



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY  
4601 N Monroe Street • Spokane, WA 99205-1295 • 509-329-3400

November 4, 2021

Johnathan Chan  
PO Box 118  
1110 West 2<sup>nd</sup> Avenue  
Spokane, WA 99201

**Re: Opinion on proposed Remedial Actions at the following Site:**

**Site Name:** Becks Radiator Shop  
**Site Address:** 110 N Napa St, Spokane  
**Facility/Site ID:** 45389238  
**Cleanup Site ID:** 3233  
**VCP Project ID:** EA0361

Dear Johnathan Chan:

On October 21, 2021 the Washington State Department of Ecology (Ecology) received your request for technical consultation and an opinion in accordance with [WAC 173-340-515\(5\)](https://app.leg.wa.gov/WAC/default.aspx?cite=173-340-515)<sup>1</sup> on your proposed remedial actions at the Becks Radiator Shop facility (Site). This letter provides confirmation of the proposed remedial actions and an opinion on whether the proposed remedial actions will meet the cleanup standards established for the Site. We are providing this opinion under the authority of the Model Toxics Control Act (MTCA), Chapter 70A.305 RCW.

### **Analysis and Opinion**

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Based on a review of the data and diagrams provided by Spokane Environmental Solutions (SES) on October 19, 2021, Ecology has determined that the remedial actions you proposed for the Site meet the substantive requirements of MTCA. These actions include:

- Excavating and stockpiling the upper one foot of soil in the area west of the current building ("backyard area") and collecting three-point composite samples. These samples will be analyzed using the toxicity characteristic leaching procedure (TCLP) for WA State Dangerous Waste designation.

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<sup>1</sup> <https://app.leg.wa.gov/WAC/default.aspx?cite=173-340-515>

- Excavating and separately stockpiling soil below one foot depth in the area west of the building and where soils have been previously established as containing lead exceeding the MTCA Method A soil cleanup level for unrestricted land use. These samples will be analyzed using the toxicity characteristic leaching procedure (TCLP) for WA State Dangerous Waste designation.
- Any material which designates as Dangerous Waste (leachable lead concentration  $\geq 5$  milligrams per liter (mg/L)) will be transported to the Subtitle C Chemical Waste facility in Arlington, OR for disposal.
- Any material with total lead concentration exceeding the MTCA Method A soil cleanup level for unrestricted land use will be transported to the Waste Management Graham Road Subtitle D Landfill in Medical Lake, WA for disposal.
- Confirmation soil samples will be collected from the excavation bottom and sidewalls and analyzed for total lead.

Please be aware that this opinion is based on the demonstrated effectiveness of the completed remedial actions, and further action will be required if the proposed remedial actions do not address all hazardous materials at the Site. Once the proposed remedial actions have been completed and all associated reports and data have been submitted to Ecology according to WAC 173-340-515(4) and [173-340-840\(5\)](#)<sup>2</sup>, you can request an opinion on the sufficiency of your cleanup.

## **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(s) 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\(4\)](#)<sup>3</sup>.

### **2. Opinion does not constitute a determination of substantial equivalence.**

To recover remedial action costs from other liable persons under [MTCA](#), a person must demonstrate that the action is the substantial equivalent of an

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<sup>2</sup> <https://app.leg.wa.gov/wac/default.aspx?cite=173-340-840>

<sup>3</sup> <https://app.leg.wa.gov/RCW/default.aspx?cite=70.105D.040>

Ecology-conducted or Ecology-supervised action. This opinion does not determine whether the action you performed is substantially equivalent. Courts make that determination under [RCW 70.105D.080](https://app.leg.wa.gov/RCW/default.aspx?cite=70.105D.080)<sup>4</sup> and [WAC 173-340-545](https://apps.leg.wa.gov/WAC/default.aspx?cite=173-340-545)<sup>5</sup>.

**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 under [RCW 70.105D.030\(1\)\(i\)](https://app.leg.wa.gov/RCW/default.aspx?cite=70.105D.030(1)(i))<sup>6</sup>.

### Contact Information

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

Please visit our [VCP webpage](https://www.ecology.wa.gov/vcp)<sup>7</sup> for more information about the VCP and the cleanup process. If you have any questions about this opinion, please contact me by phone at 509-342-5564 or e-mail at [ted.uecker@ecy.wa.gov](mailto:ted.uecker@ecy.wa.gov).

Sincerely,



Ted M. Uecker

ERO Toxics Cleanup Program

tmu:hg

cc: Brandon Kautzman, Spokane Environmental Solutions (by email)  
Kathy Falconer, Ecology (by email) **KLF**

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<sup>4</sup> <https://app.leg.wa.gov/RCW/default.aspx?cite=70.105D.080>

<sup>5</sup> <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-340-545>

<sup>6</sup> <https://app.leg.wa.gov/RCW/default.aspx?cite=70.105D.030>

<sup>7</sup> <https://www.ecology.wa.gov/vcp>