

Webster
Nursery

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

In the Matter of Remedial Action by:)
Washington Department of Natural Resources) AGREED ORDER
9805 Blomberg Street Southwest) NO. DE 98IC-S175
Olympia, Washington 98504)

TO: Washington Department of Natural Resources
9805 Blomberg Street Southwest
Olympia, WA 98504

I.

JURISDICTION

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

II.

FINDINGS OF FACT

The Department of Ecology (Ecology) makes the following Findings of Fact, without admission of such facts by Washington Department of Natural Resources (DNR).

1. DNR is the owner of the Webster Nursery located at 9805 Blomberg Street Southwest, in Olympia, Washington (Site).
2. In 1978, a chemical storage warehouse was constructed at the Site. A floor drain system was installed, directing any spills or washwaters to a concrete underground storage tank (UST).
3. The concrete UST was removed and upgraded with a metal UST in October 1982. Pesticide contamination was not reported although likely present.
4. In July 1996, the metal UST was removed. Approximately seventy (70) cubic yards of pesticide contaminated soil was removed and stockpiled for later remediation.

2. The facility is known as Webster Nursery and is located at 9805 Blomberg Street Southwest, in Olympia, Washington.

3. The substances found at the facility as described above are "hazardous substances" as defined at RCW 70.105D.020(7).

4. ~~Based on the presence of these hazardous substances at the facility and all factors known~~ to Ecology, there is a release or threatened release of hazardous substances from the facility, as defined at RCW 70.105D.020(19).

5. In a letter dated October 24, 1997, DNR accepted their status as a "potentially liable person" under RCW 70.105D.040.

6. Pursuant to RCW 70.105D.030(1) and 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.

7. Based on the foregoing facts, Ecology believes the remedial action required by this Order is in the public interest.

IV.

WORK TO BE PERFORMED

Based on the foregoing Facts and Determinations, it is hereby ordered that DNR take the following remedial actions and that these actions be conducted in accordance with Chapter 173-340 Washington Administrative Code (WAC) unless otherwise specifically provided for herein. This work shall be completed no later than July 1, 1999.

Prepare and submit for Ecology review a draft RI/FS work plan. A Sampling and Analysis Plan (SAP), including a Quality Assurance/Quality Control Plan (QA/QC), and Health and Safety Plan (HSP) shall also be submitted to Ecology. In accordance with WAC 173-340-840(5), groundwater sampling data shall be submitted according to Appendix A: GROUNDWATER SAMPLING DATA

V.

TERMS AND CONDITIONS OF ORDER

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.

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.

3. Remedial Action Costs.

DNR shall pay to Ecology costs incurred by Ecology pursuant to this Order. These costs shall include work performed by Ecology or its contractors for investigations, remedial actions, and Order preparation, oversight, and administration. Ecology costs shall include costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2). DNR 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.

Except where necessary to abate an emergency situation, DNR shall not perform any remedial actions at the pesticide UST area or the pesticide storage warehouse, or any adjacent areas impacted by a release originating from either of these two areas, outside that required by this Order unless Ecology concurs, in writing, with such additional remedial actions.

6. Access.

Ecology or any Ecology authorized representative shall have the authority to enter and freely move about the site at all reasonable times for the purposes of, inter alia: inspecting records, operation logs, and contracts related to the work being performed pursuant to this Order; reviewing the progress in carrying out the terms of this Order; conducting such tests or collecting samples as Ecology or the project coordinator may deem necessary; using a camera, sound recording, or other documentary type equipment to record work done pursuant to this Order; and verifying the data submitted to Ecology by DNR. By signing this Order, DNR agrees that this Order constitutes reasonable notice of access and agrees to allow access to the site at all reasonable times for purposes of overseeing work performed under this Order. DNR shall allow split or replicate samples to be taken by Ecology during an inspection unless doing so interferes with DNR's sampling. DNR shall allow split or replicate samples to be taken by Ecology and shall provide seven (7) days notice before any sampling activity.

7. Public Participation.

DNR shall prepare and/or update a public participation plan for the site. Ecology shall maintain the responsibility for public participation at the site. DNR shall help coordinate and implement public participation for the site.

8. Retention of Records.

DNR 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

DNR has advised Ecology that it has obtained the appropriate funding and this funding has been allocated to the work to be performed in this Order. If however, insufficient funds are appropriated in the next biennium, the parties agree to use the dispute resolution procedures above to discuss whether Ecology will, in its sole discretion, agree to make appropriate adjustments to the deadlines for obligations that require the payment or dedication of such funds. If no agreement is reached, the Parties agree that in any judicial proceeding to enforce the terms of this Order and/or to seek penalties or treble damages for delay in compliance with such terms, DNR may raise as a defense that its failure to perform or delay in performing its obligations under this Order was caused by the unavailability of appropriated funds. DNR and Ecology agree and stipulate that it is premature at this time to raise and adjudicate the existence of such a defense. This provision does not constitute a waiver by DNR that its obligations under this Order are not subject to the provisions of RCW 43.88.130 and 43.88.290, nor does it constitute a waiver by Ecology that DNR's obligations under this Decree are not subject to the provisions of RCW 43.88.130 and 43.88.290.

11. Transference of Property.

No voluntary or involuntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the site shall be consummated by DNR 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 DNR may have in the site or any portions thereof, DNR 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, DNR shall notify Ecology of the contemplated transfer.

C. Pursuant to RCW 70.105D.090(2), in the event Ecology determines that the exemption from complying with the procedural requirements of the laws referenced in RCW 70.105D.090(1) would result in the loss of approval from a federal agency which is necessary for the state to administer any federal law, the exemption shall not apply and DNR shall comply with both the procedural and substantive requirements of the laws referenced in RCW 70.105D.090(1), including any requirements to obtain permits.

VI.

SATISFACTION OF THIS ORDER

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

VII.

ENFORCEMENT

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 DNR refuses, without sufficient cause, to comply with any term of this Order, DNR will be liable for:

(1) 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

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

August 22, 1996

APPENDIX A

SITE DESCRIPTION AND SAMPLE DATA SUBMITTAL REQUIREMENTS

1. Media

Required data must be submitted on MS-DOS¹(version 5) or compatibly formatted diskettes. The diskettes may be 5 1/4 inch (or 3 1/2 inch) either: double sided, double density; or double sided, high density.

2. Data Formats

The SITE DESCRIPTION FILE, FIELD SAMPLE FILE and the LABORATORY SAMPLE FILE are quote, comma delimited ASCII files used as the standard format for transferring sample data to and from Ecology (LOTUS WK1 files and Ashton Tate DBF files may be substituted for ASCII files). The files will include the fields in the format and order listed (C=Character, N=Numeric, D=date[Character may be substituted in non DBF or WK1 format]).

The following Appendices are attached to standardize information entered into required files (see following appendices):

A. Matrix Codes

B. Sample Source Codes

C. Collection Method Codes

D. Chemical Data Dictionary (Standardizes Spelling, STORET P-codes., etc entered into the SAMPLE ANALYSIS FILE.)

E. Laboratory Qualifiers

E. State Plane Zones (N or S)

(NOTE: Copy of RCW 58.20 provided for reference)

F. County Fips Codes

¹ Trademark of the Microsoft Corporation

FIELD DEFINITIONS FOR SITE DESCRIPTION FILE

<u>FIELD</u>	<u>TYPE</u>	<u>WIDTH</u>	<u>DEFINITION</u>
OWN_NAME	C	30	Sampling location owner's name.
OWN_DT	D	10	Date of ownership of well (mm/dd/yyyy).
OWN_ADD	C	60	Address of owner.
DRILLER	C	30	Name of Driller.
STA_DESC	C	48	Activity Site, Sample location or Well location description (for example: "East of Bldg. 2," or "SE corner, intersection 6th and Seneca").
LOC_METHD	C	48	Method of determination of station location coordinates (Note: survey to known horizontal datum is required.)
LAT	N	8	Latitude OPTIONAL (degrees-minutes-seconds-tenths).
LONG	N	9	Longitude OPTIONAL (degrees-minutes-seconds-tenths).
STPCO_NORT	N	12	Northerly state plane coordinates REQUIRED (nearest ft.).
STPCO_EAST	N	12	Easterly state plane coordinates REQUIRED (nearest ft.).
STPCO_ZONE	C	1	State plane coordinates: state plane zone REQUIRED (N or S).
LAND_NET	C	20	Land net location of well (Township, Range, Section, 1/4-1/4 Sec.) Use USGS 1/4-1/4 section alphabetic designator A through R OPTIONAL.
UTM_NORTH	N	9	UTM grid system coordinates: North (meters) OPTIONAL.
UTM_EAST	N	8	UTM grid system coordinates: East (meters) OPTIONAL.
UTM_ZONE	C	2	UTM grid zone.
MAP_NAME	C	24	Name of USGS map, scale, and date covering the sampling location (e.g., Yakima 100K 1977).
BORE_DEP	N	8	Depth of original hole drilled, if applicable (nearest 0.01 ft. or equivalent).
WELL_DEP	N	8	Well depth (nearest 0.01 ft. or equivalent).
WTR_ELEV1	N	8	Water level elevation at time of installation (nearest 0.01 ft. or equivalent).
WLEV_DAT1	D	10	Date of water level elevation measurement (mm/dd/yyyy).
MEAS_ELEV	N	8	Measuring point (reference point) elevation (nearest 0.01 ft. or equivalent).
ELEV_UNITS	C	12	May be "FEET," "METERS," "CENTIMETERS," "FATHOMS," etc.

FIELD DEFINITIONS FOR SITE DESCRIPTION FILE

<u>FIELD</u>	<u>TYPE</u>	<u>WIDTH</u>	<u>DEFINITION</u>
			P=perforated/slotted screen, L=louvered/shuttered screen, S=screen (unknown type), F=fracture, R=wire wound, M=mesh, T=sand point, W=walled, X=open hole, Z=other.
TYP_OMT	C	1	Material type, open interval (USGS WATSTORE codes) R=stainless steel, F=teflon/fluorocarbon, G=galvanized iron, P=pvc/plastic, B=brass/bronze, W=wrought iron, S=steel, T=tile, C=concrete, M=other metal, Z=other.
INT_COMM	C	240	Comments, open interval.
LOG_AVAIL	C	1	Well log data available? (Y/N).
TYP_LOG	C	10	Type of well log (USGS WATSTORE codes) A=time, B=collar, C=caliper, D=driller, E=electric, F=fluid conduction, G=geologist, H=magnetic, I=induction, J=gamma ray, K=dip meter, L=lateral log, M=microlog, N=neutron, O=microlateral log, P=photo/video, Q=radioactive, S=sonic, T=temperature, U=gamma gamma, V=fluid velocity, X=core, Z=other.
LOG_DOC	C	240	Log data source documents (e.g., Remedial Investigation Report).
OTHER_DOC	C	240	Other data source documents.
LOG_LOC	C	60	Location of well log (e.g., Ecology Southwest Regional Office).
AQUI_TEST	C	1	Aquifer testing performed (Y/N).
PUMP_DATA	C	240	Pump data such as: Type, Manufacturer, Horsepower, and depth set.
ANDAT_AVAL	C	1	Analytical or Statistical data available (Y/N).
PROGRAM	C	9	Ecology program (TCP, WQFA, WQ, other).
GEN_COMM	C	240	General comments.
HUCODE	C	8	See US Geological Survey Hydrologic Unit Map 1974-Washington.
AGN_USE	C	1	Agency use (USGS codes) A=active, I=inactive, 0-inventory only.

**END OF SITE
DESCRIPTION FILE**

FIELD DEFINITIONS FOR FIELD SAMPLE FILE

*All Fields Required

<u>FIELD</u>	<u>TYPE</u>	<u>WIDTH</u>	<u>DEFINITION</u>
			"FATHOMS," etc.
MEAS_DESC	C	48	Description of the well measuring point used (e.g., top of casing, file mark on casing, etc.)
DATUM	C	48	Vertical datum used to reference elevations (e.g., MSL and source/date of information).
MATRIX	C	2	Type of sample; water, sediment, soil, other (from Appendix A).
SOURCE_COD	C	2	Physical environment sampled (from Appendix B).
COLLECTMET	C	2	Collection method code (from Appendix C).
FIELD_PH	N	5	The pH value taken at time of sampling (e.g., 11.67).
FIELD_COND	N	7	The conductivity value in umhos.
FIELD_TEMP	N	5	The field temperature of the sample in degrees Celsius.
PURGE_METH	C	1	Purging method: B = Bail, P = Pump.
PURGE_VOL	C	2	Number of boring volumes removed prior to sampling (liquid).
PRJ_NAME	C	48	Project, site, or facility name.
COMMENTS	C	50	General comments.

**END OF FIELD
SAMPLE FILE**

APPENDIX A: MATRIX CODES

10	Water-Total
11	Water-Dissolved
40	Sediment/Soil
45	Semi-Solid/Sludge
46	Sediment for EP Toxicity
70	Tissue
80	Oil/Solvent
00	Other

Appendix B continued:
(continued)

60	Air (general)
61	Ambient air
62	Source of effluent air
63	Industrial or workroom air
64	Hi-vol filter
70	Tissue (general)
71	Fish tissue
72	Shellfish tissue
73	Bird tissue
74	Mammal tissue
75	Macroinvertebrate
76	Algae
77	Periphyton
78	Plant/vegetation
80	Oil/solvent (general)
81	Oil (transformer/capacitor)
82	Oil/solvent (drum/tank)
83	Oil/solvent (spill area)
84	Oil/solvent (waste pond)
90	Commercial product formulation
95	Well drill water
96	Well drill mud
97	Well sealing material
98	Gravel pack material

53 Fish (hook & line)

APPENDIX C CONTINUED:

54 Fish (poison)

60 Periphyton (unspecified)

61 Rock scraping

62 Glass slides

APPENDIX F: COUNTY FIPS CODES

WASHINGTON -----

001 ADAMS
003 ASOTIN
005 BENTON
007 CHELAN
009 CLALLAM
011 CLARK
013 COLUMBIA
015 COWLITZ
017 DOUGLAS
019 FERRY
021 FRANKLIN
023 GARFIELD
025 GRANT
027 GRAYS HARBOR
029 ISLAND
031 JEFFERSON
033 KING
035 KITSAP
037 KITTTITAS
039 KLUCKITAT
041 LEWIS
043 LINCOLN
045 MASON
047 OKANOGAN
049 PACIFIC
051 PEND OREILLE
053 PIERCE
055 SAN JUAN
057 SKAGIT
059 SKAMANIA
061 SNOHOMISH
063 SPOKANE
065 STEVENS
067 THURSTON
069 WAHAKIAKUM
071 WALLA WALLA
073 WHATCOM
075 WHITMAN
077 YAKIMA