

## HISTORY OF THE VIRGINIA WATER CONTROL BOARD'S (VWCB) ORDERS AT THE ASHWELL SITE

by  
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The Ashwell property consists of four lots 27A, 26, 28, and 29. A car dealer along with a car repair shop has operated in one of the building for more than 50 years. A gasoline service station and a machine shop had operated until about 1989. These operations were supported by at least four storage tanks until about 1990.

The Town of Herndon was fully aware of the contamination caused by the facilities and USTs at this location throughout the 1990s. By 1992 it had become a partner in the clean-up of the site as discussed below.

### A. Removal of the Underground Storage Tanks

Pursuant to an order by VWCB to remove the tanks and conduct a very limited surface investigation, the tanks were removed on March 26, 1990.

Approximately 160 tons of petroleum contaminated soil, excavated as part of the tank excavation project, was removed from the site and disposed of by Soil Safe Inc. *Based on the high levels of concentrations in the pits, VWCB ordered **limited subsurface investigation** to assess the extent of subsurface contamination surrounding the former Tanks 1, 2 and 4.*

### B. Subsequent Investigations

The subsurface investigation, supplemented by two additional VWCB orders<sup>1</sup>, discovered the following contamination levels on the middle part of the property.

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<sup>1</sup> On September 11, 1990, contractors excavating a **sewer line** for the Town of Herndon, in an area located in the central portion of the property, encountered soil possessing a petroleum odor. The excavation was temporarily backfilled with clean material pending resolution of the onsite contamination issues. *The VWCB instructed Ashwell to conduct a complete site characterization study and develop a Corrective Action Plan.*

Fifteen days later, On September 26, 1990, during excavation of a **water line** located on the north side of Elden street, soil possessing a strong petroleum hydrocarbon odor was encountered approximately 5' below grade. In addition to the contaminated soil, water possessing a petroleum odor and containing an obvious black oily material was observed flowing into the trench from beneath the water line. *VWCB instructed Ashwell to initiate product recovery from the utility line area. The contractor installed six monitoring wells and four soil borings pursuant to the states orders.*

**Soil Contamination:** B1, B2, B3 detected TPH as diesel were reported between 60 and 620 ppm. Levels above 100 ppm were actionable.

**Groundwater Contamination:** Concentrations of Total **BTEX** for MW-4, MW-5, and MW-6 were 3,085 ppb, 156 ppb and 192 ppb respectively. Action Level for BTEX in groundwater was 100 ppb.

Hence, some corrective action was needed, but, again and again, the VWCB changed its mind as discuss below.

### C. Town of Herndon's Storm Water Culvert Project

On **October 23, 1991**, VWCB changed the scope of its orders to discuss petroleum hydrocarbon contamination in the context of TOH project that would include construction of dual storm sewer culvert... through the southern portion of the Ashwell property. (click here to see the project diagram) The VWCB instructed that:

- A CAP for the Ashwell property outside the excavation limits is not included within this assessment, and
- A formal CAP for this portion of the Ashwell property **shall** be prepared upon completion of the proposed public improvement. **(Emphasis Added)**

This means VWCB was planning to prepare a Corrective Action Plan after the construction of the culvert had been completed.<sup>2</sup> However, it wasn't.

### D. Final Order to Exclude the Remediation of the Ashwell Property (outside the excavation area for the culvert

In violation of the VWCB's order of October 23, 1991, the contractor suggested that the central portion of the Ashwell property should be remediated. However, VWCB had yet again changed its mind and disagreed as follows:

*"... DEQ cannot accept your request for soil excavation activities in the area of B-1, B-2, and B-4 (located outside the box culvert excavation). Based on current information, the DEQ does not consider this soil excavation to be an appropriate corrective action for the effective cleanup of the site. If soil remediation is needed for this area, it can be pursued under a (separate) Corrective Action Plan (CAP) Permit." (word "separate" added)*

Thus, the Town of Herndon, was aware that the Ashwell property had not been fully remediated. The VWCB did not explain the reasons for its decision. It had chosen to

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<sup>2</sup> Pre-excavation study suggested that about 2,000 cy of contaminated soil would have to be removed from the site. This estimate was later increased to about 2,700 cy. In addition, about 9,500 gallons of contaminated groundwater was also removed and treated before disposal. The unexpected high levels of contamination encountered during the excavation led to unexpected increase in the excavation costs.

ignore the fact a few years earlier, unexpectedly high levels of hazardous chemicals had been discovered at this location, the excavation work had to be stopped to protect the workers and excavation had been backfilled with clean soil. Similarly, high levels of soil contaminants had been encountered unexpectedly at other locations as well. Therefore, it was highly probable that the Ashwell property would also contain high concentration of contaminants and that any remediation would result in the excavation of larger than expected volumes of contaminated soils.<sup>3</sup> The Town was aware of all of these facts back in 1994.

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<sup>3</sup> Why the Town Manager did not provide any documents from the past investigations to the appraisers is not clear. Perhaps, it believed that the past contamination was not of much consequence and that it wanted to move forward regardless of the level of contamination. There is no record that suggests that the Town Manager or the Mayor asked the council for its input. Consequently, eight councilmembers from two different councils (2012-2014 and 2014-2016 councils) were not aware of the past contamination of the site.