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February 21, 2019

Matt McGraner
Highland Capital Management
300 Crescent Court, Ste 700
Dallas, TX 75201

Re: Response to No Further Action Request by Model Remedy:

- **Subject Property:** Double Tree Inn
- **Address:** 415 Capitol Way North, Olympia, Thurston County, WA 98501
- **County Assessor's Parcel Number(s):** 78500100300
- **Facility Site Name:** Phoenix Inn (a.k.a. Double Tree Olympia)
- **Cleanup Site ID:** 5257
- **Facility/Site No.:** 1571525
- **VCP Project No.:** SW1661

Dear Matt McGraner:

Site cleanup was previously pursued under Voluntary Cleanup Program (VCP) project number SW1582. In a report dated March 21, 2018,¹ Site closure was requested using Model Remedy 4 for Sites with Petroleum Impacts to Groundwater. The Department of Ecology (Ecology) response to this request was put on hold until the new VCP application was processed. Assigned project number SW1661, Ecology accepted your VCP application in a letter dated November 27, 2018.² Ecology provides this letter under the authority of the Model Toxics Control Act (MTCA), chapter 70.105D Revised Code of Washington (RCW).

Based on the data submitted to Ecology, at this time the Site does not meet the requirements for a no further action (NFA) determination using Model Remedy 4 for Sites with Petroleum Impacts to Groundwater. Collection and evaluation of additional Site data, as discussed below, may show that Model Remedy 4 for Sites with Petroleum Impacts to Groundwater is appropriate for a future NFA determination.

¹ Arcadis, *Groundwater Monitoring Report and Request for Ecology Opinion on Applicability of Model Remedy #4 for Sites with Petroleum Impacts to Groundwater*, dated March 18, 2018. Available at: <https://fortress.wa.gov/ecy/gsp/CleanupSiteDocuments.aspx?csid=5257>

² Ecology, *Re: Acceptance of VCP Application for the following Contaminated Site*.

Requirements for Model Remedy 4 for Sites with Petroleum Impacted Groundwater:³

- a. Soil removal was implemented to the greatest degree practicable.
- b. Enough monitoring data have been collected and sufficiently analyzed to document that the plume is stable or receding.
- c. The conditional points(s) of compliance are as close as practicable to the source of the hazardous substances.
- d. An environmental covenant (EC) has been filed to impose groundwater use restrictions and to document that contaminated soil remains on the property.

Contaminated soil that is located beneath a parking lot, building, or roadway, is not necessarily representative of future site conditions because if the structure is removed, leaching of contaminants could be increased and ultimately result in exceedances of the applicable groundwater cleanup levels.

The EC would need to require that the existing structures remain in-place and be adequately maintained so they continue to serve as a barrier to water migration through the contaminated soil, unless written approval from Ecology is granted to implement modifications.

1) Petroleum contaminated soil (PCS) has not been removed to the greatest degree practicable.

- a. Though some PCS has been removed during decommissioning of the former underground storage tanks (USTs) at the Site, no PCS appears to have been removed within the footprint of the former bulk fuel facility or former aboveground storage tanks (ASTs).
- b. Washington Administrative Code (WAC) 173-340-440(6) requires that cleanup actions shall not rely primarily on institutional controls and monitoring where it is technically possible to implement a more permanent cleanup action for all or a portion of the Site.
 - i. PCS present beneath the parking lot is accessible and could be remediated by available technologies. For example, excavation could be used to reduce contaminant concentrations at the Site.
- c. Petroleum hydrocarbon concentrations in groundwater continuing to exceed the MTCA cleanup levels suggest that PCS remains at the Site.

³ See p. 22 in Ecology Publication No. 16-09-057, *Model Remedies for Sites with Petroleum Impacts to Groundwater*, Revised December 2017.

- d. The most recent soil data from the Site were collected in January 2006. Though groundwater data suggest continued degradation of petroleum concentrations in soil, confirmatory soil sampling data would be necessary to verify current soil conditions.
- e. Based on Arcadis' Figure 3 in their *Work Plan for Additional Site Characterization*, dated April 10, 2017, it does not appear that soil or groundwater data have been collected within the footprint of the former area containing four ASTs. Ecology recommends re-evaluating historical documents to verify if the location of the ASTs footprint in the figure is accurate.⁴ If contamination is present in this area under Thurston Avenue, an on-Property conditional point of compliance may not be feasible.
- f. On the adjacent parcel to the south, Ecology concurred with an excavation to six feet deep for the entire accessible portion of the parcel. The excavation was completed before Ecology concurred with a Property-Specific NFA with environmental covenant.⁵

2) Stable or receding groundwater plume.

- a. Based on a qualitative review of the groundwater data since sampling began in 1994, it appears that petroleum contamination in groundwater is declining. A downtrend in post-remediation petroleum concentrations in groundwater could be demonstrated quantitatively by plotting contaminant concentration data over time on a graph, without also plotting for groundwater elevation.

Alternatively, statistically significant results at an upper confidence limit of 0.85 using Mann-Kendall analysis could be used to confirm a downtrend in concentration data. Other methods to define a stable or receding plume can be used, as detailed in Ecology Publication no. 05-09-091, *Guidance on Remediation of Petroleum-Contaminated Ground Water by Natural Attenuation*, July 2005.⁶ See Appendix D.

3) Conditional Point(s) of Compliance.

- a. **Determine the current extent of the petroleum plume in groundwater. Though there may be exceptions, typically, in order to use a model remedy at a Site, you must demonstrate that soil and groundwater contamination exceeding the MTCA Method A cleanup levels does not extend into the right-of-way.**⁷
- b. The proposed conditional point of compliance, using monitoring wells PMW-20 and PMW-21, only covers one secondary groundwater flow direction for the Site. Based on the

⁴ A 1969 aerial photograph suggests that the footprint of the four ASTs was to the north of where depicted in Arcadis' figure. Based on Sanborn® Fire Insurance Maps, Thurston Avenue appears unchanged in width since at least December 1947. The footprint of the four ASTs appears to be at approximately PMW-14 and PMW-15. Figure 2 in ATEC's Phoenix Inn Phase I ESA also suggests that the former ASTs were on-Property.

⁵ See documents at: <https://fortress.wa.gov/ecy/gsp/CleanupSiteDocuments.aspx?csid=6851>

⁶ Available at: <https://fortress.wa.gov/ecy/publications/SummaryPages/0509091.html>

⁷ See p. 18 (especially footnote #3) in Ecology Publication No. 16-09-057, *Model Remedies for Sites with Petroleum Impacts to Groundwater*, Revised December 2017.

rose diagram⁸ provided to Ecology, no conditional points of compliance are proposed to address the more significant groundwater flow directions to the northeast and southwest.

- c. For the northeast flow direction, monitoring wells PMW-1 and PMW-19 appear to be sufficient monitoring points as a conditional point of compliance.
- d. As the current extent of the petroleum plume in groundwater is not defined to the south and southwest, more data are needed to be able to determine if a conditional point(s) of compliance can be established for these directions. The additional data would also be necessary to determine if any additional conditional point(s) of compliance are as close as practicable to the source of the hazardous substances.
- e. In 1996, diesel in groundwater concentrations exceeding the MTCA Method A cleanup levels were identified at boring locations YBGP-5 and YBGP-6, located in the parking stalls along the north side of Thurston Avenue. In September 1996, the concentration of gasoline and diesel in groundwater at NBH-14/6.5 exceeded the MTCA Method A cleanup levels. This location was south of the center line of Thurston Avenue on the adjacent parcel to the south.⁹

4) Implementation of an EC.

- a. The property boundaries for Thurston County tax parcel 78500100300 will need to be determined. Ecology typically presumes that the property boundary extends to the centerline of the road, and city streets are easements across the property. A title search with any associated dedications and platting should be submitted to confirm the parcel boundaries and any associated easements.
- b. If contamination extends under a right-of-way, and a model remedy is not proposed to close the Site, the City of Olympia still would have to subordinate their rights to implement an EC. Other affected easement holders would also be required to subordinate their rights under an EC. See *Procedure 440A, Establishing Covenants under the Model Toxics Control Act*¹⁰ for additional details.
- c. Presuming an EC can be used at the Site, an EC could be used to manage institutional controls regarding contamination remaining beneath the hotel building. A model remedy could be used with this EC, as long as the contamination is shown to not extend into the right-of-way.

⁸ See Figure 9 in Arcadis' *Groundwater Monitoring Report and Request for Ecology Opinion on Applicability of Model Remedy #4 for Sites with Petroleum Impacts to Groundwater*, dated March 21, 2018.

⁹ See figures in Shannon and Wilson's *Re: Results of Test Pit Explorations and Monitoring Well Sampling at Yard Birds Property, Olympia, Washington*, dated December 30, 1996 and EPMF's report, *Re: Yard Birds*, dated February 10, 2000. Available at: <https://fortress.wa.gov/ecy/gsp/CleanupSiteDocuments.aspx?csid=5257>

¹⁰ Available at: <https://fortress.wa.gov/ecy/publications/SummaryPages/1509054.html>

Though petroleum hydrocarbon concentrations in groundwater at the Site have been declining, the current extent of these concentrations have not been determined to the south and southwest of the hotel parking lot. As previously discussed, characterizing the current areal extent¹¹ of the petroleum plume in groundwater is necessary to determine if the plume extends under Thurston Avenue, Columbia Street, or potentially both.

The closure request by model remedy discussed above is the first of two requests eligible for free VCP Site Manager review under the model remedy program. You have one free review remaining. Opinion requests which are not closure requests under model remedies and for non-model remedy Sites of all types are billed per the VCP agreement.

Now that Site cleanup has been restarted under VCP project SW1661, Ecology is responding to the remaining portions of the March 2018 opinion request. A letter providing our informal advice and technical assistance is forthcoming.¹²

Contact Information

For more information about the VCP and the cleanup process, please visit our [Voluntary Cleanup Program web site](#).¹³ If you have any questions about this opinion, please contact me by phone at (360) 407-6265 or at tmul461@ecy.wa.gov.

Sincerely,



Tim Mullin, LHG
Southwest Regional Office
Toxics Cleanup Program

TCM: tam

By certified mail: 9489 0090 0027 6066 5563 03

cc: Jesse R. Blair, III, NHT Olympia, LLC
Paul T. McCullough, Arcadis
Nicholas M. Acklam, Ecology (by email)
Mark Gordon, Ecology (by email)
Ecology Site File

¹¹ WAC 173-340-350(7)(c)(iii)(C).

¹² WAC 173-340-515(5).

¹³ <https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Cleanup-process/Cleanup-options/Voluntary-cleanup-program>



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