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SUPERIOR COURT CLERK

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**STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT**

THE STATE OF WASHINGTON,
Plaintiff,

v.

THOMAS WISE,
Defendant.

NO. 15-1-00240-2

AFFIDAVIT OF PROBABLE CAUSE

ERIC GOETZ declares under penalty of perjury of the laws of the State of Washington that the following is true and correct:

I am a Special Agent with the United States Environmental Protection Agency (“EPA”), Criminal Investigation Division (“EPA-CID”) located in Seattle, Washington. As a Special Agent for the U.S. EPA-CID, I am authorized to conduct investigations of environmental crimes occurring in the United States, including lands and waters within the State of Washington.

On March 12, 2014, EPA-CID was notified by Ellen Stewart, Source Control Supervisor for Seattle Public Utilities, that Tank Wise, LLC, a King County tank removal and repair company located at 5405 W Marginal Way SW, was alleged to have an illicit connection to a storm water or sanitary sewer line on their property in South Seattle, Washington near the Duwamish River. The allegations received by EPA-CID included information suggestions that Tank Wise has been using the illicit connection, a black PVC pipe, to illegally discharge oil and oil sludge for several years.

1 On April 02, 2014, I spoke via telephone with Eric Autry, Senior Spills Coordinator for
2 Seattle Public Utilities, regarding the Tank Wise facility. Autry informed me that he inspected
3 the Tank Wise facility on March 27, 2014 and was present during a subsequent inspection of the
4 facility conducted by King Country on April 1, 2014. Autry said that during his March 27, 2014
5 inspection of the Tank Wise facility, he met with Tank Wise owner Tom WISE, who
6 accompanied him throughout the inspection. Autry explained that during his visit he learned
7 that Tank Wise processes used underground storage tanks ("UST") and has been improperly
8 disposing of the industrial waste generated throughout their processes (type of wastes) to the
9 sanitary sewer without a permit. Autry said that according to Wise, Tank Wise processes
10 approximately five to seven tanks per week and up to 15 per week when business is good. He
11 said the average tank size processed at Tank Wise is approximately 300 gallons.

12 In addition to the improper disposal of any waste to the sanitary sewer without a permit,
13 Autry said that during his inspection of the Tank Wise facility he observed a wye (i.e. Y)
14 connection on the effluent discharge pipe leading from the outlet of the oil water separator to the
15 King County sanitary sewer system. Autry reported observing an oily funnel sitting below the
16 wye connection. Autry provided me with a photograph of the aforementioned piping and funnel.
17 See Attachment A. Autry said he stuck his finger into the open end of the piping extending from
18 the wye connection and that when he removed his finger it was covered in oil. Autry explained
19 that since the wye connection and discharge pipe is down-stream of the oily water separator there
20 should not be any oil present in the effluent piping or wye connector. Autry said that according
21 to Wise, the oil in the effluent discharge piping and wye connector could have been caused by
22 Tank Wise employee Terry Starkweather who had used the wye connection to discharge to the
23 sewer in the past. Autry said he spoke with Starkweather who admitted he had dumped dirty
24 water into the wye connection earlier the same day.

1 Autry told me that following his inspection of the Tank Wise facility he opened the
2 manhole to the sanitary sewer line located just off site on the public right-of-way and found it to
3 be full of sludge. Autry collected a sample of the sludge he observed in the manhole and had it
4 analyzed at a local laboratory for diesel range hydrocarbons. Autry said the laboratory results
5 indicated that the sludge material contained approximately 2500 parts per million of diesel.
6 Autry explained that Tank Wise is the only contributor to the sewer system at the point where
7 the sludge was observed and subsequently sampled from the manhole. SA Goetz reviewed a
8 sewer diagram provided by Autry that showed the layout of the sanitary sewer system in the area
9 surrounding the Tank Wise facility. The diagram confirmed that Tank Wise is the only
10 contributor to the sewer system at the point where the sludge was observed and sampled, as
11 stated by Autry.

12 Autry provided SA Goetz with a copy of his inspection narrative from the April 1, 2014
13 visit to the Tank Wise Facility. In it, Autry reports that according to Wise there are eight years'
14 worth of a mess in the pipe and that Wise said he (Wise) has been doing it wrong since 2006
15 when he installed the connection.

16 On April 3, 2014, Eric Autry provided me with a copy of the analytical sample results
17 pertaining to the sample he collected at the Tank Wise facility on Marcy 27, 2014. The results
18 indicated that the sample contained diesel range hydrocarbons at a concentration of
19 approximately 2,500 milligrams per liter (parts per million).

20 On April 7, 2014, I spoke with Arnaud Girard, King County Industrial Waste Department
21 Investigator, regarding the Tank Wise facility. Girard informed me that he visited the site and
22 met with Tank Wise owner, Tom Wise on April 1, 2014. He said the visit was prompted by a
23 referral from Seattle Public Utilities regarding allegations of an ongoing illicit discharge from
24 the Tank Wise facility. Girard said he toured the facility with Wise and was shown the area from
25 which the illicit discharges had occurred. Girard said he instructed Wise to cease discharging to
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1 the sewer system and to remove and cap the illicit connection. Girard said his team collected
2 samples from the sewer line into which the Tank Wise had been discharging and that he was
3 awaiting sample results. Girard told SA Goetz that during his visit with Wise, Wise said he
4 knew they (Tank Wise) would eventually get caught for discharging without a permit and that
5 now that he's been caught he wants to do the right thing. Girard told SA Goetz that at his urging,
6 Tank Wise disconnected the illicit connection and ceased discharging to the sanitary sewer
7 shortly after his visit.

8 On April 22, 2014, I spoke with Donna Musa, Washington Department of Ecology
9 Northwest Regional Office Toxics Cleanup Program, regarding the allegations of illegal
10 dumping at the Tank Wise facility and her communication(s) with Wise. Musa said she had
11 spoken with Wise via telephone during the week of February 17, 2014 and that the details
12 regarding their conversation had been memorialized in ERTS (Environmental Report Tracking
13 System) #646936. Musa provided SA Goetz with an electronic copy of ERT #646936 which
14 SA Goetz subsequently reviewed. The information contained within ERT #646936 stated that
15 during their conversation, Wise told Musa that any waste oil generated at the Tank Wise facility
16 is collected by "Mar-Vac" (Marine Vacuum Services, Incorporated) or another company and
17 that that the only pipes near the back of the Tank Wise facility have no use and don't lead to
18 anything. According to ERT #646936, Wise informed Musa that he would have his wife, Wendi
19 Wise, take photos of the area where the pipes are and email them to her.

20 On April 22, 2014, Musa provided SA Goetz with an electronic copy of three
21 photographs that appear to have been sent to her via email by Wendy Wise on February 19, 2014.
22 I reviewed the photographs and found them to show various tanks, hoses, and other materials
23 located on the bare ground near what appears to the back side of the Tank Wise facility, behind
24 the building that houses the oil water separator and its associated piping. No photographs
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1 showing the oil water separator, its discharge pipe, or the aforementioned wye connection were
2 provided to SA Goetz.

3 On May 7, 2014, Girard provided me with a copy of the analytical sample results
4 pertaining to the sample his team collected at the Tank Wise facility on April 1, 2014. The
5 results indicated that the sample contained diesel range hydrocarbons at a concentration of
6 approximately 730,000 milligrams per kilogram (parts per million) and detectable levels of
7 various semi-volatile organic compounds, trace elements and metals, and petroleum
8 hydrocarbons. Girard also provided me with a copy of the Wastewater Discharge Permit
9 Application provided to him by Wise on May 1, 2014. This is the permit application that is
10 required to be submitted prior to a facility discharging to the sanitary sewer. In Section C(5) of
11 the permit Wise indicated that Tank Wise discharged 9,967 gallons of wastewater to the sanitary
12 sewer in 2012 and 9,320 gallons of wastewater to the sanitary sewer in 2013.

13 Following my discussions with Autry and Girard I became aware that Tank Wise had
14 been violating the provisions of the Solid Waste Management act by discharging industrial waste
15 to the sanitary sewer through the unpermitted oil water separator and the wye connection on the
16 oil water separator's discharge pipe.

17 On May 29, 2014, I conducted a voluntary, audio recorded interview of Wise at the Tank
18 Wise facility. Your affiant and Wise discussed the wastewater permit application that Wise
19 submitted to King County employee Arnaud Girard on May 01, 2014. As reported on Page 3,
20 Section C5 of the permit application, Wise acknowledged that Tank Wise had "previously
21 discharged to metro" 9,967 gallons of liquid wastes to the sanitary sewer pipe through the oily
22 water separator in 2012 and an additional 9,320 gallons in 2013. Wise explained that the
23 quantities identified within the application were the product of calculations made by himself and
24 his wife based upon completed job invoices for the given periods of time.

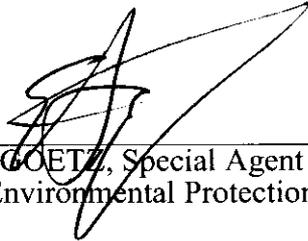
1 During the course of the interview, Wise stated that the oil water separator was installed
2 at the site shortly after he purchased the property in 2006. Wise said that he installed the oil
3 water separator discharge pipe to the sanitary sewer system in approximately 2006. He claimed
4 the wye connection was installed in the discharge pipe as a clean-out for the oil water separator
5 and that he had not intended for it to be used as a way of bypassing the oil water separator. Wise
6 could not recall when the wye connection was actually installed or who installed it but stated
7 that to date it had never been used as a clean-out for the oil water separator. Wise said the
8 upturned elbow pipe at the end of the wye connection (See Attachment A) was installed because
9 Starkweather wanted an easier way to dispose of “small 2-gallon shots” of rinse water that
10 Starkweather didn’t want to put through the oil water separator. Wise admitted that it was his
11 “misguiding guidance” that allowed Starkweather to do that. Wise said he did not remember
12 who installed the elbow connection but he knew Starkweather wanted it. According to Wise,
13 the funnel sitting in a bucket near the piping was “Terry’s (Starkweather) world.” Wise stated
14 that he and Starkweather are the only people who work at Tank Wise in the yard and handle the
15 oil water separator.

16 Wise provided contradictory information pertaining to his knowledge of Starkweather’s
17 activities and the illegal dumping of oily materials by Tank Wise to the sanitary sewer system
18 without a permit. He consistently stated that it was never his intention for oil to be dumped to
19 the sanitary sewer system but gave conflicting accounts regarding his knowledge of
20 Starkweather’s activities and what, if any, approvals he (Wise) had given. Wise explained that
21 he was aware that Starkweather was using the clean-out pipe to discharge waste materials to the
22 sanitary sewer system. He said the first time he found out that Starkweather had been dumping
23 oily water down the illicit connection was approximately 1.5 years ago when Starkweather told
24 him what he had been doing. Wise stated that he believed Starkweather bypassed the oil water
25 separator on several occasions and dumped “black water” from the cleaning of underground
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1 storage tanks at the Tank Wise facility down the pipe connected to the sanitary sewer system.
2 He said that in addition to the black water from the cleaning of tanks, he was made aware that
3 Starkweather also dumped the top layer of material skimmed from the oil water separator down
4 the pipe connected to the sanitary sewer system. He described the material skimmed from the
5 top of the oily water separator as a jello-like material from the mixing of oil and water and the
6 cleaning out of the oil water separator. Wise said several times during the interview that when
7 he was made aware that Starkweather had been bypassing the oil water separator he told him
8 that he was not supposed to do that. However, at one point in the interview Wise changed his
9 story and said he probably told Starkweather to dump the black water from the cleaning out of
10 the tanks down the illicit pipe.

11 I certify (or declare) under penalty of perjury under the laws of the State of Washington
12 that the foregoing is true and correct.

13 DATED this 12 day of January, 2015 at Seattle, Washington.

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ERIC GOETZ, Special Agent
U.S. Environmental Protection Agency

BEST AVAILABLE IMAGE POSSIBLE

ATTACHMENT A.



Photograph provided to SA Goetz by Eric Autry. Photograph shows the outlet pipe of the oil water separator, wye pipe, upturned elbow connection, and oily funnel as seen by Autry during March 27, 2014 inspection of Tank Wise facility.