



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

1250 W Alder St • Union Gap, WA 98903-0009 • (509) 575-2490

November 2, 2018

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

**Re: Notice of Potential Liability under the Model Toxics Control Act for the Release of Hazardous Substances at the following Site:**

- **Name:** Simplot Soilbuilders Sunnyside
- **Address:** 300 1<sup>st</sup> Avenue, Sunnyside
- **Facility Site No.:** 76742139
- **Cleanup Site No.:** 2558

Dear Monty Johnson:

Under the Model Toxics Control Act (MTCA), chapter 70.105D RCW, which governs the cleanup of contaminated sites in Washington State, the Department of Ecology (Ecology) may identify persons that it finds are liable for the release of hazardous substances at a site. Before making such a finding, Ecology must provide persons with notice and an opportunity to comment on the proposed finding. Any person whom Ecology finds, based on credible evidence, to be liable is known as a “potentially liable person” or “PLP”.

**Proposed Finding of Liability**

Based on credible evidence, Ecology is proposing to find J.R. Simplot Company liable under RCW 70.105D.040 for the release of hazardous substances at the Simplot Soilbuilders Sunnyside facility (Site). This proposed finding is based on the following evidence:

1. The listed owner of the property located at 300 S 1<sup>st</sup> St, Sunnyside, WA is “J R Company Simplot,” based on the Yakima County Assessor’s website. The property includes parcels 22102523444, 22102523445, 22102523446, operating as an agricultural distribution facility. The Washington Department of Revenue lists the business as “Simplot Grower Solutions” and the entity as “J.R. Simplot Company”.



Monty Johnson, J.R. Simplot Company

November 2, 2018

Page 2

2. Nitrates and ammonia were found in groundwater adjacent to the Site during an investigation performed in 2007 (Letter re Request for Down-gradient Investigation, prepared by Stantec, July 11, 2008). Additional contaminants were found in soil and groundwater at the Site in 2009, as presented in the Preliminary Site Investigation Report prepared by HDR Engineering. Site contaminants were found to include nitrates and ammonia, volatile organic compounds, heavy metals, herbicides, and petroleum-related contaminants.
3. Soil and groundwater contaminant concentration exceed Model Toxics Control Act (MTCA) cleanup levels. The MTCA cleanup level exceedances in soil and groundwater constitute a threat to human health and the environment, and further action is therefore required.
- 4.

**Opportunity to Respond to Proposed Finding of Liability**

In response to Ecology's proposed finding of liability, you may either:

1. Accept your status as a PLP without admitting liability and expedite the process through a voluntary waiver of your right to comment. This may be accomplished by signing and returning the enclosed form or by sending a letter containing similar information to Ecology;
2. Challenge your status as a PLP by submitting written comments to Ecology within thirty (30) calendar days of the date you receive this letter; or
3. Choose not to comment on your status as a PLP.

Please submit your waiver or written comments to the following address:

Frank P. Winslow  
Toxics Cleanup Program  
Central Regional Office  
1250 W Alder Street  
Union Gap, WA 98903

After reviewing any comments submitted or after 30 days if no response has been received, Ecology will make a final determination regarding your status as a PLP and provide you with written notice of that determination.

Monty Johnson, J.R. Simplot Company  
November 2, 2018  
Page 3

### **Identification of Other Potentially Liable Persons**

If you are aware of any other persons who may be liable for the release of hazardous substances at the Site, Ecology encourages you to provide us with their identities and the reason you believe they are liable. Ecology also suggests you contact these other persons to discuss how you can jointly work together to most efficiently clean up the Site.

### **Responsibility and Scope of Potential Liability**

Please note that Ecology may either conduct or require PLPs to conduct remedial actions to investigate and clean up the release of hazardous substances at a site. PLPs are encouraged to initiate discussions and negotiations with Ecology and the Office of the Attorney General that may lead to an agreement on the remedial action to be conducted.

Please also note that each liable person is strictly liable, jointly and severally, for all remedial action costs and for all natural resource damages resulting from the release of hazardous substances at a site. If Ecology incurs remedial action costs in connection with the investigation or cleanup of real property and those costs are not reimbursed, then Ecology has the authority under RCW 70.105D.055 to file a lien against that real property to recover those costs.

### **Next Steps in Cleanup Process**

In response to the release of hazardous substances at the Site, Ecology intends to conduct the following actions under MTCA:

- Ecology intends to enter negotiation with the cooperative PLPs to enter into an Agreed Order for this Site.

For a description of the process for cleaning up a site under MTCA, please refer to the enclosed fact sheet.

Ecology's policy is to work cooperatively with PLPs to accomplish the prompt and effective cleanup of contaminated sites. Please note that your cooperation in planning or conducting remedial actions at the Site is not an admission of guilt or liability.

If you have any questions regarding this letter or if you would like additional information regarding the cleanup of contaminated sites, please call me at 509-454-7835. Thank you for your cooperation.

Monty Johnson, J.R. Simplot Company

November 2, 2018

Page 4

Sincerely,



Frank P. Winslow

Site Manager

Toxics Cleanup Program

Central Regional Office

Enclosures: 2

By certified mail: 7018 0360 0000 1740 8919

cc: Michael R. Murray, HDR