

October 16, 2000

TO: Steve Alexander, TCP Section Head, NWRO

FROM: Roger Nye

SUBJECT: Clarifications Regarding Issue of Changing Scope of Agreed Order to Include Cleanup Actions or a CAP

The short answer is that Ecology already has an agreement with the Port regarding this issue. Background information must be provided to understand how this came about and what it is.

My predecessor in the prepaid position for Sea-Tac Airport, Linda Priddy attempted to put four of the major MTCA sites where cleanup was going on independently under formal Agreed Orders. In this attempt, Ms. Priddy's relation with the Port, in particular Elizabeth Leavitt, became so bad that Ms. Priddy found another job with the EPA and left Ecology in the fall of 1993. It is my understanding that subsequently Ecology agreed to back off from pursuing these particular Agreed Orders, and the PLPs (airlines) promised to more proactive in conducting their cleanups, which they were.

I competed for and was selected to be the Port's prepaid position for the airport in April, 1994. For some reason that I still don't understand, Ecology allowed the Port to have another prepaid position without the issue of having an Agreed Order at the airport resolved as is required by the prepaid position policy. A meeting was held on September 30, 1994 that involved Mike Rundlett, Mike Gallagher, Kathy Gerla, myself, Dave Aggerholm (head of all environmental things at the Port), Tom Newlon (head attorney for the Port) and Paul Agid. The purpose of the meeting was to discuss whether or not the prepaid position could continue at the airport without an Agreed Order for the airport.

I had raised the idea of possibly doing a large-scale evaluation of groundwater at the airport to account for possible unknown contaminant sources (sort of an RI for groundwater) and the idea had been bantered around somewhat but there had been no serious moves towards implementing it at that time. The upshot of the meeting was that the Port agreed to do this groundwater evaluation under an Agreed Order to comply with the prepaid position policy, and Dave Aggerholm apparently thought the idea was environmentally appropriate. The Port put Paul Agid in charge of the project, who I later found out argued strongly against the Port doing this project. The Port could have refused to do the groundwater project at that time and elected instead to end the prepaid position. It is very doubtful Ecology would have pursued the idea of a groundwater evaluation at the airport further.

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As a condition for doing the groundwater evaluation project however, the Port wanted the results of the project (if the results of the project indicated there was no risk) to be incorporated into an Ecology-approved risk-based presumptive remedy scenario applicable to the airport. Sometime in late 1994 or early 1995, I went to Olympia and presented the known technical issues of contamination at the airport and the possibility of doing a risk-based cleanup remedy scenario there. I made the presentation to Curtis Dahlgren, Craig McCormack, Carol Krage, and Lynn Coleman. The consensus of this group was that a risk-based remedy scenario was appropriate for the airport given that the risk of the contamination appeared to be low, and if the groundwater project verified that the risk indeed was low. The group also suggested however, that in return for Ecology's approval of a risk-based remedy scenario at the airport that the Port should be more proactive in preventing contamination at the airport, which is why there is a pollution prevention component to the Agreed Order.

By early 1997 the details of the Agreed Order for a groundwater evaluation and pollution prevention activities had been completed, and also the details of a risk-based presumptive remedy scenario for the airport if the groundwater evaluation demonstrated low risk had been completed. Two years seems like a long time to complete this work, but it must be realized that work on the groundwater project took place only very sporadically. Most of my time was taken up being involved in Port marine projects unrelated to the airport and also many other issues at the airport.

The Port wanted the language regarding the risk based remedy scenario to be included in the Agreed Order, but Kathy Gerla declined saying that it was inappropriate to include a remedy in the Agreed Order before the groundwater evaluation (RI) had been completed. Consequently the language of the risk based presumptive remedy scenario for the airport was stated in a separate document which became known as the "side letter". The idea was that Mike Gallagher would sign this document and present it to the Port once the groundwater project was finished given the results of the project demonstrated no risk.

Paul Agid of the Port and I provided and agreed on the technical details, but the language in the side letter was worked out directly between Kathy Gerla and Tom Newlon of the Port, and later on Jerri Thomas and Tom Newlon. There was a long process arriving at the language of the side letter and it went through many drafts and I have much documentation regarding that process. TCP management including Mary Burg was aware of and approved of this risk-based presumptive remedy approach, and as I remember the mindset was that it was a creative and reasonable approach.

The "side letter" is attached to this write up along with an interim draft. The details of the presumptive risk-based remedy scenario are self-explanatory. Keep in mind this was all done before the Interim TPH policy came about and the ITPH policy has actually rendered much of this risk-based remedy scenario moot.

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There is another issue regarding cleanup actions at Sea-Tac Airport related to this Agreed Order. The Agreed Order contains no language regarding remedial actions that could be taken if the Agreed Order did demonstrate there was a risk that needed to be addressed. In negotiating the language of the Agreed Order I did attempt to go down that road but the Port objected strongly. In the end it was the consensus of Mike Gallagher, Ching-Pi and myself that we wouldn't put that kind of language in the Agreed Order and that Ecology would elect to formally become involved in any subsequent remedial actions if warranted when the time came.

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April ?, 1997

Paul Agid
Environmental Management Specialist
Port of Seattle, SeaTac Airport
P. O. Box 68727
Seattle, WA 98111-1209

Dear Mr. Agid:

As you are aware, the Department of Ecology and the Port of Seattle are in the process of implementing a MTCA Agreed Order for conducting a remedial investigation of groundwater at SeaTac International Airport (STIA). This letter is intended to provide informal advice and assistance concerning how information generated by the Agreed Order may relate to cleanup actions at STIA.

The purposes of the groundwater investigation are: (1) to acquire a more comprehensive understanding of groundwater flow characteristics; and (2) to acquire a more comprehensive determination of the nature and extent of any groundwater contamination at the site, particularly downgradient (west) of the Aircraft Operations and Maintenance Area (AOMA) section of STIA.

We have had preliminary discussions about the likely options for cleanup if analyses and modeling of existing data and data acquired through the groundwater investigation shows by comparison with the MTCA standards in effect at the conclusion of the groundwater study: (1) there is not threat to public water wells and surface waters from contamination within the AOMA via a groundwater pathway; and (2) there is no groundwater contamination downgradient (west) of the AOMA. The comprehensive groundwater investigation data would be downgradient groundwater information applicable in general to the individual sites within the AOMA.

Based on the information Ecology has reviewed to date, it appears that a common framework of "standard" cleanup actions for sites within the AOMA would be appropriate because the contaminated sites are very similar. The sites

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Paul Agid
April ?, 1997
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are mostly contaminated with jet fuel, have similar hydrogeology, are capped, are in proximity to each other, and remediation is mostly difficult because of aircraft operations.

If the groundwater study shows there is no threat to human health and the environment as described above, the "standard" cleanup actions would include:

- Site characterization and recovery of free product;
- Concrete or asphalt capping;
- Long-term monitoring; and
- A deed restriction.

No active remediation of contaminated soil or dissolved-phase contaminants in groundwater would be done.

The "standard" cleanup actions would not apply at some sites where site-specific conditions require remediation of soil and dissolved-phase contamination in groundwater. Site-specific conditions could include: sites where contamination is easily accessible, sites with high BTEX values in groundwater, and sites where contamination would likely migrate outside airport property.

Based on what we now know, these are the types of remedies that Ecology would currently accept in any review of independent remedial action reports under the IRAP program for applicable sites at SeaTac Airport, as long as the groundwater study results are as described in this letter.

Please keep in mind this letter is provided as technical assistance pursuant to WAC 173-340-130(3) (1990 ed.), and is not an approval of any cleanup action.

Sincerely,

Michael J. Gallagher
Section Manager
Toxics Cleanup Program
Northwest Regional Office

MJG:rn
cc: Jerri Thomas, Attorney Generals Office

AR 023660



Christine O. Gregoire

ATTORNEY GENERAL OF WASHINGTON

Ecology Division

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Roger Nye -
Sorry I walked
off w/ your copy, Ros
- Mary

MEMORANDUM

July 2, 1996

ATTORNEY CLIENT
PRIVILEGED
COMMUNICATION

TO: Mary Burg, Program Manager, Toxics Cleanup
Mike Gallagher, Section Head, NWRO
Roger Nye, NWRO

FROM: Kathy Gerla, Assistant Attorney General *KLG*

RE: SeaTac Airport--Status Update for July 16 Meeting

Letter Regarding Cleanup Options

On June 14, Tom Newlon (the Port's attorney) and I discussed the SeaTac Airport site--in particular, the letter we proposed in March discussing likely cleanup options after the area-wide groundwater study is completed. A copy of the proposed letter is attached. The Port has indicated it needs this letter, or something like it, in order to proceed with the groundwater study.

The Port would like four changes to our proposed letter:

1. Page 2, second sentence: Replace "sites with good access" with "sites where contamination is easily accessible".
2. Page 2, second sentence: In the phrase "sites where contamination could migrate outside airport property," replace "could" with "would likely".
3. Page 2, second paragraph, first sentence: Change "would likely accept" to "would currently accept".
4. The Port would like the letter signed by someone higher in management than Roger, preferably Mary Burg or above.

While I have no problems with the first two changes (those are technical issues for you, Roger), I do have concerns with the last two, and would like to discuss them at our upcoming meeting.

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3/22/96

DRAFT

[LETTER TO PORT OF SEATTLE]

RE: SeaTac Airport

As you are aware, the Port of Seattle and the Department of Ecology are in the process of negotiating an agreed scope of work for conducting a remedial investigation of groundwater at SeaTac International Airport (STIA). This investigation will be performed under a MTCA Agreed Order.

The purposes of the groundwater investigation are: (1) to acquire a more comprehensive understanding of groundwater flow characteristics; and (2) to acquire a more comprehensive determination of the nature and extent of any groundwater contamination at the site, particularly downgradient (west) of the Aircraft Operations and Maintenance Area (AOMA) section of STIA.

We have had preliminary discussions about the likely options for cleanup if analyses and modeling of existing data and data acquired through the groundwater investigation shows: (1) there is no threat to public water wells and surface waters from contamination within the AOMA via a groundwater pathway; and (2) there is no groundwater contamination downgradient (west) of the AOMA. The comprehensive groundwater investigation data would be downgradient groundwater information applicable in general to the individual sites within the AOMA.

Based on the information Ecology has reviewed to date, it appears that a common framework of "standard" cleanup actions for sites within the AOMA would be appropriate because the contaminated sites are very similar. The sites are mostly contaminated with jet fuel, have similar hydrogeology, are capped, are in proximity to each other, and remediation is mostly difficult because of aircraft operations.

If the groundwater study shows there is no threat to human health and the environment as described above, the "standard" cleanup actions would include:

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- Concrete or asphalt capping;
- Long-term monitoring; and
- A deed restriction.

No active remediation of contaminated soil or dissolved-phase contaminants in groundwater would be done.

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DRAFT

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Based on what we now know, these are the types of remedies Ecology would likely accept in any review of independent remedial action reports under the IRAP program, as long as the groundwater study results are as described in this letter. Please keep in mind this letter is provided as technical assistance, pursuant to WAC 173-340-130(3) (1990 ed.), and is not an approval of any cleanup action.

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