



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

June 21, 2016

Mr. Berry Ellison
Program Manager
808 West Spokane Falls Boulevard
Parks and Recreation Division, Fifth Floor City Hall
Spokane, WA 99201

Re: Further Action at the following Site:

- **Site Name:** Riverfront Park Spokane
- **Site Address:** 507 N Howard St, Spokane, WA
- **Facility/Site No.:** 11445
- **VCP Project No.:** EA0318

Dear Mr. Ellison:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your independent cleanup of the Riverfront Park Spokane 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 Revised Code of Washington (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 Washington Administrative Code [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 Site described below. The Site is defined by the nature and extent of contamination associated with the following release:

- Petroleum hydrocarbons, polycyclic aromatic hydrocarbons, volatile organic compounds, metals, and additional contaminants of concern (COCs) identified in the Phase I ESA, into the Soil.

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:

1. *Draft Soil Management Plan*: GeoEngineers, May 25, 2016.

This document is 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 (509) 329-3400.

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

Analysis of the Soil Management Plan

Ecology has reviewed the Soil Management Plan and has the following comments/recommendations:

According to the SMP, petroleum hydrocarbons (TPH) will be analyzed using silica gel cleanup (page 4). Silica gel cleanup should not be used unless uncontaminated background samples indicate that naturally occurring organic matter is a significant component of the TPH being detected in soil.

In Section 7.3, you indicate that soil will be considered “clean” if:

- Contaminants are not detected for any analyte at concentrations that exceed the respective method reporting limit.
- Physical evidence of contamination (sheen, odor, staining) is not observed.

Soil should only be considered “clean” if contaminants are not detected at concentrations that exceed the method reporting limits. Method reporting limits must be less than the applicable MTCA Method A cleanup levels for this determination to be made. Physical evidence is not sufficient to indicate if some site COCs, such as metals, are present in soil.

On-site repositories for contaminated soil should be approved by Spokane Regional Health District (page 6).

If any underground storage tanks are discovered, Ecology and the Fire Marshall must also be contacted (page 9).

Because some site COCs are not detectable by visual screening, Ecology recommends that an environmental professional be on site during excavation activities to determine soil classification and collect confirmation samples. As an alternative, random samples could be collected to characterize soil. An XRF could be used to field screen samples for metals.

A park maintenance plan should be developed and should include a GIS based layer/map to indicate areas of contamination prior to conducting park maintenance. Or as an alternative, a geotextile layer could be used to mark the boundary between clean and contaminated soil. The park maintenance plan will be included as part of the environmental covenant.

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.

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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: <http://www.ecy.wa.gov/programs/tcp/vcp/vcpmain.htm>. If you have any questions about this opinion, please contact me at (509) 329-3522 or at patti.carter@ecy.wa.gov.

Sincerely,



Patti Carter
ERO Toxics Cleanup Program

pc:mr

cc: Bruce Williams, GeoEngineers