

State of Washington POLLUTION LIABILITY INSURANCE AGENCY 300 Desmond Drive SE • PO Box 40930 • Olympia, Washington 98504-0930 (360) 407-0520 • (800) 822-3905 • FAX (360) 407-0509 www.plia.wa.gov

October 30, 2017

Mr. Randy Ackerman GDCV Lower Queen Anne, LLC 450 Sansome Street, Suite 500 San Francisco, CA 94111

#### Re: Opinion pursuant to RCW 70.149.040(9) and WAC 173-340-515(5) on Heating Oil Decommissioning and Closure for the following Site:

- Owner/Contact Name: GDCD Lower Queen Anne, LLC
- **Property Address:** 318 First Ave West, Seattle, WA 98119
- HOTAP Project No.: 540

#### Dear Mr. Ackerman:

Thank you for submitting the document regarding remedial action for 318 First Ave West, Seattle, WA 98119 (Site) for review by the Washington State Pollution Liability Insurance Agency (PLIA) under the Heating Oil Technical Assistance Program (HOTAP). PLIA appreciates your initiative in pursuing this administrative option for cleaning up a contaminated site 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 the substantive requirements of MTCA and the Heating Oil Pollution Liability Protection Act Chapter 70.149 RCW, for characterizing and addressing the following releases at the Site:

#### **Presented and Opinion**

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

NO. PLIA has determined that no further remedial action is necessary at the Property to clean up contamination associated with the Site. 2. Is further remedial action still necessary elsewhere at the Site?

# YES. PLIA has determined that further remedial action is still 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 it's 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 and Tax Parcels within the Site

The Property includes the following <u>**Tax Parcel**</u> in King County, which were affected by the Site and will be addressed by your cleanup:

• 1989201095

The Property does not include portions of the following right-of-way easements/Alley, which are located on that parcel:

• City of Seattle -Alley/Right-of-Way east of the Parcel No. 1989201095

Enclosure A includes a legal description of the Property.

#### 2. Description of the Site.

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

• Total diesel-range and oil-range petroleum hydrocarbons (TPH-D) & Naphthalene into the soil/vapor.

Those releases have affected more than one parcel of real property, including the parcels identified above.

**Enclosure B** includes a diagram of the Site that illustrates the location of the Property within the Site

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

Please note a parcel of real property can be affected by multiple sites. At this time, we have no information that the Property is affected by other sites.

#### **Basis for the Opinion**

This opinion is based on the information contained in the documents listed below:

 Construction Completion Report; Uptown Flats Project – 301 Queen Anne Avenue North and 300 First Avenue West Seattle by HARTCROWSER, Project No. 19040-06 of May 1, 2017

These documents are kept on file with PLIA for review by appointment only. Appointments to review these records can be made by calling our office at 1-800-822-3905.

#### Analysis of the Cleanup

#### 1. Cleanup of the Property Located within the Site

PLIA has concluded that **no further remedial action** is necessary to clean up contamination at the Property. That conclusion is based on the following analysis:

#### a. Characterization of the Site.

PLIA has determined your characterization of the Site is sufficient to establish cleanup standards for the Site and select a cleanup action for the Property. The Site is described above and in **Enclosure B.** 

#### **Conceptual Site Model (CSM)**

Soil Direct Contact: The soils at the Site can be described as three units. The Fill unit generally extends between 1 to 8 ft. below ground surface (bgs) and consist predominantly of loose to medium dense slightly silty to silty sand and medium stiff very sandy silt. Beneath the Fill, is about 5 to 26 ft. thick layers of medium dense to very dense slightly silty to very silty sand and very stiff to hard sandy silt. Beneath the silt, a stiff clay is present between about 10 to 28 ft. bgs and extends to the bottom of the exploration to depths of 61.5ft bgs.

**Northeast Corner Hotspot:** Petroleum contaminated soil (PCS) hotspot was detected 10 ft. bgs at the Northeast Corner of the Site.

**Unknown UST:** An Unknown UST was encountered about 40 ft. west and 13 ft. south of the northeast corner of the property at depths of 3.

To 6 ft. No PCA impact was associated with this UST at this location. (Fig. 2).

The location of the PCS hotspot detected at this site is within the depths (0 to 15ft bgs) that humans (utility workers and property developers) may come in contact.

**Result:** the Direct Contact Exposure pathway is a concern at this Property.

- **ii. Groundwater:** Groundwater was not encountered up to the maximum explored depth of 61.5 ft. bgs at this Site.
  - No construction dewatering of groundwater was performed nor was it necessary during the property development.
  - Regional groundwater flow direction is southwest towards Elliot Bay located about 0.2 miles southwest of the site **Result:** soil to groundwater exposure pathway (leaching) is **not** a concern at this Property.
- **iii. Vapor Exposure:** Building footprints within the lateral inclusion zone of 30 feet or within a 15 ft. vertical separation distance from the edge of a contaminant source that is above the MTCA Method A unrestricted land use (soil or groundwater) may require vapor assessment/mitigation.
  - The lateral inclusion zones and vertical separations are the areas surrounding a contaminant source through which vapor phase contamination might travel and intrude into buildings (ITRC 2014, EPA 2015, Ecology Draft VI Guidance update 2016).
  - PCS detected at the site characterization phase is above the MTCA Method A unrestricted land use.

Result: the vapor exposure pathway is a concern at this Property.

- iv. Surface water: There are no surface waters in the vicinity of the subject Property.
  - The nearest surface water of the Elliot Bay is located about 0.2 miles southwest of the site.

**Result:** the Surface water exposure pathway is **not** a concern at this Property.

#### b. Establishment of cleanup standards.

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

i. Cleanup Levels

Contaminants of concern (COCs)	Soil Cleanup Levels mg/kg (Method A) Un-restricted Land Use (DC & Vapor)	Indoor/Air Cleanup levels ug/m <sup>3</sup> (Method B CUL)	Sub-slab/ soil gas ug/m <sup>3</sup> (Method B SL)	Groundwater Cleanup levels ug/l (Method A)
TPH-D/O	2000	-	-	500
Naphthalene	5	1.37	45.7	160

#### The proposed Method A, <u>unrestricted land use</u> cleanup levels are:

#### ii. **Points of Compliance.**

#### The proposed Points of Compliance are:

**Soil -Direct Contact**: For soil cleanup levels based on human exposure via direct contact, the point of compliance is: "...*throughout the Site from ground surface to 15 feet below the ground surface.*"

**Groundwater:** For groundwater, the standard point of compliance as established under WAC 173-340-720(8) is: "...throughout the site from the uppermost level of the saturated zone extending vertically to the lowest most depth which could potentially be affected by the site."

Vapor: Ambient and Indoor Air throughout the site

#### c. Selection of cleanup action for the Property.

PLIA has determined the cleanup action you selected for the Property meets the substantive requirements of MTCA. The cleanup meets the minimum cleanup requirements and does not exacerbate conditions or preclude reasonable cleanup alternatives elsewhere at the Site.

- Decommissioning of the Unknown UST by removal
- Excavation to the extent technically practicable (about 98 tones) of the PCS hotspot at the Northeast Corner next to the Alley (City of Seattle ROW) and disposed at a permitted facility
- Conducted Confirmation sampling of the soil to confirm effectiveness of the remedial action

#### d. Cleanup of the Property.

PLIA has determined the cleanup you performed meets the applicable Site cleanup standards within the Property. (your cleanup met the clean-up levels at the points of compliance up to the Property boundary).

#### i. Direct Contact:

#### **Decommissioning of UST**

• Decommission by removal of the 300 gal Unknown UST

#### **Excavation:**

#### **Unknown UST & Northeast Corner Hotspot**

- Excavation was completed within the footprints of the planned building and underground parking garage from approximately 3 to 31 ft. bgs. (about 98 tons)
- Excavation within the development removed all of the known contaminated soil on and beneath the Property.

#### **Points of Compliance:**

Northeast Corner Hotspot:

The limit of the excavation is bounded by the extent of PCS confirmation soil sampling results below cleanup levels: laterally, to the north it is bounded by boring UF-F-SW-N; to the south by boring UF-F-SW-S and at the center by Boring UF-F-B. However, it is not bounded to the East, UF-F-SW-E at the Alley (<u>off</u> <u>property</u> limits) due to structural and access limitations in the Alley-right of way. (Figs. 2 and 3).

#### Unknown UST:

• Points of Compliance: The limit of the excavation is bounded by the extent of PCS confirmation soil sampling results below cleanup levels: laterally, to the north it is bounded by boring UF-UST-SW-N; to the south by boring UF-UST-SW-S; to the west by boring UF-UST-SW-W; to the east by boring UF-UST-SW-E and at the center by Boring UF-UST-B. (Figs. 2 and 3).

**Result**: <u>the soil Direct Contact exposure pathway is **no** longer a <u>concern at this Property.</u></u>

#### ii. Vapor Exposure Pathway:

- The lateral and vertical extent of confirmation sampling results show that no PCS above the MTCA Method A Unrestricted Land use Criteria is present at the Property
- Within the footprint of the planned buildings and underground parking garage, the depth of the area excavation ranged from approximately 3 to 31 ft. bgs.
- Excavation within the development removed <u>all</u> of the known contaminated soil on and beneath the Property boundary.

**Result:** the vapor exposure pathway is **no** longer a concern at this <u>Site.</u>

#### 2. Cleanup of the Site as a whole.

PLIA has concluded that **further remedial action** under MTCA is still necessary elsewhere at the Site (Alley-City Right of Way). In other words, while your cleanup constitutes the final action for the Property, it constitutes only an **"interim action"** for the <u>Site as a whole</u>.

#### 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(s) 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 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 performed is equivalent. Courts make that determination (RCW 70.105D.080 and WAC 173-340-545).

#### 3. State is immune from liability.

The state, PLIA, 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.

#### **Contact Information**

Thank you for choosing to clean up your property under the PLIA Heating Oil Insurance Program. If you have any questions about this opinion, please contact me by phone at 1-800-822-3905, or by email at <u>nnamdi.madakor@plia.wa.gov</u>.

Sincerely,

ada NNAMDI I. MADAKOR

Nnamdi Madakor P.HG, P.G., Technical Program Manager WA State Pollution Liability Insurance Agency

Enclosures: A – Legal Description

B – Description and Diagram of the Site
Figure 1: Topographic Map
Figure 2: Property within the Site & Confirmation Sampling Results
Figure 3: Cross-Section AA'

### **Enclosure** A

## **Legal Description of the Property**

DENNYS D T NORTH SEATTLE ADD LESS POR FOR ALLEY PER DEED REC #20160316000605

### **Enclosure B**

Description and Diagrams of the Site (Including the Property) Mr. Ackerman Oct 30, 2017 Page **11** of **14** 

### **Site Description**

**Setting:** The Property is located in the Lower Queen Anne neighborhood in Seattle, Washington, which is north of downtown Seattle (Figure 1). The Site is at 318 First Ave W. The Site is comprised of one tax parcel, 1989201095 in King County.

**Historic Use**: This property was undeveloped from 1893 to 1905. Dwellings were constructed in the early 1900s, and remained on the property through the mid-1970s. A house constructed in 1906 was heated with an oil burner. A cabinet shop was constructed near the alley by the 1960s. By 1985, all buildings were demolished, and the property was a paved parking lot, and has been used for parking since that time. The Seattle Elks purchased the property in 1993.

**Current Use:** GDCV Lower Queen Anne, LLC is developing the property with a six-story building over the eastern portion of the Site and a seven-story building with one level of underground parking over the western portion.

**Geology:** The soils at the Site can be described as three units. The Fill unit generally extends between 1 to 8 ft. below ground surface (bgs) and consist predominantly of loose to medium dense slightly silty to silty sand and medium stiff very sandy silt. Beneath the Fill, is about 5 to 26 ft. thick layers of medium dense to very dense slightly silty to very silty sand and very stiff to hard sandy silt. Beneath the silt, a stiff clay is present between about 10 to 28 ft. bgs and extends to the bottom of the exploration to depths of 61.5ft bgs.

**Hydrogeology**: The regional groundwater table was not encountered in the geotechnical borings down to 61.5 feet bgs. However, perched groundwater was noted in several borings on and near the Site. Two monitoring wells were installed on the Site (HC-102 and HC-104) and screened across the perched groundwater elevations, which were observed at approximately 20 and 5 feet bgs, respectively. Groundwater was irregularly distributed in the soils overlying the low permeability clay, and was generally observed at elevation 80 feet (referenced to the North American Vertical Datum of 1988 [NAVD88]), though slightly elevated perched groundwater levels were present at the northeast corner (Hart Crowser 2015). Site-wide dewatering did not occur due to the low permeability of the soils containing perched groundwater. The surrounding area topography slopes down to the west and southwest toward Elliott Bay, which is located approximately 0.2 miles southwest of the Site. Based on surrounding area topography and perched groundwater elevations, groundwater is likely to flow to the west/southwest, toward Elliott Bay.

**Previous Studies and Interim Actions: Phase I Environmental Site Assessment (2014/(b))** The Phase I noted that geotechnical borings close to suspected UST locations did not indicate any evidence of environmental impacts

Phase II Environmental Site Assessment (2014) Included a ground penetrating radar (GPR) survey and a

limited HBM survey (Hart Crowser 2014a)

**Phase II Environmental Site Assessment (2015)** Geotechnical investigations on the Site included advancing six borings, and completing two borings as monitoring wells (Hart Crowser 2015). The soils were screened and there was no evidence of any environmental impacts (e.g. odors or staining). No regional groundwater was encountered during any of the subsurface investigations.

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### Fig. 1: Property Location & Topography

EAL 12/1/16 1904006-001.dwg





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Fig. 3: Cross-Section AA'