



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

June 4, 2010

Mr. Monty Johnson
J. R. Simplot Co.
P.O. Box 912
Pocatello, ID 83204

Re: Further Action at the following Site:

- **Site Name:** Simplot Soilbuilders Sunnyside
- **Site Address:** 300 1st Avenue, Sunnyside, WA
- **Facility/Site ID:** 76742139
- **VCP Project #:** CE 0209

Dear Mr. Johnson:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your independent cleanup of the Simplot Soilbuilders Sunnyside 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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- Various herbicides, metals, and volatile organic compounds into the soil and groundwater
See the HDR December 17, 2009, submittal to Ecology for a list of the contaminants and a Site diagram.

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. *Preliminary Site Investigation Work Plan*, HDR Engineering, Inc., dated May, 2009.
2. *Preliminary Site Investigation Report*, HDR Engineering, Inc., dated December, 2009.

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 **further remedial action** is necessary to clean up contamination at the Site. That conclusion is based on the following analysis:

Ecology has determined your characterization of the Site is not sufficient to establish cleanup standards and select a cleanup action.

The following comments apply specifically to the most recent HDR December, 2009 submittal;

1. No soil analyses were performed for chlorinated pesticides, PCBs, PAHs, or the various petroleum products (diesel, gasoline, lube oil, etc.). We 'assume' that a thorough history of site operations ruled out the use or presence of these products. If not, additional samples and analyses are needed. Were carrier oils ever associated with the formulation of the Site's herbicides? If so, analyses for them in the soils and groundwaters will be necessary.
2. Ecology agrees with HDR that monitoring wells need to be installed on the property and then sampled for a minimum of four quarters. Ecology requires a 'minimum' of four

- wells at the Site, with three being installed downgradient. Simplot may want to install more wells for a better idea of the upgradient and downgradient groundwater conditions, but also to better locate possible 'hotspot' contributing areas.
3. Site groundwater samples shall be analyzed for all soil and groundwater contaminants which exceeded MTCA Method B cleanup levels in September, 2009, plus any products in the above bullet, and any other contaminants which had an historical presence at the Site but had no analyses last September. For some contaminants, MTCA Method A may be appropriate. Comparisons with the Washington State Drinking Water Standards and the EPA's Drinking Water Secondary Standards will also be completed.
 4. MTCA Groundwater Method A total chromium cleanup level is 50 ug/L. Two samples exceed this level in Table 12 (page 22), yet are not listed in Table 15 (page 26). The same is true for lead and ethylbenzene in groundwater. They are not listed as exceeding MTCA Method A in Table 15. These contaminants are just a partial spot-checked few.
 5. Please recheck all soil and groundwater concentrations to see if they exceed MTCA's soil or groundwater Method A or Method B cleanup levels. Also, consider the above bullet.
 6. The Environmental Science Lab at Mt. Joliet, Tennessee, is accredited by Ecology. Their accreditation is through a third party, the New Jersey National Environmental Laboratory Accreditation Program. Some of the Mt. Joliet lab's detection limits, due to dilution, are above MTCA's cleanup levels. This does not allow us to determine if a contaminant is below our MTCA cleanup value.
 7. It was standard practice for early pesticide formulators to have an open ditch for dumping manufacturing wastes. Was there ever an open ditch on the Sunnyside Simplot property?

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.

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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.

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 509/454-7839 or e-mail at rbas461@ecy.wa.gov

Sincerely,



Laura Klasner, P.E.
Site Manager
Toxics Cleanup Program