



STATE OF WASHINGTON  
**DEPARTMENT OF ECOLOGY**

Central Region Office

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

December 6, 2023

Stacie de Mestre  
Chelan Douglas Regional Port Authority  
1 Campbell Parkway, Suite A  
East Wenatchee, WA 98802

**Re: Further Action at the Following Site:**

- **Site Name:** Cashmere Mill Site
- **Site Address:** 5500 Mill Road, Cashmere
- **Facility/Site No.:** 20168
- **Cleanup Site No.:** 11386
- **VCP Project No.:** CE0454

Dear Stacie de Mestre:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your independent cleanup of the Cashmere Mill Site (Site). This letter provides our opinion. We are providing this opinion under the authority of the Model Toxics Control Act (MTCA), Chapter 70A.305 RCW.<sup>1</sup>

**Issues Presented and Opinion**

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1. Further action is necessary at the Site to clean up contamination.

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, Chapter 173-340 WAC<sup>2</sup> (collectively “substantive requirements of MTCA”). The analysis is provided below.

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<sup>1</sup> <https://app.leg.wa.gov/rcw/default.aspx?cite=70A.305>

<sup>2</sup> <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-340>

## Description of the Site

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This opinion applies to the Site consisting of the following tax parcels in Chelan County:

231905110500, 231905110600, 231905925010, 31905924005, 231905110550, 231905110650, 231905141200, 231905110150, 231905141250, and 231905130200.

Right-of-way easements potentially affected by the Site include the City of Cashmere Mill Road and the Sunset Highway, which are located adjacent to the above parcels. Site contamination that is located beneath these right-of-way easements are considered part of the Site (RCW 70.105D.020 (8)(b)).<sup>3</sup>

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

- Petroleum Hydrocarbons in soil and groundwater.
- Metals in soil and groundwater.
- Carcinogenic Polycyclic Aromatic Hydrocarbons (cPAHs) in groundwater.
- Non-Carcinogenic Polycyclic Aromatic Hydrocarbons (PAHs) in groundwater.
- Semi-Volatile Organic Compounds (SVOCs) in soil.
- Volatile Organic Compounds (VOCs) in soil.
- Wood waste in soil.

Those releases have affected more than one parcel of real property on this Site.

## Basis for the Opinion

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

1. RH2 Engineering, Inc., Terrestrial Ecological Evaluation Form, dated December 9, 2022.
2. State of Washington Department of Ecology, SEPA Comment Letter, dated April 26, 2019.
3. State of Washington Department of Ecology, Property No Further Action Letter, dated October 19, 2017.
4. State of Washington Department of Ecology, Property Further Action Letter, dated July 10, 2017.

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<sup>3</sup> <https://app.leg.wa.gov/rcw/default.aspx?cite=70A.305.020>

5. GeoEngineers, Remedial Action Report, dated April 24, 2015.
6. Maul Foster Alongi, Phase I Interim Action Report, dated May 6, 2014.
7. GeoEngineers, Wetland and Stream Delineation Report, dated January 30, 2014.
8. GeoEngineers, Dewatering Assessment, dated July 31, 2013.
9. Maul Foster Alongi, Site Characterization Report, dated March 20, 2013.

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 Cashmere Mill Site web page.<sup>5</sup>

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

### **Analysis of the Cleanup**

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Ecology has concluded that **further remedial action** is necessary at the Site to clean up contamination associated with the Site. This conclusion is based on the following:

Ecology has determined your characterization of the Site **is not** sufficient. Sufficient information was collected to determine the releases at the Site and to establish cleanup standards, however, data gaps exist concerning the nature and extent of remaining Site contamination.

Additionally, parcel boundary adjustments and potential construction activities have occurred on the Site in areas where contamination was known to be present and appear to be in violation of the environmental covenant currently in place. Further explanation of concerns will continue parcel-by-parcel or in parcel groupings (e.g., parcel boundary changes) below.

#### **Parcel #231905110500:**

Ecology received information that remedial investigation or potential cleanup action occurred on this parcel after Ecology received the GeoEngineers, Remedial Action Report, dated April 24, 2015. Please provide Ecology with a report of any remedial investigations or cleanup actions that have occurred at the site since 2015.

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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/11386>

**Parcel #231905110550:**

The GeoEngineers, Remedial Action Report, dated April 24, 2015, referenced sample A2-W38-S-4 as exceeding the established total petroleum hydrocarbon (TPH) cleanup level, but no other sampling results are provided to demonstrate that a cleanup action occurred or identify the extent of this contaminated area. This exceedance occurred along the Mill Road right-of-way west of EX3. You have not demonstrated any remediation steps; Ecology must assume that contamination remains between the extent of EX3 and sample location AS-W38-S-4. The extent of contamination (A2-W38-S-4) is still unknown in this parcel, as well as what contamination remains beneath Mill Road. After further characterization, additional material removal and or capping with an impermeable surface may be required for a No Further Action (NFA) determination.

**Parcel #2319059255010 and #231905924005:**

Site documents indicate no history of soil contamination and no history of groundwater sampling. Because property improvements have occurred since the last report and prior to your request for our opinion, and because the report GeoEngineers, Remedial Action Report, dated April 24, 2015, does not demonstrate that the samples in question are located in these parcels, Ecology requests an updated map indicating the location and results of historical soil samples.

The lack of a groundwater sample will require the use of an environmental covenant for these parcels to receive an NFA determination. It is possible that with groundwater sampling these parcels could reach NFA without an environmental covenant.

**Parcel #231905925010, #231905924005, and #231905110550:**

Ecology's records indicate that these parcel boundaries were adjusted since the latest site report GeoEngineers, Remedial Action Report, dated April 24, 2015. Ecology requests an updated map indicating the location of historical samples, wells, known excavations, and impermeable surfaces correctly located in relation to the new parcel boundaries. All sample locations should be labeled so they can be cross-referenced with sample tables.

**Parcel #231905110150 and #231905141200:**

Ecology's records indicate that these parcel boundaries were adjusted since the parcel-specific NFA determination in 2017. Ecology's understanding is that wood waste remains in place on these parcels.

Aerial imagery indicates property improvements and construction occurred on what is now parcel #231905141200.

It is pertinent that Ecology is updated on what improvements occurred, specifically those that might have required digging or grading of the site soils. Was any soil removed from the site or consolidated on-site? If soil was removed from the site, where was it deposited? What area still contains wood waste, and how much was capped with an impermeable surface? Provide a timeline of each improvement. An environmental covenant is in place, signed on October 6, 2017, by the Executive Director of the Port of Chelan County. Ecology has no record of notifications that would have been required based on current information. If the Port of Chelan County has records of notifications, please provide them.

**Parcel #231905110150:**

The April 2015 Remedial Action Report indicates contamination remains on the eastern edge of this parcel. The sample table indicates that samples EX1-2-3 and EX1-3-3 remain in place, and both exceed established site cleanup levels. These exceedances occur along the property boundary. Without documentation of remediation steps and sampling data verifying these steps Ecology must assume that contamination remains and extends into the adjacent parcel (#231905140150). Further investigation is required to determine the extent of the remaining contamination.

**Parcel #231905110650:**

Figure 3 from the April 2015 Report indicates two exploratory excavation areas where soil contamination exceeded Site cleanup standards. There is no evidence that these locations were appropriately remediated. Without documentation of remediation steps and sampling data verifying these steps Ecology must assume that contamination remains. If the Port of Chelan County has records of remedial efforts at these locations, please provide them.

**Establishment of cleanup standards for the Site.**

Ecology has determined the cleanup levels and points of compliance you established for the Site may no longer meet the substantive requirements of MTCA.

MTCA cleanup levels are updated periodically. Several updates have occurred since 2015, including the equations to calculate Method B cleanup levels. The Site must use the current appropriate cleanup levels. Ecology requests that you recalculate the calculated Method B total petroleum hydrocarbons and that you provide the appropriate supporting documentation for that calculation. These standards are appropriate and should be used for the Site. An updated modified MTCA Method B standard would also be appropriate for total petroleum hydrocarbons.

Ecology provides tools for calculating modified cleanup standards.<sup>6</sup>

The following table provides the cleanup standards are the current MTCA Method A cleanup standards:

<b>Contamination</b>	<b>Soil MTCA Method A (mg/kg)</b>	<b>Groundwater MTCA Method A (µg/L)</b>
Gasoline	100* / 30	1000 / 800**
Diesel	2000	500
Heavy Oil	2000	500
Benzene	0.03	5
Ethylbenzene	6	700
Methylene Chloride	0.02	5
MTBE	0.1	20
Naphthalene	5	160
Toluene	7	1000
Xylenes	9	1000
Arsenic	20	5
Mercury	2	2

\*Gasoline mixtures without benzene and the total of ethyl benzene, toluene, and xylene are less than 1% of the gasoline mixture.

\*\* when Benzene is present in groundwater.

These standards are appropriate and should be used for the Site. An updated modified MTCA Method B standard would also be appropriate for total petroleum hydrocarbons.

### **Selection of cleanup for the Site**

Ecology has determined the cleanup option you selected for the Site meets the substantive requirements of MTCA, meaning that the selected cleanup meets MTCA's minimum cleanup requirements and does not worsen conditions or prevent reasonable cleanup alternatives elsewhere at the Site.

At this Site, excavation and disposal of contamination was the primary cleanup method for the Site. Two objectives of the remedial cleanup were: excavate much of the wood waste and excavate petroleum hydrocarbon hotspots and other contamination identified during Site characterization.

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<sup>6</sup> <https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Contamination-clean-up-tools>

### **Cleanup of the Site.**

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

Additional sampling is required to determine the extent of contamination remaining around sample locations A2-W38-S-4, EX1-2-3, and EX1-3-3. These efforts should include adjacent properties, roadways, and right-of-way easements. Data is also required regarding the parcel boundary changes to satisfy concerns Ecology has regarding the continued protection of human health and the environment.

### **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**:

- Change the boundaries of the Site.
- 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>7</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 whether the action you performed is substantially equivalent. Courts make that determination. See RCW 70A.305.080<sup>8</sup> and WAC 173-340-545.<sup>9</sup>

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<sup>7</sup> <https://apps.leg.wa.gov/rcw/default.aspx?cite=70A.305.040>

<sup>8</sup> <https://app.leg.wa.gov/rcw/default.aspx?cite=70A.305.080>

<sup>9</sup> <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-340-545>

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**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.<sup>10</sup>

**Contact Information**

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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 VCP website.<sup>11</sup> If you have any questions about this opinion, please contact me by phone at 509-406-6959 or by e-mail at [Kyle.Parker@ecy.wa.gov](mailto:Kyle.Parker@ecy.wa.gov).

Sincerely,



Kyle Parker  
Toxics Cleanup Program  
Central Regional Office

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<sup>10</sup> <https://app.leg.wa.gov/rcw/default.aspx?cite=70A.305.170>

<sup>11</sup> [www.ecy.wa.gov/programs/tcp/vcp/vcpmain.htm](http://www.ecy.wa.gov/programs/tcp/vcp/vcpmain.htm)