



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

January 7, 2025

Jack Wishneski
Penske Truck Leasing
2675 Morgantown Rd
Reading, PA 19607
jack.wishneski@penske.com

Re: No Further Action opinion for the following contaminated Site

Site name:	Penske Truck Spill Marvin Rd NE
Site address:	2527 Marvin Rd NE, Lacey, 98516, Thurston County
Facility/Site ID:	85587
Cleanup Site ID:	15551
VCP Project No.:	SW1803

Dear Chris Hawk:

The Washington State Department of Ecology (Ecology) received your request on April 18, 2023, for an opinion regarding the sufficiency of your independent cleanup of the Penske Truck Spill Marvin Rd NE facility (Site) under the Voluntary Cleanup Program (VCP).¹ To provide an opinion, we requested additional information from you in writing on August 3, 2023. We received the additional information on April 24, 2024. Additionally, Ecology requested by email that the site's analytical data be submitted to EIM on June 27, 2024. The analytical data was submitted to EIM on July 1, 2024, and accepted on July 2, 2024. Additional edits to the EIM data were requested and those were finalized and accepted on December 26, 2024. 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.²

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

² <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305>

Opinion

Ecology has determined that no further remedial action is necessary to clean up contamination at the Site.

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](#) WAC³ (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) in soil.
- Benzene, toluene, ethylbenzene, and xylenes (BTEX) in soil.

The April 24, 2024, Remedial Investigation Report (the Report) from Arcadis includes Site description, history, and diagrams.

The parcel(s) of real property associated with this Site are also located within the projected boundaries of the Tacoma Smelter Plume (TSP) facility (Thurston County; FSID 89267963). At this time, Ecology has no information indicating that contamination from the TSP affects those parcel(s). This opinion does not apply to any contamination associated with the TSP facility.

Basis for the Opinion

Ecology bases this opinion on the information contained in the following documents:

- Arcadis, Remedial Investigation Report; Marvin Road Spill Site, June 28, 2024.

You can request these documents by filing a [records request](#).⁴ 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 [Cleanup and Tank Search](#) webpage.⁵

³ <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-340>

⁴ <https://ecology.wa.gov/About-us/Accountability-transparency/Public-records-requests>

⁵ <https://apps.ecology.wa.gov/cleanupsearch/site/15551#site-documents>

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

Analysis of the Cleanup

Ecology has concluded that no further remedial action is necessary to clean up contamination at the Site. Ecology bases its conclusion on the following analysis:

Characterizing the Site

Ecology has determined your completed Site characterization is sufficient for setting cleanup standards and selecting a cleanup action.

A Penske rental truck leaked an estimated 10 gallons of gasoline fuel onto the Britton Plaza parking lot which ran into the shopping center's drainage swale. The leak was the result of vandalism that occurred on March 25, 2021, however, was not realized until March 29, 2021. Cowlitz Clean Sweep (CCS) was engaged to perform on-site activities. Initial cleanup activities were performed on April 1, 2021, when an area of approximately 18 feet by 13 feet and up to 2 feet deep was excavated. Performance samples collected showed that the western extent, southern extent, and central depth of the excavation had been removed to below MTCA Method A soil cleanup levels (CULs). Exceedances were still present on the northern and eastern extents of the excavation. Additional soil removal of the northern and eastern sides of the excavation was done on June 17, 2021. Performance samples collected after this additional excavation were below the laboratory practical quantitation limit (PQL).

Water samples were collected from the stormwater infiltration system, initially on April 2, 2021, and again on July 22, 2021. Four of the five April 2, 2021, samples showed detectible concentrations of TPH-G and BTEX. Those same sample locations showed no TPH-G or BTEX above the laboratory PQL on the July 22, 2021, sampling.

Arcadis compared the water samples from the stormwater system to the MTCA Method A groundwater CULs. Ecology does not concur with this methodology. Since this is a parking lot stormwater system, some amount of petroleum hydrocarbons in the stormwater system would not be unreasonable since the stormwater system continually collects runoff from the parking lot. The initial sampling of the stormwater system was done approximately 1 week after the release which likely accounts for the initial high concentrations.

Borings were placed and sampled on July 8, 2021, in the vicinity of the stormwater system areas that had been sampled and showed detectible concentrations of the Site's hazardous substances. Soil samples were collected from each boring. Four of the borings were sampled at a depth of 20 feet, and one was sampled at a depth of 12 feet. The boring samples showed no concentrations of TPH-G or BTEX above the laboratory PQL.

Given the estimated size of the release (10 gallons), the limited depth of the contaminated soil (<3 feet), the lack of evidence for hazardous substances to have migrated out of the stormwater system in detectable concentrations, and the short amount of time between release and cleanup, Ecology does not consider groundwater to be a suspected media of concern.

Setting cleanup standards

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

Soil is the only media of concern for the site. MTCA Method A soil CULs for unrestricted land uses are established for the Site at the standard point of compliance. Site CULs are presented in the table below.

Site MTCA Method A Soil CULs		
<u>Hazardous Substance</u>	<u>CAS#⁶</u>	<u>Cleanup Level (mg/kg)</u>
TPH-G	None	30
Benzene	71-43-2	0.03
Toluene	108-88-3	7
Ethylbenzene	100-41-4	6
Xylenes	1330-20-7	9

⁶ Chemical Abstracts Service Registry Number

No further terrestrial ecological evaluation (TEE) is required under [WAC 173-340-7492\(2\)\(a\)\(i\)](#).⁷ The area of contamination is approximately 339 square feet, under the 350 square foot threshold established in MTCA.

The Site has been adequately defined, and all exceedances of the established CULs have been removed from the Site and disposed of at the Columbia Ridge Landfill in Arlington Oregon, and the Hillsboro Landfill in Hillsboro Oregon. Ecology considers the soil-direct contact, soil-protection of groundwater, and soil-protection of plants, animals, and soil biota pathways incomplete.

Selecting the cleanup action

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

The cleanup action selected for the Site was the removal of contaminated soils by excavation and off-site disposal.

The cleanup action selected meets the requirements in [WAC 173-340-360](#)⁸ in that it;

- Protects human health and the environment.
- Complies with cleanup standards.
- Complies with applicable state and federal laws.
- Prevents or minimizes present and future release and migration of hazardous substances in the environment.
- Does not rely on institutional controls and monitoring.
- Does not rely on dilution and dispersion.
- Cleanup was completed in a reasonable time frame.
- Solutions are considered permanent to the maximum extent practicable.

⁷ <https://app.leg.wa.gov/WAC/default.aspx?cite=173-340-7492>

⁸ <https://app.leg.wa.gov/WAC/default.aspx?cite=173-340-360>

Implementing the cleanup action

Ecology has determined your cleanup meets the standards set for the Site.

Site cleanup was performed by excavating 19.77 tons of contaminated soil below the established CULs (MTCA Method A) for TPH-G and BTEX constituents. The area of the release was limited to a small section of the shopping center bioswale that captures stormwater runoff from the parking lot. Performance samples were collected from the floor and walls of the excavation that demonstrate concentrations of all hazardous substances below the MTCA Method A soil CUL or laboratory practical quantitation limit (PQL). Borings were also advanced near sections of the stormwater system that were known to have been temporarily impacted and demonstrated that no significant concentrations of TPH-G or BTEX leached from the stormwater system into the surrounding soil.

Listing of the Site

Based on this opinion, Ecology will initiate the process of removing the Site from the Contaminated Sites List. The Site will be added to the No Further Action sites list.

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](https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305.040)(4).⁹

⁹ <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305.040>

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](#)¹⁰ and WAC [173-340-545](#).¹¹

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).¹²

Termination of Agreement

Thank you for cleaning up the Site under the VCP. This opinion terminates the VCP Agreement governing VCP Project No. SW1803.

Questions

If you have any questions about this opinion or the termination of the Agreement, please contact me at (360) 584-6212 or aaren.fiedler@ecy.wa.gov.

Sincerely,



Aaren Fiedler, LG
Southwest Regional Office
Toxics Cleanup Program

AF:at

¹⁰ <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305.080>

¹¹ <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-340-545>

¹² <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305.170>

Enclosures

A – Site Description, History, and Diagrams

cc:

Michael Cholerton, Accrete Construction, michael@accrete.build

Joshua Lee, Arcadis, joshua.lee@arcadis.com

Tim Mullin, Ecology, tim.mullin@ecy.wa.gov

Fiscal, VCP Fiscal Analyst (w/o encl)

TCP, Operating Budget Analyst (w/o encl)

Enclosure A

Site Description and History

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Site Description

The Site consists of the stormwater bioswale located in the parking lot of a commercial shopping center. An estimated 10 gallons of gasoline (Gasoline range total petroleum hydrocarbons [TPH-G] and benzene, toluene, ethylbenzene, and xylenes (BTEX) constituents) was released from a Penske rental truck during an act of vandalism and ran across the parking lot surface into the bioswale. Surface soils in the bioswale were contaminated and some gasoline drained into the buried stormwater infiltration piping. Contamination was limited to the upper 3 feet of soil in an area approximately 20 feet by 15 feet. Contaminated soils have been excavated to below the MTCA Method A soil CULs.