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July 15, 2020

**VIA EMAIL AND CERTIFIED MAIL**

Robert W. Warren, P.Hg., MBA  
Section Manager – Toxics Cleanup Program  
Department of Ecology  
Northwest Regional Office  
3190 160th Avenue SE  
Bellevue, WA 98008  
rwar461@ecy.wa.gov

**Re: Formal Request to Enter Into The Formal MTCA Cleanup Program A  
Avenue Landfill – City of Anacortes  
Address - A Avenue & 37<sup>th</sup> Street, Anacortes, WA 98221  
Facility / Site ID #3094179  
Cleanup Site ID #1771  
Skagit County Parcel Number P32340**

Dear Bob:

On behalf of the City of Anacortes (“City”), we are requesting the opportunity to enter the Formal Cleanup Program as managed by the Toxics Cleanup Program with the Washington State Department of Ecology (“Ecology”) for the investigation and remediation of the A Avenue Landfill (“Site”) under the Model Toxics Control Act, Chapter 70.105D RCW (“MTCA”). This request is made pursuant to WAC 173-340-530. In submitting this request to negotiate an Agreed Order, the City wishes to waive the procedural requirements of WAC 173-340-500, and accept status as a “potentially liable person” for the A Avenue Landfill.

As discussed herein, the City intends to work with Ecology to craft a Remedial Investigation (RI) Report and a Focused Feasibility Study / Cleanup Action Plan (FFS / CAP), which would evaluate the nature and extent of potential contamination associated with the Site. We would work collaboratively with Ecology and the AGO on this effort to ensure that all technical documents comply with all requirements of the MTCA. At the conclusion of our effort, we would request to negotiate a Consent Decree to govern the future environmental management of the Site.

**I. Background**

The Site is located within the jurisdictional boundaries of the City of Anacortes Community Forest Lands. The Site was operated as an unpermitted solid waste Landfill from approximately the 1960s to 2006. From the 1960s to approximately 1970, the Landfill received municipal solid waste that was burned on site. From the 1970s to 2006, the City of Anacortes used the Landfill for storage and disposal of public works materials (concrete, yard waste, scrap metal, street sweepings, etc.).



**Parcel Number**

**P32340**

**Owner Information**

CITY OF ANACORTES & WATER DEPT ACFL

PO BOX 547

ANACORTES, WA 98221

Location of former  
A Ave Landfill

FIGURES 1-2: 2006 VS 2019 AERIAL PHOTOS OF A AVE LANDFILL



2006

2019

The Skagit County Public Health Department (“SCPHD”) reported the Site to Ecology in 2003. At that time, SCPHD worked with the City of Anacortes to evaluate the condition of the Landfill. SCPHD completed an Initial Investigation on behalf of Ecology, and Ecology added the Landfill to the Confirmed and Suspected Contaminated Sites list in January 2005.

SCPHD completed a Site Hazard Assessment (SHA) for the Site on behalf of Ecology in May 2009. Under the SHA, SCPHD concluded that the Site did not pose a significant threat to human health or the environment, such that no further action was required. Ecology agreed and updated the Site status to "No Further Action." SCPHD also concluded that the Landfill did not present any concerns with regard to generation of methane.

SCPHD finalized a 10-year closure plan for the Site in December 2009. The closure plan established requirements for maintaining the soil cap over the Landfill (including hydroseeding), public safety measures and access restrictions, testing of water draining out of the Landfill, and overall maintenance of the Landfill area. Since the early 2000s, the City has placed additional soil over the Landfill area, and the City has taken efforts to minimize potential for leachate, including regrading and constructing a stormwater collection ditch that drains water to the northeast.

The 10-year closure plan included 5- and 10-year sampling events, whereby samples would be analyzed for pH, petroleum, metals, nitrates, nitrites, sulfides, and VOCs. During the first 5-year sampling event in 2014, the seeps were dry and no sampling was conducted. The 10-year sampling event took place in the winter of 2020. **The results demonstrated no detection of any contaminants of concern above MTCA cleanup levels.**

In 2019, City of Anacortes received a proposal to construct a bike skills park on the Landfill. The project would include importing up to 450 cubic yards of soil and gravel to construct the skills course on top of the 1.58 acre impervious cap. The project would also include maintaining grassy areas to filter stormwater runoff from the cap, hydroseeding steep slopes, maintaining all native vegetation, and installing metal fencing along the wetland buffer lines in areas where no fence currently exists.

The area of the Site is designated as a city park. Currently, access to the capped Landfill is limited by a fence running the length of the access road and extensive blackberry bushes and/or steep slopes along the rest of the Landfill's perimeter. There are no formal restricted uses for the Site. SCPHD has informed City of Anacortes that if the bike park is constructed, the City must maintain the integrity of the impervious cap, not add additional erosional impacts to the Site.

In August 2019, a group of concerned citizens sent a letter to SCPHD with questions about the proposed addition of a bike skills park to the capped area of the Landfill. After reviewing available information, Ecology concluded that "suspected" contamination remained on the Site – specifically PAHs, non-halogenated organics, and petroleum. However, only petroleum contamination has ever been confirmed to exist in soils at the Site – specifically, one soil sample taken in approximately 2003 contained TPH at 2,970 mg/kg. No other contaminants have ever been confirmed above cleanup levels in soil, soil gas or groundwater on or beneath the Site.

Without any advance notification to the City, Ecology rescinded the previous No Further Action determination, and updated the site status to indicate that further action is needed under MTCA. Since that time, the City has reached out to Ecology on several occasions to determine the appropriate path forward, but Ecology did not respond until recently.

## **II. Submittal of Proposal Pursuant to WAC 173-340-530**

Through this letter, we wish to address all of the requirements outlined in WAC 173-340-530(2).

**A. The Proposed Remedial Action**

The RI and FFS / CAP will provide a description of site conditions, the proposed plans for use and maintenance of the Site, the selected remedial alternative action, the rationale for the selected alternative, and the specific plans for implementation of the selected alternative in conjunction with current and future use of the Site.

**B. The Facility Location and Boundaries**

Maps and figures showing the Site can be found among the many electronic documents already in Ecology's files for this Site. <https://apps.ecology.wa.gov/gsp/Sitepage.aspx?csid=1771> .

**C. The Environmental Problems To Be Addressed Including A Description Of The Releases At The Facility And The Potential Impact Of Those Releases To Human Health And The Environment**

To date, there have been no exceedances of MTCA cleanup standards at the Site, with the exception of one petroleum detection in a 2013 soil sample at 2,970 mg/kg. The Ri will evaluate historic and current soil and groundwater data, and propose additional areas of investigation intended to complete the RI in advance of generating a FFS / CAP.

**D. A Summary Of The Relevant Historical Use Or Conditions At The Facility**

See documents located at <https://apps.ecology.wa.gov/gsp/Sitepage.aspx?csid=1771>.

**E. Names Of Other Persons Who The Person Has Reason To Believe May Be Potentially Liable Persons At The Facility**

Additional PLPs may be identified in the future depending on available information.

**F. Public Participation Requirements**

We plan to work collaboratively with Ecology on the development and implementation of a Public Participation Plan which ensures that the public is provided timely information and has the opportunity to provide input regarding the environmental cleanup that will occur as part of the future use of the Site. We will assist Ecology with:

- Preparation of draft public notices or fact sheets at important stages of the RI and FFS / CAP, such as the submission of work plans and engineering design reports.
- Provision of technical support for press releases and meeting planning.
- Participation in public presentations on the progress of the RI and FFS / CAP, as well as site redevelopment. Participation may be through attendance at public meetings to assist in answering questions or as a presenter.
- Arrange for local information repositories to make relevant Property information readily available to help the public, including copies of all public notices, fact sheets and press releases, sampling laboratory results, RI and RI addendum documents, FFS / CAP and any addendum

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documents, and all other relevant documents related to the entry of any Agreed Order or Consent Decree.

**III. Conclusion**

We appreciate the opportunity to enter into the Formal Program for the Site. We are hopeful that the Attorney General's Office and Ecology will support this request and we look forward to your prompt and favorable consideration of our submittal. We also wish to have discussions with Ecology about the potential for utilizing areas of the Site for public recreational purposes, subject to Ecology review and approval as part of either an interim action or a final cleanup action.

We are available at your convenience to discuss this proposal and any questions or comments that you may have.

Sincerely,

FOSTER GARVEY PC

A handwritten signature in black ink, appearing to read "Ken Lederman", written in a cursive style.

Ken Lederman

Cc: Client

Louise Bardy, Ecology-TCP