



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

November 17, 2008

Mr. Doug Hillman
Aspect Consulting
401 Second Ave. S Suite 201
Seattle, WA 98104

Dear Mr. Hillman:

Re: Opinion on Proposed Cleanup of the following Site:

- **Site Name:** Miller Property
- **Site Address:** 5356 153rd Ave SE, Bellevue
- **Facility/Site No.:** 764760
- **VCP Project No.:** NW1819

The Washington State Department of Ecology (Ecology) received your request for an opinion on your proposed independent cleanup of the Miller Property facility (Site). This letter provides our opinion. We are providing this opinion under the authority of the Model Toxics Control Act (MTCA), Chapter 70.105D RCW.

Issue Presented and Opinion

Upon completion of the proposed cleanup, will further remedial action likely be necessary to clean up contamination at the Site?

NO. Ecology has determined that, upon completion of your proposed cleanup, no further remedial action will likely be necessary to clean up contamination 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 Site

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:

- Diesel Range Petroleum Hydrocarbons into the Soil & Ground Water.



The Site includes two residences located at 5356 153rd Ave SE (King County Tax Parcel ID# 3460300130) belonging to Mr. Doug Miller and 5344 153rd Ave SE (King County Tax Parcel ID# 3460300111) belonging to Mr. Kent Bumgarner, in Bellevue Washington. Based on the reports submitted and reviewed, it has been determined that a 500-gallon leaking underground heating oil tank located under the Miller Residence and up gradient from the Bumgarner residence was the source of this release.

Enclosure A includes a detailed diagram of the Site, as currently known to Ecology.

Please note that a parcel of real property can be affected by multiple sites. At this time, we have no information that the parcel(s) associated with this Site are affected by other sites.

Basis for the Opinion

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

1. Project Summary Report Miller & Bumgarner Residences, prepared by Delta Environmental, dated July 12th 2007.
2. Remedial Action Report Miller Property, prepared by Aspect Consulting, dated October 5th 2007.
3. Request for Opinion Letter Bumgarner Property Cleanup, prepared by Aspect Consulting, dated June 10th 2008.
4. Work Plan for Groundwater Management Miller Property, prepared by Aspect Consulting, dated October 24th 2008.
5. Addendum No.1 Work Plan for Groundwater Management dated October 24th 2008, prepared by Aspect Consulting, dated November 3rd 2008.

Those documents are 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 425.649.7239.

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, upon completion of your proposed cleanup, **no further remedial action** will likely be necessary to clean up contamination at 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 and select a cleanup action. The Site is described above and in **Enclosure A**.

2. Establishment of cleanup standards.

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

a. Cleanup levels.

MTCA Method B (Use of Worksheet Soil Cleanup Level for TPH Sites) for the Protection of Groundwater was selected as the Cleanup Standard throughout the site for soils. The Site Specific Method B soil cleanup level was established at 2,770 mg/kg.

MTCA Method B (Use of Worksheet Soil Cleanup Level for TPH Sites) was selected as the groundwater standard. The site specific Method B cleanup level for TPH in groundwater was established at 782ug/L.

b. Points of compliance.

The Standard Point has been established as throughout the Site.

Please note that other requirements apply to the cleanup based on the type of the action and location of the Site. Those requirements are specified in the reports referenced above.

3. Selection of cleanup action.

Ecology has determined the cleanup action you proposed for the Site meets the substantive requirements of MTCA.

The leaking 500-gallon underground heating oil tank located under the Miller Residence was decommissioned and left in place.

Approximately 1,000 tons of heating oil-impacted soils and fractured rock were excavated and removed from the site. With the exception of the soils beneath the Miller House, subsequent remedial actions and confirmational sampling has demonstrated that the soils have been remediated sufficiently to meet the established site specific cleanup standards of 2,770 mg/kg.

Currently an Active Groundwater Recovery System trench and a 4,000 above ground tank are in place for groundwater recovery and disposal off-site of TPH impacted groundwater. At this time the 4,000 gal tank is filled on a weekly basis. Due to the

location of the source of Heating Oil left on site and the inability to excavate to the source, this groundwater recovery system will be a long term, high maintenance, and high cost system.

The Proposed system modifications are fully described in the report titled "*Work Plan for Groundwater Management*." Ecology concurs that the Time Frame for System Operation and Reporting Frequency, Confirmation Monitoring Period, Sampling SOP, and Schedule for Initial Routing of water to the Infiltration Trench, as further clarified in "*Addendum No.1*" are likely to meet the minimum cleanup requirements in WAC 173-340-360(2).

TPH soils above the Site-Specific Cleanup Standard remain inaccessible under the Miller property. If these soils cannot be remediated to meet the Site-Specific Cleanup Standards, an Environmental Covenant, will be necessary.

Limitations of the Opinion

1. 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 70.105D.040(4).

2. 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 proposed will be substantially equivalent. Courts make that determination. *See* RCW 70.105D.080 and WAC 173-340-545.

3. Opinion is limited to proposed cleanup.

This letter does not provide an opinion on whether further remedial action will actually be necessary at the Site upon completion of your proposed cleanup. To obtain such an opinion, you must submit a report to Ecology upon completion of your cleanup and request an opinion under the VCP.

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4. 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 70.105D.030(1)(i).

Contact Information

Thank you for choosing to clean up the Site under the Voluntary Cleanup Program (VCP). As you conduct your cleanup, please do not hesitate to request additional services. 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 425.649.4446.

Sincerely,



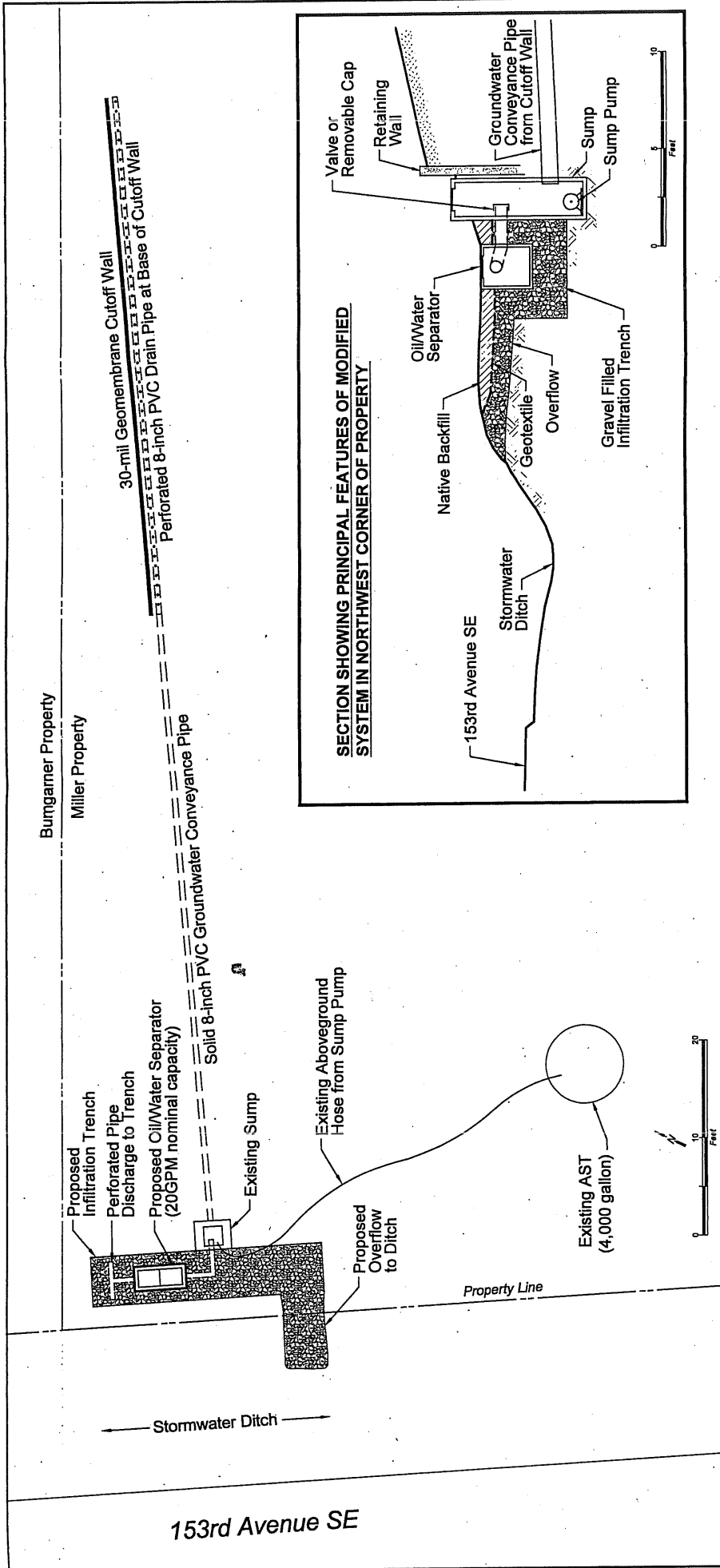
Dale R. Myers
Site Manager
NWRO Toxics Cleanup Program

DRM:ll

Enclosures (1): A – Description of the Site

Enclosure A

Diagram of the Site



Notes:
All distances, dimensions and orientations are approximate

Aspect consulting
earth+water
www.aspectconsulting.com
a limited liability company

Existing Groundwater Collection System & Proposed System Modifications
Miller Residence
Bellevue, Washington

DATE	06/24/2006	PROJECT NO.	070140
DESIGNED BY	CSH	FIGURE NO.	2
CHECKED BY			
APPROVED BY			