



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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

September 27, 2019

Berry Ellison  
Program Manager, Parks and Recreation Division  
City of Spokane  
808 W Spokane Falls Blvd  
Spokane, WA 99201

**Re: Opinion on Proposed Cleanup of a Property associated with a Site:**

- Property Address: 507 N Howard St, Spokane WA
- Facility/Site No.: 11445
- VCP Project No.: EA0318

Dear Berry Ellison:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your proposed independent cleanup of a Property associated with 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 RCW.

**Issues Presented and Opinion**

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1. Upon completion of the proposed cleanup, will further remedial action likely be necessary at the Property to clean up contamination associated with the Site?

**YES. Ecology has determined that further remedial action will likely be necessary at the Property to clean up contamination associated with the Site.**

2. Upon completion of the proposed cleanup, will further remedial action likely be necessary elsewhere at the Site?

**YES. Ecology has determined that further remedial action will likely be necessary elsewhere 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 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 following tax parcels in Spokane County, which were affected by the Site and will be addressed by your cleanup:

- 35185.0077.
- 35181.0032.

**Enclosure A** includes a diagram of the Site that illustrates the location of the Property within the Site.

### **2. Description of the Site.**

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

- Petroleum hydrocarbons, PAHs, and metals into the soil.

That release has affected more than one parcel of real property, including the parcels identified above.

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

### **3. Identification of Other Sites that may affect the Property.**

Please note a parcel of real property can be affected by multiple sites. At this time, we have no information that the Property is affected by other sites.

## **Basis for the Opinion**

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

1. GeoEngineers, Inc. *Riverfront Park Revitalization – North Bank* memorandum dated B9/10/19 to Ecology

2. GeoEngineers, Inc. *Riverfront Park Soil Management – Soil Placement on North Bank Property* memorandum dated 2/7/17 to Ecology
3. GeoEngineers, Inc. *Geotechnical Engineering Evaluation and Environmental Site Assessment, Riverfront Park Looff Carousel* 6/24/16
4. GeoEngineers, Inc. *Geotechnical Engineering Evaluation and Environmental Site Assessment, Riverfront Park Ice Ribbon and Skyride Facility* 6/7/16
5. GeoEngineers, Inc. *Phase II Assessment Report, Riverfront Park* 11/28/16
6. GeoEngineers, Inc. *Soil Management Plan - Riverfront Park Redevelopment* 5/25/16

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 the ERO resource contact 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**

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Ecology has concluded that, upon completion of your proposed cleanup, **further remedial action** will likely be necessary at the Property to clean up contamination associated with the Site. Revisions are needed to address the following comments:

- Does the estimate of 3,000-5,000 CY of contaminated soil in the current stockpile refer to only above-grade contaminated soil, or does it include the portion of contaminated soil that was used to bring the area up to grade? (middle of page 3)
- Please make it clear that the Sportsplex property contains Riverfront Park site-related contaminants from the same source, and thus is a part of the overall Riverfront Park cleanup site. (bottom of page 3)
- Please provide more certainty and/or clarity in your statements about the nature/composition of the current soil stockpile. If the soil from various projects was not explicitly separated, then please state the pile is of mixed composition. (top of page 4)
- Will PCS-contaminated soil from the north and east sides of the excavation also be addressed along with the southern areas? (bottom of page 4)
- The Soil Management Plan specifies that non-VOC contaminated soil may be reused under buildings, structures, or roads, and that it will be placed above the mean high groundwater table level and more than 12 inches below grade. Within these parameters, we would encourage placement of contaminated soil at maximum depths within excavations so as to minimize any chance of erosion or exposure at the ground surface. (top of page 5)
- Infiltration facilities are stated as being designed or planned to “reduce” or “minimize” contact between stormwater and contaminated soils. Infiltration facilities will not be allowed to be placed over soils that exceed cleanup levels for site contaminants.

## **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 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 Property 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 VCP.

**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**

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Thank you for choosing to clean up your Property 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.

Berry Ellison  
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For more information about the VCP and the cleanup process, please visit our web site: [www.ecy.wa.gov/programs/tcp/vcp/vcpmain.htm](http://www.ecy.wa.gov/programs/tcp/vcp/vcpmain.htm). If you have any questions about this opinion, please contact me by phone at (509) 329-3412 or by e-mail at [satr461@ecy.wa.gov](mailto:satr461@ecy.wa.gov).

Sincerely,



Sandra Treccani  
ERO Toxics Cleanup Program

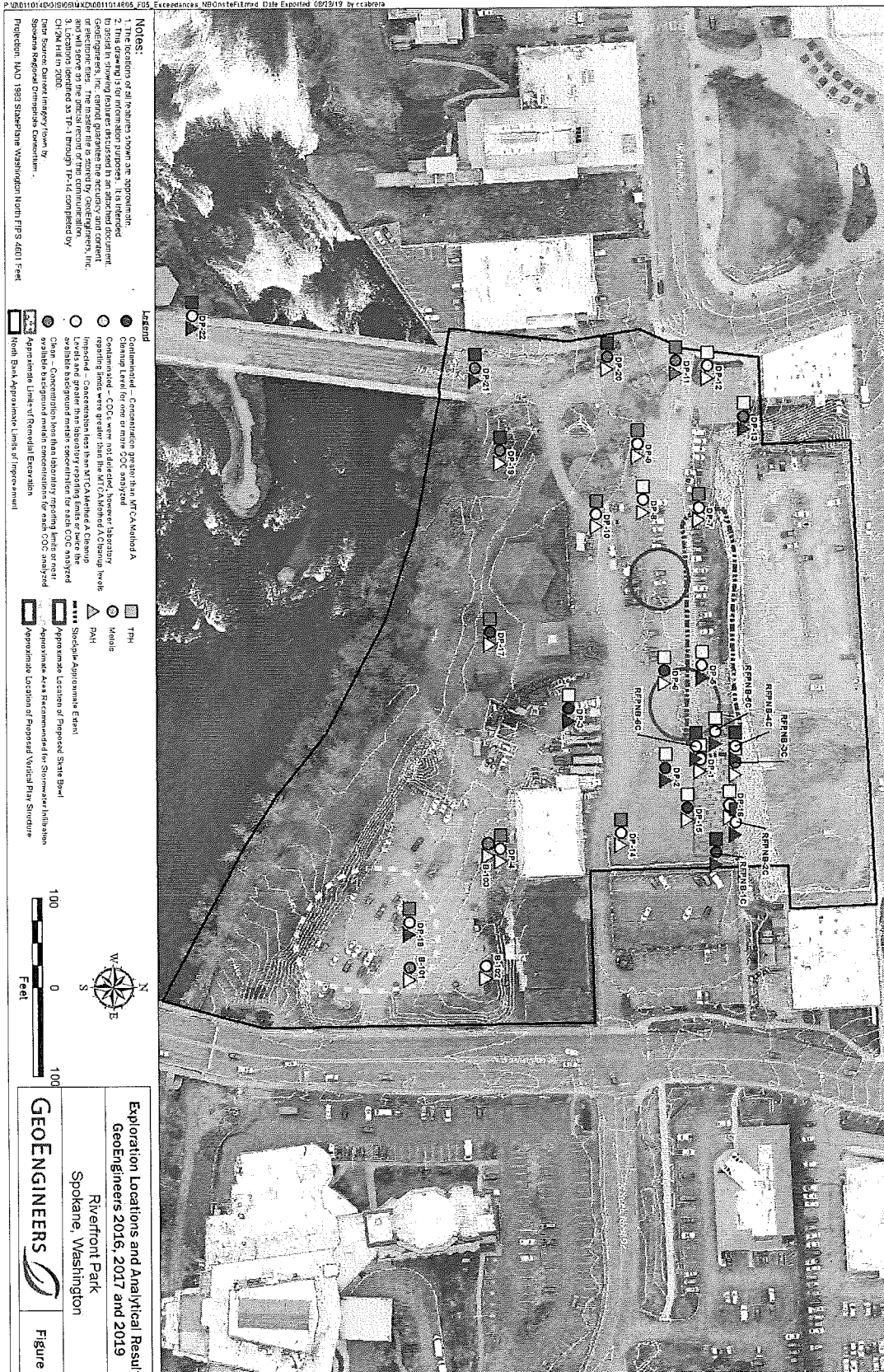
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Enclosures (2):   A – Description and Diagrams of the Property  
                          B – Description and Diagrams of the Site (including the Property)

cc:    J.R. Sugalski, GeoEngineers

## **Enclosure A**

### **Description and Diagrams of the Property**



## **Enclosure B**

### **Description and Diagrams of the Site (including the Property)**



