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September 30, 2005

Jim Anderson, Portland Harbor Section Manager
DEQ Northwest Region
2020 SW Fourth Avenue, Suite 400
Portland, OR 97201

Subject: Schnitzer Investment Corp. (SIC)
Comments on September 2005 Interim Final Portland Harbor
Joint Source Control Strategy

Dear Mr. Anderson:

As jointly requested by the Oregon Department of Environmental Quality (DEQ) and the U.S. Environmental Protection Agency (EPA) in their September 1, 2005 letter to the Portland Harbor Superfund Project Stakeholders, Schnitzer Investment Corp. (SIC) has reviewed the Interim Final Portland Harbor Joint Source Control Strategy (JSCS) document (issued by DEQ and EPA in September 2005) and has prepared this letter commenting on the JSCS document. The JSCS document presents a framework for identifying, evaluating, and prioritizing the potential for upland sites within the Portland Harbor Superfund site to contribute to the contamination within the Willamette River. These comments focus on the need for the use accurate and substantiated data in the JSCS process.

Most of the information included within the JSCS document is general in nature, and little information is presented regarding specific sites. Nonetheless, the validity and success of the JSCS evaluative process is dependent on the accuracy and quality of the site-specific information to be utilized within the JSCS framework. To illustrate our concerns with the inaccuracies that have entered the governments' records under the current process, we call you attention to the data for the Premier Edible Oil (PEO) Site. The PEO Site is a site that SIC owns but has never operated on, and for which SIC has entered into a voluntary agreement with DEQ to investigate and characterize potential upland contaminant source(s).

We have found that the PEO Site documentation suffers from numerous limitations, false or misleading statements by third parties, inadequate or non-existent documentation to support alleged releases, and other significant errors. The public assumes that information present on agency websites or in agency issued documents is accurate factually; and, for various reasons, it carries an aura of validity that private sector reports generally do not enjoy. Therefore, it is imperative that the government does its very best to insure, to the extent practical, the

documents/ websites bearing its seal are as accurate and unbiased as practical.

For example, the draft *Premier Edible Oils CSM Site Summary – Appendix A-15* prepared by the Lower Willamette Group (LWG) is filled with inaccuracies and false and misleading statements regarding potential contamination sources and the distribution of contamination at the PEO Site. Moreover, the draft CSM document presents a number of unsubstantiated allegations against SIC or its former tenants. In particular, as recognized by DEQ and EPA in their review of the draft CSM document[1], the draft CSM document includes "subjective and sometimes biased language in the site summaries" and the summary information presented for the PEO Site contains numerous statements regarding alleged contaminant sources at the PEO Site that "cannot be verified by information contained in [agency] project files." The draft CSM document for the PEO Site also fails to "mention…sources on the [upgradient Time Oil] Bell Terminal property, which DEQ said...[are] likely" to be present. SIC is currently preparing additional documentation regarding these deficiencies for submittal to the agencies.

Similarly, much of the summary information regarding the PEO Site that is presented on DEQ's web site and is referenced in the JSCS document is incomplete and outdated (*e.g.*, the descriptions of available information for the PEO Site presented in DEQ's Portland Harbor Upland Investigation Deliverable Summary table or DEQ's Portland Harbor Upland Site Summary Information table). Accordingly, a technically sound and objective source evaluation for the PEO Site cannot be undertaken, if it is based on the information presented in the draft CSM document or the information currently set forth in the DEQ's site summary tables, which are available for review on the Department's Portland Harbor web site. Before an objective source control evaluation can be undertaken for the PEO site, the full scope of available information (including the information that will be presented in SIC's forthcoming comments on the draft LWG CSM document for the PEO site) must be incorporated into the review process. Moreover, the numerous inaccuracies in the information that has been compiled for the PEO Site within the context of the Portland Harbor Superfund site evaluations must be corrected. In addition, to support source evaluations for the downgradient PEO site, Time Oil must be required to disclose to the agencies all of its corporate information (including corporate officer and employee deposition testimony) regarding facility construction, historic operations and maintenance practices (*e.g.*, historic practices related to the removal and management of tank bottoms), and historic spills and releases at the Main Northwest Terminal and Bell Oil Terminal tank farms.

Any source evaluation of the PEO Site must also consider the full scope of efforts that have already been undertaken and that are underway at the site. In particular, to support evaluations of site conditions and potential hazards, SIC is currently working with DEQ to develop a field program for supplemental investigations at the PEO site. A critical objective of these investigations is to support a source control evaluation for this site. Thus, these planned

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investigations should be acknowledged within the source control evaluation process conducted for the PEO Site and, when available, the results of these investigations should be included when applying the JSCS framework at the PEO site.

While the issues related to the PEO Site have been used herein to illustrate our concerns for the need for accurate information in the evaluative process, we believe that the PEO Site is not unique. Rather, we believe that it may be indicative of any site with the Portland Harbor Superfund where information is provided to the agencies by third parties and where the property owner is not a participant in the Lower Willamette Group (LWG) and does not have ready access to all the information that is submitted to the agencies by the LWG or others regarding their property.

To assist the agencies in making sound evaluative decisions, we strongly suggest that the agencies inform each property owner, in advance, as to when the JSCS process will begin for their respective property and provide the property owner copies of the available information that the agencies will utilize in the evaluative process. This action informs the property owner of the current public record and allows the owner to expand, correct or rebut the record, as needed. If the owner chooses to do nothing, their subsequent complaints regarding potential inaccuracies are lacking in merit. It also assures the public that the agencies have worked diligently to establish an accurate record for each site and have striven to honor and maintain the public's trust.

We appreciate the opportunity to present these comments. Please contact me if you have any questions regarding these comments or need any additional information.

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