

FS 469  
Tiger Oil

STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

In the Matter of Remedial	)	Enforcement Order
Action by:	)	
	)	No DE 02TCPCR-3589
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 Mark Schneider  
 Perkins Coie  
 1201 3rd Avenue 40th Floor  
 Seattle, Washington 98101-3099

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

Jurisdiction

This Order is issued pursuant to the authority of the Model Toxics Control Act, RCW 70.105D 050(1) (MTCA).

II.

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. Additional definitions are as follows:

1. Cleanup Action Plan (CAP) means the document issued by Ecology for the Tiger Oil facility on March 13, 2002 under WAC 173-340-360 and WAC 173-340-380 and WAC 173-340-400 which selects facility specific corrective measures and specifies cleanup standards (cleanup levels, points of compliance and other requirements for the corrective measures)
2. Cleanup Standards means the standards promulgated under RCW 70 105D 030(2)(e) According to WAC 173-340-700 (3). Cleanup standards consist of the following: (a) Cleanup levels for hazardous substances present at the site; (b) The location where these cleanup levels must be met (point of compliance); and (c) Other regulatory requirements that apply to the site because of the type of action and/or location of the site.
3. Corrective Measure means any measure or action to control, prevent, or mitigate releases and/or potential releases of hazardous substances (including dangerous waste and dangerous constituents) reviewed and approved by Ecology for the facility and set forth in a facility specific Cleanup Action Plan (CAP) prepared in compliance with the requirements of Chapter 173-340 WAC, including WAC 173-340-360.
4. Enforcement Order or Order means this Order issued pursuant to RCW 70 105D 050(1) and WAC 173-340-540. The term includes the text of this Order, all Attachments and Exhibits to this Order, and all Ecology-approved submittals required pursuant to this Order. Order Attachments and Ecology-approved submittals are incorporated into this Order by this reference and are enforceable parts of this Order as if fully set forth herein.
5. Facility or Site means the Tiger Mart retail gasoline store located at 2312 West Nob Hill Boulevard in Yakima, Washington and its underground storage tank system, monitoring wells and recovery wells, 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 DID (drainage irrigation district) line. The terms "Facility" and "Site" are used interchangeably in this document.
6. PLP means any party whom the department has found or may find in the future, based on credible evidence, to be liable under RCW 70.105D.040. Based on credible evidence, Ecology has named the following entities as PLPs for this site: Tiger Oil Corporation, Tiger Oil Company, Federated Service Insurance Company, and M & E Company (Mercy Development Company)

- 7 PLP Group refers collectively to those parties identified in Section II.6. above.
- 8 Release means the definition of release at RCW 70.105D 020(20), which includes any intentional or unintentional entry of any hazardous substance into the environment, including, but not limited to the abandonment or disposal of containers or hazardous substances.

### III.

#### Findings of Fact

- 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. These petroleum products have contaminated the soil, groundwater, surface water/captured groundwater in the Yakima County DID line, and, in the early 1980s, the surface waters in Wide Hollow Creek, where the DID line discharges. Petroleum contamination of these media currently exceeds MTC A Method A cleanup levels for groundwater and soil and extends beyond the boundaries of the Tiger Oil Corporation property.
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 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 and Safeway store 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, which is attached to this Order and incorporated herein, shows a map of the Facility.
- 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, required 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, required completion of a Remedial Investigation/Feasibility Study and payment, to Ecology, of costs incurred by Ecology pursuant to 70.105D RCW for investigative actions, remedial actions, and orders related

to the site. This Order was originally issued to Tiger Oil Corporation on March 29, 1990, and was 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/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, required an Interim Action to recover free phase petroleum product and prevent infiltration of same into the DID line. This Order was issued on September 27, 1994. This Order has not been complied with to date.
  - d. Order Docket No. DE 98TC-C166, issued by Ecology pursuant to the authority of Chapter 70.105D RCW, to Tiger Oil Corporation, Tiger Oil Company, Federated Service Insurance Company, and M & E Company, required the planning, implementation, and financing of a final cleanup action for the Tiger Oil Site, in accordance with Chapter 173-340 WAC. This Order also required that groundwater sampling, and subsequent data submittals be completed in accordance with WAC 173-340-840(5). This Order was issued on September 24, 1998 and has not been complied with to date.
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.
  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.
  6. Remediation activities that took place after 1984 at the Site included installation of recovery wells, monitoring wells, free petroleum product removal, and installation and operation of a groundwater extraction (GWE) and soil vapor extraction system in 1995.
  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.

8. From 1989 to date, numerous investigations of the Facility have been conducted by various consultants, 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:

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

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

- System Operation and Maintenance Plan, submitted by Clearwater Group Inc. on December 28, 1995;
- Remedial System Installation, Startup and Monitoring Report, submitted by Clearwater Group, Inc. on March 29, 1996;
- Monthly and Quarterly Monitoring Reports.

The primary reports submitted to date in response to Order No. DE 98TC-C166 are:

- Draft Cleanup Action Plan submitted by Foster Wheeler Environmental Corporation on October 30, 1998.
- Draft Cleanup Action Plan submitted by Landau Associates, Inc. on June 10, 1999
- Monthly and Quarterly Monitoring Reports

9. As per WAC 173-340-120(4)(b), adequate information has been collected and evaluated to allow Ecology to select a cleanup action meeting the requirements of Chapter 173-340 WAC.
10. Tiger Oil Corporation purchased the Tiger Oil/Exxon gas station in 1987 and is the current owner and operator of the property.
11. 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.

12. 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
13. M & E Company is a current owner of the Safeway Shopping Center. The shopping center's parking lot is located within the down-gradient boundaries of the Tiger Oil Facility. M & E Company purchased the property now occupied by the shopping center in 1988.
14. As of the date of this Order, the PLP Group has not submitted an approvable Cleanup Action Plan.

IV

Ecology Determinations

1. 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).
2. 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).
3. 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).
4. 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).
5. 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 DID line.
6. The petroleum products found at the Facility as described above are "hazardous substances" as defined at RCW 70.105D.020(7).
7. 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).

- 8 WAC 173-340-450(4) 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
- 9 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
10. 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.
11. 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
12. 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.
13. 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
- 14 Based on the foregoing facts and determinations, the remedial action required by this Order is in the public interest.

V

Work to be Performed

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 take the following remedial actions and that these actions be conducted in accordance with Chapter 173-340 WAC unless otherwise specifically provided for herein.

- 1 The PLP Group shall conduct and finance the final cleanup action for the Tiger Oil Site in accordance with Chapter 173-340 WAC, as specified in the Cleanup Action Plan (CAP) written by Ecology. The CAP is Attachment A to this Order and is an enforceable part of the Order
2. The final cleanup action for the Tiger Oil Site will consist primarily of two parts:

- a. Immediate removal of underground storage tanks (USTs), associated piping, and petroleum contaminated soils (PCS) on the Tiger Oil property
  - b. Long-term remediation using soil vapor extraction (SVE) and hydrogen peroxide.
3. Report Submittals. All reports listed shall be submitted to Ecology for approval at times specified in the following schedule. These reports shall contain the level of information necessary to ensure that the cleanup action is conducted in a manner consistent with the purposes of Chapter 173-340 WAC. Upon approval by Ecology, all plans and reports listed below shall be incorporated by reference and become binding and enforceable parts of this Order. The PLP Group shall submit to Ecology, for review and approval, the following reports on the timeline described in the schedule (section V 4 of this Order)
- a. Sampling and Analysis Plan per WAC 173-340-820.
  - b. Safety and Health Plan per WAC 173-340-810
  - c. Public Participation Plan per WAC 173-340-600.
  - d. Work Plan per WAC 173-340-400. The Work Plan shall:
    - i. include an Engineering Design Report, per WAC 173-340-400(4)(a);
    - ii. include a schedule for implementation of the cleanup action;
    - iii. consider information provided by the Remedial Investigation Feasibility Study and the Cleanup Action Plan;
    - iv. describe the implementation of the remedy;
    - v. 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;
    - vi. include a draft SEPA checklist to comply with the State Environmental Policy Act, RCW 43 21C.
  - e. Construction Plans and Specifications per WAC 173-340-400(4)(b)
  - f. Operation and Maintenance Plan per WAC 173-340-400(4)(c)



- g Compliance Monitoring Plan per WAC 173-340-410
  - h As-Built Diagrams per WAC 173-340-400(6)(b)(ii).
  - i Monthly Progress Reports
  - j Quarterly Progress Reports and Monitoring Results.
- 4 Schedule
- a Removal of USTs, associated piping, and PCS on the Tiger Oil property:
    - i Within 15 calendar days of the effective date of the Enforcement Order issued to implement the CAP, the PLP Group shall submit to Ecology a schedule for removal of USTs, associated piping, and PCS on the Tiger Oil property, and a signed contract from a licensed tank removal/site assessor for work to be completed at the Site. Tank removal and site assessment will commence no later than 45 days after the effective date of the Enforcement Order.
    - ii Within 30 calendar days of the effective date of the Enforcement Order, the PLP Group shall submit to Ecology, for review and approval, a draft Sampling and Analysis Plan for removal of USTs, associated piping, and PCS on the Tiger Oil property, per WAC 173-340-820, and a draft Public Participation Plan per WAC 173-340-600
    - iii Within 15 calendar days of receiving Ecology's comments on the draft Sampling and Analysis Plan for removal of USTs, associated piping, and PCS on the Tiger Oil property, and the draft Public Participation Plan, the PLP Group shall submit, for review and approval, a final Sampling and Analysis Plan for removal of USTs, associated piping, and PCS on the Tiger Oil property, and a final Public Participation Plan. The final Sampling and Analysis Plan and Public Participation Plan shall address and incorporate Ecology's comments
    - iv Within 30 calendar days of the effective date of the Enforcement Order, the PLP Group shall submit to Ecology, for review and comment, a Safety and Health Plan for UST, associated piping, and PCS removal activities. The Safety and Health Plan must be submitted to Ecology prior to the commencement of tank removal activities at the Site
    - v Within 30 days of completion of UST removal, associated piping removal, PCS removal, and Site Assessment, the PLP Group shall submit to Ecology, a Site Assessment Report, an UST Closure and Site Assessment Notice, and an UST Site Check/Site Assessment Checklist, PCS removal, as described in section 3.2.2 of

the CAP, will be conducted in conjunction with removal of USTs and associated piping on the Tiger Oil property

- b. Soil vapor extraction (SVE) and hydrogen peroxide use.
  - i. Within 60 calendar days of the effective date of the Enforcement Order, the PLP Group shall submit to Ecology, for review and approval, a draft Work Plan, draft Engineering Design Report, draft Construction Plans and Specifications per WAC 173-340-400, draft Operation and Maintenance Plan per WAC 173-340-400, draft Compliance Monitoring Plan per WAC 173-340-410, and draft Sampling and Analysis Plan per WAC 173-340-820 for the SVE system
  - ii. Within 60 calendar days of the effective date of the Enforcement Order, the PLP Group shall submit to Ecology, for review and comment, a Safety and Health Plan for activities associated with the SVE system and use of hydrogen peroxide
  - iii. Within 15 calendar days of receiving Ecology's comments on the draft Work Plan, draft Engineering Design Report, draft Construction Plans and Specifications, draft Operation and Maintenance Plan, draft Compliance Monitoring Plan, and draft Sampling and Analysis Plan for the SVE system, the PLP Group shall submit to Ecology, for review and approval, the final Work Plan, final Engineering Design Report, final Construction Plans and Specifications, final Operation and Maintenance Plan, final Compliance Monitoring Plan, and final Sampling and Analysis Plan for the SVE system. The final Work Plan, final Engineering Design Report, final Construction Plans and Specifications, final Operation and Maintenance Plan, final Compliance Monitoring Plan, and final Sampling and Analysis Plan for the SVE system shall address and incorporate Ecology's comments.
  - iv. Within 15 calendar days of Ecology's approval of the Construction Plans and Specifications, Operation and Maintenance Plan, and Compliance Monitoring Plan, construction of the SVE system shall begin
  - v. Within 30 calendar days after construction of the SVE system is complete, the PLP Group shall submit, to Ecology, As-Built Diagrams, per WAC 173-340-400(6)(b)(ii).
  - vi. Within 90 calendar days of the effective date of the Enforcement Order, the PLP Group shall submit to Ecology, for review and approval, a draft Work Plan, draft Engineering Design Report, draft Construction Plans and Specifications, draft Operation and Maintenance Plan, draft Compliance Monitoring Plan, and draft Sampling and Analysis Plan for hydrogen peroxide use

- vii. Within 15 calendar days of receiving Ecology's comments on the draft Work Plan, draft Engineering Design Report, draft Construction Plans and Specifications, draft Operation and Maintenance Plan, draft Compliance Monitoring Plan, and draft Sampling and Analysis Plan, the PLP Group shall submit to Ecology, for review and approval, the final Work Plan, final Engineering Design Report, final Construction Plans and Specifications, final Operation and Maintenance Plan, final Compliance Monitoring Plan, and final Sampling and Analysis Plan for hydrogen peroxide use. The final Work Plan, final Engineering Design Report, final Construction Plans and Specifications, final Operation and Maintenance Plan, final Compliance Monitoring Plan, and final Sampling and Analysis Plan for hydrogen peroxide use shall address and incorporate Ecology's comments.
  - viii. Within 15 days of Ecology's approval of the Construction Plans and Specifications, Operation and Maintenance Plan, Compliance Monitoring Plan, and Sampling and Analysis Plan for hydrogen peroxide use, the use of hydrogen peroxide shall begin.
- 5 Cleanup levels. Method A groundwater and soil cleanup levels for TPH as gas and diesel and for benzene, toluene, ethylbenzene, and xylenes shall be used at the Site per WAC 173-340-720 and WAC 173-340-740.
  - 6 Points of compliance. Points of compliance for the aforementioned cleanup levels for groundwater and soil shall be throughout the Site per WAC 173-340-720 and 740.
  - 7 Compliance monitoring. In addition to the compliance monitoring plan to be approved by Ecology, compliance monitoring shall include:
    - a. Selected monitoring wells shall be sampled on a quarterly basis for TPH as gas, benzene, ethylbenzene, toluene, xylenes, MTBE, and TPH as diesel, if soil samples taken during tank removal indicate the presence of TPH as diesel. Monitoring wells to be sampled are specified in the Cleanup Action Plan drafted by Ecology, Attachment A to this Order.
    - b. Long-term monitoring of contaminated media at the Facility shall be conducted as long as hazardous substances remain at concentrations exceeding MTCM Method A groundwater and soil cleanup levels
      - i. Once cleanup levels for groundwater and soil 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).

- ii. 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
  - iii. 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.
8. Five years after the effective date of this Order, the PLP Group shall be responsible for conducting, and submitting to Ecology, a five-year review at the site, per guidelines set forth in WAC 173-340-420.

VI.

Terms and Conditions of Order

1. 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.
2. Remedial Action Costs. Pursuant to RCW 70.105D.040(2), 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 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). The PLP Group 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 the itemized statement of costs will result in interest charges pursuant to WAC 173-340-550 (4).
3. Designated Project Coordinators.

The project coordinator for Ecology is:

Rachel Caron, Site Manager, Toxics Cleanup Program  
15 West Yakima Avenue, Suite 200  
Yakima WA 98902-3452

The project coordinator for the PLP Group is:

Chris Generous  
Foster Wheeler  
North Creek Place 1  
12100 NE 195th Street, Suite 200  
Bothell, WA 98011

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.

- 4 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.

Removal of Underground Storage Tanks (USTs), associated piping, and PCS at the Site shall not commence until a representative of Ecology is present at the Site.

- 5 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 pursuant to RCW 70.105D.030(1)(b) 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.

- 6 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.
- 7 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.
- 8 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.
- 9 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.

- 10 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.

11 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. 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.
- c. 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.
- d. 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(l), including any requirements to obtain permits.

VII.

Satisfaction of this Order

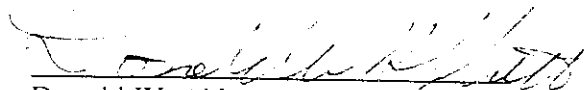
The provisions of this Order shall be deemed satisfied upon the PLP Group's receipt of written notification from Ecology that the PLP Group has completed the remedial activity required by this Order, as amended by any modifications, and that all other provisions of this Order have been complied with.

VIII

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 the PLP Group refuses, without sufficient cause, to comply with any term of this Order, the PLP Group will be liable for:
    - i. up to three times the amount of any costs incurred by the state of Washington as a result of its refusal to comply; and
    - ii. 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: March 13, 2002



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



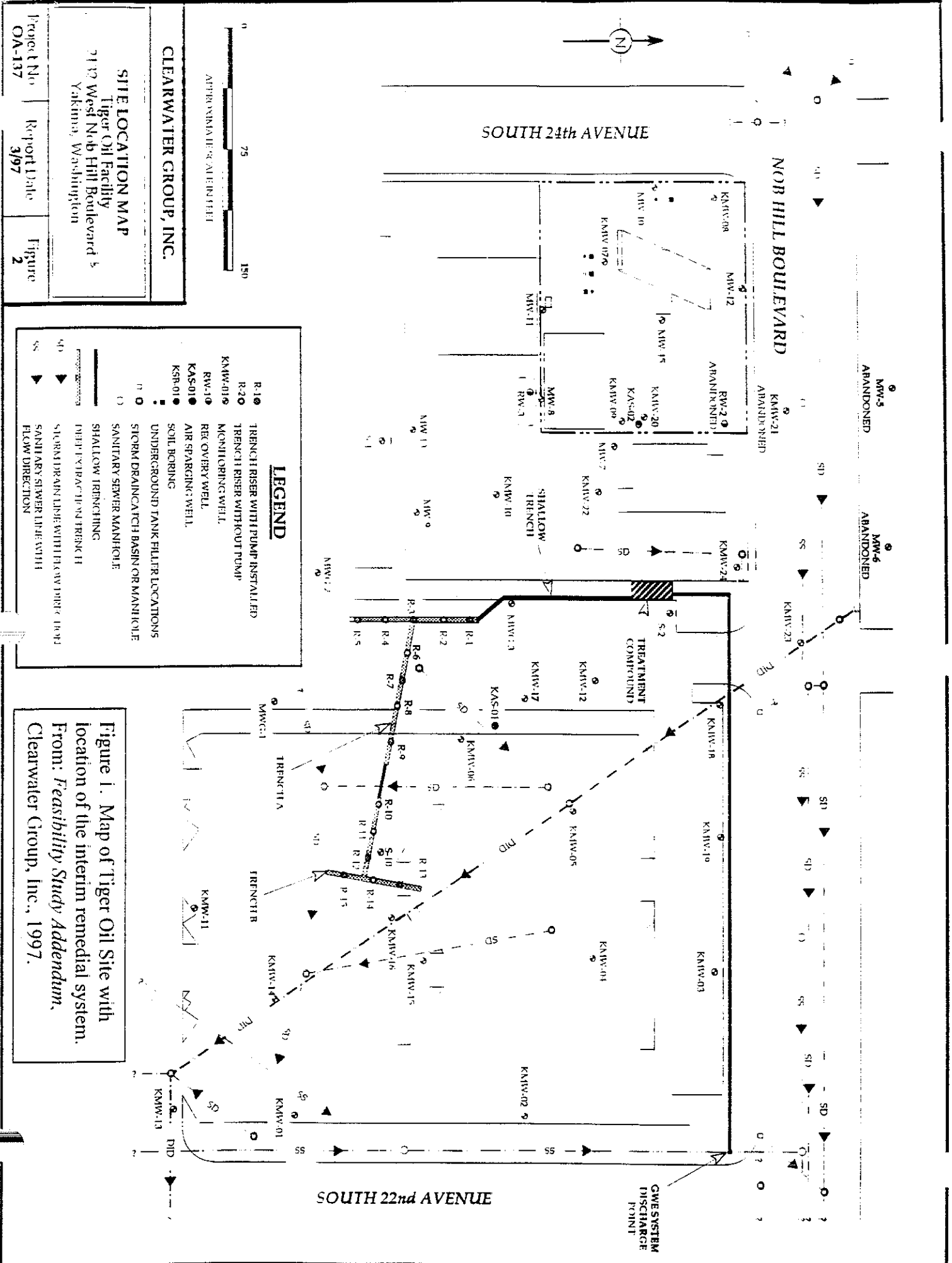


Figure 1. Map of Tiger Oil Site with location of the interim remedial system. From: *Feasibility Study Addendum*, Clearwater Group, Inc., 1997.