

State of Washington POLLUTION LIABILITY INSURANCE AGENCY 300 Desmond Drive SE• PO Box 40930• Olympia, Washington 98504-0930 (360) 407-0520• (800) 822-3905 • FAX (360) 407-0509 www.plia.wa.gov

August 28, 2018

Mr. Scott Rose AEG 605 11th Avenue SE, Suite 201 Olympia, WA 98501

Re: Remedial Action (RA) Report pursuant to Independent Remedial Action at the following Hazardous Waste Site:

- Facility/Site Name: H&H Diesel
- Facility/Site Address: 407 Porter Way, Milton, WA 98354-9686
- Facility Site ID: 89863773
- **PTAP Project No.:** PSW031

Dear Mr. Rose:

I have completed my review of the Remedial Action (RA) Report for the H&H Diesel by AEG LLC.

This letter constitutes an advisory opinion regarding a review of submitted documents/reports listed below pursuant to the substantive requirements of the Model Toxics Control Act (MTCA) and its implementing regulations, Chapter 70.105D RCW and Chapter 173-340-515 WAC (Independent Remedial Actions), for characterizing and addressing releases discussed below at the Site.

Issue Presented and Opinion

Does the RA Report completed for this Site (Fig. 2) contain sufficient information of the cleanup action implemented and does it meet the substantive requirements of the MTCA for a Site Closure?

Yes, the Pollution Liability Insurance Agency (PLIA) concurs that the submitted RA Report completed for this Site (Figs. 2 and 3) contains sufficient information of the cleanup details and it meets the substantive requirements of the MTCA.

Please submit for our review, a Draft Restrictive Covenant with a Site figure

Illustrating the extent of residual contamination contained on Site, and a long-term monitoring plan with a recommended monitoring frequency to ensure the remedial action continues to meet cleanup standards

You may access the PLIA's Restrictive Covenant template for MTCA Sites at this link: https://plia.wa.gov/wp-content/uploads/2016/12/PLIA_RestrictiveCovenant.docx

Description of the Site

This opinion applies only to the Property (Fig. 1) and the Site described below (Fig. 2). This opinion does not apply to any other sites that may affect the Property. At this time, we have no information that this property is affected by any other releases.

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

• Total petroleum hydrocarbons as gasoline, diesel & oil (TPH-g, TPH-d & TPH-o) and associated benzene, toluene, ethylbenzene and xylenes (BTEX), naphthalene and arsenic, lead and chromium into the soil/groundwater/vapor.

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

Basis of the Opinion

- 1. Remedial Action Report, H & H Property, Milton, WA. Project No. 15-112 of April 26, 2016 by AEG
- 2. Technical Addendum Report, H & H Property, 407 Porter Way, Milton, WA. June 8, 2018 by AEG
- 3. Groundwater Quarterly Report August 2016, H & H Property, 407 Porter Way, Milton, WA. August 30, 2016 by AEG
- 4. Remedial Investigation Report, H & H Property, 407 Porter Way, Milton, WA. Project No. 15-112 April 20, 2015 by AEG

Documents submitted to PLIA are subject to the Public Records Act (Chapter 42.56 RCW). To request public records, please email <u>pliamail@plia.wa.gov</u>.

This opinion is void if any of the information contained in the document(s) is materially false or misleading.

Please Note:

Remedial Investigation/Feasibility Studies (RI/FS): To ensure completeness of the

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substantive requirements of the MTCA as you develop the RI/FS per WAC 173-340-350, please see the Department of Ecology (Ecology) Checklist publication numbers 16-09-006 and 16-08-007 May 2016 for the RI/FS respectively.

<u>Cleanup Action Plan (CAP)</u>: Also for the CAP per WAC 173-340-360 through 450;

additionally, to ensure that cleanup standards have been appropriately set and applied, incorporating all potential exposure pathways and receptors, in accordance with WAC 173-340-700 through 760; please see the Ecology CAP Checklist publication no. 16-09-008 May 2016.

Report Template: Your Reporting must meet the substantive requirements of the MTCA described in WAC 173-340-350(7) and WAC 173-340-840 and for a suggested reporting template including the rest of the publications mentioned above, please follow this link: http://www.ecy.wa.gov/programs/tcp/policies/checklists.html.

<u>**Closure of Low Risks Petroleum Sites in the State</u></u>: To expedite and streamline the closure of low risks petroleum sites in the state of Washington, please see Ecology's published Model Remedies for <u>soil</u>, <u>groundwater</u>, <u>vapor</u> and <u>empirical demonstration (</u>to demonstrate that soil concentrations measured at a contaminated site have not caused, and will not cause, an exceedance of the applicable groundwater cleanup levels**) guidelines at the following link: <u>http://www.ecy.wa.gov/programs/tcp/policies/model-remdies/index.html</u>.</u>

Natural Attenuation Guidance: This link also provides guidance and calculation tools for demonstrating natural attenuation of groundwater is occurring and enable prediction of when groundwater cleanup levels will be met as part of your multiple lines of evidence to support, streamline and expedite site closures. http://www.ecy.wa.gov/programs/tcp/tools/toolmain.html

Limitations of the Opinion

1. Opinion does not settle liability with the state.

Under the MTCA, liable persons are strictly liable, jointly and severally, for all remedial action costs and for all natural resource damages resulting from the release(s) 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 the Office of the Attorney General and

2. Opinion does not constitute a determination of substantial equivalence.

To recover remedial action costs from other liable persons under the 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 equivalent. Courts make that determination (RCW 70.105D.080 and WAC 173-340-545).

3. State is immune from liability.

The state, PLIA, 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.

Contact Information

Thank you for choosing to clean up your property under the PLIA Petroleum Technical Assistance Cleanup Program (PTAP). If you have any questions about this opinion, please contact me by phone at 1-800-822-3905, or by email at <u>nnamdi.madakor@plia.wa.gov</u>.

Sincerely,

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Enclosure A: Fig. 1: Site Vicinity Map Fig. 2: Site Plan Map

cc: Mr. Robert Graham, Graham Trucking Ms. Kristin Evered PLIA (email only) Ms. Carrie Pederson, PLIA (email only)

Enclosure A: H & H Diesel Site PTAP PSW031

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Fig. 2: Site Plan Map