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ISIS entry 3/25/11

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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

March 25, 2011

Kevin Daniels  
Daniels Development Co, LLC  
2401 Utah Ave South, Suite 305  
Seattle, WA 98134

**Re: Opinion pursuant to WAC 173-340-515(5) on the Draft Final Feasibility Study for the following Hazardous Waste Site:**

- Name: North Lot Development
- Property Address: 201 South King Street, Seattle, WA 98104
- Facility/Site No.: 5378137
- VCP Project No.: NW1986

Dear Mr. Daniels:

Thank you for submitting documents regarding your proposed remedial action for the North Lot Development facility (Site) 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 regarding a 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 release(s) at the Site:

- Gasoline-range petroleum hydrocarbons (TPH-G), diesel-range petroleum hydrocarbons (TPH-D), motor oil-range petroleum hydrocarbons (TPH-O), benzene, toluene, ethylbenzene, xylenes (BTEX) in soil;
- TPH-G, TPH-D, TPH-O and benzene in ground water;
- Polycyclic aromatic hydrocarbons (PAHs) in soil and ground water;
- Arsenic and mercury in soil;
- Arsenic in ground water;
- Dioxins and furans in soil.

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



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This opinion does not resolve a person's liability to the state under MTCA or protect a person 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 proposed remedial action(s):

1. Draft Final Report: Feasibility Study, North Lot Development, Seattle, Washington, prepared by Landau Associates dated March 15, 2011.

The report 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 release(s):

- TPH-G, TPH-D, TPH-O and BTEX in soil;
- TPH-G, TPH-D, TPH-O and benzene in ground water;
- PAHs in soil and ground water;
- Arsenic and mercury in soil;
- Arsenic in ground water;
- Dioxins and furans in soil.

The Site is more particularly described in Enclosure A to the letter issued by Ecology on February 8, 2011, which includes a Site description and diagram. The description of the Site is based solely on the information contained in the document listed above.

The draft Feasibility Study (FS) referenced above identifies Alternative #3 as the preferred remedial action for the Site. This alternative includes:

- Excavation of contaminated soil in the northwestern corner of the Property in the vicinity of a former gas station ("hotspot excavation"). The excavation would extend to the water table.
- Application of material in the base of the hotspot excavation to promote biological degradation of residual gasoline and benzene contamination ("enhanced bioremediation").

- Construction of an impervious protective cap over the entire Property.
- Excavation of soil to a depth of five feet outside the footprint of buildings that will be constructed on the Property.
- Implementation of institutional controls, including an environmental covenant, to maintain the cap and prevent future exposure to contaminated soil or ground water.
- Implementation of a ground water monitoring program.
- Development of a contingency plan for controlling the migration of contaminated ground water, should such measures ever be necessary.

Ecology concurs with the choice of Alternative 3, provided the final FS incorporates the following changes:

- The final FS should clearly define the areas outside the building footprint that will be over excavated to a depth of five feet, and the areas that will not be excavated to five feet deep, but will be covered by concrete.
- Some minor inconsistencies on Page 8-5 and 8-6 should be corrected. The narrative is conflicting with the ranking numbers in Table 1 and 2. For example, in the section of "Protectiveness of human health and the environment", the text states that Alternative 4 provides a slightly higher level of protection than Alternatives 1 and 3. However, the ranking number for Alternative 4 and 3 are the same, both ranked as 5.
- The compliance monitoring plan included with the draft FS will be reviewed by Ecology as part of the Cleanup Action Plan. As such, it should be removed from the final FS.

Assuming these final changes are made in the FS, it is Ecology's opinion that the proposed alternative meets the substantive requirements of MTCA, Chapter 70.105D RCW, and its' implementing regulations, Chapter 173-340 WAC (collectively "substantive requirements of MTCA"). Specifically, Alternative 3 meets the minimum threshold requirements, considers public concerns, provides for a reasonable restoration time frame, and is permanent to the maximum extent practicable.

Please note that 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.

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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.

If you have any questions regarding this opinion, please contact me at (425) 649-4310.

Sincerely,



Jing Liu  
NWRO Toxics Cleanup Program

jl: kp

Cc: Kathy Brown, King County  
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