



drawer

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Avenue SE • Bellevue, Washington 98008-5452 • (425) 649-7000

April 8, 2011

Freeman Anthony
City of Bellingham, Public Works
210 Lottie Street, City Hall
Bellingham, WA 98225

Re: Revised Further Action at a Property associated with a Site:

- Property Address: West Illinois Street and Marine Drive, Bellingham, WA as shown on the attached Site Diagram
- Facility/Site No.: 5075
- VCP Project No.: NW2198

Dear Mr. Anthony:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your independent cleanup of a Property associated with a new road construction project "West Illinois/Timpson Street Extension".

Ecology issued a Further Action opinion letter for the Property on March 17, 2011. In that letter, Ecology stated that the Oeser Superfund Site and the Little Squalicum Park Site may also affect this Property. The City of Bellingham (the City) notified Ecology through an email on April 4, 2011 that the Little Squalicum Park was no longer a 'site' and therefore requested Ecology to revise the March 17, 2011 opinion letter accordingly. Mary O'Herron from Ecology's Bellingham Office confirmed this information. Ecology and the City had terminated the 2005 Little Squalicum Park Agreed Order in October 2009. Ecology had transferred oversight responsibility to EPA for portions of the park (now referred to as the "Little Squalicum Creek area of the Oeser Company Superfund Site") contaminated by past operations at the Oeser site. However, Ecology did enter into a new Agreed Order with the City in November 2010 for another site within the park – Eldridge Municipal Landfill. It should be noted that the Eldridge Municipal Landfill is located downgradient of the Property and therefore unlikely to impact it.

This letter supersedes Ecology's March 17, 2011 letter to reflect the changing status of the Little Squalicum Park Site.

Portions of the construction area require remedial actions under MTCA. These portions include an entire parcel, 380223 381262, and its adjacent parcel, 380223 330305 as shown on the Site Diagram in Enclosure B. Portions of two other parcels located at the east side of the construction area also need remediation. However, per direction of the TCP Management Team, Ecology only provides opinion letters on property-specific cleanups if the Property includes at least one whole tax parcel. Portions of a tax parcel under a right-of-way easement may be included if the easement is immediately adjacent to a whole tax parcel. Only Parcel 380223 381262 and Parcel



April 8, 2011

Page 2

380223 330305 meet Ecology's definition of "Property". Therefore, this VCP only addresses cleanup associated with those two parcels.

This letter provides our opinion. We are providing this opinion under the authority of the Model Toxics Control Act (MTCA), Chapter 70.105D RCW.

Issues Presented and Opinion

1. Is further remedial action necessary at the Property to clean up contamination associated with the Site?

YES. Ecology has determined that further remedial action is necessary at the Property to clean up contamination associated with the Site.

Ecology issued an opinion letter on October 15, 2009 regarding the proposed cleanup action plan. In that letter, Ecology states that the proposed cleanup action plan is likely sufficient to cleanup contamination at the Property associated with the Site. That determination was based on complete implementation of the proposed cleanup action plan. Although the actual cleanup removed more arsenic contaminated soil than originally planned, confirmation samples were not collected as proposed in the small triangle area at the north side of the Property. Confirmation samples are needed in that area.

2. Is further remedial action also necessary elsewhere at the Site?

YES. Ecology has determined that further remedial action is also necessary elsewhere at the Site.

This opinion is based on an analysis of whether the remedial action meets the substantive requirements of MTCA, Chapter 70.105D RCW, and its implementing regulations, Chapter 173-340 WAC (collectively "substantive requirements of MTCA"). The analysis is provided below.

Description of the Property and the Site

This opinion applies only to the Property and the Site described below. This opinion does not apply to any other sites that may affect the Property. Any such sites, if known, are identified separately below.

1. **Description of the Property.**

The Property includes the following tax parcels in Whatcom County, which were affected by the Site and addressed by your cleanup:

- 380223 381262.
- 380223 330305.

Enclosure B includes a legal description of the Property and a diagram of the Site that illustrates the location of the Property within the Site.

2. Description of the Site.

The Site is defined by the nature and extent of contamination associated with the following release:

- Arsenic into the soil.

That release has affected more than one parcel of real property, including the parcels identified above.

The source of arsenic is unclear, but it is likely associated with the bedding historically placed on the railroad grade along the spur. The extent of the arsenic contamination beyond the Property is unknown. **Enclosure A** includes a detailed description of the Site, as currently known to Ecology.

3. Identification of Other Sites that may affect the Property.

Please note the Oeser Superfund Site facility also affects the Property. This opinion does not apply to any contamination associated with that facility.

Basis for the Opinion

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

- Property Cleanup and Compliance Monitoring Report, West Illinois/Timpson Way Street Extension Project. Prepared by Herrenkohl Consulting LLC. September 27, 2010.
- Draft Remedial Investigation and Feasibility Study Report, Eldridge Municipal Landfill Site, Bellingham, Washington. Prepared by Herrenkohl Consulting LLC of Bellingham, Washington with assistance from Integral Consulting, Inc. of Seattle, Washington. February 2011.

That document is kept in the Central Files of the Northwest Regional Office of Ecology (NWRO) for review by appointment only. You can make an appointment by calling the NWRO resource contact at (425) 649-7190.

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 at the Property to clean up contamination associated with the Site. That conclusion is based on the following analysis:

1. Characterization of the Site.

Ecology has determined your characterization of the Site is sufficient to establish cleanup standards for the Site and select a cleanup for the Property.

2. Establishment of cleanup standards for the Site.

Ecology has determined the cleanup levels and points of compliance you established for the Site meet the substantive requirements of MTCA.

i. Cleanup levels.

In accordance with WAC 173-340-7491 (1) (b), the Property is excluded from a terrestrial ecological evaluation since all contaminated soil, is or will be covered by physical barriers (paved roads) that prevent exposure to plants and wildlife and an institutional control will be implemented as required by WAC 173-340-440.

Because the cleanup at the Property is relatively straight forward and involve only arsenic, the MTCA Method A soil cleanup level is deemed applicable and appropriate. The cleanup level is based on direct contact using Equation 740-2 and protection of groundwater for drinking water use using the procedures in WAC 173-340-747(4), adjusted for natural background for soil.

ii. Points of compliance.

For soil cleanup level based on protection of surface water and groundwater, the point of compliance is the soil throughout the Site.

3. Selection of cleanup for the Property.

As stated in Ecology's October 22, 2009 opinion letter, Ecology determined the cleanup you proposed for the Property met the substantive requirements of MTCA. Your proposed cleanup meets minimum cleanup requirements and will not exacerbate conditions or preclude reasonable cleanup alternatives elsewhere at the Site.

4. Cleanup of the Property.

Ecology has determined the cleanup you performed does not meet the applicable Site cleanup standards within the Property.

Cleanup actions were conducted from approximately May 4, 2010 to July 31, 2010. More arsenic contaminated soil was removed than originally planned. The attached map in Enclosure C shows the extent of the final excavated areas, confirmation sampling

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 70.105D.030(1)(i).

Contact Information

Thank you for choosing to clean up your Property 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 web site: www.ecy.wa.gov/programs/tcp/vcp/vcpmain.htm. If you have any questions about this opinion, please contact me at (425) 649-4310.

Sincerely,

Jing Liu
NWRO Toxics Cleanup Program

jl: kp

Enclosures (3): A – Description of the Site
 B – Legal Description of the Property and Diagram of the Site
 C – Approximate Extent of the Final Excavated Areas, Confirmation
 Sampling, Locations and Results

cc: Mark J. Herrenkohl, Herrenkohl Consulting LLC
 Russ Olsen, Ecology
 Donna Musa, Ecology
 Mary K. O'Herron, Ecology