



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

OFFICE OF
ENVIRONMENTAL
CLEANUP

NOV 19 2012

**URGENT MATTER
PROMPT REPLY NECESSARY
FEDERAL EXPRESS NEXT DAY DELIVERY**

Caren R. Adams
Registered Agent
Atkinson Distributing, Inc.
701 Michigan Avenue
P.O. Box 1110
Orofino, Idaho 83544-1110

Zella L. Cantrell
Gary J. Cantrell
Owners of Hunt Oil
c/o Russell Law Office
76 South Main Street
Seattle, Washington 98104-2514

Re: Hunt Oil Facility, Orofino, Idaho
Unilateral Administrative Order
Docket No. RCRA-10-2013-0040

Dear Ms. Adams, Ms. Cantrell and Mr. Cantrell:

The United States Environmental Protection Agency ("EPA") is issuing the enclosed "Unilateral Administrative Order ("Order") to Gary J. Cantrell, Zella L. Cantrell, Hunt Oil and Atkinson Distributing, Inc. Under the Order, these parties are responsible for the cleanup of contamination involving the Hunt Oil Facility in Orofino, Idaho. This work will be subject to the oversight and direction of EPA.

The parties have an opportunity to confer with EPA and present information to EPA concerning the Order. Please see the Order for the details and timing regarding this opportunity. If there are questions or concerns regarding this matter, please contact Richard Mednick, Associate Regional Counsel, at telephone number (206) 553-1797, or electronic mail address mednick.richard@epa.gov.

EPA looks forward to the timely and successful completion of work by the parties under the Order.

Sincerely,

A handwritten signature in black ink, appearing to be "Richard Albright", written over a horizontal line.

Richard Albright, Director
Office of Environmental Cleanup

Enclosure

cc: Greg Weigel (w/encl.)
Richard Mednick (w/encl.)

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 10

IN THE MATTER OF:
Hunt Oil Facility
Orofino, Idaho

Gary J. Cantrell, Zella L. Cantrell, Hunt Oil,
and Atkinson Distributing, Inc.,

Respondents.

UNILATERAL ADMINISTRATIVE
ORDER

U.S. EPA Region 10
Docket No. RCRA-10-2013-0040

Proceeding Under Section 7003(a) of the
Resource Conservation and Recovery Act,
42 U.S.C. § 6973(a).

I. JURISDICTION AND GENERAL PROVISIONS

A. This Unilateral Administrative Order ("Order") is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") by Section 7003(a) of the Solid Waste Disposal Act, also known as the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6973(a). This authority has been delegated by the Administrator to the Regional Administrator of EPA, Region 10, and has been further delegated by the Regional Administrator to the Director of the Office of Environmental Cleanup Office, EPA, Region 10.

B. EPA has information which shows that the past or present handling, storage, treatment, transportation or disposal of solid waste at and in the vicinity of Hunt Oil Facility ("HOF"), located at 170 Riverfront Road, Orofino, Idaho, may present an imminent and substantial endangerment to health or the environment. The information further shows that Gary J. Cantrell, Zella L. Cantrell, Hunt Oil and Atkinson Distributing, Inc. have contributed to or are contributing to such past or present handling, storage, treatment, transportation or disposal of solid waste.

C. This Order is issued to Gary J. Cantrell, Zella L. Cantrell, Hunt Oil and Atkinson Distributing, Inc. ("Respondents"), and requires action by Respondents to protect public health and the environment.

D. The State of Idaho ("State") has been notified of this matter in conformance with Section 7003(a) of RCRA, 42 U.S.C. § 6973(a). EPA has also coordinated with the Nez Perce Tribe in conjunction with this matter.

II. PARTIES BOUND

A. This Order applies to and is binding upon Respondents and their directors, officers, employees, agents, successors and assigns. Any change in ownership or corporate status of Respondents including, but not limited to, the transfer of assets or real or personal property shall not alter the responsibilities of Respondents under this Order. Respondents are jointly and

severally liable for carrying out all activities required by this Order. Further, compliance or noncompliance by any one or more of Respondents with any provision of this Order shall not excuse or justify noncompliance with this Order by any other Respondents.

B. Respondents shall provide their Project Manager, consultants, contractors, subcontractors, and other representatives who have responsibility for HOF with a copy of this Order in advance of the implementation of the Statement of Work, and shall assure compliance by these persons with this Order. Further, Respondents shall provide a copy of this Order to any subsequent owners or successors before the transfer of a controlling interest in ownership rights, stock or assets. Nevertheless, during the pendency of this Order, Respondents shall remain fully responsible at all times for any noncompliance with this Order.

III. DEFINITIONS

Unless otherwise expressly provided herein, terms used in this Order that are defined in Section 1004 of RCRA, 42 U.S.C. § 6903, shall have the meaning assigned therein. In addition, whenever the terms listed below are used in this Order or the appendices attached hereto, the following definitions shall apply:

A. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 to 9675.

B. "CWA" shall mean the Federal Water Pollution Control Act, also known as the Clean Water Act, 33 U.S.C. §§ 1251 to 1387.

C. "Day" or "day" shall mean a calendar day. In computing any period of time under this Order, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business on the next working day.

D. "Effective Date" shall mean the effective date of this Order as provided in Section XIX herein.

E. "EPA" shall mean the United States Environmental Protection Agency and its successor departments, agencies, or instrumentalities.

F. "HOF" shall mean Hunt Oil Facility encompassing all property located at 170 Riverfront Road in the city of Orofino, Clearwater County, Idaho.

G. "Order" shall mean this Unilateral Administrative Order and all appendices attached hereto. In the event of conflict between the terms in this Order and any appendix, the terms of this Order shall control.

H. "Paragraph" shall mean a portion of this Order identified by an Arabic numeral or an upper or lower case letter.

I. "Project Coordinator" shall mean the On-Scene Coordinator for EPA who is identified in Section VII herein.

J. "RCRA" shall mean the Solid Waste Disposal Act, also known as the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 to 6992k.

K. "Respondents" shall mean Gary J. Cantrell, Zella L. Cantrell, Hunt Oil and Atkinson Distributing, Inc.

L. "Response Action" shall mean all activities required to be performed by Respondents under this Order.

M. "Statement of Work" shall mean the document developed for the cleanup of petroleum waste at and emanating from HOF. The Statement of Work is attached hereto and incorporated herein as Appendix A to this Order, and shall also include any modifications or additions thereto which may be made or approved by EPA.

N. "Section" shall mean a portion of this Order identified by a Roman numeral.

O. "United States" shall mean the United States of America and each department, agency, and instrumentality of the United States, including EPA.

IV. FINDINGS OF FACT

A. HOF is located at 170 Riverfront Road in the city of Orofino, Clearwater County, Idaho, and is situated approximately 150 feet from the northeast bank of the Clearwater River. HOF is polygonal in shape and approximately 1.4 acres in size. The topography of HOF slopes in a downward direction toward adjacent land and the Clearwater River. HOF is located within the boundary of the Nez Perce Reservation. HOF and the surrounding area are depicted on the diagram attached as Appendix B hereto.

B. Gary J. Cantrell, Zella L. Cantrell and Hunt Oil are the owners of HOF. Atkinson Distributing, Inc. was the operator of HOF at all times pertinent to this Order. Gary J. Cantrell and Zella L. Cantrell are officers of Atkinson Distributing, Inc.

C. During and for some period of time prior to 2011, HOF was operated as a petroleum storage, distribution and dispensing station. This operation involved the storage of petroleum, including gasoline and diesel fuel, in five above-ground tanks ranging in holding capacity from 2,000 to 20,000 gallons, and the transfer of this petroleum from these tanks into conveyances, such as piping, which ran underground to above-ground equipment from which the petroleum was

dispensed into vehicles or other receptacles. HOF was usually unmanned during operational hours, with gasoline and diesel fuel being accessed from the dispensing equipment by customers via a card-lock system.

D. On or about December 29, 2011, petroleum was observed drifting up from sediment into and on the Clearwater River. Since that time, there have been at least 15 additional days when petroleum has been similarly observed coming into or on the Clearwater River. In each instance, the petroleum was observed in areas of the Clearwater River which are within approximately 150 feet of HOF.

E. Due to the nature of the petroleum operation at HOF, and the proximity of this operation to the Clearwater River, HOF became a suspected source of the petroleum observed on the Clearwater River. On January 6, 2012, and other occasions thereafter, EPA notified Respondents of their potential responsibility for the petroleum impacts at the Clearwater River. In response to the initial notice, Respondents reported to EPA that no known spills of petroleum had occurred at HOF, and that a recent test demonstrated that petroleum was not leaking from the underground conveyances at HOF. Despite subsequently obtaining information that shows there is petroleum contamination in soil and groundwater at HOF, and that this groundwater flows in a direction from HOF toward the Clearwater River, Respondents have not performed or funded any mitigation or abatement of the petroleum in soil at HOF or at the Clearwater River.

F. There are maximum contaminant levels ("MCLs") for petroleum constituents in groundwater which have been established under the Safe Drinking Water Act ("SDWA"), 42 U.S.C. §§ 300f to 300j-26. These MCLs include the following concentrations for the associated constituents: (1) .005 parts per million ("ppm") for benzene; (2) 1 ppm for toluene; (3) .07 ppm for ethylbenzene; (4) 10 ppm for xylene; (5) .07 ppm for naphthalene; and (6) .04 ppm for methyl tert-butyl ether ("MTBE").

G. There are residential use screening levels ("RUSLs") for petroleum constituents in soil which have been established in Idaho Administrative Procedure Act ("IDAPA") 58.01.24. These RUSLs include the following concentrations for the associated constituents: (1) .025 ppm for benzene; (2) 6.6 ppm for toluene; (3) .25 ppm for ethylbenzene; (4) 270 ppm for xylene; (5) .12 ppm for naphthalene; (6) .099 ppm for benz[a]anthracene; (7) .02 ppm for benzo[a]pyrene; and (8) .2 ppm for benzo[b]fluoranthene.

H. In January of 2012, Respondents and the Nez Perce Tribe each sampled surface water in the area where petroleum was observed along the bank of the Clearwater River. The subsequent laboratory analysis showed the following petroleum constituents and associated concentrations: (1) benzene at 19.4 ppm and 20.2 ppm; (2) toluene at 33.8 ppm and 42.6 ppm; (3) ethylbenzene at 1.9 ppm and 2.7 ppm; (4) xylene at 9.8 ppm and 18.9 ppm; and (5) naphthalene at .407 ppm and .574 ppm. These concentrations exceed the MCLs established for the associated petroleum constituents.

I. In January of 2012, Respondents and the Nez Perce Tribe each sampled soil in the area where petroleum was observed along the bank of the Clearwater River. The subsequent laboratory analysis showed there to be gasoline at 12,000 ppm and diesel fuel at 1,000 ppm, as well as the following petroleum constituents and associated concentrations: (1) benzene at 11.8 ppm, 8.75 ppm, 200 ppm and 403 ppm; (2) toluene at 153 ppm, 380 ppm, 1,290 ppm and 4,830 ppm; (3) ethylbenzene at 14.2 ppm, 366 ppm and 1,230 ppm; (4) xylene at 468 ppm, 3,230 ppm and 9,490 ppm; (5) naphthalene at 29.8 ppm, 243 ppm and 959 ppm; (6) benz[a]anthracene at 3.66 ppm and 3.09 ppm; (7) benzo[a]pyrene at 2.1 ppm and 1.78 ppm; and (8) benzo[b]fluoranthene at 4.55 ppm and 2.84 ppm. These concentrations exceed the RUSLs established for the associated petroleum constituents.

J. In February of 2012, three groundwater monitoring wells were installed by Respondents at or in close proximity to HOF. One of these wells, referred to as "MW-1", was installed in a location which is "up-gradient" from the area of tanks, underground conveyances and dispensing equipment at HOF. By "up-gradient" it is meant that groundwater flows from MW-1 in a direction toward the area of tanks, underground conveyances, and dispensing equipment. The other two wells, referred to as "MW-2" and "MW-3," were installed in locations which are "down-gradient" from the area of the tanks, underground conveyances, and dispensing equipment at HOF. By "down-gradient" it is meant that groundwater flows in a direction from the area of the tanks, underground conveyances, and dispensing equipment toward MW-2 and MW-3.

K. In February of 2012, soil samples were obtained by Respondents from the borings being drilled for the installation of the three groundwater monitoring wells at or near HOF. The subsequent laboratory analysis showed there was naphthalene in the soil borings for MW-2 and MW-3 at concentrations of .543 ppm and 3.5 ppm, respectively. These concentrations exceed the RUSLs established for naphthalene under IDAPA 58.01.24.

L. In February of 2012, groundwater samples were obtained by Respondents from the locations where the three groundwater monitoring wells were being installed at or near HOF. The subsequent laboratory analysis showed there to be petroleum constituents in the groundwater at concentrations which exceeded the associated MCLs established under the SDWA. The constituents and associated concentrations which exceeded the MCLs were found in MW-2 and MW-3, and are as follows: (1) benzene at .34 ppm and 22.8 ppm; (2) ethylbenzene at .094 ppm and 2.38 ppm; (3) naphthalene at .28 ppm and .45 ppm; (4) toluene at 29.3 ppm; (5) xylene at 12.9 ppm; and (6) MTBE at .28 ppm.

M. In March of 2012, the Nez Perce Tribe collected ten water samples from the area where petroleum was observed on the Clearwater River. The subsequent laboratory analysis showed there to be petroleum constituents in all samples at concentrations which exceeded the associated MCLs established under SDWA. These concentrations ranged up to 20 ppm for benzene, 3.1 ppm for ethylbenzene, 19.7 ppm for xylene, and 38.6 ppm for toluene. These test results were provided to Respondents.

N. In April 2012, petroleum in the form of light non-aqueous phase liquid ("LNAPL") was found by Respondents, at a thickness of almost one foot, floating on the groundwater in MW-2 and MW-3. It was subsequently determined that the LNAPL in MW-2 was substantially comprised of gasoline, and that the LNAPL in MW-3 was substantially comprised of diesel fuel. It was further subsequently determined that the gasoline in MW-2 was the same type of gasoline being stored and transferred underground from a tank at HOF.

O. Tests conducted by Respondents in July 2012 show that gasoline and diesel fuel have leaked from the underground piping conveyances at HOF. Following receipt of that information, Respondents installed three additional groundwater monitoring wells, referred to as "MW-4", "MW-5" and "MW-6", in locations which are "down-gradient" from HOF. By "down-gradient" it is meant that MW-4, MW-5 and MW-6 are in locations where groundwater flows in a direction from HOF toward these wells. This groundwater then continues to flow in a direction from these wells toward the Clearwater River.

P. In July of 2012, soil samples were obtained by Respondents from the borings being drilled for the installation of MW-4, MW-5 and MW-6. The subsequent laboratory analysis showed there were petroleum constituents in the soil in all three locations which exceeded the associated RUSLs established under IDAPA 58.01.24. These constituents and the associated concentrations are as follows: (1) benzene at 1.22 ppm, 4.41 ppm and 61.8 ppm; (2) ethylbenzene at 8.58 ppm, 16.5 ppm and 241 ppm; (3) naphthalene at 5.67 ppm, 9.16 ppm and 33.7 ppm; (4) toluene at 900 ppm; (5) xylene at 1,710 ppm; and (6) benzo[a]pyrene at .1 ppm.

Q. In July of 2012, the Nez Perce Tribe collected six water samples from the area where petroleum was observed on the Clearwater River. The subsequent laboratory analysis showed there to be petroleum constituents in all samples at concentrations which exceeded the associated MCLs established under SDWA. These concentrations ranged up to 16.3 for benzene, 5.3 ppm for ethylbenzene, 32 ppm for xylene, and 40.3 ppm for toluene. These test results were provided to Respondents.

R. In August of 2012, groundwater samples were obtained by Respondents from each of the six groundwater monitoring wells installed at or near HOF. The subsequent laboratory analysis showed there were petroleum constituents in the groundwater of MW-2, MW-3, MW-4, MW-5 and MW-6 at concentrations which exceeded the associated MCLs established under the SDWA. These constituents and the associated concentrations are as follows: (1) benzene at 1.4 ppm, 11.4 ppm, 13.8 ppm, 15.8 ppm and 25.5 ppm; (2) ethylbenzene at .130 ppm, 1.7 ppm, 1.9 ppm, 2.3 ppm and 2.5 ppm; (3) naphthalene at .21 ppm, .27 ppm, .27 ppm, .35 ppm and .6 ppm; (4) toluene at 20.1 ppm, 26.4 ppm, 35.3 ppm and 45.9 ppm; and (5) xylene at 11 ppm, 12.2 ppm, 15.7 ppm and 17.8 ppm.

S. Respondents were directed by EPA to extract the LNAPL accumulating in the groundwater monitoring wells. Respondents report having undertaken this work once per week for MW-1, MW-2 and MW-3 from April 12 to May 18, 2012, and then again from June 29 to October 26, 2012. Respondents further report to have encountered no LNAPL in MW-1, but to have removed over 430 ounces of LNAPL from MW-2 and MW-3. Respondents also report to have undertaken extraction work at MW-4, MW-5 and MW-6 on a weekly basis from August 31 to October 26, 2012, and to have removed more than 60 ounces of LNAPL from MW-4 during that time.

T. On or about August 31, 2012, Respondents determined that the LNAPL floating on the groundwater in MW-4 was similar in odor and appearance to the gasoline floating on the groundwater in MW-2. This assessment in combination with the known direction of the groundwater flow demonstrates that LNAPL had been migrating away from HOF in the direction of the Clearwater River.

U. EPA has developed the Integrated Risk Information System ("IRIS") which sets forth scientific assessments of the effects on human health from exposure to chemical compounds. The IRIS is set forth at "<http://cfpub.epa.gov/ncea/iris/index.cfm?fuseaction=iris.showSubstanceList>." According to the IRIS, benzene is a known human carcinogen, and benzo[b]fluoranthrene, benzo[a]pyrene, benz[a]anthracene and naphthalene, are probable or possible human carcinogens. Further, ethylbenzene, toluene, xylene and MTBE present non-carcinogenic health hazards, including liver and kidney toxicity, impaired motor coordination, neurological effects, increased organ and body weight, and increased mortality.

V. There are carcinogenic and toxic petroleum constituents at and emanating from HOF through soil and groundwater which exceed applicable federal and state laws. There are no restrictions on public access to HOF by nearby residents, visitors, recreationists, commercial and municipal employees, and trespassers. The Clearwater River is used for recreational purposes including boating, swimming and fishing. There is a fish hatchery located downstream from the area where petroleum has been observed on the Clearwater River. The continued migration of petroleum contamination through soil and into groundwater by precipitation and other run-off inducing events will expand and move this contamination in the direction of the Clearwater River. The potential routes of human exposure to the carcinogenic and toxic petroleum constituents in soil and groundwater at and emanating from HOF include dermal, oral and inhalation. There are also ecological receptors that may be exposed to the petroleum contaminants at and emanating from HOF through direct contact or ingestion, and the resulting exposure could cause adverse effects on these receptors.

V. CONCLUSIONS OF LAW AND DETERMINATIONS

Based on the foregoing Findings of Fact and the administrative record, EPA makes the following determinations:

- A. HOF is a "facility" and "site" as those terms are used in Section 7003 of RCRA, 42 U.S.C. § 6973.
- B. The petroleum contamination at and emanating from HOF includes "solid waste" in the form of discarded material as defined by Section 1004(27) of RCRA, 42 U.S.C. § 6903(27).
- C. Respondents are each a "person" as defined by Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).
- D. There is evidence of the past or present "disposal" of solid waste at HOF as defined by Section 1004(3) of RCRA, 42 U.S.C. § 6903(3).
- E. The conditions at HOF "may present an imminent and substantial endangerment to health or the environment" within the meaning of Section 7003(a) of RCRA, 42 U.S.C. § 6973(a).
- F. Respondents have each "contributed" or are "contributing to" the disposal of solid waste at HOF within the meaning of Section 7003(a) of RCRA, 42 U.S.C. § 6973(a).
- G. The endangerment at HOF, in whole or in part, is the result of the past or present handling, storage, treatment, transportation, or disposal of solid waste.
- H. On fifteen or more occasions there has been a "discharge" of "oil" to the Clearwater River within the meaning of Section 311 of CWA, 33 U.S.C. § 1321.
- I. The Response Action required by this Order, including financial assurance, may be necessary to protect public health and the environment within the meaning of Section 7003(a) of RCRA, 42 U.S.C. § 6973(a).

VI. ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law and Determinations, and upon the administrative record, EPA hereby orders Respondents to comply with the following provisions, including but not limited to all attachments or appendices to this Order, all documents incorporated by reference into this Order, and all schedules and deadlines in this Order, attached to this Order, or incorporated by reference into this Order, and to perform the following actions:

A. Project Manager

EPA has been informed by Respondents that Joe Fassio, Geologist, AMEC Earth & Infrastructure, Portland, Oregon, has been selected by Respondents as their consultant in administering and performing the Response Action. The consultant so retained by Respondents for this work is referred to herein as the Project Manager. EPA has been further informed by Respondents that the contact information for the Project Manager is telephone number (503) 639-3400, and electronic mail address "joe.fassio@amec.com." Respondents shall seek and obtain EPA approval prior to any change of the Project Manager. To the greatest extent practicable, the Project Manager shall be present at HOF or readily available during performance of the Response Action or at the request of EPA. Receipt by the Project Manager of any notice or communication from EPA relating to this Order shall constitute receipt by Respondents.

B. Contractors and Subcontractors

Respondents may retain contractors and subcontractors, as necessary, to perform the Response Action, and shall notify EPA of the names and qualifications of each such contractor and subcontractor. Should EPA disapprove of any contractor or subcontractor retained by Respondents, Respondents shall retain a new contractor or subcontractor, as the case may be, and shall provide EPA with the name and qualifications of this newly retained individual or entity no later than **2 days** prior to the change.

C. Cleanup Activities

Respondents shall implement the Statement of Work as stated therein. In so doing, Respondents shall cleanup all petroleum-related solid waste disposed of at or emanating from HOF, and shall prevent such waste from reaching the Clearwater River. Respondents shall undertake and complete the Response Action to the satisfaction of EPA.

D. Reporting

Respondents shall submit a written progress report to EPA every **30th day** after the Effective Date until termination of this Order, unless otherwise directed by EPA. Each such report shall describe all significant developments in any way related to this Order during the preceding period, including the actions performed and any problems encountered, analytical data received during the reporting period, and the developments anticipated during the next reporting period, including a schedule of activities to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

E. Records, Data, Documentation and Information

1. Respondents shall provide EPA with access, at all reasonable times, to all records and documentation related to solid waste conditions at HOF or in any areas which may be impacted by HOF. Further, within **5 days** of receipt by Respondents, Respondents shall provide EPA with the results of all sampling or tests and all other data generated or obtained by Respondents or their contractors pertaining to any area of solid waste at or impacted by HOF.

2. Respondents shall preserve all documents and information relating in any way to this Order, or relating to petroleum contamination found on or released or discharged from HOF, for **10 years** following completion of the Response Action. At the end of this **10-year** period of time but at least **30 days** before any document or information is destroyed, Respondents shall notify EPA that such documents and information are available to EPA for inspection, and shall, upon request, provide the originals or copies of such documents and information to EPA. In addition, Respondents shall provide documents and information retained under this Paragraph at any time before expiration of the **10-year** period at the written request of EPA.

3. Respondents may assert a business confidentiality claim pursuant to 40 C.F.R. § 2.203(b) with respect to part or all of any information submitted to EPA pursuant to this Order, provided such claim is allowed by Federal law. Analytical and other data shall not be claimed as confidential by Respondents. EPA shall only disclose information covered by a business confidentiality claim to the extent permitted by, and by means of the procedures set forth at, 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by EPA, EPA may make it available to the public without further notice to Respondents.

F. Access to Property

1. Respondents shall provide employees, contractors, agents, consultants, designees and representatives of EPA with access to HOF. Such access shall be provided for the purpose of performing or overseeing any or all of the Response Action.

2. Where activities under this Order are to be performed in areas owned by or in possession of someone other than Respondents, Respondents shall use their best efforts to obtain all necessary access agreements. If Respondents have not obtained such access agreements within **5 days** of the Effective Date, Respondents shall so notify EPA, in writing, and describe therein their efforts to obtain access. The failure of Respondents to undertake best efforts in obtaining access shall be a violation of this Order. Thereafter, EPA may assist Respondents in gaining access, to the extent necessary to effectuate the Response Action, using such means as EPA deems appropriate. EPA reserves the right to seek reimbursement from Respondents for all costs and attorney's fees incurred by the United States in obtaining access for Respondents.

G. Transfer of Interest

Respondents shall, at least **30 days** prior to the transfer of any interest in real property at HOF, provide written notice of this Order to the transferee, and written notice to EPA of the transfer, including the name and address of the transferee. Any such transfer of an interest shall not alter any obligations of Respondents under this Order. Further, Respondents shall ensure that each transferee allows EPA and its representatives access to the property of the transferee at the Site.

H. Compliance with Other Laws

Respondents shall perform the Response Action in accordance with all applicable local, state, and federal laws and regulations.

I. Emergency Response and Notification of Releases/Discharges

1. If any incident or change in conditions during the Response Action causes or threatens to cause a release, discharge or disposal of petroleum or any other contaminant from HOF or an endangerment to public health or the environment, Respondents shall immediately notify the Project Coordinator for EPA or, in the event of the unavailability of the Project Coordinator, the Regional Duty Officer at (206) 553-1263. Respondents shall take action as directed by the Project Coordinator or Regional Duty Officer and in accordance with all applicable provisions of this Order in order to prevent, abate or minimize such release, discharge or disposal.

2. In the event of a release, discharge or disposal of petroleum or any other contaminant that has not been previously reported, Respondents shall immediately notify the National Response Center at (800) 424-8802, and Idaho State Communications at 1-800-632-8000 or (208) 334-4570. Respondents shall submit a written report to EPA within **2 days** after each release, discharge or disposal, setting forth the events that occurred and the measures taken or to be taken to mitigate the release, discharge or disposal and any endangerment caused or threatened by the release, discharge or disposal and to prevent the reoccurrence of such event. This reporting requirement is in addition to, not in lieu of, reporting under CERCLA, RCRA, CWA, or the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. §§ 11001 to 11050.

J. Response Action Report

1. Within **30 days** after completion of the soil cleanup activities required under this Order, Respondents shall provide EPA, for review and approval, a draft Response Action Report summarizing the activities taken under this Order. The draft Response Action Report shall include the following components: (a) a listing of quantities and types of materials removed from HOF; (b) a discussion of removal and disposal options considered for the materials removed from HOF; (c) a listing of the ultimate destinations of the materials removed from HOF; (d) a presentation of the analytical results of all sampling and analyses performed by Respondents; (e) a description of

any contamination remaining at HOF; (f) a description of the problems encountered during the Response Action; (g) QA/QC data validation memoranda; and (h) appendices containing all relevant documentation generated during the cleanup activities (e.g., manifests, invoices, bills, contracts, and permits).

2. Within **20 days** of receipt of comments from EPA on the draft Response Action Report, Respondents shall provide EPA with a final Response Action Report incorporating therein all changes recommended by EPA. The final Response Action Report shall also contain the following certification signed by a person who supervised or directed preparation of the final Response Action Report:

Under penalty of law, I certify that to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of the final report, the information submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

VII. PROJECT COORDINATOR

A. EPA has designated Greg Weigel, On-Scene Coordinator, as the Project Coordinator for all actions under this Order. Respondents shall implement the Response Action in accordance with all oral and written directions of the Project Coordinator, and provide all written submissions required by this Order to the Project Coordinator. Respondents shall cooperate with the Project Coordinator at all times. The absence of the Project Coordinator from HOF shall not be cause for stoppage of the Response Action unless specifically directed by the Project Coordinator.

B. The Project Coordinator contact information is as follows:

Greg Weigel, On-Scene Coordinator
U.S. EPA Region 10
Idaho Operations Office
950 W. Bannock Street, Suite 900
Boise, Idaho 83702
Telephone: (208) 378-5773
Cellular: (208) 867-3710
Fax: (208) 378-5744
E-Mail: weigel.greg@epa.gov

C. Should the Project Coordinator determine that Respondents have failed to implement any aspect of the Response Action as prescribed by this Order, or should Respondents otherwise fail to adequately comply with a requirement of this Order, EPA may assume performance of any or all portion(s) of the Response Action pursuant to applicable authorities, and Respondents shall

discontinue any or all aspect(s) of the Response Action as may be directed by the Project Coordinator.

VIII. NONCOMPLIANCE AND ENFORCEMENT

The violation of any provision of this Order may subject Respondents to the imposition of civil penalties as provided in Section 7003(b) of RCRA, 42 U.S.C. § 6973(b). The amount of any such penalties is subject to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by the Debt Collection Improvement Act of 1996, and the Civil Monetary Inflation Adjustment Rule, 40 C.F.R. Part 19. Should Respondents violate this Order or any portion hereof, EPA may carry out the required actions pursuant to applicable authorities and/or seek enforcement of this Order.

IX. RESERVATION OF RIGHTS

Nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order any and all actions deemed necessary to protect public health or welfare or the environment or to prevent, abate, or minimize an actual or threatened release, discharge or disposal of any solid waste, hazardous waste, hazardous substances, pollutants or contaminants on, at, or from HOF, including but not limited to the right to bring enforcement actions under RCRA, CERCLA, CWA and any other applicable statutes or regulations. Further, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Order, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring Respondents in the future to perform additional activities pursuant to RCRA, CERCLA, CWA or any other applicable law. EPA reserves the right to bring an action against Respondents for the recovery of any response costs incurred by the United States related to this Order or HOF.

X. OTHER CLAIMS

By issuance of this Order, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondents. The United States or EPA shall not be deemed a party to any contract entered into by Respondents or their directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out activities pursuant to this Order. In addition, nothing in this Order shall constitute a satisfaction of or release from any claim or cause of action against Respondents or any person not a party to this Order, for any liability such person may have under RCRA, CERCLA, CWA or other statutes, or common law, including, but not limited to, any claims of the United States for costs, damages and interest under RCRA, CERCLA, CWA or the Oil Pollution Act of 1990, 33 U.S.C. §§ 2701 to 2762.

XI. MODIFICATION, AMENDMENT, DEVIATION AND ADDITIONAL ACTION

A. Modification to the Statement of Work, including the schedule contained therein, or to any other plan or schedule may be made in writing by the Project Coordinator or at the Project Coordinator's oral direction. If the Project Coordinator makes an oral modification, it will be memorialized later in writing; however, the effective date of the modification shall be the date of the Project Coordinator's oral direction. The rest of this Order, or any other portion thereof, may be modified by amendment issued by the Director of the Office of Environmental Cleanup, EPA, Region 10.

B. If Respondents seek permission to deviate from the Statement of Work, including the schedule contained therein, or from any other plan or schedule, Respondents shall submit a written request to EPA, for review and approval, outlining the proposed deviation and the reasons therefore. No informal advice, guidance, suggestion or comment by EPA regarding reports, plans, specifications, schedules, or any other writing submitted by Respondents shall relieve Respondents of their obligations to obtain formal approval as may be required by this Order and to comply with all requirements of this Order.

C. If EPA determines that additional action is necessary to protect public health or the environment, EPA may require the performance of such action by Respondents under an amendment to this Order or in any other authorized manner.

XII. NOTICE OF COMPLETION

Following review of the Response Action Report, if EPA determines that the Response Action has been performed in accordance with this Order, with the exception of any continuing obligations required by this Order, EPA will so notify Respondents. If EPA determines that the Response Action has not been completed in accordance with this Order, EPA will so notify Respondents and provide a list of the deficiencies. Respondents shall implement the cleanup activities deemed deficient by EPA in accordance with the schedule provided by EPA. Respondents shall then provide a modified Response Action Report to EPA. The failure of Respondents to implement the Response Action shall be a violation of this Order.

XIII. ADMINISTRATIVE RECORD

The administrative record supporting this Order is available for review at the EPA office located at 1200 Sixth Avenue in Seattle, Washington. Arrangements to review the administrative record may be made by contacting Richard D. Mednick, Associate Regional Counsel for EPA, at telephone number (206) 553-1797 or electronic mail address "mednick.richard@epa.gov".

XIV. INSURANCE

Prior to commencing cleanup activities under the Statement of Work, Respondents shall secure, and shall maintain for the duration of the Response Action, comprehensive general liability insurance and automobile insurance with limits of **\$1,000,000**; combined single limit. Respondents shall provide EPA with certificates of such insurance and a copy of each insurance policy. If Respondents demonstrate by evidence satisfactory to EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering the same risks but in a lesser amount, then Respondents need provide only that portion of the insurance described above which is not maintained by such contractor or subcontractor.

XV. APPENDICES

The following Appendices are attached to this Order and incorporated by this reference herein:

Appendix A = Statement of Work

Appendix B = Diagram of HOF and the surrounding area

XVI. SEVERABILITY

If a court issues an order that invalidates any provision of this Order or finds that Respondents have sufficient cause not to comply with one or more provisions of this Order, Respondents shall remain bound to comply with all provisions of this Order not invalidated or determined to be subject to a sufficient cause defense by the court's order.

XVII. OPPORTUNITY TO CONFER

A. Respondents have **7 days** from the date of issuance of this Order to request a conference with EPA for the purpose of presenting information or comments regarding this Order. To make such a request, Respondents must notify Richard D. Mednick, Associate Regional Counsel, EPA, Region 10, at telephone number (206) 553-1797, or electronic mail address "mednick.richard@epa.gov." If Respondents make a request as outlined above, Respondents shall have up to **14 days** from the date of issuance of this Order to participate in a conference with EPA. This **14-day** period may be extended by EPA if EPA should find there is good cause to do so.

B. A conference under this Section may be held by means of an in-person meeting at the EPA office in Seattle, telephone, or telephonic video conferencing, if such equipment is available and compatible as between EPA and Respondents, or by a combination of one or more of these options. During a conference held under this Section, Respondents may appear in person and/or be represented by an attorney or other person, and may present information, arguments or comments regarding this Order, including but not limited to the appropriateness of its terms and applicability to Respondents. The conference is not an evidentiary hearing, does not constitute a proceeding to challenge this Order, and does not provide a right to seek review of this Order.

C. At or prior to a conference which is held in accordance with this Section, Respondents shall provide EPA, in writing, the information, arguments and comments to be presented by Respondents during the conference. If no such conference is held, Respondents may submit to EPA, in writing, any information, arguments, or comments regarding this Order within **14 days** of the date of issuance of this Order.

XVIII. NOTICE OF INTENT TO COMPLY

Within **5 days** of the Effective Date, Respondents shall provide notice to EPA of the irrevocable intent of Respondents to comply with this Order. Said notice shall be made by contacting the OSC, in writing, and therein informing him of this intent. The failure of Respondents to provide such notice within this time period shall be a violation of this Order.

XIX. EFFECTIVE DATE

A. This Order shall be effective on **DECEMBER 6, 2012**.

B. Should EPA make a revision to this Order as a result of the information, arguments or comments presented by Respondents under Section XVII above, or for any other reason, EPA will so inform Respondents and provide Respondents with the revision to the Order. Should the Order be so revised by EPA, the Effective Date will be as specified by EPA in the revision to the Order.

IT IS SO ORDERED

BY: 

Richard Albright, Director
Office of Environmental Cleanup
Region 10
U.S. Environmental Protection Agency

ISSUANCE DATE: 19 Nov 2012

Appendix A

Unilateral Administrative Order / EPA Docket No. RCRA-10-2013-0040

Atkinson/Hunt Oil Site

Statement of Work

Task 1 – Site Safety Plan

Prepare a Site-Specific Health and Safety Plan (HASP) that covers activities in this Statement of Work (SOW), and addresses the requirements of the Hazardous Waste Operations and Emergency Response regulation (Title 29, Code of Federal Regulations, Part 1910.120). The Site-specific HASP will be prepared prior to initiation of field activities.

Task 2 – Continue LNAPL Recovery from Monitoring Wells

Continue to recover, via skimming or suction, LNAPL from existing impacted monitoring wells at the Site. LNAPL recovery must continue on a weekly basis until such time as the wells are eliminated resulting from contaminated soil removal in Task 3 below. If LNAPL continues to be observed in wells that are not eliminated through implementation of Task 3, or if LNAPL is observed in additional installed monitoring wells (see Task 4), it too must be recovered on a weekly basis via skimming or suction. Submit the results from this work on a monthly basis to EPA.

Task 3 – Contaminated Soil Removal

3.1 - Prior to subsurface exploration and excavation locate underground utilities in the investigation area. Utilize Dig Line and/or a qualified private locator to identify and delineate subsurface utilities at each proposed exploratory boring location and within the limits of the proposed excavation area using metal detection and ground penetrating radar equipment.

3.2 - Remove product dispensers and product piping equipment at the Site facility, as necessary to remove contaminated soils. The product dispenser and product piping removal will comply with all applicable local, state, and federal requirements. The tasks strictly necessary for dispenser and product piping decommissioning include purging the system of liquids and explosive vapors and removal and disposal of sludge and piping.

3.3 - Remove the contaminated subsurface soil associated with the leaking piping observed at the end of July 2012 and the contaminated soils observed from the trench excavation on December 31, 2011. The estimated horizontal extent of the excavation is from the pump island area west towards the Clearwater River to near the City of Orofino sewer line. An estimated minimum of approximately 2,500 cubic yards of contaminated soil may require removal. Vertical excavation will generally be terminated within a few feet below contact with groundwater (groundwater occurs approximately 15 feet below ground surface [bgs]) or until photoionization detector (PID) readings suggest clean soil (i.e., <50 parts per million of vapor volume [ppmv]). The final horizontal and vertical extent of excavation shall be determined in coordination with the Project Coordinator/OSC.

To evaluate subsurface conditions, soil samples will be collected from the limits of the excavation. Soil samples will be collected on the side walls of the excavation with approximate 20-foot spacing around the perimeter of the excavation or areas of contamination. Typically these samples will be collected at

the soil/groundwater interface. A portion of each soil sample will be submitted to field headspace analysis, using a PID. Soil samples will be placed in zip-lock-type plastic bags and heated to room temperature (approximately 70 degrees Fahrenheit [°F]), then tested by inserting the tip of the PID into the bag. Soil samples will be collected in laboratory supplied sample containers and stored on ice pending transport to an analytical laboratory for submittal for: gasoline range total petroleum hydrocarbons, benzene, toluene, ethylbenzene, total xylenes, naphthalene (BTEXN); methyl tert-butyl ether (MTBE); polynuclear aromatic hydrocarbons (PAHs); ethylene dibromide (EDB); and 1,2-dichloroethane (EDC) by appropriate United States Environmental Protection Agency (EPA) methods.

3.4 - If groundwater is present in the excavation pit and light non-aqueous phase liquid (LNAPL) is detected on the surface of groundwater, petroleum-absorbent booms will be used on the surface of the water to recover LNAPL. In addition, the use of a vacuum truck may be used to evacuate LNAPL and contaminated groundwater prior to backfilling the excavation. One sample will be collected of recovered groundwater for characterization and disposal purposes. The sample will be analyzed for BTEX and Resource Conservation and Recovery Act (RCRA) metals by appropriate EPA methods.

If no LNAPL is present, or if LNAPL has been successfully removed, but groundwater is impacted, based on odor, petroleum sheen, or other visual evidence, air sparging (AS) will be conducted in the open excavation. Slotted polyvinyl chloride (PVC) pipe will be installed below the water table in the excavation. The pipe will be routed to ground surface and attached to a regenerative blower. The blower will be started, and air will be pushed into the water to promote hydrocarbon volatilization and to increase dissolved oxygen in the groundwater. If sparging occurs, one post-sparging groundwater sample will also be collected from the excavation. The sample will be analyzed for, BTEXN, MTBE, PAHs, EDB, and EDC by appropriate EPA methods.

Determine the duration of air sparging using the Residential Use Screening Levels (RUSLs) (Table 2 from IDAPA 58.01.24 – Application of Risk Based Corrective Action at Petroleum Release Sites) for groundwater. If analytical results for groundwater samples collected from the excavated area indicate concentrations below the groundwater RUSLs then the air sparging activities may be discontinued and the excavation backfilled. However, if groundwater concentrations do not achieve RUSLs, air sparging activities shall continue for a minimum of 48 hours, but may need to be discontinued after 48 hours due to concerns for health and safety and wet weather run-on conditions. Any decision to discontinue air sparging and backfill the excavation when RUSLs have not been achieved will be made in coordination with the EPA Project Coordinator/On-Scene Coordinator (OSC).

3.5 – If it is determined, in coordination with the Project Coordinator/OSC, that the excavation pit must be backfilled prior to achieving RUSLs in groundwater, Respondents may propose use of in-situ chemical oxidation in the open pit prior to backfilling, in order to potentially mitigate the need for future additional cleanup actions that might otherwise be necessary to mitigate the ongoing migration of residual contaminants to the Clearwater River. Any decision regarding use of any chemical additive, including type of compound, amount and method of application, must be made in coordination with the Project Coordinator/OSC.

3.6 - Air monitoring must be conducted during air sparging activities to ensure that nearby populations, including RV park residents and passers-by on the road, are not adversely impacted by the volatilization of contaminants. An air monitoring plan, with appropriate risk-based action levels, must be developed and provided to the OSC prior to the initiation of air sparging. The USEPA Regional Screening Levels (RSL, Resident Air values) will be used as a starting point to develop site-specific community air

monitoring levels. Exposure parameters (e.g. exposure frequency, exposure duration, etc.) used in the RSL equations for residential air levels will be modified to reflect the expected operating schedule of the sparging system

3.7 - For quality assurance/quality control (QA/QC) purposes, one duplicate groundwater sample will also be collected for laboratory analyses of the above-described contaminants of concern. A trip blank will also be analyzed for volatiles. Following sample collection, the excavations will be backfilled with clean, previously excavated soil or clean, pit-run granular backfill obtained from a local aggregate source, overlain with a standard road base. Any excavated soils to be placed back in the excavation must be sampled and analyzed to ensure that the soils are not contaminated. Fill will be replaced in 1-foot-thick lifts and compacted to applicable standards. The Site surface will be re-paved with asphalt. Contaminated soil generated during the excavation activities will be characterized using laboratory analysis for BTEX and RCRA metals by the Toxicity Characteristic Leaching Procedure (TCLP). A minimum of five samples (four grab samples and one composite sample) will be necessary for characterization. Contaminated soil will be disposed off-site at an appropriate facility approved by the Nez Perce Tribe (if within the Nez Perce Reservation boundaries) or the Idaho Department of Environmental Quality (if in Idaho outside of the Nez Perce Reservation).

Task 4 – Additional Monitoring Well Installation

It is expected that during Task 2 (described above), monitoring wells MW-2, MW-3, and MW-4 will likely be removed during the excavation activities. As a result, at least two additional monitoring wells will need to be installed for long-term monitoring of the Site. These wells will be installed at locations that have been assumed to be hydraulically downgradient of the Site (i.e., west of the aboveground storage tank basin and dispenser island) in order to assess the potential for off-site migration of impacted groundwater. The exact location of the wells shall be determined in coordination with the OSC. The proposed monitoring wells will be installed to an approximate total depth of 25 feet below ground surface (bgs). Soil samples will be collected in each boring at 5-foot intervals to confirm the stratigraphic succession beneath the Site. A portion of each soil sample will be submitted to field headspace analysis, using a PID. Soil samples will be placed in zip-lock type plastic bags and heated to room temperature (approximately 70°F), then tested by inserting the tip of the PID into the bag. In each boring, one soil sample exhibiting elevated field headspace value (greater than 50 ppmv) will be collected in laboratory-supplied sample containers and stored on ice pending transport to an analytical laboratory for submittal for: BTEXN, MTBE, PAHs, EDB, and EDC by appropriate EPA methods. Cuttings generated by drilling activities will be containerized in 55-gallon drums and stored on-site pending characterization and proper disposal. The monitoring well casings will be constructed using 2-inch-diameter Schedule 40 PVC, screened from 15 to 25 feet bgs, with factory-slotted (0.020-inch) screen. Each well will be completed according to Idaho Department of Water Resources (IDWR) standards. A surface flush mount vault will be placed at ground surface to protect the wellhead, and the well will be capped with a locked J-plug. The monitoring wells will be developed by purging a minimum of 10 well volumes from the well casings using a 12-volt submersible pump and disposable tubing. The pump will be decontaminated prior to use in each monitoring well. Upon completion, one groundwater sample will be collected from each monitoring well using a disposable polyethylene bailer or peristaltic pump and disposable tubing. Each groundwater sample will be submitted for BTEXN, MTBE, PAHs, EDB, and EDC by appropriate EPA methods. In the event that non-aqueous phase liquid (NAPL or "free product") is encountered, a sample of free product will be collected and submitted for forensics analysis. Purge water generated during well development activities will be containerized in 55-gallon drums and stored on-site pending characterization and proper disposal. For the purposes of this SOW, it is estimated that a maximum of two soil samples and two groundwater samples will be collected and

submitted for laboratory analysis. For QA/QC purposes, one duplicate groundwater sample will also be collected for laboratory analyses of the above-described contaminants of concern. A trip blank will also be analyzed for volatiles. Following well development and sampling activities, a licensed surveyor will conduct a wellhead elevation survey.

Task 5 – Data Analysis and Report Preparation for Tasks 3 and 4

Within 30 days after completion of Task 3 and 4 activities, a report will be prepared and submitted summarizing Site activities and analytical laboratory test results. The report will include Site figures, field and analytical data summarized in tables, and complete analytical laboratory reports.

Task 6 – Quarterly Groundwater Monitoring (Four Events Minimum) and Reporting

Quarterly monitoring events will begin December 2012 and will, at a minimum, continue through September 2013 (four events). The frequency of groundwater monitoring will be increased if deemed necessary by the Project Coordinator/OSC. The groundwater levels in all existing monitoring wells will be measured prior to sampling to evaluate groundwater flow direction and hydraulic gradient.

Quarterly groundwater monitoring samples will be collected in wells MW-1, MW-5, MW-6, MW-7 (proposed new well), and MW-8 (proposed new well). Groundwater purging and sampling in the monitoring wells will be conducted using low-flow sampling procedures and disposable tubing.

Groundwater parameters including pH, temperature, specific conductivity, dissolved oxygen content, and turbidity will be collected during purging. For QA/QC purposes, one duplicate sample will also be collected per sampling event and a trip blank will be analyzed. Samples will be collected according to BC's standard operating procedures and submitted to an approved laboratory for analysis.

Groundwater samples will be analyzed for BTEXN, MTBE, PAHs, EDB, and EDC by appropriate EPA methods. All purge water from the monitoring wells will be containerized for later treatment and disposal. It is expected that approximately 15 gallons of purge water will be generated during each sampling event. Costs for treatment and disposal are included in this SOW. Within 30 days after receipt of laboratory analytical results from each quarterly monitoring event, a report will be prepared summarizing the results of that event. The report will describe the work performed at the Site, present the collected data in a tabular format, and address the project objectives. The report will be complete with maps and analytical laboratory test results.

Schedule

Tasks 1 through 4 must be completed by no later than December 31, 2012.

