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STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
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November 1, 2019

Steve Marshall
GJG, LLC
8150 West Mercer Way
Mercer Island, WA 98440
marshallsj@comcast.net

Re: Deadlines for Overdue Tasks and Deliverables:

- **Site Name:** Olympia Dry Cleaners
- **Site Address:** 606 E Union Ave SE, Olympia, Thurston County, WA 98501
- **Facility/Site ID:** 1446
- **Cleanup Site ID:** 4722
- **Consent Decree No.:** 14-2-02104-3 (Ecology Docket DE 10908)

Dear Steve Marshall:

The Department of Ecology (Ecology) has previously informed the designated project coordinator, via our October 18, 2017,¹ and September 30, 2019,² letters, there are currently several tasks and deliverables that the Defendants have failed to perform. Consent Decree (CD) No. 14-2-02104-3, entered on November 5, 2014, requires the Defendants to perform specific tasks and provide deliverables. Below is a list of these tasks/deliverables along with deadlines for completion. ***As stated in section XVIII.B of the CD, Ecology specifically reserves the right to institute legal or administrative action against the Defendants to require them to perform additional remedial actions at the Site and to pursue appropriate cost recovery upon Defendants' failure to meet the requirements of the CD.***

- 1. Perform Groundwater and Seep Monitoring as Described in the Compliance Monitoring Plan.** The Compliance Monitoring Plan (CMP)³ describes the required post-remediation monitoring under the CD. The CMP requires quarterly groundwater and seep monitoring. On March 8, 2017,⁴ Ecology agreed that the groundwater monitoring frequency for the five monitoring wells in the network can be reduced to semi-annual, but seep monitoring shall continue to be conducted on a quarterly basis. Seep monitoring includes maintenance of the seep filter socks to prevent seep treatment breakthrough and resulting discharge to the surface water point of discharge (Cherry Street SE catch basin).

¹ Re: Overdue Deliverables/Tasks, Olympia Dry Cleaners Site, Department of Ecology letter to Tom Colligan, Floyd/Snider, Inc.

² Re: Notification of Planned Sampling, Olympia Dry Cleaners, Department of Ecology letter to Steve Marshall.

³ Compliance Monitoring Plan, Former Olympia Dry Cleaners Site, prepared by Floyd/Snider, dated January 2016.

⁴ Re: Ecology Comments on the 2016 Annual Summary Report for Groundwater Compliance Monitoring. Department of Ecology letter to Tom Colligan, Floyd/Snider.

Placement of the seep treatment socks in Cherry Street is allowed under a right-of-way permit from the City of Olympia. **However, the Defendants allowed this permit to expire in March 2019.**⁵ The 2017 annual monitoring report⁶ requested that the monitoring frequency for groundwater be reduced from semi-annual to an 18-month interval. **Ecology did not approve this request.** Furthermore, this report did not propose any reduction to the seep monitoring schedule.

It does not appear that monitoring in 2018-2019 has occurred, according to the Ecology approved frequency, and monitoring reports have not been submitted to Ecology. As stated in the CMP, the CD requires that monitoring reports are submitted to Ecology within 30 days of receipt of validated groundwater sample results and no later than 90 days from the date of sampling.

An email was received on October 14, 2019,⁷ with a summary table of seep results that were supposed to be from March 2019, but the table showed the dates sampled as March 22, 2018. A second email was received on October 15, 2019,⁸ with reportedly corrected sample results and a sample date of March 19, 2019. **This is not considered a complete report because groundwater monitoring well data are not included and no laboratory analyses reports or maps showing sample locations were provided.**

| Overdue Groundwater and Seep Monitoring Tasks/Deliverables and Deadlines for Completion | |
|--|-------------------|
| Task/Deliverable | Deadline |
| 2 nd semi-annual 2018 groundwater monitoring report | November 29, 2019 |
| 2 nd , 3 rd , and 4 th quarter 2018 seep monitoring reports | |
| 1 st and 2 nd quarter 2019 seep monitoring reports | |
| 1 st semi-annual 2019 groundwater monitoring report | |
| Schedule for 2 nd semi-annual 2019 groundwater sampling event and 4 th quarter seep monitoring event | |

Upon submittal, Ecology will review the 2018-2019 seep monitoring data and will make a decision. If continued seep treatment is needed.

- 2. Environmental (Restrictive) Covenants.** As per Section VI.A.7 of the CD, Environmental Covenants (ECs) need to be prepared, submitted to Ecology for review and approval, and then filed with Thurston County for the parcels that are within the Site. In addition to the above-referenced Ecology letters, we previously notified Brad Jones, attorney, Gordon

⁵ Notification of Planned Sampling from the Property owned by GJG, LLC at 606 E. Union Ave S.E. Olympia, Email from Steve Marshall to Steve Teel, Ecology, dated October 14, 2019.

⁶ 2017 Annual Summary Report for Groundwater Compliance Monitoring, Former Olympia Dry Cleaners Site, prepared by Floyd/Snider, dated April 30, 2018.

⁷ Notification of Planned Sampling from the Property owned by GJG, LLC at 606 E. Union Ave S.E. Olympia, Email from Steve Marshall to Steve Teel, Ecology, dated October 14, 2019.

⁸ Notification of Planned Sampling-results from March 2019 seep sample, Email from Steve Marshall to Steve Teel, Ecology, dated October 15, 2019.

Thomas Honeywell, about this overdue item in a May 23, 2017, e-mail⁹ and he was copied on the October 18, 2017, letter to Tom Colligan. He responded in an e-mail on October 19, 2017,¹⁰ that the new co-executors of the estate (Greg Burleson and Steve Marshall) would be working with Tom Colligan to prepare a response to Ecology's October 18, 2017, letter and a plan of action. No response was ever received regarding ECs.

You also need to make a good faith effort to obtain an EC for the Cherry Street Q-Tip Trust (Trust) property portion of the site. According to Richard (Mick) Phillips of the Trust, he has not been contacted regarding an EC¹¹. You will need to provide documentation to Ecology of your efforts to obtain an EC with the Trust. Ecology will also need to review the draft EC for the Trust property.

| Overdue Environmental (Restrictive) Covenants Tasks/Deliverables and Deadlines for Completion | |
|---|--------------------------|
| Task/Deliverable | Deadline |
| Submit draft EC for GJG, LLC's assessor's parcel numbers (APNs) 78204000700 and 78204000800 to Ecology for review. | November 29, 2019 |
| Make a good faith effort to obtain an EC for the Cherry Street Q-Tip Trust property portion of the Site (APN 78203700700). Provide documentation of effort and/or draft EC to Ecology for review. If the effort to reach agreement for an EC is unsuccessful, provide Ecology with proposed other legal or administrative mechanisms. | December 31, 2019 |

3. Financial Assurances.

- a. **Financial assurances need to be done as per Section XXI of the CD.** This item was also stated in our May 24, 2017, e-mail to Brad Jones. Please also note that we sent an e-mail to Brad Jones on June 10, 2015,¹² that requested changes/revisions be made to the financial assurances cost table that was prepared by Tom Colligan, Floyd|Snider, dated April 2015, and submitted to us via e-mail on May 4, 2015.¹³ A revised estimate was never submitted to us.
- b. As stated in our June 10, 2015, e-mail and October 18, 2017, letter, within 60 days of Ecology's review and approval of the estimate, the CD requires proof of financial assurance sufficient to cover all costs for operation and maintenance of institutional controls and monitoring at the site, in a form acceptable to Ecology.

⁹ FW: Olympia Dry Cleaners Work Needed, Email from Allyson Bazan, Office of the Attorney General, to Brad Jones, Gordon Thomas Honeywell, dated May 23, 2017.

¹⁰ Re: Olympia Dry Cleaners overdue tasks letter, Email from Brad Jones, Gordon Thomas Honeywell to Steve Teel, Ecology.

¹¹ Re: Olympia Dry Cleaners correspondence, Email from Richard Phillips to Steve Teel, Ecology, dated October 16, 2019.

¹² Olympia Dry Cleaners cost estimates, Email from Allyson Bazan, Office of the Attorney General, to Brad Jones, Gordon, Thomas, Honeywell.

¹³ FW: Olympia Dry Cleaners, Email from Brad Jones, Gordon, Thomas, Honeywell, to Lee Overton, Office of the Attorney General.

Here are some possible options that could be used for this proof:

- 1) Fully Funded Trust Fund
- 2) Letter of Credit from an FDIC-insured bank
- 3) Performance Bond

Above options #2 and #3 would also likely require the creation of a Standby Trust Agreement. Insurance company agreements have also been used in some situations for financial assurance. Please let me know if you have any questions about these options. Ecology has a Financial Assurance Officer that can also assist.

Please note that financial assurances are only required for long-term operation and maintenance. Ecology expects the estimate to follow cost estimate standard practice of a 20% contingency. If there is a deviation from the typical 20% then a rationale for this shall be provided to Ecology. Sales tax shall also be included. Please also note that each year, as work is done (or if Ecology agrees that certain work is no longer needed) or if additional needs are identified, the total needed for financial assurances shall be increased or decreased accordingly to reflect the remaining work that needs to be done from that time forward. The Consent Decree outlines these expectations, as well.

| Overdue Financial Assurances Task and Deadlines for Completion | |
|--|-------------------|
| Submit revised financial assurances estimated cost table for Ecology review. | November 29, 2019 |

4. **Submittal of Electronic Data to Ecology's Environmental Information Management System Database.** As required by section VI.B, all data previously collected from the remedial investigation/feasibility study after August 1, 2005, and data collected during the implementation of the Cleanup Action Plan and CMP shall be submitted to Ecology's Environmental Information Management System (EIM) database. Also, all laboratory analyses shall be performed by the State of Washington Certified Laboratory for each analytical method used. Post-remedial compliance groundwater monitoring data have been submitted to EIM through the March 2018 sampling event. However, no seep monitoring data have been submitted to EIM.

| Overdue Electronic Data Submittals and Deadline for Completion | |
|--|-------------------|
| Submit groundwater monitoring data to EIM from the 2 nd semi-annual 2018 and the 1 st semi-annual 2019 sampling events | December 31, 2019 |
| Submit seep monitoring data to EIM from 2016 through 2019 | December 31, 2019 |

Ecology will expect you to comply with the above schedules. If you require an extension of the schedule for the above deliverables, you will follow the protocol found in section XVI of the CD.

Ecology requests that for regular communication occurs to discuss progress on the completion of the above deliverables/tasks. At a minimum, this should consist of monthly telephone conference meetings and/or written reports.

Contact Information

If you have any questions please contact me at (360) 407-6247 or steve.teel@ecy.wa.gov.

Sincerely,



Steve Teel, LHG
Toxics Cleanup Program
Southwest Regional Office

SST: tm

By certified mail: 9489 0090 0027 6066 6777 01

cc (by email): Eric Christensen, City of Olympia, Public Works Water Resources
Tom Colligan, Floyd|Snider
GJG, LLC
Bradley B. Jones, Gordon, Thomas, Honeywell
Richard (Mick) Phillips, Cherry Street Q-Tip Trust
Allyson Bazan, Office of the Attorney General
Rebecca S. Lawson, PE, LHG, Ecology
Nick Acklam, Ecology
Ecology Site File