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**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

Southwest Regional Office

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May 2, 2023

Bruce Hagensen
PO Box 5349
Vancouver, WA 98668
behagensen@msn.com

Re: Further Action at the following Site:

- **Site Name:** Franz Bakery Warehouse
- **Site Address:** 6701 NE Hwy 99 Vancouver, Clark County, WA 98665
- **Facility/Site ID:** 47124354
- **Cleanup Site ID:** 9350
- **VCP Project Number:** SW1727

Dear Bruce Hagensen:

The Washington State Department of Ecology (Ecology) received your request for an opinion on additional remedial investigation for the Franz Bakery Warehouse facility (Site) on December 27, 2022. This letter provides our opinion. We are providing this opinion under the authority of the [Model Toxics Control Act \(MTCA\)](#),¹ [chapter 70A.305 Revised Code of Washington \(RCW\)](#).²

Issue Presented and Opinion

Ecology

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, Washington Administrative Code ([WAC](#)) [chapter 173-340](#)³ (collectively “substantive requirements of MTCA”). The analysis is provided below.

¹ <https://apps.ecology.wa.gov/publications/SummaryPages/9406.html>

² <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305>

³ <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-340>

Description of the Site

Ecology's December 16, 2020, Further Action Opinion letter and AEI Consultant's (AEI's) November 22, 2022, Additional Site Assessment report included Site narratives. Ecology understands those descriptions are unchanged and reflect the most accurate accounting of Site activities. The following provides Ecology's analysis.

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 Diesel Range Organics (TPH-DRO) and Residual Range Organics (TPH-RRO) in soil and groundwater.
- Toluene in soil.
- Chloroform in groundwater.

A parcel of real property can be affected by multiple sites. At this time, we have no information that the parcel associated with this Site is affected by other sites.

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](#).⁴ For help making a request, contact the [Public Records Officer](#)⁵ or call 360-407-6040. Before making a request, check whether the documents are available on [Ecology's Cleanup Site Search web page](#).⁶

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

Analysis of the Cleanup

Ecology has concluded that **further remedial action** is necessary to clean up contamination at the Site. Work planned will likely not achieve the requirements of MTCA and further investigation is necessary. These conclusions are based on the following analysis:

⁴ <https://ecology.wa.gov/About-us/Accountability-transparency/Public-records-requests>

⁵ publicrecordsofficer@ecy.wa.gov

⁶ <https://apps.ecology.wa.gov/gsp/Sitepage.aspx?csid=9350>

1. Characterization of the Site.

Chloroform

Further investigation into the source, extent, and fate of chloroform is needed. As provided in Ecology's December 16, 2020⁷ and July 14, 2021⁸ opinion letters, chloroform sampling at MW-1 is needed to evaluate the increasing concentration trend. Ecology provided rationale in the initial work plan review opinion letter⁸ but erred in not commenting on MW-1 groundwater sampling for chloroform in the revised workplan opinion letter.

The suggestion that chloroform detected in groundwater at MW-1 is the result of municipal or irrigation water supply is conjecture. Additional evidence to support an offsite source, such as a confirmed water line rupture, is needed. Additionally, provide supporting information describing whether observed chloroform or other disinfection byproduct concentrations are reasonably expected in groundwater as a result of leaking municipal water lines.

Additional sampling at MW-1 to further evaluate the chloroform trend is needed. Ecology recommends sampling for similar parameters as collected for 7/30/2019, 1/27/2020, and 5/5/2020 events. A sample collected during the fourth quarter 2023 would provide four quarterly samples to evaluate.

Vapor Intrusion Assessment

Ecology concurs the vapor intrusion pathway is not a concern for analyzed constituents. Chloroform analysis was not included with the recent vapor intrusion sampling as suggested in Ecology's workplan opinion letter.⁸ Depending on results of future groundwater assessment, additional vapor intrusion analysis may be needed.

Total Petroleum Hydrocarbons

The nature and extent of total petroleum hydrocarbons as diesel range organics and residual range organics has been adequately characterized at the Site.

⁷Ecology, *Further Action at the following Sites: Vancouver Sign Co. Inc. and Franz Bakery Warehouse*, December 16, 2020. Section 1.C.

⁸ Ecology, *Further Action at the following Sites: Vancouver Sign Co. Inc. and Franz Bakery Warehouse*, July 14, 2021. Section 1.b.

Terrestrial Ecological Evaluation

Ecology affirms our previous concurrence⁹ with ending the terrestrial ecological evaluation for the 6701 Building due to no potential exposure pathways.¹⁰

2. Establishment of Cleanup Standards.

Ecology understands cleanup has been compared at the standard points of compliance using MTCA Method A cleanup levels or Method B cleanup levels when Method A values are not promulgated. Ecology understands the following cleanup levels apply

Hazardous Substance	Soil Cleanup Level (mg/kg) ¹¹	Groundwater Cleanup Level (µg/l) ¹²
TPH-DRO	2,000	500
TPH-RRO	2,000	500
Toluene	7	1,000
Chloroform	32*	1.4*

* Method B cancer cleanup level.

Ecology concurs with the following points of compliance used for the Site:

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. <i>WAC 173-340-740 (6)(d)</i>
Soil- Protection of Groundwater	Based on the protection of groundwater, the standard point of compliance is throughout the Site. <i>WAC 173-340-747</i>
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. <i>WAC 173-340-7490(4)(b)</i>
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. <i>WAC 173-340-720(8)(b)</i>

⁹ Ecology, *Further Action at the following Sites: Vancouver Sign Co. Inc. and Franz Bakery Warehouse*, July 14, 2021. Section 1.c.

¹⁰ WAC 173-340-7492 (2)(b)

¹¹ mg/kg = milligrams per kilogram

¹² µg/l = micrograms per liter

3. Selection of Cleanup Action

Ecology has determined the cleanup action selected for the Site achieves the requirements of MTCA. Depending on results of additional groundwater monitoring at MW-1, unencumbered Site closure is likely. This Site may qualify for a Model Remedy which facilitates closure of routine and lower risk Sites. Ecology recommends reviewing the Model Remedies for Sites with Petroleum Contaminated Soils.¹³

If chloroform remains uninvestigated, Ecology may close the LUST case but the Site will still appear on the contaminated sites list as no source, investigation, or remedy has been sought despite potential historic and recent Site activities producing chloroform as a regular use byproduct.

Ecology strongly encourages additional investigation of chloroform exceedances at the Site.

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).

¹³ Ecology, *Model Remedies for Sites with Petroleum Contaminated Soils*, December 2017.

Contact Information

Thank you for choosing to clean up your 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 webpage](#).¹⁴ If you have any questions about this opinion, please contact me at 360-407-6266 or joseph.kasperski@ecy.wa.gov.

Sincerely,



Joe Kasperski, LG
Toxics Cleanup Program
Southwest Region Office

JKK/js

Enclosure: A – Basis for Opinion

cc by email: Jacqueline C. Day, AEI, jday@aeiconsultants.com
Jerome Lambiotte, Ecology, jerome.lambiotte@ecy.wa.gov
Ecology Site File

¹⁴ <https://www.ecy.wa.gov/vcp>

Enclosure A

Basis for Opinion

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List of Documents

1. AEI Consultants (AEI), *Additional Site Assessment*, November 7, 2022
2. AEI, *Work Plan, Additional Site Assessment, Rev. 1*, December 3, 2021.
3. Ecology, *Further Action Letter*, July 14, 2021.
4. AEI, *Response to December 16, 2020 Agency Letter and Work Plan for Additional Site Assessment*, February 5, 2021.
5. Ecology, *Further Action Letter*, December 16, 2020.
6. Ecology, *Early Notice Letter*, August 3, 2020.
7. Ecology, *Initial Investigation Form*, July 1, 2020.
8. AEI, *Groundwater and Sampling Report*, May 28, 2020.
9. AEI, *Underground Storage Tank Decommissioning Report*, January 16, 2020.
10. AEI, *Limited Phase II Subsurface Investigation & Well Installation Report*, August 19, 2019.
11. AEI, *Phase I Environmental Site Assessment*, June 27, 2019.
12. Ecology, *Early Notice Letter*, February 7, 2013.
13. Omega Environmental, Inc., *Underground Storage Tank (UST) Closure and Site Assessment Report*, April 3, 1997.
14. Ecology, *Requirements for Reporting Environmental Conditions at LUST Contaminated Sites*, July 30, 1996.