

Tiger Oil

**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

In the Matter of Remedial	)	Enforcement Order
Action by:	)	
	)	No. DE 98TC-C166
Tiger Oil Corporation,	)	
Federated Service Insurance Company,	)	
Tiger Oil Company,	)	
and M & E Company	)	

To: Tiger Oil Corporation  
 c/o Mr. Chuck Conley, President  
 PO Box 1489  
 Boise, Idaho 83701

Federated Service Insurance Company  
 c/o Ms. Jeanne Hankerson  
 129 East Broadway  
 Owatonna, Minnesota 55060

M & E Company  
 c/o Mr. Earl Barden  
 PO Box 50  
 Yakima, Washington 98907

Tiger Oil Company  
 c/o Mr. Marc Elrod  
 c/o Ms. Dianne K. Dailey  
 Bullivant Houser Bailey  
 300 Pioneer Tower  
 888 SW Fifth Avenue  
 Portland, Oregon 97204

I.

Jurisdiction

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

II.

Statement of Facts

- 2.1 Petroleum products have been released from the underground storage tank system at the Tiger Mart/Exxon gas station, known as the Tiger Oil Site or Tiger Oil Facility (hereinafter known as the "Site" or "Facility"), located at 2312 West Nob Hill Boulevard, Yakima, Washington, 98902. This phase separated petroleum product has contaminated the soil, groundwater, surface water/captured groundwater in the Yakima County Drainage Improvement District storm drain line #4 (DID line), and, in the early 1980s, the surface waters in Wide Hollow Creek, where the DID line discharges. Petroleum contamination of these media exceeds method A cleanup levels and extends beyond the boundaries of the Tiger Oil Corporation property.
- 2.2 The facility is located within the NW ¼, SE ¼ of Section 26, Township 13 North, Range 18 E.W.M., Yakima, Washington. A Remedial Investigation was completed and accepted by Ecology on August 2, 1994, and a Feasibility Study was completed and accepted by Ecology on June 4, 1998. The Remedial Investigation and Feasibility Study indicate that the facility is currently bounded by South 24th Avenue on the west, by West Nob Hill Boulevard on the north, by the Yakima County Drainage Improvement District storm drain line #4 (DID line) and surrounding soil and backfill on the east, by the extent of gasoline-contaminated water in the DID line to the southeast, and by the parking lot in front of the Rite-Aid Drugstore to the south. These facility boundaries may be modified in the event that new data is received indicating that the extent of petroleum contamination has changed. Figure 1 shows the approximate extent of the contamination and boundary of the facility.
- 2.3 Other Orders applicable to this Facility are:
  - a. Order Docket No. DE 82-517, issued by Washington State Department of Ecology (Ecology) pursuant to the authority of Chapter 90.48 RCW, to Tiger Oil Company on October 7, 1982, and requiring recovery of petroleum product and related activities;
  - b. Order Docket No. DE 90-C140 as amended, issued by Ecology pursuant to the authority of Chapter 70.105D RCW, to Tiger Oil Corporation, Tiger Oil Company, Federated Mutual Insurance Company, and M & E Company, and requiring completion of a Remedial Investigation/ Feasibility Study. This order was originally issued to Tiger Oil Corporation on March 29, 1990, and amended three times, as follows: on June 27, 1990 to adjust the schedule; on October 31, 1991 to add Tiger Oil Company and Federated Mutual Insurance Company as parties to the Order and to establish a new schedule; and on August 16, 1993 to

add M & E Company as a party to the Order. Although the Remedial Investigation and Feasibility Study required by this order has been completed, the cost recovery balance has not been paid in full; therefore this Order has not been fully complied with to date.

- c. Order Docket No. DE 94TC-C432 issued by Ecology pursuant to the authority of Chapter 70.105D RCW, to Tiger Oil Corporation, Tiger Oil Company, Federated Mutual Insurance Company, and M & E Company, and requiring an Interim Action to recover free phase petroleum product and prevent infiltration of same into the DID line. The remedial actions required by this Order are partially ongoing and the third quarterly monitoring event is behind schedule.
- 2.4 In April 1981, an explosion occurred in the DID line near the Tiger Oil Site, injuring two City of Yakima workers. The explosion likely resulted from the presence of explosive levels of gasoline vapors in the line, caused by the presence of gasoline in and around the DID line.
- 2.5 Initial investigations of the Facility were conducted by Ecology and the City of Yakima, between December 1980 and September 1982. These investigations resulted in locating a release of hazardous substances (petroleum products). Federated Mutual Insurance Company contracted with Crowley Environmental (September 1982 to March 1983), Fuel Recovery Company (April 1983 to May 1985), and Soil Exploration Company (May 1985 to September 1985) for further investigation and petroleum product recovery. In 1982, the amount of petroleum product released to the soil and groundwater was estimated to be between 20,000 gallons and 35,000 gallons. Additional releases of approximately 2,000 gallons and 50 gallons were reported to have occurred in January 1983 and January 1984, respectively.
- 2.6 Remediation activities, as identified in the preceding provision, included installation of recovery wells, monitoring wells, free petroleum product removal, and installation and operation of a soil venting system.
- 2.7 In February 1989, Riebe Well Drilling notified Ecology that they had discovered free petroleum product in monitoring wells at the facility. In July 1989, during an Ecology investigation, free petroleum product was found in monitoring wells MW-9, MW-11, MW-13, and MW-15.
- 2.8 From 1989 to date, numerous investigations of the Facility and an adjacent site have been conducted by various consulting businesses, and the data collected may be found in reports or data submittal letters in Ecology's files for the Tiger Oil Site. The primary reports submitted to date in response to Order No. DE 90-C140 as amended are listed below:

- a. Progress Reports on Short Term Site Stabilization, submitted by Kleinfelder, Inc. on February 1, 1991 and June 26, 1991;
- b. Draft Remedial Investigation/Feasibility Study, submitted by Kleinfelder on December 17, 1992;
- c. Draft Revised Remedial Investigation/Feasibility Study, submitted on April 29, 1994, after conducting additional field work;
- d. Feasibility Study Addendum, submitted March 28, 1997.

The primary reports submitted to date in response to Order No. DE 94TC-C432 are:

- a. System Operation and Maintenance Plan, dated December 28, 1995;
- b. Remedial System Installation, Startup and Monitoring Report, dated March 29, 1996;
- c. Monthly and Quarterly Monitoring Reports.

2.9 Adequate information has been collected and evaluated to allow selection of a cleanup action meeting the requirements of Chapter 173-340 WAC.

- 2.10 a. Tiger Oil Corporation purchased the Tiger Oil/Exxon gas station in 1987 and is the current owner and operator of the property.
- b. Tiger Oil Company is a former owner and operator of the Tiger Oil Site. Tiger Oil Company had owned the station and the property from approximately 1978 until they sold it to Tiger Oil Corporation in 1987.
- c. Federated Service Insurance Company (formerly Federated Mutual Insurance Company) is a past operator of the Tiger Oil Site by virtue of its control and management of the remedial actions that occurred between 1982 and 1985 at the facility, during the time of a release of hazardous substances.
- d. M & E Company is a current owner of the Safeway Shopping Center. The shopping center's parking lot is located within the downgradient boundaries of the Tiger Oil Facility. M & E Company purchased the property now occupied by the shopping center in 1988.

2.11 There has been no site coordinator for the PLP Group since April 10, 1998.

III.

Ecology Determinations

- 3.1
  - a. **Tiger Oil Corporation is an "owner or operator" as defined at RCW 70.105D.020(12) of a "facility" as defined at RCW 70.105D.020(4).**
  - b. **Tiger Oil Company is an "owner or operator" as defined at RCW 70.105D.020(12) of a "facility" as defined at RCW 70.105D.020(4).**
  - c. **Federated Service Insurance Company is an "owner or operator" as defined at RCW 70.105D.020(12) of a "facility" as defined at RCW 70.105D.020(4).**
  - d. **M & E Company is an "owner or operator" as defined at RCW 70.105D.020(12) of a "facility" as defined at RCW 70.105D.020(4).**
- 3.2 **The facility is known as the Tiger Oil Site, and is located at 2312 West Nob Hill Boulevard in Yakima, Washington 98902. The Site includes the Tiger Oil Exxon, its underground storage tank system, monitoring wells and recovery wells located at the facility, and any other areas where hazardous substances have come to be located, including but not limited to the soil, groundwater, and petroleum-contaminated surface water/captured groundwater in the Yakima County Drainage Improvement District storm drain line #4 ("DID line").**
- 3.3 **The petroleum products found at the facility as described above are "hazardous substances" as defined at 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 at RCW 70.105D.020(20).**
- 3.5 **WAC 173-340-450(3)(b) states that free petroleum product released from an underground storage tank system shall be recovered as soon as possible and to the maximum extent practicable and in a manner which minimizes migration of hazardous substances.**
- 3.6
  - a. **By order dated March 29, 1990, Tiger Oil Corporation was notified of its status as a "potentially liable person" under RCW 70.105D.040 after notice and opportunity to comment.**
  - b. **By letter dated April 11, 1991, Tiger Oil Company was notified of its status as a "potentially liable person" under RCW 70.105D.040 after notice and opportunity to comment.**

- c. By letter dated April 11, 1991, Federated Service Insurance Company was notified of its status as a "potentially liable person" under RCW 70.105D.040 after notice and opportunity to comment.
  - d. By letter dated November 20, 1992, M & E Company was notified of its status as a "potentially liable person" under RCW 70.105D.040 after notice and opportunity to comment.
- 3.7 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.
- 3.8 Based on the foregoing facts and determinations, Ecology believes the remedial action required by this Order is in the public interest.

#### IV.

##### Work to be Performed

- 4.1 Based on the foregoing Facts and Determinations, it is hereby ordered that Tiger Oil Corporation, Tiger Oil Company, Federated Service Insurance Company, and M & E Company (hereinafter known as the "PLP Group") take the following remedial actions and that these actions be conducted in accordance with Chapter 173-340 WAC unless otherwise specifically provided for herein.
- 4.2 The PLP Group shall plan, conduct, and finance a final cleanup action for the Tiger Oil Site in accordance with Chapter 173-340 WAC. The cleanup action shall include the following tasks:
- 4.3 The PLP Group shall name, in writing, a site coordinator, within 15 calendar days of the effective date of this Order. In addition, the PLP Group shall, at the same time, state in writing, which technology is planned to be the subject of the draft Second Addendum to the Feasibility Study or the draft Cleanup Action Plan, whichever is applicable.
- 4.4 Planning and implementation of final cleanup action
- a. Report submittals. The following reports shall be submitted for approval by Ecology prior to implementation of the cleanup, unless scheduled otherwise herein. These reports shall contain the level of information necessary to ensure that the cleanup action is planned to be conducted in a manner consistent with the

purposes of Chapter 173-340 WAC, and that the cleanup action considers relevant information provided by the remedial investigation/feasibility study. Upon approval by Ecology, all plans and reports listed below shall be incorporated by reference and become binding and enforceable parts of this order:

1. A draft and final Second Addendum to the Feasibility Study, if: the PLP Group chooses to evaluate the "mobile high vacuum unit" as a potential technology with which to accomplish the final cleanup of the Site, within 30 calendar days of the effective date of this Order the PLP Group shall submit to Ecology for review a draft Second Addendum to the Feasibility Study which evaluates the use of a "mobile high vacuum unit" in accordance with WAC 173-340-350(6)(e) and WAC 173-340-360. The draft Second Addendum to the Feasibility Study shall also adequately describe the manner in which this technology would be utilized at the Site.

Within 14 calendar days of receiving Ecology's comments on the draft Second Addendum to the Feasibility Study, the PLP Group shall submit to Ecology for review and approval a final Second Addendum to the Feasibility Study which shall address and incorporate Ecology's comments.

2. If the evaluation in the Second Addendum to the Feasibility Study indicates that the "mobile high vacuum unit", as planned to be used at the Site, meets the requirements of Chapter 173-340 WAC, within 30 calendar days of Ecology's approval of the Second Addendum to the Feasibility Study, the PLP Group shall submit to Ecology for review a draft Cleanup Action Plan per WAC 173-340-360(10), a draft Sampling and Analysis Plan per WAC 173-340-820, and a draft Safety and Health Plan per WAC 173-340-810. In addition, the draft Cleanup Action Plan shall:
  - A. consider information provided by the Remedial Investigation/ Feasibility Study;
  - B. describe the implementation of the remedy;
  - C. include written documentation of substantive requirements of permits which would otherwise be required for releases of petroleum hydrocarbons to the air (RCW 70.94) and to the wastewater treatment plant (RCW 90.48). This documentation shall be obtained from the Yakima County Clean Air Authority and the City of Yakima Wastewater Division;
  - D. include a draft SEPA checklist to comply with the State Environmental Policy Act;
  - E. incorporate use of the existing dual phase total fluids and vapor recovery system as appropriate.

Within 14 calendar days of receiving Ecology's comments on the draft Cleanup Action Plan, draft Sampling and Analysis Plan, and draft Safety and Health Plan, the PLP Group shall submit to Ecology for review and approval a final Cleanup Action Plan, final Sampling and Analysis Plan, and final Safety and Health Plan. The final Cleanup Action Plan, Sampling and Analysis Plan and Safety and Health Plan shall address and incorporate Ecology's comments.

3. In the event that the information in the Second Addendum to the Feasibility Study indicates that the "mobile high vacuum unit" as planned to be used at the Site, does not meet the requirements of Chapter 173-340 WAC; or, in the event that the PLP Group decides against further evaluation of the aforementioned technology, then the draft Cleanup Action Plan shall evaluate and outline, per WAC 173-340-360(10) "Cleanup Action Alternative #1: Vacuum-Enhanced Total Fluids Recovery/Soil Vapor Extraction and Bioventing Wells", as recommended by the Feasibility Study Addendum dated March 26, 1997. Please see pages 9 through 13 and 21 and 22 of this Feasibility Study for further information regarding this cleanup action selection.

Within 30 calendar days of whichever option applies: A) the effective date of this Order (if the mobile high vacuum unit is not evaluated); or: B) Ecology's comments on the Second Addendum to the Feasibility Study, the PLP Group shall submit to Ecology for review a draft Cleanup Action Plan, a draft Sampling and Analysis Plan per WAC 173-340-820, and a draft Safety and Health Plan per WAC 173-340-810. In addition, the draft Cleanup Action Plan shall:

- A. consider information provided by the Remedial Investigation/ Feasibility Study;
- B. describe the implementation of the remedy;
- C. include written documentation of substantive requirements of permits which would otherwise be required for releases of petroleum hydrocarbons to the air (RCW 70.94) and to the wastewater treatment plant (RCW 90.48). This documentation shall be obtained from the Yakima County Clean Air Authority and the City of Yakima Wastewater Division;
- D. include a draft SEPA checklist to comply with the State Environmental Policy Act;
- E. incorporate use of the existing dual phase total fluids and vapor recovery system as appropriate.



Within 14 calendar days of receiving Ecology's comments on the draft Cleanup Action Plan, draft Sampling and Analysis Plan, and draft Safety and Health Plan, the PLP Group shall submit to Ecology for review and approval a final Cleanup Action Plan, final Sampling and Analysis Plan, and final Safety and Health Plan. The final Cleanup Action Plan, final Sampling and Analysis Plan and final Safety and Health Plan shall address and incorporate Ecology's comments.

4. Within 30 calendar days of Ecology's approval of the final Cleanup Action Plan, the PLP Group shall submit to Ecology for review a draft Engineering Design Report per WAC 173-340-400, as applicable for the approved cleanup action. Within 14 calendar days of receiving Ecology's comments on the draft Engineering Design Report, the PLP Group shall submit to Ecology for review and approval a final Engineering Design Report. The final Engineering Design Report shall address and incorporate Ecology's comments.
5. Within 45 calendar days of Ecology's approval of the Engineering Design Report, the PLP Group shall submit to Ecology for review draft Construction Plans and Specifications per WAC 173-340-400, a draft Operation and Maintenance Plan per WAC 173-340-400, and a draft Compliance Monitoring Plan per WAC 173-340-410. Within 14 calendar days of receiving Ecology's comments on the draft Construction Plans and Specifications, draft Operation and Maintenance Plan, and draft Compliance Monitoring Plan, the PLP Group shall submit to Ecology for review and approval the final Construction Plans and Specifications, final Operation and Maintenance Plan, and final Compliance Monitoring Plan. The final Construction Plans and Specifications, final Operation and Maintenance Plan, and final Compliance Monitoring Plan shall address and incorporate Ecology's comments.
6. Within 30 calendar days of substantial completion of construction to implement the cleanup action, the PLP Group shall submit to Ecology for review draft As-Built Diagrams per WAC 173-340-400. Within 14 calendar days of receiving Ecology's comments on the draft As-Built Diagrams, the PLP Group shall submit to Ecology for review and approval final As-Built Diagrams which address and incorporate Ecology's comments.
7. Monthly progress reports. Beginning with the fourth calendar week after field implementation of the cleanup action, written progress reports shall be

submitted to Ecology every 30 calendar days summarizing how the activities required herein are proceeding.

8. After the first twelve months of cleanup action implementation, quarterly progress reports accompanying quarterly monitoring results shall be submitted to Ecology on a quarterly basis.
- b. Within 21 calendar days of Ecology's approval of the Operation and Maintenance Plan, Compliance Monitoring Plan, Sampling and Analysis Plan, and Safety and Health Plan, implementation of the cleanup action shall begin.
- c. Cleanup levels. Method A soil and groundwater cleanup levels for TPH as gas and diesel and for benzene, toluene, ethylbenzene, and xylenes shall be used at the site.
- d. Points of compliance. Points of compliance with the aforementioned cleanup levels for soil and groundwater shall be throughout the site.
  1. For ground water, it is expected that laboratory analyzed samples from existing monitoring wells will be adequate to demonstrate compliance with cleanup levels.
  2. For soil, subsurface samples shall be collected from selected locations and laboratory analyzed to demonstrate compliance with cleanup levels.
- e. Compliance monitoring. In addition to the compliance monitoring plan to be approved by Ecology, compliance monitoring shall include:
  1. Selected monitoring wells shall be sampled on a quarterly basis for TPH as gas and diesel, benzene, ethylbenzene, toluene, and xylenes. The selection of monitoring wells to be sampled is subject to approval by Ecology.
  2. Long-term monitoring of contaminated media at the facility shall be conducted as long as hazardous substances remain at concentrations exceeding cleanup levels specified in 4.3(c), as indicated by statistical analysis (see below).
    - A. Once cleanup levels for soil and ground water appear to have been achieved, data will be evaluated and monitoring schedules may be modified by Ecology in accordance with Chapter 173-340 WAC, and as recommended in Ecology guidance documents entitled "Statistical Guidance for Ecology Site Managers" (#92-54) and "Guidance on Sampling and Data Analysis" (#94-49).
- f. Other information may be necessary to determine the adequacy of the cleanup action.

- g. Any discharge of treated petroleum-contaminated groundwater or petroleum-impacted air shall be in compliance with substantive requirements of the discharge permits which would otherwise be required.
  - h. Any waste contaminated by a hazardous substance generated during cleanup activities and requiring off-site treatment, storage or disposal, shall be transported to a facility permitted or approved to handle these wastes.
- 4.5 Ground water sampling data submittals. In accordance with WAC 173-340-840(5), ground water sampling data shall be submitted according to Appendix A: GROUND WATER SAMPLING DATA SUBMITTAL REQUIREMENTS, on an annual basis beginning with the fourth quarterly monitoring results after commencement of the cleanup action.

V.

Terms and Conditions of Order

- 5.1 Definitions Unless otherwise specified, the definitions set forth in ch. 70.105D RCW and ch. 173-340 WAC shall control the meanings of the terms used in this Order.
- 5.2 Public Notice RCW 70.105D.030(2)(a) requires that, at a minimum, this Order be subject to concurrent public notice. Ecology shall be responsible for providing such public notice and reserves the right to modify or withdraw any provisions of this Order should public comment disclose facts or considerations which indicate to Ecology that the Order is inadequate or improper in any respect.
- 5.3 Remedial Action Costs The PLP Group 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). The PLP Group shall pay the required amount within 90 days of receiving from Ecology an itemized statement of costs that includes a summary of costs incurred, an identification of involved staff, and the amount of time spent by involved staff members on the project. A general description of work performed will be provided upon request. Itemized statements shall be prepared quarterly. Failure to pay Ecology's costs within 90 days of receipt of the itemized statement of costs will result in interest charges.

5.4 Designated Project Coordinators.

The project coordinator for Ecology is:

Susan Burgdorff-Beery  
15 West Yakima Avenue, Suite 200  
Yakima WA 98902-3401

The project coordinator for the PLP Group is:

Name  
Address

The project coordinator(s) shall be responsible for overseeing the implementation of this Order. To the maximum extent possible, communications between Ecology and the PLP Group, 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 the PLP Group change project coordinator(s), written notification shall be provided to Ecology or the PLP Group 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.

The PLP Group 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. The PLP Group shall provide a copy of this Order to all agents, contractors and subcontractors retained to perform work required by this Order and shall ensure that all work undertaken by such agents, contractors and subcontractors will be in compliance with this Order.

Except when necessary to abate an emergency situation, the PLP Group shall not perform any remedial actions at the Tiger Oil 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.

- 5.6 Access Ecology or any Ecology authorized representative shall have the authority to enter and freely move about all property at the Site at all reasonable times for the purposes of, inter alia: inspecting records, operation logs, and contracts related to the work being

performed pursuant to this Order; reviewing the progress in carrying out the terms of this Order; conducting such tests or collecting samples as Ecology or the project coordinator may deem necessary; using a camera, sound recording, or other documentary type equipment to record work done pursuant to this Order; and verifying the data submitted to Ecology by the PLP Group. When entering the Site under Chapter 70.105D RCW, Ecology shall provide reasonable notice prior to entering the Site unless an emergency prevents notice. Ecology shall allow split or replicate samples to be taken by the PLP Group during an inspection unless doing so would interfere with Ecology's sampling. The PLP Group shall allow split or replicate samples to be taken by Ecology and shall provide Ecology seven (7) days notice before any sampling activity.

- 5.7 **Public Participation** The PLP Group shall prepare and/or update a public participation plan for the Site. Ecology shall maintain the responsibility for public participation at the Site. The PLP Group shall help coordinate and implement public participation for the Site.
- 5.8 **Retention of Records** The PLP Group 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 the PLP Group, a record retention requirement meeting the terms of this paragraph shall be required of such contractors and/or agents.
- 5.9 **Dispute Resolution** The PLP Group may request Ecology to resolve factual or technical disputes which may arise during the implementation of this Order. Such request shall be in writing and directed to the signatory, or his/her successor(s), of this Order. Ecology resolution of the dispute shall be binding and final. The PLP Group 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.
- 5.10 **Reservation of Rights** Ecology reserves all rights to issue additional orders or take any action authorized by law in the event or upon the discovery of a release or threatened release of hazardous substances not addressed by this Order, upon discovery of any factors not known at the time of issuance of this Order, in order to abate an emergency, or under any other circumstances deemed appropriate by Ecology.

Ecology also reserves all rights regarding the injury to, destruction of, or loss of natural resources resulting from the release or threatened release of hazardous substances from the Tiger Oil 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 the PLP Group 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 Site shall be consummated by the PLP Group 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 the PLP Group may have in the Site or any portions thereof, the PLP Group 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, the PLP Group shall notify Ecology of the contemplated transfer.

5.12 **Compliance With Other Applicable Laws**

- a. All actions carried out by the PLP Group 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 provided in paragraph B. of this section.
- b. Pursuant to RCW 70.105D.090(1), the substantive requirements of chapters 70.94, 70.95, 70.105, 75.20, 90.48, and 90.58 RCW and of any laws requiring or authorizing local government permits or approvals for the remedial action under this Order that are known to be applicable at the time of the development of the draft Cleanup Action Plan will be incorporated into the draft Cleanup Action Plan and submitted for public comment.

The PLP Group has a continuing obligation to determine whether additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order. In the event the PLP Group determines that additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order, it shall promptly notify Ecology of this determination. Ecology shall determine whether Ecology or the PLP Group shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, the PLP Group shall promptly consult with the appropriate state and/or local agencies and provide Ecology with written documentation from those agencies of the substantive requirements those

agencies believe are applicable to the remedial action. Ecology shall make the final determination on the additional substantive requirements that must be met by the PLP Group and on how the PLP Group must meet those requirements. Ecology shall inform the PLP Group in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. The PLP Group shall not begin or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination.

Ecology shall ensure that notice and opportunity for comment is provided to the public and appropriate agencies prior to establishing the substantive requirements under this section.

- c. Pursuant to RCW 70.105D.090(2), in the event Ecology determines that the exemption from complying with the procedural requirements of the laws referenced in RCW 70.105D.090(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 the PLP Group shall comply with both the procedural and substantive requirements of the laws referenced in RCW 70.105D.090(1), including any requirements to obtain permits.

## VI.

### Satisfaction of this Order

The provisions of this Order shall be deemed satisfied upon the PLP Group' receipt of written notification from Ecology that the PLP Group have 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 Site.

- c. In the event the PLP Group refuses, without sufficient cause, to comply with any term of this Order, the PLP Group 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: September 24, 1998



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