



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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November 15, 2010

Mr. Bruce Sheppard
BNSF Railway Company
2454 Occidental Avenue South, Suite 1A
Seattle, WA 98134

Re: Further Action at the following Site:

- **Site Name:** Michael Irrigation
- **Site Address:** 5640 Sunset Highway, Cashmere
- **Facility/Site No.:** 3154383
- **VCP Project No.:** CE0278

Dear Mr. Sheppard:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your independent cleanup of the Michael Irrigation 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:



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- Diesel-range organics, gasoline-range organics, oil-range organics, benzene, and polyaromatic hydrocarbons into soil
- Diesel-range organics, oil-range organics, benzene, and polyaromatic hydrocarbons into ground water

A detailed diagram of the Site as currently known to Ecology is shown in Figures 2 thru 7 of the Cleanup Action Work Plan.

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 is affected by other sites.

Basis for the Opinion

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

1. EMR Inc., *Limited Phase II Assessment Report*, January 12, 2005.
2. Farallon Consulting, *Subsurface Investigation Report*, March 3, 2009.
3. Farallon Consulting, *Cleanup Action Work Plan*, August 19, 2010
4. Correspondence file, Michael Irrigation Site, CRO.

Those documents are kept at the Central Regional Office of Ecology (CRO) for review by appointment only. You can make an appointment by calling 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 **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. NOTE: The BNSF active railroad line and that area defined as a 'limited work area' in Figure 5 of the Cleanup Action Work Plan is part of the site; Ecology understands that cleanup actions in this area may be limited,

however, limited work, institutional controls, and confirmation sampling in this area may be required to qualify the site for a No Further Action.

2. Establishment of cleanup standards.

Ecology has determined the cleanup levels you established for the Site meet the substantive requirements of MTCA; however, the TEE discussion in Section 3.5 needs to fully supported.

a. Cleanup levels.

The MTCA Method A soil and groundwater cleanup levels for Unrestricted Land Uses shall be used throughout the Site.

b. Terrestrial Ecological Evaluation (TEE).

The TEE discussion in Section 3.5 of Farallon's Cleanup Action Work Plan for the site did not include a completed Table 749-1. Based on a review of the Chelan County Assessor's website and 2006 aerial image map function, it would appear that in excess of four acres of contiguous undeveloped land exists on or within 500' of any area of the site. Please provide a completed Table 749-1 and a map demonstrating that less than three acres (as discussed in Section 3.5) of undeveloped land are present on and within 500' of the site OR provide a terrestrial ecological evaluation in accordance with WAC 173-340-7490.

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 selected is appropriate for site conditions and is described as 'excavation and off-site disposal of approximately 6,600 cubic yards of soil with concentrations of one or more of the COCs above MTCA cleanup levels to the maximum extent practicable; and groundwater monitoring after soil removal has been completed.'

Following soil removal, groundwater monitoring wells will be constructed and groundwater evaluated to determine the cleanup action's effectiveness. If groundwater contamination is present, monitored natural attenuation will be evaluated for its ability to meet cleanup standards.

4. Cleanup.

A cleanup action has not been conducted at the Site. Confirmation sampling during and following cleanup is required.

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).

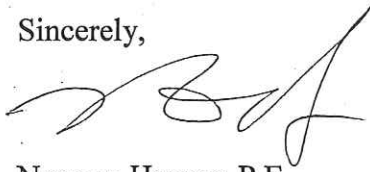
Contact Information

Thank you for 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.

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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 (509) 457-7127 or e-mail at norm.hepner@ecy.wa.gov.

Sincerely,

A handwritten signature in black ink, appearing to be 'N. Hepner', written in a cursive style.

Norman Hepner, P.E.
Site Manager
CRO Toxics Cleanup Program

cc: Daniel Caputo, Farallon Consulting