



**STATE OF WASHINGTON**  
**DEPARTMENT OF ECOLOGY**

**Central Region Office**  
1250 West Alder St., Union Gap, WA 98903-0009 • 509-575-2490

July 14, 2023

Hal Hatfield  
Circle K Stores Inc.  
1120 W. Warner Road  
Tempe, AZ 85284

**Re: No Further Action Opinion for the Following Contaminated Site:**

- **Site Name:** Circle K 6032
- **Site Address:** 590 Gage Boulevard, Richland
- **Facility/Site ID:** 95512514
- **Cleanup Site ID:** 14973
- **VCP Project No.:** CE0538

Dear Hal Hatfield:

The Washington State Department of Ecology (Ecology) received your request on July 26, 2022 for an opinion regarding the sufficiency of your independent cleanup of the Circle K 6032 facility (Site) under the Voluntary Cleanup Program (VCP).<sup>1</sup> To provide an opinion, we requested additional information from you in writing on February 9, 2023. We received the additional information on May 17, 2023. This letter provides our opinion and analysis. We are providing this opinion under the authority of the Model Toxics Control Act (MTCA), Chapter 70A.305 RCW.<sup>2</sup>

## **Opinion**

Ecology has determined that no further remedial action is necessary to clean up contamination at 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").

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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>

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

## Site Description

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):

- Lead in groundwater
- Arsenic in groundwater

The no further action provided by The Pollution Liability Insurance Agency (PLIA) on December 29, 2021 only applies to the petroleum contamination at the Site. PLIA's letter specified that further remedial action is necessary regarding residual metals in groundwater. This letter does not refute the previous opinion and is only meant to provide a determination regarding the residual metals.

The enclosure includes a Site description and diagram.

Please note that releases from multiple sites can affect a parcel of real property. At this time, data indicates this parcel may be affected by contamination from another unknown site.

## Basis for the Opinion

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

- Blaes Environmental, Groundwater Monitoring Report, June 13, 2022
- Pollution Liability Insurance Agency, Noe Further Action Letter, December 29, 2021

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 Circle K 6032 cleanup site page.<sup>5</sup>

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

## Analysis of the Cleanup

Ecology has concluded that no further remedial action is necessary to clean up contamination at the Site. Ecology bases its conclusion on the following analysis:

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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/14973#site-documents>

### **Characterizing the Site**

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

Filtered groundwater data indicates the existence of an offsite source for the residual metal contamination within groundwater. Ecology has determined that the site is not a source for the metal contamination found within the groundwater. Groundwater concentrations are highest upgradient of the tank nest and the contamination decreases in the downgradient direction across the site.

### **Setting cleanup standards**

Due to Ecology's determination cleanup levels and points of compliance are not necessary for metals at the Site.

### **Selecting the cleanup action**

Due to Ecology's determination a cleanup action is not required to address the metals at the Site.

You must decommission resource protection wells<sup>6</sup> installed as part of the remedial action that are not needed for any other purpose at the Site. Wells must be decommissioned in accordance with WAC 173-160-460.<sup>7</sup>

### **Listing of the Site**

Based on this opinion, Ecology will update the Site status on the Confirmed and Suspected Contaminated Sites List and the Leaking Underground Storage Tanks List.

### **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.

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<sup>6</sup> <https://app.leg.wa.gov/WAC/default.aspx?cite=173-160-410>

<sup>7</sup> <https://app.leg.wa.gov/WAC/default.aspx?cite=173-160-460>

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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>8</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>9</sup> and WAC 173-340-545.<sup>10</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>11</sup>

### **Termination of Agreement**

Thank you for cleaning up the Site under the VCP. This opinion terminates the VCP Agreement governing VCP Project No. CE0538.

### **Questions**

If you have any questions about this opinion or the termination of the Agreement, please contact me by phone at (509) 406-6959 or email at [Kyle.Parker@ecy.wa.gov](mailto:Kyle.Parker@ecy.wa.gov).

Sincerely,



Kyle Parker  
Toxics Cleanup Program  
Central Regional Office

Enclosure: Site Description and Diagram

cc: Dan Blaes, Blaes Environmental Inc.  
Fiscal, VCP Fiscal Analyst  
TCP, Operating Budget Analyst

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<sup>8</sup> <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305.040>

<sup>9</sup> <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305.080>

<sup>10</sup> <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-340-545>

<sup>11</sup> <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305.170>

## Enclosure

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Site Description and Diagram



## **Site Description**

The Site is located on the northwest corner of the intersection of West Gage Boulevard and Leslie Road in Richland, Washington. The area surrounding the site consists of a combination of commercial businesses and residential developments. The site formerly housed four underground storage tanks and six fuel dispensers. Gasoline, diesel, and heavy oil contamination was identified in soil, groundwater, and vapor during the removal and decommissioning of the underground storage tanks. Lead and Arsenic were noted in groundwater but not in soils. Additional investigation indicates an offsite source and that the site is not a source for the Lead and Arsenic found within the groundwater.





**Site Diagram**



