



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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November 1, 2012

Mr. Richard Wolf  
U-Save Oil Company Inc.  
PO Box 1858  
Anacortes WA 98221

**Re: Further Action at the Following Site:**

- **Site Name:** U-Save Oil Company Inc. Mount Vernon
- **Site Address:** 1633 Riverside Drive, Mount Vernon, WA
- **Facility/Site No.:** 86757962
- **VCP Project No.:** NW2637

Dear Mr. Wolf:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your independent cleanup of the U-Save Oil Company Inc. Mount Vernon 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**

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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**

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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 releases:

- Total Petroleum Hydrocarbons-Gasoline Range Organics (TPH-GRO), Total Petroleum Hydrocarbons-Diesel Range Organics (TPH-DRO), Total Petroleum Hydrocarbons-Heavy Oil Range Organics (TPH-O), Benzene, Toluene, Ethylbenzene, and Xylenes (BTEX) into the Soil and Groundwater.

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**

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

1. CDM, Summary Report Soil and Groundwater Remediation, April 25, 2006.
2. ASPECT Consulting, July 2011 Groundwater Sampling and Analysis, April 13, 2012.

Those documents are kept in the Central Files of the Northwest Regional Office of Ecology (NWRO) for review by appointment only. You can make an appointment by calling the NWRO resource contact at (425) 649-7235.

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

### **Analysis of the Cleanup**

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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.

While Ecology acknowledges your steadfast commitment to cleanup the contaminated soil and groundwater at the Site since 1988, there are un-remediated confirmed subsurface soil and groundwater contamination along the northern and eastern boundaries of the Site. Similarly, the lateral and vertical extent of soil and groundwater contamination along the northern and eastern boundaries of the Site has not yet been fully delineated.

- 2. Establishment of cleanup standards.**

Ecology has determined the cleanup levels and points of compliance you established for the Site meet the substantive requirements of MTCA. MTCA Method A Cleanup Levels for Soil is protective of groundwater and MTCA Method A Cleanup Levels for Groundwater is protective of potential groundwater use as a sole source aquifer downgradient from the Site.

- 3. Selection of cleanup action.**

Ecology has determined the cleanup action you selected for the Site does not meet the substantive requirements of MTCA, since the lateral and vertical extent of soil and groundwater contamination at the Site has not yet been fully delineated.

#### **4. Cleanup.**

Ecology has determined the cleanup you performed does not meet any cleanup standards at the Site, for the following reasons:

- The unexcavated soil and the untreated groundwater contamination on the northern and eastern boundaries of the Site will serve as a continuous source of groundwater contamination due to westward direction of the groundwater flow at the Site (Diagram 1).
- The subsurface soil samples at the Site include residual TPH-G, TPH-D, TPH-O, Benzene, Toluene, Ethylbenzene, and Xylens concentrations exceeding the MTCA Method A Cleanup Levels for Soil (CDM, 25 April 2006). Three of such samples are either at or beyond the current Property line.
- The monitoring well MW-9 had TPH-G, TPH-D, and Benzene in concentrations exceeding the MTCA Method A Cleanup Levels for Groundwater. Even though the MW-2 was removed sometime after 2001, no evidence is present to indicate that the impacted subsurface soil and groundwater at this well has been removed or treated, respectively.
- The TPH-G at monitoring well MW-10 still remains at fluctuating concentrations that exceeds the MTCA Method A Cleanup Levels for Groundwater.
- Since 1990, approximately 9.3 million gallons of groundwater has been treated and re-injected at the Site. However, no data is present to show that the hydrocarbon mass removal at the Site has been declining asymptotically. Furthermore, your Part 3 VCP application suggests that the treated groundwater re-injection at the Site has not been registered as Class V Injection well under Chapter 173-218 WAC.

With the above-referenced residual contaminations at the Site, there remains a potential for recontamination of the same wells that are currently demonstrated to be below MTCA Method A Cleanup Levels, based on the past six consecutive monitoring events since 2004.

Ecology requires a full demonstration of soil and groundwater cleaned up before a No Further Action can be issued for this Site.

#### **Limitations of the Opinion**

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##### **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.

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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 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).

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**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](http://www.ecy.wa.gov/programs/tcp/vcp/vcpmain.htm). If you have any questions about this opinion, please contact me by phone at (425) 649-7097 or e-mail at [tgho461@ecy.wa.gov](mailto:tgho461@ecy.wa.gov).

Sincerely,



Toraj Ghofrani, P.E.  
Toxics Cleanup Program

cc: William Goodhue, Aspect Consulting, LLC