



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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

April 21, 2009

Lee Noble  
4629 Gay Ave SW  
Seattle WA 98199

**Re: Opinion pursuant to WAC 173-340-515(5) on Environmental Covenant for the following Hazardous Waste Site:**

- Name: Ballard Auto Wrecking
- Address: 1515 NW Leary Way, Seattle, WA 98107
- Facility/Site No.: 2346
- VCP No.: NW2111

Dear Mr. Noble:

Thank you for submitting groundwater monitoring results for the Former Ballard Auto Wrecking facility (Site), and for your letter of January 15, 2009, requesting removal of the restrictive covenant that limits the use of the above-referenced property to industrial use, for review by the Washington State Department of Ecology (Ecology) under the Voluntary Cleanup Program (VCP). Ecology appreciates your initiative in pursuing this administrative option for cleaning up hazardous waste sites under the Model Toxics Control Act (MTCA), Chapter 70.105D RCW.

This letter constitutes an advisory opinion responding to the questions raised regarding the June 29, 2004, opinion letter issued by Brian Sato, Ecology, after review of submitted documents/reports pursuant to requirements of MTCA and its implementing regulations, Chapter 70.105D RCW and Chapter 173-340 WAC, for characterizing and addressing the following releases at the Site:

- Petroleum hydrocarbon as gasoline, diesel, oil, and lead into soil and groundwater

Ecology is providing this advisory opinion under the specific authority of RCW 70.105D.030(1)(i) and WAC 173-340-515(5).

This opinion does not resolve a person's liability to the state under MTCA or protect a person



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from contribution claims by third parties for matters addressed by the opinion. The state does not have the authority to settle with any person potentially liable under MTCA except in accordance with RCW 70.105D.040(4). The opinion is advisory only and not binding on Ecology.

Ecology's Toxics Cleanup Program has reviewed the following information regarding your request:

1. *Confirmational Monitoring Results, Former Ballard Auto Wrecking Site*, Roy Kuroiwa, PE, November 14, 2008
2. *Letter Re: Independent Remedial Action, Ballard Auto Wrecking Site*, Brian S. Sato, Department of Ecology, to Doug Hilman, Aspect Consulting, June 29, 2004
3. *Completion of Cleanup Construction and Request for No Further Action (NFA) Letter, Ballard Auto Wrecking Site, 1515 NW Leary Way, Seattle*, Aspect Consulting, March 2, 2004
4. *Cleanup Construction and First Two Rounds of Post-Construction Groundwater Monitoring, Ballard Auto Wrecking*, Aspect Consulting, March, 2004.
5. *Cleanup Action Plan Follow-Up, Ballard Auto Wrecking Site, 1515 NW Leary Way, Seattle*, Aspect Consulting, July 8, 2003
6. *Cleanup Action Plan, Ballard Auto Wrecking*, Aspect Consulting, March 13, 2003.

The reports listed above will be kept in the Central Files of the Northwest Regional Office of Ecology (NWRO) for review by appointment only. Appointments can be made by calling the NWRO resource contact at (425) 649-7190.

The Site is defined by the extent of contamination caused by the following releases:

- Petroleum hydrocarbon as gasoline, diesel, oil, and lead into soil and groundwater

The Site is more particularly described in Enclosure A to this letter, which includes a detailed Site diagram. The description of the Site is based solely on the information contained in the documents listed above.

Based on a review of supporting documentation listed above, pursuant to **requirements**

**contained in MTCA and its implementing regulations, Chapter 70.105D RCW and Chapter 173-340 WAC, for characterizing and addressing the following release(s) at the Site, Ecology has determined:**

- **Removal of the existing restrictive covenant is not justified at this time. The restrictive covenant limiting the property to industrial use remains in effect.** At the time of the soil excavation, soil with relatively high levels of contamination was left in place based, at least in part, on the fact that the property would see only industrial use. To justify allowing uses of the property other than industrial uses, you would need to demonstrate that soil on the property has been cleaned up to a more stringent standard, or that the more stringent standard is not needed in the absence of the covenant restriction according to the provisions of MTCA. State law regarding environmental covenants has changed since 2004 and any amended covenant would need to satisfy the requirements of the current law.
- **You have satisfied the groundwater monitoring requirement in Ecology's letter of June 29, 2004, that four consecutive quarters of monitoring meet cleanup levels.** Please note that the groundwater monitoring requirement you have satisfied is a separate requirement from the restrictive covenant provisions. Satisfying the groundwater monitoring requirement does not remove the need to comply with the restrictive covenant.

**This letter does not provide an opinion regarding the sufficiency of any remedial action proposed for or conducted at the Site.**

This opinion is based solely on the information contained in the documents listed above. Therefore, if any of the information contained in those documents is materially false or misleading, then this opinion will automatically be rendered null and void.

The state, Ecology, and its officers and employees make no guarantees or assurances by providing this opinion, and no cause of action against the state, Ecology, its officers or employees may arise from any act or omission in providing this opinion.

Again, Ecology appreciates your initiative in conducting independent remedial action and requesting technical consultation under the VCP. As the cleanup of the Site progresses, you may request additional consultative services under the VCP, including assistance in identifying applicable regulatory requirements and opinions regarding whether remedial actions proposed for or conducted at the Site meet those requirements.

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If you have any questions regarding this opinion, please contact me at (425) 649-7233.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert D. Swackhamer".

Robert D. Swackhamer, PE  
NWRO Toxics Cleanup Program  
rds: rds

Enclosure:        A – Description of the Site

cc:     Roy Kuroiwa, RK Environmental  
       Dolores Mitchell, Ecology VCP Financial Manager

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## **Enclosure A**

### **Description and Diagram of the Site**

## Site Description

The Site is defined by the extent of releases to soil and groundwater of petroleum hydrocarbons in the gasoline, diesel, and oil ranges and releases of the metals lead and cadmium to soil. The releases occurred at 1515 NW Leary Way in Seattle, Washington, on King County tax parcel Numbers 2767702105, 2767702115, and 2767702125. This property includes lots 7 through 14 of the Gilman Park Addition, with a total size of approximately 0.68 acres in an L-shaped configuration.

The property is located just west of the north end of the Ballard Bridge, at the corner of 15<sup>th</sup> Avenue NW and NW Leary Way in a general industrial/commercial area. The Site is further described in the enclosed figure.

The property apparently has served three primary uses during the past century, including residential dwellings, a gasoline service station, and auto wrecking. Residential dwellings were present between 1905 and 1917, but gone from 1917 to 1927. From 1928 until perhaps the 1960's, a gasoline service station operated on lots 11 and 12. Beginning in the late 1920's, an auto wrecking yard began operations on lots 7 through 10. Owners of Ballard Auto Wrecking purchased lots 7 through 10 in 1959 and later purchased lots 11 through 14 and expanded the auto wrecking operations:

Following the termination of auto wrecking operations, excavation of contaminated soil occurred in 2003 at three locations on the property as shown on the enclosed figure. The property currently is vacant.

The land surface of the property is generally flat, sloping gently from a high point in the southeast corner toward a lower area on the west.

Subsurface soils start with a layer of surficial fill about two to three feet deep consisting of a mixture of sand, gravel, and silt with metallic, wood, and glass debris fragments. This surficial unit is relatively loose compared with the underlying glacial soils.

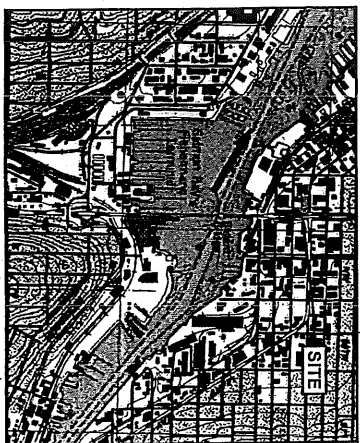
Under the fill is a dense unit of predominantly fine-grained soils (silty sand and sandy silt) up to 6 feet thick in the central portion of the property, but thinning to one foot thick toward the west. This unit is absent below the east side of the property.

The third and deepest soils unit explored is an extremely dense layer of sand. Explorations extended to a maximum depth of 15 feet, but refusal at depths of 8 to 12 feet was typical.

The uppermost water-bearing horizon is within the very dense sand horizon. Depth to water was approximately 6 to 10 feet below ground surface. Groundwater generally flows in a southeasterly direction. Salmon Bay and the Lake Washington Ship Canal are located approximately 800 feet south of the Site.

# Legend

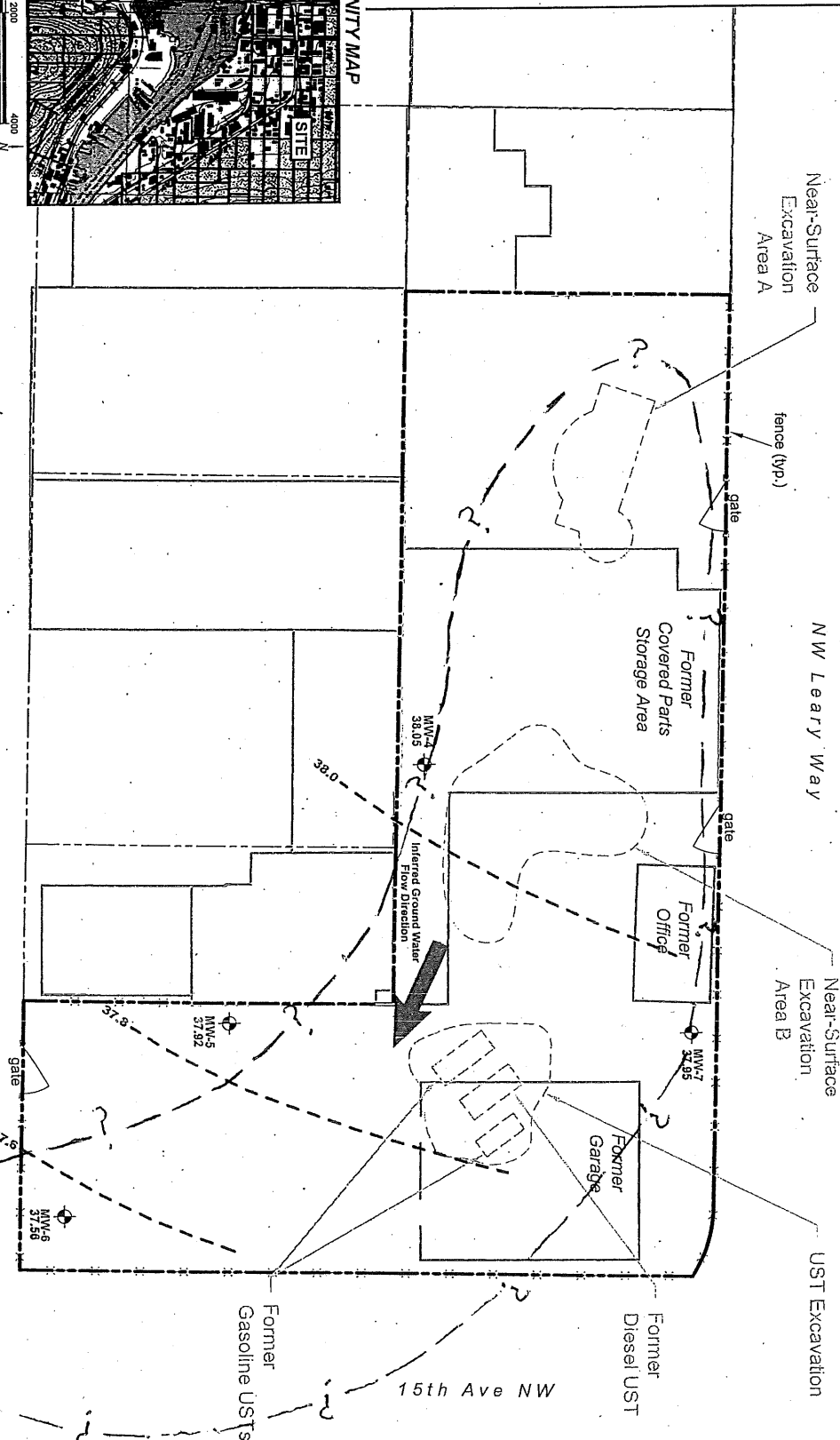
- MW-X Monitoring Well
- 38.05 Ground Water Elevation Measured on Nov. 25, 2003
- 38.0 Ground Water Elevation Contour



NW Ballard Way

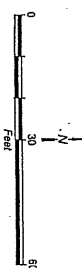
NW Leary Way

15th Ave NW



SITE VICINITY MAP

Estimated Site location, added by Bob Swackhamer, Dept. of Ecology 4/21/2009



**Aspect Consulting**  
INDEPENDENT  
1111 First Avenue, Suite 1100  
Seattle, WA 98101  
(206) 758-0033

**Ground Water Elevation Contour Map**  
November 25, 2003  
Ballard Auto Wrecking  
Seattle, Washington

DATE	PROJECT NO.
February 2004	020088
DESIGNED BY	FIGURE NO.
DAH	3
CHECKED BY	
SOM	
APPROVED BY	
JRS	