

Petroleum Products Corp

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IV

IN THE MATTER OF:

PETROLEUM PRODUCTS CORPORATION
HALLANDALE, FLORIDA

Respondent.

Site: _____
Break: 10.11
4/1/85

DOCKET NO. 85-09-C
ADMINISTRATIVE ORDER
BY CONSENT

PROCEEDING UNDER SECTION 106(a) OF THE
COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION
AND LIABILITY ACT, 42 U.S.C. §9606(a)(1980)

JURISDICTION

The UNITED STATES ENVIRONMENTAL PROTECTION AGENCY and PETROLEUM PRODUCTS CORPORATION, the parties hereto, having reached a resolution of the issues involved in this proceeding, it is therefore agreed and ordered as follows pursuant to CERCLA §106(a) and §104(a), 42 U.S.C. §9606(a) and §9604(a):

The following Administrative Consent Order (hereinafter referred to as "CONSENT ORDER") is issued to the Petroleum Products Corporation (hereinafter referred to as "Respondent"), pursuant to the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §9606(a) which authority was delegated to the Administrator of the United States Environmental Protection Agency (EPA) by Executive Order 12316, August 20, 1981, 46 Fed. Reg. 42237, and redelegated to the Regional Administrator, Region IV. Pursuant to Section 106(a) of CERCLA, 42 U.S.C. §9606(a), the State of Florida has previously been notified of this Order. This action is consistent with Section 300.65 of the National Contingency Plan, 40 C.F.R. Part 300, 47 Fed. Reg. 31180 (July 16, 1982), revised at 48 Fed. Reg. 40658 (September 8, 1983).

EPA has determined that there is an imminent and substantial endangerment to the public health or welfare or the environment due to the release and threat of release of hazardous substances as defined in Section 101(14) of CERCLA, 42 U.S.C., §9601(14) from the following location:

Petroleum Products Corporation
Pembroke Road Site
Hallandale, Florida

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To accomplish the mutual objectives of EPA and Respondent and to resolve the matter constructively and without litigation, Respondent consents to the actions required by the CONSENT ORDER. Respondent reserves all rights it may have to object to or contest any allegation of violation of this CONSENT ORDER.

PARTIES

This CONSENT ORDER shall apply to and be binding upon the Respondent and EPA, their agents, successors, and assigns and upon all persons, contractors, and consultants acting under or for either the Respondent or EPA or both.

EPA'S FINDINGS OF FACT

EPA has determined that all findings of fact necessary for the issuance of this CONSENT ORDER pursuant to Section 106(a) of CERCLA have been made as outlined below:

1. Petroleum Products Corporation has owned and operated a facility at 3130 S.W. 19th Street, Hallandale, Florida, from 1953 to the present. Activities conducted at the Petroleum Products Corporation facility included the receipt, handling, storage, and disposal of "hazardous substances" as that term is defined by Section 101(14) of CERCLA, 42 U.S.C. §9601(14). During its years of operation as a facility, Petroleum Products refined, stored, and recycled oil products, according to records maintained by the State of Florida and EPA.
2. The property upon which the recycling, storage, and disposal operations were carried out by Petroleum Products Corporation is approximately one and one-half acres. The eastern two-thirds of the site comprises the waste oil facilities. Four waste oil tanks, an inactive boiler house, and four inactive process tanks are located in a fenced area on the northern part of the site. South of the fenced area are two inactive concrete block structures and associated inactive tanks. East of the fenced area are an inactive oil-water separator and additional small inactive tanks. A site plan is attached as Exhibit A.
3. At the facility approximately 125,000 gallons of contaminated oils, water and sludges are in approximately sixteen holding tanks. Said tanks are leaking contaminated oils into bermed areas and are contaminating the soil and groundwater beneath the site with organic compounds and heavy metals. These leachable chemicals are a continuing source of contamination to the groundwater.

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4. On March 5, 1984, the Florida Department of Environmental Regulation (hereafter "FDER") sampled groundwater from wells at the site. Analyses of these samples revealed contamination levels as follows:

<u>Type</u>	<u>Source</u>	<u>Analysis</u>	<u>Result</u>
Groundwater	Well #4	Oil & grease	54.2 ppm
Groundwater	Well #5	Lead	473 ppb
Groundwater	Well #6	PCB	65.9 ppb
Groundwater	Well #4	Total phenols	3020 ppb
Groundwater	Well #4	Benzene	35.5 ppb
Groundwater	Well #5	1,1-Dichloroethylene	18.3 ppb
Groundwater	Well #4	Ethylbenzene	32.1 ppb
Groundwater	Well #4	Trichloroethylene	120.0 ppb
Groundwater	Well #4	Vinyl chloride	150.8 ppb

5. On November 27, 1984, the FDER sampled the oil, the soil, and the groundwater at the site. Analyses of these samples revealed contamination levels as follows:

<u>Type</u>	<u>-Source*</u>	<u>Analysis</u>	<u>Result</u>
Oil	Aquifer	Chlorobenzene	120 ppm
Oil	Aquifer	Ethylbenzene	290 ppm
Oil	Aquifer	Toluene	240 ppm
Oil	Aquifer	Anthracene	130 ppm
Oil	Aquifer	1,2-Dichlorobenzene	350 ppm
Oil	Aquifer	Naphthalene	760 ppm
Oil	Aquifer	Chromium	17.2 ppm
Oil	Aquifer	Lead	244 ppm
Oil	Aquifer	Zinc	395 ppm
Soil	Soil Sample	Chromium	14 ppm
Soil	Soil Sample	Copper	25 ppm
Soil	Soil Sample	Lead	4020 ppm
Soil	Soil Sample	Zinc	434 ppm

*Composites from oil atop aquifer.

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6. On January 10, 1985, the EPA sampled the oil in the above-ground tanks and the soil at the site. Analysis of these samples revealed contamination levels as follows:

<u>Type</u>	<u>Source</u>	<u>Analysis</u>	<u>Result</u>
Tank oil	Tank #4	Methylene chloride	51 ppm
Tank oil	Tank #1	1,1,1-Trichloroethane	229 ppm
Tank oil	Tank #1	Benzene	190 ppm
Tank oil	Tank #1	Toluene	254 ppm
Tank oil	Tank #1	Tetrachloroethylene	61 ppm
Tank oil	Tank #1	Ethyl benzene	38 ppm
Tank oil	Tank #2	Lead	547 ppm
Tank oil	Tank #3	Lead	449 ppm
Tank oil	Tank #4	Lead	230 ppm
Tank oil	Tank #5	Chromium	18 ppm
Tank oil	Tank #5	Lead	134 ppm
Tank oil	Tank #7	Lead	962 ppm
Tank oil	Tank #6	Lead	655 ppm
Tank oil	Tank #8	Lead	825 ppm
Soil	Location PR-02*	Tetrachloroethylene	680 ppb
Soil	Location PR-02	Toluene	5400 ppb
Soil	Location PR-02	Ethyl benzene	3900 ppb
Soil	Location PR-02	Methylisobutylketone	3000 ppb
Soil	Location PR-02	Xylenes	18000 ppb
Soil	Location PR-02	Lead	14000 ppm
Soil	Location PR-02	Chromium	38 ppm
Soil	PR-01	Trichloroethylene	1800 ppb
Soil	PR-01	Toluene	2300 ppb
Soil	PR-01	Chlorobenzene	1100 ppb
Soil	PR-01	Ethyl benzene	1900 ppb
Soil	PR-01	Methyl-isobutyl-ketone	1500 ppb
Soil	PR-01	Total xylenes	12000 ppb

7. All of the volatile organic contaminants found in the water, oil, and soil at the site are either known or suspected carcinogens, and/or mutagens or are toxic to humans subjected to chronic exposure to the substances. All of the metals, in the highest concentrations found, are considered hazardous substances to humans subjected to chronic exposure to the metals. All substances, in the highest concentrations found, are known pollutants and can cause illness in humans.

*See EXHIBIT B.

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8. The volatile organic contaminants can migrate to the ground-water system by leaching out of the soil. The municipality of Hallandale, Florida, has a public drinking water well less than one mile from the site. The presence of a trailer park and two private drinking wells within half a mile creates a further endangerment to public health and welfare and the environment.

9. The release of a hazardous substance may present an imminent and substantial endangerment to public health and welfare and the environment.

10. In order to protect public health and welfare and the environment, it is necessary that action be taken to mitigate the release and the threat of release of hazardous substances from the facility into the environment.

11. Pursuant to Section 106(a) of CERCLA, 42 U.S.C. §9606(a), the State of Florida has previously been notified of this Order.

EPA'S CONCLUSIONS OF LAW

EPA has concluded the following:

1. The Petroleum Products Corporation site is a facility within the meaning of Section 101(9) of CERCLA, 42 U.S.C. §9601(9).
2. The contamination of soil and ground water with volatile organic compounds at the Petroleum Products Corporation site constitutes release of hazardous substances within the meaning of Sections 101(22) and 106(a) of CERCLA, 42 U.S.C. §9601(22) and §9606(a).
3. Petroleum Products Corporation is a responsible party pursuant to Section 107(a) of CERCLA, 42 U.S.C. §9607(a).

EPA'S DETERMINATIONS

Based on the foregoing Findings of Fact and Conclusions of Law, and the entire record of this proceeding, the Regional Administrator has determined that: (1) The release of hazardous substances from the facility may present an imminent and substantial endangerment to the public health or welfare or the environment; (2) In order to protect public health and welfare or the environment, it is necessary that the action required in this CONSENT ORDER be taken to mitigate the effects of past releases of hazardous substances from the facility; and (3) The actions required in this Consent Order are consistent with the National Contingency Plan.

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CONSENT ORDER

The Respondent does not admit to and at a later date may deny any of the factual or legal determinations or conclusions of law made by EPA; and except as noted below, reserves the rights and defenses which the Respondent may have regarding liability or responsibility in any subsequent proceedings regarding the site. The Respondent will not initiate any proceeding to contest the validity of this Consent Order and will not contest the validity of this Consent Order in any proceeding brought by EPA to enforce this Consent Order. Nothing herein contained shall preclude Respondent from contesting determinations of EPA, herein or in the future, in enforcement proceedings or otherwise, when they form the basis of an allegation of violation of Exhibit C.

The parties having reached a resolution of the issues involved in this proceeding, it is therefore AGREED and ORDERED as follows pursuant to CERCLA Sections 106(a) and 104(a), 42 U.S.C. §9606(a), and §9604(a):

1. Respondent shall implement the tasks detailed in the Immediate Removal Work Plan attached as Exhibit C. This Work Plan, including the time schedules specified therein, is hereby incorporated by reference and made a part of this CONSENT ORDER. Respondent shall be permitted to extend the time schedules set forth in the Work Plan only to the extent that the delay is caused by reasons entirely beyond the control of Respondent or the control of any entity controlled by or under common control of Respondent. Increased cost shall not be considered a reason beyond the control of Respondent. In any event, the burden of establishing a basis for an extension shall be exclusively on Respondent.
2. If Respondent fails to achieve any deadline set forth in this CONSENT ORDER, it will submit a written report by certified mail, electronic mail, an express mail carrier, or personal delivery to EPA. Such report will be submitted and received within four (4) working days following the missed deadline, and will include:
 - (a) An explanation for the failure to meet the deadline;
 - (b) The measures taken and to be taken by Respondent to minimize the delay;
 - (c) The timetable by which those measures will be implemented which will not be beyond the period of time reasonably necessary for completion of those activities on an expedited schedule calculated to minimize the delay; and
 - (d) Any documentation relevant to 2(a) through 2(c).

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3. EPA will respond in writing by certified mail, electronic mail, an express mail carrier, or personal delivery, which response will be submitted and received within four (4) days, to any report by Respondent pursuant to Paragraph 2 of this Section by indicating whether EPA approves Respondent's proposed date or time period for completion of the delayed activities. EPA's written approval will be deemed to be incorporated into this CONSENT ORDER. If EPA does not so approve of a report submitted pursuant to Paragraph 2 above, EPA will so state in writing within four (4) days, and also state the date by which, or the time period within which, Respondent shall achieve the tasks as to which the deadline applied, which written response shall be deemed to be incorporated into this CONSENT ORDER. If Respondent does not receive EPA's response by the above-specified date, Respondent's request will be deemed to be granted. Respondent's failure to comply with the schedule as incorporated will be construed to be a violation of this CONSENT ORDER which may subject Respondent to the penalties provided by Sections 106(b) and 107(c)(3) of CERCLA, 42 U.S.C. - §9606(b) and 9607(c)(3). Respondent reserves its rights to diligently contest any response by EPA concerning proposed changes in deadlines or violations asserted against Respondent by EPA.
4. If any event occurs which causes delay in the achievement of the requirements of this Consent Order, the Respondent shall have the burden of proving that the delay was caused by circumstances beyond the reasonable control of the Respondent which could not have been overcome by due diligence. The Respondent shall promptly notify EPA's Project Coordinator orally and shall, within three (3) days of oral notification to EPA, notify EPA in writing of the anticipated length and cause of the delay, the measures taken and/or to be taken to prevent or minimize the delay, and the timetable by which the Respondent intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of the Respondent, the time for performance hereunder shall be extended for a period equal to the delay resulting from such circumstances. The Respondent shall adopt all reasonable measures to avoid or minimize delay. Failure of the Respondent to comply with the notice requirements of this paragraph shall render this paragraph void and constitute a waiver of the Respondent's right to request a waiver of the requirements of this Consent Order. Increased costs of performance of the terms of this Consent Order or changed economic circumstances shall not be considered circumstances beyond the control of the Respondent.

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5. The Respondent agrees to indemnify and save and hold EPA, its agents and employees, harmless from any and all claims or causes of action arising from or on account of acts or omissions of the Respondent, its agents or assigns, in carrying out the activities pursuant to this Consent Order. EPA is not a party in any contract involving the Respondent at the site. The Respondent will not indemnify EPA, its agents or assigns, for their own acts or omissions. EPA does not consider FDER an agent of Respondent.
6. Respondent shall not prevent access to the site by EPA and its employees, contractors and consultants throughout the duration of the work plan, as may be amended by the parties per the terms of this Order. EPA shall use its available legal authority to ensure that Respondent has access to the site for purposes of implementation of this CONSENT ORDER.
7. In the event that Respondent fails to adhere to any requirement of this CONSENT ORDER or, notwithstanding compliance with the terms of this CONSENT ORDER, upon the occurrence or discovery of a situation as to which EPA would be obligated to take any further response action, including but not limited to an immediate removal, planned removal, and/or interim actions; or in the event of a release or threatened release not addressed by this CONSENT ORDER; or upon the determination that action beyond the terms of this CONSENT ORDER is necessary to abate an imminent and substantial endangerment to the public health or welfare or the environment that may be posed by this facility; EPA, after proper notice to Respondent, and in compliance with applicable statutes and regulations, may institute federally-funded response activities and subsequently pursue cost recovery actions and/or EPA may issue orders to Respondent pursuant to available statutory authority, or it may take any combination of these actions. Respondent does not waive any of its rights to challenge such actions by EPA.
8. EPA reserves the right to bring an action against Respondent pursuant to Section 107 of CERCLA for recovery of its costs incurred in oversight of Respondent's implementation of this CONSENT ORDER and any other costs incurred by EPA in connection with its response activities at the site. Respondent reserves its rights to contest any such action.
9. Respondent is advised that willful violation of, or failure to comply with, this CONSENT ORDER, or any portion thereof, may subject it to a civil penalty of not more than \$5,000 for each day in which such violations occur or in which such failure to comply continues. Failure to comply with this CONSENT ORDER, or any portion thereof, without sufficient cause, may also subject Respondent to

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liability for damages in the amount of three (3) times the total of all costs incurred by the government as a result of Respondent's failure to take proper action. Respondent reserves its rights to contest any such action.

10. Respondent shall appoint a Project Coordinator who shall be responsible for implementation of this CONSENT ORDER and the activities required herein. All reports, comments and other correspondence directed to Respondent will be made available to the Project Coordinator.
11. EPA shall appoint an On-Scene Coordinator (OSC) who shall have the authority vested by the National Contingency Plan at 40 CFR Part 300. The OSC will be EPA's designated representative at the Site, and will have the right to move freely about the Site at all times when work is being carried out pursuant to this CONSENT ORDER. The OSC will advise Respondent as soon as he may become aware that any action taken pursuant to the Immediate Removal Work Plan is not consistent with the National Contingency Plan.
12. All sample collection, sample preservation, chain-of-custody, laboratory analyses, and quality assurance procedures utilized by Respondent pursuant to this CONSENT ORDER shall be documented and made available to EPA upon request.
13. Upon request by EPA, Respondent shall provide EPA or its designated representatives under this CONSENT ORDER, with duplicate and/or split samples of any samples collected in furtherance of work performed in accordance with this CONSENT ORDER.
14. All data and information, including raw sampling and monitoring data, generated pursuant to this CONSENT ORDER by Respondent or on behalf of Respondent, shall promptly be made available by Respondent to EPA or its designated representative.
15. All records produced by Respondent and delivered to EPA in the course of implementing this CONSENT ORDER shall be available to the public unless identified as confidential by Respondent in conformance with 40 C.F.R. Part 2. Records so identified shall be treated as confidential only in accordance with the applicable confidentiality regulations. No sampling and monitoring data or hydrological or geological information shall be considered confidential.

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16. All correspondence, reports, work plans and other writings required under the terms of this CONSENT ORDER to be submitted to EPA shall be sent by certified mail, return receipt requested, to the following address:

Ned Jessup
On-Scene Coordinator
U.S.E.P.A. - Region IV
345 Courtland Street, NE
Atlanta, GA 30365

17. In the event that Respondent and EPA are unable to agree on modifications to the CONSENT ORDER, EPA reserves all rights to take such actions as it deems necessary, and Respondent reserves all rights to contest such actions.
18. EPA hereby agrees to cooperate to the fullest extent possible in the implementation of this CONSENT ORDER.
19. Respondent shall preserve all records developed pursuant to implementation of this CONSENT ORDER for a period of at least six (6) years following completion of all work conducted by Respondent pursuant to this CONSENT ORDER.
20. Nothing herein is intended to release any claim, causes of action or demands in law or equity against any person, firm, partnership, or corporation not a signatory to this CONSENT ORDER for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from the Site.
21. This CONSENT ORDER does not constitute preauthorization of funds under Section 111(a)(2) of CERCLA.
22. No informal advice, guidance, suggestions or comments by EPA regarding reports, plans, specifications, schedules or any other writing submitted by the Respondent shall be construed as relieving Respondent of its obligation to obtain such formal approvals as may be required by paragraph 2 and 3 herein, as well as by any provisions of further amendments to this CONSENT ORDER.
23. This order is effective upon execution by the Regional Administrator and Petroleum Products Corporation.
24. Nothing herein shall be construed as an admission by Respondent, and the facts and legal conclusions and determinations alleged herein are for settlement purposes only and shall not be binding upon Respondent in any other context. This clause is not in conflict with any other clause in this CONSENT ORDER.

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This ORDER is effective upon execution by the Regional Administrator and PETROLEUM PRODUCTS CORPORATION.

Entered with the agreement and consent of the parties:

U.S. ENVIRONMENTAL PROTECTION AGENCY.

By: John A. Catts, Deputy for Date: 4/1/85
CHARLES R. JETER
Regional Administrator
U.S. EPA, Region IV
345 Courtland Street, NE
Atlanta, Georgia 30365

PETROLEUM PRODUCTS CORPORATION

By: Jerry Blair Date: 3/29/85
JERRY BLAIR, President