



FILE COPY

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 West Yakima Avenue, Suite 200 • Yakima, Washington 98902-3452 • (509) 575-2490

July 6, 2009

Mr. Bruce Sheppard
BNSF Railway Company
2454 Occidental Avenue South, Suite 1A
Seattle, Washington 98134

Re: Further Action at the following Site:

- **Site Name:** Michael Irrigation
- **Site Address:** 5640 Sunset Highway, Cashmere, Washington
- **Facility/Site No.:** 3154383
- **VCP Project No.:** CE0278

Dear Mr. Sheppard:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your independent cleanup of the Michael Irrigation facility (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?

YES. Ecology has determined that 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 releases:

- Diesel-range organics, gasoline-range organics, oil-range organics, benzene, polyaromatic hydrocarbons, and polychlorinated biphenyls into soil.



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- Diesel-range organics, oil-range organics, benzene, and polyaromatic hydrocarbons into ground water.

Enclosure A includes a detailed diagram of the Site as currently known to Ecology. The diagram was supplied to Ecology by Farallon Consulting.

Please note 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. EMR Inc., *Limited Phase II Assessment Report*, January 12, 2005.
2. Farallon Consulting, *Subsurface Investigation Report*, March 3, 2009.
3. Correspondence file, Michael Irrigation Site, CRO.

Those documents are kept in the Central Files of 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 **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 not sufficient to establish cleanup standards and select a cleanup action.

Further characterization is necessary to determine the nature and extent of contaminants in soil, specifically around B4 and MW-1 at the Site. Additionally, further characterization is necessary to determine the nature and extent of contaminants in groundwater at the Site.

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.

The MTCA Method A soil and groundwater cleanup levels shall be used throughout the Site. For carcinogenic PAHs, the procedures set forth in WAC 173-340-708(8)(e) shall be utilized. See the report referenced above titled *Subsurface Investigation Report* for identification of cleanup levels.

3. Selection of cleanup action.

A cleanup action has not been selected for the Site, and further characterization of contaminants at the Site is necessary.

4. Cleanup.

A cleanup action has not been conducted at the Site, and further characterization of contaminants at the Site is necessary.

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

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

3. State is immune from liability.

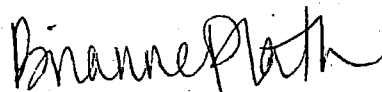
The state, Ecology, and its officers and employees are immune from all liability, and no cause of action of any nature may arise from any act or omission in providing this opinion. *See* RCW 70.105D.030(1)(i).

Contact Information

Thank you for choosing to clean up the Site under the Voluntary Cleanup Program (VCP). After you have addressed our concerns, you may request another review of your cleanup. Please do not hesitate to request additional services as your cleanup progresses. We look forward to working with you.

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, please contact me by phone at (509) 454-7835 or e-mail at brha461@ecy.wa.gov.

Sincerely,



Brianne Plath
Site Manager
CRO Toxics Cleanup Program

Enclosure

cc: Daniel Caputo, Farallon Consulting
Dolores Mitchell, VCP Financial Manager