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STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

November 4, 2008

Mr. Bob Ball
Highland Fruit Growers, Inc.
8304 Wide Hollow Road
Yakima, Washington 98908

Re: Further Action at the following Site:

- **Site Name:** Highland Fruit Growers
- **Site Address:** 8304 Wide Hollow Road
- **Facility/Site No.:** 66511775
- **VCP Project No.:** CE0293

Dear Mr. Ball:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your independent cleanup of the Highland Fruit Growers 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

1. Does your cleanup meet some cleanup standards at the Site?

YES. Ecology has determined that your cleanup meets the following cleanup standards at the Site:

- **Diesel-range hydrocarbons in Soil.**

However, this opinion is dependent on the submittal of soil disposal receipts following the cleanup action.

2. Is further remedial action still necessary to meet other cleanup standards at the Site?

YES. Further remedial action is still necessary to meet the following cleanup standards at the Site:

- **Diesel-range hydrocarbons in Groundwater.**

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:

- Diesel-range hydrocarbons to Soil and Groundwater.

The Site is located near the western boundary of the City of Yakima at 8304 Wide Hollow Road. The Site is identified by the Yakima County Assessor's office (Assessor) as parcel number 181330-44011. **Enclosure A** includes a map of the Site, which was obtained from the Assessor's website.

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. *Highland Fruit Growers Soil Remediation Report*, Fulcrum Environmental Consulting, Inc., June 17, 2008.

Those documents are kept in the Central Files of 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

This opinion is based on the following analysis:

1. **Characterization of the Site.**

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

2. **Establishment of cleanup standards.**

Ecology has determined the cleanup levels and points of compliance you established for soil at the Site meet the substantive requirements of MTCA.

3. **Selection of cleanup action.**

Ecology has determined the cleanup action you selected for soil at the Site meets the substantive requirements of MTCA. However, the cleanup action does not address the requirements for cleaning up the following contamination at the Site:

- Diesel-range hydrocarbons in Groundwater.

The activities documented in the remediation report include removal of diesel-impacted soil only. Shallow groundwater levels were observed, as well as petroleum sheen on groundwater observed in the excavation. However, impacted groundwater was not addressed during the cleanup action or in the remediation report.

4. Cleanup.

Ecology has determined the cleanup you performed meets the following cleanup standards:

- Diesel-range hydrocarbons in Soil.

However, Ecology has determined the cleanup you performed does not meet the following cleanup standards:

- Diesel-range hydrocarbons in Groundwater.

Therefore, pursuant to WAC 173-340-515(5), Ecology is issuing this opinion that **further remedial action is necessary** at this Site under MTCA. At a minimum, four consecutive quarters of groundwater monitoring showing contamination below MTCA is required. Ecology recommends that a minimum of three groundwater monitoring wells be installed to define the extent of contamination.

Listing of the Site

Based on this opinion, Ecology will update the status of remedial action at the Site on our database of hazardous waste sites. However, because further remedial action is still required at the Site, we will not remove the Site from our lists of hazardous waste sites.

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).

Contact Information

Thank you for cleaning up the Site under the Voluntary Cleanup Program (VCP). As your cleanup progresses, please do not hesitate to request additional services. 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 at (509) 454-7835.

Sincerely,



Brianne Plath
Site Manager
CRO Toxics Cleanup Program

Enclosure

cc: Jeremy Lynn, Fulcrum Environmental Consulting, Inc.
Dolores Mitchell, VCP Financial Manager