



**RFP #793**  
PROFESSIONAL, TECHNICAL AND EXPERT SERVICES

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Clark County Washington

RELEASE DATE: WEDNESDAY, MARCH 24, 2021  
DUE DATE: WEDNESDAY, APRIL 14, 2021 by 1:30 pm

Request for Proposal for:

**WHATLEY PIT SOIL SAMPLING SERVICES**

**SUBMIT:**

One (1) Original  
Four (4) Complete Copies

**of the Proposal to:**

Clark County  
Office of Purchasing  
P.O. Box 5000  
1300 Franklin Street, 6<sup>th</sup> Floor, Suite 650  
Vancouver, Washington 98660  
564-397-2323

Proposals can be hand delivered between 8:00 am – 3:00 pm, Monday – Friday, except Legal Holidays.  
Proposals shall not be submitted via electronic submission.

***\*\*Proposals must be date and time stamped by Purchasing staff before 1:30 pm on due date.***

***\*\*DO NOT PUT IN ANY DROP BOX LOCATED IN THE BUILDING\*\****

***\*\*Hand Delivery Requires Entrance to the building using the North Door on the First Floor.***

***\*\*Anyone entering the building must wear a face mask\*\****

**Refer Questions to Project Manager:**

Gregg Ganson  
Site Coordinator, Public Works  
[Gregg.Ganson@clark.wa.gov](mailto:Gregg.Ganson@clark.wa.gov)  
564-397-1682

## General Terms and Conditions

**ADMINISTRATIVE REQUIREMENTS** - Contractors shall comply with all management and administrative requirements established by Washington Administrative Code (WAC), the Revised Code of the State of Washington (RCW), and any subsequent amendments or modifications, as applicable to providers licensed in the State of Washington.

ALL proposals submitted become the property of Clark County. It is understood and agreed that the prospective Proposer claims no proprietary rights to the ideas and written materials contained in or attached to the proposal submitted. Clark County has the right to reject or accept proprietary information.

**AUTHORSHIP** - Applicants must identify any assistance provided by agencies or individuals outside the proposer's own organization in preparing the proposal. No contingent fees for such assistance will be allowed to be paid under any contract resulting from this RFP.

**CANCELLATION OF AWARD** - Clark County reserves the right to immediately cancel an award if the contractual agreement has not been entered into by both parties or if new state regulations or policy make it necessary to change the program purpose or content, discontinue such programs, or impose funding reductions. In those cases where negotiation of contract activities are necessary, Clark County reserves the right to limit the period of negotiation to sixty (60) days after which time funds may be unencumbered.

**CONFIDENTIALLY** - Proposer shall comply with all applicable state and federal laws governing the confidentiality of information.

**CONFLICT OF INTEREST** - All proposals submitted must contain a statement disclosing or denying any interest, financial or otherwise, that any employee or official of Clark County or the appropriate Advisory Board may have in the proposing agency or proposed project.

**CONSORTIUM OF AGENCIES** - Any consortium of companies or agencies submitting a proposal must certify that each company or agency of the consortium can meet the requirements set forth in the RFP.

**COST OF PROPOSAL & AWARD** - The contract award will not be final until Clark County and the prospective contractor have executed a contractual agreement. The contractual agreement consists of the following parts: (a) the basic provisions and general terms and conditions, (b) the special terms and conditions, (c) the project description and goals (Statement of Work), and (d) the budget and payment terms. Clark County is not responsible for any costs incurred prior to the effective date of the contract. Clark County reserves the right to make an award without further negotiation of the proposal submitted. Therefore, the proposal should be submitted in final form from a budgetary, technical, and programmatic standpoint.

**DISPUTES** - Clark County encourages the use of informal resolution to address complaints or disputes arising over any actions in implementing the provisions of this RFP. Written complaints should be addressed to Clark County – Purchasing, P.O. Box 5000, Vancouver, Washington 98666-5000.

**DIVERSITY IN EMPLOYMENT AND CONTRACTING REQUIREMENTS** - It is the policy of Clark County to require equal opportunity in employment and services subject to eligibility standards that may be required for a specific program. Clark County is an equal opportunity employer and is committed to providing equal opportunity in employment and in access to the provision of all county services. Clark County's Equal Employment Opportunity Plan is available at <http://www.clark.wa.gov/hr/documents.html>. This commitment applies regardless of race, color, religion, creed, sex, marital status, national origin, disability, age, veteran status, on-the-job injury, or sexual orientation. Employment decisions are made without consideration of these or any other factors that are prohibited by law. In compliance with department of Labor Regulations implementing Section 504 of the Rehabilitation Act of 1973, as amended, no qualified handicapped individual shall be discriminated against in admission or access to any program or activity. The prospective contractor must agree to provide equal opportunity in the administration of the contract, and its subcontracts or other agreements.

**ENVIRONMENTALLY RESPONSIBLE PURCHASING PROGRAM** - Clark County has implemented an Environmentally Responsible Purchasing Policy with a goal to reduce negative impacts on human health and the environment. Negative environmental impacts include, but are not limited to, greenhouse gases, air pollution emissions, water contamination, waste from the manufacturing process and waste in packaging. This policy also seeks to increase: 1) water and energy efficiency; 2) renewable energy sources; 3) use of products with recycled content; 4) product durability; 5) use of products that can be recycled, reused, or composted at the end of its life cycle. Product

criteria have been established on the Green Purchasing List <http://www.clark.wa.gov/general-services/purchasing/erp/environmental.html>

**INDEPENDENT PRICE DETERMINATION** - The prospective contractor guarantees that, in connection with this proposal, the prices and/or cost data have been arrived at independently, without consultation, communication, or agreement for the purpose of restricting competition. This does not preclude or impede the formation of a consortium of companies and/or agencies for purposes of engaging in jointly sponsored proposals.

**INTERLOCAL AGREEMENT** - Clark County has made this RFP subject to Washington State statute RCW 39.34. Therefore the bidder may, at the bidders' option, extend identical prices and services to other public agencies wishing to participate in this RFP. Each public agency wishing to utilize this RFP will issue a purchase order (or contract) binding only their agency. Each contract is between the proposer and the individual agency with no liability to Clark County.

**LIMITATION** - This RFP does not commit Clark County to award a contract, to pay any costs incurred in the preparation of a response to this RFP, or to procure or contract for services or supplies.

**LATE PROPOSALS** - A proposal received after the date and time indicated above will not be accepted. No exceptions will be made.

**ORAL PRESENTATIONS** - An oral presentation may be required of those prospective contractors whose proposals are under consideration. Prospective contractors may be informed that an oral presentation is desired and will be notified of the date, time and location the oral presentation is to be conducted.

**OTHER AUDIT/MONITORING REQUIREMENTS** - In addition, auditing or monitoring for the following purposes will be conducted at the discretion of Clark County: Fund accountability; Contract compliance; and Program performance.

**PRICE WARRANT** - The proposer shall warrant that the costs quoted for services in response to the RFP are not in excess of those which would be charged any other individual or entity for the same services performed by the prospective contractor, in a similar socioeconomic, geographical region.

**PROTESTS** - Must be submitted to the Purchasing Department.

**PUBLIC SAFETY** - May require limiting access to public work sites, public facilities, and public offices, sometimes without advance notice. The successful Proposer's employees and agents shall carry sufficient identification to show by whom they are employed and display it upon request to security personnel. County project managers have discretion to require the successful Proposer's employees and agents to be escorted to and from any public office, facility or work site if national or local security appears to require it.

**REJECTION OF PROPOSALS** - Clark County reserves the right to accept or reject any or all proposals received as a result of this RFP, to negotiate with any or all prospective contractors on modifications to proposals, to waive formalities, to postpone award, or to cancel in part or in its entirety this RFP if it is in the best interest of Clark County to do so.

**SUBCONTRACTING** - No activities or services included as a part of this proposal may be subcontracted to another organization, firm, or individual without the approval of Clark County. Such intent to subcontract shall be clearly identified in the proposal. It is understood that the contractor is held responsible for the satisfactory accomplishment of the service or activities included in a subcontract.

**VERBAL PROPOSALS** - Verbal proposals will not be considered in making the award of any contract as a result of this RFP.

**WORKERS COMPENSATION INSURANCE** - The contractor shall comply with R.C.W. Title 51- with minimum coverage limits of \$500,000 for each accident, or provide evidence that State law does not require such coverage.

**FOR ALTERNATIVE FORMATS**  
**Clark County ADA Office: V: 564-397-2322**  
[ADA@clark.wa.gov](mailto:ADA@clark.wa.gov)

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## Whatley Pit Soil Sampling Services

### Part I Proposal Requirements

#### Section IA General Information

1. Introduction The purpose of this RFP is to permit the consultant community to suggest various approaches to meet this defined need at a given price.

This RFP will identify a service or need where no specific method has been chosen.

Creation of a soil sampling plan specific to soils at the Whatley facility. Intent of the plan is to ultimately be approved and accepted by Clark County Public Works (CCPW), Clark County Department of Health, and the Washington State Department of Ecology (WSDOE). Plan must incorporate sampling and analysis protocols, secondary sampling and analysis (following initial sampling area(s) of concern determinations from WSDOE), and a summary of disposal/treatment options with anticipated costs of each option.

Proposers shall respond to all sections to be considered.

Clark County has made this Request for Proposal subject to Washington State statute RCW 39.34. Therefore the proposer may, at the proposers' option, extend identical prices and services to other public agencies wishing to participate in this RFP. Each public agency wishing to utilize this bid will issue a purchase order (or contract) binding only their agency. Each contract is between the bidder and the individual agency with no liability to Clark County.

2. Background The Whatley facility was found to have some level of contamination in select areas of the 20-acre site from previous sampling and testing of roadside maintenance soils. An approved sampling and analysis plan related to WSDOE's methodologies must be developed and then executed to definitively conclude what specific areas may be contaminated or ideally, determine the actual extent of any contamination. WSDOE has recommended using the State of Hawaii's Hazard Evaluation and Emergency Response (HEER) Program for sampling and analysis guidance. Attachment D (Ecology Opinion Letter) is provided for further guidance regarding cleanup standards.

3. Scope of Project A soil sampling and analysis plan will be developed by the consultant for approval by Clark County Public Works and the Washington State Department of Ecology (WSDOE). The plan will address the existing soils at the Clark County Public Works Whatley Facility. Consultant shall be responsible for securing plan approval and will include provisions for any extended communications with County and WSDOE to fulfil this requirement.

Following plan approval, soil sampling and analysis is to be performed by consultant or consultant's subcontractor(s). WSDOE's evaluation of those initial samples and analysis will require follow-up testing and analysis by consultant to further identify and verify testing results. Any additional sampling or testing beyond this required follow-up would be subject to approval by both County and Consultant.

Consultant shall provide County with a summary of options related to treatment and/or disposal, including anticipated costs of each option and recommendations.

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4. Project Funding Allocation of funds for this RFP will be established based on the funds requested in the selected proposal.

Title VI of the 1964 Civil Rights Act provides that no person in the United States shall on the grounds of race, color, national origin or sex be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance. Clark County's non-discrimination policy is consistent with Titles VI and VII of the 1964 Civil Rights Act as amended.

5. Timeline for Selection

The following dates are the **intended** timeline:

Proposals Due	Wednesday, April 14, 2021
Proposal Review/Evaluation Period	April 14 – April 21, 2021
Interview (1-hour, to be scheduled)	April 26 – April 30, 2021
Selection Committee Recommendation	Wednesday, May 5, 2021
Contact Negotiation/Execution	May 19, 2021
Contract Intended to Begin	June 1, 2021

6. Employment Verification

Effective November 1<sup>st</sup>, 2010, to be considered **responsive** to any formal Clark County Bid/RFP or Small Works Quote, all vendors shall submit before, include with their response or within **48 hours** after submittal, a recent copy of their E-Verify MOU or proof of pending enrollment. The awarded contractor shall be responsible to provide Clark County with the same E-Verify enrollment documentation for each sub-contractor (\$25,000 or more) within thirty days after the sub-contractor starts work. Contractors and sub-contractors shall provide a report(s) showing status of new employee's hired after the date of the MOU. The status report shall be directed to the county department project manager at the end of the contract, or annually, whichever comes first. E-Verify information and enrollment is available at the Department of Homeland Security web page: [www.dhs.gov/E-Verify](http://www.dhs.gov/E-Verify)

**How to submit the MOU in advance of the submittal date:**

1. Hand deliver to 1300 Franklin St, Suite 650, Vancouver, WA 98660, or;
2. E-mail: [koni.odell@clark.wa.gov](mailto:koni.odell@clark.wa.gov) or [priscilla.ricci@clark.wa.gov](mailto:priscilla.ricci@clark.wa.gov)

*Note : Sole Proprietors shall submit a letter stating exempt.*

### Section IB

### Work Requirements

1. Required Services

Creation of a sampling and analysis plan, assurance the created plan will be accepted and approved by WSDOE. Execution of plan including initial sampling and testing and second set (following WSDOE comments and suggestions) of sampling and analysis. Compilation of sampling and testing data with proposed means of disposal and treatment. A costs analysis of options with summarization and recommendation of preferred option for successful mitigation.

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2. County Performed Work  
Whatley facility soil volumes for consultant cost analysis calculations. County staff will be available generally 7am-3pm M-F to respond to consultant inquiries. Any required meetings may be limited to virtual attendance due to COVID-19, other scheduling complications or needs of CCPW/WSDOE.
3. Deliverables & Schedule  
Deliverable 1: Sampling and Analysis **Plan** that is accepted and approved by CCPW and WSDOE for Whatley lower pit site determinations. (estimated completion July 21, 2021)  
Deliverable 2: Completed **sampling and analysis** accepted and approved by CCPW and WSDOE that meet regulatory requirements for initial site determinations. (estimated completion September 1, 2021)  
Deliverable 3: Completed secondary sampling and analysis of areas determined by CCPW and WSDOE required to determine extent of contamination and determination of clean up actions that may need to be taken and are acceptable to WSDOE. (estimated completion October 13, 2021)  
Deliverable 4: Comprehensive cost analysis of treatment and disposal options. Consultant should consider at a minimum:
  - Landfill and other waste options
  - Bioremediation and/or bio-stimulation
  - Reuse options
  - Pavement cap w/geomembrane
  - Other proven treatment options
  - Any sub-options (if applicable) of above(estimated completion November 10, 2021)
4. Place of Performance  
Contract performance may take place in the County's facility, the Proposer's facility, a third-party location or any combination thereof.
5. Period of Performance  
A contract awarded as a result of this RFP will be for one (1) year and is intended to begin on June 1, 2021 and end May 31, 2022.  
  
Clark County reserves the right to extend the contract resulting from this RFP for a period of two (2) additional years, in one (1) year increments, with the same terms and conditions, by service of a written notice of its intention to do so prior to the contract termination date.
6. Prevailing Wage (When Applicable)  
Pursuant to State of Washington RCW 39.12, all payment for salaries and wages shall conform to State of Washington Department of Labor and Industries as prevailing wage rates. For this project select the Clark County rates that apply on the bid opening date from either of these sites:  
<http://www.wsdot.wa.gov/Design/ProjectDev/WageRates/default.htm>  
<http://www.ini.wa.gov/TradesLicensing/PrevWage/WageRates>  
  
Before payment is made by the Local Agency of any sums due under this contract, the Local Agency must receive from the Contractor and each Subcontractor a copy of "Statement of Intent to Pay Prevailing Wages" (Form L & I Number 700-29) approved by the Washington State Department of Labor and Industries.

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A fee of \$45.00 per each "Statement of Intent to Pay Prevailing Wages" and "Affidavit of Wages Paid" is required to accompany each form submitted to this Department of Labor and Industries. The Contractor is responsible for payment of these fees and shall make all applications directly to the Department of Labor and Industries. These fees shall be incidental to all the bid items of this contract.

7. Debarred/Suspended Federally or Washington State debarred or suspended suppliers may not participate in this Request for Proposal.

All proposer's must fill out, sign and submit the "Certification Regarding Debarment, Suspension, and Other Responsibility Matter" form with their proposal to be eligible to participate.

8. Public Disclosure This procurement is subject to the Washington Public Records Act (the "Act"), chapter 42.56 RCW. Once in the County's possession, all of the RFP Submittals shall be considered public records and available for public records inspection and copying, unless exempt under the Act.

If a Respondent or Proposer considers any portion of an RFP Submittal to be protected under the law, whether in electronic or hard copy form, the Respondent or Proposer shall clearly identify each such portion with the word "PROPRIETARY". The County will notify the Respondent or Proposer in writing of the request and allow the Respondent or Proposer ten (10) days to obtain a court order enjoining release of the record(s). If the Respondent or Proposer does not take such action within the ten (10) day period, the County will release the portions of the RFP Submittal deemed subject to disclosure. All Respondents and Proposers who provide RFP Submittals for this procurement accept the procedures described above and agree that the County shall not be responsible or liable in any way for any losses that the party may incur from the disclosure of records to a third party who requests them.

9. Insurance/Bond
- A. Commercial General Liability (CGL) Insurance written under ISO Form CG0001 or its latest equivalent with minimum limits of \$1,000,000 per occurrence and in the aggregate for each one-year policy period. Personal and Advertising Injury \$1,000,000 and General Aggregate \$1,000,000. This policy will renew annually. This coverage may be any combination of primary, umbrella or excess liability coverage affording total liability limits of not less than \$1,000,000 per occurrence and in the aggregate. However, if other policies are added they must be a follow-form policy in language, renewal date, and have no more exclusions than the underlying coverage. Products and Completed Operations coverage shall be provided for a period of three years following Substantial Completion of the Work. The deductible will not be more than \$50,000 unless prior arrangements are made with Clark County on a case by case basis; the criterion is the Contractor's liquidity and ability to pay from its own resources regardless of coverage status due to cancellation, reservation of rights, or other no-coverage-enforce reason. Coverage shall not contain any endorsement(s) excluding nor limiting Product/Completed Operations, Contractual Liability or Cross Liability. Clark County needs to be listed as additional insured.

B. Automobile

If the Proposer or its employees use motor vehicles in conducting activities under this Contract, liability insurance covering bodily injury and property damage shall be provided by the Proposer through a commercial automobile insurance policy. The policy shall cover all owned and non-

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owned vehicles. Such insurance shall have minimum limits of \$1,000,000 per occurrence, combined single limit for bodily injury liability and property damage liability with a \$1,000,000 annual aggregate limit. If the Proposer does not use motor vehicles in conducting activities under this Contract, then written confirmation to that effect on Proposer letterhead shall be submitted by the Proposer.

### C. Professional Liability (aka Errors and Omissions)

The Proposer shall obtain, at Proposer's expense, and keep in force during the term of this contract Professional Liability insurance policy to protect against legal liability arising out of contract activity. Such insurance shall provide a minimum of \$2,000,000 per occurrence. The deductible will not be more than \$25,000 unless prior arrangements are made with Clark County on a case by case basis; the criterion is the Proposer's liquidity and ability to pay from its own resources. It should be an "Occurrence Form" policy. If the policy is "Claims Made", then Extended Reporting Period Coverage (Tail coverage) shall be purchased for three (3) years after the end of the contract.

### D. Umbrella Liability Coverage

Umbrella Coverage in the amount of \$1,000,000 shall be provided and will apply over all liability policies without exception, including but not limited to Commercial General Liability, Automobile Liability, Employers Liability and Professional Liability.

### E. Waiver of Subrogation

All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against County, its elected or appointed officers, agents, officials, employees and volunteers or shall specifically allow Contractor or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Contractor hereby waives its own right of recovery against County and shall require similar written express waivers and insurance clauses from each of its subcontractors.

### F. Pollution and Asbestos Liability

Proposer shall obtain and keep in effect during the term of the contract, Pollution Liability Insurance, including Asbestos Liability covering bodily injury, property damage, environmental damage, including any related clean-up costs. Combined single limit should be a minimum of \$2,000,000.00.

### G. Proof of Insurance

Proof of Insurance shall be provided prior to the starting of the contract performance. Proof will be on an ACORD Certificate(s) of Liability Insurance, which the Proposer shall provide to Clark County. Each certificate will show the coverage, deductible and policy period. Policies shall be endorsed to state that coverage will not be suspended, voided, canceled or reduced without a 30-day written notice by mail. It is the Proposer's responsibility to provide evidence of continuing coverage during the overlap periods of the policy and the contract.

### H. Worker's Compensation

As required by the industrial insurance laws of the State of Washington.

All policies must have a Best's Rating of A-VII or better.



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### 10. Plan Holders List

All proposers are required to be listed on the plan holders list.

- ✓ Prior to submission of proposal, please confirm your organization is on the Plan Holders List below:

To view the Plan Holders List, please click on the link below or copy and paste into your browser. Clark County RFP site: <http://www.clark.wa.gov/general-services/purchasing/rfp.html>

- If your organization is NOT listed, submit Attachment B - Letter of Interest to ensure your inclusion.
- Proposals received by Clark County by proposers not included on the Plan Holders List may be considered non-responsive.

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## Part II Proposal Preparation and Submittal

### Section IIA

#### Pre-Submittal Meeting / Clarification

1. Pre-Submittal Meeting

A Non-Mandatory Pre-Submittal meeting is scheduled for Thursday, April 1, 2021 at 9:00 am and is scheduled for 1 hour.

Location address: 11203 NE 76<sup>th</sup> Street, Vancouver, WA. 98662

- Parking will be to the right (near ecology blocks), just after going through main gate to site.
- Due to COVID-19 pandemic, we can only allow two (2) persons per agency and observe 6-foot distancing. This is an outside environment, dress appropriately.
- See below item #2 regarding proposal clarification (Re., questions and requests).

2. Proposal Clarification

Questions and Requests for Clarification regarding this Request for Proposal must be directed in writing, via email, to the person listed on the cover page.

The deadline for submitting such questions/clarifications is April 5, 2021 by 3:00 pm PST.

An addendum will be issued no later than April 7, 2021 by 3:00 pm PST to all recorded holders of the RFP if a substantive clarification is in order.

The Questions & Answers/Clarifications are available for review at the link below. Each proposer is strongly encouraged to review this document prior to submitting their proposal.

Clark County RFP site: <https://clark.wa.gov/internal-services/requests-proposals>

### Section IIB

#### Proposal Submission

1. Proposals Due

Sealed proposals must be received no later than the date, time and location specified on the cover of this document.

**The outside of the envelope/package shall clearly identify:**

- 1. RFP Number and;**
- 2. TITLE and;**
- 3. Name and Address of the Proposer.**

Responses received after submittal time will not be considered and will be returned to the Proposer - unopened.

Proposals received with insufficient copies (as noted on the cover of this document) cannot be properly disseminated to the Review Committee and other reviewers for necessary action, therefore, may not be accepted.

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2. Proposal
- Proposals must be clear, succinct and not exceed 10 pages, excluding resumes, E-Verify and coversheet. Proposer's who submit more than the pages indicated may not have the additional pages of the proposal read or considered.
- For purposes of review and in the interest of the County, the County encourages the use of submittal materials (i.e. paper, dividers, binders, brochures, etc.) that contain post-consumer recycled content and are readily recyclable.
- The County discourages the use of materials that cannot be readily recycled such as PVC (vinyl) binders, spiral bindings, and plastic or glossy covers or dividers. Alternative bindings such as reusable/recyclable binding posts, reusable binder clips or binder rings, and recyclable cardboard/paperboard binders are examples of preferable submittal materials.
- Proposers are encouraged to print/copy on both sides of a single sheet of paper wherever applicable; if sheets are printed on both sides, it is considered to be two pages. Color is acceptable, but content should not be lost by black-and-white printing or copying.
- All submittals will be evaluated on the completeness and quality of the content. Only those Proposers providing complete information as required will be considered for evaluation. The ability to follow these instructions demonstrates attention to detail.
- Additional support documents, such as sales brochures, should be included with each copy unless otherwise specified.

### Section IIC

### Proposal Content

1. Cover Sheet
- This form is to be used as your proposal Cover Sheet.  
See Cover Sheet - Attachment A
2. Project Team
- Include general experience-related information about your team that will be participating and organizational work history where similar Washington State Department of Ecology Volunteer Cleanup Program (VCP) projects have been completed.
3. Management Approach
- Briefly describe your approach to setting up a sampling and analysis plan, including points of compliance you would address to ensure regulatory approval.
4. Respondent's Capabilities
- References: Include name, position, e-mail, phone numbers, address and nature of work performed where your organization has completed similar projects.
5. Project Approach and Understanding
- Include any specific experience or approaches taken with sampling and testing protocol-related communications with WSDOE, toxicologists and/or other specific-related contaminated site cleanup matters that were overcome such as Petroleum Hydrocarbons, VOC's, CPAH's, Metals and a brief explanation of the outcome.
6. Proposed Cost
- Include multiple lines that detail team hourly rates, expenses, overhead; and a total overall cost anticipated.

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7. Employment  
Verification

**Please refer to section 1A.6. – E-Verify**

**IMPORTANT NOTE:** Include this portion of the response immediately **AFTER** the cover page, if not already on file with Clark County. Current vendors on file can be viewed at:  
<https://www.clark.wa.gov/general-services/purchasing-overview>

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**Part III Proposal Evaluation & Contract Award**

**Section IIIA Proposal Review and Selection**

1. Evaluation and Selection: Proposals received in response to this RFP will be evaluated by a Review Committee. The Committee review results and recommendations may be presented to an appropriate advisory board prior to the consent process with the Clark County Council.

2. Evaluation Criteria Scoring Each proposal received in response to the RFP will be objectively evaluated and rated according to a specified point system.

**A one hundred (100) point system will be used, weighted against the following criteria:**

Project Team Experience	20
Management Approach	20
Respondent's Capabilities	10
Project Approach & Understanding	20
Interview	30
Total Points	100

**Section IIIB Contract Award**

1. Consultant Selection The County will interview the top four (4) highest total scoring proposers of the combined criteria of: Project Team Experience, Management Approach, Respondent's Capabilities, and Project Approach & Understanding, where up to 70 collective points are possible. Following the Interview portion of the scoring criteria, the County will award a contract to the highest overall scoring Proposer (up to the 100-point collective total points). Should the County not reach a favorable agreement with the highest scoring Proposer, the County shall suspend or terminate negotiations and commence negotiations with the second highest scoring Proposer and so on until a favorable agreement is reached.

2. Contract Development The proposal and all responses provided by the successful Proposer may become a part of the final contract.

The form of contract shall be the County's Contract for Professional Services.

3. Award Review The public may view proposal documents by public records request at [www.clark.wa.gov](http://www.clark.wa.gov) After contract execution, proposers may seek additional clarification on the scores, proposals and interviews.

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4. Orientation/Kick-off Meeting      Following an initial meeting to cover specifics of Contact/meetings after contract award will be scheduled with consultant and may be required to clarify communications with regulators. Meetings may be restricted to remote (on-line) access due to COVID-19, or limit quantity of participants, or other scheduling convenience, or necessity.

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**Attachment A: COVER SHEET**

General Information:

Legal Name of Proposing Firm \_\_\_\_\_

Street Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Contact Person \_\_\_\_\_ Title \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_

Program Location (if different than above) \_\_\_\_\_

Email Address \_\_\_\_\_

Tax Identification Number \_\_\_\_\_

**ADDENDUM:**

Proposer shall acknowledge receipt of Addenda by checking the appropriate box(es).

None     1     2     3     4     5     6

***NOTE: Failure to acknowledge receipt of Addendum may render the proposal non-responsive.***

I certify that to the best of my knowledge the information contained in this proposal is accurate and complete and that I have the legal authority to commit this agency to a contractual agreement. I realize the final funding for any service is based upon funding levels, and the approval of the Clark County Council and required approvals.

\_\_\_\_\_  
Authorized Signature of Proposing Firm

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

Request for Proposal #793  
Whatley Pit Soil Sampling Services

**Attachment B: LETTER OF INTEREST**

Legal Name of Applicant Agency \_\_\_\_\_

Street Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Contact Person \_\_\_\_\_ Title \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_

Program Location (if different than above) \_\_\_\_\_

Email Address \_\_\_\_\_

- All proposers are required to be included on the plan holders list.
- If your organization is NOT listed, submit the ‘Letter of Interest’ to ensure your inclusion.

Email Letter of Interest to: [Koni.Odell@clark.wa.gov](mailto:Koni.Odell@clark.wa.gov) and [Priscilla.Ricci@clark.wa.gov](mailto:Priscilla.Ricci@clark.wa.gov)

Clark County web link:

<http://www.clark.wa.gov/general-services/purchasing/rfp.html>

**This document will only be used to add a proposer to the plan holders list. Submitting this document does not commit proposer to provide services to Clark County, nor is it required to be submitted with proposal.**

**Proposals may be considered non-responsive if the Proposer is not listed on the plan holders list.**



Request for Proposal #793  
Whatley Pit Soil Sampling Services

Attachment C



Clark County, Washington

**Certification Regarding  
Debarment, Suspension and Other Responsibility Matters**

The prospective participant certifies to the best of its knowledge and belief that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

I understand that a false statement on this certification may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to 5 years, or both.

\_\_\_\_\_  
Typed Name & Title of Authorized Representative

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Date

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I am unable to certify to the above statements. My explanation is attached.



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY  
PO Box 47775 • Olympia, Washington 98504-7775 • 360-407-6300  
Call 711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

February 4, 2020

Ahmad Qayoumi  
Clark County Public Works  
PO Box 9810  
Vancouver, WA 98666-9810

**Re: Further Action at the following Site:**

- **Site Name:** Whatley Pit Decant Facility
- **Site Address:** 11203 NE 76th Street, Vancouver, Clark County, WA 98662
- **Facility/Site ID:** 7838213
- **Cleanup Site ID:** 15010

Dear Ahmad Qayoumi:

Under the authority of the [Model Toxics Control Act \(MTCA\)](#),<sup>1</sup> chapter 70.105D Revised Code of Washington (RCW) the Washington State Department of Ecology (Ecology) completed an Initial Investigation of the Whatley Pit Decant Facility (Site) on June 18, 2019. The Initial Investigation revealed soil contamination above MTCA cleanup levels and your facility was added to Ecology's Confirmed and Suspected Contaminated Sites List. These results were communicated to you in an August 12, 2019, Early Notice Letter along with information about entering the Voluntary Cleanup Program for technical assistance with your Site.

A report of independent remedial investigation work conducted at the Site on behalf of Clark County Public Works was hand delivered to the Southwest Regional Office of the Toxics Cleanup Program on January 13, 2020, (PBS Engineering and Environmental Inc. (PBS), *Site Characterization Report*, October 2019). My staff have reviewed this report as a courtesy and this letter provides our opinion. To receive further technical assistance, you will need to enter the Voluntary Cleanup Program.

## **Issue Presented and Opinion**

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**Ecology has determined that further remedial action is necessary to clean up contamination 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 it's implementing regulations, Washington

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<sup>1</sup> <https://fortress.wa.gov/ecy/publications/SummaryPages/9406.html>

Administrative Code (WAC) chapter 173-340 (collectively “substantive requirements of MTCA”). The analysis is provided below.

## Description of the Site

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This opinion applies only to the Site described below. The Site is defined by the nature and extent of contamination associated with the following releases:

- Petroleum hydrocarbons and related constituents (benzene), metals, and carcinogenic polycyclic aromatic hydrocarbons (cPAHs) into the Soil and potentially Groundwater.

A parcel of real property can be affected by multiple sites. At this time, we have no information that the parcel(s) associated with this Site are affected by other sites.

## Basis for the Opinion

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1. Ecology, *Whatley Pit Initial Investigation*, June 18, 2019.
2. PBS Engineering and Environmental Inc. (PBS), *Site Characterization Report*, October 2019.

Those documents are kept in the Central Files of the Southwest Regional Office of Ecology (SWRO) for review by appointment only. Information on obtaining those records can be found on [Ecology's public records requests web page](#).<sup>2</sup> Some site documents may be available on [Ecology's Cleanup Site Search web page](#).<sup>3</sup>

## Analysis of the Cleanup

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Ecology has concluded that **further remedial action** is necessary to clean up contamination at the Site. That conclusion is based on the following analysis:

### 1. Characterization of the Site.

The Whatley Pit Decant Facility is a toxic cleanup Site located at 11203 NE 76<sup>th</sup> Street, Vancouver, Washington (the Property, including Clark County tax parcels 106540000 and 106550000). The Property is surrounded to the north and east by predominantly commercial properties and to the south by residential properties. The extent of the Site is unknown.

The Property is primarily used for placement of material reclaimed through road maintenance operations, including ditching, shouldering, swale maintenance, and other miscellaneous operations that generate soil. Historical Site use included mining from the early 1950s through 1997.

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<sup>2</sup> <https://ecology.wa.gov/About-us/Accountability-transparency/Public-records-requests>

<sup>3</sup> <https://fortress.wa.gov/ecy/gsp/SiteSearchPage.aspx?=-csid15010>



The reports and documents listed for the basis for the opinion, above, provide a record of historical Site characterization.

On March 20, 2019, Ecology, Clark County Health, and the Washington State Department of Natural Resources (DNR) met with Clark County Public Works to complete and inspection of the Property. A large amount of material was observed to have had been deposited on the Property. Ecology collected three soil samples from the material and submitted them for analysis of total petroleum hydrocarbons, metals, and cPAHs. Petroleum hydrocarbons, metals, and cPAHs were detected at concentrations greater than proposed cleanup screening levels.

On March 27, 2019, Clark County Public Works collected four soil samples from the material and submitted them for analysis of total petroleum hydrocarbons, metals, cPAHs and volatile organic compounds (VOCs). Petroleum hydrocarbons, metals, cPAHs, and VOCs were detected at concentrations greater than proposed cleanup screening levels.

Ecology completed an initial investigation<sup>4</sup> at the Property, and recommended the release be listed on Ecology's Confirmed and Suspected Contaminated Sites List. On August 12, 2019, Ecology provided an Early Notice Letter to the Clark County Public Works, and listed the Site on Ecology's Confirmed and Suspected Contaminated Sites List.

In September 2019, PBS completed an incremental sampling methodology (ISM) assessment to evaluate portions of the Site that have been historically used for the placement of reclamation material. PBS identified six decision units (DUs) based on different periods of use and reclamation. A total of 30 individual samples were collected within each DU to represent that unit. To ensure samples are placed throughout the area of assessment, 15 test pits were completed within each DU on a pre-determined grid, collecting samples of material from the surface to 1-foot depth interval and the 2- to 3-foot interval. Select soil samples were analyzed for petroleum hydrocarbons, volatile organic compounds (VOCs), polychlorinated biphenyls, cPAHs, and metals. Petroleum hydrocarbons, metals, and cPAHs were detected at concentrations greater than proposed MTCA cleanup screening levels. Groundwater was not collected during site assessment activities.

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<sup>4</sup> WAC 173-340-310

Ecology has determined your characterization of the Site is not sufficient to establish cleanup standards and select a cleanup action. Ecology's comments and suggestions in this opinion are intended to help you collect and evaluate sufficient data for Ecology to concur that site characterization is sufficient to establish cleanup standards and select a cleanup action.

### ***Site Characterization Comments:***

#### **Multi-Incremental Sampling:**

1. According to multi-incremental sampling methodology published by the State of Hawaii (HEER, 2016),<sup>5</sup> a decision unit (DU) is considered to be adequately characterized when repeat testing of the same DU with replicate samples yields similar estimates of the average concentration of a contaminant. The representativeness of multi-increment data for a DU is evaluated by a comparison and statistical evaluation of replicate sample data from the subject DU or from a DU(s) reasonably considered to have a similar history and distribution of contaminants. HEER (2016) recommends collecting field replicates from a minimum of ten percent of DUs and triplicate samples (original sample plus two replicates) should be collected to evaluate the precision of field sampling methods used. Replicate samples should be collected at different systematic random locations.

The multi-increment sampling data collected by PBS at the Whatley Pit is problematic for the following reasons:

- a) Only one replicate was collected (DU-DUP) from DU-4A. Two replicates should have been collected. Also, it is unknown if the replicate was collected at a different systematic random location from the original sample.
- b) The PBS results show high variability for certain constituents and do not compare well with Ecology samples from the same DU. For example, the cadmium result for DU-4A was <0.223 milligrams per kilogram (mg/kg) and the duplicate result was 0.328 mg/kg. The calculated relative standard deviation (RSD)<sup>6</sup> for these results, using a value of ½ the laboratory reporting limit for DU-4A, is 68%. HEER (2016) recommends that if RSD>50% then the adequacy of field sampling methods and laboratory processing methods need to be reviewed and a discussion of potential sources of error be included in the investigation report. HEER (2016) also recommends that additional statistical calculations be performed (95% UCL concentration using the Chebyshev method). Additional multiple lines of evidence should also be provided for acceptance (or rejection) of the data and additional sampling may also be needed.

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<sup>5</sup> Section 4, *Decision Unit Characterization*, Interim Final – August, 2016. In: Technical Guidance Manual for the Implementation of the Hawai'i State Contingency Plan, State of Hawai'i, Department of Health, Office of Hazard Evaluation and Emergency Response. Available at: <http://www.hawaiidoh.org/>

<sup>6</sup> Calculated using Equation 2 from HEER (2016).



Calculating the RSD including the Ecology samples for DU-4A (Soil 1, Soil 2, and Soil 3) yields RSD values of 92%, 85%, 85%, and 53% for cadmium, lead, selenium, and total carcinogenic polycyclic aromatic hydrocarbons (cPAHs). PBS sample results from DU-4A for cPAHs were both below laboratory reporting limits. However, all three Ecology results exceeded the MTCA Method A Cleanup Level for Unrestricted Land Uses. This suggests that the PBS sampling methods and/or decision unit methodology was not representative of the highest potential contamination.

2. Ecology results (non-silica gel preparation) from DU-4A for petroleum hydrocarbons exceeded the proposed MTCA cleanup screening levels. These results cannot be compared directly to the PBS samples from this DU because they were analyzed with silica gel preparation only. Non-silica gel preparation analyses should have been performed also on the PBS samples from DU-4A so that these results could have been compared to Ecology's samples.

### **Petroleum Hydrocarbons:**

Results for petroleum hydrocarbons analysis from two Ecology samples Soil 2 and Soil 3 and Clark County Public Works sample Soil 2 exceeded the proposed MTCA cleanup screening levels. Additional investigation is needed to characterize the vertical and horizontal extent of soil that exceeds petroleum cleanup levels.

For future reporting, please report the calculated sum of diesel and heavy oil-range total petroleum hydrocarbons in tables, figures, and calculations<sup>7</sup> for site evaluation and when comparing to proposed cleanup levels.

### **VOCs:**

Results for VOCs analysis from all Clark County Public Works samples exceeded the proposed MTCA cleanup screening levels. Additional investigation is needed to characterize the vertical and horizontal extent of soil that exceeds VOC cleanup levels.

Please ensure that laboratory detection limits are appropriate to meet applicable cleanup screening levels.

### **CPAHs:**

Results for cPAHs analysis from all three Ecology samples in DU-4A, PBS sample DU-3, and Clark County Public Works samples Soil 1 and Soil 2 exceeded the proposed MTCA cleanup screening levels. Additional investigation is needed to characterize the vertical and horizontal extent of soil that exceeds cPAH cleanup levels.

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<sup>7</sup> Ecology, Determining Compliance with Method A Cleanup Levels for Diesel and Heavy Oil, 04-09-086, June 17, 2004.

## **Metals:**

Results for metals analysis in multiple samples exceeded the proposed MTCA cleanup screening levels. Additional investigation is needed to characterize the vertical and horizontal extent of soil that exceeds metals cleanup levels.

## **Soil Re-use:**

Prior to re-using contaminated soil, sufficient sampling should be collected to ensure that the conditions of Table 12.1 Guidelines for Reuse of Petroleum Contaminated Soil in the Revised June 2016 *Ecology Guidance of Petroleum Contaminated Sites* are met.

## **Silica Gel:**

Data for this Site to support the use of silica gel cleanup of analytical samples has not been provided. With the data currently available, Ecology considers reported concentrations using silica gel cleanup at this Site to be minimum estimates of contamination present at those locations. Additional information will be necessary to evaluate the use of silica gel cleanup of this Site's analytical samples.

**If you choose to use silica gel cleanup on any samples used for delineation or MTCA compliance purposes, Ecology will need you to provide the following supporting information:**

- Reporting of both pre- and post-silica gel treatment results at all locations.
- Chromatograms, calculations, and numerical estimations of variability or laboratory measurements based on laboratory QA/QC, and supporting evidence and criteria for use of the method on a location-by-location basis.
- Sample results for this remedial investigation reported without the use of silica gel cleanup in plan view and cross section concentration isopleth maps.
- Results reported with and without silica gel treatment in tables.
- Evaluation of the impact of silica gel cleanup in both contaminated and non-contaminated areas. This will be especially important to understand the biogenic influence of organic matter at the Site. Justify and calculate the risk of polar breakdown metabolites as part of the site-specific cumulative risk.<sup>8</sup>

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<sup>8</sup> For example: *Petroleum Metabolites Literature Review and Assessment Framework Technical Resource Document, San Francisco Bay Regional Water Quality Control Board, June 27, 2016* accessed February 4, 2019 at [https://www.waterboards.ca.gov/sanfranciscobay/publications\\_forms/documents/SF\\_WB\\_Petroleum\\_Metabolites.pdf](https://www.waterboards.ca.gov/sanfranciscobay/publications_forms/documents/SF_WB_Petroleum_Metabolites.pdf)



When used inappropriately, the use of silica gel cleanup of samples can artificially reduce the concentration of petroleum detected in a sample. Ecology is concerned that petroleum results at the Site are greater than what you reported using silica gel cleanup.

Ecology recognizes that there are situations where the use of silica gel treatment is appropriate at cleanup sites. An example is for sites with highly organic soils, such as peat, where very high concentrations of naturally occurring organic carbon impacts analytical results.

An example of data that may be useful for Ecology to support the use of silica gel cleanup is high measured soil sample carbon fractions both in impacted areas and upgradient of the Site, in adjacent unimpacted areas. Delineation of total and dissolved organic carbon in samples obtained at the Site and upgradient may provide support for use of silica gel cleanup.

It may alternately be appropriate to obtain sufficient upgradient samples not impacted by the release, and determine the amount that silica gel cleanup impacts those sample results. If a statistically significant difference is detected between upgradient samples with and without silica gel treatment, it may be appropriate to subtract that amount from sample results not analyzed with silica gel, but determined by other means to be impacted by the release.

If this approach is appropriate, be sure to carefully address how the Site was delineated, how the specific background samples were selected, and how the results were determined to be statistically significant. Ensure that you also report on organic carbon fractions in all samples.

Additional site reporting may provide sufficient information for Ecology to concur with the use of silica gel cleanup of samples at this Site. Until that analysis is provided, Ecology strongly suggests you avoid additional silica gel cleanup of analytical sample.

### **Terrestrial Ecological Evaluation (TEE):**

A TEE has not been completed at the Site. A TEE is necessary to determine if a release of hazardous substances poses a threat to the terrestrial environment (see WAC 173-340-7490).

### **Environmental Information Management (EIM) submittal requirements:**

All Site data must be uploaded to EIM. Please see [Ecology Policy 840](#)<sup>9</sup> for specific requirements regarding data upload to EIM.

## **2. Establishment of Cleanup Standards.**

Under MTCA, cleanup standards consist of three primary components; (a.) points of compliance,<sup>10</sup> (b.) cleanup levels,<sup>11</sup> and (c.) applicable local, state, and federal laws.<sup>12</sup>

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<sup>9</sup> <https://fortress.wa.gov/ecy/publications/documents/1609050.pdf>

<sup>10</sup> WAC 173-340-200 "Point of Compliance"

<sup>11</sup> WAC 173-340-200 "Cleanup level"

<sup>12</sup> WAC 173-340-200 "Applicable state and federal laws," WAC 173-340-700(3)(c)



- a) **Points of Compliance:** Ecology would likely concur with the appropriate use of the following points of compliance, that you need to propose for the Site:

Media	Points of Compliance
Soil-Direct Contact	Based on human exposure via direct contact, the standard point of compliance is throughout the Site from ground surface to fifteen feet below the ground surface. <sup>13</sup>
Soil-Protection of Groundwater	Based on the protection of groundwater, the standard point of compliance is throughout the Site. <sup>14</sup>
Soil-Protection of Plants, Animals, and Soil Biota	Based on ecological protection, the standard point of compliance is throughout the Site from ground surface to fifteen feet below the ground surface. <sup>15</sup>
Groundwater	Based on the protection of groundwater quality, the standard point of compliance is throughout the site from the uppermost level of the saturated zone extending vertically to the lowest most depth which could potentially be affected by the site. <sup>16</sup>
Groundwater-Surface Water Protection	Based on the protection of surface water, the standard point of compliance is all locations where hazardous substances are released to surface water. <sup>17</sup>
Air Quality	Based on the protection of air quality, the point of compliance is indoor and ambient air throughout the Site. <sup>18</sup>
Sediment	Based on the protection of sediment quality, compliance with the requirements of 173-204 WAC. <sup>19</sup>

- b) **Cleanup Levels:** For each media and point of compliance above that you determine applicable to the Site, please provide appropriate cleanup levels for each hazardous substance detected in the remedial investigation. Apply the proposed cleanup levels at the appropriate points of compliance.
- c) **Applicable Laws and Regulations:** In addition to establishing minimum requirements for cleanup standards, applicable local, state, and federal laws may also impose certain technical and procedural requirements for performing cleanup actions. These requirements are described in WAC 173-340-710. All cleanup actions conducted under MTCA shall comply with applicable local, state, and federal laws.<sup>20</sup>

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<sup>13</sup> WAC 173-340-740 (6)(d)  
<sup>14</sup> WAC 173-340-747  
<sup>15</sup> WAC 173-340-7490(4)(b)  
<sup>16</sup> WAC 173-340-720(8)(b)  
<sup>17</sup> WAC 173-340-730(6)  
<sup>18</sup> WAC 173-340-750(6)  
<sup>19</sup> WAC 173-340-760  
<sup>20</sup> WAC 173-340-710(1)

- The person conducting a cleanup action shall identify all applicable local, state, and federal laws. The department shall make the final interpretation on whether these requirements have been correctly identified and are legally applicable or relevant and appropriate.<sup>21</sup>
- There are three general groups of applicable local, state, and federal laws for you to identify:
  - i. **Chemical-Specific:** Examples of chemical-specific laws include promulgated concentrations from another rule that result in adjusting proposed cleanup levels. Method A is inclusive of these laws. For Methods B or C, additional evaluation of chemical-specific applicable state and federal laws is required.
  - ii. **Action-Specific:** Examples of action-specific laws include requirements for obtaining local permits to excavate and/or dispose of contaminated soil, stormwater construction permits, or the requirement to notify local law enforcement in case human remains are discovered during excavation. All MTCA cleanups require evaluation of action-specific applicable state and federal laws.
  - iii. **Location-Specific:** Examples of location-specific laws include specific requirements for working near wetlands or archeologically important areas. All MTCA cleanups require evaluation of location-specific applicable state and federal laws.

After you have selected appropriate applicable local, state, and federal laws, justify in reporting the applicable local, state, and federal laws selections you made and how those laws and regulations impact proposed cleanup levels, points of compliance, or the cleanup, if at all. Provide all permits obtained for the cleanup action.<sup>22</sup>

Ecology has determined the cleanup levels and points of compliance you established for the Site do not meet the substantive requirements of MTCA.

### 3. Selection of Cleanup Action.

Ecology has determined that additional remedial investigation is necessary at the Site before selecting a cleanup action.

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<sup>21</sup> WAC 173-340-710(2)

<sup>22</sup> WAC 173-340-710(9)(a)

## **Next Steps:**

Based on the results of your recent sampling activities, additional site characterization is required to define the nature and extent of contamination at your Site. We encourage you to apply to Ecology's [Voluntary Cleanup Program \(VCP\)](#).<sup>23</sup> The VCP can provide you with technical assistance and guidance in the form of written opinion letters on independent remedial actions you conduct or plan on taking at your Site.

## **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**:

- 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).

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<sup>23</sup> <https://www.ecy.wa.gov/vcp><sup>23</sup>



## Contact Information

For information about the VCP and the cleanup process, please visit our [Voluntary Cleanup Program web site](#)<sup>24</sup> or contact the SWRO TCP VCP Coordinator, Nick Acklam at (360) 407-6347 or [nick.aklam@ecy.wa.gov](mailto:nick.aklam@ecy.wa.gov). If you have any questions about this opinion, please contact me by phone at (360) 407-6241 or [rebecca.lawson@ecy.wa.gov](mailto:rebecca.lawson@ecy.wa.gov).

Sincerely,



Rebecca S. Lawson, P.E., LHG  
Section Manager  
Toxics Cleanup Program  
Southwest Regional Office

NMA: sl

cc: Dennis Terzian, PBS  
Melissa Sutton, Clark County Health  
Rich Doenges, Ecology SWRO Director (by email)  
Derek Rocket, Ecology Solid Waste Program (by email)  
Nick Acklam, Ecology  
Ecology Site File

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<sup>24</sup> <https://www.ecy.wa.gov/vcp>