



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

June 20, 201

Mr. Sean Donnan
Terracon
21905 64th Avenue West, Suite 100
Mountlake Terrace, WA 98043

Re: No Further Action at the following Site:

- **Site Name:** Wal-Mart Store 2187
- **Site Address:** 2000 N. Wenatchee Ave., Wenatchee
- **Facility/Site No.:** 82414219
- **Cleanup Site No.:** 2129
- **VCP Project No.:** CE0323

Dear Mr. Donnan:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your independent cleanup at Wal-Mart Store 2187 (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?

NO. Ecology has determined that no 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 release:

- Lead, Arsenic and DDT into the soil.



Mr. Sean Donnan
Terracon
June 20, 2012
Page 2

Enclosure A includes a detailed description and diagram of the Site, as currently known to Ecology.

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. Soils Remediation Report, Terracon, January 24, 2012.
2. Recorded Environmental Covenant, April 2, 2012.

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 **no 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. The Site is described above and in **Enclosure A**.

2. **Establishment of cleanup standards.**

Ecology has determined the cleanup levels you established for the Site meet the substantive requirements of MTCA.

- a. **Cleanup levels.**

It was determined that MTCA Method A cleanup levels were appropriate for the Site. MTCA Method A cleanup levels are stringent and protective of properties with unrestricted land use.

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 for the Site included containment of soils beneath clean soil, building foundations, and asphalt. Soils remain at the Site at concentrations exceeding MTCA Method A cleanup levels; however, the cleanup action is protective of human health and the environment because institutional controls in the form of an environmental covenant serve to protect the integrity of the surface cap and prevent exposure of capped contaminated soils.

4. Cleanup.

Ecology has determined the cleanup you performed meets the cleanup standards established for the Site. This determination is dependent on the continued performance and effectiveness of the post-cleanup controls specified below.

Post-Cleanup Controls

Post-cleanup controls and monitoring are remedial actions performed after the cleanup to maintain compliance with cleanup standards. This opinion is dependent on the continued performance and effectiveness of the following:

1. Compliance with institutional controls.

Institutional controls prohibit or limit activities that may interfere with the integrity of engineered controls or result in exposure to hazardous substances. The following institutional control is necessary at the Site:

- Property use restrictions that limit activities that may expose contaminated soils capped at the Site.

To implement those controls, an Environmental Covenant has been recorded on the following parcel of real property at the Site:

- 232028340050.

Ecology approved the recorded Covenant. A copy of the Covenant is included as **Enclosure B.**

2. Operation and maintenance of engineered controls.

Engineered controls prevent or limit movement of, or exposure to, hazardous substances. The following engineered control is necessary at the Site:

- A cap consisting of clean soil, asphalt or building foundations over any contaminated soil remaining at the Site.

Ecology has approved the operation and maintenance plan you submitted for these engineered controls. A copy of the plan is included as **Enclosure C**.

Periodic Review of Post-Cleanup Conditions

Ecology will conduct periodic reviews of post-cleanup conditions at the Site to ensure that they remain protective of human health and the environment. If we conduct a periodic review and determine further remedial action is necessary at the Site, then we will withdraw this opinion.

Listing of the Site

Based on this opinion, Ecology will initiate the process of removing the Site from our lists of sites, including the Confirmed and Suspected Contaminated Sites List.

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

Mr. Sean Donnan
Terracon
June 20, 2012
Page 5

performed is substantially equivalent. Courts make that determination. *See* RCW 70.105D.080 and WAC 173-340-545.

3. State is immune from liability.

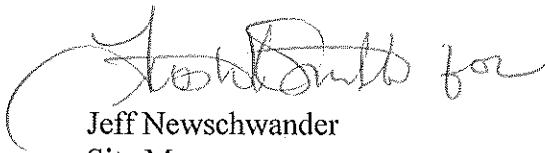
The state, Ecology, and its officers and employees are immune from all liability, and no cause of action of any nature may arise from any act or omission in providing this opinion. *See* RCW 70.105D.030(1)(i).

Termination of Agreement

Thank you for cleaning up the Site under the Voluntary Cleanup Program (VCP). This opinion terminates the VCP Agreement governing this project (CE0323).

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 or the termination of the Agreement, please contact me at (509) 454-7842.

Sincerely,



Jeff Newschwander
Site Manager
CRO Toxics Cleanup Program

Enclosures (3): A – Description and Diagram of the Site
 B – Environmental Covenants for Institutional Controls
 C – Operation and Maintenance Plan for Engineered Controls

cc: Tod Gold, Joyce Ziker Parkinson, PLLC
 Dolores Mitchell, VCP Financial Manager