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DELIVERED ELECTRONICALLY VIA E-MAIL

Mr. Loftenius,

Thank you for allowing J.R. Simplot Company (Simplot) the opportunity to provide written comments on the Department of Ecology’s (Ecology’s) *Draft Cleanup Action Plan Amendment 1* (Amendment), provided to Simplot on July 15, 2024, to address Simplot’s property in Warden, WA (the Site). Simplot has several concerns with the Amendment as written, and appreciates the opportunity to provide them herein.

**General Comments**

Administrative

The Agreed Order No. DE 16890 (Order) required Simplot to implement the *Cleanup Action Plan* (CAP) in accordance with the Scope of Work attached to the Order. The table below compares the Order requirements to the work completed at the Site in 2021 - 2022.

	Agreed Order/CAP Requirement	Completed Work (HDR, 2024)
Excavation Volume	13,000 cubic yards	13,000 cubic yards
Soil volume to treat	1,200 cubic yards	6,500 – 7,200 cubic yards
Maximum depth	22 feet bgs*	37' bgs

\*The *Final Cleanup Action Plan* (Ecology, 2019) notes that depth to groundwater is approximately 22 feet bgs, and that, “The estimated area to be excavated and treated is approximately 5,000 square feet (sq. ft.) with a maximum depth of approximately 22 feet below ground surface.”

The *Final Cleanup Action Plan* (Ecology, 2019) notes the following italicized statements, regarding the remediation process and timelines:

*Executive Summary: “Upon completion of the soil cleanup action compliance groundwater monitoring will take place in order to evaluate the effectiveness of the cleanup action with regards to groundwater protection.”* Simplot does not believe that we have been given the opportunity to evaluate effectiveness, after only two (2) groundwater monitoring events.



*4.5 Point of Compliance: “If groundwater is contaminated, the soil point of compliance is all soil from the ground surface down to the groundwater table. At the Site the soil point of compliance is from the ground surface down to the top of groundwater approximately 22 feet below the ground surface, due to the presence of EDB-contaminated groundwater.”* The one (1) elevated excavation sidewall sample (100 ug/kg) was found between 25’ and 33’ below ground surface (bgs), demonstrating that Simplot excavated far beyond what was anticipated to address impacted soils within the point of compliance area.

*5.1 Remedial Action Objectives (RAOs):*

- *Prevent direct contact, ingestion, or inhalation of contaminated soil by humans*
- *Prevent direct contact or ingestion of contaminated groundwater by humans*
- *Prevent or minimize the potential for migration of contaminants from soil to groundwater [emphasis added]*

Simplot believes the first RAO has been met. The second RAO could be met through implementation of an institutional control, as allowed for in the Order. Simplot also believes the third RAO has been met, as the removal of 6,500 – 7,200 cubic yards of impacted soil has substantially reduced the amount of EDB contamination which could leach into groundwater that is connected to potable aquifers.

*5.2.3 “Alternative 3: Institutional Controls, Soil Excavation and Treatment, and Monitored Natural Attenuation of Groundwater... Compliance monitoring would be used to confirm monitored natural attenuation [MNA] was taking place and to ensure that contaminated groundwater does not migrate off-site. A 20-year maximum restoration time frame is assumed for the site.”*

Simplot has not been given an adequate timeframe to demonstrate that monitored natural attenuation (MNA) is occurring in the onsite or offsite groundwater. Additionally, Simplot has not been able to collect offsite groundwater samples in the southerly direction since the remedial action (RA) occurred; two of the offsite monitoring wells in this direction (MW-3 and MW-10S) have been covered by the landowner and the other offsite monitoring well (MW-9S) has been dry for both post-RA monitoring events (HDR, 2024). Simplot intends to submit a Monitoring Well Network Evaluation and Monitoring Well Installation Work Plan to Ecology in 2024, so that offsite and downgradient groundwater data can be collected to demonstrate MNA.

*5.3.3 Cleanup Action Expectations.* Simplot also believes that we have met the Cleanup Action Expectations from Washington Administrative Code (WAC) 173-



340-370 listed in the *Final Cleanup Action Plan* (Ecology, 2019), including but not limited to the following statements:

- *To minimize the potential for migration of hazardous substances, active measures will be taken to prevent precipitation and runoff from coming into contact with contaminated soil or waste materials.*

Clean, backfilled soil was compacted at frequent intervals, effectively reducing the hydraulic conductivity of the subsurface to a value substantially lower than it was prior to the remedial excavation, wherein large chunks of concrete, caliche material, and voids were encountered. With the engineered backfill over the elevated EDB sample (which was at a minimum, 25 feet below ground surface [bgs]), Simplot has met this requirement. In the only other samples available on Simplot property north of the fence, EDB concentrations ranged from 0.78 to 3.4 ug/kg in sample intervals ranging from 10' to 24' bgs (HDR, 2021). Simplot does not believe that any infiltration reaching these discrete areas will substantially affect groundwater quality.

- *When hazardous substances remain on-site at concentrations which exceed cleanup levels, they will be consolidated to the maximum extent practicable where needed to minimize the potential for direct contact and migration of hazardous substances.*

The soils with elevated EDB concentrations (ranging from 0.78 ug/kg to 100 ug/kg) are located just south of the railroad tracks, in an area where excavation within 25' from the centerline of the tracks would not likely be approved by the railroad. With the shallowest EDB-elevated soils being observed at 10' bgs, there is no known potential for direct contact. With the engineered backfill replacing the excavated contaminated soils, the potential for migration has been greatly reduced.

*5.4 Groundwater Contamination: Alternative 3... will rely on natural attenuation of EDB contamination in shallow groundwater after the removal of EDB-contaminated soils in the vadose zone. Compliance monitoring will ensure that natural attenuation is taking place in accordance with the requirements set forth in WAC 173-340-370(7). It is anticipated that compliance groundwater monitoring will be required for the remainder of the RTF of 20 years, with estimated four, five-year reviews evaluating the success of the selected cleanup action for the Site during the [sic].”* Simplot has not been afforded the opportunity to demonstrate MNA nor go through even one (1) Five Year Review to evaluate remedy effectiveness. Simplot hereby requests more time to evaluate remedy effectiveness as described in multiple sections of the *Final Cleanup Action Plan* (Ecology, 2019).

*6.5 Periodic Review: “...Periodic reviews will not be required at this Site upon achieving the groundwater CUL in two consecutive monitoring events. After*



*groundwater cleanup levels have been achieved, periodic reviews will still be required because institutional controls are a part of the remedy.”* Three of the eight onsite monitoring wells and one of the five offsite wells have already met this criteria since the RA.

### Stormwater Management

Simplot has concerns with purposely directing stormwater runoff to a dry well, as the property can still receive stormwater run-on from the nearby upgradient industrial neighbors. Run-on from neighbors has occurred as recently as Summer 2024. Purposely infiltrating potentially impacted run-on originating from industrial areas could obviously be a significant liability. The Simplot Grower Solutions (SGS) location at Warden is still active, and it would increase operational risks to have a dry well in the vicinity of our ongoing operations (semi-truck traffic, agricultural inputs storage, equipment movement and storage, etc). We do not agree with designing a conduit to the subsurface in this active industrial area.

### **Specific Comments, *Draft CAP Amendment No. 1 (Ecology, 2024)***

Comment #1: Page 1 notes that, *“Ecology has determined that actual or threatened releases of EDB from the Site, if not addressed by implement the proposed cleanup action, presents a threat to human health and the environment.”* Simplot disagrees with this statement and again would refer to the groundwater MNA allowed for within the 2019 CAP.

Comment #2: Page 1 describes the remedial action as occurring between 2019 and 2020. However, the excavation occurred in 2021 and the ex-situ soil vapor extraction (SVE) occurred in 2022.

Comment #3: Page 1 describes the “12,000 cubic feet of EDB contaminated soil” remaining in place, and Simplot is unaware of the values used as the basis for this calculation. The unexcavated West Pit footprint is approximately 737 sq. ft., using GoogleEarth imagery overlay. The 12,000 cubic feet would assume that all soil within this footprint down to 16’ bgs is EDB-impacted.

Comment #4: On Page 1, Ecology proposes to cover the approximately 737’ sq. ft. of impacted soils with an impermeable cap. The low spot of the Site is directly northeast of this area, and has an elevation of 1244’ AMSL (HDR, 2024). Even with an impermeable cap, precipitation and run-off are likely to infiltrate into this low spot, and depending on the season, still travel within the subsurface through the EDB-impacted soils. Page 6 notes that, *“Stormwater retention and infiltration*

*must be revised, or new stormwater structure(s) designed, to prevent stormwater contact with contaminated soil.”* Simplot would like to emphasize that our 2.4-acre property is located in a low spot along the highway and therefore a preferred path for runoff within this area. Reducing run-on while also purposely infiltrating



run-off on property, but away from the EDB-impacted area, presents many challenges and may not be feasible. More effective stormwater management in this area is likely to require cooperation from the City of Warden and Burlington Northern Railroad Company.

Comment #5: In Section 3.1, the listed RAOs vary slightly from those outlined in the CAP (Ecology, 2019). The CAP does not include “leaching” nor “erosion” as noted in the *Draft CAP Amendment No. 1* (Ecology, 2024).

Comment #6: Section 3.2.1 notes that an Environmental Restrictive Covenant will need to be recorded to restrict future uses to protect the cleanup action and ensure protection of human health and the environment. Does Ecology foresee the need for Burlington Northern to have a similar covenant to not disturb the ground adjacent to the impermeable cap? The footprint of the impermeable cap would be approximately 15’ – 20’ from the centerline of the rail, and it is Simplot’s understanding that Burlington Northern has a form of “right-of-way” within 25’ of the centerline of the rail.

### **Summary**

Simplot would like to work cooperatively with Ecology to find additional action(s) to best move the site toward closure. Currently, Simplot believes that includes a combination of an expanded monitoring well network (to demonstrate CAP-prescribed MNA) and institutional controls (to prevent installations of shallow potable wells and construction-related excavation in the impacted area).

### References

Department of Ecology. May 2019. *Final Cleanup Action Plan*.  
HDR. August 22, 2023. *Revised Cleanup Action Report*.  
HDR. March 15, 2024. *January 2023 Groundwater Monitoring Report*.  
Ecology. July 2024. *Draft CAP Amendment No. 1*.

Sincerely,



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