

# Lauren Carroll

A meaningful appeals process must be established in the MTCA Cleanup Regulation as a check on Ecology's integrity in its decision-making process. It is my hope that this would be overseen by the state legislature, as they are at least accountable to voters.

Under the existing structure, Ecology personnel may act in bad faith without consequence, and are at risk of becoming motivated by corrupt purposes. Opinion letters issued by Ecology carry the following disclaimer: "The state, Ecology, and its officers and employees make no guarantees or assurances by providing this opinion, and no cause of action against the state, Ecology, its officers or employees may arise from any act or omission in providing this opinion."

I provide the following information by way of example:

In June 2014, Nnamdi Madakor, the former technical manager of the Voluntary Cleanup Program (VCP) sent out an email to his team requesting examples of sites at which a consultant was attempting to establish a non-potability determination. Ms. Heather Vick responded by providing the Aoki Site as an example, and provided a false and defamatory statement behind the technical reason we were seeking this determination: "The case with Aoki is that the consultants were attempting to show that there is non-potable ground water on the Site...in order to preclude cleanup."

Mr. Madakor took Ms. Vick at her word and utilized my firm's work as an example in a VCP-wide Steering Committee meeting held on June 11, 2014. Unfortunately, my firm's reputation was diminished by this act. We were provided no means to which to reply or clarify this wrong-doing, and instead only learned of it incidentally through a public records request.

The effort to obtain the non-potability determination for the Aoki Site was to establish a groundwater cleanup level based on vapor migration to indoor air, the only viable pathway for receptors to groundwater contamination during the cleanup process. Further, Miss Vick provided a false and misleading statement to Mr. Madakor. Groundwater cleanup has been on-going at the Aoki Site since 2006. A fact that Miss Vick was surely aware of: as project manager she testified in King County Superior Court on behalf of the plaintiff, Madrona Real Estate Investors (Madrona) in 2013.

The outcome of the trial found that Madrona had a 15% liability for cleanup due to contribution of tetrachloroethene (PCE) contamination source on an adjacent property. Accordingly, the judge named the property the "Aoki/Madrona Site". However, Ecology refused to accept the courts findings. Ecology's Attorney General responded to my inquiry as to how to administer the project going forward with the following response forwarded by Vick dated August 16, 2016: "As promised, I spoke with VCP Unit Supervisor Louise Bardy and Ecology's Assistant Attorney General, Allyson Bazan, today about the legal document you provided. Both stated that the order contained in the document is not applicable to Ecology's determination."

Ecology has apparently determined that it is not accountable to court rulings, and insisted that the site name remain the "Aoki Site".

This situation is unjust and untenable.