



STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

4601 N. Monroe, Spokane, Washington 99205-1295 • (509) 329-3400

January 24, 2012

John Sugg
Ernie's Fuel Stops, LLC
28727 Pacific Highway S.
Federal Way, WA 98003

Re: No Further Action at the following Site:

- **Site Name:** Ernies Fuel Stop
- **Site Address:** 1810 Kittleson Road, Moses Lake, WA
- **Facility/Site No.:** 620
- **VCP Project No.:** EA0210

Dear Mr. Sugg:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your independent cleanup of the Ernies Fuel Stop 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?

NO. Ecology has determined that no 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:

- Petroleum hydrocarbons and naphthalene into the Soil.
- Petroleum hydrocarbons into the Groundwater.

Enclosure A includes a detailed description and diagram of the Site, as currently known to Ecology.

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

Basis for the Opinion

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

- Site Characterization Report, Ernie's Fuel Stop, 1810 East Kittleson Road, Moses Lake, Washington: Aspect Consulting, June 9, 2008.
- Engineering Design Report, Soil Vapor Extraction System, Ernie's Fuel Stop - Moses Lake, Washington: Aspect Consulting, July 22, 2008.
- Remediation Status Report, June 2008 to November 2008, Ernie's Fuel Stop, 1810 East Kittleson Road, Moses Lake, Washington: Aspect Consulting, December 3, 2008.
- Groundwater Monitoring Results – July 2009, Ernie's Fuel Stop, 1810 East Kittleson Road, Moses Lake, Washington: Aspect Consulting, October 5, 2009.
- Proposal for VCP Support and Supplemental Compliance Monitoring Activities, Ernie's Fuel Stop, 1810 Kittleson Road, Moses Lake, Washington: Aspect Consulting, February 10, 2010.
- Results of Confirmation Monitoring and Request for NFA Opinion, Ernie's Fuel Stop, 1810 Kittleson Road, Moses Lake, Washington: Aspect Consulting, November 29, 2011.

Those documents are kept in the Central Files of the Eastern Regional Office of Ecology (ERO) for review by appointment only. You can make an appointment by calling Kari Johnson at 509/329-3415.

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 **no 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 sufficient to establish cleanup standards and select a cleanup action. The Site is described above and in **Enclosure A**.

The lateral and vertical extent of petroleum hydrocarbons in soil and groundwater was defined in the reports listed above.

2. Establishment of cleanup standards.

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

For soil, the cleanup levels were established using MTCA Method A and are based on protection of groundwater. The land use is classified as unrestricted. The cleanup levels are as follows:

- Gasoline-range hydrocarbons: 30 mg/kg
- Benzene: 0.03 mg/kg
- Toluene: 7 mg/kg
- Ethylbenzene: 6 mg/kg
- Xylenes: 9 mg/kg
- Naphthalene: 5 mg/kg

The point of compliance for soil is throughout the soils at the Site. This is the standard point of compliance.

For groundwater, the cleanup levels were established using MTCA Method A and are based on protection of drinking water beneficial uses. The cleanup levels are as follows:

- Gasoline-range hydrocarbons: 800 ug/l
- Benzene: 5 ug/l
- Toluene: 1,000 ug/l
- Xylenes: 1,000 ug/l

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

3. Selection of cleanup action.

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

The selected cleanup includes the following:

- Removal of source (underground storage tanks).
- Excavation and removal of contaminated soil.
- Installation of soil vapor extraction (SVE) system.
- Groundwater monitoring.

4. Cleanup.

Ecology has determined the cleanup you performed meets the cleanup standards established for the Site.

The source was removed and contaminated soil was excavated and transported off-site for disposal. Other remedial actions included installation of a SVE system. Groundwater monitoring wells were installed and sampled until results from four consecutive quarters were below cleanup levels.

Listing of the Site

Based on this opinion, Ecology will remove the Site from our Confirmed and Suspected Contaminated Sites List.

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 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).

Termination of Agreement

Thank you for cleaning up the Site under the Voluntary Cleanup Program (VCP). This opinion terminates the VCP Agreement governing this project (#EA0210).

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 or the termination of the Agreement, please contact me by phone at 509/329-3522 or e-mail at patti.carter@ecy.wa.gov.

Sincerely,



Patti Carter
ERO Toxics Cleanup Program

Enclosures (1): A – Description and Diagram of the Site

cc: Eric Marhofer, Aspect
Dolores Mitchell, VCP Financial Manager (without enclosures)

Enclosure A

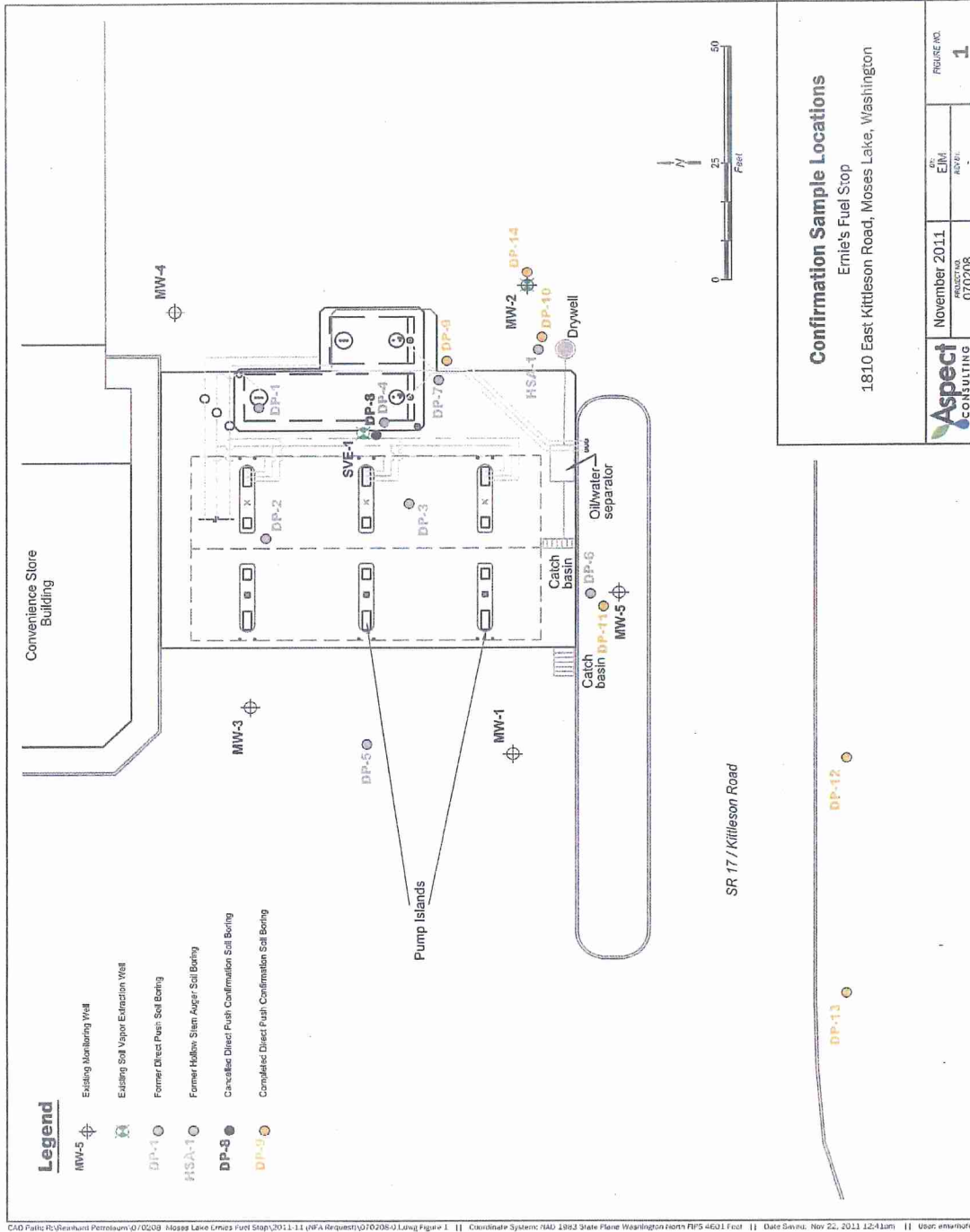
Description and Diagram of the Site

Site Description

- Soil and groundwater contamination was confirmed during tank decommissioning in January 2008.
- Concentrations of gasoline-range hydrocarbons, BTEX, and naphthalene exceeded cleanup levels in soil.
- Concentrations of gasoline-range hydrocarbons, benzene, toluene, and xylenes exceeded cleanup levels in groundwater.
- Contaminated soil was removed from the UST excavation to approximately 15 feet bgs.
- Six groundwater monitoring wells were installed in 2008 and were sampled until results from four consecutive quarters were below cleanup levels.
- A SVE system was also installed in 2008.
- Additional remedial actions conducted in 2010 and 2011 confirmed that current on-site soil and groundwater concentrations were below cleanup levels.

(Aspect Consulting)

Site Diagram



Confirmation Sample Locations

Ernie's Fuel Stop
1810 East Kittleson Road, Moses Lake, Washington

	November 2011	BY: EIM	FIGURE NO.
	PROJECT NO. 070208	REVISED	1