STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
PO Box 47600, Olympia, WA 98504-7600 • 360-407-6000

October 25, 2022

Mark Nelson
Nelson Petroleum
1125 SW 80th Street
Everett, WA 98203

Re: Opinion on Proposed Cleanup of the following Site:

Site Name:	Nelson Distributing Granite Falls
Site Address:	201 W. Stanley Street, Granite Falls, Washington
Cleanup Site ID:	12684
Facility/Site ID:	48574863
VCP Project ID:	NW2982

Dear Mark Nelson:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your proposed independent cleanup of the Nelson Distributing Granite Falls facility (Site). This letter provides our opinion. We are providing this opinion under the authority of the Model Toxics Control Act (MTCA), Chapter 70A.305 RCW.

Issue Presented and Opinion

Ecology has determined that upon completion of your proposed cleanup (contaminated soil removal and institutional controls memorialized by an environmental covenant), no further remedial action will likely be necessary to clean up contamination at the Site. This determination is dependent on yet-to be determined factors such as:

- Implementation of an environmental convent with long term monitoring requirements.

This opinion is based on an analysis of whether the remedial action meets the substantive requirements of MTCA, Chapter 70A.305 RCW, and its implementing regulations, Chapter 173-340 WAC (collectively "substantive requirements of MTCA"). The analysis is provided as follows.

Site Description

This opinion applies only to the Site described as below. The Site is defined by the nature and extent of contamination associated with the following releases:

- Petroleum (Gasoline, diesel, and heavy oil range) in soil
- Benzene in soil
- Petroleum (Diesel range) in groundwater

Enclosure A includes diagrams of the Site, as currently known to Ecology.

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:

- Environmental Associates, *Preliminary Subsurface Excavation*, December 9, 2003
- SD&C, *Phase I and Phase II Environmental Site Assessment*, April 3, 2008
- SD&C, *Site Decommissioning and Demolition Work Plan,* May 1, 2015
- SD&C, *Subsurface Investigation Report,* January 14, 2016
- SD&C, *Site Demolition and Soil Excavation Report,* August 28, 2016
- SD&C, *Quarterly Groundwater Monitoring Report (Q3 – 2016),* October 2, 2016
- SD&C, *Subsurface Soil and Groundwater Investigation Report,* April 28, 2017
- Floyd/Snider, *Additional Remedial Excavation Plan,* July 14, 2021
- Floyd/Snider, *One Ballard Property Remedial Excavation Summary,* March 9, 2022

You can request these documents by filing a records request.[1] For help making a request, contact the Public Records Officer at recordsofficer@ecy.wa.gov or call (360) 407-6040. Before making a request, check whether the documents are available on the Internet at the Site Website.[2]

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

Analysis of the Cleanup

Investigations and characterization of soil and groundwater have been completed at the Site between 2003 and 2021 (**Enclosure B**). Interim remedial actions completed during 2016, and 2021 are discussed in detail below.

[1] https://ecology.wa.gov/About-us/Accountability-transparency/Public-records-requests
[2] https://apps.ecology.wa.gov/cleanupsearch/site/12684

In June of 2016, four aboveground storage tanks were removed and taken off-Property to a permitted facility (Floyd Snider Figure 1). Two on-Property buildings were also demolished, and the materials taken to permitted facilities. A total of 2,083 tons of petroleum-contaminated soil were excavated from three areas of the Site and taken off-Property to a permitted facility.

A total of 16 soil confirmation samples were collected following the 2016 excavation work. Confirmation sample results with cleanup level exceedances are shown below:

Sample Location and Depth (ft bgs)	Contaminant and Concentration with CUL Exceedance (mg/kg)	Area of Exceedance
A1EW@6’	Diesel 1,800, Heavy Oil 1,600	Excavation Sidewall, Eastern Property Boundary
A2SW@6’	Gasoline 770, Diesel 11,000	Excavation Sidewall, Southern Property Boundary
A2F3@9’	Benzene 0.49	West Excavation Area Floor (Former AST Area)
A2SWW@6’	Gasoline 150, Benzene 0.36	Excavation Sidewall, Southwest Property Boundary
A2WW@6’	Gasoline 100	Excavation Sidewall, West Property Boundary

Following the 2016 excavation, soil contamination remained to the east, west, and south of the 201 West Stanley Street property as well as in soils below the excavation bottom.

In September 2021, an excavation was completed on the west-adjoining property (Snohomish County Parcel 30061300403500) to remove petroleum-contaminated soil. A total of 261 tons of contaminated soil was taken off-Property to a permitted facility. Five confirmational soil samples were collected from the excavation and analyzed for gasoline, diesel, oil, benzene, ethylbenzene, toluene, and xylene. All five samples had concentrations of contaminants that were below site cleanup levels or were non-detectable.

Following the 2021 excavation, the following soil cleanup level exceedances remained to the south of the 231 West Stanley Street property:

Sample Location and Depth (ft bgs)	Contaminant and Concentration with CUL Exceedance (mg/kg)	Area of Exceedance
FS-04@2-3’	Gasoline 410, Benzene 0.44	W Stanley St Right-of-Way
FS-05@5-6’	Gasoline 550	W Stanley St Right-of-Way

Sample Location and Depth (ft bgs)	Contaminant and Concentration with CUL Exceedance (mg/kg)	Area of Exceedance
FS-05@7-8’	Benzene 0.16	W Stanley St Right-of-Way
FS-06@4.5-5’	Gasoline 950	W Stanley St Right-of-Way
FSTP-05@4’	Gasoline 170	W Stanley St Right-of-Way

Based on the results of the 2016 and 2021 excavations, remaining contamination is found beneath West Stanley Street to the south of the 201 West Stanley Street Property, as well as also potentially present beneath the adjacent property to the east (Snohomish County Parcel 30061300403200). Additional excavation into the Right-of-Way was not allowed by the City of Granite Falls (Enclosure C).

Soil contaminated above site cleanup standards remains on the property along the east side and around monitoring well MW-4 (Floyd Snider Figure 2).

Once the environmental covenant is complete and recorded, and all supporting documents are provided, a no further action is likely. A site description is included as **Enclosure A**. That conclusion is based on the following analysis:

Characterizing the Site

Ecology has determined your completed Site characterization is sufficient for setting cleanup standards and selecting a cleanup action. **Enclosure B** describes the Site.

Setting Cleanup Standards

Ecology has determined the cleanup levels and points of compliance you set for the Site meet the substantive requirements of MTCA. Ecology also agrees that the other requirements you identified apply to the cleanup action based on the type of action or location of the Site.

Contaminant	Method A Soil Cleanup Level (mg/kg)	Method A Groundwater Cleanup Level (µg/L)
Gasoline	30*	800*
Diesel plus Heavy Oil[3]	2,000	500
Benzene	0.03	5

* Method A cleanup level based on benzene present.

[3] https://apps.ecology.wa.gov/publications/documents/0409086.pdf

A standard horizontal point of compliance, the property boundary, was used for soil contamination.

A standard vertical point of compliance, fifteen feet, for soils was established in the soils throughout the Site from the ground surface to fifteen feet below the ground surface (ft bgs). Fifteen feet is protective for direct contact with the contaminated soil. Method A cleanup levels are typically based on the soil-to-groundwater pathway and apply without respect to depth. However, due to the shallow depth groundwater at the Site, contamination below a depth of 15 ft bgs is considered by Ecology to be highly unlikely.

A standard vertical point of compliance, from the uppermost level of the saturated zone to the lowest depth that could potentially be affected, was used for groundwater contamination.

Selection of Cleanup Action

Sufficient information has been presented to Ecology for us to concur that the preferred remedial alternative is sufficient to meet the requirements of MTCA and are protective of human health and the environment. To assist with completion of the draft environmental covenant for Ecology review, details on what is expected for a draft environmental covenant is included in **Enclosure D**.

Should future land use change, or if contaminated media are exposed for any reason, a more permanent cleanup action may need to be evaluated. Depending on the nature of the future change, additional cleanup action may be required.

The cleanup action selected was excavation of contaminated soil with transportation off-Property to a permitted facility and the use of institutional controls where the contaminated soil could not be fully excavated. These actions meet the minimum requirements for cleanup actions by providing a permanent solution, immediate restoration time frame, provides for confirmation monitoring, and protects human health and the environment.

Limitations of the Opinion

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 70A.305.040(4).

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 proposed will be substantially equivalent. Courts make that determination. *See* RCW 70A.305.080 and WAC 173-340-545.

Opinion is limited to proposed cleanup.

This letter does not provide an opinion on whether further remedial action will actually be necessary at the Site upon completion of your proposed cleanup. To obtain such an opinion, you must submit a report to Ecology upon completion of your cleanup and request an opinion under the Voluntary Cleanup Program (VCP).

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 70A.305.170.

Contact Information

Thank you for choosing to clean up the Site under the VCP. As you conduct your cleanup, please do not hesitate to request additional services. We look forward to working with you.

For more information about the VCP and the cleanup process, please visit our webpage[4]. If you have any questions about this opinion, please contact me by phone at (360)407-223 or e-mail at christopher.maurer@ecy.wa.gov.

Sincerely,

Christopher Maurer, P.E.
HQ - Toxics Cleanup Program

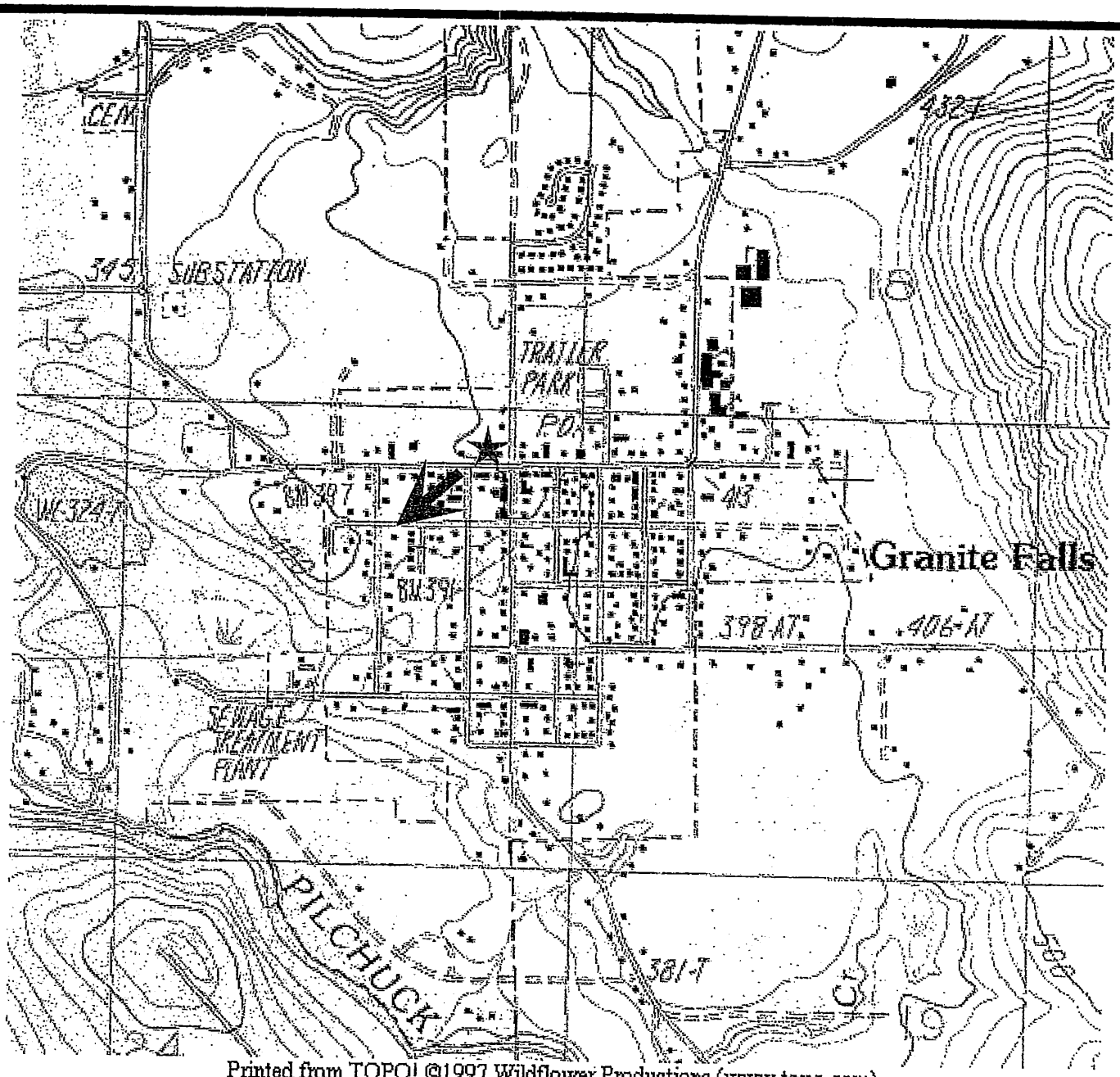
Enclosures (4): A – Site Diagrams
B – Site History
C – ROW Correspondence
D – Environmental Covenant Reference Information

cc: Scott Adamek, Floyd Snider
Amy Hargrove, Ecology
Scott Johnson, Helsell Fetterman
Brent Kirk, City Manager – City of Granite Falls

[4] https://www.ecy.wa.gov/vcp

Enclosure A

Diagrams of the Site



★ **Subject Property**

Inferred direction of shallow groundwater flow, based upon the local topographical gradient.

Scale
1/2 Mile
0 — 1

Contour Interval = 20 Feet

N

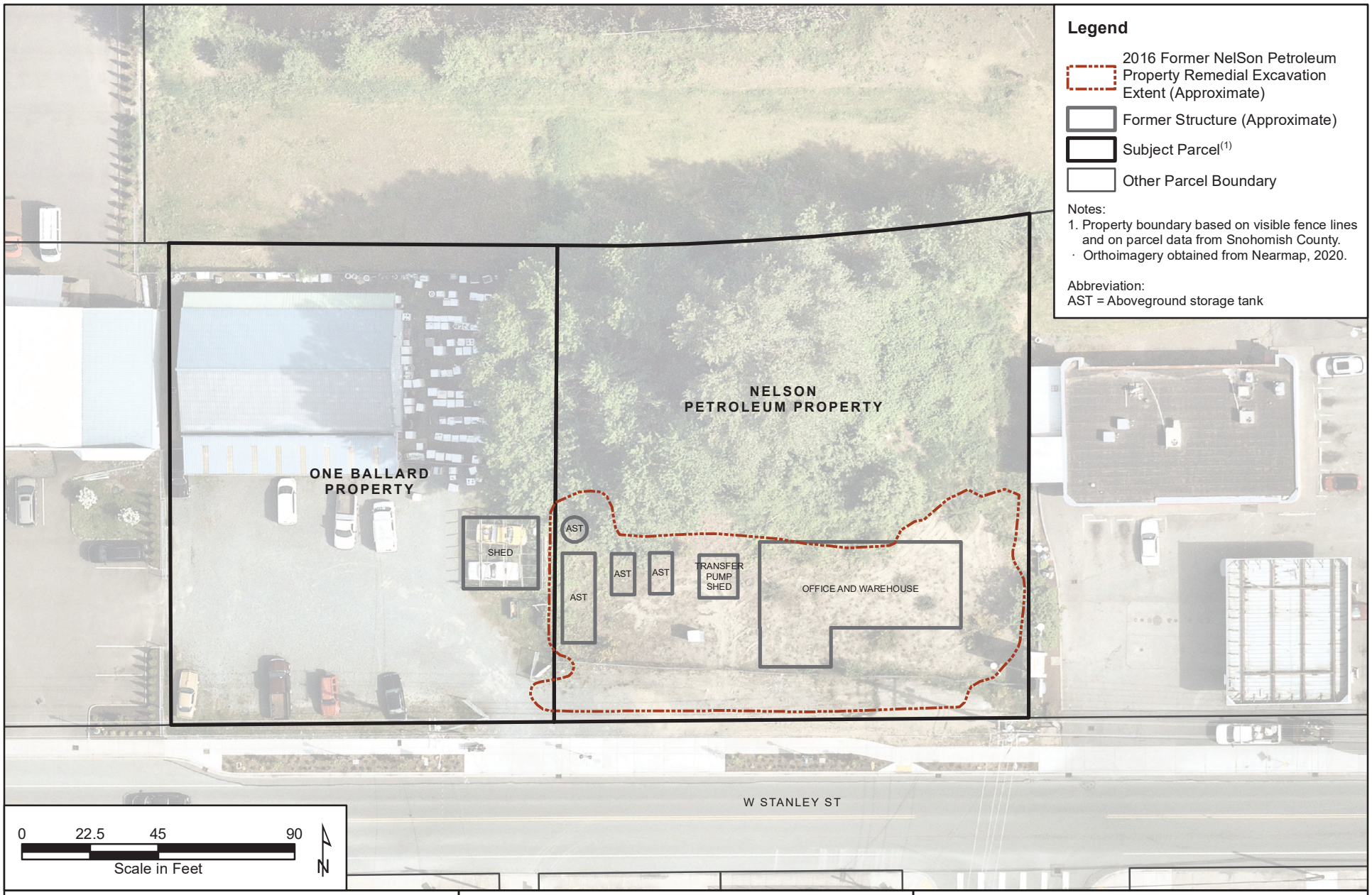
ENVIRONMENTAL ASSOCIATES, INC.

1380 - 112th Avenue NE, Suite 300
Bellevue, Washington 98004

VICINITY / TOPOGRAPHIC MAP

Bulk-Fuel Facility
201 West Stanley Street
Granite Falls, Washington

Job Number:	*Date:*		*Plate:*
JN 23269-1	December 2003		1



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One Ballard Property
Remedial Excavation Summary
NelSon Petroleum Property
Granite Falls, WA

Figure 1
Property Location Map

I:\GIS\Projects\NelSon-Granite Falls\MXD\One Ballard Property Remedial Excavation Summary\Figure 1 Property Location Map.mxd
1/21/2022

Legend

- Monitoring Well
- 2021 Confirmation Soil Sample
- 2016 Confirmation Soil Sample
- 2016 Confirmation Soil Sample (Removed)
- 2020 Direct Push Soil Sample
- 2020 Direct Push Soil Sample (Removed)
- 2019 Test Pit Soil Sample
- 2021 One Ballard Property Excavation Extent
- 2016 Former NelSon Petroleum Property Remedial Excavation Extent (Approximate)
- Subject Parcel(1)
- Former Structure (Approximate)

0 5 10 20
Scale in Feet

N

ONE BALLARD PROPERTY

NELSON PETROLEUM PROPERTY

A2NW		
Depth	Benzene	GRO
6–6	0.030 U	3.0 U

MW-05

AST

SHED

A2F2		
Depth	Benzene	GRO
9–9	0.030 U	4.9

AST

AST

AST

FS-01		
Depth	Benzene	GRO
5–6	0.020 U	**110**
6.5–7.5	**0.18**	5.0 U

FS-13		
Depth	Benzene	GRO
4.5–5.5	0.020 U	14

SIDE-01		
Depth	Benzene	GRO
5–5	0.020 U	5.0 U

A2WW		
Depth	Benzene	GRO
6–6	*0.060 U*	**110** (2)

A2F		
Depth	Benzene	GRO
9–9	0.030 U	3.0 U

BASE-01		
Depth	Benzene	GRO
7–7	0.020 U	5.0 U

FS-02		
Depth	Benzene	GRO
4–5	0.020 U	5.0 U

BASE-02		
Depth	Benzene	GRO
7.5–7.5	0.020 U	5.0 U

MW-04		
Depth	Benzene	GRO
3–3	*0.15 U*	**120** (2)

SIDE-02		
Depth	Benzene	GRO
5–5	0.020 U	19

A2SWW		
Depth	Benzene	GRO
6–6	**0.36**	**150** (2)

FS-03		
Depth	Benzene	GRO
4.5–5	0.020 U	5.0 U

A2F3		
Depth	Benzene	GRO
9–9	**0.49**	14

A2SW		
Depth	Benzene	GRO
6–6	*0.60 U*	**770** (2)

FS-04		
Depth	Benzene	GRO
2–3	**0.44**	**410**
4.5–5	0.020 U	5.0 U

FS-05		
Depth	Benzene	GRO
5–6	*0.20 U*	**550**
7–8	**0.16**	15

FS-06		
Depth	Benzene	GRO
4.5–5	0.020 UJ	**950**
7–8	0.020 U	11

FSTP-05		
Depth	Benzene	GRO
4–4	0.020 U	**170**

W STANLEY ST

Notes:
1. Property boundary based on visible fence lines in the east and west and on parcel data from Snohomish County in the north and south.
2. Sample contains highly weathered gasoline.

- Results shown in **RED BOLD** indicate a result that exceeds the MTCA Method A cleanup level for benzene (0.030 mg/kg) or GRO (30 mg/kg) *Italics* indicate a reporting limit that exceeds the applicable cleanup level.
- Depths are presented in feet bgs and benzene and GRO results are presented in mg/kg.
- Direct push soil sample depths are approximate due to sample compression.
- Measuring point for 2016 confirmation soil samples is presumed to be higher than current ground surface.
- Orthoimagery obtained from Nearmap, 2020.

Abbreviations:
AST = Aboveground storage tank
bgs = Below ground surface
GRO = Gasoline-range organics
MTCA = Model Toxics Control Act
mg/kg = Milligrams per kilogram

Qualifiers:
U = Analyte was not detected at the given reporting limit.
UJ = Analyte was not detected at the given reporting limit; reporting limit is considered an estimate.

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One Ballard Property Remedial Excavation Summary NelSon Petroleum Property Granite Falls, WA

Figure 2
Excavation and Confirmation Sample Summary

I:\GIS\Projects\NelSon-Granite Falls\MXD\One Ballard Property Remedial Excavation Summary\Figure 2 Excavation and Confirmation Sample Summary.mxd
1/21/2022

Enclosure B

Site History

In July of 2003, seven soil borings were installed at the site. Five soil samples were collected from the soil borings, two of them composite samples, and analyzed for gasoline, diesel, oil, benzene, ethylbenzene, toluene, and xylene. Gasoline was detected in all five soil samples, with one of five concentrations exceeding the MTCA Method A cleanup level. Diesel was detected in all five soil samples, with one of five concentrations exceeding the MTCA Method A cleanup level. Oil was detected in one of five soil samples, with a concentration below the MTCA Method A cleanup level. Benzene was detected in two of five soil samples, with both concentrations exceeding the MTCA Method A cleanup level. Ethylbenzene, toluene, and xylene were detected in two of five, one of five, and all five, soil samples respectively, with all concentrations below their respective MTCA Method A cleanup levels. A grab groundwater sample was collected from each of the seven borings and analyzed for the same analytes. Gasoline was detected in one of seven samples, with a concentration below the MTCA Method A cleanup level. Diesel was detected in all seven samples, with five of seven concentrations exceeding the MTCA Method A cleanup level. Oil was detected in four of seven samples, with two of four concentrations exceeding the MTCA Method A cleanup level. Benzene was detected in three of seven samples, with all three concentrations exceeding the MTCA Method A cleanup level. Ethylbenzene was detected in two of seven samples, and xylene in one sample, with all three concentrations below their respective MTCA Method A cleanup levels. Toluene was not detected in any sample.

In February of 2008, seven additional soil borings were installed at the site. One soil sample from each boring was analyzed for diesel and oil. Diesel was detected in six of seven samples, with one concentration exceeding the MTCA Method A cleanup level. Oil was detected in two of seven samples, with one sample exceeding the MTCA Method A cleanup level (the same sample that had an exceedance of diesel). The sample with the two exceedances was also analyzed for benzene, ethylbenzene, toluene, xylene, and total lead. Ethylbenzene, xylene, and total lead were detected in the sample, with all concentrations below their respective MTCA Method A standards. Benzene and toluene were not detected in the sample. A groundwater sample was collected from each boring and analyzed for gasoline, diesel, oil, benzene, ethylbenzene, toluene, and xylene. Gasoline was detected in two of seven samples, with one concentration exceeding the MTCA Method A cleanup level. Diesel was detected in two of seven samples, with one concentration exceeding the MTCA Method A cleanup level (the same sample with the gasoline exceedance). Oil was not detected in any groundwater sample. The sample with the two exceedances also had detections of benzene, ethylbenzene, toluene, and xylene, with the benzene concentration exceeding the MTCA Method A cleanup level. Other than those four detections, benzene was detected in one other sample, with a concentration equal to the MTCA Method A cleanup level. Benzene, ethylbenzene, toluene, and xylene were not detected in any of the other five groundwater samples.

In November of 2015, five groundwater monitoring wells were installed. Soil samples were collected from each boring and two other locations and analyzed for gasoline and diesel. Gasoline was detected in three of seven samples, with all concentrations exceeding the MTCA Method A cleanup level. Diesel was detected in three of seven soil samples, with all concentrations below the MTCA Method A cleanup level. A groundwater sample was collected from each well and

analyzed for gasoline, diesel, oil, benzene, ethylbenzene, toluene, and xylene. Gasoline was detected in one of five samples, with a concentration below the MTCA Method A cleanup level. Diesel was detected in all five samples, with all five concentrations exceeding the MTCA Method A cleanup level. Oil was not detected in any of the five samples. Benzene, ethylbenzene, toluene, and xylene were detected in one of five samples (MW-4), with the benzene concentration exceeding the MTCA Method A cleanup level and the ethylbenzene, toluene, and xylene concentrations below their respective MTCA Method A cleanup levels. Benzene, ethylbenzene, toluene, and xylene were not detected in the other four samples (report not available).

In September of 2016, the same five monitoring wells were sampled, and the samples analyzed for the same analytes. Gasoline was detected in two of five samples, with both concentrations below the MTCA Method A cleanup level. Diesel was detected in three samples, with two of three concentrations exceeding the MTCA Method A cleanup level. Oil was detected in three of five samples, with two of three concentrations exceeding the MTCA Method A cleanup level. Benzene, ethylbenzene, toluene, and xylene were not detected in any sample.

In December of 2016, the same five monitoring wells were sampled, and the samples analyzed for the same analytes. Gasoline was detected in two of five samples, with both concentrations below the MTCA Method A cleanup level. Diesel was detected in three of five samples, with two of three concentrations exceeding the MTCA Method A cleanup level. Oil was detected in two of five samples, with one of two concentrations exceeding the MTCA Method A cleanup level. Benzene, ethylbenzene, toluene, and xylene were not detected in any sample.

In March of 2017, the same five monitoring wells were sampled, and the samples analyzed for the same analytes. Gasoline was detected in two of five samples, with both concentrations below the MTCA Method A cleanup level. Diesel was detected in three of five samples, with one of three concentrations exceeding the MTCA Method A cleanup level. Oil was detected in one of five samples, with a concentration below the MTCA Method A cleanup level. Benzene, ethylbenzene, toluene, and xylene were not detected in any sample.

Ten test pits were installed, and ten soil samples and ten groundwater grab samples were collected. The soil samples and the grab groundwater samples were analyzed for gasoline, diesel, oil, benzene, ethylbenzene, toluene, and xylene. Gasoline, benzene, ethylbenzene, toluene, and xylene were not detected in any soil sample. Diesel was detected in four of ten soil samples, with all concentrations below the MTCA Method A cleanup level. Oil was detected in the same four soil samples, with all concentrations below the MTCA Method A cleanup level. Gasoline, benzene, ethylbenzene, toluene, and xylene were not detected in any of the grab groundwater samples. Diesel and oil were detected in all ten grab groundwater samples, with the same eight of ten samples having exceedances of the respective MTCA Method A cleanup levels for both analytes.

Between July of 2017 and September of 2018, the same five monitoring wells were sampled five times and the samples analyzed for the same analytes. Gasoline was detected in five of twenty-five samples, with all concentrations below the MTCA Method A cleanup level. Diesel was detected in fifteen of twenty-five samples (MW-3, MW-4, and MW-5), with two of fifteen concentrations exceeding the MTCA Method A cleanup level. Oil was detected in five of twenty-five samples (MW-4 and MW-5), with two of five concentrations exceeding the MTCA Method A cleanup level. Benzene, ethylbenzene, toluene, and xylene were not detected in any of the twenty-five samples.

In December of 2018 and April of 2019, the same five monitoring wells were sampled twice, and the samples analyzed for the same analytes. Gasoline was not detected in any of the ten samples. Diesel was detected in six of ten samples (MW-3, MW-4, and MW-5), with one of six concentrations exceeding the MTCA Method A cleanup level. Oil was detected in one of ten samples (MW-5), with a concentration exceeding the MTCA Method A cleanup level. The laboratory noted that all diesel detections and the oil detection did not match the chromatographic standard. Re-analysis of the well with diesel and oil exceedances (MW-5) following a silica gel cleanup found both diesel and oil concentrations to be non-detectable. Benzene, ethylbenzene, toluene, and xylene were not detected in any of the ten samples.

In August of 2019, three test pits were excavated and one soil sample from each test pit was analyzed for gasoline, diesel, oil, benzene, ethylbenzene, toluene, and xylene. Gasoline and diesel were detected in all three soil samples, with all six concentrations exceeding the respective MTCA Method A standards. Oil was detected in one of three samples. The laboratory noted that the chromatographic pattern did not match the standard. Benzene was not detected in any of the three samples. Ethylbenzene and xylene were detected in all three samples, with all six concentrations below their respective MTCA Method A cleanup levels. Toluene was detected in one of three samples, with a concentration below the MTCA Method A cleanup level.

In April of 2020, thirteen soil borings were installed on the site. Twenty soil samples were collected and analyzed for gasoline, diesel, oil, benzene, ethylbenzene, toluene, and xylene. Gasoline was detected in eleven of twenty samples, with eight of eleven concentrations exceeding the MTCA Method A cleanup level. Diesel was detected in eight of twenty samples, with four of eight concentrations exceeding the MTCA Method A cleanup level. Oil was detected in one of twenty samples, with a concentration below the MTCA Method A cleanup level and which the laboratory stated that the chromatographic pattern did not match the standard. Benzene was detected in three of twenty soil samples, with all three concentrations exceeding the MTCA Method A cleanup level. Ethylbenzene was detected in six of twenty samples, toluene in seven of twenty samples, and xylene in six of twenty samples, with all concentrations below their respective MTCA Method A cleanup levels. Five additional groundwater monitoring wells were installed, seven soil samples collected from the five wells, and analyzed for the same analytes. None of the analytes were detected in any of the soil samples. Four of the soil samples were analyzed for arsenic, cadmium, chromium, lead, mercury, and sixteen semi-volatile organic compounds (including seven carcinogenic compounds).

Arsenic was detected in all four samples, with one of four concentrations exceeding the MTCA Method A cleanup level. Chromium and lead were detected in all four soil samples, with all eight concentrations below their respective MTCA Method A cleanup levels. Cadmium and mercury were not detected in any sample. Two soil samples had no detections of any of the volatile organic compounds, a third had detections of ten of sixteen semi-volatile organic compounds but with concentrations low enough that the toxic equivalent quantity was below the MTCA Method A cleanup level. The fourth soil sample had detections of thirteen of sixteen semi-volatile organic compounds with concentrations high enough that the toxic equivalent quantity exceeded the MTCA Method A cleanup level.

In May of 2020, groundwater samples were collected from all ten monitoring wells and analyzed for gasoline, diesel, oil, benzene, ethylbenzene, toluene, and xylene. Gasoline, benzene, ethylbenzene, toluene, and xylene were not detected in any groundwater sample. Oil was detected in one of ten samples (MW-5), at a concentration below the MTCA Method A cleanup level. The laboratory stated that the chromatographic pattern did not match the standard. Diesel was detected in four of ten samples (MW-3, MW-4, MW-5, and MW-10), with one (MW-5) of four concentrations exceeding the MTCA Method A cleanup level. The laboratory stated the chromatographic pattern did not match the standard in three wells (MW-3, MW-5, and MW-10). When the sample from MW-5 was re-analyzed following a silica gel cleanup, neither diesel nor oil were detected.

Enclosure C

ROW Correspondence

From: Flaherty, Andrea (ECY)
To: Flaherty, Andrea (ECY)
Subject: FW: VCP - Nelson Distributing - Granite Falls - environmental covenant, grant contact
Date: Wednesday, October 26, 2022 12:21:11 PM

On Fri, Jun 17, 2022 at 2:46 PM Maurer, Christopher (ECY) <cmau461@ecy.wa.gov> wrote:

Kristin, Thom, Dianne, Brent,

The environmental covenant template is found at this link - https://fortress.wa.gov/ecy/publications/SummaryPages/1509054.html – Note that the areas highlighted in yellow are negotiable between the City and Ecology. Changes to the areas in white may require review by the Attorney General's office. The form itself is Attachment C to the instructions. Note also the suggested language, which can be modified, for the sections highlighted in yellow, which is listed in the appendix to Attachment C.

Because the City is a political entity, it is entitled to use an alternative equivalent to an environmental covenant (WAC 173-340-440(8)(b), provided that it owns the right-of-way:

> (b) For properties owned by a local, state, or federal government entity, a restrictive covenant may not be required if that entity demonstrates to the department that:
>
> (i) It does not routinely file with the county recording officer records relating to the type of interest in real property that it has in the site; and
>
> (ii) It will implement an effective alternative system to meet the requirements of subsection (9) of this section. The department shall require the government entity to implement the alternative system as part of the cleanup action plan. If a government entity meets these criteria, and if it subsequently transfers its ownership in any portion of the property, then the government entity must file a restrictive covenant upon transfer if any of the conditions in subsection (4) [site is still contaminated above

State standards] of this section still exist.

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(9) Restrictive covenants. Where required, the restrictive covenant shall:

(a) Prohibit activities on the site that may interfere with a cleanup action, operation and maintenance, monitoring, or other measures necessary to assure the integrity of the cleanup action and continued protection of human health and the environment;

(b) Prohibit activities that may result in the release of a hazardous substance that was contained as a part of the cleanup action;

(c) Require notice to the department of the owner's intent to convey any interest in the site. No conveyance of title, easement, lease, or other interest in the property shall be consummated by the property owner without adequate and complete provision for the continued operation, maintenance and monitoring of the cleanup action, and for continued compliance with this subsection;

(d) Require the land owner to restrict leases to uses and activities consistent with the restrictive covenant and notify all lessees of the restrictions on the use of the property. This requirement applies only to restrictive covenants imposed after February 1, 1996;

(e) Require the owner to include in any instrument conveying any interest in any portion of the property, notice of the restrictive covenant under this section;

(f) Require notice and approval by the department of any proposal to use the site in a manner that is inconsistent with the restrictive covenant. If the department, after public notice and comment approves the proposed change, the restrictive covenant shall be amended to reflect the change;

(g) Grant the department and its designated representatives the right to enter the property at reasonable times for the purpose of evaluating compliance with the cleanup action plan and other required plans, including the right to take samples, inspect any remedial actions taken at the site, and to inspect records.

If the City wishes to use the covenant alternative, I ask that the City send Ecology a letter, signed by a person of significant authority, agreeing to the covenant equivalent conditions that the City has negotiated with Ecology. Ecology is primarily concerned about utility workers who may be doing maintenance work on utilities in the right-of-way that involves significant excavation. Ecology may not require notification for routine surface maintenance work. The alternative may apply only to that part of the right-of-way that fronts on the NelSon Distributing property and the extent is negotiable. Ecology will withdraw the alternative letter once the City demonstrates that the soil of the right-of-way is not contaminated above cleanup levels from contamination from the NelSon Distributing property.

Information about independent remedial action grants may be found here: Independent remedial action grants - Washington State Department of Ecology. For further information, please contact Lyndsay Gordon at Lyndsay.gordon@ecy.wa.gov. She will direct you to the RAG person who can best advise you.

Chris M.

Enclosure D

Environmental Covenant Reference Information

Environmental Covenant Reference Information.

Draft Covenant: Ecology will need a draft covenant memorializing proposed institutional and engineered controls for all impacted properties. Also provide the environmental covenant in electronic word-processing-compatible format.[5] Include the following information with the draft covenant:

a. **Plan View Maps and Geologic Cross Sections:** Include delineated concentration (1) isopleth plan view maps and (2) geologic cross sections showing the extents of remaining contamination at the Site. Include the boundaries of the MTCA facility, the affected Properties, and the location of any rights of way or easements. Indicate where insufficient data are available to delineate to natural background concentrations. These maps will be used to indicate where contamination remains at the Site after closure. For consistency with other sites in our program, Ecology prefers that data for these maps are provided in units of milligrams per kilogram (mg/kg) for soil, micrograms per liter (µg/L) for groundwater, and microgram per meter cubed (µg/m^3).

b. **Title Search:** Provide a complete title search as part of Exhibit A, legal description.

c. **Land Survey:** Provide a land survey of impacted properties and rights-of-way, including platting and dedications.

d. **Review the title search and land survey to determine if existing easements include any area of proposed engineered or institutional controls:**

   i. Develop a plan view map or sketch of the locations of existing easements sufficient for Ecology to concur with your evaluation of whether any easements include the areas of proposed engineered or institutional controls.

   ii. For each easement that intersects proposed controls at the Site, either provide

      1) A signed subordination agreement or;

      2) Sufficient evaluation of specific easement terms for Ecology to concur that the easement will not impact the integrity of the cleanup.

   Ecology recommends contacting easement owners prior to completing a draft environmental covenant. When reviewing easements, Ecology assumes that Property boundaries extend to the centerline of the adjacent rights of way.

e. **Local Government Notification Requirements:** Please document how the local government notification requirements of WAC 173-340-440(10) are completed. Ecology suggests providing the draft covenant and enclosure package to the local land use planning authority for review and comment. If comments are provided, update the draft covenant based on comments, and provide Ecology the correspondence, local government comments, and how those comments were addressed. If no response is received, include sufficient information for Ecology to concur that the correct local government agency was notified, the date they were notified, and that comments were

[5] See the word processing formatted document at: https://fortress.wa.gov/ecy/publications/SummaryPages/1509054.html.

sought. At this Site, Ecology believes that the appropriate local land use planning authority is likely the [insert land use planning authority here].

f. **Long-Term Air, Groundwater, and Cap Monitoring Plan:** Ecology will need long-term air, groundwater, and cap monitoring to ensure the remedy is effective. A long-term monitoring and reporting plan will be needed. That plan needs to also include contingency planning, in the event that the remedy is not effective.

Ecology suggests an annual confirmation soil vapor, soil gas, and indoor air frequency for the first five years of post-closure monitoring. The annual sampling event should include pressure field extension monitoring to measure cross-slab gradient pressures while the system is operating and sub-slab, indoor air, and outdoor (ambient) air sampling. Sampling should occur during the winter months (December to February). Ambient air samples should be collected upwind and near the building, but not so close as to be influenced by volatile emissions emanating from the building or any other point sources of emissions. Copies of the annual sampling event shall be provided to Ecology.

Ecology suggests proposing a fifteen-month confirmation groundwater monitoring frequency for the first five years of post-closure monitoring, so that four quarters of seasonal groundwater results are obtained over the five years prior to Ecology's first required regular review.

Reporting on the cap condition may be conducted at the same time as long term monitoring, and should be detailed in the monitoring plan. An initial inspection with photographs and description of the cap to be monitored should be included with the plan.

The plan should also include provisions to ensure that all environmental data is provided in accordance with WAC 173-340-840(5) and Ecology Toxics Cleanup Program Policy 840 (Data Submittal Requirements).[6]

i. **Contingency Plan:** A long-term groundwater and soil vapor contingency plan is required. That plan should describe those actions that will be conducted if long-term monitoring results exceed predetermined levels, or if cap maintenance or other maintenance is needed, such as repairing groundwater monitoring wells, or what to do if the cap is damaged.

The contingency plan may be triggered during regular inspection of the cap and monitoring well integrity, or by exceedances of cleanup levels at a point of compliance during long term monitoring. A simple and adequate contingency plan would include and detail, as applicable, that when specific levels are detected during long-term monitoring, additional confirmation sampling would be performed within 30 days of the initial receipt of results. If the cap were damaged, indoor air sampling and analysis would be conducted and the cap repaired.

Additional follow-up groundwater sampling would include all required testing for detected hazardous substances and related compounds. The contingency plan should include proposed analytes for contingency sampling in an analytical schedule. Results of performance and confirmation sampling for a contingency plan would be provided to Ecology within 90 days of the laboratory result date if no exceedances of criteria are detected, or within 30 days of the laboratory report result date if exceedances are detected, or for follow-up confirmation sampling.

If confirmation sampling reveals the continued presence of contaminants above predetermined levels, the contingency plan should include that a work plan to further

[6] https://fortress.wa.gov/ecy/publications/SummaryPages/1609050.html

evaluate conditions beneath the Site would be submitted to Ecology within 60 days of receipt of results of confirmation sampling.

j. **Rights-of-Way:** If contamination is proposed to be left in rights-of-way exceeding cleanup standards, or exceeding soil vapor cleanup screening levels where an engineered control such as a sidewalk is needed to reduce human exposure to contaminated soil vapor, a subordination agreement with the right-of-way holder would be required for implementing an environmental covenant. Grantor and/or subordinate agreements may be required with adjacent Property owners or right-of-way holders, determined by the extents of the Site. Alternately, consider a property-specific no further action approach excluding rights of way. Ecology recommends contacting rights-of-way holders (and adjacent property owners) prior to completing a draft environmental covenant.

https://fortress.wa.gov/ecy/publications/SummaryPages/1509054.html – Note that the areas highlighted in yellow are negotiable between your client and Ecology. Changes to the areas in white may require review by the Attorney General's office.

The covenant needs to cover the area of contaminated soil around MW-4 and near the east property boundary and a safety margin. It does not need to cover the entire property. If it is demonstrated that the soil in these two areas is no longer contaminated above site cleanup levels, the covenant will not be needed.