

July 8, 2024

**Via Email**

Ted Uecker  
Toxics Cleanup Program  
Eastern Region Office  
Department of Ecology  
4601 North Monroe St.  
Spokane, WA 99205-1295  
Email: ted.uecker@ecy.wa.gov

RE: *Request for Extension*  
*Draft Agreed Order and Scope of Work*

**Site Name:** Whitten Oil 1  
**Site Address:** 370 West 5th Ave, Colville  
**Cleanup Site ID:** 9440  
**Facility/Site ID:** 49354234

Dear Mr. Uecker:

Our firm represents Ankur and Aditi Sood of Whitty's LLC with regard to the above-referenced Site. We are writing to request an extension of 60 days to provide comments on the draft Agreed Order and Scope of Work sent to Jeff Whitten of Whitten Oil, Inc. on May 6, 2024. Whitty's LLC provides the Extension Request via this letter and requests an extension of the schedule as discussed further below.

1. The deadlines sought to be extended:
  - a. Draft Agreed Order
  - b. Scope of Work (Exhibit B)
2. The length of the extension sought: Sixty (60) days.
3. The reasons for the extension:
  - a. Cascadia Law Group was just recently assigned by Whitty's LLC's insurer, Colony Insurance Group, to represent Whitty's LLC with regard to potential claims and liabilities arising from hazardous substance contamination at the Whitten Oil 1 Site. Our review of information and documents initially produced to us reveals that a

dispute likely exists between Whitty's LLC and the previous owner/operator, Whitten Oil, Inc. Through counsel, Whitten Oil, Inc. has denied any legal liability for hazardous substance contamination released on or migrating from the Site. However, our initial evaluation of the operational history of this facility supports the conclusion that releases occurring during Whitten Oil, Inc.'s period of ownership and operation contributed significantly to site conditions now requiring remediation. Whitten Oil, Inc. should therefore be designated a PLP under MTCA and be made a party of any Agreed Order imposing obligations to conduct remedial actions at the Site. The requested 60-day extension on AO negotiations will allow Whitty's LLC to formally assert Whitten Oil, Inc.'s liability and the need for its participation in negotiations over cleanup requirements and obligations.

- b. The Site needs to be adequately characterized. Historical data indicate that there were likely widespread prior releases of petroleum predating Whitty's LLC's period of ownership. In addition, Whitty's LLC's UST inventory records do not support a conclusion that there was a recent significant release of petroleum from underground infrastructure.

More specifically, Whitty's LLC's consultants have raised doubts regarding the results from groundwater sampling conducted in November 2023. While high concentrations of diesel in far west-located and reportedly downgradient monitoring well MW-7 might suggest a recent hazardous substance release, it is highly unlikely that such release would have gone undetected during sampling of wells positioned between the upgradient existing UST system and MW-7. In short, the elevated levels at MW-7 appear anomalous. Additional information will help all parties evaluate whether recent data collected is sufficiently reliable for determinations to be made regarding timing of releases and the liability of current and prior owners and operators.

To this end, Whitty's LLC's consultants are collecting and awaiting the receipt of additional information regarding certain aspects of facility structures and operational history. Requests to the City of Colville regarding historical underground storage tanks and other infrastructure are pending. In addition, consultants are seeking to interview former and current members of the facility's maintenance staff regarding day-to-day operations over the past decade-plus years.

4. Any related deadline or schedule that would be affected if the extension were granted: none known.

Thank you for your consideration of Whitty's LLC's timely request for an extension to Ecology's Schedule for the Agreed Order. Please contact us if there are questions or if additional information can be provided.

Sincerely,



Stephen Tan

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Email: stan@cascadialaw.com

Office: Seattle

## REFERENCES

Washington State Department of Ecology, 2024, Draft Agreed Order and Scope of Work (Exhibit B).

cc: Ankur and Aditi Sood, Whitty's LLC  
Jon Welge, Senior Scientist, Tetra Tech  
Nicholas Acklam, Section Manager  
John Level, Office of the Attorney General  
Christer Loftenius, Ecology