



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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September 8, 2014

Jimmy Blais  
Environmental Manager  
Gary Merlino Construction Co. Inc.  
9125 10<sup>th</sup> Avenue South  
MJB Properties  
Seattle, WA 98108

**RE: No Further Action at the following Action Area:**

- **Site Name:** MJB South Hydro Fill Area-Parcel Numbers: P32981, P32979, P32977, P78007, P32976, P32975, P32974, P32972, P78002, P78006 of the MJB South Hydro Fill Area Site- UPLAND AREAS
- **Site Address:** T Ave 25<sup>th</sup> and 30<sup>th</sup> St, Anacortes, WA 98221
- **Facility/Site No.:** 7681- specifically upland parcels owned by MJB Properties

Dear Mr. Blais:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your independent cleanup of the aboved mentioned parcels of the MJB South Hydro Fill Area site- UPLAND PARCEL AREAS (UPP\_Area) owned by MJB Properties. 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**

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Is further remedial action necessary to cleanup contamination at the above mentions parcels at the Site?

**No, Ecology has determined that No Further Remedial Action is necessary to cleanup contamination at the Site. An environmental covenant consisting of an Ecology approved soil management plan will be implemented.**

This opinion is based on an analysis of whether the remedial action meets the substantive requirements of MTCA, Chapter 70.105D RCW, and it's implementing regulations, Chapter 173-340 WAC (collectively "substantive requirements of MTCA"). The analysis is provided below.

## **Description of the Site**

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This opinion applies only to the UPP\_Area described above. The UPP\_Area is defined by the nature and extent of contamination associated with the following releases:

- Oil, benzene, tetrachloroethene, barium, nickel, chromium, mercury, lead, copper and zinc into the soil.
- Arsenic into the groundwater.

**Enclosure A** includes a detailed description and diagrams of the UPP\_Areas, as currently known to Ecology.

Please note a parcel of real property can be affected by multiple sites.

## **Basis for the Opinion**

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

1. Subsurface Exploration and Testing Proposed Graving Dock Site Analysis –Anacortes Washington by Hart Crowser and dated July 10, 1991.
2. Investigation Report- Ramp Construction Project, South Dock Area, MJB Properties- Anacortes Washington by AMEC Geomatrix and dated February 2010.
3. Soil Management Closure Report, South Dock Area- MJB Properties- Anacortes Washington, Farallon and dated October 2013.

Those documents are kept in the Central Files of the Department of Ecology Headquarters Office for review by appointment only. You can make an appointment by calling the Headquarters resource contact at (360) 407-7224.

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

## **Analysis of the Cleanup**

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Ecology has concluded that **No Further Remedial Action** is necessary to cleanup contamination at the UPP\_Area as defined in **Enclosure A**. Institutional controls comprising of an Ecology approved soil management plan will remain in place until at such time remaining contamination is no longer consider by Ecology to be a threat to human health and the environment. That conclusion is based on the following analysis:

### **1. Characterization of the Site.**

Ecology has determined your characterization of the UPP\_Area is sufficient to establish cleanup standards and select a cleanup action. The UPP\_Area is described above and in **Enclosure A**.

In 1991, a subsurface investigation was conducted which included advancement and sampling of eight borings. Benzene, tetrachloroethene (PCE), and lead were detected at concentrations exceeding MTCA Method A cleanup levels in soil samples from three locations. The detection limits used for some of the analysis were higher than the current MTCA cleanup levels. Analytical results for the soil samples collected from the remaining five borings were reported to be either non-detectable at the laboratory reporting limits or the constituents were present at concentrations below MTCA cleanup levels. No groundwater sampling was conducted during the 1991 investigation.

In 2009, Ecology identified the potential presence of contamination for investigation, including petroleum products, metals, semi-volatile organic compounds, volatile organic compounds, polychlorinated biphenyls, and dioxins/furans, related to the presence of fill material placed on the UPP\_Area during historical dredging activities in Fidalgo Bay and/or historical operations on the Property.

In 2010, a subsurface investigation was conducted to characterize the potential presence of contamination in soil prior to construction of a boat ramp in the central portion of the UPP\_Area. The 2010 investigation included advancement and sampling of seven test pits. Some contamination was present at concentrations exceeding regulatory screening levels in shallow soil in a localized area of the proposed boat ramp. During construction of the boat ramp in 2010, soil containing contaminants of concern at concentrations exceeding the regulatory screening level was excavated and disposed of off the UPP\_Area in accordance with a soil management plan.

In 2011, an additional subsurface investigation was conducted at the UPP\_Area which included advancement and sampling of 14 soil locations and installation of 3 groundwater monitoring wells. The additional investigation was requested by Ecology to address data gaps identified for the Hydraulic Fill Area. Lead was detected at a concentration exceeding the MTCA Method A cleanup level for soil in a single soil sample collected from the fill horizon in boring on the southwest portion of the Hydraulic Fill Area. Follow-up sampling was conducted at previous boring locations where benzene, PCE, and lead had been detected at concentrations exceeding MTCA Method A cleanup levels. Analytical results for this follow-up sampling was reported as non-detect at the laboratory practical quantitation limit. Soil samples collected from the remaining borings were reported either non-detect or below the MTCA cleanup levels for benzene, and PCE. Arsenic was detected at a concentration exceeding the MTCA Method A cleanup level for groundwater in samples collected in monitoring wells. Arsenic was reported non-detect in each of the soil samples tested on the UPP\_Area during the 2011 investigation, with the exception of one sample collected from a boring on the northern portion of the UPP\_Area. Lead was detected at a concentration exceeding the MTCA Method A cleanup level in a groundwater sample collected from one monitoring well installed proximate to the localized area of shallow soil, with concentrations of lead exceeding the MTCA Method A cleanup level boring. Benzene and PCE tested reported either non-detect or below their respective MTCA cleanup levels.

## 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.

### Cleanup Levels:

The land use is designated for commercial marine use and the selected Method A standards used at this site for soil and groundwater are protective of human health and the environment:

#### Soil

Oil – 2,000 mg/Kg  
Benzene – 0.03 mg/Kg  
Toluene – 7 mg/Kg  
Xylenes – 9 mg/Kg  
Tetrachloroethylene – 0.05 mg/Kg  
Lead – 250 mg/Kg  
Arsenic- 20 mg/Kg

#### Groundwater

Gasoline – 800 µg/l  
Benzene – 5 µg/l  
Toluene – 1,000 µg/l  
Xylenes – 1,000 µg/l  
Lead – 15 µg/l  
Arsenic- 5 µg/l

## 3. Selection of cleanup action.

Ecology has determined the cleanup action you selected for the UPP\_Area meets the substantive requirements of MTCA.

The method selected - excavation of the contaminated soil with transportation off-site and institutional controls/soil management plan meets the minimum requirements for cleanup actions by providing a permanent solution and immediate restoration time frame in the affected areas.

#### 4. Cleanup.

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

In 2010, during the construction a boat ramp, approximately 3291 cy<sup>3</sup> of contaminated soil was removed from the property parcels off-site to a permitted landfill.

In 2013, an additional focused extraction of another 39 cy<sup>3</sup> was conducted with conformational sampling.

Migration of groundwater to surface to water body is still a potential, therefore an environmental covenant comprising an Ecology approved soil management plan will be implemented under institutional controls.

Groundwater in this area is defined as non potable, not for domestic drinking water purpose and low transport potential low.

#### **Listing of the Site**

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Based on this opinion, at this time, the above listed parcels will remain on our Confirmed and Suspected Contaminated Sites List with an environmental covenant comprising of an Ecology approved soil management plan.

#### **Limitations of the Opinion**

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##### 1. **Opinion does not settle liability with the state.**

Liabe 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).

Sincerely,



Sandra Caldwell  
Land Unit Supervisor - HQ Cleanup Section  
Toxics Cleanup Program

Enclosure (1): A – Description and Diagrams of the Site UPLAND Parcel Areas

By certified mail: 7009 2250 0001 9035 1491

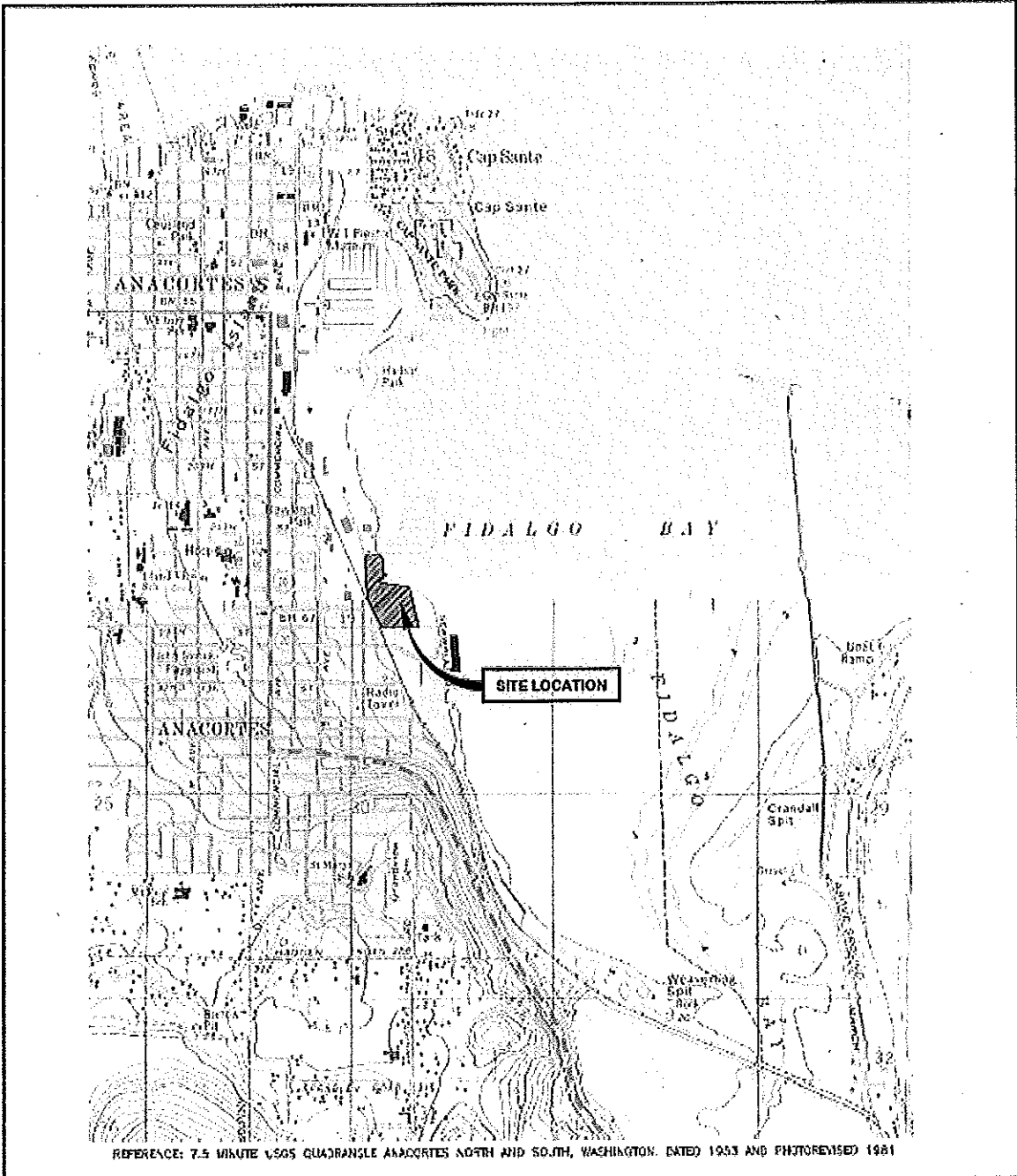
cc: Jimmy Blais  
Barry Rogowski, Ecology

## **Enclosure A**

### **Description and Diagrams of the Site**



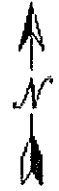




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WASHINGTON




**FARALLON CONSULTING**  
 876 1st Avenue Northwest  
 Issaquah, WA 98027

**FIGURE 1**  
 SITE VICINITY MAP  
 MJD PROPERTIES PROPERTY PLAN  
 ANACORTES, WASHINGTON

FARALLON PIN: 299-002

|               |                |               |                        |
|---------------|----------------|---------------|------------------------|
| Drawn By: DEW | Checked By: DC | Date: 6/21/12 | Disk Reference: 299002 |
|---------------|----------------|---------------|------------------------|





**FIGURE 2**

**MJB SOUTH HYDRO FILL UPLAND AREA PARCELS COVERED UNDER NFA**  
Department of Ecology – Toxics Cleanup Program- HQ Cleanup Section

\*in-water parcel areas excluded

