

FS 500

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

IN THE MATTER OF REMEDIAL ACTION BY:

Washington Department of Ecology

) YAKIMA Railroad Area
) ~~ENFORCEMENT ORDER~~
) No. DE 95TC-C212

TO:

AAD Distribution & Dry Cleaning
2306 E 38th Street
Vernon, CA 90058

Chem-Tech Systems, Inc.
Attn: Jaqualyn Forrest
Technical Service Manager
3650 E 26th Street
Los Angeles, CA 90023

Fairchild Semiconductor
Attn: Brian W. Curtis, II
North American Environmental Counsel
Schlumberger Limited
205 Industrial Boulevard
Sugar Land, TX 77478

Tosco Refining
Attn: Elissa Warantz
Legal Department
Ste 1100, 2300 Clayton Rd
Concord, CA 94520-2100

Xerox Corporation
Attn: Ann Johnston
Coblentz, Cahen, et al
222 Kearny Street, 7th Floor
San Francisco, CA 94108-4510

IT Corporation
Douglas S. Waltermire
Manager
Environmental Affairs
4585 Pacheco Blvd
Martinez, CA 94552-2233

Arrow Transportation
Attn: Fred Beam
P. O. Box 83159
Portland, OR 97283

McKesson Corporation
Bruce Howard
Latham & Watkins
20th Floor
650 Town Center Drive
Costa Mesa, CA 92626-1925

Applied Solar Energy Corp.
Attn: Mark Shumaker/Ollis Hill
Director
Quality & Production Support
15251 E Don Julian Road
P. O. Box 1212
City of Industry, CA 91749

Phillips Semiconductor
Signetics Co.
James N. Casey, Counsel
811 E. Arques Avenue
Sunnyvale, CA 94086

Gibson Environmental
Attn: Roy Campbell
3300 Truxtun Ave., Suite 200
Bakersfield, CA 99301

Yakima Railroad Area
Enforcement Order
No. DE 95TC-C212
Page 2

Duo-Tang Products
828 Duo-Tang Road
P. O. Box 208
Paw Paw, MI 49079-0289

Preferred Reduction Service
Attn: Kevin Murray
Parry Murray Ward & Moxley
1270 Eagle Creek Tower
60 East South Temple
Salt Lake City, UT 84111

Thomas A. Moore
Frank Wear Cleaners
4704 Douglas Drive
Yakima, WA 98908

Welch's Uniform Rental
Barry Groveman
Proskauer, Rose, et al
Suite 2700
2121 Avenue of the Stars
Los Angeles, CA 90067

Western Waste Industries
Attn: John Mays
Environmental Mngmnt Dept
21061 S Western Avenue
Torrance, CA 90501

Bill Wear
Frank Wear Cleaners
3307 Home Drive
Yakima, WA 98902

EACH OF THE RESPONDENTS IS JOINTLY AND SEVERALLY RESPONSIBLE FOR OBLIGATIONS SET FORTH IN THIS ENFORCEMENT ORDER.

I.

Jurisdiction

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

II.

Findings of Fact

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

- 2.1. The chemical Tetrachloroethylene (also known as Perchloroethylene, Perchloroethene, or Tetrachloroethene, and hereinafter referred to as "PCE"), a volatile organic compound, has been found in groundwater and soil in an area in and around the Cities of Yakima, and Union Gap,

Washington. This area is known as the ~~Yakima Railroad Area~~ (YRRA). The Area consists of the area identified in Figure 1 and any bordering areas whereby PCE contamination is found.

- 2.2. The Washington Department of Health Advisory Level for drinking water is 4 parts per billion (ppb) for PCE. The United States Environmental Protection Agency Maximum Contaminant Level for drinking water is 5 ppb for PCE. Domestic drinking water well sampling has shown PCE at levels up to 31 ppb. Multiple monitoring wells within the aquifer have shown levels over 800 ppb at various locations within the YRRA.
- 2.3. The water table in the Yakima area typically occurs at depths of between 8 and 30 feet below ground surface. The area contains deep, very well-drained soils formed in mixed alluvium. These soils have moderate to high permeabilities and very high permeabilities in the substratum.
- 2.4. Within the YRRA the following subfacilities have been identified as PCE sources:
- Agri-Tech, Inc.
 - Frank Wear Cleaners
 - Fifth Wheel Truck Repair
 - Hahn Motors
 - Westco Martinizing
 - Yakima Valley Spray
 - Cameron Yakima, Inc.
 - Nu-Way Cleaners
 - Paxton Sales
 - Woods Industries/Crop King
 - Southgate Laundry
 - Elliot Tire Center
 - Crest Linen (Diminimis Settlement)
 - Briar Development (Diminimis Settlement)
 - CMX Corporation (Diminimis settlement)
 - Goodwill Industries (Prepurchaser Agreement)
- 2.5. To date Ecology has identified 146 Potentially Liable Persons (PLP's). These PLP's consist of owners, operators,

or persons who arranged for disposal or treatment of PCE at a subfacility within the YRRA.

2.6. On February 11, 1992, Ecology issued Enforcement Order DE 92TC-C108 to eight(8)of the YRRA PLP's. This Order required that the PLP's provide bottled water to residents within the YRRA as defined at that time.

2.7. Over the past three years Ecology has issued Orders (Agreed or Enforcement) for source control work at most of the subfacilities. The subfacilities presently under such an Order are as follows:

1) Cameron Yakima, Inc.: Enforcement Order Issued March 31, 1994.

2) Frank Wear Cleaners: Agreed Order Issued November 7, 1994.

3) Fifth Wheel Truck Repair: Enforcement Order Issued January 13, 1995.

4) U-Haul (Yakima Valley Spray): Enforcement Order Issued December 16, 1991.

5) Paxton Sales: Agreed Order issued September 30, 1994.

6) Nu-Way Cleaners: Enforcement Order Issued September 30, 1994.

7) Woods Industries/Crop King: EPA Order on Consent for Necessary Response Actions Issued September 29, 1988.

8) Westco Martinizing: Agreed Order Issued January 13, 1995.

These Orders all require that the respondents undertake site specific remedial investigation work aimed at identifying the extent of soil contamination in three dimensions. Similar Orders are being prepared for the remaining subfacilities.

- 2.8. Specific data regarding the PCE contamination levels found throughout the YRRA is available in Ecology's files located at 15 West Yakima Avenue, Yakima, Washington. This information may be accessed through a public disclosure request. Direct said requests to Judy Weston, Washington Department of Ecology, (509)457-7121.
- 2.9. The YRRA population consists of approximately 50% non-English speaking persons. Median income level of approximately 60% of the YRRA population is below Federal poverty levels.

III.

Ecology Determinations

- 3.1 The Respondents named in this Order are "owners or operators" or "persons who owned or possessed a hazardous substance and who by contract, agreement, other otherwise arranged for disposal or treatment of the hazardous substance at the facility, or arranged with a transporter for transport for disposal or treatment of the hazardous substances at the facility, or other wise generated hazardous wastes disposed of or treated at the facility", as defined in 70.105D of the Revised Code Of Washington.
- 3.2 The Facility is known as the Yakima Railroad Area, which consists of the area where PCE is known to have come to be located, within Sections 24, 25, and 36 of Township 13 North, Range 18 East and Sections 19, 29, 30, 31, and 32 of Township 13, Range 19 East W.M.
- 3.3 PCE is a "hazardous substance" as defined in RCW 70.105D.020(5).
- 3.4 Based on the presence of this hazardous substance and all known factors known to Ecology, there has been a release or threatened release of a hazardous substance, as defined in RCW 70.105D.020(10).

- 3.5 Ecology has notified the Respondents of their status as "Potentially Liable Person(s)" under RCW 70.105D.040.
- ~~3.6. Pursuant to RCW 70.105D.030(1) and RCW 70.105D.050, Ecology may require PLPs to investigate or conduct other remedial actions with respect to the release or threatened release of hazardous substances, whenever it believes such action to be in the public interest.~~
- 3.7. Based on the foregoing facts, Ecology believes the remedial action required by the Order is in the public interest.

IV.

Work to be Performed

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

- 4.1 Within the YRRA is an area known as "9th Avenue". This area is located in the southwestern portion of the YRRA and includes the 1500 through 1800 blocks of South 9th Ave. A specific listing of addresses is identified in attachment A.

Historic groundwater sampling data has indicated the presence of PCE in the groundwater utilized for domestic drinking water purposes.

The respondents will provide for the connection of these homes to the appropriate municipal water system or conduct immediate sampling of the domestic tap water in the area to determine if PCE is present. At a minimum every third house will be sampled as part of the sampling program. After the initial sampling event, if PCE is present in the groundwater the Respondents shall immediately provide bottled drinking water to the effected households and shall provide connection to the municipal water system within six months

of detection. If PCE is not detected in the initial round of sampling the Respondents may choose to either connect the homes to municipal water or may institute a program of quarterly groundwater sampling in the area which shall run for 2 years or until Ecology determines that sufficient data is available to statistically show that contamination is not present. Within 15 days of the date of this Order the respondents will indicate to Ecology the schedule for connection to the municipal water system or tapwater sampling. Sampling will begin immediately upon Ecology approval.

- 4.2. No later than ninety (90) days after issuance of this Enforcement Order, Respondents shall submit to Ecology for review and approval, a draft Work Plan (Plan) for completion of a Remedial Investigation/Feasibility Study (RI/FS). The plan shall be designed to fully characterize the extent of PCE contamination in the groundwater found within the YRRA. This draft Plan shall consist of a detailed RI/FS work plan which, at a minimum, shall address the RI/FS components outlined in Attachment B. Attachment B is incorporated by this reference and is an integral and enforceable part of this Order. The draft Plan will also include a Schedule of Deliverables as outlined in Attachment C. Attachment C is incorporated by this reference and is an integral and enforceable part of this Order. It is expected that the Respondents will approach the work required in Attachment A in phases with the FS not occurring until approval of the RI is issued by Ecology.

Sixty Days (60) after receipt of Ecology's comments on the draft Plan, the Respondents, shall submit a final Plan for approval by Ecology.

No later than thirty (30) days after receipt of Ecology's written approval of the final Plan, the Respondents shall begin the RI/FS work described in the Plan. The RI/FS work shall be completed according to the time frame and schedules described in the approved Plan, not to exceed a total of 24 months.

The RI/FS will collect, develop, and evaluate sufficient information regarding the Facility to enable the selection of a cleanup action under WAC 173-340-360. The RI/FS will be implemented to meet the requirements of WAC 173-340-350.

In addition to identifying the full extent of groundwater contamination both horizontally and vertically, the RI/FS shall be designed to:

- a) Identify any remaining homes either within the YRRA or hydraulically downgradient which may be using potentially contaminated groundwater;
- b) Identify any businesses either within the YRRA or hydraulically downgradient which may be using potentially contaminated groundwater.
- c) Assess the threat of contamination to the City of Union Gap municipal wells.

- 4.3. Respondents will develop and submit to Ecology for approval a Quality Assurance/Quality Control (QA/QC) Plan in accordance with the Ecology Guidelines and Specifications for Preparing Quality Assurance Project Plans (May 1991), Attachment D. Attachment D is incorporated by this reference and is an integral and enforceable part of this Order. No sampling associated with this Order may be conducted prior to Ecology approval of the QA/QC Plan. The QA/QC Plan may be incorporated within the RI/FS workplan.
- 4.4. Results from sampling events shall be provided to Ecology's project coordinator within 14 days of receipt from the laboratory by the respondents, or their representative/consultant.
- 4.5. Written progress reports shall be submitted to Ecology at least monthly from the date of this Order to completion. Respondents shall immediately notify Ecology by telephone of

any unexpected delays in the work required as part of this Order.

- 4.6. In accordance with WAC 173-340-840(5), sampling data shall be submitted according to Attachment E: ~~DATA SUBMITTAL REQUIREMENTS~~. Attachment E is incorporated by this reference and is an integral and enforceable part of this Order.
- 4.7. The Respondents shall prepare a public participation plan as outlined in Section 5.7 of this Order. Said public participation plan and associated public outreach efforts will be multilingual; i.e. spanish and English. A major goal of the plan shall be testing for contamination and conducting remediation regardless of the political, economic, or cultural status of the affected individuals within the YRRA. To help ensure this the public participation plan shall develop a strategy for communicating with the culturally diverse community found within the YRRA.
- 4.8. Deviations from the Scope of Work or approved work plan may only be made with prior Ecology approval.
- 4.9. Interim Actions: At any time during the remedial investigation the Respondents may propose interim actions for Ecology review and approval.

V.

Terms and Condition of Order

5.1. Definitions

Unless otherwise specified, the definitions set forth in Chapter 70.105D RCW and Chapter 173-340 WAC shall control the meanings of the terms used in this Order.

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

5.2. Public Notices

RCW 70.105D.030(2)(a) requires that, at a minimum, this Order be subject to concurrent public notice. Ecology shall be responsible for providing such public notice and reserves the right to modify or withdraw any provisions of this Order should public comment disclose facts or considerations which indicate to Ecology that the Order is inadequate or improper in any respect.

5.3 Remedial Action Costs

Respondents 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). Respondents shall pay the required amount within ninety (90) days of receiving from Ecology an itemized statement of costs that includes a summary of costs incurred, an identification of involved staff, and the amount of time spent by involved staff members on the project. A general description of work performed will be provided upon request. Itemized statements shall be prepared quarterly. Failure to pay Ecology's costs within ninety (90) days of receipt of an itemized statement of costs will result in interest charges pursuant to WAC 173-340-550(4).

5.4 Designated Project Coordinators

The project coordinator for Ecology is:

Rick Roeder (509) 454-7837
Department of Ecology
Central Regional Office
15 West Yakima Avenue, Suite 200
Yakima, Washington 98902-3401

Respondents shall notify Ecology of its project coordinator within ten (10) calendar days of receiving this Order. The project coordinator(s) shall be responsible for overseeing the implementation of this Order. To the maximum extent possible, communications between Ecology and the respondents, 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 respondents change project coordinator(s), written notification shall be provided to Ecology or respondents, 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. Respondents shall notify Ecology as to the identity of such engineer(s) or hydrogeologist(s), and of any contractors and subcontractors to be used in carrying out the terms of this Order, in advance of their involvement at the Facility. Respondents shall provide a copy of this Order to all agents, contractors, and subcontractors retained to perform work required by this Order and shall ensure that all work undertaken by such agents, contractors, and subcontractors will be in compliance with this Order.

Except where necessary to abate an emergency situation, respondents shall not perform any remedial actions at the YRRA Facility 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 state.

5.6. Access

Ecology or any Ecology-authorized representative shall have the authority to enter and freely move about all property at the Facility at all reasonable times for the purposes of, inter alia: inspecting records, operation logs, and contracts related to the work being performed pursuant to this Order; reviewing the progress in carrying out the terms of this Order; conducting such tests or collecting samples as Ecology or the project coordinator may deem necessary; using a camera, sound recording, or other documentary type equipment to record work done pursuant to this Order; and verifying the data submitted to Ecology by the Respondents. In the course of conducting oversight of this Order under the Model Toxics Control Act, Ecology shall provide reasonable notice before entering property unless an emergency prevents notice. When Ecology is acting under a statute other than the Model Toxics Control Act, Ecology shall provide notice consistent with that statute. Ecology shall allow split or replicate samples to be taken by the respondents, during an inspection unless doing so would interfere with Ecology's sampling. Respondents shall allow split or replicate samples to be taken by Ecology and shall provide Ecology fourteen (14) days notice before any sampling activity.

5.7. Public Participation

Respondents shall prepare a public participation plan for the YRRA. Said public participation plan shall be

coordinated with the public participation plans being developed for the subfacilities within the YRRA. Ecology shall maintain the responsibility for public participation at the Facility. Respondents shall coordinate and implement public participation for the Facility under Ecology oversight and approval. Respondents shall designate a point of contact for the development and implementation of said public participation plan.

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

5.8. Retention of Records

Respondents shall preserve in a readily retrievable fashion, for the duration 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 respondents, then the Respondents agree to include in their contract with such contractors or agents a record retention requirement meeting the terms of this paragraph.

5.9. Dispute Resolution

Respondents may request Ecology to resolve disputes which may arise during the implementation of this Order. Such request shall be in writing and directed to the signatory, or his/her successor(s), to this Order. Ecology resolution of the dispute shall be binding and final. Respondents are not relieved of any requirements of this Order for the duration of the dispute and remain responsible for timely compliance with the terms of the Order unless otherwise provided by Ecology in writing.

5.10 Reservation of Rights/No Settlement

Ecology reserves all rights to issue additional Orders or take any action authorized by law in the event or upon the discovery of a release or threatened release of hazardous substances not addressed by this Order, upon discovery of any factors not known at the time of issuance of this Order, in order to abate an emergency, or under any other circumstances deemed appropriate by Ecology.

Ecology also reserves all rights regarding the injury to, destruction of, or loss of natural resources resulting from the releases or threatened releases of hazardous substances from the YRRA Facility.

In the event Ecology determines that conditions at the Facility are creating, or have the potential to create, a danger to the health or welfare of the people at the Facility or in the surrounding area or to the environment, Ecology may order the Respondents 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 YRRA Facility, or its subfacilities shall be consummated by Respondents 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 Respondents may have in the YRRA Facility, or its subfacilities or any portions thereof, the respondents 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, Respondents shall notify Ecology of the contemplated transfer.

5.12 Compliance with Other Applicable Laws

All actions carried out by the Respondents pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements.

VI.

Satisfaction Of This Order

The provisions of this Order shall be deemed satisfied upon the Respondents receipt of written notification from Ecology that the Respondents 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

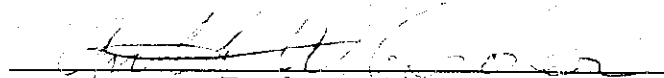
7.1. Pursuant to RCW 70.105D.050, this Order may be enforced as follows:

- 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 Facility.
- C. In the event the Respondents refuses, without sufficient cause, to comply with any term of this Order, the Respondents 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.

Yakima Railroad Area
Enforcement Order
No. DE 95TC-C212
Page 16

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: JUL 19 1995


Ecology Signature

AWG:RR:dk
g:\group\toxic\wpfiles\rr:k\yrca\yrcaent.doc