



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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April 5, 2013

Mr. Charles David Dunkin III
Dunkin Diesel Service
3219 Bickford Avenue
Snohomish, WA 98290

Re: Further Action at the following Site:

- Site Name: Dunkin Diesel Service
- Site Address: 3219 Bickford Ave., Snohomish, WA
- Facility/Site No.: 2752
- CS ID: 4775
- VCP Project No.: NW2635

Dear Mr. Dunkin:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your independent cleanup of the Dunkin Diesel Service facility (Site). This letter provides our opinion. We are providing this opinion under the authority of the Model Toxics Control Act (MTCA), Chapter 70.105D RCW.

Issue Presented and Opinion

Is further remedial action necessary to clean up contamination at the Site?

YES. Ecology has determined that further remedial action is necessary to clean up contamination 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 its implementing regulations, Chapter 173-340 WAC (collectively "substantive requirements of MTCA"). The analysis is provided below.

Description of the Site

This opinion applies only to the Site described below. The Site is defined by the nature and extent of contamination associated with the following releases:

- Total Petroleum Hydrocarbons-Diesel Range Organics and Heavy Oils (TPH-DRO and TPH-HO) in Soil and Groundwater.



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

Basis for the Opinion

This opinion is based on the information contained in the following documents:

1. Aerotech Environmental Consulting Inc., October 12, 2012, Voluntary Cleanup Program: Request for Additional Information and Clarification.
2. Dunkin Diesel Service, Inc., August 27, 2012, Summary of the Site Assessments and Cleanups Conducted in 1994 and 1998.

Those documents are kept in the Central Files of the Northwest Regional Office of Ecology (NWRO) for review by appointment only. You can make an appointment by calling the NWRO resource contact at (425) 649-7235 or sending an email to nwro_public_request@ecy.wa.gov.

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

Analysis of the Cleanup

Ecology has concluded that **further remedial action** is necessary to clean up contamination at the Site. That conclusion is based on the following analysis:

1. **Characterization of the Site.**

Ecology has determined your characterization of the Site is not sufficient to establish cleanup standards and select a cleanup action.

Contamination in soil exceeding MTCA Method A cleanup levels remains at the S1 location (northeastern corner of the Site), which had not fully been characterized in 1994 when the assessment was conducted.

The Phase II Investigation report dated 1998 indicated that some of the petroleum-impacted soil was cleaned up. However, the report did not include the critical information regarding areas and volume of the impacted soil removed at the Site. In addition, confirmational soil sampling was not performed so that the soil removal could be evaluated for its effectiveness.

Groundwater at the Site had not been analyzed for its quality during the site assessments. Since groundwater might have been impacted by the releases, status of groundwater contamination shall be identified prior to determining if a further remedial action is necessary.

2. Establishment of cleanup standards.

Ecology has determined the cleanup levels and points of compliance you established for the Site do not meet the substantive requirements of MTCA.

a. Cleanup levels.

Soil

The Site does not meet the MTCA definition of an industrial property. Therefore, soil cleanup levels suitable for unrestricted land use are determined for the Site. For unrestricted land use, human direct contact and soil-to-groundwater pathway, Method A cleanup levels defined in MTCA can be utilized.

Groundwater

This Site is also appropriate to utilize MTCA Method A groundwater cleanup levels defined in MTCA for unrestricted land use at this Site.

b. Points of compliance.

Soil

The point of compliance for contamination soil is based on the protection of groundwater and it is applied for Site wide throughout the soil profile, which will extend below the water table.

Groundwater

The point of compliance for groundwater is throughout the Site from the uppermost level of the saturated zone extending vertically and horizontally to the lowest depth which could potentially be affected.

3. Selection of cleanup action.

Ecology has determined the cleanup action you selected for the Site does not meet the substantive requirements of MTCA. In 1998, a small portion of contaminated soil was

removed. However, there were no data to confirm all the impacted soils exceeding the MTCA Method A cleanup levels were removed at the Site.

The site assessment conducted in 1994 revealed the exceeded contaminated soil located at the northeastern corner of the Site. However, nature and extent of the contaminated soil was not fully characterized.

4. **Cleanup.**

Ecology has determined the remedial efforts you performed do not meet the defined cleanup standards at the Site. Based on the report of the interim remedial action conducted in 1994, contamination in soil was found present at the northeastern corner, but was not fully characterized.

There was no data to indicate the success of the contaminated soil removal in 1998. Also, we do not know how much of contaminated soil was removed and from where during this soil cleanup effort.

Groundwater samples have not been collected at this Site to analyze for its quality. Clean up will be requested if a supplemental site assessment demonstrates exceedances of the groundwater cleanup levels in the future.

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 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 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

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performed is substantially equivalent. Courts make that determination. See RCW 70.105D.080 and WAC 173-340-545.

3. **State is immune from liability.**

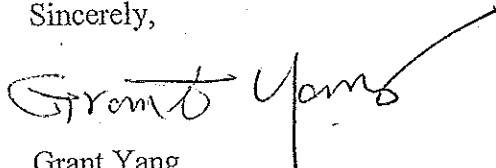
The state, Ecology, and its officers and employees are immune from all liability, and no cause of action of any nature may arise from any act or omission in providing this opinion. See RCW 70.105D.030(1)(i).

Contact Information

Thank you for choosing to clean up the Site under the Voluntary Cleanup Program (VCP). After you have addressed our concerns, you may request another review of your cleanup. Please do not hesitate to request additional services as your cleanup progresses. We look forward to working with you.

For more information about the VCP and the cleanup process, please visit our web site: www.ecy.wa.gov/programs/tcp/vcp/vcpmain.htm. If you have any questions about this opinion, please contact me by phone at (425) 649-7126 or e-mail at gyan461@ecy.wa.gov.

Sincerely,



Grant Yang
Site Manager
NWRO/Toxics Cleanup Program

cc: Alan Blotch
Aerotech Environmental Consulting Inc.
19600 International Blvd, Suite # 101, SeaTac, WA 98188