



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Bellingham Field Office • 1440 10th Street, Suite 102 • Bellingham, Washington 98225
(360)715-5200 • FAX (360) 715-5225

August 13, 2013

Mr. John Kane
Kane Environmental, Inc.
3815 Woodland Park Ave., North
Seattle, WA 98103

Re: Opinion on Proposed Cleanup of a Property associated with a Site:

- **Site Name:** Living Color Hair Salon
- **Property Address:** 9416 Rainier Avenue South, Seattle, WA
- **Facility/Site No.:** 49944537
- **VCP Project No.:** NW2750
- **CSID:** 12157

Dear Mr. Kane:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your proposed independent cleanup of a Property associated with the Living Color Hair Salon 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.

Issues Presented and Opinion

1. Upon completion of the proposed cleanup, will further remedial action likely be necessary at the Property to clean up contamination associated with the Site?

YES. Ecology has determined that further remedial action will likely be necessary at the Property to clean up contamination associated with the Site.

2. Upon completion of the proposed cleanup, will further remedial action likely be necessary elsewhere at the Site?

YES. Ecology has determined that further remedial action will likely be necessary elsewhere 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 Property and the Site

This opinion applies only to the Property and the Site described below. This opinion does not apply to any other sites that may affect the Property. Any such sites, if known, are identified separately below.

1. Description of the Property.

The Property includes the following tax parcel in King County, which was affected by the Site and will be addressed by your cleanup:

- 7129304820

Enclosure A includes a legal description of the Property.

2. Description of the Site.

The Site is defined by the nature and extent of contamination associated with the following releases:

- Benzene, ethylbenzene and diesel- and oil-range petroleum hydrocarbons into the soil.
- Gasoline-, diesel- and oil-range petroleum hydrocarbons into the groundwater.

Those releases have affected the parcel identified above.

3. Identification of Other Sites that may affect the Property.

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

Basis for the Opinion

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

1. Kane Environmental, Inc., *Remediation Product Injection & Groundwater Performance Monitoring, Living Color, 9416 Rainier Avenue South, Seattle, Washington, 98118*, January 26, 2011.
2. Kane Environmental, Inc., *Limited Phase II Site Assessment Results Data Report*, June 23, 2008.

3. Kee, LLC, *Limited Phase II ESA ASTM E1903 Environmental Site Assessment Report, Minh Tram Market, Inc., 9416 Rainier Avenue South, Seattle, Washington, 98118*, May 18, 2008.
4. Aerotech Environmental Consulting, Inc., *Phase I Environmental Site Assessment, Minh Tram Market, Inc., 9416 Rainier Avenue South, Seattle, Washington, 98118*, March 28, 2008.

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, upon completion of your proposed cleanup, **further remedial action** will likely be necessary at the Property to clean up contamination associated with 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 for the Site and select a cleanup for the Property.

The source of the petroleum hydrocarbons detected in soil and groundwater has not been determined. Current soil and groundwater data is not sufficient to establish cleanup standards for the Site and select a cleanup for the Property. Additional soil and groundwater quality data should be collected in order to characterize the Site.

The lateral extent of soil contamination has not been determined. The collection and analysis of additional soil samples from around the perimeter of the Property would assist with understanding the lateral extent of soil contamination, if present. Analysis of additional groundwater quality data would help determine if a potential source of petroleum hydrocarbon contamination remains beneath the property.

2. Establishment of cleanup standards for the Site.

Currently, no cleanup levels or points of compliance have been proposed for the Site. The substantive requirements of MTCA have not been met.

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**:

- Change the boundaries of the Site.
- 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 proposed will be substantially equivalent. Courts make that determination. *See* RCW 70.105D.080 and WAC 173-340-545.

3. Opinion is limited to proposed cleanup.

This letter does not provide an opinion on whether further remedial action will actually be necessary at the Property upon completion of your proposed cleanup. To obtain such an opinion, you must submit a report to Ecology upon completion of your cleanup and request an opinion under the VCP.

4. State is immune from liability.

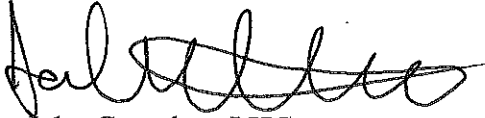
The state, Ecology, and its officers and employees are immune from all liability, and no cause of action of any nature may arise from any act or omission in providing this opinion. *See* RCW 70.105D.030(1)(i).

Contact Information

Thank you for choosing to clean up your Property 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) 649-7135 or by e-mail at jgue461@ecy.wa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "John Guenther". The signature is fluid and cursive, with a large initial "J" and "G".

John Guenther, LHG
NWRO Toxics Cleanup Program

Enclosure: Legal Description of the Property

cc: Eugene Shin, Living Color Beauty Services, Inc.