



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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March 22, 2012

Mr. Mark Ausley
Hearthstone Inc.
24151 Ventura Blvd
Calabasas, CA 91302-1449

Re: Further Action at the following Site:

- **Site Name:** Riverbend Investment Co
- **Site Address:** 4304 State Route 530 NE, Arlington WA
- **Facility/Site No.:** 4864
- **VCP Project No.:** NW2575

Dear Mr. Ausley:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your independent cleanup of the Riverbend Investment Co facility (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?

YES. Ecology has determined that 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 releases:

- Gasoline range petroleum hydrocarbons (tph-g) and diesel range petroleum hydrocarbons (tph-d) into the Soil.



Please note 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. Phase I Environmental Site Assessment, dated March 29th 2004, prepared by Environmental Associates, Inc.
2. Tank Closure Assessment & Remedial Actions, dated June 9th 2004, prepared by Environmental Associates, Inc.
3. Union Bank Log No. 10-1137 Phase I Environmental Site Assessment, dated November 9th 2010, prepared by Krazan & Associates, Inc.
4. Limited Site Investigation, dated June 28th 2011, prepared by Terracon.

Those documents are kept in the Central Files of the Northwest Regional Office of Ecology (NWRO) for review by appointment only. You can make an appointment by calling the NWRO resource contact at 425.649.7239.

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 **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 not sufficient* to establish cleanup standards and select a cleanup action.

In March 2004 during the removal of two underground storage tanks (USTs) approximately 40 tons of contaminated soil was removed from the UST cavity and stockpiled on-site for future off-site disposal. *No documentation concerning the proper disposal of these contaminated soils has been provided to Ecology to demonstrate proper legal disposal. Without documentation the status of the Site characterization cannot be completed.*

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Additionally, an accident involving a truck towing a tractor occurred on the stretch of Highway 530 near the site in July of 1992. As a result of the accident, the tractor ended up on its side on-site near the driveway to the residence on Lot 1 and approximately 100-gallons of diesel fuel from the tractor was released to site soils. *Approximately 20 cubic yards of impacted soil was reportedly removed from the site; however, documentation of disposition of the impacted soil and confirmation soil sampling has not been provided to Ecology. Again, without documentation the status of the Site characterization cannot be completed.*

MTCA requires that “any waste contaminated by a hazardous substance generated during cleanup activities and require off-site treatment, storage or disposal, shall be transported to a facility permitted or approved to handle these wastes.” WAC 173-340-400(9).

Groundwater is encountered at a depth of 20 feet below ground surface. There are three domestic drinking water wells which pull from this water bearing zone. Analytical results from samples taken from these wells show that the releases of tph-g and tph-d have not impacted groundwater at this Site.

2. Establishment of cleanup standards.

a. Substance-specific standards.

Ecology has determined the cleanup levels and points of compliance you established for the Site *may not meet* the substantive requirements of MTCA.

This Site uses MTCA Method A for unrestricted land use cleanup standards for tph-g and tph-d. This may not be an appropriate cleanup standard for this Site. The Site is currently a 150-acre mostly undeveloped parcel of land surrounded by in excess of 200-acres of agricultural land. Additionally the Site is in close proximity of the Stillaguamish River, which is located north of the property across State Route 530. The Terrestrial Ecological Evaluation has not been performed. It does not appear that this Site qualifies for the Terrestrial Ecological Evaluation Exclusion or the Simplified Terrestrial Evaluation.

b. Action and location-specific requirements.

At this time, Ecology has determined the following additional requirements apply to the cleanup based on the type of the action or the location of the Site:

The Washington State Department of Ecology (Ecology) understands that soils contaminated from a gasoline underground storage tank leak and from a separate diesel spill incident were separately excavated and disposed offsite. At this time, Ecology does not have adequate information to be able to determine if those

contaminated soils designated as dangerous wastes under the Washington State Dangerous Waste Regulations, Chapter 173-303 WAC. Ecology requires that the generator (in this case this is the property owner) of those contaminated soils, test those contaminated soils and if they designate as dangerous wastes, follow the dangerous waste designation, management and disposal procedures in accordance with Chapter 173-303 WAC.

3. Selection of cleanup action.

Ecology has determined the cleanup action you selected for the Site *has not met* the substantive requirements of MTCA.

The selected cleanup action was excavation of contaminated soil and stockpiling these soils for off-site disposal. Documentation of the proper disposition of contaminated soil has not been provided to Ecology.

4. Cleanup.

Ecology has determined the cleanup you performed does not meet any cleanup standards at the Site.

A Phase I Environmental Site Assessment (ESA) dated March 29, 2004 and prepared by Environmental Associates, Inc. (EAI) identified one 500-gallon gasoline UST and one 1,200-gallon diesel UST as recognized environmental conditions (RECs). Both USTs were reportedly installed in 1975 and the remaining product in the USTs was removed in 2003. EAI recommended the USTs be removed and that soil samples be collected in the vicinity of the USTs in order to assess the potential for on-site impacts resulting from undocumented releases from the two USTs.

On June 9, 2004 EAI completed a report documenting the removal of the two USTs they identified in the March 2004 ESA. The two USTs were removed from the site by AAA Tank Service Company on April 8, 2004. EAI reported in their ESA that the USTs consisted of a 1,200-gallon diesel tank and a 500-gallon gasoline tank; however, the final UST Closure Report and Ecology records indicate that the diesel UST was a 1,500-gallon tank. Approximately 40 tons of impacted soil was removed from the gasoline UST cavity and stockpiled on-site for future off-site disposal. Soil impacts reportedly extended to approximately 9 feet below the ground surface (bgs). No groundwater was observed during excavation activities.

Four soils samples were collected from the diesel UST cavity and were analyzed for diesel and oil-range total petroleum hydrocarbons (TPH), which were not identified in the samples above laboratory reporting limits with the exception of a sample collected from the east sidewall, which contained diesel-range TPH at a concentration of 39 mg/kg, well

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below the MTCA Method A cleanup level for diesel-range TPH in soil established at 2,000 mg/kg. Five soils samples were collected from the gasoline UST cavity after remedial excavation activities and were analyzed for gasoline-range TPH and benzene, toluene, ethylbenzene, and total xylenes (BTEX). Gasoline-range TPH and benzene were not identified in the soil samples above laboratory reporting limits. Toluene, ethylbenzene, and xylenes were identified in one sample at concentrations of 0.05 mg/kg, 0.05 mg/kg, and 0.15 mg/kg, respectively and xylenes were identified in a second sample at a concentration of 0.08 mg/kg. All of the identified concentrations of toluene, ethylbenzene, and xylenes were below MTCA Method A cleanup levels for soil, which have been established at 7 mg/kg, 6 mg/kg, and 9 mg/kg, respectively. One sample from the gasoline UST cavity was also analyzed for lead, which was identified at a concentration of 6.1 mg/kg, which did not exceed the MTCA Method A cleanup level for lead in soil established at 250 mg/kg.

The stock-piled soil reportedly impacted with gasoline-range petroleum hydrocarbons and benzene above MTCA Method A cleanup levels was reportedly left on-site. EAI indicated in their report that the petroleum-impacted soil would be staged on-site for planned future transport to an off-site landfill or a thermal desorption treatment facility. *No further documentation pertaining to the off-site disposition of petroleum impacted stockpile soil has been provided to Ecology for review.*

MTCA requires that "any waste contaminated by a hazardous substance generated during cleanup activities and require off-site treatment, storage or disposal, shall be transported to a facility permitted or approved to handle these wastes." WAC 173-340-400(9).

A Phase I ESA, dated November 9, 2010 and prepared by Krazan & Associates, Inc. (Krazan), identified the following environmental issues:

- An accident involving a truck towing a tractor occurred on the stretch of Highway 530 near the site in July of 1992. As a result of the accident, the tractor ended up on its side on-site near the driveway to the residence on Lot 1 and approximately 100-gallons of diesel fuel from the tractor was released to site soils. *Approximately 20 cubic yards of impacted soil was reportedly removed from the site; however, documentation of disposition of the impacted soil and confirmation soil sampling has not been provided to Ecology for review.*
- Petroleum surface soil staining was observed in the metal storage building on Lot 3 in the vicinity of farm machinery. The staining was reportedly related to on-site storage and maintenance of the farm machinery within the building;

In 2011 Terracon identified the locations of the former traffic accident spill, the former USTs, and the PCS stockpile. Soil borings (B-1 to B-8) were advanced on the site on April 20, 2011 using a direct-push drill rig operated by Pacific Northwest Probe. A total of 18 soil samples were submitted for laboratory analysis. Based on soil analytical

results, gasoline-range TPH was identified at 340 mg/kg in B-8, S-1, *above applicable MTCA cleanup levels*. Boring B-8 was advanced through the center of a small stained area in the northeast portion of the equipment outbuilding on Lot 3. Based on visual observations, the staining appeared to be an approximately six foot by six foot area.

Ecology concludes the following is necessary to close this Site with a No Further Action determination;

- The remediation of contamination remaining in the area of soil boring B-8,
- The disposition of all excavated contaminated soil be provided to Ecology.

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).

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Contact Information

Thank you for choosing to clean up the Site under the Voluntary Cleanup Program (VCP). After you have addressed our concerns, you may request another review of your cleanup. Please do not hesitate to request additional services as your cleanup progresses. We look forward to working with you.

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, please contact me by phone at 425.649.4446 or e-mail at damy461@ecy.wa.gov.

Sincerely,



Dale R. Myers
Site Manager
NWRO Toxics Cleanup Program

dm: lh

cc: Mr. Sidney Constantinescu
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