



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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November 6, 2014

Mr. Milton Woods
200 Cornet Bay Road
Oak Harbor, WA 98277

**Re: *Department of Ecology v. Milton A. Woods,*
Island County Superior Court No. 93-2-00018-3**

Dear Mr. Woods:

I am writing regarding the Consent Decree entered January 12, 1993, in the matter referenced above. The Department of Ecology (Ecology) has reviewed the requirements of the decree, and finds that you have satisfactorily completed your obligations under the Consent Decree. *See Section XV Satisfaction of this Decree.*

The Consent Decree was executed to pursue the cleanup of a release of hazardous substances at Cornet Bay Marina (Site). Following a determination of eligibility for mixed funding under the Model Toxics Control Act (MTCA), RCW 70.105D, the parties entered into the decree to facilitate the cleanup actions specified. Ecology finalized a Remedial Investigation/Feasibility Study (RI/FS) and Cleanup Action Plan (CAP) on July 15, 2013. The cleanup action, selected in accordance with WAC 173-340-360, was conducted and completed in August 2014. The cleanup action consisted of:

- **Bulkhead Wall Construction** – A 360 feet long new steel bulkhead wall was installed adjacent to the old timber bulkhead to facilitate upland excavation. The old timber bulkhead was removed and disposed of off-site. A sidewalk and guardrail capped the top of bulkhead.
- **Excavation of contaminated soil** – Approximately 23,000 tons of petroleum contaminated soil was excavated up to a depth of 16 feet below ground surface. The excavated contaminated soils were transported and disposed of at Cemex in Everett. The excavated area was backfilled with clean imported material.
- **Wetland habitat creation** – Petroleum contaminated soils were removed from the wetland area. Soils were re-graded and planting performed to create additional aquatic habitat as required under the Nationwide Permit 38 issued by the U.S. Army Corps of Engineers.
- **Marina store building relocation** – The store building was temporarily relocated to the adjacent state park property to enable excavation beneath the building. Following excavation, the building was moved back to its original location.
- **Septic system removal and replacement**– The previous septic system has been replaced.

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- **Fuel system improvements** – The fuel line was replaced from inside the fuel tank vault to the end of the main dock access platform.
- **Confirmation monitoring** - Soil and groundwater confirmation samples were collected and analytical results have shown compliance with Site MTCA cleanup levels.

Under the Consent Decree, you were required to remit monthly payments of not less than \$400 to reimburse Ecology for up to \$50,000 in remedial action costs incurred at the Site. Ecology's financial records indicate that you have satisfied this requirement per Section VIII Reimbursement of Ecology's Costs.

For the reasons above, Ecology now proposes to dismiss the Consent Decree. Although this decree does not contain a "covenant not to sue" provision pursuant to RCW 70.105D.040(4)(c), Ecology views the completion of your obligations under the decree as full settlement and resolution of your liability to the State for the matter addressed within the decree. This resolution, however, applies only to you, Milton Woods, based on the circumstances at the Site (as defined in the decree) at the time the settlement was executed. It does not apply to liability potentially held by any other party (including subsequent owner(s) of the property), nor does it apply to any new and unrelated releases that may have occurred at the Site.

Removing the Site from the MTCA Hazardous Sites List requires public notice and comment which will be done in a separate process by Ecology. This letter does not serve as a notice of intent to remove the Site from the MTCA Hazardous Sites List.

Dismissal of the decree does not relieve you, or your successors, from the terms of the Access Agreement (dated August 11, 2011), nor of the obligation to allow Ecology access to the property for the purpose of post-cleanup groundwater sampling, and long-term wetland monitoring as required by the Site's Nationwide Permit 38 issued by the U.S. Army Corps of Engineers. This continued sampling and monitoring is required to confirm the continuing efficacy of the cleanup.

The Attorney General's Office will draft all of the documents necessary to seek a joint dismissal of the Consent Decree in Island County Superior Court. Assistant Attorney General Phyllis Barney, for the Toxics Cleanup Northwest Regional Office has been assigned to this matter. If you have any questions, you may reach her at (360) 586-4616. Or please feel free to contact me at (360) 407-7177 regarding the final steps in this clean up.

Sincerely,



James J. Pendowski, Program Manager
Toxics Cleanup Program

cc: Phyllis Barney, AAG
Robert Warren, Ecology
Louise Bardy, Ecology
Jing Liu, Ecology