



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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June 2, 2011

Constance Callahan, JD  
US Coast Guard  
PACAREA Lighthouse Program Manager  
Shore Infrastructure Logistics Center, Product Line Division  
1301 Clay Street, Suite 700N  
Oakland, California 94612

**Re: No Further Action at Cape Disappointment Lighthouse**

- **Property Address:** Fort Canby State Park, Pacific County, Washington (latitude 46.2758983975509; longitude 124.052233111857)
- **Facility/Site No.:** 23576

Dear Ms. Callahan:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your independent cleanup of a Property associated with Cape Disappointment Lighthouse 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**

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**The United States Coast Guard conducted and environmental cleanup of lead-contaminated soil at Cape Disappointment Lighthouse by excavating, removing, and disposing of the contaminated soil.**

**Ecology has determined that no further remedial action is necessary at the Property to clean up contamination associated with the Site.**

**This opinion is dependent on the continued performance and effectiveness of the post-cleanup controls and monitoring specified below.**

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. The analysis is provided below.



## **Description of the Property and the Site**

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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 Cape Disappointment Lighthouse property (approximately one-half acre), located at Fort Canby State Park in Pacific County, which was affected by the Site and addressed by your cleanup:

Enclosed is a diagram of the Site.

**2. Description of the Site.**

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

- Lead into the Soil.

## **Basis for the Opinion**

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

1. Letter Report, Investigating Lead Paint in Soil, Cape Disappointment, Ilwaco, Washington. Environmental A-E Services Contract no. DTCG88-97-D-6AL186. Prepared by: URS Corporation, 500 12<sup>th</sup> Street, Suite 200, Oakland CA, 94607. June 9, 2000.
2. Letter Report, Investigating Lead Paint in Soil, Cape Disappointment, Ilwaco, Washington. Prepared for: United States Coast Guard, Civil Engineering Unit Oakland, 2000 Embarcadero, suite 200, Oakland, California 94606-5337. Prepared by: CDM, 11811 N.E. First Street, Suite 201, Bellevue, Washington, 98005. February 10, 2002.
3. Site Visit on May 4, 2011, by Barry Rogowski of the Department of Ecology to verify Site conditions described in the above reports.

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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### **1. Cleanup of the Property located within the Site.**

Ecology has concluded that **no further remedial action** is necessary at the Property to clean up contamination associated with the Site. That conclusion is based on the following analysis:

#### **a. Characterization of the Site.**

Ecology has determined your characterization of the Site is sufficient to establish cleanup standards for the Site and select a cleanup for the Property. The Site is described above and in **Enclosure A**.

Lead paint chips have fallen off of the Lighthouse and surrounding structures over the years and contributed to shallow soil contamination at the site. USCG conducted numerous samples for lead using both lab analysis and XRF field analysis. Sampling was conducted before the contaminated soil was excavated and after the cleanup was completed as conformational monitoring. Cleanup Levels used for the site were MTCA method A for lead at 250 parts per million.

#### **b. Cleanup of the Property.**

Ecology has determined the cleanup you performed meets the applicable Site cleanup standards within the Property. This determination is dependent on the continued performance and effectiveness of the post-cleanup controls and monitoring specified below:

- USCG and their contractors excavated, removed, and disposed of lead contaminated soils in shallow surface soils, and some deeper surface soils at the site. In some locations excavation was halted due to archeological material discovered at the site. Excavations basically covered the entire horizontal extent of exposed contaminated soil, and vertically to a depth of approximately one foot, which is where the highest concentration of lead was found. Engineered controls were constructed and implemented to prevent or limit movement of, or exposure to, hazardous substances remaining at the Site, including placement of clean topsoil backfill over the excavated areas and replanting with grass.

**2. Operation and maintenance of engineered controls.**

Engineered controls prevent or limit movement of, or exposure to, hazardous substances. The following engineering controls are necessary at the Property:

- The topsoil should be inspected every five years and replaced and grass replanted as needed.

**Periodic Review of Post-Cleanup Conditions**

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At five-year intervals, Ecology will conduct periodic reviews of post-cleanup conditions at the Property to ensure that they remain protective of human health and the environment. If Ecology determines based on a periodic review that further remedial action is necessary at the Property, then Ecology will withdraw this opinion.

**Listing of the Site**

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Based on this opinion, Ecology will update the status of remedial action at the Site on our database of hazardous waste sites.

**Limitations of the Opinion**

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**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

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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).

**Contact Information**

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If you have any questions about this opinion, please contact me by phone at (360) 407-7236 or by e-mail at [BROG461@ecy.wa.gov](mailto:BROG461@ecy.wa.gov).

Sincerely,



Barry Rogowski  
Toxics Cleanup Program  
Land and Aquatic Lands Cleanup Section

cc: Evan Roberts, State Parks  
Ken Graham, State Parks  
Amy Cook, State parks

