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STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Avenue SE • Bellevue, Washington 98008-5452 • (425) 649-7000

January 14, 2010

Michelle Chen
5726 27th Ave NE
Seattle, WA 98019

Re: No Further Action at a Property associated with a Site:

- **Property Address:** 2202 Broadway, Everett, WA 98201
- **Facility/Site No.:** 5661282
- **VCP Project No.:** NW 2212

Dear Ms. Chen:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your independent cleanup of a Property associated with the 2202 Broadway 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

1. Is further remedial action necessary at the Property to clean up contamination associated with the Site?

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

2. Is further remedial action still necessary elsewhere at the Site?

YES. Ecology has determined that further remedial action is still 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

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, which were affected by the Site and addressed by your cleanup:

- 00 439 147 502 900.
- 00 439 147 503 100.

Enclosure A includes a legal description of the Property. The location of the Property within the Site is illustrated in **Enclosure B**.

2. Description of the Site.

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

- gasoline- and diesel-range petroleum hydrocarbons into the Soil

Those releases have affected more than one parcel of real property, including the parcels identified above. Most of the Site is within the Property, but a small area of contamination extends into the adjoining Broadway Avenue right-of-way.

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

Basis for the Opinion

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

1. November 7, 2007, *Underground Storage Tank Closure & Soil Remediation Report*, report by Environmental Management Services, LLC.

This document is kept in the Central Files of the Northwest Regional Office of Ecology (NWRO) for review by appointment only. You can make an appointment by calling the NWRO resource contact, Sally Perkins, at 425 649-9190.

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

Analysis of the Cleanup

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 B**.

b. Establishment of cleanup standards for the Site.

Ecology has determined the cleanup levels and points of compliance you established for the Site meet the substantive requirements of MTCA.

i. Cleanup levels.

The Site is located in a mixed commercial/residential area. Method A or B soil cleanup levels protective of unrestricted use are therefore appropriate. Other potentially applicable exposure pathways and associated cleanup levels (i.e. vapor intrusion, leaching to ground water, terrestrial ecological protection) are not needed for this Site. Method A table values were chosen as the cleanup levels.

ii. Points of compliance.

The standard point of compliance for soil for unrestricted soil is throughout the Site from land surface to a depth of 15 feet below land surface.

Please note that other requirements apply to the cleanup based on the type of the action and location of the Property. Those requirements are specified in the report referenced above.

c. Selection of cleanup for the Property.

Ecology has determined the cleanup you selected for the Property, excavation and removal of all contaminated soil, meets the substantive requirements of MTCA. The cleanup meets the minimum cleanup requirements and does not exacerbate conditions or preclude reasonable cleanup alternatives elsewhere at the Site.

d. **Cleanup of the Property.**

Ecology has determined the cleanup you performed meets the applicable Site cleanup standards within the Property.

The cleanup action took place in mid-2007 and involved removing six underground storage tanks and excavating 2,000 tons of contaminated soil. The contaminated soil was taken off-property to Rinker Materials for treatment and disposal. The excavation generally extended to about 11 feet below land surface, coincident with the depth to till at the Property.

Performance samples taken at the sides and base of the excavation showed that remaining soil met cleanup levels, except in a 10 to 15 foot-wide area adjoining Broadway Avenue. In this area, gasoline-range petroleum hydrocarbon-contaminated soils extend off-property beneath the street right-of-way.

2. **Cleanup of the Site as a whole.**

Ecology has concluded that **further remedial action** under MTCA is still necessary elsewhere at the Site. In other words, while your cleanup constitutes the final action for the Property, it constitutes only an **"interim action"** for the Site as a whole. The portion of the Site extending into the Broadway Avenue right-of-way still needs to be cleaned up.

Listing of the Site

Based on this opinion, Ecology will update the status of remedial action at the Site on our database of hazardous waste sites. However, because further remedial action is still necessary elsewhere at the Site, we will not remove the Site from our lists of hazardous waste sites. Furthermore, the Property will remain listed as part of the Site because the cleanup of the Property does not change the boundaries of the Site.

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**:

- 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 performed is substantially equivalent. Courts make that determination. *See* RCW 70.105D.080 and WAC 173-340-545.

3. State is immune from liability.

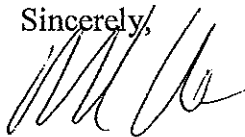
The state, Ecology, and its officers and employees are immune from all liability, and no cause of action of any nature may arise from any act or omission in providing this opinion. *See* RCW 70.105D.030(1)(i).

Termination of Agreement

Thank you for cleaning up your Property under the Voluntary Cleanup Program (VCP). This opinion terminates the VCP Agreement governing this project (#NW 2212). If you should decide to clean up the remainder of the Site, please do not hesitate to reapply and request additional services under the VCP.

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 or the termination of the Agreement, please contact me at 425 649-7107.

Sincerely,



Mark Adams
NWRO Toxics Cleanup Program

ma/kp

Enclosures (2): A – Legal Description of the Property
B – Description and Diagram of the Site

cc: Stephen Spencer, Environmental Management Services, LLC
Chris Regan, Washington State Department of Transportation
Dolores Mitchell, VCP FINANCIAL MANAGER (without enclosures)

Site Description

Site: The Site is associated with a former service station property (the Property) at 2202 Broadway Avenue, Everett, Washington. Gasoline-, diesel-, and oil-range fuels (TPHg, TPHd, TPHo, respectively) were released to soil at the Property and comprise the Site, as shown on the attached figure.

Area Description: The property is located near downtown Everett, and is part of a commercial strip of businesses lining Broadway. Long-established residential neighborhoods back the commercial strip.

Property History and Current Use: The property was originally developed for single-family residential use around 1920. An automobile service station was then constructed at the Property in about 1950, and continued in operation until 1995. The Property was subsequently used as an automobile sales dealership until June 2007. All structures at the Property have since been demolished and removed.

Physiographic Setting: The Site is situated near the top of the Intercity Plateau, an upland area that rises 300 to 400 feet above the bordering Snohomish River valley on the east and Port Gardner Bay on the west. The land surface at the Property slopes gently down to the east.

Surface/Storm Water System: Most of the property and other nearby commercial properties are paved or covered with buildings. Storm water in these areas and in the adjoining residential areas is captured in municipal storm drains. The point of discharge has not been determined, but it would be some distance away into either the Snohomish River or Port Gardner Bay. There are no significant streams or water bodies near the Property.

Ecological Setting: There are no parks or other areas of natural habitat in the immediate vicinity of the Site. However, the landscape vegetation and open areas comprising yards in the residential neighborhood would be considered "undeveloped land" for purposes of a terrestrial ecological evaluation (TEE). Therefore none of the exclusions from a TEE would apply (173-340-7491(1)), and a simplified TEE is required. The simplified TEE itself may be ended based on the exposure analysis outlined in Table 749-1 (WAC 173-340). Ecology has completed the exposure analysis and determined that no further ecological evaluation is required for this Site.

Geology: Geologic conditions have not been explored at the Site below about 10 feet. However subsurface exploration data from nearby sites show a blanket of Vashon-age glacial till tens of feet thick across the area. The till consists of silt, sand, and gravel, and is typically very dense, having been compressed beneath several thousand feet of glacial ice.

Ground Water: Ground water conditions have also not been explored at the Site. Exploration data from nearby sites show very little or no ground water occurrence in the till. At one site located at 16th and Broadway, a discontinuous water-bearing zone appears to be present at a depth of around 50 to 60 feet below land surface. The ground water in this zone is only seasonally present, and likely represents perched ground water located well above the deep aquifers within the Intercity Plateau.

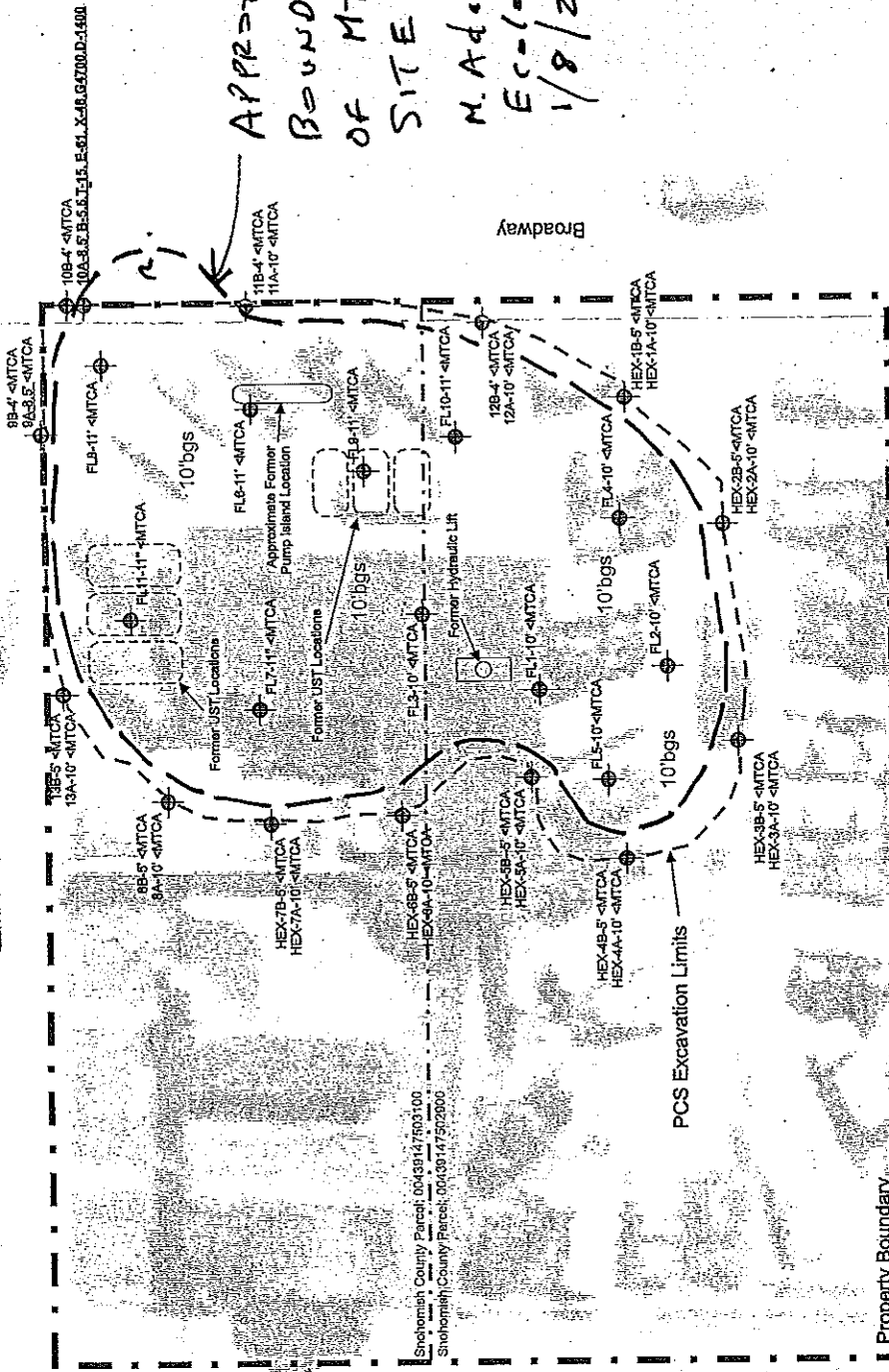
Release and Extent of Contamination - Soil: The Site is defined by gasoline, diesel, and oil releases to soil. Lead has not been detected at the Site at concentrations above cleanup levels. The releases to soil have been documented in and around six former USTs, pump islands, and associated piping. The contaminated soil extended from near land surface to a depth of about 11 feet over an area measuring approximately 50 feet by 70 feet in plan dimension. The area of contamination associated with the former USTs has been bounded on the Property, but has not been bounded to the east within the Broadway Avenue right-of-way. Maximum concentrations measured at the Site were 4700 mg/kg TPHg and 3700 mg/Kg TPHd. Very little benzene was detected.

Extent of Contamination – Ground Water: Ground water likely occurs at great depth beneath the Property and is unlikely to have been impacted by releases from the service station.

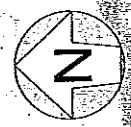
22nd Street

Broadway

APPROXIMATE
BOUNDARY
OF MTCA
SITE
M. Adams
EC-1057
1/8/2010



Note: Project Contaminates of Concern are Diesel, Heavy Oil, Gasoline, Benzene, Toluene, Ethylbenzene & Total Xylenes



Approximate Scale
0 10 20 30 40 50 Feet

- Soil Sample Location <MTCA Method A Unrestricted Cleanup Levels
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Property Boundary

Environmental Services
www.environmentalservices.com
Environmental Management Services, LLC
Everett, Washington

Confirmation Soil Sample Location Map
UST Site Assessment &
Soil Remediation Project
2202 Broadway Avenue
Everett, Washington

Date: August 23, 2007
Completed: C. Foley
Checked By: S. Spancer
Version No: 001

Figure No. **04**

Protecting Prudent Environmental Compliance Solutions