution

CENEX 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. CENEX 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 Chapter 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 CENEX 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 CENEX to require those remedial actions required by this Agreed Order, provided CENEX 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 CENEX/Auburn property or 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 CENEX to stop further

implementation of this Order for such period of time as needed to abate the danger. CENEX reserves its right to exercise any judicial remedies it may have; except that CENEX shall not challenge the specific actions it has agreed to perform under this Order. Nothing herein shall be construed as an admission by Ecology that CENEX has judicial remedies other than those specified in RCW 70.105D.050 and 70.105D.060.

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

12. Compliance with Other Applicable Laws

All actions carried out by CENEX pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements. Pursuant to RCW 70.105D.090(1), all actions carried out by CENEX 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 specified in subsection (1).

(1) In the event that CENEX would otherwise be required to obtain permits or approvals from local governments for any remedial actions to be conducted at the site, CENEX shall be exempt from compliance with the procedural requirements of those permitting laws and shall likewise be exempt from the procedural requirements of ch. 70.94, 70.95, 70.105, 75.20, 90.48 and 90.58 RCW.

CENEX shall consult with state and local government agencies and shall obtain written determination of the applicable substantive provisions of any laws requiring or authorizing local government permits or approvals for remedial actions. Ecology shall make the final determination on which substantive requirements must be met by CENEX and how CENEX will meet those requirements. The applicable substantive requirements, once established, shall be incorporated into an amendment to this Order and shall become enforceable requirements under this Order and CENEX shall meet those requirements while conducting any remedial actions at the site. Requirements shall become a part of Attachment C to this Order as they are received or are later amended. Requirements of the City of Auburn , Municipality of Metropolitan Seattle/King County and the Department of Ecology Water Quality Program are incorporated therein, and additional requirements shall be added to that Attachment by amendment of this Order as they are received, including, but not limited to requirements of the Puget Sound Air Pollution Control Agency, Department of Ecology Water Resources Program (Well Permitting and Groundwater Withdrawal Rights) and requirements of the Washington Department of Labor and Industries, Washington Industrial Safety and Health Act (WISHA) and SARA Title III.

The public participation plan shall include an opportunity for public comment on the identified substantive requirements.

(2) Pursuant to RCW 70.105D.090(2), in the event that Ecology determines that the exemption from complying with the procedural requirements of the laws referenced in subsection (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 CENEX shall be required to comply with both the procedural and substantive requirements of the laws referenced in subsection (1).

VI.

Satisfaction of this Order

The provisions of this Order shall be deemed satisfied upon CENEX's receipt of written notification from Ecology that CENEX 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 CENEX refuses, without sufficient cause, to comply with any term of this Order, CENEX 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 Chapter 70.105D RCW.

Effective date of this Order: November 7, 1994

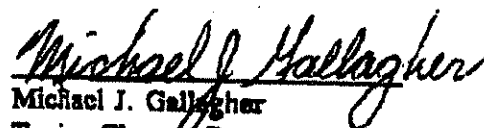
CENEX Supply and
Marketing, Inc.

By


Leon Westbrook
Vice President

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

By


Michael J. Gallagher
Toxics Cleanup Program

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