



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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

June 28, 2019

Leonard Judd  
19 Lumm Road  
Okanogan, WA 98901

**Re: No Further Action (NFA) Determination for:**

- **Site Name:** Leonard Judd Property
- **Site Address:** B&O Road & Spring Coulee Road, Okanogan
- **Facility/Site No.:** 7873712
- **Cleanup Site ID No.:** 1096

Dear Leonard Judd:

The Department of Ecology (Ecology) has reviewed existing file documents for the above-referenced cleanup site. The following is our opinion, based on that review.

**Issue Presented and Opinion**

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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**

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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:

- Diesel fuel into soil.

An Initial Investigation was performed at this rural residential property by the Okanogan Health Department in 2004.



Leonard Judd  
June 28, 2019  
Page 2

A spill or spills of diesel fuel used for fueling a generator had reportedly occurred in 2002. Soil impacted by diesel and motor oil had reportedly been excavated and stockpiled on a plastic liner onsite but the soil had not been treated or removed.

**Enclosure A** presents a map showing the location of the site.

### **Basis for the Opinion**

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This opinion is based on the information contained in the following documents:

1. Site Hazard Assessment Summary Score Sheet, dated August 2012.

This document is 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 at (509) 575-2490 or emailing [RecordsOfficer@ecy.wa.gov](mailto:RecordsOfficer@ecy.wa.gov).

This opinion is void if any of the information contained in that document is materially false or misleading.

### **Analysis of the Cleanup**

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Ecology has concluded that **no further remedial action** is necessary to clean up contamination at the Site.

The conclusion that no further remedial action is necessary is based on the following analysis:

1. **Characterization of the Site.**

Ecology visited the site on December 13, 2017 and met with Leonard Judd, the former property owner, and Michael Fajen, the current property owner. Leonard Judd indicated that the release had occurred from a former tenant who had the generator temporarily onsite. Leonard Judd was generally aware of where the generator had been located. Ecology examined the area where the generator had been and found no evidence of petroleum hydrocarbon impacts to soil. Ecology collected one surface grab sample at the location where the release was reported to have occurred. The soil sample was analyzed by Method NWTPH-Dx. No diesel range hydrocarbons were detected and motor oil range hydrocarbons were detected at 28 mg/kg, well below the Model Toxics Control Act (MTCA) Method A cleanup level of 2,000 mg/kg. The remains of the diesel spill have apparently attenuated during the 15 years since the spilling occurred. Impacts to groundwater from this spill are considered highly unlikely since the groundwater would be at a significant depth in this upland area (over 300 feet above the Okanogan River, located approximately 4,800 feet to the southeast).

**2. Establishment of cleanup standards.**

**Soil Cleanup Levels**

The Method A cleanup level for heavy oil and diesel in soil are both 2,000 mg/kg.

Point of Compliance (POC): Standard, throughout the Site.

Ecology has determined the cleanup levels and points of compliance established for the Site meet the substantive requirements of MTCA.

**3. Cleanup.**

Petroleum stained soils had been excavated by the owner and placed on a plastic liner in 2004. Soils were tested in 2017 and no exceedance of the applicable cleanup levels were found. Petroleum in the excavated soil appears to have attenuated to concentrations below applicable cleanup levels. No further remedial actions appear to be warranted at this Site.

**Listing of the Site**

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Based on this opinion, Ecology will remove the Site from the Hazardous Sites List and the Confirmed and Suspected Contaminated Sites List. This process includes public notice and opportunity to comment. Based on the comments received, Ecology will either remove the Site from the applicable lists or withdrawal this opinion.

**Limitations**

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1. This 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 resources damages resulting from the release or releases of hazardous substances at the site. This opinion does not:
  - Change the boundaries of the site.
  - 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).

Leonard Judd  
June 28, 2019  
Page 4

2. This 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 address whether the actions taken at this site are substantially equivalent. Courts make that determination. See RCW 70.105D080 and WAC 173-340-545.
3. 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).

If you have any questions about this opinion, please contact me phone at (509) 454-7835 or by email at Frank.Winslow@ecy.wa.gov.

Sincerely,



Frank P. Winslow, P.G.  
Site Manager  
Toxics Cleanup Program  
Central Regional Office

Enclosure (1): A - Site Location

cc: Michael Fajen

**Enclosure A**

**Site Location**

