

McCULLOUGH HILL, PLLC

May 2, 2023

VIA ELECTRONIC MAIL

Derek Threet, AAG
Derek.threet@atg.wa.gov

Michael R. Warfel
Mwar461@ecy.wa.gov

Re: 4550 Fauntleroy Way SW, Seattle, Washington
Franciscan Medical Clinic Site, FSID #97678, CSID #15488
Removal from Hazardous Sites List

Dear Derek and Mike:

We represent Huling Bros. Properties LLC, the owner of the real property located at 4550 Fauntleroy Way SW in Seattle, Washington (Huling Property). The Huling Property was added to the Confirmed and Suspected Contaminated Sites List (CSCSL) as the Franciscan Medical Clinic Site pursuant to notification provided by Ecology on or about December 21, 2021. The documents available on Ecology's website for the Franciscan Medical Clinic Site, which can be reviewed at <https://apps.ecology.wa.gov/cleanupsearch/site/15488#site-documents>, show the reports associated with the adjacent site located at the West Seattle ARCO Site, FSID #99437681, CSID #11357, which can be reviewed at <https://apps.ecology.wa.gov/cleanupsearch/site/11357>.

We are submitting this letter as a formal petition pursuant to WAC 173-340-330(7) for removal of the Franciscan Medical Clinic Site from the CSCSL. As established from the environmental reports attached to this letter (which are being filed with Ecology simultaneously with this petition), the listing of the Franciscan Medical Clinic Site was erroneous (WAC 173-340-330(7)(a)(ii)) and there are no remedial actions that need to be completed at or on the Franciscan Medical Clinic Site other than continued remediation of the adjacent West Seattle ARCO Site – including operation of the soil vapor mitigation system that was installed to address contamination originating on the West Seattle ARCO Site. Simply put - the only contamination associated with the Franciscan Medical Clinic Site is contamination that originates on and from the adjacent West Seattle ARCO Site.

The results and conclusions from the attached Phase I Environmental Site Assessment Report (dated August 8, 2022) and a Phase II Environmental Site Assessment Report establish that:

- There are no prior or current operations or activities on the Huling Property that could have resulted in releases of contamination (petroleum, solvents, or otherwise) into the environment. The Huling Property was not used as a fueling station or service station – the Huling Property was used as an auto sales facility for new vehicles with associated storage

and related non-service activities.¹ There are no records of any “releases” or any handling or management of hazardous substances on the Huling Property at any time in its history.

- The Phase II report documents the installation of multiple additional soil borings throughout the Huling Property, with associated soil and groundwater samples for petroleum products and both solvents and solvent by-products.
 - For soils, 18 separate soil samples were all non-detect for all analyzed constituents.
 - For groundwater, the only contamination detected was from those borings located in the area between the Huling Property and the BP Site, with constituents and concentrations that are consistent with data collected on and from the West Seattle ARCO Site. All other groundwater samples were non-detect.
 - For sub-slab soil vapor, two rounds of samples were taken – one with the current sub-slab depressurization (SSD) system activated, and one with the SSD system de-activated. Samples with the SSD system activated were all non-detect or below MTCA Method B screening levels. Samples with the SSD system de-activated showed concentrations of petroleum-related volatile compounds that were well below the MTCA Method B screen level for commercial workers. More importantly, the samples with petroleum-related volatile compounds demonstrated the presence of constituents that are directly correlated with the contamination originating on and from the adjacent BP Site. No other VOCs were detected, including VOCs associated with chlorinated solvents.
- There is no evidence of a “release” on or from the Huling Property due to prior or current operations. Not even Ecology’s Initial Investigation Field Report (IIFR) from October 19, 2021 identifies a potential release on or from the Huling Property. Instead, the IIFR only notes a need for investigation of the Huling Property, which has now been performed in accordance with MTCA requirements.

¹ The vague and undefined references to “auto repair” activities in documents reviewed as part of the Phase I report relate to permit documents issued by other parties, not to documents from or statements by the owners of the Huling Property. Those documents reference “auto repair” based on third-party information rather than actual knowledge or evidence of auto repair operations on the Huling Property. As we have stated on multiple occasions and as confirmed in the attached Declaration from Steve Huling, the Huling Property was never used for auto repair activities – the Huling Property was used for new auto sales only, with no associated auto repair or service facilities. The results from the Phase II report confirm that no releases occurred, further validating our claim that no activities or operations occurred on the Huling Property that could have resulted in a “release” of hazardous substances. Members of the Huling family are available to provide additional information and documentation as needed based on their personal knowledge of operations of the former auto dealership.

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We have argued previously that Ecology should never have designated the Huling Property as an independent MTCA site in the first place. The data from the attached reports confirms our position – technically and legally. The only “Site” at issue in this location is the West Seattle ARCO Site, which includes the Huling Property because contamination from the West Seattle ARCO Site has migrated onto and beneath the Huling Property resulting in confirmed impacts to groundwater and soil vapor. The owners and tenants of the Huling Property will continue to cooperate with BP and Ecology on access and other necessary assistance in the remediation of the West Seattle ARCO Site.

We look forward to your confirmation that the Franciscan Medical Clinic Site will be removed from the CSCSL.

Sincerely,

McCULLOUGH HILL PLLC

/s/Ken Lederman

Ken Lederman

Cc: Tyler D. Bowlin, Miller Nash
Stacey Stotts, Polsinelli
Huling Bros. Properties LLC