

LAW OFFICES
SHORT CRESSMAN & BURGESS PLLC

JOHN P. AHLERS
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LESLIE C. CLARK
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PAUL J. DAYTON
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JOHN J. HOULIHAN, JR.
DANIEL F. JOHNSON
CLAUDIA KILBREATH
JANET S. KIM
RUSSELL S. KING

999 THIRD AVENUE, SUITE 3000
SEATTLE, WASHINGTON 98104-4088
FAX: (206) 340-8856
(206) 682-3333
www.scblaw.com

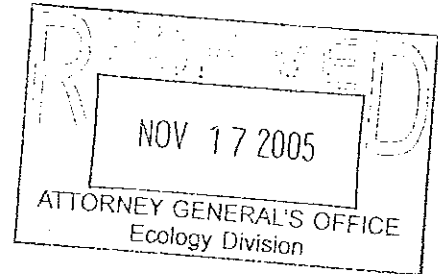
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JOHN D. SULLIVAN
PAUL R. WILLETT
LISA A. WOLFARD
* OF COUNSEL

November 16, 2005

VIA FEDERAL EXPRESS

Ms. Kay Shirey
Assistant Attorney General
2425 Bristol Court S.W., 2nd Floor
P.O. Box 40117
Olympia, WA 98504-0117



Re: *Hytec, Inc.: Agreed Order No. 2888*

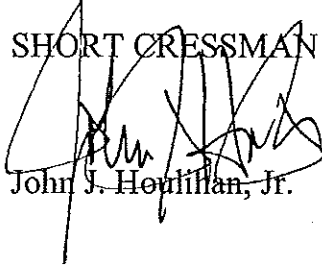
Dear Kay:

Enclosed is Hytec, Inc.'s original executed agreed Order No. 2888 In the Matter of Remedial Action by Mr. and Mrs. Chauncey & Elizabeth Lufkin and Hytec, Inc.

If you have any questions, please do not hesitate to give me a call.

Very truly yours,

SHORT CRESSMAN & BURGESS PLLC


John J. Houlihan, Jr.

JJH:lkh
Enclosure

**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

In the Matter of Remedial Action by:	AGREED ORDER
Mr. and Mrs. Chauncey & Elizabeth Lufkin.	No. 2888
Hytec, Inc.	

TO: Mr. and Mrs. Chauncey & Elizabeth Lufkin
19 Country Club Dr. SW
Tacoma, WA 98498

Hytec, Inc.
c/o Registered Agent
CT Corporation System
520 Pike Street
Seattle, WA 98101

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Exhibit A: Site Diagram

Exhibit B: Compliance with Applicable Laws

I. INTRODUCTION

The mutual objective of the State of Washington, Department of Ecology (Ecology), Chauncy and Elizabeth Lufkin (the Lufkins) and Hytec, Inc. under this Agreed Order (Order) is to provide for remedial action at a facility where there has been a release or threatened release of hazardous substances. This Order requires the Lufkins and Hytec, Inc. to perform a remedial investigation and feasibility study (RI/FS) and to prepare a draft cleanup action plan for the Hytec Little Rock Site in Olympia, Washington. Ecology believes the actions required by this Order are in the public interest.

II. JURISDICTION

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

III. PARTIES BOUND

This Agreed Order shall apply to and be binding upon the Parties to this Order, their successors and assigns. The undersigned representative of each Party hereby certifies that he or she is fully authorized to enter into this Order and to execute and legally bind such Party to comply with the Order. The Lufkins and Hytec, Inc. agree to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter the Lufkins' or Hytec, Inc.'s responsibility under this Order. The Lufkins and Hytec, Inc. 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 complies with this Order.

IV. DEFINITIONS

Unless otherwise specified herein, 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.

1. Site: The Site is referred to as the Hytec Little Rock Site, and is generally located at 13434 S.W. Halo Kuntux Lane, Olympia, Washington. The Site is defined by the extent of contamination caused by the release of hazardous substances at the Site. Based upon factors

currently known to Ecology, the Site is more particularly described in Exhibit A to this Order, which includes a detailed Site diagram. The Site constitutes a Facility under RCW 70.105D.020(4). The total site is approximately 44 acres.

2. Parties: Refers to the State of Washington, Department of Ecology, Mr. and Mrs. Chauncey and Elizabeth Lufkin (the Lufkins), and Hytec, Inc.

3. PLPs: Refers to Mr. and Mrs. Chauncey and Elizabeth Lufkin (the Lufkins) and Hytec, Inc. for the purposes of this Order.

4. Agreed Order or Order: Refers to this Order and each of the exhibits to the Order. All exhibits are integral and enforceable parts of this Order. The terms "Agreed Order" or "Order" shall include all exhibits to the Order.

V. FINDINGS OF FACT

Ecology makes the following findings of fact, without any express or implied admissions of such facts by PLPs.

1. The site is generally located at 13434 S.W. Halo Kuntux Lane, Olympia, Washington (Township 16, Range 3 West, Section 9) (Latitude: 46° 55' 31.8" Longitude: 122° 56' 19"). The property(s) upon which the site is generally located is bounded to the north and east by residential properties, to the west by 77.3 acres of land owned by Washington State Department of Natural Resources and to the south by Bordeaux Road. The other side of Bordeaux Road is undeveloped. The nearest town is Littlerock.

2. Mr. and Mrs. Chauncey Lufkin (the Lufkins) currently own the property located at 13434 S.W. Halo Kuntux Lane, Olympia, Washington (Township 16, Range 3 West, Section 9) (Latitude: 46° 55' 31.8" Longitude: 122° 56' 19"), which comprises 24 acres. Originally, the Lufkins owned a larger 44 acre parcel of property, which they purchased in 1975, that included their current property. This larger 44 acre property was eventually subdivided into the current Lufkin property plus 4 residential lots (comprising approximately 5 acres each).

3. In 1998, the Lufkins sold two of these parcels to Joseph Monte, who subsequently sold the parcels to Juliane M. Morgan, and Richard E & Cecile E Spears. Juliane M. Morgan currently owns the property located at 13405 Halo Kuntux Lane S.W. Olympia, Washington 98512, and has built a home on her land. Richard E & Cecile E Spears parcel is vacant and located at 13333 Halo Kuntux Lane S.W. Olympia, Washington 98512. In 1998, Mr. Pavlicek bought two 5 acres parcels from the Lufkins, located at 13423 Halo Kuntux Lane S.W. Olympia, Washington 98512. Mr. Pavlicek built a house on one parcel and the other parcel is a vacant lot. The Lufkins retained the parcel which comprises approximately 24 acres and is located at 13434 S.W. Halo Kuntux Lane in Olympia, which is undeveloped and includes a former gravel pit along Bordeaux Road.

4. The Pavlicek property has a drinking water well located 60 feet below ground surface (bgs). In addition, the Morgan property has a drinking water well located 180 feet bgs below ground surface.

5. Mr. Lufkin served as President of Hytec, Inc. (Hytec), a fiberglass manufacturing company that manufactured fiberglass bathroom fixtures, until 1986. Hytec was incorporated in Washington State in 1968.

6. During the mid-1970's, Hytec generated fiberglass manufacturing waste including fiberglass trimmings and drums of waste polyester resin, and disposed of this waste by burying this waste on the north-central portion of the original 44-acre property owned by the Lufkins. This disposal was performed under a solid waste dump permit issued to Hytec by the Thurston-Mason Health District in 1976, in accordance with Article IX of the Thurston-Mason Sanitary Code. The localized area of waste burial by Hytec is readily visible from aerial photographs taken during the 1970's.

7. Philips Industries, Inc., an Ohio corporation, purchased all the outstanding capital stock of Hytec, Inc. from Mr. Lufkin as the principle stock holder in 1986. Hytec, Inc. is still registered as an active corporation in Washington State.

8. Access to the Lufkins' property at 13434 S.W. Halo Kuntux Lane was not restricted from at least the late 1970's through the mid 1990's, when a gate was installed. Intermittent dumping of household waste by unknown third parties occurred along the former access road. During a site walk conducted on April 22, 2004, Ecology staff noted several areas where household wastes had been dumped at the property. The source(s) of this waste or parties who dumped this waste are not known.

9. A soil gas survey was performed at the site from October 28 to October 30, 1990, by Science Application International Corporation (SAIC), under contract to Ecology. Several organic compounds were detected during the soil gas survey of the property. The maximum organic solvent concentration was of methylene chloride at 1,110 ppbv. Another solvent 1,1, -dichloroethylene was detected in five of seven soil gas samples. Benzene, ethylbenzene, toluene, m-xylene and/or o-xylene were detected at 17 of the sample locations. A magnetic survey was performed by SAIC in 1990. This study concluded that there may be buried drums or metallic material at various locations at the Site. Also during this study several drums were observed on the surface of the ground.

10. Following the Site Hazard Assessment (SHA) in 1990, Department of Ecology (Ecology) ranked this site as 3 (1 indicating the highest relative risk and 5 the lowest) under the Washington Ranking Method (Warm). In August 1992, Ecology informed Mr. Chauncey Lufkin that Warm ranking for the site had been reduced to 4. In July 1993, prior to the time anyone resided at or on the Site, the Washington State Department of Health conducted a preliminary

assessment of the potential for the Site to affect public health and concluded, at that time, that the Site did not present a significant hazard to public health.

11. In 2003, Mr. Lufkin hired Paul W. Stemen of Stemen Environmental, Inc. to perform a site investigation. Mr. Stemen submitted a voluntary cleanup application (VCP) on behalf of Mr. Lufkin to Ecology in September 2003.

12. Mr. Stemen began performing a site investigation by allegedly excavating test pits and collecting soil samples at various locations on the site and groundwater samples from the Pavlicek and Morgan wells. On April 11, 2004, Paul Stemen wrote a letter to Ecology stating he wished to withdraw the VCP application since he no longer represented Mr. Lufkin. He also submitted the sampling data he had gathered regarding soil and groundwater at the site. The information Mr. Stemen submitted was in the form of raw data and did not have an accompanying report. Therefore, the locations of soil testing are not clear. The data indicates a concentration of 12 mg/kg of naphthalene had been measured in soil sample D1-L2. The location of D1-L2 is unknown. This value is more than twice the Method A soil cleanup standard for unrestricted land use (5 mg/kg). The groundwater sample from the Morgan well had a concentration of 1.09 µg/l of naphthalene. The Method A cleanup level for naphthalene in groundwater is 160 µg/l. In the Pavlicek well, trichlorofluoromethane was measured to be 2.1 µg/l. There is no Method A cleanup standard for trichlorofluoromethane. Concentrations ranging from 330 to 800 mg/kg of lead were measured in soil samples D1-L1, SLF- 2 and SLF-1 (the sample locations were unspecified). These values are higher than the Method A soil cleanup standard for unrestricted land use (250 mg/kg). In addition to naphthalene, trichlorofluoromethane and lead, a number of volatile organic compounds such as chlorobenzene, ethylbenzene, styrene, benzyl alcohol, 2-methylnaphthalene, 1-methylnaphthalene,

dimethylphthalate, fluorine, phenanthrene, di-n-butylphthalate, fluoranthene, pyrene, benzo (a) anthracene, chrysene, bis (2-ethylhexyl) phthalate, benzo (b) fluoranthene, and metals such as chromium, barium, and lead were detected in soil and groundwater during the preliminary study by Stemen Environmental, Inc. The laboratory analysis was performed by Environmental Services Network. Because no written report accompanied the Stemen Environmental data, it is unknown whether the samples were collected, stored, and transported in accordance with acceptable sample collection and analysis methods and no confirmation of the sampling and analysis protocols has occurred.

13. Mr. Lufkin resubmitted a request to enter the Site in the VCP. In April 2004, Ecology informed Mr. Lufkin that his second VCP application was not accepted and the site should be investigated and remediated under a formal agreement with Ecology. Among other things, the justification for rejection of the second VCP application was the property had been zoned as single-family homes. Therefore, to ensure that human health and the environment is protected, Ecology determined direct oversight during investigation and cleanup was necessary.

VI. ECOLOGY DETERMINATIONS

1. Chauncey and Elizabeth Lufkin (the Lufkins) are "owners or operators" as defined in RCW 70.105D.020(12), of a "facility" as defined in RCW 70.105D.020(4).

2. Hytec, Inc. (Hytec) is a "person" as defined in RCW 70.105D.020(14), who owned or possessed a hazardous substance and who by contract, agreement, or otherwise arranged for its disposal at a "facility" as defined in RCW 70.105D.020(4), or otherwise generated hazardous wastes disposed of at the facility.

3. Based upon all factors known to Ecology, a "release" or "threatened release" of "hazardous substance(s)" as defined in RCW 70.105D.020(20) and RCW 70.105D.020(7), respectively, has occurred at the Site.

4. Based upon Ecology's determination of credible evidence, Ecology issued a potentially liable person status letter to the Lufkins dated April 19, 2004, pursuant to RCW 70.105D.040, -.020(16) and WAC 173-340-500. After providing for notice and opportunity for comment, reviewing any comments submitted, and concluding that credible evidence supported a finding of potential liability, Ecology issued a determination that the Lufkins are potentially liable persons under RCW 70.105D.040 and notified the Lufkins of this determination by letter dated August 10, 2004.

5. Based upon Ecology's determination of credible evidence, Ecology issued a potentially liable person status letter to Hytec on November 12, 2004 pursuant to RCW 70.105D.040, -.020(16) and WAC 173-340-500. After providing for notice and opportunity for comment, reviewing any comments submitted, and concluding that credible evidence supported a finding of potential liability, Ecology issued a determination that Hytec, Inc. is a potentially liable person under RCW 70.105D.040 and notified Hytec, Inc. of this determination by letter dated December 22, 2004.

6. Pursuant to RCW 70.105D.030(1) and -.050(1), Ecology may require PLPs to investigate or conduct other remedial actions with respect to any release or threatened release of hazardous substances, whenever it believes such action to be in the public interest. Based on the foregoing facts, Ecology believes the remedial actions required by this Order are in the public interest.

VII. WORK TO BE PERFORMED

Based on the Findings of Fact and Ecology Determinations, it is hereby ordered that PLPs take the following remedial actions at the Site and that these actions be conducted in accordance with Chapter 173-340 WAC unless otherwise specifically provided for herein:

1. Draft Remedial Investigation Work Plan

Within forty five (45) days of the effective date of this Order, the PLPs shall submit to Ecology for review and approval a draft remedial investigation (RI) work plan as outlined in WAC 173-340-350 which includes, but is not limited to:

- a. Draft sampling and analysis plan, which includes quality assurance/quality control activities prepared per the requirements of WAC 173-340-820, and which shall include a description of the analytical methods, parameters and reporting limits of contaminants of concern, in addition to all quality assurance/quality control details needed as described in the most recent publication *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods (SW-846)*. All sampling data shall be submitted to Ecology according to the requirements of WAC 173-340-840(5), in printed form and in electronic form capable of being transferred into the department's data management system. The PLPs shall submit electronic data to Ecology according to the guidance and data submittal requirements provided at <http://www.ecy.wa.gov/eim/>.
- b. Terrestrial ecological evaluation, determining the nature and extent of site soils and groundwater contamination, and actions as provided in WAC 173-340-350.
- c. Draft health and safety plan in accordance with WAC 173-340-810 (2). All work performed at the site shall be in accordance with the provisions specified in WAC 173-340-810 (1). Although the health and safety plan shall be submitted to Ecology for review and comment, Ecology does not approve the plan.
- d. A process for identifying the locations of solid waste, metallic drums and other metallic and non-metallic containers that may have been land-filled, and a

description of the procedures that will be used to identify and characterize the solid waste and contents of the drums for proper disposal.

e. A description of the procedures that will be used for interim contaminated soil removal in accordance with WAC 173-340-430 (7).

2. Final Remedial Investigation Work Plan

After receiving Ecology's comments on the draft work plan, the PLPs shall incorporate Ecology's comments into the final work plan and submit the final work plan to Ecology for review and approval. The final RI work plan as approved by Ecology will be an integral and enforceable part of the Order. PLPs will implement the final RI work plan in accordance with the schedule approved in the final RI work plan or as modified, in writing, and approved by Ecology.

3. Remedial Investigation Report

Within ninety (90) days of receiving all analytical data to be developed pursuant to the Remedial Investigation, PLPs shall submit a draft remedial investigation report to Ecology for review in accordance with applicable sections of WAC 173-340-350. Ecology will endeavor to provide written comments on the draft remedial investigation report within 30 days of receipt of the draft. Within thirty (30) days of receiving Ecology's comments on the draft remedial investigation report, the PLPs shall incorporate Ecology's comments into a final remedial investigation report and submit the same to Ecology for review and approval.

4. Feasibility Study

Within sixty (60) days of Ecology's approval of the final remedial investigation report, the PLPs shall submit a draft feasibility study (FS) report to Ecology per the requirements of Chapter 173-340-350 WAC. Ecology will endeavor to provide written comments on the draft FS report within 30 days of receipt of the draft. Within thirty (30) days of receiving Ecology's

comments on the draft FS report, PLPs shall incorporate Ecology's comments into the final FS report and the final FS report shall be submitted to Ecology for review and approval.

5. Draft Cleanup Action Plan

Within sixty (60) days of Ecology's approval of the final FS report, PLPs shall submit a draft cleanup action plan (CAP) to Ecology to satisfy the requirements of WAC 173-340-380.

6. Progress Reports

The PLPs shall provide a bi-monthly [every two (2) months] progress report on the work performed under this Order, which shall include the following:

- Activities that happened in the past two (2) months;
- Activities planned for the next two (2) months; and
- A written summary of all lab data required by this Order in an Ecology-approved electronic format.

The progress report frequency may be revised upon approval of Ecology's project coordinator.

7. If, at any time after the first exchange of comments on drafts, Ecology determines that insufficient progress is being made in the preparation of any of the deliverables required by this section, Ecology may complete and issue the final deliverable.

VII. TERMS AND CONDITIONS OF ORDER

A. Public Notices

This Order will be the subject of concurrent public notice and comment pursuant to WAC 173-340-600(11)(c).

B. Remedial Action Costs

PLPs shall pay to Ecology costs incurred by Ecology pursuant to this Order and consistent with WAC 173-340-550(2). These costs shall include work performed by Ecology or

its contractors for, or on, the Site under Chapter 70.105D RCW, including remedial actions and Order preparation, negotiation, oversight, and administration. These costs shall include work performed both prior to and subsequent to the issuance of the Order. PLPs 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 statement of work performed will also be provided. Itemized statements shall be prepared quarterly. Pursuant to WAC 173-340-550(4), failure to pay Ecology's costs within ninety (90) days of receipt of the itemized statement of costs will result in interest charges at the rate of twelve percent (12%) per annum, compounded monthly.

C. Implementation of Remedial Action

Except where necessary to abate an emergency situation, PLPs shall not perform any remedial actions at the Site outside those remedial actions required by this Order, unless Ecology concurs, in writing, with such additional remedial actions.

D. Designated Project Coordinators

The project coordinator for Ecology is:

Mohsen Kourehdar, P.E., Site Manager
Ecology's Southwest Regional Office
Toxics Cleanup Program
300 Desmond Dr.
PO Box 47775
Olympia, WA 98504-7775
(360) 407-6256
mkou461@ecy.wa.gov

The project coordinator for the Lufkins is:

William E. Halbert, L.G., L.HG.
Insight Geologic, PLLC
2401 Bristol Court SW
Olympia, WA 98502
360-754-4240
geologic@bcsoly.com

The project coordinator for Hytec, Inc. is:

Short Cressman & Burgess PLLC
John J. Houlihan, Jr.
999 Third Avenue, Suite 3000
Seattle, WA 98104-4088

The project coordinator(s) shall be responsible for overseeing the implementation of this Order. The Ecology project coordinator will be Ecology's designated representative for the Site. To the maximum extent possible, communications between Ecology and PLPs, 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).

Ecology and PLPs may change their respective project coordinator, but must provide ten (10) days advance written notification of the change to the other party.

E. Performance

All work performed pursuant to this Order shall be under the direction and supervision, as necessary, of a licensed professional engineer or licensed hydrogeologist, or equivalent as approved by Ecology, with experience and expertise in hazardous waste site investigation and cleanup. PLPs shall notify Ecology in writing of the identity of such engineer(s), or hydrogeologist(s), or others, 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.

Any construction work performed pursuant to the Order shall be under the supervision of a professional engineer or a qualified technician under the direct supervision of a professional engineer. The professional engineer must be registered in the State of Washington, except as provided in RCW 18.43.130.

F. Access

Ecology or any Ecology authorized representative shall have the full authority to enter and freely move about all property at the Site that PLPs either own, control, or have access rights to 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 PLPs' progress in carrying out the terms of this Order; conducting such tests or collecting such samples as Ecology 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 PLPs. PLPs shall make all reasonable efforts to secure access rights for those properties within the Site not owned or controlled by PLPs where remedial activities or investigations will be performed pursuant to this Order. Ecology or any Ecology authorized representative shall give reasonable notice before entering any Site property owned or controlled by PLPs unless an emergency prevents such notice. All persons who access the Site pursuant to this paragraph shall comply with the approved health and safety plan, if any. Ecology employees and their representative shall not be required to sign any release or waiver as a condition of site property access.

G. Sampling, Data Reporting, and Availability

With respect to the implementation of this Order, PLPs shall make the results of all sampling, laboratory reports, and/or test results generated by it or on its behalf available to Ecology and shall submit these results in accordance with Section VIII (1)(a) of this Order.

All sampling data shall be submitted to Ecology according to the requirements of WAC 173-340-840(5). These submittals shall be provided to Ecology in accordance with Section VIII (1)(a) of this Order.

If requested by Ecology, PLPs shall allow split or duplicate samples to be taken by Ecology and/or its authorized representative of any samples collected by PLPs pursuant to implementation of this Order. PLPs shall notify Ecology seven (7) days in advance of any sample collection or work activity at the Site. Ecology shall, upon request, allow split or duplicate samples of any samples collected by Ecology pursuant to the implementation of this Order to be taken by PLPs or their authorized representative provided it does not interfere with Ecology's sampling. Without limitation on Ecology's rights under Section VIII.F. of this Order,

Ecology shall notify PLPs seven (7) days prior to any sample collection activity unless an emergency prevents such notice.

In accordance with WAC 173-340-830(2)(a), all hazardous substance analyses shall be conducted by a laboratory accredited under Chapter 173-50 WAC for the specific analyses to be conducted, unless otherwise approved by Ecology.

H. Public Participation

A public participation plan is required for this Site. Ecology shall review any existing public participation plan to determine its continued appropriateness and whether it requires amendment, or if no plan exists, Ecology shall develop a public participation plan alone or in conjunction with PLPs.

Ecology shall maintain the responsibility for public participation at the Site. However, PLPs shall cooperate with Ecology, and shall:

1. If agreed to by Ecology, develop appropriate mailing list, prepare drafts of public notices and fact sheets at important stages of the remedial action, such as the submission of work plans, remedial investigation/feasibility study reports, cleanup action plans, and engineering design reports. As appropriate, Ecology will edit, finalize, and distribute such fact sheets and prepare and distribute public notices of Ecology's presentations and meetings;

2. Notify Ecology's project coordinator prior to any of the following: the issuance of all press releases; distribution of fact sheets; performance of other outreach activities; meetings with the interested public and/or local governments. Likewise, Ecology shall notify PLPs prior to the issuance of all press releases and fact sheets, and before meetings with the interested public and local governments. For all press releases, fact sheets, meetings, and other outreach efforts by PLPs that do not receive prior Ecology approval, PLPs shall clearly indicate to its audience that the press release, fact sheet, meeting, or other outreach effort was not sponsored or endorsed by Ecology;

3. When requested by Ecology, participate in public presentations on the progress of the remedial action at the Site. Participation may be through attendance at public meetings to assist in answering questions, or as a presenter;

4. When requested by Ecology, arrange and/or continue information repositories to be located at the following locations:

(a) Tumwater Timberland Regional Library
313 8th Avenue SE
Olympia, WA 98501-9300
(360) 352-0595

(b) Ecology's Southwest Regional Office
Toxics Cleanup Program
300 Desmond Dr.
PO Box 47775
Olympia, WA 98504-7775
(360) 407-6256

At a minimum, copies of all public notices, fact sheets, and press releases; all quality assured monitoring data; remedial action plans and reports, supplemental remedial planning documents, and all other similar documents relating to performance of the remedial action required by this Order shall be promptly placed in these repositories.

I. Retention of Records

During the pendency of this Order and for ten (10) years from the date of completion of work performed pursuant to this Order, PLPs shall preserve all records, reports, documents, and underlying data in its possession relevant to the implementation of this Order and shall insert a similar record retention requirement into all contracts with project contractors and subcontractors. Upon request of Ecology, PLPs shall make all records available to Ecology and allow access for review within a reasonable time.

J. Resolution of Disputes

1. In the event a dispute arises as to an approval, disapproval, proposed change, or other decision or action by Ecology's project coordinator, the Parties shall utilize the dispute resolution procedure set forth below.

(a) Upon receipt of the Ecology project coordinator's decision, PLPs have fourteen (14) days within which to notify Ecology's project coordinator of its objection to the decision.

(b) The Parties' project coordinators shall then confer in an effort to resolve the dispute. If the project coordinators cannot resolve the dispute within fourteen (14) days, Ecology's project coordinator shall issue a written decision.

(c) PLPs may then request Ecology management review of the decision. This request shall be submitted in writing to the Southwest Region Toxics Cleanup Section Manager within fourteen (14) days of receipt of Ecology's project coordinator's decision.

(d) The Section Manager shall conduct a review of the dispute and shall endeavor to issue a written decision regarding the dispute within sixty (60) days of PLPs' request for review. The Section Manager's decision shall be Ecology's final decision on the disputed matter.

2. The Parties agree to only utilize the dispute resolution process in good faith and agree to expedite, to the extent possible, the dispute resolution process whenever it is used.

3. Implementation of these dispute resolution procedures shall not provide a basis for delay of any activities required in this Order, unless Ecology agrees in writing to a schedule extension.

K. Extension of Schedule

1. An extension of schedule shall be granted only when a request for an extension is submitted in a timely fashion, generally at least thirty (30) days prior to expiration of the deadline for which the extension is requested, and good cause exists for granting the extension. All extensions shall be requested in writing. The request shall specify the reason(s) the extension is needed. The request shall specify:

- (a) The deadline that is sought to be extended;
- (b) The length of the extension sought;
- (c) The reason(s) for the extension; and

(d) Any related deadline or schedule that would be affected if the extension were granted.

2. The burden shall be on PLPs to demonstrate to the satisfaction of Ecology that the request for such extension has been submitted in a timely fashion and that good cause exists for granting the extension. Good cause includes, but is not limited to:

(a) Circumstances beyond the reasonable control and despite the due diligence of PLPs including delays caused by unrelated third parties or Ecology, such as (but not limited to) delays by Ecology in reviewing, approving, or modifying documents submitted by PLPs; or

(b) Acts of God, including fire, flood, blizzard, extreme temperatures, storm, or other unavoidable casualty; or

(c) Endangerment as described in Section VIII.M. of this Order.

However, neither increased costs of performance of the terms of this Order nor changed economic circumstances shall be considered circumstances beyond the reasonable control of PLPs.

3. Ecology shall act upon any written request for extension in a timely fashion. Ecology shall give PLPs written notification in a timely fashion of any extensions granted pursuant to the Order. A requested extension shall not be effective until approved by Ecology. Unless the extension is a substantial change, it shall not be necessary to amend this Order pursuant to Section VIII.L. when a schedule extension is granted.

4. An extension shall only be granted for such period of time as Ecology determines is reasonable under the circumstances. Ecology may grant schedule extensions exceeding ninety (90) days only as a result of:

(a) Delays in the issuance of a necessary permit which was applied for in a timely manner;

(b) Other circumstances deemed exceptional or extraordinary by Ecology; or

(c) Endangerment as described in Section VIII.M. of this Order.

L. Amendment of Order

The project coordinators may verbally agree to minor changes to the work to be performed without formally amending this Order. Minor changes will be documented in writing by Ecology within seven (7) days of verbal agreement.

Except as provided in Section VIII.N. of this Order, substantial changes to the work to be performed shall require formal amendment of this Order. This Order may only be formally amended by the written consent of both Ecology and both PLPs. PLPs shall submit a written request for amendment to Ecology for approval. Ecology shall indicate its approval or disapproval in writing and in a timely manner after the written request for amendment is received. If the amendment to the Order represents a substantial change, Ecology will provide additional public notice and opportunity to comment. If Ecology does not agree to a proposed amendment, the disagreement may be addressed through the dispute resolution procedures described in Section VIII.J. of this Order.

M. Endangerment

In the event Ecology determines that any activity being performed at the Site is creating or has the potential to create a danger to human health or the environment on or surrounding the Site, Ecology may direct PLPs to cease such activities for such period of time as it deems necessary to abate the danger. PLPs shall immediately comply with such direction.

If, for any reason, PLPs determines that any activity being performed at the Site is creating or has the potential to create a danger to human health or the environment, PLPs may cease such activities. PLPs shall notify Ecology's project coordinator as soon as possible, but no later than twenty-four (24) hours after making such determination or ceasing such activities. Upon Ecology's direction PLPs shall provide Ecology with documentation of the basis for the determination or cessation of such activities. If Ecology disagrees with PLPs' cessation of activities, it may direct PLPs to resume such activities.

If Ecology concurs with or orders a work stoppage pursuant to this section, PLPs' obligations with respect to the ceased activities shall be suspended until Ecology determines the

danger is abated, and the time for performance of such activities, as well as the time for any other work dependent upon such activities, shall be extended for such period of time as Ecology determines is reasonable under the circumstances.

Nothing in this Order shall limit the authority of Ecology, its employees, agents, or contractors to take or require appropriate action in the event of an emergency.

N. Reservation of Rights/No Settlement

This Order is not a settlement under Chapter 70.105D RCW. Ecology's signature on this Order in no way constitutes a covenant not to sue or a compromise of any Ecology rights or authority. Ecology will not, however, bring an action against PLPs to recover remedial action costs paid to and received by Ecology under this Order. In addition, Ecology will not take additional enforcement actions against PLPs regarding remedial actions required by this Order, provided PLPs comply with this Order.

Ecology nevertheless reserves its rights under Chapter 70.105D RCW, including the right to require additional or different remedial actions at the Site should it deem such actions necessary to protect human health and the environment, and to issue orders requiring such remedial actions. 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 at the Site.

O. Transfer of Interest in Property

No voluntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Site shall be consummated by PLPs 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 PLPs' transfer of any interest in all or any portion of the Site, and during the effective period of this Order, the PLPs shall serve a copy of this Order upon any prospective purchaser, lessee, transferee, assignee, or other successor in said interest; and, at least thirty (30) days prior to any transfer, the PLPs shall notify Ecology of said transfer. Upon transfer of any

interest, the PLPs shall restrict uses and activities to those consistent with this Order and notify all transferees of the restrictions on the use of the property.

P. Compliance with Applicable Laws

1. All actions carried out by PLPs 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 RCW 70.105D.090.

2. Pursuant to RCW 70.105D.090(1), the substantive requirements of Chapters 70.94, 70.95, 70.105, 77.55, 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 and that are known to be applicable at the time this Order becomes effective, have been included in Exhibit B, and are binding and enforceable requirements of this Order.

PLPs have 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 either Ecology or PLPs determine 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 the other party of its determination. Ecology shall determine whether Ecology or PLPs shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, PLPs 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 PLPs and on how PLPs must meet those requirements. Ecology shall inform PLPs in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. PLPs 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.

3. 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 PLPs 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.

Q. Indemnification

PLPs agree to indemnify and save and hold the State of Washington, its employees, and agents harmless from any and all claims or causes of action for death or injuries to persons or for loss or damage to property arising from or on account of acts or omissions of PLPs, their officers, employees, agents, or contractors in entering into and implementing this Order. However, PLPs shall not indemnify the State of Washington nor save nor hold its employees and agents harmless from any claims or causes of action arising out of the negligent acts or omissions of the State of Washington, or the employees, agents, or invitees of the State, in implementing the activities pursuant to this Order.

VIII. SATISFACTION OF ORDER

The provisions of this Order shall be deemed satisfied upon PLPs' receipt of written notification from Ecology that PLPs have completed the activities required by this Order, as amended by any modifications, and that PLPs have complied with all other provisions of this Agreed Order.

IX. ENFORCEMENT

Pursuant to RCW 70.105D.050, this Order may be enforced as follows:

1. The Attorney General may bring an action to enforce this Order in a state or federal court.
2. The Attorney General may seek, by filing an action, if necessary, to recover amounts spent by Ecology for remedial actions and orders related to the Site.

Agreed Order No. 2888
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3. In the event PLPs refuse, without sufficient cause, to comply with any term of this Order, PLPs will be liable for:

(a) Up to three (3) times the amount of any costs incurred by the State of Washington as a result of its refusal to comply; and


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

4. 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: _____

MR. AND MRS. CHAUNCEY
AND ELIZABETH LUFKIN

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY


CHAUNCEY LUFKIN
By and for himself
and Mrs. Elizabeth Lufkin

REBECCA S. LAWSON, P.E.
Section Manager
Toxics Cleanup Program
Southwest Regional Office

DATE: 11/16/05

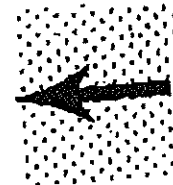
DATE: _____

Hytex, Inc.


Name: Mildred P. Waryk

Title: Assistant Secretary

DATE: 11/15/05



3. In the event PLPs refuse, without sufficient cause, to comply with any term of this Order, PLPs will be liable for:

(a) Up to three (3) times the amount of any costs incurred by the State of Washington as a result of its refusal to comply; and

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

4. 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: 11/28/2005

**MR. AND MRS. CHAUNCEY
AND ELIZABETH LUFKIN**

**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

CHAUNCEY LUFKIN
By and for himself
and Mrs. Elizabeth Lufkin

Rebecca S. Lawson
REBECCA S. LAWSON, P.E.
Section Manager
Toxics Cleanup Program
Southwest Regional Office

DATE: _____

DATE: 11/28/05

Hytex, Inc.

Mildred P. Woryk
Name: Mildred P. Woryk

Title: Assistant Secretary

DATE: 11/15/05

3. In the event PLPs refuse, without sufficient cause, to comply with any term of this Order, PLPs will be liable for:

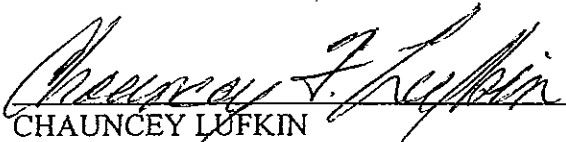
(a) Up to three (3) times the amount of any costs incurred by the State of Washington as a result of its refusal to comply; and

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

4. 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. 28, 2005

MR. AND MRS. CHAUNCEY
AND ELIZABETH LUFKIN



CHAUNCEY LUFKIN
By and for himself
and Mrs. Elizabeth Lufkin

DATE: 11/21/05

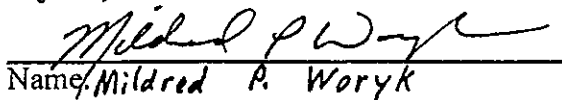
STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY



REBECCA S. LAWSON, P.E.
Section Manager
Toxics Cleanup Program
Southwest Regional Office

DATE: 11/28/05

Hytec, Inc.



Name: Mildred P. Woryk

Title: Assistant Secretary

DATE: 11/15/05

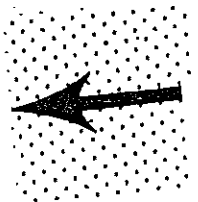


EXHIBIT A: Site Diagram

EXHIBIT B: Compliance with Applicable Laws

Pursuant to Section IX.P of the Order, the substantive requirements of Chapters 70.94, 70.95, 70.105, 77.55, 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 and that are known to be applicable at the time this Order becomes effective are as follows:

1. Minimum Standards for Construction and Maintenance of Wells (Chapter 173-160 WAC)
2. Air Pollution Regulation (Chapter 173-400 WAC)
3. Grading requirements from Thurston County

The remedial investigation work plan shall specifically describe how compliance with all applicable substantive permit requirements will be achieved. In addition, and pursuant to Section IX.P of the Order, PLPs have 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.