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HELMUT WALLENFELS

November 21, 2003

Mr. Joseph M. Hickey
Toxics Cleanup Program
Department of Ecology
Northwest Regional Office
3190 160th Avenue SE
Bellevue, WA 98008-5452

Re: 159 Denny Way, Former Unocal Site No. 0355

Dear Mr. Hickey:

Thank you for returning my call today. As you recommended, I am enclosing a copy of my demand letter to ConocoPhillips regarding the damages caused by the migration of hazardous substances from the Unocal Site to my client's property. Also enclosed is a copy of your letter dated June 26, 2002 regarding the VCP at this Site. My client requests that Ecology take enforcement action against ConocoPhillips and any other identifiable PLPs based on the releases of hazardous substances from the Unocal Site to my client's property. It is evident that the interim measures taken to date are woefully inadequate and do not comply with the dictates of MTCA. Please contact me if you have any questions or concerns.

Very truly yours,


Guy J. Sternal

GJS:GJS
Enclosures

cc: Robert Block w/o encl.
Rabbi Richard A. Block w/o encl.
Timothy Johnson, ConocoPhillips w/o encl.
Stephen H. Smith, Fortune Investments w/o encl.
00264615.DOC

RECEIVED

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DEPT OF ECOLOGY

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November 10, 2003

VIA REGISTERED MAIL

Mr. Tim Johnson
ConocoPhillips Company
3977 Leary Way NW
Seattle, WA 98107

ConocoPhillips Company
Registered Agent
United States Corporation Company
1010 Union Ave SE
Olympia, WA 98501

Re: 3000 First Avenue Building Company, LLC, Notice of Claim and Release of
Hazardous Substances

Dear Mr. Johnson and ConocoPhillips Company:

I represent 3000 First Avenue Building Company, LLC. This letter is to provide notice to you of a claim authorized by RCW 70.105D.080 and common law on behalf of my client for equitable relief and damages to my client's real property located at 3000 First Avenue, Seattle, Washington. I am sure you are aware of the fact that my client's property is located adjacent to a site that was formerly owned and operated by ConocoPhillips, Inc. or its predecessor in interest, Tosco Oil Company. On Tuesday, October 22, 2003, my client discovered a strong odor of petroleum in the building's HVAC system. Investigation disclosed that the odor was coming from a liquid source that had migrated into a sump below grade adjacent to the building's furnace. Mr. Steve Smith of The Fortune Group, the current owner of the site, was notified of the event by Mr. Robert Block and he responded by stating that ConocoPhillips bears full responsibility for the pollution problems emanating from the site. Mr. Johnson was then notified of this event and he responded to inspect the problem at the building. My client believes that its property has been and is most likely continuing to be contaminated by hazardous substances from the ConocoPhillips site via groundwater and/or other pathways. Additionally, my client believes that ConocoPhillips, Inc. was aware of the contamination and the potential for migration of the contamination to my client's property, yet did nothing to prevent it.

My client demands that you report the October 22, 2003 release of hazardous substances from your site to the Department of Ecology in accordance with WAC 173-340-120(2)(a), and

Mr. Tim Johnson
ConocoPhillips Company
November 10, 2003
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any other applicable laws and regulations, within five days of your receipt of this letter and that you copy me on your report to Ecology. If I do not receive notice of your report to Ecology, my client has authorized me to report the release. My client demands that you compensate it for all damages, response costs, attorneys' fees and any and all expenses due to the releases that have occurred and will likely continue to occur. My client demands that you perform a remedial investigation into the origin and extent of the contamination emanating from your site onto my client's property and that you remediate the damages that have been caused and will be caused to my client's property by the release of hazardous substances from your site. My client demands that you provide me with copies of any and all reports, investigations, or other compilations of information regarding the condition of your site. Please contact me if you have any questions or concerns.

Very truly yours,


Guy J. Sternal

GJS:GJS

cc: Robert L. Block
Rabbi Richard A. Block
00263476.DOC



JN00484E
JN00484

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Avenue SE • Bellevue, Washington 98008-5452 • (425) 649-7000

June 26, 2002

Timothy D. Johnson
Tosco Marketing Co.
3977 Leary Way NW
Seattle, Washington 98107

Dear Mr. Johnson:

Re: Request for Assistance/Review of Proposed Redevelopment Plan for the former Unocal Site 0355, 159 Denny Way, Seattle, Washington.

Thank you for submitting your review request for the Washington State Department of Ecology's Toxics Cleanup Program (Ecology's) consideration. Ecology appreciates your initiative in pursuing a voluntary cleanup under the Model Toxics Control Act.

Ecology has reviewed the following information regarding the former Unocal Site 0355 located at 159 Denny Way, Seattle, Washington:

1. *Proposed Redevelopment Plan* (JN 00484E Revision 2), by Geotech Consultants, Inc., dated February 22, 2002, submitted February 25, 2002.
2. Many but not all of the reports/documents in the Ecology site file, including the *Cleanup Action Plan*, by GeoEngineers, Inc., dated December 18, 1998, and the Ecology review of the plan, dated January 19, 1998. There are approximately 30 reports in the Ecology site file.

Based upon the information listed above, Ecology has determined that, at this time:

1. The proposal to use Method B as a cleanup standard for soil is allowed, and meeting that standard is considered protective of human health by direct contact; however, protection of human health and the environment includes the examination of the soil to groundwater pathway. Any successful cleanup action must take the protection of groundwater into account.
2. The points of compliance for the soil and groundwater cleanup goals are regulated within Chapter 173-340 Part VII. Restrictive covenants must be used if alternative points of compliance are chosen within the property boundaries, or other allowable locations.
3. The procedures for dewatering the construction area on page 4 of the *Proposed Redevelopment Plan* (Plan) are still being evaluated and noted as such in the plan; however, some caution is warranted. Dug sumps to contain water are one of the alternatives under consideration. This alternative causes concern because of the potential for contaminated water to re-enter the environment. Details of the sump construction should be examined thoroughly to prevent the escape of water from the sump.

Mr. Timothy D. Johnson
June 26, 2002
Page 2

using liners, if this option is chosen and permitted by local and state authorities. Also, testing of the water should occur regardless of the presence of free product. This is because dissolved product is also of concern. The test results will determine disposal options, and provide information on groundwater quality.

4. During drilling for tie-back installation in areas where contamination is known or suspected, soil sample collection and subsequent laboratory analyses are recommended to provide information about the nature and extent of the hazardous substance(s) that have been released at the site.
5. The proposed procedures for soil stockpile delineation and separation on page 5 of the *Plan* do not include laboratory analyses. Depending on the intended treatment or disposal intentions, and especially for the clean soil pile, confirmation samples and subsequent laboratory analyses are recommended in addition to the field screening methods described.

Please note that because your actions were not, or will not be conducted under a consent decree with Ecology, this letter is not a settlement by the state under RCW 70.105D.040(4) and is not binding on the agency. Further action could be required at your site regardless of how strictly you follow Ecology's advice.

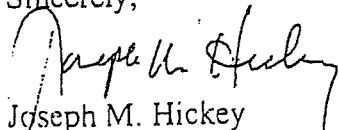
The opinions presented by Ecology in this letter are made only with respect to the information provided in the reports and documents listed above. This opinion is only applicable to the specified site (or area of site) and may not be used to justify action at another site (or area of the site.)

Ecology does not assume any liability for any release, threatened release or other conditions at the site, or for any actions taken or omitted by any person or his/her agents or employees with regard to the release, threatened release, or other conditions at the site.

Again, thank you for taking the initiative to voluntarily address the contamination at your site. Your efforts are recognized by Ecology as a positive step in our work to protect human health and the environment in Washington State.

If you have any questions regarding this letter, please contact me at 425-649-7202.

Sincerely,


Joseph M. Hickey
Toxics Cleanup Program

JH:jh

cc: Andy Loos, The Fortune Group
/ Timothy A. Johnson, Geotech Consultants, Inc.