

Superior Court of the State of Washington For Thurston County

Family and Juvenile Court

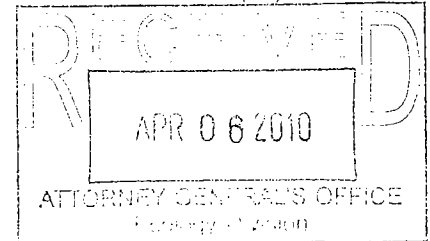
Paula Casey, Judge
Department No. 1
Thomas McPhee, Judge
Department No. 2
Richard D. Hicks, Judge
Department No. 3
Christine A. Pomeroy, Judge
Department No. 4
Gary R. Tabor, Judge
Department No. 5
Chris Wickham, Judge
Department No. 6
Anne Hirsch, Judge
Department No. 7
Carol Murphy, Judge
Department No. 8



2801 32nd Avenue SW, Tumwater, WA 98512
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Christine Schaller,
Court Commissioner
Indu Thomas,
Court Commissioner

Marti Maxwell,
Court Administrator
(360) 786-5560
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Court Administrator
(360) 709-3140



March 30, 2010

John A. Level
Assistant Attorney General
PO Box 40117
Olympia, WA 98504-0117

J. Todd Reuter
Attorney at Law
618 W. Riverside Avenue, Suite 300
Spokane, WA 99201-0602

RE: *State Department of Ecology vs. Tiger Oil Corporation, et al.*
Thurston County Cause No. 02-2-00956-2

Dear Counsel,

I am enclosing for both of you copies of each of the orders the Court signed, and had filed with the Clerk, on today's date. I reviewed each of the orders provided and also reviewed all of the related pleadings and attachments. I also reviewed the original Consent Decree, CAP, and the previous rulings in this matter. Based on that review, I did make a few changes to the orders proposed.

First, I did review the portion of the transcript of the proceedings (as provided by Mr. Reuter) and he is correct that Ecology, at the hearing in November 2009, withdrew its request for civil penalties. Because of that, I have deleted that part of the order imposing a civil penalty of \$2,000 per day. Having said that, it is this Court's intention that its orders be complied with and it will, on proper notice, consider such requests in the future.

Second, in reviewing the record in this matter, it is this Court's determination that the term "New Tiger Extension" in the Consent Decree and CAP includes both Trench A and Trench B; that language will remain in the Order on Contempt.

Finally, I have deleted some of the language proposed by Ecology, and inserted some, not all, of the language proposed by New Tiger. I have also signed all of the other orders presented to the Court at hearing on March 25, 2010.



March 30, 2010
Cause No. 02-2-00956-2
Page Two.

It is this Court's hope that the parties will now proceed to completing the tasks remaining in this matter. Please contact my assistant, Bev Morgan, at Family and Juvenile Court, if you need to schedule additional matters. Keep in mind that since my assignment to this rotation, my availability to hear this matter is more limited than it was previously.

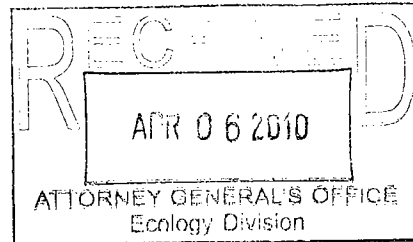
Yours very truly,

A handwritten signature in cursive script, appearing to read "Anne Hirsch", followed by a long horizontal flourish.

Anne Hirsch, Judge
Thurston County Superior Court

cc: Court File

Enclosures



EXPEDITE
 No Hearing is Set
 Hearing is Set
 Date: March 25, 2010
 Time: 2:30 p.m.
 The Honorable Anne Hirsch

STATE OF WASHINGTON
THURSTON COUNTY SUPERIOR COURT

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

No. 02-2-00956-2

Plaintiff,

ORDER OF CONTEMPT AGAINST
DEFENDANT TIGER OIL
CORPORATION

v.

~~[Proposed]~~

TIGER OIL CORPORATION; TIGER
OIL COMPANY; FEDERATED
SERVICE INSURANCE COMPANY;
MERCY DEVELOPMENT
COMPANY; and M&E COMPANY,

Defendants.

THIS MATTER came before the Court on November 24, 2009, on Plaintiff State of Washington, Department of Ecology's (Ecology) Motion for Order to Show Cause against Defendant Tiger Oil Corporation. The Court issued an Order to Show Cause on November 10, 2009. Notice of the motion was mailed to Tiger Oil Corporation's attorney, Todd Reuter, on the 10th day of November 2009.

The Court heard argument and considered the following records and files herein:

1. Plaintiff's Brief In Support of Its Motion for Show Cause;
2. March 25, 2009 Declaration of Brian Deeken and the attachments thereto (filed on April 10, 2009);

- 1 3. March 20, 2009 Declaration of Roger Johnson and the attachments thereto
(filed on April 10, 2009);
- 2 4. April 9, 2009 Declaration of Norman Peck and the attachment thereto (filed
on April 10, 2009);
- 3
- 4 5. March 23, 2009 Declaration of James Pendowski and the attachment thereto
(filed on April 10, 2009);
- 5 6. April 10, 2009 Declaration of John A. Level and the attachments thereto
(filed on April 10, 2009);
- 6
- 7 7. May 7, 2009 Declaration of Norman Peck and the attachment thereto (filed
on May 8, 2009);
- 8
- 9 8. September 24, 2009 Declaration of Thomas Mackie; November 9, 2009
Declaration of Norman D. Peck; and November 9, 2009 Declaration of John
A. Level and the attachments thereto;
- 10 9. Tiger Oil Corporation's Response to Ecology's Motion for Show Cause;
- 11 10. Fifth Declaration of Todd Reuter;
- 12 11. Third Declaration of Rory Galloway;
- 13 12. Declaration of Karis A. Vandehey;
- 14 13. Declaration of Robert Martin;
- 15 14. Plaintiff's Reply Brief in Support of its Motion for Show Cause;
- 16 15. Tiger Oil Corporation's Motion for Summary Judgment;
- 17 16. Tiger Oil Corporation's Opening Brief in Support of Motion for Summary
Judgment with Appendices A-C;
- 18 17. Second Declaration of Charles Conley;
- 19 18. Second Declaration of Rory Galloway;
- 20 19. Third Declaration of Todd Reuter;
- 21 20. Ecology's Response Brief in Opposition to Tiger Oil Corporation's Motion
for Summary Judgment;
- 22 21. Declaration of Valerie Bound and the attachments thereto;
- 23 22. October 2, 2009 Declaration of John A. Level and the attachments thereto;
- 24 23. September 25, 2009 Declaration of Norman Peck and the attachments
thereto;
- 25 24. Declaration of G. Thomas Tebb;
- 26

- 1 25. Tiger Oil Corporation's Reply Brief on Summary Judgment;
2 26. Fourth Declaration of Todd Reuter; and
3 27. November 9, 2009 Supplemental Declaration of John A. Level and the
4 attachments thereto.

5 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

6 Based upon the above argument and evidence, the Court makes the following
7 FINDINGS OF FACT and CONCLUSIONS OF LAW:

8 1. On October 29, 2004, Ecology and Defendants Tiger Oil Corporation and
9 Federated Service Insurance Company entered the Consent Decree (Decree) relating to
10 property located at 24th Avenue West and West Nob Hill Boulevard, Yakima, Washington (the
11 Site).

12 2. The Decree included Exhibit B, the Cleanup Action Plan (CAP). The CAP
13 required the Tiger Oil Corporation to perform the following remedial actions:

- 14 a. removal of underground storage tanks (USTs), including associated lines
15 and dispensers from the Tiger Oil Site;
16 b. a minimum of 650 cubic yards of petroleum contaminated soils (PCS)
17 would be removed if PCS was encountered during removal of USTs, lines
18 and dispensers;
19 c. removal of any free product encountered during UST, line and dispenser
20 removal;
21 d. the digging of two trenches to determine the existence and amount of free
22 product, and the potential of a Soil Vapor Extraction (SVE) system;
23 e. if trenching revealed free product and/or TPH-G contamination at 30 parts
24 per million or greater, install an SVE system to remediate contamination in
25 the vicinity of the trenches.

26 3. During the trenching phase at the Tiger Oil Site, PCS was discovered at 30 parts
per million or greater concentrations of Washington TPH-G (gasoline) in soil. Based on this
discovery, Tiger Oil Corporation installed an SVE extension in the vicinity of the trenches at
the Site. That extension is known as the New Tiger SVE extension. The Court concludes that

1 the CAP requires the Tiger Oil Corporation to operate the SVE system at the Site. The SVE
2 system consists of:

3 a. the blower, control equipment, condensation control and other related
4 equipment in the SVE treatment compound;

5 b. the New Tiger SVE extension and connecting pipes, valves and
6 conduits; and

7 c. the Trench A SVE extension and the Trench B SVE extension and
8 connecting pipes, valves and conduits.

9 4. The Tiger Oil Corporation unilaterally ceased to operate the SVE system in
10 December of 2006. The SVE system that ceased operating in December of 2006 consisted of
11 the components listed in subsections a. and c. of paragraph 3.

12 5. The Tiger Oil Corporation violated sections VI. 1. (Work to be Performed) and
13 XXVIII (Duration of Decree) of the Decree and section 3.2.3 of the CAP for failing to
14 consistently operate the SVE system at the Tiger Oil Site.

15 6. The Decree (and its attached exhibits filed) is a valid court order that operates as
16 an injunction.

17 7. The Tiger Oil Corporation failed to show cause why it should not be found in
18 contempt. The Tiger Oil Corporation is in contempt of Court for failing to comply with the
19 Decree because it: (1) ceased operating the SVE system (as that system is described in the
20 second sentence of paragraph 4 above) without Ecology's permission or court order; and (2)
21 failed to install and use best available control technologies (BACT) when operating the SVE
22 system.

23 ORDER

24 On the basis of the applicable law and the above Findings of Fact and Conclusions of
25 Law, the Court being fully advised in the premises, IT IS ORDERED:

1 1. The Tiger Oil Corporation shall take all necessary steps to bring the Tiger Oil
2 SVE system (as that system is described in paragraph 3 of the Findings of Fact and
3 Conclusions of Law) up to operational status, in accordance with the attached Compliance
4 Schedule (*see* Attachment A). Tiger Order Corporation shall operate the Tiger Oil SVE
5 system until the cleanup standards set forth in the Decree on file herein are met, or cessation of
6 operation is agreed to by Ecology and the Office of the Attorney General, or so ordered by the
7 Court.

8 2. The Tiger Oil Corporation must install and use BACT when operating the SVE
9 system unless and until use of BACT is waived or cessation of use is permitted by the Yakima
10 Regional Clean Air Agency (YRCAA), *or the court orders cessation*

11 3. Prior to beginning operation of the SVE system, the Tiger Oil Corporation must
12 submit a revised operation and maintenance plan for the SVE system (which includes the
13 BACT requirement) to Ecology for its review and approval.

14 4. Prior to activating the SVE system, the Tiger Oil Corporation must sample the
15 following informational wells listed in section 9.2.2 of the CAP (MW-7, MW-8, MW-9, MW-
16 15, KMW-17, KMW-22, and S-2). KMW-9 is not included in this list because that well was
17 abandoned. Sample results shall be reported to Ecology prior to the start up of the SVE
18 system, pursuant to the Compliance Schedule (Attachment A). Provided, however, that no
19 groundwater sampling need occur if free product is present in the well. In the event that free
20 product is present in any monitoring well at the Site, Tiger Oil Corporation shall remove and
21 collect such free product, and dispose of it in compliance with all local, state and federal
22 regulatory requirements.

23 5. The Tiger Oil Corporation must conduct well inspections and necessary repairs
24 and otherwise comply with all requirements of the Decree unless and until modified in writing
25 by the parties and approved by the Court.
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Attachment A

Compliance Schedule for Tiger Oil Site
24th and Nob Hill Streets, Yakima, WA (the Site)

General Provisions: The SVE system that the Tiger Oil Corporation will operate under this schedule consists of:

- a. the blower, control equipment, condensation control, and other related equipment in the SVE treatment compound;
- b. the New Tiger SVE extension and connecting pipes, valves, and conduits;
- c. the Trench A SVE extension and the Trench B SVE extension and connecting pipes, valves, and conduits.

To ensure compliance with this schedule, Tiger Oil Corporation shall provide the Department of Ecology (Ecology) with at least seven calendar days notice of any planned work at the Site conducted under this Order or the Consent Decree (Decree). Tiger Oil Corporation shall notify Ecology as soon as possible, but no later than 24 hours, and before response actions are initiated, of any need identified for unplanned or emergent response to conditions at the Site.

Tiger Oil Corporation shall provide at least two working days notice of submission of any documents for review under this Order. All documents submitted for review and comment shall be submitted in Adobe portable document format (“pdf”) to preserve the initial submission, and concurrently the text of those documents shall be submitted in Microsoft Word “.doc” or “.docx” format to facilitate review and comment using “Track Changes” and “Insert Comment” functions. Upon Ecology’s receipt of a submission required in this schedule, Ecology will review the documents and provide comments to or approve the

1 submittal. If ~~Ecology does not approve a submittal, Ecology's comments will provide the~~
2 ~~criteria and/or changes necessary for Ecology's approval of the submitted document.~~

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3 Any request for an extension of the schedule deadlines in this attachment will follow
4 the protocol found in Section XVI (Extension of Schedule) of the Decree. Tiger Oil
5 Corporation shall obtain the necessary permit from the Yakima Regional Clean Air Agency
6 (YRCAA) and comply with the terms of any permit issued.

7 Tiger Oil Corporation shall perform the actions required by this Order according to the
8 following schedule:

9
10 Due Date

Actions

11 Seven (7) days after entry of
12 the Order of Contempt
13 against Defendant Tiger Oil
14 Corporation (Order of
15 Contempt)

Submit a draft Monitoring Well Repair Plan for Ecology review, comment and approval (if approval is appropriate) and a signed contract to complete repairs. Include signed access agreements or waiver of same from property owners for well repair access. Resubmission of previously disapproved plans does not meet this requirement.

Submit draft of a new or revised Sampling and Analysis Plan (SAP) and Quality Assurance Project Plan (QAPP) for Ecology review and approval as part of the requirements prior to sampling informational wells and SVE pilot testing. The next groundwater sampling event shall be completed before startup of the SVE system. The groundwater sampling results must be reported to Ecology before start-up of the SVE system. Soil vapor analysis must be conducted as part of SVE system pilot study and operation evaluation.

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21 ~~15~~³⁰ days after entry of the
22 Order of Contempt

Submit a complete application and pay the associated fee to the YRCAA necessary to obtain a permit for operation of the SVE system with any BACT required by the YRCAA. This submission shall include, but is not limited to, a draft SVE revised design, including BACT and revised SVE operation and maintenance (O&M) Plan. Tiger Oil Corporation will concurrently submit a copy of its permit application and a draft SVE revised design, including BACT and revised SVE O&M Plan, to Ecology. All subsequent communications between Tiger

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<p>³⁰ 14 days after entry of the Order of Contempt (continued)</p>	<p>Oil Corporation and YRCAA regarding submissions and permitting shall be provided to Ecology concurrently with delivery to YRCAA or Tiger Oil Corporation's receipt from YRCAA.</p> <p>Ecology's approval of the draft SVE revised design will be contingent upon compliance with and final approval by YRCAA of BACT design and permit conditions, and will be modified on that basis if needed for final approval.</p> <p>The revised SVE O&M Plan shall include:</p> <ul style="list-style-type: none"> telemetry to transmit any failure or system shut down(s) to Tiger Oil Corporation, their Site Coordinator, or their designee at a minimum; and a designated responder (three hour or less response time) to diagnose and/or remedy system shut downs or failures.
<p>25 days after Ecology comment on the Monitoring Well Repair Plan, SAP, and QAPP</p>	<p>Submit final approved Monitoring Well Repair Plan along with the final approved SAP and QAPP associated with the informational well and SVE Pilot Testing and Operational Monitoring sampling program.</p>
<p>35 days after Ecology comment on or approval of the draft SVE revised design and revised SVE O&M Plan</p>	<p>Submit to Ecology a permit from YRCAA demonstrating a final, approved SVE Design including any required BACT and final revised SVE O&M Plan. <i>Tiger Oil is not responsible for any delays by YRCAA.</i></p> <p>Complete well inspections and necessary repairs to bring wells into compliance with well construction standards.</p>
<p>45 days after Ecology comment on or approval of the draft SVE revised design and revised SVE O&M Plan</p>	<p>Submit final approved design and signed construction contract for the SVE system. This should also include a construction completion date within 30 days after Ecology approval of the final SVE revised design, proof of activation of utility account and electrical connection, and signed access agreements for BACT-revised treatment system footprint, or signed waiver of need for access agreement from property owners within the Tiger Oil Site (i.e., Yakima SC Associates or Three Sister's Partners). <i>or otherwise defined in the Decree</i></p> <p>Submit draft startup and pilot test plan for SVE system.</p>

AT

AT

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<p>1 20 days after Ecology 2 comment on or approval of 3 the draft startup and pilot 4 test plan for SVE system</p>	<p>Submit approved startup and pilot test plan for SVE system that includes at least 20 days of initial continuous operation that begins when system operation is stabilized. As used here, "continuous" means uninterrupted operation for the first twenty days following the approved pilot test plan. After 20 days, the Pilot Test Plan may include pulsing or other periods during which some or all of the extensions are open, if approved by Ecology. The word "stabilized" means the SVE system is operating consistently within its design parameters on automatic mode and not requiring ongoing manual adjustments to its components.</p> <p>Submit sampling results for the first round of Informational Well Sampling to Ecology, including a report of any free product removal for Informational Wells that contain free product and are not sampled.</p>
<p>11 10 days after submission of 12 approved startup and pilot 13 test plan for SVE system</p>	<p>Begin startup and pilot test of SVE system.</p>
<p>14 40 days after start of the 15 pilot test of SVE system</p>	<p>Submit any proposed revisions (including operation cycles/pulsing proposals), if any, to the SVE O&M Plan for review to YRCAA and Ecology.</p>
<p>16 80 days after start of the 17 pilot test of SVE system</p>	<p>Submit final approved revisions to the SVE O&M Plan, if any, to Ecology. Until final approval of any proposed revisions, the SVE system shall be operated continuously unless an alternative operation schedule is approved under the O&M Plan by Ecology. As used here, "continuously" may include pulsing or operation cycles as described in the O&M plan, if approved by Ecology. An approved alternative operation schedule, if any, shall be adhered to until written concurrence for any proposed revisions from Ecology is received by Tiger Oil Corporation's Site Coordinator or until further order of the court.</p> <p>Submit As-Built SVE system documentation to Ecology.</p>
<p>23 81 days after start of the 24 pilot test of SVE system</p>	<p>SVE system shall be operated in full compliance with the Revised O&M Plan approved by the YRCAA and Ecology, or under such future revisions approved in writing by Ecology, until cleanup standards established in the Decree and CAP are met or until further order of the court.</p>

1 Notification Requirements

- 2
- 3 • Any planned maintenance that will result in interruption of operation(s) set out in the plan shall be communicated at least one week prior to implementation.
- 4
- 5 • Tiger Oil Corporation or its project coordinator shall report any system failure(s) for any reason other than regional power outages to Ecology as soon as possible, but no later than 24 hours of learning of the system(s) failure. "System failure" means
- 6 cessation of operation or operation out of design specifications or O&M Plan
- 7 requirements for more than one hour of the SVE System as a whole or any major
- 8 component. This notification can be done by phone, voicemail, or e-mail. Failures due
- 9 to regional power outages and re-start notification shall be reported to Ecology within 48 hours. System start-up following regional power outages shall occur within 24 hours of resumption of electrical service.
- 10 • ~~Tiger Oil Corporation shall maintain a list of suppliers for critical SVE system~~
- 11 ~~components, and assure that critical component replacements or repairs are available~~
- 12 ~~within one week. In the event a component replacement or repair is not available~~
- 13 ~~within one week due to circumstances beyond the reasonable control and despite the~~
- 14 ~~due diligence of Tiger Oil Corporation, including delays caused by unrelated third~~
- 15 ~~parties, it may request an extension of schedule, pursuant to Section XVI of the Decree.~~
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- If any of the above due dates fall on a weekend, a state holiday, or any other day state offices are not open for business (e.g., due to temporary closures and employee temporary layoffs), the due date will change to the next work day.

1 EXPEDITE
2 No Hearing is Set
3 Hearing is Set
4 Date: March 25, 2010
5 Time: 2:30 p.m.
6 The Honorable Anne Hirsch

7 **STATE OF WASHINGTON**
8 **THURSTON COUNTY SUPERIOR COURT**

9 STATE OF WASHINGTON,
10 DEPARTMENT OF ECOLOGY,

11 Plaintiff,

12 v.

13 TIGER OIL CORPORATION; TIGER
14 OIL COMPANY; FEDERATED
15 SERVICE INSURANCE COMPANY;
16 MERCY DEVELOPMENT
17 COMPANY; and M&E COMPANY,

18 Defendants.

No. 02-2-00956-2

ORDER ON PLAINTIFF'S MOTION
AND MEMORANDUM TO STRIKE
STATEMENTS AND AN EXHIBIT
SUBMITTED IN SUPPORT OF
DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT

19 THIS MATTER came before the Court on November 24, 2009, on the Plaintiff
20 Department of Ecology's motion to strike Exhibit 56 and paragraph 9 from the October 10,
21 2009 declaration of Todd Reuter and any argument or reference to Exhibit 56 and paragraph
22 9 from Defendant Tiger Oil Corporation's briefing. Plaintiff Department of Ecology
23 appeared through its attorney, John A. Level, Assistant Attorney General, and Defendant
24 Tiger Oil Corporation, appeared through its attorney, Todd Reuter. The Court having heard
25 argument and having considered the following records and files herein, including:

- 26 1. Plaintiff's Motion and Memorandum to Strike Statements and an Exhibit
Submitted in Opposition to Defendant's Motion for Summary Judgment;

ORDER ON PLAINTIFF'S MOTION TO
STRIKE STATEMENTS AND EXHIBIT
SUBMITTED IN SUPPORT OF
DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT

1

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
(360) 586-6770

- 1 2. Declaration of John Level Re: Plaintiff's Motion and Memorandum to
Strike and the attachment thereto;
- 2 3. Tiger Oil Corporation's Response to Ecology's Motion to Strike;
- 3 4. Fifth Declaration of Todd Reuter and the attachments thereto; and
- 4 5. Plaintiff's Reply Brief to its Motion to Strike Statements and an Exhibit
5 Submitted in Opposition to Defendant's Motion for Summary Judgment.


6 NOW, THEREFORE, IT IS HEREBY ORDERED That Plaintiff's motion to strike
7 Exhibit 56 and paragraph 9 from the October 10, 2009 declaration of Todd Reuter and any
8 argument or reference to Exhibit 56 and paragraph 9 from Defendant Tiger Oil Corporation's
9 briefing is GRANTED.

10 *exparte, after oral argument*
DONE IN OPEN COURT this 30th day of March 2010.

11 
12 JUDGE ANNE HIRSCH

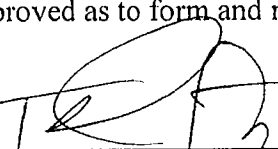
13 Presented by:

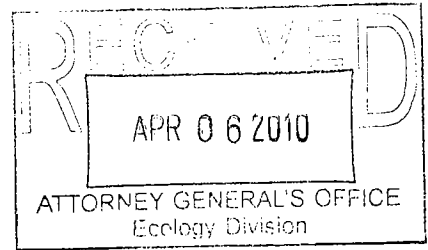
14 ROBERT M. MCKENNA
15 Attorney General

16 
17 JOHN A. LEVEL, WSBA # 20439
18 Assistant Attorney General

19 Attorneys for Plaintiff
20 State of Washington
21 Department of Ecology

22 Approved as to form and notice of presentation waived:

23 
24 TODD REUTER, WSBA # 20859
25 Attorney for Defendant
26 Tiger Oil Corporation



1 EXPEDITE
 2 No Hearing is Set
 3 Hearing is Set
 4 Date:
 5 Time:
 6 The Honorable Anne Hirsch

7 **STATE OF WASHINGTON**
 8 **THURSTON COUNTY SUPERIOR COURT**

9 STATE OF WASHINGTON,
 10 DEPARTMENT OF ECOLOGY,
 11
 12 Plaintiff,
 13
 14 v.
 15 TIGER OIL CORPORATION; TIGER
 16 OIL COMPANY; FEDERATED
 17 SERVICE INSURANCE COMPANY;
 18 MERCY DEVELOPMENT
 19 COMPANY; and M&E COMPANY,
 20
 21 Defendants.

No. 02-2-00956-2

ORDER ON DEFENDANT TIGER OIL
 CORPORATION'S MOTION TO
 RECONSIDER, CLARIFY, AND
 STAY

22 THIS MATTER came before the Court on the motion of Defendant Tiger Oil
 23 Corporation's Motion to Reconsider, Clarify and Stay. In its motion, Defendant Tiger Oil
 24 Corporation seeks reconsideration of this Court's ruling: (1) finding New Tiger in contempt
 25 for its ceasing the operation of the SVE system without Department of Ecology's permission or
 26 court order; (2) finding New Tiger in contempt for its failure to install and use Best Available
 Control Technologies (BACT), as required by the Yakima Regional Clean Air Authority
 (YRCAA); and (3) that the Court will impose a civil penalty of \$2,000.00 per day beginning
 January 1, 2010, for each day New Tiger remains in contempt.

//

1 The Court having considered the records and files herein including:

- 2 1. Tiger Oil Corporation's Motion to Reconsider, Clarify, and Stay;
- 3 2. Tiger Oil Corporation's Memo in Support of Motion to Reconsider, Clarify,
4 and Stay;
- 5 3. Sixth Reuter Declaration: GWE/SVE Data;
- 6 4. Plaintiff's Response Memo in Opposition to Defendant Tiger Oil
7 Corporation's Motion to Reconsider, Clarify, and Stay;
- 8 5. Declaration of Norman D. Peck Re: Defendant Tiger Oil Corporation's
9 Motion to Reconsider, Clarify, and Stay;
- 10 6. Tiger Oil Corporation's Reply Brief in Support of Motion to Reconsider,
11 Clarify, and Stay;
- 12 7. Seventh Reuter Declaration;
- 13 8. Declaration of Tony M. Ramirez;
- 14 9. Declaration of Christopher Generous Regarding Authenticity of Records;
- 15 10. Declaration of Mark S. Mason;
- 16 11. Eighth Declaration of Todd Reuter;
- 17 12. The pleadings, declarations and attachments submitted by Defendant Tiger
18 Oil Corporation in support of its Motion for Summary Judgment, and
19 Plaintiff Department of Ecology's response pleadings, declarations and
20 attachments to that motion;
- 21 13. The pleadings, declarations and attachments submitted by Plaintiff
22 Department of Ecology in support of its Motion for Order to Show Cause,
23 and Defendant Tiger Oil Corporation's response pleadings, declarations and
24 attachments to that motion;

25 AND the Court being fully advised; now, therefore,

26 IT IS HEREBY ORDERED that:

1. Defendant Tiger Oil Corporation's motion for reconsideration of this Court's
finding New Tiger in contempt for its ceasing the operation of the SVE system without
Department of Ecology's permission or court order is ~~DENIED.~~ GRANTED.

1 EXPEDITE
2 No Hearing is Set
3 Hearing is Set
4 Date: March 25, 2010
5 Time: 2:30 p.m.
6 The Honorable Anne Hirsch

7 **STATE OF WASHINGTON**
8 **THURSTON COUNTY SUPERIOR COURT**

9 STATE OF WASHINGTON,
10 DEPARTMENT OF ECOLOGY,

11 Plaintiff,

12 v.

13 TIGER OIL CORPORATION; TIGER
14 OIL COMPANY; FEDERATED
15 SERVICE INSURANCE COMPANY;
16 MERCY DEVELOPMENT
17 COMPANY; and M&E COMPANY,

18 Defendants.

No. 02-2-00956-2

ORDER ON DEFENDANT TIGER OIL
CORPORATION'S MOTION FOR
SUMMARY JUDGMENT

19 THIS MATTER came before the Court on November 24, 2009, on Defendant Tiger Oil
20 Corporation's Motion for Summary Judgment. Defendant Tiger Oil Corporation (Tiger Oil),
21 appeared through its attorney, Todd Reuter, and Plaintiff Department of Ecology (Ecology),
22 appeared through its attorney, John A. Level, Assistant Attorney General. The Court having
23 heard argument and having considered the following records and files herein:

- 24 1. Tiger Oil Corporation's Motion for Summary Judgment;
- 25 2. Tiger Oil Corporation's Opening Brief in Support of Motion for Summary
26 Judgment with Appendices A-C;
3. Second Declaration of Charles Conley;
4. Second Declaration of Rory Galloway;

- 1 5. Third Declaration of Todd Reuter;
- 2 6. Ecology's Response Brief in Opposition to Tiger Oil Corporation's Motion
3 for Summary Judgment;
- 4 7. Declaration of Valerie Bound and the attachments thereto;
- 5 8. October 2, 2009 Declaration of John A. Level and the attachments thereto;
- 6 9. September 25, 2009 Declaration of Norman Peck and the attachments
7 thereto;
- 8 10. Declaration of G. Thomas Tebb;
- 9 11. Tiger Oil Corporation's Reply Brief on Summary Judgment;
- 10 12. Fourth Declaration of Todd Reuter;
- 11 13. November 9, 2009 Supplemental Declaration of John A. Level and the
12 attachments thereto;
- 13 14. Plaintiff's Brief In Support of Its Motion for Show Cause;
- 14 15. March 25, 2009 Declaration of Brian Deeken and the attachments thereto
15 (filed on April 10, 2009);
- 16 16. March 20, 2009 Declaration of Roger Johnson and the attachments thereto
17 (filed on April 10, 2009);
- 18 17. April 9, 2009 Declaration of Norman Peck and the attachment thereto (filed
19 on April 10, 2009);
- 20 18. March 23, 2009 Declaration of James Pendowski and the attachment thereto
21 (filed on April 10, 2009);
- 22 19. April 10, 2009 Declaration of John A. Level and the attachments thereto
23 (filed on April 10, 2009);
- 24 20. May 7, 2009 Declaration of Norman Peck and the attachment thereto (filed
25 on May 8, 2009);
- 26 21. September 24, 2009 Declaration of Thomas Mackie; November 9, 2009
22 Declaration of Norman D. Peck; and November 9, 2009 Declaration of John
23 A. Level and the attachments thereto;
- 24 22. Tiger Oil Corporation's Response to Ecology's Motion for Show Cause;
- 25 23. Fifth Declaration of Todd Reuter;
- 26 24. Third Declaration of Rory Galloway;
- 25 25. Declaration of Karis A. Vandehey;

- 1 26. Declaration of Robert Martin; and
2 27. Plaintiff's Reply Brief in Support of its Motion For Show Cause.

3 NOW, THEREFORE, IT IS HEREBY ORDERED:

4 1. Defendant Tiger Oil Corporation's Motion for Summary Judgment requesting
5 that it be excused from operation of the Tiger Oil Soil Vapor Extraction (SVE) system, be
6 allowed to use Monitored Natural Attenuation (MNA) now, and that it be released from the
7 Consent Decree is hereby DENIED.

8 2. Defendant Tiger Oil Corporation's Motion for Summary Judgment requesting
9 that if it is required to operate the SVE extension, that it need not use the Best Available
10 Control Technologies (BACT) on the system is hereby DENIED.

11 3. Defendant Tiger Oil Corporation's Motion for Summary Judgment requesting
12 that if it is required to operate the SVE extension, that it need not sample informational wells
13 before activating is hereby DENIED.

14 4. Defendant Tiger Oil Corporation's Motion for Summary Judgment requesting
15 that the Court order Ecology to issue a No Further Action letter and allow MNA is hereby
16 DENIED.

17 5. The Court defers ruling on Defendant Tiger Oil Corporation's Motion for
18 Summary Judgment requesting that if it is required to operate the SVE extension, it need not
19 allow its neighbors to connect to or use the SVE system free of charge, as this request is
20 premature.

21 *ex parte, after hearing oral argument 3/25/10*
DONE IN OPEN COURT this 30 day of March 2010.


22 
23 JUDGE ANNE HIRSCH

24 //
25 //
26 //

JA

1 Presented by:

2 ROBERT M. MCKENNA
Attorney General

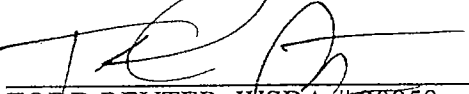
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4 ~~JOHN A. LEVEL, WSBA # 20439~~
5 Assistant Attorney General

6 Attorneys for Plaintiff
7 State of Washington
Department of Ecology

8

9 Approved as to form and notice of presentation waived:

10 

11 TODD REUTER, WSBA # 20859
12 Attorney for Defendant
Tiger Oil Corporation

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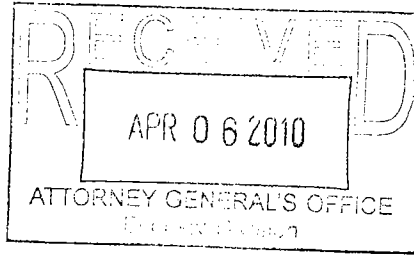
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EXPEDITE
 No Hearing is Set
 Hearing is Set
 Date: March 25, 2010
 Time: 2:30 p.m.
 The Honorable Anne Hirsch

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**STATE OF WASHINGTON
THURSTON COUNTY SUPERIOR COURT**

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

TIGER OIL CORPORATION; TIGER
OIL COMPANY; FEDERATED
SERVICE INSURANCE COMPANY;
MERCY DEVELOPMENT
COMPANY; and M&E COMPANY,

Defendants.

No. 02-2-00956-2

ORDER ON DEFENDANT TIGER OIL
CORPORATION'S MOTION TO
STRIKE DECLARATION OF NORM
PECK

THIS MATTER came before the Court on November 24, 2009, on the Defendant Tiger Oil Corporation's Motion to Strike the Declaration of Norm Peck. Defendant, Tiger Oil Corporation, appeared through its attorney, Todd Reuter, and Plaintiff, State of Washington, Department of Ecology, appeared through its attorney, John A. Level, Assistant Attorney General. The Court having heard argument and having considered the records and files herein, including the following:

1. Tiger Oil Corporation's Motion And Memo To Strike Declaration Of Norm Peck;
2. Plaintiff's Responding Brief To Tiger Oil Corporation's Motion And Memo To Strike Declaration Of Norm Peck;

1 3. November 19, 2009 Declaration of Norman Peck and the attachment
2 thereto; and

3 4. November 23, 2009 Declaration of Rory Galloway.

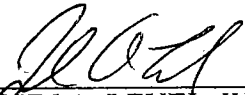
4 NOW, THEREFORE, IT IS HEREBY ORDERED that the Plaintiff's Motion to Strike
5 is DENIED.

6 DONE ~~IN OPEN COURT~~ ^{ex parte} this ~~24~~³⁰ day of March 2010.

7 *after hearing*
8 *oral argument* 
9 JUDGE ANNE HIRSCH

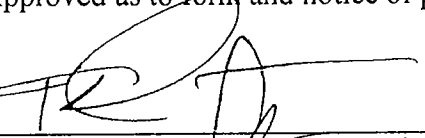
10 Presented by:

11 ROBERT M. MCKENNA
12 Attorney General

13 
14 JOHN A. LEVEL, WSBA # 20439
Assistant Attorney General

15 Attorneys for Plaintiff
16 State of Washington
Department of Ecology

17 Approved as to form and notice of presentation waived:

18 
19 TODD REUTER, WSBA # 20859
20 Attorney for Defendant
21 Tiger Oil Corporation