



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

March 30, 2018

Mr. Mark Melnick, P.E.
City of Spokane
1225 E. Marietta Avenue
Spokane, WA 99207

Re: Proposed Cleanup of the following Site:

- **Site Name:** City of Spokane TJ Meenach CSO aka IO-3 Control Facility
- **Site Address:** 2828 N. TJ Meenach Drive, Spokane
- **Facility/Site No.:** 14478
- **Cleanup Site No.:** 81249

Dear Mr. Melnick:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your proposed independent cleanup of the City of Spokane TJ Meenach CSO aka IO-3 Control 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

Ecology is in general agreement with the proposed independent cleanup actions (listed in the following section), although our agreement is contingent on the expectation that institutional controls will be implemented at the Site. These institutional controls include an Environmental Covenant that will restrict land-use at the Site, document the residual contamination, and provide guidelines for personnel working onsite in the future (Chapter 64.70 RCW). This Covenant will need to be approved by Ecology and recorded with Spokane County following a public comment period. This will be required regardless of whether a No Further Action determination is pursued by the City of Spokane. If any future development or land-use is proposed at the Site, additional cleanup will be required before the Covenant can be amended or terminated.

At this time, the City of Spokane has not elected to enter into a formal agreement with Ecology or requested technical assistance through the Voluntary Cleanup Program. Ecology has not reviewed any remedial action reports or provided an opinion on any cleanup actions to date. Therefore, this opinion is limited to the proposed cleanup, and is not intended to evaluate the effectiveness of the actual cleanup.



Upon completion of the proposed cleanup, further remedial action may likely be necessary for the Site to meet the substantive requirements of MTCA (WAC 173-340-700). The Site will remain on the Confirmed and Suspected Contaminated Sites List (CSCSL) until the City of Spokane pursues a No Further Action determination, and Ecology evaluates the effectiveness of cleanup actions through a formal agreement or under the Voluntary Cleanup Program. Prior to any Ecology-supervised cleanup or review, a quantitative risk assessment may be conducted to evaluate all potential exposure pathways, and the site may be ranked on the Hazardous Sites List (WAC 173-340-330).

Proposed Site Cleanup Actions

- Backfill material from the existing stockpiles shown in the attached document titled *IO3 Site Overview* will be placed in the yellow shaded areas shown in the attached document titled *IO3 Site Fill Areas* (Enclosure A).
- Backfill depths will range from 2 to 20 ft. below finished grade.
- A geotextile marker will be used to cover areas where the backfill is placed.
- A minimum of 2ft. of clean topsoil will be placed on top of the geotextile marker to cap the backfill material.
- The City of Spokane will develop and implement a covenant for the properties containing backfill material.

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 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 Site 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 Voluntary Cleanup Program.

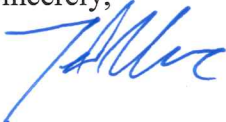
4. State is immune from liability.

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

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 509-329-3522 or e-mail at ted.uecker@ecy.wa.gov.

Sincerely,



Ted M. Uecker
Toxics Cleanup Program, Eastern Regional Office

TMU:cka

Enclosures (1): A –Diagrams of the Site

cc: Steve Burchett, Budinger & Associates

Enclosure A

Diagrams of the Site



