



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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October 1, 2013

Ms. Brooke Stabbert
SBMC West LLC
2284 West Commodore Way, #100
Seattle, WA 98199

**Re: Opinion Pursuant to WAC 173-340-515(5) on Remedial Action for the Following
Hazardous Waste Site:**

- **Name:** ER & JR Sutter LLC
- **Address:** 2360 West Commodore Way, Seattle, WA
- **Facility/Site No.:** 2069
- **VCP No.:** NW2643
- **Cleanup Site ID No.:** 53

Dear Ms. Stabbert:

Thank you for submitting documents regarding your proposed remedial action for the ER & JR Sutter LLC facility (Site) for review by the Washington State Department of Ecology (Ecology) under the Voluntary Cleanup Program (VCP). Ecology appreciates your initiative in pursuing this administrative option for cleaning up hazardous waste sites 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 requirements of MTCA and its implementing regulations, Chapter 70.105D RCW and Chapter 173-340 WAC, for characterizing and addressing the following release(s) at the Site:

- Total petroleum hydrocarbons in the gasoline, diesel and oil ranges (TPH-G, TPH-D, TPH-O) and benzene, toluene, ethylbenzene and xylenes (BTEX) into soil and groundwater.
- Polycyclic aromatic hydrocarbons (PAHs) into soil, groundwater and sediment.
- Lead and arsenic into soil and sediment.
- Arsenic into soil, groundwater and sediment.

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- Antimony, cadmium, chromium, selenium, copper, nickel, zinc, mercury and tributyl-tin into sediment.
- Polychlorinated biphenyls (PCBs) into groundwater and sediment.
- Methylchlorophenoxypropionic acid (MCP) into groundwater and sediment

Ecology is providing this advisory opinion under the specific authority of RCW 70.105D.030(1)(i) and WAC 173-340-515(5).

This opinion does not resolve a person's liability to the state under MTCA or protect a person from contribution claims by third parties for matters addressed by the opinion. The state does not have the authority to settle with any person potentially liable under MTCA except in accordance with RCW 70.105D.040(4). The opinion is advisory only and not binding on Ecology.

Ecology's Toxics Cleanup Program has reviewed the following information regarding your remedial actions:

1. Terra Associates, Inc., *Remedial Investigation/Feasibility Study/Remedial Action Summary*, dated July 2, 2013.
2. Environmental Associates, Inc., *Subsurface Sampling and Testing – Sutter Property*, dated July 17, 2006.

The reports listed above will be kept in the Central Files of the Northwest Regional Office of Ecology (NWRO) for review by appointment only. Appointments can be made by calling the NWRO resource contact at (425) 649-7235 or sending an e-mail to nwro_public_request@ecy.wa.gov.

The Site is defined by the extent of contamination caused by the following release(s):

- Total petroleum hydrocarbons in the gasoline, diesel and oil ranges (TPH-G, TPH-D, TPH-O) and benzene, toluene, ethylbenzene and xylenes (BTEX) into soil and groundwater.
- Polycyclic aromatic hydrocarbons (PAHs) into soil, groundwater and sediment.
- Lead and arsenic into soil and sediment.
- Arsenic into soil, groundwater and sediment.
- Antimony, cadmium, chromium, selenium, copper, nickel, zinc, mercury, tributyl-tin into sediment
- Polychlorinated biphenyls (PCBs) into groundwater and sediment.

- Methylchlorophenoxypropionic acid (MCP) into groundwater and sediment

Based on a review of supporting documentation listed above, pursuant to **requirements contained in MTCA and its implementing regulations, Chapter 70.105D RCW and Chapter 173-340 WAC, for characterizing and addressing the following release(s) at the Site, Ecology has determined:**

- The Remedial Investigation (RI)/Feasibility Study (FS)/Remedial Action Summary is insufficient. Site characterization is incomplete. The Property associated with tax parcel 2771605300 extends into Salmon Bay, therefore, characterization of sediment and surface water contamination is a necessary prerequisite prior to consideration for a No Further Action determination from Ecology. Sediment Management Standards (Chapters 173-204 WAC) and guidance can be found at http://www.ecy.wa.gov/programs/tcp/smu/sed_standards.htm
- The RI did not include the following: past owners of the Property, operational/use history (including dock use), a figure indicating the Property boundary, a map of underground utility locations, surface drainage (storm drain locations), background concentrations for sediment and surface water, geologic cross-sections, regional and Site hydrogeology, groundwater elevation contour maps and locations of public/private supply wells.
- The extent of contamination in groundwater has not been delineated. The boundaries of the contaminant plume for each contaminant need to be defined and maps and cross-sections provided showing the extent of contamination. Once the plumes have been delineated, Ecology recommends quarterly groundwater sampling to determine seasonal variations.
- Groundwater most likely enters Salmon Bay on the northern portion of the Property. Groundwater cleanup levels that are protective of surface water need to be established. The most stringent criteria for surface water must be applied as per WAC 173-340-730. Groundwater cleanup levels must be established that are protective of aquatic organisms and human health. Site groundwater must be assumed to be a potential drinking water source and meet applicable cleanup standards unless it is demonstrated that future use as a potable drinking water source is not plausible (see WAC 173-340-720 (2) for criteria).
- Recycled concrete is not an appropriate backfill material for the excavations considering the total depths, depth to groundwater and proximity to Salmon Bay due to high alkalinity in the fill materials and the leaching potential. Groundwater monitoring wells MW-1, MW-4, and MW-5 indicate leaching is occurring based on the pH reading from these wells (10.14 to 12.91).

This opinion does not represent a determination by Ecology that a proposed remedial action will be sufficient to characterize and address the specified contamination at the Site

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or that no further remedial action will be required at the Site upon completion of the proposed remedial action. To obtain either of these opinions, you must submit appropriate documentation to Ecology and request such an opinion under the VCP. **This letter also does not provide an opinion regarding the sufficiency of any other remedial action proposed for or conducted at the Site.**

Please note that this opinion is based solely on the information contained in the documents listed above. Therefore, if any of the information contained in those documents is materially false or misleading, then this opinion will automatically be rendered null and void.

The state, Ecology, and its officers and employees make no guarantees or assurances by providing this opinion, and no cause of action against the state, Ecology, its officers or employees may arise from any act or omission in providing this opinion.

Again, Ecology appreciates your initiative in conducting independent remedial action and requesting technical consultation under the VCP. As the cleanup of the Site progresses, you may request additional consultative services under the VCP, including assistance in identifying applicable regulatory requirements and opinions regarding whether remedial actions proposed for or conducted at the Site meet those requirements.

If you have any questions regarding this opinion, please contact me by phone at (425) 649-7097 or by e-mail at desc461@ecy.wa.gov.

Sincerely,



Diane Escobedo
Site Manager
Toxics Cleanup Program

cc: Charles Lie, Terra Associates, Inc.
Sonia Fernandez, VCP Coordinator, Ecology