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**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

**Southwest Region Office**

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July 5, 2023

Cathy Lear  
Clallam County  
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Port Angeles, WA 98362-3000  
[cathy.lear@clallamcountywa.gov](mailto:cathy.lear@clallamcountywa.gov)

**Re: No Further Action at the following contaminated Site**

**Site name:** Dungeness River Floodplain at Towne Rd  
**Site address:** No address on file, near Sequim, 98382  
**Facility/Site ID:** 69056  
**Cleanup Site ID:** 16651  
**VCP Project No.:** SW1772

Dear Cathy Lear:

The Washington State Department of Ecology (Ecology) received your request on March 15, 2023 for an opinion regarding the sufficiency of your independent cleanup of the Lower Dungeness Floodplain at Towne Rd facility (Site) under the Voluntary Cleanup Program (VCP).<sup>1</sup> Your opinion request, including upload and acceptance of applicable Site data, was complete as of June 12, 2023. We are providing this opinion under the authority of the Model Toxics Control Act (MTCA), Chapter [70A.305](#) RCW.<sup>2</sup>

## Opinion

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Ecology has determined that no further remedial action is necessary to clean up contamination at the Site. This opinion is limited to the areas of identified petroleum related contamination.

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<sup>1</sup> <https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Voluntary-Cleanup-Program>

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

A model remedy review was considered for this Site. For petroleum sites and model remedy review requests, Ecology provides a total of up to two free reviews. This is the first of two free reviews for the Site.

Ecology bases this opinion on an analysis of whether the remedial action meets the substantive requirements of MTCA and its implementing regulations, which are specified in Chapter 70A.305 RCW and Chapter 173-340 WAC<sup>3</sup> (collectively called “MTCA”).

## Site Description

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This opinion applies only to the Site described below. The Site is defined by the nature and extent of contamination associated with the following release(s):

- Gasoline into the soil.
- Diesel and heavy oil into the soil.
- Metals into soil.

**Enclosure A** includes a description of the Site.

Please note that releases from multiple sites can affect a parcel of real property. At this time, Ecology has no information that other sites affect the parcel(s) associated with this Site.

## Basis for the Opinion

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Ecology bases this opinion on the information contained in the following documents:

1. Shannon and Wilson, *Addendum to the Environmental Remedial Action Report*, May 30, 2023.
2. Shannon and Wilson, *Revised Environmental Remedial Action Report*, March 14, 2023.
3. Shannon and Wilson, *Soils Management Plan*, September 8, 2022.
4. Shannon and Wilson, *Revised Environmental Report*, May 11, 2022.
5. Aqua Terra, *Cultural Resource Monitoring and Inadvertent Discovery Plan for the Lower Dungeness River Floodplain Restoration and Levee Setback Project*, July 15, 2021.

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

You can request these documents by filing a [records request](#).<sup>4</sup> For help making a request, contact the Public Records Officer at [recordsofficer@ecy.wa.gov](mailto:recordsofficer@ecy.wa.gov) or call 360-407-6040. Before making a request, check if the documents are available on the cleanup and tank search webpage for [CSID 16651](#).<sup>5</sup>

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

## Analysis of the Cleanup

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Ecology has concluded that no further remedial action is necessary to clean up contamination at the Site.

Under [WAC 173-340-515](#), cleanups under the Voluntary Cleanup Program (VCP) are considered independent actions conducted without department oversight or approval. Ecology does not provide *approval* of any report or work plan for a VCP project. Rather, under WAC 173-340-515(3) we provide our concurrence with the completed or proposed work (or not), supported by non-binding informal advice and technical assistance.<sup>6</sup>

Ecology bases its conclusion 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 A** describes the Site.

In October 2021, a Phase II ESA was completed to evaluate the trace of Towne Road for potential contamination. Four out of five direct push boring locations showed limited, shallow petroleum contamination in soil. Based on the boring logs, the depth of the road base was approximately 1.6 feet below ground surface (bgs), and petroleum contamination was generally within the top 0.5-1.5 feet bgs. Thus, the petroleum contaminated soil appears to be closely aligned with specific locations of the Towne Road road base. In fall 2022, Towne Road was removed to a depth of about 1.7 feet bgs.<sup>7</sup>

A Soils Management Plan (SMP), dated September 8, 2022, was implemented at the Site for the removal of Towne Road. The road removal was the last phase of the larger Dungeness River

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

<sup>5</sup> <https://apps.ecology.wa.gov/cleanupsearch/site/16651>

<sup>6</sup> WAC 173-340-515(5)

<sup>7</sup> P. D-5, in *Addendum to the Environmental Remedial Action Report*, May 30, 2023

floodplain levy infrastructure removal to support a more natural floodplain for the Dungeness River. Test pitting to evaluate the road base depth was completed in October 2022. This road base depth test pitting was for the contractor, not necessarily for the purposes of environmental compliance sampling. Confirmatory soil sampling was completed in November 2022, and May 2023.

### **Site Hazardous Substances**

Soil from the initial borings, P-4 through P-8, was sampled in accordance with WAC 173-340-900, Table 830-1, for waste/unknown oil. Subsequent sampling focused the Site hazardous substances list to those contaminants requiring further evaluation. That reduced list requiring further evaluation, per the SMP, was focused on TPH as gasoline, TPH as diesel and heavy oil, and RCRA 8 metals.

Based on the analytical results from the soil sampled related to P-4 through P-8, the following contaminants could be eliminated (and were eliminated) from further evaluation at the Site: polychlorinated biphenyls (PCBs), carcinogenic polycyclic aromatic hydrocarbons (cPAHs), naphthalenes (included 2-methylnaphthalene and 1-methylnaphthalene), and PAHs.

Several metals were analyzed in soil sampled from borings P-4 through P-8: arsenic, barium, cadmium, chromium, lead, mercury, selenium, and silver. The results were compared to both sediment cleanup objectives (SCOs) and soil cleanup levels, including MTCA Method A, MTCA Method B (where Method A cleanup levels are not established), and values protective of terrestrial ecological receptors per WAC 173-340-900, Table 749-2.

Ecology further compared the metals in soil analytical results from borings P-4 through P-8 to confirm which metals, if any, should be retained for cleanup. We did this by comparing concentrations to the most stringent of MTCA Method A, MTCA Method B cleanup levels, or values protective of ecological receptors. Where possible, we also calculated a 90<sup>th</sup> percentile value for each dataset, and compared the result to the applicable regional 90<sup>th</sup> percentile value for metals in soil, per Ecology publication #94-115.<sup>8</sup> If there were no metals detected in soil sampled, we just put “no detections” and did not calculate a 90<sup>th</sup> percentile value for the dataset at the Site.

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<sup>8</sup> Natural Background Soil Metals Concentrations in Washington State, October, 1994.

<b>Metal</b>	<b>Most Stringent Cleanup Level (mg/kg<sup>9</sup>)</b>	<b>MTCA Cleanup Level Method</b>	<b>Background 90th Percentile Value (mg/kg)</b>	<b>90th Percentile Value for Site data</b>
Arsenic	20	A	7	4.3
Barium	160	B	255	74.3
Cadmium	2	A	2	No detections
Chromium	42	Ecological	48	50.6
Lead	220	Ecological	24	12.6
Mercury	2	A	0.07	No detections
Selenium	0.8	Ecological	0.78	1.8
Silver	14	B	0.61	No detections

Except for chromium and selenium, all concentrations of metals in soil for Site analytical results were less than the 90<sup>th</sup> percentile value for background concentrations, though chromium was close to this value. Each 90<sup>th</sup> percentile value was calculated using EPA's ProUCL 5.2.<sup>10</sup>

Ecology recognizes that the values protective of ecological receptors from Table 749-2 for chromium and selenium in soil are much more stringent than those cleanup levels protective of human health. All chromium concentrations in soil are less than the applicable MTCA Method A cleanup level of 2,000 mg/kg, and selenium concentrations in soil are less than the MTCA Method B cleanup level protective of the leaching to groundwater pathway of 5.2 mg/kg.

All metals, including chromium and selenium, were detected in samples with and without detected amounts of petroleum. For instance, the greatest concentrations of chromium and selenium in soil were reported for sample P-8-21:2 at 2.0 feet bgs, but gasoline, diesel, and heavy oil were not detected at boring P-8 in samples collected at 1 or 2 feet bgs. As such, the detected chromium and selenium concentrations do not appear to be associated with the petroleum contamination.

Under MTCA, cleanup levels cannot be set more stringent than background, when applicable to a Site.<sup>11</sup> As pointed out by Shannon and Wilson,<sup>12</sup> the USGS reports that the average concentration of selenium for Clallam County is up to 1.9 mg/kg.<sup>13</sup> Chromium and selenium in soil, based on the ubiquity and similarity of results, and with higher concentrations at uncontaminated locations over petroleum contaminated locations, are more likely than not representative of background concentrations. Based on the multiple lines of evidence, it is

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<sup>9</sup> Milligrams per kilogram

<sup>10</sup> <https://www.epa.gov/land-research/proucl-software>

<sup>11</sup> WAC 173-340-700(6)(d)

<sup>12</sup> P. 4, Revised Environmental Report, May 11, 2022.

<sup>13</sup> U.S. Geological Survey (USGS), 2008, Average Concentrations of Elements in Clallam County, Washington: <https://mrdata.usgs.gov/geochem/county.php?place=f53009&el=Se&rf=northwestern>

Ecology's opinion that sufficient sampling for metals in soil has been completed for the Site, and no additional sampling for metals in soil at the Site is required.

### **Soil vs. Sediment**

Analytical results were correctly screened against both soil cleanup levels and sediment cleanup objectives (SCOs). As the road removal was being scoped, it was not known if inundation of the future floodplain area would exceed six weeks out of the year. Based on observations in 2023, there is the potential for inundation at more than six consecutive weeks in a given calendar year.<sup>14</sup>

For sediment, diesel and heavy oil are compared to separate sediment cleanup objectives (SCOs) of 340 mg/kg and 3,600 mg/kg, respectively. For any sampling area, Ecology further evaluated if a sediment station cluster of potential concern was present, by taking the average of three concentrations of diesel and three concentrations of heavy oil in samples collected. These samples had to come from the same area and the concentrations compared against the SCO for diesel and the SCO for heavy oil.

### **Terrestrial Ecological Evaluation (TEE)**

The TEE and TEE form, reported on the cleanup levels, used protective of ecological receptors for diesel and heavy oil, at 460 mg/kg. The MTCA Method A cleanup level for gasoline in soil is more stringent than the TEE for gasoline, and the more stringent cleanup level was used. The sediment SCOs were also met for the diesel and heavy oil concentrations in areas where inundation has been observed and the definition of sediment may be met. Per WAC 173-340-360(2), more likely than not ecological receptors are not at risk at the Site. No additional TEE is required at the Site.

### **Groundwater Pathway Evaluation**

As the Site is part of the Dungeness River Floodplain, depth to groundwater is expected to be shallow. The MTCA Method A cleanup level for gasoline in soil is protective of the leaching pathway to groundwater. The MTCA Method A cleanup level for diesel and heavy oil at 2,000 mg/kg is protective of the leaching pathway to groundwater. As the diesel and heavy oil concentration protective of terrestrial ecological receptors is more stringent than the MTCA Method A cleanup level, petroleum concentrations in soil at the Site are more likely than not protective of groundwater.

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<sup>14</sup> Figure 2 in Shannon and Wilson's *Addendum to the Environmental Remedial Action Report*, May 30, 2023.

## **Soil Vapor/Air Pathway Evaluation**

There are no structures within 30 feet of the Site. There are no concentrations of petroleum in excess of the MTCA Method A cleanup levels, which are typically protective of the vapor intrusion pathway. The vapor/air pathway is more likely than not incomplete.

## **Cultural Resources**

Aqua Terra Cultural Resource Consultants' (Aqua Terra) Cultural Resources Monitoring (CRM) and Inadvertent Discovery Plan (IDP), dated July 15, 2021, was provided by Clallam County to Ecology on March 31, 2022. The CRM and IDP was in place, prior to any groundbreaking work at the Site, including the October 2021, soil borings. Also, prior to the start of any groundbreaking work at the Site, The Department of Archaeology and Historic Preservation (DAHP) issued project number 072709-09-COE-S, a communication plan was in place, and the Jamestown S'Klallam Tribe was reportedly in routine communication with Clallam County.

The Towne Rd removal was the last phase of a larger project to remove existing levy and road infrastructure to restore the natural floodplain for the Dungeness River. Three areas recommended for cultural resources monitoring were identified in the CRM and IDP, however, none of the areas of petroleum contaminated soil intersected with these areas.<sup>15</sup>

For the Area of Potential Effect (APE) in which the Towne Road removal occurred, the United States Army Corps of Engineers (USACE) had already completed the cultural resources consultation.<sup>16</sup> Consultation had already been completed between USACE, DAHP, and the Jamestown S'Klallam Tribe at the time of issuance of the CRM and IDP of July 15, 2021. When another agency completes the cultural resources consultation, Ecology is not required to complete the cultural resources consultation, and so we did not consult for this project.<sup>17</sup>

Additionally, groundbreaking at the Site had already occurred prior to project acceptance into VCP. The VCP application was accepted on April 19, 2022. As any cultural resources consultation has to be done before groundbreaking, the consultation could not have been completed by Ecology.

Per Clallam County, the schedule for the interim action to remove the last portions of Towne Road in fall 2022 was based on input from the Jamestown S'Klallam Tribe, who had completed their portion of the same work earlier in 2022, upstream of this project area. Based on

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<sup>15</sup> Figure 2, page 6 in the CRM and IDP.

<sup>16</sup> Summary on page 3 of the CRM and IDP.

<sup>17</sup> <https://ecology.wa.gov/About-us/Payments-contracts-grants/Grants-loans/Find-a-grant-or-loan/Area-wide-groundwater-investigation-grants/Cultural-resources-review>

information shared by Clallam County, the Towne Road removal met the agreed to project schedule. Additionally, the interim action removed Towne Road and associated roadbed (and likely the petroleum contaminated soil) prior to brief flooding of the area in December 2022.

### **Environmental Information Management System (EIM) Database**

Selected Site data collected since August 1, 2005, were uploaded and accepted into Ecology's EIM database on April 11, 2023, and reviewed and approved by the VCP site manager on June 12, 2023.

### **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.

<b>Media</b>	<b>Points of Compliance</b>
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 Terrestrial Ecological Receptors	Based on the protection of terrestrial ecological receptors, the standard point of compliance is throughout the Site to a depth of six feet bgs. <i>WAC 173-340-7490</i>

Shannon and Wilson's May 30, 2023, Addendum to the Environmental Remedial Action Report evaluated sediment cleanup objectives (SCOs) against analytical data results. Prior to the infrastructure removal, it was unknown if inundation would meet the sediment definition under WAC 173-204-505(22), evaluating contaminant concentrations against the SCOs made sense. Subsequently, during the project, inundation for at least six weeks was observed on the floodplain.



<b>Hazardous Substance</b>	<b>Soil Cleanup Level<sup>18</sup> (mg/kg)<sup>19</sup></b>	<b>Sediment Cleanup Objective (mg/kg)<sup>20</sup></b>
TPH as gasoline	100	Not Established
TPH as diesel and heavy oil	460 <sup>21</sup>	340 and 3,600

Concentrations of diesel and heavy oil analytical results were appropriately summed together to be compared to the cleanup level, consistent with Ecology Implementation Memorandum No. 4.<sup>22</sup> Only cleanup levels for TPH as gasoline and TPH as diesel and heavy oil were required to be established for the Site. Cleanup of the petroleum contamination then met cleanup levels at a standard point of compliance to obtain a no further action.

### Selecting the cleanup action

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Ecology has determined the cleanup action you selected for the Site meets the substantive requirements of MTCA. Removal of petroleum contaminated soil, along with the Towne Road roadbed with off-Site disposal at a permitted facility (Mason County Landfill), was selected as the cleanup alternative. This cleanup action was completed as an interim action, in order to meet the 2022 construction schedule for this portion of the overall project. The Towne Road removal was the last phase of a larger project to remove levy infrastructure and restore the Dungeness River to a more natural floodplain.

The petroleum contamination identified was divided into zones, with confirmatory soil samples collected after removal. The action proved necessary – in December 2022, the Dungeness River flooded the area formerly occupied by Towne Road. Confirmatory and stockpile sampling, per Shannon and Wilson’s September 8, 2022, Soils Management Plan (SMP), planned to follow standard soil removal and confirmatory soil sampling procedures from Ecology’s Guidance for Remediation of Petroleum Contaminated Sites.<sup>23</sup>

None of the petroleum contaminated soil locations appear to have been in a mapped wetland, mapped cultural resources monitoring zone, or mapped priority habitat species area at the time of removal. Based on the information provided by Shannon and Wilson, threatened and

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<sup>18</sup> More stringent of protection of groundwater or direct contact

<sup>19</sup> mg/kg = milligrams per kilogram

<sup>20</sup> Table 8-1, Ecology publication 12-09-057, SCUM.

<https://apps.ecology.wa.gov/publications/SummaryPages/1209057.html>

<sup>21</sup> Protective of terrestrial ecological receptors.

<sup>22</sup> <https://apps.ecology.wa.gov/publications/documents/0409086.pdf>

<sup>23</sup> Ecology Publication 10-09-057, revised June 2016.

<https://apps.ecology.wa.gov/publications/SummaryPages/1009057.html>

endangered species may be able to access the area, which supports the need to set cleanup levels protective of ecological receptors for the Site.

The Report indicates that a model remedy is appropriate for the Site and concludes that because of this, a feasibility study (FS) with disproportionate cost analysis (DCA) is not required for the Site. As the most permanent cleanup action was selected (removal by excavation with off-Site disposal), Ecology concurs that a FS/DCA is not required for the Site.

## **Implementing the cleanup action**

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Ecology has determined your cleanup meets the standards set for the Site.

A total of 6,784 tons of road base and petroleum contaminated soil were transported to Waste Management in Mason County for disposal. The 6,784 tons amount was for all Towne Road material removed, including areas where petroleum contaminated soil was not identified. Generally, confirmatory soil samples were collected in accordance with section 6.8.3 in Ecology Publication No. 09-09-057, Guidance for the Remediation of Petroleum Contaminated Sites.<sup>24</sup>

During field work, Aqua Terra's Cultural Resources Monitoring and Inadvertent Discovery Plan was followed. No cultural resources were reportedly encountered during the field work.

## **Sediment Evaluation**

To evaluate if a sediment station cluster of potential concern was present, Ecology evaluated two sampling locations, Zone 2 and TP-4, both within the area of potential inundation. At Zone 2, the average of three sampling locations (greatest, median, and least), was 65 mg/kg for diesel and 232 mg/kg for heavy oil. At TP-4, the average of three confirmatory sampling locations (again, greatest, median, and least) was 62.2 mg/kg for diesel and 315 mg/kg for heavy oil. In fact, at both locations, diesel was not detected in any sample, and the laboratory reporting limits were used to evaluate concentrations against the SCO. All results were less than the SCOs for both diesel and heavy oil. Based on this analysis, Ecology concludes that no sediment station cluster of potential concern is present at the Site.

## **Zone 2 and Zone 4 Cleanups**

Petroleum contaminated soil associated with the Towne Road roadbed was sampled in Zone 2 and Zone 4. In both zones, confirmatory soil samples were collected one per 400 square feet, in

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<sup>24</sup> Revised June 2016.

accordance with Ecology petroleum guidance.<sup>25</sup> Soil samples collected in Zone 4 were analyzed per the SMP for gasoline, diesel and heavy oil, and RCRA 8 metals. Zone 2 soil samples were analyzed for gasoline and diesel and heavy oil. It is not explained why the deviation from the plan in the SMP occurred. However, Ecology reviewed both sets of data and, based on the results, concluded that contamination in both areas has more likely than not been sufficiently remediated. No further action is needed for Zone 2 and Zone 4.

### **Zone 1 and Zone 3 Cleanups**

At Zone 1, the concentration of gasoline in P-4-21 at 0.5 feet bgs was 410 mg/kg and diesel and heavy oil combined was 1,210 mg/kg, above the value protective of ecological receptors of 460 mg/kg. At 1.5 feet bgs, all these contaminants were not detected at the laboratory reporting limit. At Zone 3, the concentration of gasoline in soil sampled at boring P-6 was less than the Site cleanup level at both depths, 1 and 2 feet bgs. Total diesel and heavy oil exceeded the Site cleanup level at 0.5 feet bgs but not 1.5 feet bgs. Towne Road and the associated roadbed was removed in both areas.

Confirmatory soil sampling results for Zone 1, located outside the floodplain and new levy, were all non-detect for gasoline, diesel, and heavy oil. Eight confirmatory soil samples were collected, up to 3 feet bgs. Contaminated soil appears to have been removed from Zone 1, and no further action is needed.

Concentrations of gasoline, diesel, and heavy oil were not detected in confirmatory soil sampling results for Zone 3. Seven confirmatory soil samples were collected, up to 1.5 feet bgs. Contaminated soil appears to have been removed from Zone 3, and no further action is needed.

### **Test Pitting: October 2022**

Subsequent to Ecology's review of the September 8, 2022, SMP on September 22, 2022, and at the beginning of the main phase of the Towne Road removal, five test pits (TP-1 through TP-5) were advanced along the trace of Towne Road on October 24, 2022.

1. These five test pits were designed to allow the contractor to determine how deep to scrape off the roadbed. These test pit locations were not reportedly intended as soil sampling locations for compliance purposes.
2. The Towne Road roadbed was removed to 1.7 feet bgs.

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<sup>25</sup> Ecology Publication 10-09-057, *Guidance for Remediation of Petroleum Contaminated Sites*, revised June 2016.  
<https://apps.ecology.wa.gov/publications/SummaryPages/1009057.html>

3. At Test Pit 1 (TP-1), this was a sample of the roadbed. This was not a confirmatory soil sample for compliance purposes. That portion of Towne Road was not removed, and remains in place as a road as of the writing of this letter. No further action at TP-1 is needed.
4. Soil confirmatory samples at test pits 3 and 4 (TP-3 and TP-4) were collected in May 2023. No petroleum was detected in confirmatory soil samples collected at TP-3.
5. At TP-4, statistical compliance shows that the combined concentrations of diesel and heavy oil in soil comply with the soil cleanup level. The maximum concentration of diesel and heavy oil was at TP-4-WW:1.2, at 568 mg/kg. This concentration, though exceeding the 460 mg/kg cleanup level, is in compliance with the cleanup levels, based on the statistical analysis below. The 1.2-foot sample at TP-4 from October 2022, was removed during the road removal. Additionally, diesel was not detected in soil confirmatory sampling surrounding the TP-4-WW:1.2 sample.

#### **Statistical compliance with cleanup levels**

Ecology evaluated the confirmatory soil sampling results for both gasoline in soil and diesel and heavy oil (combined) in soil, per the method described in WAC 173-340-740(7). The datasets reviewed are for those from May 2023. Ecology completed the statistical analysis for both confirmatory soil samples within the berm only, and all confirmatory soil sampling results (including those from outside the berm as well; Zone 1). Shannon and Wilson also verified the calculations, and came to the same conclusions.

Ecology concluded that gasoline in soil and diesel and heavy oil in soil met the cleanup levels, because these were true for each dataset analyzed:

1. The 95% upper confidence limit (UCL) was less than the cleanup level.
2. Fewer than 10% of the concentrations exceeded the respective cleanup level.
3. No concentration exceeded twice the cleanup level.

No additional cleanup of petroleum contamination in soil is needed at the Site.

The cleanup meets requirements under WAC 173-340-360(2):

- The cleanup is protective of human health and the environment, complies with cleanup standards, and complies with applicable state and federal laws.
- Cleanup levels are met at a standard point of compliance.
- The cleanup remedy selected, excavation with off-Site disposal at a permitted facility, was permanent to the maximum extent practicable, and provided for cleanup in a reasonable restoration timeframe.
- The Site is not expected to be used as a school or residential property.
- Cleanup actions did not rely on dilution or dispersion.
- Remediation levels are not being used for this Site.
- No engineered or institutional controls are required as part of this cleanup.

There are no monitoring wells at the Site to decommission.

#### **Independent Remedial Action Grant (IRAG) Comments**

It is Ecology's understanding that Clallam County already received reimbursement for the cleanup costs per Ecology Shorelands and Environmental Assessment (SEA) Program's Floodplains by Design grant, #OTGP-2021-CICoCD-00066. Therefore, it is anticipated that Clallam County will **not** apply for the potential of 10-50% reimbursement of cleanup costs (up to \$600,000 in eligible cleanup costs, for up to \$300,000 total reimbursement possible, funding dependent) for VCP SW1772 under an IRAG.

## Limitations of the Opinion

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### 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\(4\)](#).<sup>26</sup>

### 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 if the action you performed is substantially equivalent. Courts make that determination. See RCW [70A.305.080](#)<sup>27</sup> and WAC [173-340-545](#).<sup>28</sup>

### 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\(6\)](#).<sup>29</sup>

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<sup>26</sup> <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305.040>

<sup>27</sup> <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305.080>

<sup>28</sup> <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-340-545>

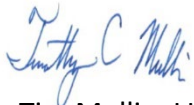
<sup>29</sup> <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305.170>

## Questions

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If you have any questions about this opinion or the termination of the Agreement, please contact me by phone at 360-999-9589 or email at [tim.mullin@ecy.wa.gov](mailto:tim.mullin@ecy.wa.gov) .

Sincerely,



Tim Mullin, LHG  
VCP Site Manager  
Southwest Region Office,  
Toxics Cleanup Program

TCM:js

Enclosure: A – Site Description

cc by email: Rebecca Mahan, Clallam County; [rebecca.mahan@clallamcounty.wa.gov](mailto:rebecca.mahan@clallamcounty.wa.gov)  
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Ecology Site File

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## Enclosure A

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Site Description

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## Site Description

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The Site is located along the trace of (now former) Towne Road, which crosses Clallam County parcel 043136250200, owned by the Washington State Department of Fish and Wildlife (Property). Most of the Site is within the restored floodplain levy system (berm), but it does extend south of the levy as well. The removed portion of Towne Road at the southern end of the project was adjacent to the following parcels:

West side of removed Towne Rd: 043136250450, 043136310000 (no parcel owner information for either parcel).

East side of removed Towne Rd: 043136450560, 043136450570 and 043136450575 (all owned by The PCC Farmland Trust).

**Property History and Current Use:** The Property was formerly used for Towne Road and the former Dungeness River floodplain levy system. The levy system and Towne Road have been reconfigured and now the Dungeness River has a more natural floodplain.

**Property Vicinity:** The Site is located in a rural area of mixed undeveloped land, agricultural and residential properties.

**Soils and Geology:** To the maximum depth explored of approximately 5 feet bgs, the Site is primarily underlain by fill, then floodplain alluvium consisting of varying amounts of sands, gravels, and silt.

**Groundwater:** Based on the Site being within the Dungeness River Floodplain, groundwater is expected to be shallow. The Site flooded in December 2022. Areas of the floodplain were inundated during the May 2023 confirmatory soil sampling.

**Surface/Storm Water/Septic Systems/Wetlands:** There are no stormwater or septic systems at the Site. The Site is within the Dungeness River Floodplain and wetlands may be present. The main channel of the Dungeness River is located approximately 250 feet west of the Site at the closest location and about 1,250 feet away from the Site at the furthest distance.