



Electronic Copy

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Avenue SE • Bellevue, Washington 98008-5452 • (425) 649-7000
711 for Washington Relay Service • Persons with a speech disability can call (877) 833-6341

September 14, 2020

Aoki Estate
c/o Clark Davis
7191 Wagner Way NW Suite 202
Gig Harbor, WA 98335
(cdavis@cjd-law.com)

Re: Opinion pursuant to WAC 173-340-515(5) on Remedial Action for the following Hazardous Waste Site:

- **Site Name:** Aoki Property
- **Address:** 1314 East Pike Street, Seattle, WA 98122
- **Facility/Site No.:** 6153541
- **VCP Project No.:** NW1743
- **Cleanup Site ID No.:** 2994

Dear Clark Davis:

The Washington State Department of Ecology (Ecology) received your request for an opinion on a *Confirmation Soil Sampling and Analysis Plan* dated May 11, 2020 for the **Aoki Property** 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. This opinion applies only to the Site described below.

Description of the Site

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

- Tetrachloroethene (PCE) and related halogenated volatile organic compounds (HVOCs) as microbial degradation products into the Soil, Ground Water and Air

Please note a parcel of real property can be affected by multiple sites. At this time, we have no information that the parcels associated with this Site are affected by other sites.

Basis for the Opinion

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

1. Pacific Crest Environmental, LLC, 2020. *Confirmation Soil Sampling and Analysis Plan, Aoki Site, 1314 East Pike Street, Seattle, Washington.* May 11.

2. Pacific Crest Environmental, LLC, 2020. *Addendum to Amended Remedial Investigation/Feasibility Study, Aoki Site, 1314 East Pike Street, Seattle, Washington.* May 1.
3. Pacific Crest Environmental, LLC, 2019. *Screening Level Calculations: Indoor Air and Groundwater, Aoki Site, 1314 East Pike Street, Seattle, Washington.* September 24.
4. Pacific Crest Environmental, LLC, 2019. *Amended Remedial Investigation and Feasibility Study Report, Aoki Site, 1314 East Pike Street, Seattle, Washington.* September 24.
5. Pacific Crest Environmental, LLC, 2017. *Proposed Approach to Addressing Ecology Review Comments, Remedial Investigation Data Gap and Feasibility Study Report, Aoki/Madrona Site, 1314 East Pike Street, Seattle, Washington.* March 8.
6. Pacific Crest Environmental, LLC, 2015. *Remedial Investigation Data Gap and Feasibility Study Report, Aoki/Madrona Site, 1314 East Pike Street, Seattle, Washington.* November 24.
7. Pacific Crest Environmental, LLC, 2014. *VCP No. NW1743, Cleanup Action Program Memorandum, Aoki/Madrona Site, 1314 East Pike Street, Seattle, Washington.* October 9.
8. Pacific Crest Environmental, LLC, 2012. *Remedial Investigation and Interim Action Cleanup Progress Report, 1314 East Pike Street, Seattle, Washington.* February 9.
9. Pacific Crest Environmental, LLC, 2010. *Cleanup Action Progress Report, Aoki Property, 1314 East Pike Street, Seattle, Washington.* February 2.
10. Aspect Consulting, 2008. *East Pike Street Property Environmental Assessment.* May 22.
11. Slotta Design and Construction, 2005. *Subsurface Investigation Report, Former Dry Cleaner, 1314 E. Pike Street, Seattle, WA 98122.* April 22.

In addition to the reports above, Ecology previously issued written opinions for this Site in letters dated March 30, 2009, March 8, 2010, April 20, 2010, April 25, 2012, June 25, 2012, July 24, 2013, September 8, 2016, August 20, 2018, January 20, 2020 and September 4, 2020.

Those documents are kept in the Central Files of the Northwest Regional Office of Ecology (NWRO) for review by appointment only. You can submit a public records request by creating an account at <https://ecology.wa.gov/About-us/Accountability-transparency/Public-records-requests> . If you require assistance with this process, you may contact the Public Records Officer at publicrecordsofficer@ecy.wa.gov or 360-407-6040. A number of these documents are accessible in electronic form from the [Site web page](#)¹. The complete records are kept in the Central Files of the Northwest Regional Office of Ecology (NWRO) for review by appointment only. Visit our [Public Records Request](#)² page to submit a public records request or get more information about the process. If you require assistance with this process, you may contact the Public Records Officer at publicrecordsofficer@ecy.wa.gov or (360) 407-6040.

¹ <https://apps.ecology.wa.gov/gsp/Sitepage.aspx?csid=2994>

² <https://ecology.wa.gov/publicrecords>

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

Opinion

Based on a review of the *Confirmation Soil Sampling and Analysis Plan* dated May 11, 2020 and other documents in the Basis for the Opinion, Ecology has determined:

- Ecology also does not concur that interim remedial actions conducted to date have likely cleaned up the Site to below cleanup levels (see Ecology's Further Action Letter dated September 4, 2020). By providing an opinion as requested on the *Confirmation Soil Sampling and Analysis Plan*, Ecology is not recommending conducting the confirmation soil borings at this time.
- Ecology does not concur that the Remedial Investigation is complete and that PCE contamination in soil was delineated laterally and vertically on the Site (see Ecology's Further Action Letter dated September 4, 2020). Even if detected, PCE and related compound concentrations in the planned confirmation soil samples are below the MTCA Method A cleanup level, there is likely shallow soil remaining in the unexcavated portion of the Property and under the buildings on adjacent properties with PCE concentrations exceeding Method A. It is unlikely that the soil vapor extraction addressed deeper soil contamination. For these reasons, a No Further Action determination would not be possible for soil or groundwater until a complete Site cleanup can be conducted and verified. Groundwater contamination remaining on the Site is a separate issue.
- On page 1-1, in footnote 3, please remove the word 'unsaturated', it is not consistent with the MTCA citation provided.
- **Section 1.3.1 Historical Soil Cleanup Activities** – As stated in Ecology's Opinion Letter dated January 17, 2020, soil vapor extraction system influent concentrations cannot be compared with indoor air cleanup standards to determine compliance. Discreet sampling locations are needed. Also, Ecology does not recognize remediation levels as cleanup levels.
- **Section 2.2 Scope of Work** – Confirmation soil borings typically target a previous soil sampling interval that had an exceedance in order to confirm the cleanup. The confirmation soil sample should be collected as close as possible, laterally and vertically, to the original soil sample. The scope of work needs to include a table numbering each of the proposed borings and indicating what previous sample is being used for confirmation (include the PCE concentration of the previous sample). If additional or deeper intervals are identified as potentially containing PCE based on field screening, samples should also be collected in those intervals.
- It does not appear that the original soil confirmation sample locations were surveyed, therefore a description is needed for how they will be relocated so that the vertical borings can be placed immediately adjacent to them.
- **Figure 2 Proposed Soil Confirmation Soil Sample Locations:** The figure should indicate that it is for soil borings as it does not show sampling locations. An angled boring to the west is planned for the location of the highest PCE concentration (25 milligrams per kilogram) at 12 feet bgs in the excavation confirmation soil sampling. An angled boring to the west would miss that location and not be able to confirm that the contamination has been remediated to cleanup standards. Also, no vertical borings are planned in the southwest corner of the Property, the likely PCE source area.

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 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

Thank you for choosing to clean up the Site 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.

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 at by phone at (425) 649-7064 or by email at heather.vick@ecy.wa.gov.

Sincerely,



Heather Vick, LHg
Toxics Cleanup Program, NWRO

cc: Lauren Carroll, Pacific Crest Environmental, LLC, (lcarrroll@pcenv.com)
Bradford Augustine, Madrona Real Estate Services, LLC, (brada@madronarealestate.com)