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STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Southwest Region Office
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December 13, 2022

Anthony Valenzuela
International Funding Group, LLC
2602 S 38th St # 313
Tacoma, WA 98409-6665

Re: Further Action at the following Site:

- **Site Name:** Midland Auto Wrecking
- **Site Address:** 10324 Portland Ave E, Tacoma, Pierce County, WA 98445
- **Facility/Site ID:** 18794
- **Cleanup Site ID:** 11888
- **VCP Project ID:** SW1295

Dear Anthony Valenzuela:

On May 4, 2022, the Washington State Department of Ecology (Ecology) received your request for an opinion on documents submitted since Ecology's prior opinion¹ of the Midland Auto Wrecking (Site). This letter provides our opinion. We are providing this opinion under the authority of the [Model Toxics Control Act \(MTCA\)](#),² [chapter 70A.305 Revised Code of Washington \(RCW\)](#).³

Issue Presented and Opinion

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 documents submitted since Ecology's prior May 23, 2019, opinion meets the substantive requirements of MTCA, chapter 70A.305 RCW, and its implementing regulations, [Washington Administrative Code \(WAC\) chapter 173-340](#)⁴ (collectively "substantive requirements of MTCA"). The analysis is provided below.

¹ Ecology, *No Further Action at a Property associated with the Site*, letter, addressed to Joseph Foreman, May 23, 2019

² <https://apps.ecology.wa.gov/publications/SummaryPages/9406.html>

³ <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305>

⁴ <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-340>

These documents include the Tacoma Rail Right-of-Way Soil Data Report (June 10, 2019), the 2020 Groundwater Monitoring and MW-11 Installation Report (August 19, 2021), and the 2021 Groundwater Monitoring and Surface Spill Cleanup Report (February 9, 2022) as included under **Enclosure A**.

This opinion pertains only to the Midland Auto Wrecking unit of the Site, and not to the Foreman Residential Property of the Site. Ecology issued a property-specific no further action determination for the Foreman Residential Property in our prior opinion letter.⁵

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:

- Total Petroleum Hydrocarbons (TPH) as gasoline-range (TPH-G), diesel-range (TPH-D), and oil-range (TPH-O).
- Volatile organic compounds (VOCs).
- Carcinogenic polycyclic aromatic compounds (cPAHs).
- Priority Pollutant metals in soil and groundwater.

The parcel of real property associated with this Site is also located within the projected boundaries of the Asarco Tacoma Smelter facility (# 89267963). At this time, we have no information that the parcel is actually affected. This opinion does not apply to any contamination associated with the Asarco Tacoma Smelter facility.

Basis for the Opinion

This opinion is based on the information contained in the documents listed in **Enclosure A**.

You can request these documents by filing a [records request](#).⁶ For help making a request, contact the Public Records Officer at publicrecordsofficer@ecy.wa.gov or call 360-407-6040. Before making a request, check whether the documents are available on [Ecology's Cleanup Site Search web page](#).⁷

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

⁵ Midland Auto Wrecking – SW1295 – VCP Opinion on Foreman Property Cleanup – Property NFA; May 23, 2019

⁶ <https://ecology.wa.gov/About-us/Accountability-transparency/Public-records-requests>

⁷ <https://apps.ecology.wa.gov/gsp/Sitepage.aspx?csid=11888>

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.

Past investigative history has been previously described in Ecology's prior November 15, 2017, opinion. A summary of activities conducted since then are presented below.

2017

During 2017, Martin S. Burck Associates, Inc. (MSBA) removed approximately 4,450 tons of contaminated soil during remedial excavation activities at the Midland Auto Property. Contaminated soils were disposed of at the Land Resources Inc. (LRI) Landfill in Graham, Washington and the Chemical Waste Management (CWM) facility in Arlington, Oregon.

During the event, soil sampling completed near the northeastern portion of the Midland Auto Property indicated that elevated concentrations of cadmium and lead were present on the adjacent Forman Residential Property northeast of the Midland Auto Property. In September 2017, MSBA collected shallow soil samples on the Foreman Residential Property for analysis of cadmium and lead to define the extent of contamination. Based on the September 2017 results, MSBA completed a remedial excavation at the Foreman Residential Property to a total depth of approximately 1.5 feet below grade on October 10, 2017.

30.29 tons of soil was excavated and transported to Pierce County's LRI Landfill for disposal. Soil samples collected at the extent of the remedial excavation confirmed concentrations of cadmium and lead contamination were removed to below applicable cleanup levels established for the Foreman Residential Property.

Soil confirmation sampling at the western perimeter of the site in 2017 indicated that elevated concentrations of cadmium and lead were present on the adjacent Tacoma Rail railroad right-of-way (ROW). Accordingly, MSBA was required to enter into a site access agreement with Tacoma Rail which confined the sampling to the lateral western extent as being within 7 feet of the fence line. The lateral extent of hazardous substances was defined at most locations between 1 and 7 feet from the fence line, except for an area near the southwestern corner. Due to the presence of shallow groundwater, the vertical extent was not defined at most locations.

2018-2020

After the regulatory extent was fully defined within the ROW, MSBA proposed excavating soil to a maximum depth of 5 feet or the limits determined by the sample results. Although concentrations of cadmium exceeded the cleanup level (CUL) in lateral delineation sample TR-G4-0, due to the limitations of the access agreement related to excavating soil adjacent to the railroad bed, MSBA left the cadmium-impacted material in place and limited the excavation to 7 feet west of the property boundary. The residual soil was capped with filter fabric and coarse crushed rock. MSBA proposed additional soil confirmation sampling would be performed in early summer of 2019 with the excavation cleanup tentatively scheduled for the summer of 2019. To date, no reporting of this additional sampling nor remedial activity has been submitted to Ecology.

Following the 2017 soil excavation and cleanup activities, groundwater monitoring and sampling activities were conducted during November and December 2020. This included the installation of well MW-11 located off-site and to the east, which was required to more fully define the extent of petroleum hydrocarbons in groundwater as well as better determine the groundwater gradient. It was also determined that an additional off-site well was needed south of on-site well MW-10 to assess the potential for off-site migration of contaminants in that direction. Ecology also agreed to a reduced analytical suite of diesel, oil, arsenic, cadmium, chromium, and lead based on the absence of CUL exceedances for the remaining constituents.

Well MW-11 was installed east of the site across Portland Avenue at a depth of 13 feet below ground surface (bgs). Boring B-1 was also advanced to a depth of 10 feet bgs south of on-site well MW-10 but was stopped due to the southern property owner (a towing company) raising concerns that the boring may be located on private property and not the county ROW. Based on the property owner's request that the property boundary be surveyed prior to continuing to drill, the advancement of boring B1 was aborted.

MSBA evaluated alternative boring locations, however, due to the locations of the water and electrical utilities, it appeared that the boring would have to be within asphalt. MSBA requested emergency approval from Pierce County to advance the boring within a portion of the asphalt shoulder, however, the request was denied. As a result, no off-site groundwater data currently exists beyond the southern property boundary.

Groundwater sample data was collected during separate events over March, September, and November 2018, March, June, September, and December 2019, and November and December 2020. Consistent with prior results, the November 2020 groundwater analytical results indicated the presence of diesel and oil-range hydrocarbons above the CUL in well

MW-7 at 566 and 797 micrograms per liter ($\mu\text{g/L}$), respectively. The remaining analytes in the on-site wells were either not detected or present at concentrations below the CULs. Off-site well MW-11 exhibited 78.5 $\mu\text{g/L}$ diesel and less than the method reporting limit (MRL) of 83.3 $\mu\text{g/L}$ of oil-range hydrocarbons. Groundwater flow direction was further refined with the installation of MW-11 to orient in an east-southeasterly direction.

2021

During the November 2020 groundwater monitoring event, a recent small surface spill of motor oil was observed just north of well MW-10. It appeared that the spill was likely less than 1 gallon and limited to a small area. On November 16, 2021, MSBA used hand tools to remove the soil-containing oil from an area approximately 1-foot long by 2-feet wide to a depth of 1 foot below surface grade (bsg).

Confirmation soil sample S135-1.0 was collected from the bottom of the soil removal area (1-foot bsg) to verify the vertical extent. The confirmation soil and field duplicate samples were submitted for analysis of diesel and oil (NWTPH-Dx), arsenic (EPA 6020B), VOC (EPA 8260D), SVOC (EPA 8270E SIM), and PCB (EPA 8082A). All of the analytes tested were either not detected or were below the applicable MTCA A CULs for unrestricted land uses. Based on the confirmation sample results, the impacted soil was successfully removed. The area was backfilled with clean material.

During November 2021, MSBA collected groundwater samples from monitoring wells MW-1, MW-2, MW-5, MW-7, MW-10, and MW-11, as requested by Ecology to supplement previous site data and evaluate conditional site closure. The samples were analyzed for diesel and oil and unfiltered total metals arsenic, cadmium, chromium, and lead. Combined diesel and oil were detected at concentrations exceeding the MTCA Method A CUL of 500 $\mu\text{g/L}$ in MW-7 and MW-10, as listed below:

- **MW-7:** Diesel: 545 $\mu\text{g/L}$, Oil: 560 $\mu\text{g/L}$, Combined: 1,105 $\mu\text{g/L}$
- **MW-10:** Diesel: 363 $\mu\text{g/L}$, Oil: 357 $\mu\text{g/L}$, Combined: 720 $\mu\text{g/L}$

The remaining metals arsenic, cadmium, chromium, and lead were either not detected or were below the CULs. These sample results are relatively consistent with the previous results, except for cadmium. Cadmium was detected in MW-2 at a concentration of 4.40 $\mu\text{g/L}$, which is below the CUL and lower than the previous result in December 2020 (8.47 $\mu\text{g/L}$ total and 11.6 $\mu\text{g/L}$ dissolved). However, the result is still elevated compared to historic MW-2 data which ranged from 0.244 $\mu\text{g/L}$ to 1.97 $\mu\text{g/L}$.

Combined diesel and oil concentration trends were also evaluated statistically in shallow monitoring wells MW-7 and MW-10 and deeper well MW-6. The resulting Mann-Kendall Trend Test (M-K test) results at a 95 percent confidence interval indicated an increasing trend for well MW-7 utilizing the results from 2014 to the 2021 sampling event. The tests for the remaining wells indicated there was insufficient statistical evidence of a statistical trend at the specified level of significance and a statistically significant trend could not be determined.

Ecology Comments

Soil

The June 10, 2019 Tacoma Rail ROW Soil Data Report Figures 2, 3a, and 3b depicts the Site with various shades of blue corresponding to excavation depths with no corresponding textual discussion. In addition, the figures show the proposed excavation area along the railroad ROW as well as the additional vertical and lateral soil confirmation samples TR-H-L, TR-H-V, TR-G-V, TR-F-V, TR-D-V, and TR-E-V (collectively referred to as "TR soil samples") that will be collected during a future event. It was stated in the report that the proposed additional soil sampling would be performed in early summer of 2019 with the excavation cleanup tentatively scheduled for the summer of 2019 and the results of which would be reported to Ecology.

Please provide the reports which presents the methodologies and data that supports both the facility and railroad ROW excavation areas to depth and the associated soil confirmation samples taken to validate the successful removal of soil contaminants as well as the results of the vertical and lateral TR soil samples in the railroad ROW discussed in the prior paragraph.

Groundwater

Based on past documented on-site groundwater flow directions in the southerly direction, please provide groundwater data at three locations south of and beyond the southern site boundary in line with former boring B-1. The extent of off-site groundwater contamination cannot be considered delineated until that flow direction is analytically characterized.

Compliance Monitoring

To achieve a conditional no further action determination, groundwater will need to be monitored for four consecutive calendar quarters, analyzed for the contaminants of concern (COC), and exhibit the COC below the CULs.

2. Establishment of Cleanup Standards.

Under MTCA, cleanup standards consist of three primary components; points of compliance,⁸ cleanup levels,⁹ and applicable state and federal laws.¹⁰

Ecology previously concurred with certain COCs and CULs in our prior opinion.¹¹ Accordingly, Ecology will assume that the proposed MTCA Method A and B CULs will continue to be appropriate as CULs on a site-wide basis. However, if additional on- and/or off-site data are generated which would necessitate additional evaluation of both compliance points and applicable laws and regulations as described under WAC 173-340-710, the existing CULs will have to be re-assessed accordingly. To that end, the standard opinion sections on points of compliance and applicable laws and regulations have been retained below.

Cleanup Standards:

- a. **Points of Compliance.** Points of compliance, that you need to propose, are the specific locations at the Site where cleanup levels must be attained. For clarity, Ecology provides the following table of standard points of compliance:

Media	Points of Compliance
Soil-Direct Contact	Based on human exposure via direct contact, the standard point of compliance is throughout the Site from ground surface to fifteen feet below the ground surface. WAC 173-340-740 (6)(d)
Soil- Protection of Groundwater	Based on the protection of groundwater, the standard point of compliance is throughout the Site. WAC 173-340-747
Soil-Protection of Plants, Animals, and Soil Biota	Based on ecological protection, the standard point of compliance is throughout the Site from ground surface to fifteen feet below the ground surface. WAC 173-340-7490(4)(b)
Groundwater	Based on the protection of groundwater quality, the standard point of compliance is throughout the site from the uppermost level of the saturated zone extending vertically to the lowest most depth which could potentially be affected by the Site. WAC 173-340-720(8)(b)
Groundwater-Surface Water Protection	Based on the protection of surface water, the standard point of compliance is all locations where hazardous substances are released to surface water. WAC 173-340-730(6)
Air Quality	Based on the protection of air quality, the point of compliance is indoor and ambient air throughout the Site. WAC 173-340-750(6)
Sediment	Based on the protection of sediment quality, compliance with the requirements of 173-204 WAC. WAC 173-340-760

⁸ WAC 173-340-200 "Point of Compliance."

⁹ WAC 173-340-200 "Cleanup level."

¹⁰ WAC 173-340-200 "Applicable state and federal laws," WAC 173-340-700(3)(c).

¹¹ Ecology; Midland Auto Wrecking – VCP Opinion on Proposed Cleanup – Further Action Likely; November 17, 2015

- b. Cleanup Levels.** Cleanup levels are the concentrations of a hazardous substance in soil, water, air, or sediment that are determined to be protective of human health and the environment. At this Site, MTCA Method A unrestricted cleanup levels and Site specific MTCA Method B cleanup levels were used to evaluate diesel and cadmium contamination detected in soil at the Site. The MTCA Method A CUL of 500 µg/L was used as the action level for site groundwater. Cadmium and pH were not carried through as site COCs in either soil or groundwater based on their occurrence below the MTCA Method A CULs.
- c. Applicable Laws and Regulations.** In addition to establishing minimum requirements for cleanup standards, applicable local, state, and federal laws may also impose certain technical and procedural requirements for performing cleanup actions. These requirements are described in WAC 173-340-710. An [online tool](#)¹² is currently available to help you evaluate the local requirements that may be necessary.

All cleanup actions conducted under MTCA shall comply with applicable state and federal laws.¹³ The person conducting a cleanup action shall identify all applicable local, state, and federal laws. The department shall make the final interpretation on whether these requirements have been correctly identified and are legally applicable or relevant and appropriate.¹⁴

There are three general groups of applicable local, state, and federal laws that need to be included:

- i. Chemical-Specific:** Examples of chemical-specific laws include promulgated concentrations from another rule that result in adjusting proposed cleanup levels. Method A is inclusive of these laws. For Methods B or C, additional evaluation of chemical-specific applicable state and federal laws is required.
- ii. Action-Specific:** Examples of action-specific laws include requirements for obtaining local permits to excavate and/or dispose of contaminated soil, stormwater construction permits, or the requirement to notify local law enforcement in case human remains are discovered during excavation. All MTCA cleanups require evaluation of action-specific applicable state and federal laws.

¹² <https://apps.oria.wa.gov/opas/index.asp>

¹³ WAC 173-340-710(1)

¹⁴ WAC 173-340-710(2) Note – MTCA Method A includes ARARs and concentration-based tables (WAC 173-340-700(5)(a)) If MTCA Method A remains in use as proposed Site cleanup levels, identify non-concentration based technical and procedural requirements. If Method B or C cleanup levels are proposed, also include concentration-based requirements.

iii. Location-Specific: Examples of location-specific laws include specific requirements for working near wetlands or archeologically important areas. All MTCA cleanups require evaluation of location-specific applicable state and federal laws.

After you have identified appropriate applicable local, state, and federal laws, report to Ecology the applicable local, state, and federal laws applicable to this cleanup, and how those laws and regulations specifically effect the proposed cleanup.

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 70A.305.040(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 70A.305.080 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 70A.305.170(6).

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 [Voluntary Cleanup Program web page](#).¹⁵ If you have any questions about this opinion, please contact me at 360-489-5347 or joe.hunt@ecy.wa.gov.

Sincerely,



Joseph B. Hunt, LHG
Toxics Cleanup Program
Southwest Region Office

JBH/tam

Enclosure: A – Document List

cc by email: Josh Owen, Martin S. Burck Associates, Inc., jowen@msbaenvironmental.com
Jerome Lambiotte, Ecology, jerome.lambiotte@ecy.wa.gov
Ecology Site File

¹⁵ <https://www.ecy.wa.gov/vcp>

Enclosure A

Document List

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Document List

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

1. Martin S. Burck Associates, Inc. (MSBA), *Draft Conceptual Site Model and Closure Report*, June 10, 2022.
2. MSBA, *2021 Groundwater Monitoring and Surface Spill Cleanup Report*, letter, addressed to Nicholas Acklam, February 9, 2022.
3. MSBA, *2020 Groundwater Monitoring and MW-11 Installation Report*, August 19, 2021.
4. MSBA, *Tacoma Rail Right-of-Way Soil Data Report*, letter, addressed to Nicholas Acklam, June 10, 2019.
5. MSBA, *Off-Site Characterization and Cleanup Report Foreman Property: 10316 Portland Avenue*, letter, addressed to Nicholas Acklam, February 20, 2019.
6. MSBA, *Off-Site Characterization and Cleanup Activities Work Plan Residential Property: 10316 Portland Avenue*, letter, addressed to Nicholas Acklam, July 17, 2017.
7. MSBA, *Interim Action Cleanup Report Former Midland Auto Wrecking Yard*, letter, addressed to Nick Acklam, April 15, 2016.
8. MSBA, *Amended Cleanup Action Plan Former Midland Auto Wrecking Yard*, April 24, 2015.
9. MSBA, *Monitoring Well Installation and Site Assessment Report Former Midland Auto Wrecking Yard*, November 1, 2012.
10. MSBA, *Site Investigation Report Former Midland Auto Wrecking Yard*, March 5, 2012.
11. Now Environmental Services, Inc. (NES), *Soil Sampling at Midway Auto Wrecking Laboratory Results*, letter, addressed to Charles M. Farnsworth, December 30, 2009.