



COPY

**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

Southwest Region Office
PO Box 47775 • Olympia, WA 98504-7775 • 360-407-6300

November 14, 2024

Roger Wilson
Wilson Real Estate
222 S 1st St
Yakima, WA 98901
roger@wilsonrm.com

Re: Technical Assistance on Confirmation Soil Sampling Workplan

Site name: Starbucks Diesel Release
Site address: 2013 East 1st St, Port Angeles, WA
Facility/Site ID: 99998137
Cleanup Site ID: 17038
VCP Project No.: SW1835

Dear Roger Wilson:

The Washington State Department of Ecology (Ecology) received your request on October 1, 2024, for an opinion regarding the sufficiency of the Confirmation Soil Sampling Workplan for the Starbucks Diesel Release (Site) under the Voluntary Cleanup Program (VCP).¹ The workplan is being submitted in response to recommendations made in Ecology's August 23, 2024 No Further Action-Likely opinion.²

This letter provides our opinion and analysis. We are providing this opinion under the authority of the Model Toxics Control Act (MTCA), Chapter [70A.305](#) RCW.³

¹ <https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Voluntary-Cleanup-Program>

² Ecology, No Further Action – Likely Opinion for Starbucks Diesel Release, August 23, 2024.

³ <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305>

Issue Presented and Opinion

Ecology understands that you are requesting technical assistance regarding the proposed investigative scope of work recommended by your consultant for moving the Site towards regulatory closure.

Cleanups performed under the Voluntary Cleanup Program (VCP) are considered independent actions conducted without department oversight or approval. Ecology does not provide *approval* of any Report or Workplan for a VCP project. Rather, under WAC 173-340-515, we provide our concurrence with either the completed or proposed work (or not), supported by non-binding informal advice and technical assistance.⁴

Ecology bases this opinion on an analysis of whether the remedial action meets the substantive requirements of MTCA and its implementing regulations, which are specified in Chapter 70A.305 RCW and Chapter [173-340](#) WAC⁵ (collectively called “MTCA”).

Site Description

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(s):

- Gasoline-range total petroleum hydrocarbons (TPH-G) and diesel-range TPH (TPH-D) into the soil.
- Benzene, toluene, ethylbenzene, and total xylenes (BTEX) into the soil.

A description of the Site is included in the December 2022 Underground Storage Tank Site Assessment Report by Krazan & Associates, Inc.⁶

The Site consists of a 2.65-acre lot, with Clallam County Assessor’s parcel number 063012500440 (also internally referenced on Ecology TCP Maps database as parcel 063012500500). The parcel was vacant at the time the UST was discovered.

Please note that releases from multiple sites can affect a parcel of real property. At this time, Ecology has no information that other sites affect the parcel(s) associated with this Site.

⁴ WAC 173-340-515(5)

⁵ <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-340>

⁶ Krazan & Associates, Inc. (Krazan), Underground Storage Tank Site Assessment Report, December 12, 2022.

Basis for the Opinion

Ecology bases this opinion on information in the documents listed in **Enclosure A**. You can request these documents by filing a [records request](#).⁷ For help making a request, contact the Public Records Officer at recordsofficer@ecy.wa.gov or call (360) 407-6040. Before making a request, check if the documents are available on the [CSID 17038 Cleanup Site Search Page](#)⁸

This opinion is void if information in any of the listed documents is materially false or misleading.

Ecology Comments on the Workplan

Consistent with the prior investigative and remedial work completed by others at the Site, Ecology concurs with AEG's current understanding of the nature and extent of contamination at the Site. Ecology also concurs with the proposed Workplan scope of the additional two confirmatory soil borings but recommends the addition of a third confirmatory soil boring at the former soil boring location SL-4 which exhibited TPH-G above the MTCA A CUL. Furthermore, Ecology concurs with the proposed analytical schedule.

Surface Datum. Ecology needs additional clarification of AEG's understanding of the current surface datum as the new asphalt parking lot at a different grade and how that will be correlated with the prior SL-02 and SL-04 sample depths. This concern speaks to the prior consultant Krazan never having clarified what constituted ground surface after the UST nest lid was discovered. Ecology suspects the Krazan reference datum meant below the buried UST nest lid elevation (i.e., 6 feet bgs). If so and with the UST nest lid at 6 feet bgs, the excavation soil samples collected at 5 feet bgs would have actually been collected at 11 feet bgs), with the deepest samples at 11.5 feet actually collected at 17.5 feet bgs.

Further, the referenced geotechnical borings were advanced in 2020,⁹ while the UST was discovered in 2022. As such, Ecology concludes that it appears the work completed for the majority of the Krazan investigation may have used the UST nest lid depth as the datum. So by adjusting for the assumed datum change (original grade vs UST nest lid depth), the maximum depth explored was 15 feet below the UST nest lid. Ecology requires clarification regarding this as the two datums were used interchangeably and added confusion as to what depth we should

⁷ <https://ecology.wa.gov/About-us/Accountability-transparency/Public-records-requests>

⁸ <https://apps.ecology.wa.gov/cleanupsearch/site/17038>

⁹ Krazan, Underground Storage Tank Site Assessment Report, pg. 4, December 12, 2022.

consider as the actual point of compliance. As an example, the UST soil confirmation samples that are identified at 5 feet bgs are problematic given the top of the UST was located at 6 feet bgs. Further, AEG should also ascertain any difference between the original grade and the new grade after the current redevelopment.

Ecology suggests clarifying the selection of the surface datum used by Krazan as well as any changes between the original and current (post-development) grade with the development contractor and modifying this workplan accordingly. Resolving this is key to achieving a similar soil boring sample depth profile under the proposed scope of work. To that end, Ecology recommends extending the soil boring depth to 20 feet bgs if achievable with direct-push drilling technology and collecting soil samples for analysis at depths of 10, 15, and 20 feet bgs. If the terminal boring depth is 15 feet bgs, then soil samples should be collected at the 5, 10, and 15-foot depth intervals specified in the workplan.

Terrestrial Ecological Evaluation (TEE). A Simplified Terrestrial Ecological Evaluation was performed for the Site in accordance with WAC 173-340-7492(2). Based on the results of that evaluation, Ecology did not concur with the conclusion that the area of soil contamination was less than 350 square feet and that the Site could be excluded from further TEE. Based on the excavation extent of petroleum-contaminated soil illustrated in the Site Plan,¹⁰ Ecology calculated an approximate impacted soil area of 400 square feet. However, based on Ecology's understanding of data previously presented, Ecology excluded the Site from further TEE as soil was not contaminated above the standard point of compliance¹¹ and as such, institutional controls were not assumed to be needed.¹² However, please be aware that the TEE may need to be reevaluated after collection and analysis of the proposed soil boring data.

Ecology's Environmental Information Management System (EIM) Database. Site data must be uploaded as soon as possible in accordance with WAC 173-340-840(5) and Ecology's Toxics Cleanup Program Policy 840. Based on our current internal backlog, it is anticipated that acceptance of Site data into EIM will take 4 to 6 months. The VCP cleanup project manager will review and approve the Site data upon acceptance.

¹⁰ Krazan, Underground Storage Tank Site Assessment Report, Site Plan, December 12, 2022.

¹¹ WAC 173-340-7491(a)

¹² WAC 173-340-7490(4)(b)

Limitations of the Opinion

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 [70A.305.040](#)(4).¹³

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 if the action you performed is substantially equivalent. Courts make that determination. See RCW [70A.305.080](#)¹⁴ and WAC [173-340-545](#).¹⁵

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 [70A.305.170](#)(6).

¹³ <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305.040>

¹⁴ <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305.080>

¹⁵ <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-340-545>

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If you have any questions about this opinion or Ecology's recommendations, please contact me at 360-489-5347 or joe.hunt@ecy.wa.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "JB Hunt", with a stylized flourish at the end.

Joseph B. Hunt, LHG
Southwest Region Office,
Toxics Cleanup Program

JB: at

Enclosures (2):

A – Basis for the Opinion: List of Documents

cc:

Scott Rose, LHG, AEG an Atlas Geosciences NW Company; srose@aegwa.com
Tim Mullin, LHG, Ecology; tim.mullin@ecy.wa.gov
Ecology Site File

Enclosure A

Basis for the Opinion: List of Documents

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1. AEG Atlas, *Confirmation Soil Sampling Work Plan – Starbucks Diesel Release*, October 1, 2024.
2. Ecology, *No Further Action – Likely Opinion, Starbucks Diesel Release*, August 23, 2024.
3. Atlas Geosciences NW (Atlas), *Summary of Previous Environmental Assessments*, June 21, 2024.
4. Atlas, *Submittal of Supplemental Information-Vacant Port Angeles Site*, April 19, 2024.
5. Ecology to Atlas (Email), *Continued Data Gaps Response*, January 22, 2024.
6. Atlas, *Response to Ecology’s December 14, 2023 Email*, January 15, 2024.
7. Ecology to Atlas (Email), *Re: Vacant Port Angeles Intake*, December 14, 2023.
8. Krazan Associates, LLC., *UST Assessment Report*, December 12, 2022.
9. Atlas, *Phase I Environmental Site Assessment – Port Angeles Mobile Home Park*, September 11, 2020