

Yakima Valley Spray

FSN 445

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

IN THE MATTER OF REMEDIAL ACTION BY:)

Yakima Valley Spray Facility)
1122 South First Street)
Yakima, Washington 98901)

ENFORCEMENT ORDER

No. DE 97TC-C182

TO: U-Haul of Inland Northwest
c/o Mr. John Eide
South 204 Fancher Road
Spokane, WA 99212

I.

Jurisdiction

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

II.

Findings of Fact

The Department of Ecology (Ecology) makes the following Findings of Fact.

- 2.1. The Facility, Yakima Valley Spray, is located at 1122 South First Street in Yakima, Washington, on Parcel Numbers 301319 21034 and 301319 21031 (according to Yakima County Assessor's records).
- 2.2. Surface and subsurface soil samples have been taken at the Facility as part of the remedial investigation work required by Ecology Enforcement Order No. DE 91TC-C453. Perchloroethylene was found in soils at the Facility. (August 19, 1994 - Remedial Investigation Report for the Yakima Valley Spray Company (U-Haul) Facility, Yakima, Washington by RETEC, Seattle, Washington.)
- 2.3. Groundwater samples have been taken at the Facility as part of the remedial investigation work required by Ecology Enforcement Order No. DE 91TC-C453. Perchloroethylene was found in the ground water at the Facility. (August 19, 1994 - Remedial Investigation

Report for the Yakima Valley Spray Company (U-Haul) Facility, Yakima, Washington by RETEC, Seattle, Washington.)

- 2.7. On August 30, 1991, after notice and opportunity for comment, Ecology issued a final determination of Potentially Liable Person (PLP) status under RCW 70.105D.040 for the Yakima Railroad Area (YRRA) to U-Haul of Inland Northwest.
- 2.8. On February 11, 1992, the YRRA PLPs were issued an Order by Ecology (Order No. DE 92TC-C108) which directed them to provide bottled water to those residences in the YRRA on private wells.
- 2.9. On September 15, 1997, Ecology requested by letter that U-Haul of Inland Northwest (and the other YRRA subfacilities) voluntarily conduct quarterly groundwater sampling for Perchloroethylene and its breakdown products beginning the week of December 1, 1997. This sampling is necessary as part of the Yakima Railroad Area Remedial Investigation presently underway. The YRRA Remedial Investigation is designed to characterize the areawide groundwater problem.

III.

Ecology Determinations

- 3.1. U-Haul of Inland Northwest is an "owner or operator" as defined in RCW 70.105D.020(6) of a "Facility" as defined in RCW 70.105D.020(4).
- 3.2. The Facility is known as Yakima Valley Spray/U-Haul and is located at 1122 South First Street in Yakima, Washington. The Facility is a subfacility of the Yakima Railroad Area (YRRA).
- 3.3. The substances found at the Subfacility as described in Ecology Order No. DE 91TC-C453 and in the August 19, 1994 - Remedial Investigation Report for the Yakima Valley Spray Company (U-Haul) Facility, Yakima, Washington (by RETEC, Seattle, Washington) are "hazardous substances" as defined in RCW 70.105D.020(7).
- 3.4. Based on the presence of these hazardous substances at the Facility and all factors known to Ecology, there is a release or threatened release of hazardous substances from the Facility, as defined in RCW 70.105D.020(20).
- 3.5. Yakima Valley Spray is one of the subfacilities from which there is a release or threatened release of PCE within the YRRA.

- 3.6. By letter dated August 30, 1991, Ecology notified U-Haul of Inland Northwest of its status as a "potentially liable person" under RCW 70.105D.040 after notice and opportunity for comment.
- 3.7. Pursuant to RCW 70.105D.030(1) and RCW 70.105D.050, Ecology may require PLPs 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.
- 3.8. Based on the foregoing facts, Ecology believes the remedial action required by the Order is in the public interest.

IV.

Work to be Performed

Based on the foregoing Facts and Determinations, it is hereby ordered that U-Haul of Inland Northwest, take the following remedial actions and that these actions be conducted in accordance with Chapter 173-340 of the Washington Administrative Code (WAC) unless otherwise specifically provided for herein.

- 4.1. All wells at the Facility will be sampled for Volatile Organic Chemicals including PCE and its breakdown products on the following quarterly schedule:

1st quarter: Week of December 1 - 5th, 1997
2nd quarter: Week of March 2 - 7, 1998
3rd quarter: Week of June 1 - 5, 1998
4th quarter: Week of September 8 - 11, 1998

Groundwater samples will be submitted to an Ecology or EPA certified analytical lab. All samples shall be analyzed by EPA method 8240 or 8260. Groundwater quality parameters will be measured by field personnel during collection of groundwater samples. For each monitoring well the following information will be provided: pH, temperature, conductivity, and dissolved oxygen content.

The following field procedures will be adhered to throughout the quarterly sampling program:

--Depth to Water Measurement: Prior to purging, water depths will be measured to the nearest hundredth of a foot (.01) using a decontaminated electric water level sounder. A control point for measuring water depth will be established on the well casing and referenced to known elevation accurate to the nearest hundredth of a foot (.01).

--Purging: After initial measurements have been recorded, monitoring wells will be purged. During purging, temperature, pH, and electrical conductivity will be monitored and recorded. Indicator parameters will be considered stabilized when three successive measurements, in 5 gallon increments, vary less than 10 percent. A minimum of 3 casing volumes will be removed during purging.

--Sample Collection: Groundwater samples will be collected using a dedicated bailer suspended by a nylon cord. The bailer will be lowered slowly into the water, retrieved, and emptied slowly to avoid degassing the sample. The cord will be discarded after collecting each sample. It is expected that individual bailers or pumps will be dedicated to each well, or that disposable bailers will be utilized. All samples will be handled according to the chain-of-custody procedures utilized by U-Haul of Inland Northwest in conducting the Remedial Investigation activities required by Ecology Order No. DE 91TC-C453.

--Decontamination: All sampling equipment will be decontaminated between sampling in accordance with the following procedures:

1. Rinse in potable water
 2. Wash in Alconox or equivalent soap and potable water. Nylon pads and/or bottle brushes may be used to facilitate washing if needed.
 3. Rinse in potable water
 4. Rinse in deionized/distilled water
 5. Air dry equipment, if possible, between sampling.
- 4.2. Sample results, the water level measurements, and the other field parameters measured must be submitted to Ecology, in both hardcopy and electronic format, within four weeks of each sampling event. In accordance with WAC 173-340-840(5), sampling data shall be submitted according to Attachment D: DATA SUBMITTAL REQUIREMENTS. Attachment D is incorporated by this reference and is an integral and enforceable part of this Order.

V.

Terms and Condition of Order

- 5.1. 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.

For purposes of this Order, Ecology is defined as the Toxics Cleanup Program, Central Regional Office, Yakima, Washington.

- 5.2. 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.
- 5.3. Remedial Action Costs U-Haul of Inland Northwest shall pay to Ecology costs incurred by Ecology pursuant to this Order. These costs shall include work performed by Ecology or its contractors at the Facility under Chapter 70.105D RCW both prior to and subsequent to the issuance of this Order 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). U-Haul of Inland Northwest shall pay the required amount within ninety (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 ninety (90) days of receipt of an itemized statement of costs will result in interest charges pursuant to WAC 173-340-550(4).
- 5.4. Designated Project Coordinators

The project coordinator for Ecology is:

Dick Bassett (509)454-7839
Department of Ecology
Central Regional Office
106 South 6th Avenue
Yakima, Washington 98902-3387

U-Haul of Inland northwest shall notify Ecology of its project coordinator within ten (10) calendar days of receiving this Order. The project coordinator(s) shall be responsible for overseeing the implementation of this Order. To the maximum extent possible, communications between Ecology and U-Haul of Inland Northwest, 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 U-Haul of Inland Northwest change project coordinator(s), written notification shall be provided to Ecology or U-Haul of Inland Northwest, at least ten (10) calendar days prior to the change.

- 5.5. 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. U-Haul of Inland Northwest 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 Facility. U-Haul of Inland Northwest 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 U-Haul of Inland Northwest shall not perform any remedial actions at Facility outside that required by this Order unless a remedial action is required of U-Haul of Inland Northwest by other Ecology Agreed Orders, Consent Decrees, or Enforcement Orders

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 state.

- 5.6. Access Ecology or any Ecology-authorized representative shall have the authority to enter and freely move about all property at the Facility 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 U-Haul of Inland Northwest. In the course of conducting oversight of this Order under the Model Toxics Control Act, Ecology shall provide reasonable notice before entering property unless an emergency prevents notice. When Ecology is acting under a statute other than the Model Toxics Control Act, Ecology shall provide notice consistent with that statute. Ecology shall allow split or replicate samples to be taken by U-Haul of Inland Northwest during an inspection unless doing so would interfere with Ecology's sampling. U-Haul of Inland Northwest shall allow split or replicate samples to be taken by Ecology and shall provide Ecology fourteen (14) days notice before any sampling activity.
- 5.7. Public Participation U-Haul of Inland Northwest shall implement the public participation plan in attachment A. Implementation shall include updating the "Categorized Contact and Mailing List for Site Communications." This mailing list shall include addresses and contacts within the potentially affected vicinity surrounding the subfacility. Said public participation plan shall be coordinated with the public participation plan being developed for the Yakima Railroad Area. Ecology shall maintain the responsibility for public participation at the Facility. U-Haul of Inland Northwest shall help coordinate and

implement public participation for the Facility. U-Haul of Inland Northwest shall designate a point of contact for the development and implementation of said public participation plan.

A draft final public participation plan shall be submitted to Ecology within sixty (60) days of the date of this Order. A final public participation plan shall be submitted for approval within thirty (30) days of receipt of Ecology comments.

- 5.8. Retention of Records U-Haul of Inland Northwest 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 U-Haul of Inland Northwest, then U-Haul of Inland Northwest agrees to include in their contract with such contractors or agents a record retention requirement meeting the terms of this paragraph.
- 5.9. Dispute Resolution U-Haul of Inland Northwest 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. U-Haul of Inland Northwest is not relieved of any requirements 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.
- 5.10. Reservation of Rights/No Settlement Ecology reserves all rights to issue additional Orders or take any action authorized by law in the event or upon the discovery of a release or threatened release of hazardous substances not addressed by this Order, upon discovery of any factors not known at the time of issuance of this Order, in order to abate an emergency, or under any other circumstances deemed appropriate by Ecology.

Ecology also reserves all rights regarding the injury to, destruction of, or loss of natural resources resulting from the releases or threatened releases of hazardous substances from the U-Haul of Inland Northwest.

In the event Ecology determines that conditions at the Facility are creating, or have the potential to create, a danger to the health or welfare of the people at the Facility or in the surrounding area or to the environment, Ecology may order U-Haul of Inland Northwest to stop further implementation of this Order for such period of time as needed to abate the danger.

- 5.11 Transference of Property No voluntary or involuntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Facility shall be consummated by U-Haul of Inland Northwest 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 U-Haul of Inland Northwest may have in the Facility or any portions thereof, U-Haul of Inland Northwest 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, U-Haul of Inland Northwest shall notify Ecology of the contemplated transfer.
- 5.12 Compliance with Other Applicable Laws All actions carried out by U-Haul of Inland Northwest pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements.

VI.

Satisfaction Of This Order

The provisions of this Order shall be deemed satisfied upon U-Haul of Inland Northwest receipt of written notification from Ecology that U-Haul of Inland Northwest has completed the remedial activity required by this Order, as amended by any modifications, and that all other provisions of this Order have been complied with.

VII.


Enforcement

- 7.1. 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 Facility.
 - C. In the event U-Haul of Inland Northwest refuses, without sufficient cause, to comply with any term of this Order, U-Haul of Inland Northwest will be liable for:
 - (1) up to three times the amount of any costs incurred by the state of Washington as a result of its refusal to comply; and

(2) civil penalties of up to \$25,000 per day for each day it refuses to comply.

D. This Order is not appealable to the Washington Pollution Control Hearings Board. This Order may be reviewed only as provided under RCW 70.105D.060.

Effective date of this Order: NOV 19 1997



Donald W. Abbott
Section Manager
Toxics Cleanup Program
Central Regional Office
Department of Ecology