STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
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March 27, 2013

Mr. Sean Donnan, P.G.
Terracon Consultants, Inc.
21905 64th Avenue West, Suite 100
Mountlake Terrace, WA 98043

Re: No Further Action at the following Site:

- **Site Name:** West Valley Commercial Center Lot 3
- **Site Address:** 6560 West Nob Hill Boulevard
- **Facility/Site No.: 12071**
- **VCP Project No.:** CE0348

Dear Mr. Donnan:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your independent cleanup of the West Valley Commercial Center Lot 3 (Site). This letter provides our opinion. We are providing this opinion under the authority of the Model Toxics Control Act (MTCA), Chapter 70.105D RCW.

Issue Presented and Opinion

Is further remedial action necessary to clean up contamination at the Site?

NO. Ecology has determined that no further remedial action is necessary to clean up contamination at the Site.

This opinion is based on an analysis of whether the remedial action meets the substantive requirements of MTCA, Chapter 70.105D RCW, and its implementing regulations, Chapter 173-340 WAC (collectively "substantive requirements of MTCA"). The analysis is provided below.

Description of the Site

This opinion applies only to the Site described below. The Site is defined by the nature and extent of contamination associated with the following release:

- Lead and Arsenic into the Soil.
- DDT and DDE into the Soil.

A detailed diagram of the Site as currently known to Ecology was included in the Terracon 2012 report titled: *Final Summary Remedial Action Report.*

Please note that a parcel of real property can be affected by multiple sites. At this time, we have no information that the parcel(s) associated with this Site are affected by other sites.

Basis for the Opinion

This opinion is based on the information contained in the following documents:

1. Terracon Consultants, Inc.; *Final Summary Remedial Action Report;* November 26, 2012.

Those documents are kept at the Central Regional Office of Ecology (CRO) for review by appointment only. You can make an appointment by calling the CRO resource contact, Roger Johnson, at 509-454-7658.

This opinion is void if any of the information contained in those documents is materially false or misleading.

Analysis of the Cleanup

Ecology has concluded that **no further remedial action** is necessary to clean up contamination at the Site. That conclusion is based on the following analysis:

1. Characterization of the Site.

Ecology has determined your characterization of the Site is sufficient to establish cleanup standards and select a cleanup action.

2. Establishment of cleanup standards.

Ecology has determined the cleanup levels you established for the Site meet the substantive requirements of MTCA.

a. Cleanup levels.

WAC 173-340-704 states that MTCA Method A may be used to establish cleanup levels at sites that have few hazardous substances, are undergoing a routine cleanup action, and where numerical standards are available for all indicator hazardous substances in the media for which the Method A cleanup level is being used.

MTCA Method A cleanup levels for unrestricted land use were determined to be appropriate for this Site. The cleanup actions conducted at the Site were determined to be 'routine', few hazardous substances were found at the Site, and numerical standards were available in the MTCA Method A table for each hazardous substance.

b. Points of compliance.

The cleanup levels are based on human exposure via direct contact (ingestion only) with soil. The standard point of compliance was used for the Site, which is soils throughout the Site.

Soils remain at the point of compliance at concentrations exceeding MTCA Method A cleanup levels. Due to the nature of area-wide contamination, surrounding properties may contain similar concentrations of lead, arsenic, DDT or DDE; therefore it was not appropriate to establish a conditional point of compliance at the Site boundary was not appropriate. An environmental covenant and a Maintenance and Operations Plan approved by Ecology, both of which will be attached to all county tax parcels included within the Site.

3. Selection of cleanup action.

Ecology has determined the cleanup action you selected for the Site meets the substantive requirements of MTCA.

The cleanup action involves excavation and disposal of soils containing contaminants at concentrations above the selected remediation levels which are described above.

4. Cleanup.

Soils above the MTCA Method A or Method B soil cleanup levels for unrestricted land use were capped with buildings and paved parking lot. The soil berm, which surrounds the complex, was landscaped with a cap of fabric and bark. Low maintenance shrubs were planted on the landscaped berms. Storm water detention ponds are fully fenced, constructed to a depth below the zone of contamination, and lined with clean soil and sod. An environmental covenant and a maintenance and operations plan were implemented to ensure that engineered barriers remain effective.

Soils cleanup levels have not been met at the Site; however, the cleanup action is determined to comply with cleanup standards at the time of the action, since the long-term integrity of the containment system is ensured through the implementation of institutional controls in the form of an environmental covenant and maintenance and operations plan.

Post-Cleanup Controls and Monitoring

Post-cleanup controls and monitoring are remedial actions performed after the cleanup to maintain compliance with cleanup standards. This opinion is dependent on the continued performance and effectiveness of the following:

1. Compliance with institutional controls.

Institutional controls prohibit or limit activities that may interfere with the integrity of engineered controls or result in exposure to hazardous substances. The following institutional controls are necessary at the Site:

- Restrictive Environmental Covenant
- Site Operations and Maintenance Plan

To implement those controls, an Environmental Covenant has been recorded on the following parcel of real property at the Site:

- 18132941413

Ecology approved the recorded Covenant.

2. Operation and maintenance of engineered controls.

Engineered controls prevent or limit movement of, or exposure to, hazardous substances. The following engineered controls are necessary at the Site:

- Impermeable surface and/or clean soil cap.

Ecology has approved the operation and maintenance plan you submitted for these engineered controls. A copy of the plan is included in the Terracon 2012 report titled: *Final Summary Remedial Action Report.*

Periodic Review of Post-Cleanup Conditions

Ecology will conduct periodic reviews of post-cleanup conditions at the Site to ensure that they remain protective of human health and the environment. If we conduct a periodic review and determine further remedial action is necessary at the Site, then we will withdraw this opinion.

Listing of the Site

Based on this opinion, Ecology will initiate the process of removing the Site from our lists of hazardous waste sites, including:

- Confirmed and Suspected Contaminated Sites List

That process includes public notice and opportunity to comment. After the public comment period has ended, Ecology will remove the Site from the applicable lists.

Limitations of the Opinion

1. Opinion does not settle liability with the state.

Liable persons are strictly liable, jointly and severally, for all remedial action costs and for all natural resource damages resulting from the release or releases of hazardous substances at the Site. This opinion **does not**:

- Resolve or alter a person's liability to the state.
- Protect liable persons from contribution claims by third parties.

To settle liability with the state and obtain protection from contribution claims, a person must enter into a consent decree with Ecology under RCW 70.105D.040(4).

2. Opinion does not constitute a determination of substantial equivalence.

To recover remedial action costs from other liable persons under MTCA, one must demonstrate that the action is the substantial equivalent of an Ecology-conducted or Ecology-supervised action. This opinion does not determine whether the action you performed is substantially equivalent. Courts make that determination. *See* RCW 70.105D.080 and WAC 173-340-545.

3. State is immune from liability.

The state, Ecology, and its officers and employees are immune from all liability, and no cause of action of any nature may arise from any act or omission in providing this opinion. *See* RCW 70.105D.030(1)(i).

Termination of Agreement

Thank you for cleaning up the Site under the Voluntary Cleanup Program (VCP). This opinion terminates the VCP Agreement governing this project (CE0348).

For more information about the VCP and the cleanup process, please visit our web site: www.ecy.wa.gov/programs/tcp/vcp/vcpmain.htm. If you have any questions about this opinion or the termination of the Agreement, please contact me at (509) 454-7842.

Sincerely,

Jeff Newschwander
Site Manager
CRO Toxics Cleanup Program

cc: Dolores Mitchell, VCP Financial Manager (without enclosures)