

June 4, 2024

Pat Austin  
5602 South Tacoma Way  
Tacoma, Washington 98409

RE: Project Update and Site Summary - Canyon Town Center Project

Dear Mr. Austin:

ECI is providing you with a project status update and site summary of ECI's work and progress on the Canyon Road Town Center Project located at 17201 to 17221 Canyon Road East in Puyallup, Washington (Property/Subject Property). ECI has been working on two fronts with this project. The first one is the technical characterization of the contamination that was found on the Property and the second is working with the regulatory agencies to determine who will be the regulatory agency reviewing the activities at the site to make sure that the substantial requirements of the Model Toxics Control Act (MTCA) are met as required by the Washington State Department of Ecology (Ecology) or the Washington State Pollution Liability Insurance agency (PLIA).

### **Groundwater Sampling**

Previous investigations conducted on the Subject Property identified soil and groundwater contamination on the Property. As a result, ECI conducted a Remedial Investigation (RI) in August 2023. That investigation revealed that the soil gas below the site contained benzene above the Ecology Vapor Intrusion Screening levels, and groundwater contamination in the groundwater in two of the groundwater-monitoring wells located on the property. Those two wells were located in the northeast portion of the Subject Property adjacent to the west of the Looker & Associates Gravel Pit (Looker) within a former stormwater pond.

Based on the results of the RI and previous investigations by others, ECI recommended that quarterly groundwater monitoring be undertaken on the Subject Property to monitor the contamination observed and enter the Subject Property into the Washington State Pollution Liability Insurance Agency (PLIA) Technical Assistance Program (TEC). As of the date of this update, groundwater samples have been obtained from the site for three consecutive quarters starting in October 2023. The results from the first two sampling events reported the presence of diesel-range organic hydrocarbons (DRO) or oil-range organic hydrocarbons (ORO) in the two wells located in the northeastern portion of the property immediately down gradient from the Looker property, within the area of the former storm water pond.

The latest groundwater sampling event was conducted on May 14 and 15, 2024. The results from that sampling event revealed the presence of DRO and/ or ORO below the MTCA Method A Cleanup Levels in 8 of the wells sampled the remaining wells did not detect contamination and two wells were not sampled because they were dry.

A report summarizing the sampling event was prepared and submitted to you on May 29, 2024. Submittal of the report to PLIA and/or the department of Ecology has not been completed as of this letter.

### **Regulatory Agency Interactions**

This section summarizes the regulatory interactions ECI has had with PLIA and Ecology and provides an update on the current regulatory status of the Property.

Following the preparation of a Remedial Action report in December 2023, ECI submitted the report and a Technical Assistance Application to PLIA. A virtual intake meeting with PLIA to discuss the Property took place on December 19, 2023. At that meeting, PLIA indicated that they thought the Property and the discovery of contamination needed to be reported to Ecology through Ecology's Environmental Reporting and Tracking System (ERTS) since it may be considered a new "site". After an extended interaction between Ecology, PLIA and ECI, an Email from ECI to the Ecology Southwest Regional ERTS was sent to on March 8, 2024. Ecology responded on March 11, 2024 indicating that the Site was given the ERTS reporting number of 729382 and referred to the Toxics Cleanup Program (TCP) for review and follow up.

Ecology's assignment to TCP for review triggers an Initial Investigation determine if the reported site should actually be listed as a cleanup site and given a Cleanup Site Identification number. If the release is deemed to be a new Site requiring cleanup, Ecology finalizes the Initial Investigation and issues an Early Notice Letter (ENL) to the property owner. The ENL notifies the property owner that Ecology has listed their site as a cleanup site with the assigned identification number and lays out the regulatory options for cleaning up the site.

The Initial Investigation consists of obtaining and reviewing all available information to allow Ecology to make an informed decision regarding the listing. Ecology requested that ECI provide them with the 2023 Partner Engineering Phase I and Phase II Environmental Site Assessment reports which were provided to them by ECI on March 12, 2024.

In addition, on March 12, 2024, Ecology notified ECI that Aaren Fielder was assigned to prepare the draft Initial Investigation and requested any additional information ECI thought would be appropriate for him to review. ECI responded by sending Mr. Fiedler the December 2023 Remedial Investigation report and also suggested that Mr. Fiedler review the Ecology files for the adjacent Looker & Associates (Looker) site because there was relevant information in those files. Specifically, that the Subject Property was immediately down gradient from a known contaminated Site (Looker Property). ECI also indicated that the site was a high priority for our client since they had tenants lined up for the future redevelopment planned for the site.

Mr. Fiedler emailed ECI on March 13, 2023 asking if there had ever been any underground or aboveground storage tanks (UST/AST) on the Subject Property and indicated that at one point it appeared that a portion of the Subject Property was identified as being part of the Looker cleanup "Site" as defined by MTCA. ECI indicated that to the best of our knowledge that had never been a UST or AST on the Subject Property and provided additional historical information to Mr. Fiedler including five (5) reports and letters from the Looker Cleanup Site files.

On March 20, 2024, ECI emailed Mr. Fiedler requesting a status update regarding the Initial Investigation indicating that our client was anxious to move forward with the site. Mr. Fielder responded that the process was not a quick process and that he hoped to have a draft report sent to the Initial Investigation coordinator for review by the end of March before he went on leave.

Mr. Fiedler indicated that after review of the Initial Investigation by the coordinator, the report would be reviewed by the Regional TCP Section Head for “sign-off”, any of whom could change the recommendations in the report. Following that, the Initial Investigation would go to one of the administrative staff to create the site identification number in the Ecology database and to prepare the ENL for the Section Head to sign and have mailed out. He indicated that at the time, the process was taking several months.

ECI requested an update from Mr. Fiedler upon his return to the Offices and on April 15, 2024 he replied that he had completed the report and recommended listing the Property as a contaminated site. He said that his involvement with the process was completed after he submitted the draft Initial Investigation report but would check with the coordinator and section head regarding the report.

ECI responded to Mr. Fielder thanking him for his assistance and indicated that one of the reasons that PLIA had indicated an ERTS report be completed was that they were not sure if they had jurisdiction over the site. Mr. Fielder responded that since there were not any USTs or ASTs on the Property, he was sure and provided ECI with a Voluntary Cleanup Program (VCP) eligibility form to complete which determines if a site would be eligible for the PLIA TAP. He also indicated that as of the Date of his email (April 16, 2024) the Initial Investigation report was on the desk of the section head for review and sign off.

ECI reviewed that form and realized that it was ambiguous as to whether the site would be overseen by Ecology or PLIA and that the two agencies needed to decide between themselves as to where the site ended up. On April 30, 2024, ECI sent an email to Mr. Justin Woerth at PLIA updating him on the status of the Initial Investigation and indicated that the VCP Eligibility form was ambiguous on whether Ecology or PLIA would oversee the site cleanup and that it appeared the PLIA and Ecology would need to meet to decide the regulatory agency overseeing the site. ECI requested that PLIA meet with Ecology and make a decision as soon as possible.

Mr. Woerth responded that when there was ambiguity regarding a site, PLIA usually “defer to VCP for eligibility” and that PLIA has “no authority to admit anyone into the Technical Assistance Program until that is resolved.” ECI indicated that it would be appreciated if he could reach out to whoever makes a decision at Ecology and discuss the site with them.

On May 10, 2024, ECI sent an email to Mr. Woerth inquiring if he had met with Ecology regarding the Site. That same day, ECI received a copy of an email from PLIA to Pat Austin indicating that the Site had been accepted into the PLIA TAP **as the Looker & Associates site** with the PLIA TAP ID of P-SW2837 and to go to their “Online Community” to formally request an opinion on the information previously submitted.

ECI went to the Online Community and formally requested an opinion on the site from PLIA and to make sure that the appropriate files had been uploaded for review. While in the Online Community, we observed that the PLIA site manager was Mr. Nicholas Murray. ECI emailed Mr. Murray on May 15, 2024 to indicate that we had requested an opinion and had uploaded several additional files for PLIA’s review and emphasized that the Site was a high priority for us and our client.

Mr. Murray responded saying that he would do what he could do but would not promise and that ECI provide him with an annotated list of the file and which one would be the best ones to review. ECI

prepared an annotated list of files and emailed them to Mr. Murray on May 17, 2024 highlighting the ones we thought were the most useful to review.

On May 20, 2024, ECI emailed Mr. Fiedler at Ecology requesting an status update on the Initial Investigation and if an Early notice letter had been sent out. He responded that the Initial Investigation was completed and was in the “stack of Initial Investigation to be reviewed and signed.” Also on May 20, 2024, ECI emailed Mr. Murray at PLIA requesting a meeting to discuss the site and answer any questions he would have and that our client and the site developer would like to be present. He responded indicating that he would be glad to set up a meeting and proposed May 29 or 30<sup>th</sup> as days he would have some time. He also indicated that it appeared that appeared to be several hundred pages spread across 14 files to review and that when PLIA has that much material to review they typically can’t guarantee their opinion letters were truly reflective of the reported materials as they can only spend so much time on one site. He proposed that he review the four most recent documents. ECI responded on May 21, 2024 indicating that we would check on the dates for a meeting and provided him a list of 5 reports to review if he had limited time for review. We also indicated that there would be some redundancy in the reports since we try to make each report standalone and not be dependent on previous reports and that would make it easier for him to review the reports.

On May 21, 2024, ECI received an email from Mr. Woerth at PLIA indicating that the PLIA work on the site was being placed on hold. He stated:

*“I have been discussing this site with the Department Ecology, and I think we need to pause before moving any further ahead. As discussed before, Ecology needs to complete the Initial Investigation from your ERTS report before we can progress towards any sort of closure under PLIA’s TAP. As of today, the Initial Investigation still has not been completed; I am happy to meet with additional Ecology personnel if they believe it would be helpful. Depending on what they decide, there may or may not be a path to closure under TAP.”*

He indicated that he would keep everyone updated as soon as he heard anything from Ecology and that he was:

*“...not sure how this got accepted into the program; I had let our financial staff know that we should not be accepting payment until Ecology decided how to list the Site. It is ok to leave the status as is for now to avoid extra administrative steps with refunding and possible repayment to TAP – it is still possible that we may be able to accept the Site. However, it is also possible that this will need to be dealt with under an Ecology program – in which case we would issue a refund.”*

## **Summary**

In summary, since completion of the Remedial Investigation Report in December 2023, ECI has sampled the groundwater monitoring wells on the Property twice in 2024 with the last sampling event being May 14 and 15, 2024. The analytical results from the samples collected during that event revealed that the contaminants of concern were below the MTCA Method A Cleanup Level for each of the wells sampled.

For the regulatory agency interactions. ECI submitted the Remedial Investigation report and an application for the Technical Assistance Program (TAP) to PLIA and had an intake meeting with them. PLIA indicated

that the site needed to be reported to Ecology using the Environmental Reporting and Tracking System (ERTS).

ECI submitted an ERTS report to Ecology who indicated that an Initial Investigation would be undertaken to determine if the site needed to be listed as a cleanup site and if so, be issued a Cleanup Site Identification Number along with a determination of whether the site would be overseen by Ecology or PLIA. As of the date of this update letter, the Initial Investigation report has been completed and is on the desk of the Ecology Regional Section Head for review and signature.

On May 10, 2024 ECI received a copy of an email from PLIA indicating that the site had been accepted into the PLIA TAP. ECI was working with the assigned PLIA site manager when we received an email on May 21, 2024, from the PLIA Technical Team Supervisor that work had been placed on hold because Ecology had not finalized the Initial Investigation process and they don't have authority to accept sites into the TAP until Ecology is finished with the II process. They indicated that the site had been mistakenly accepted into the TAP. PLIA indicated that *"there may or may not be a path to closure under TAP"* depending on discussions with Ecology once they completed the Initial Investigation process.

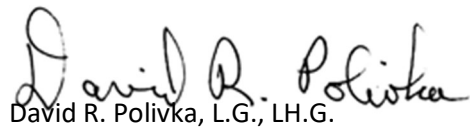
At this point, we are waiting for the regulatory agencies to make their decision regarding the Site. ECI would prefer if the site were overseen by PLIA since they tend to be faster and at times easier to work with. However, if we try to press Ecology for a decision, we may not get that results since it would be quicker and easier for Ecology to say we will just keep the site without discussing it with PLIA. In addition, it has been our Experience that if we pressure Ecology, they then tend to be somewhat harder to deal with and want everything "by the book" and want more from us which slows down the process.

### **Closing**

ECI appreciates this opportunity to be working with you on this site. If there are any questions regarding this update and site summary, please do not hesitate to contact us.

Sincerely,

ECI | Environmental Consulting

A handwritten signature in black ink that reads "David R. Polivka". The signature is fluid and cursive, with the first name "David" being the most prominent.

David R. Polivka, L.G., LH.G.  
Sr. Hydrogeologist