



STATE OF WASHINGTON  
**DEPARTMENT OF ECOLOGY**

Central Region Office

1250 West Alder St., Union Gap, WA 98903-0009 • 509-575-2490

February 3, 2023

Dick Bratton  
Dick Bratton Project Management LLC  
1017 91<sup>st</sup> Avenue NE  
Bellevue, WA 98004

**Re: Further Action Required at:**

- **Site Name:** Lake Chelan Hospital New Construction Site
- **Property Address:** 106 South Apple Blossom Drive, Chelan
- **Facility/Site ID:** 66314
- **Cleanup Site ID:** 15142
- **VCP Project No.:** CE0509

Dear Dick Bratton:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your independent cleanup of the Lake Chelan Community Hospital New Construction Site (Site). This letter provides our opinion. We are providing this opinion under the authority of the Model Toxics Control Act (MTCA), Chapter 70A.305 RCW.<sup>1</sup>

**Issues Presented and Opinion**

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Is further remedial action necessary to clean up contamination associated with the Site?

**YES. Ecology has determined that further remedial action is necessary to clean up contamination associated with the Site.**

This opinion is based on an analysis of whether the remedial action meets the substantive requirements of MTCA, Chapter 70A.305 RCW, and its implementing regulations, Chapter 173-340 WAC<sup>2</sup> (collectively “substantive requirements of MTCA”). The analysis is provided below.

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<sup>1</sup> <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305>

<sup>2</sup> <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-340>

## Description of the Site

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This opinion applies only to the Site described below.

### Parcel numbers

- 272318627013 (assigned street address of 110 South Apple Blossom Drive, Chelan)
- 272318627014 (assigned street address of 106 South Apple Blossom Drive, Chelan)

**Enclosure A** includes legal descriptions. **Enclosure B** includes a diagram showing parcels 272318627013 and 272318627014.

### Contaminants

- The Site is defined by the nature and extent of contamination associated with lead and arsenic in the soil.

Note that many former orchard lands in Central Washington State contain concentrations of lead and arsenic in the soils exceeding Model Toxics Control Act cleanup levels due to legacy pesticide use. We encourage the use of Ecology's Dirt Alert mapping tool<sup>3</sup> to identify former orchards and sampling results.

## Analysis of the Cleanup

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Ecology has based its opinion on the documents listed in **Enclosure C** and has concluded **further remedial action** is necessary to clean up the contamination.

The removal of contaminated soils, capping, and recording of environmental covenants are sufficient to protect human health and the environment. Although one of the parcels has been **partially remediated** during construction activities, the additional parcel that comprises the Site has **not been remediated in any way**. Figures of areas that have been removed and/or capped with either structures, sidewalks, or at least 12 inches of clean imported soils, specific to parcel 272318627013 are provided in **Enclosure B**.

More details are below:

### 1. Site Characterization.

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<sup>3</sup> <https://apps.ecology.wa.gov/dirtalert/orchard?lat=47.125327&lon=-120.317961&zoom=7>

Several Phase I and Phase II Environmental Site Assessments have been conducted, and the contamination at the parcels has been identified to be associated with the use of pesticides at former orchard lands. Lead and arsenic concentrations are present in the soil above state cleanup levels.

## **2. Cleanup Standards**

Ecology used MTCA Method A Soil Cleanup Standards for Unrestricted Property Use, which are most appropriate for the Site. Specifically, those are 20 mg/kg for arsenic and 250 mg/kg for lead.

## **3. Partial Cleanup Conducted.**

Soil removal, consolidation, and capping of soils and use of an environmental covenant was the selected remedy, and while this remedy has been implemented for the areas of Parcel 272318627013 where the hospital was constructed, large portions of the property have not been capped or had soils removed and properly disposed of. This uncapped portion of the parcel allows exposure to lead and arsenic, potentially impacting human and environmental health. The expanse of soils that are not removed or capped do not meet cleanup levels or the substantive requirements of a MTCA cleanup action.

To meet cleanup levels, the remaining portion of Parcel 272318627013 must achieve the MTCA cleanup levels for lead and arsenic in soils. This can be achieved by capping this portion with clean soils or excavating this area and replacing it with clean soils. If capping is used as the remedy for the remaining portion of the parcel, the environmental covenant must be modified to include this portion of the parcel, and the O&M plan must be implemented for remedy protection.

## **4. Operation & Maintenance (O&M) Plan.**

The selected remedy requires the use of an institutional control, periodic reviews of the remedy will be conducted every five years. Use of the capping remedy is contingent upon the adequate maintenance of the cap. An O&M plan for the parcel was provided to Ecology on September 23, 2022. In order for the remedy to remain protective of human health and the environment, inspection and maintenance of the cap must be performed at regular intervals. The O&M plan details steps required for inspection and repair of the cap. Regular inspections and maintenance must be implemented for the remedy to successfully reduce exposure to contaminated soils. Those requirements are specified in *“Operations and Maintenance Report, Lake Chelan Community Hospital, GeoEngineers, Inc.”*<sup>4</sup> dated September 23, 2022.

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<sup>4</sup> <https://apps.ecology.wa.gov/cleanupsearch/document/119515>

## **No Further Action Requirements**

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In order to meet the requirements for a No Further Action determination, the following tasks must be completed:

1. All environmental data must be uploaded to our Environmental Information Management (EIM)<sup>5</sup> database and approved by Ecology.
2. A Terrestrial Ecological Evaluation (TEE)<sup>6</sup> must be conducted according to WAC 173-340-7490<sup>7</sup> and approved by Ecology.
3. Although an environmental covenant has been previously recorded in Chelan County, it does not have the required signatures from Ecology. The environmental covenant that has previously been recorded in Chelan County for the Site must be approved and signed by Ecology; please work with Mary Monahan on completing this task.

## **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**:

- Change the boundaries of the Site.
- 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 70A.305.040(4).<sup>8</sup>

### **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.

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<sup>5</sup> <https://ecology.wa.gov/Research-Data/Data-resources/Environmental-Information-Management-database>

<sup>6</sup> <https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Terrestrial-ecological-evaluation>

<sup>7</sup> <https://app.leg.wa.gov/wac/default.aspx?cite=173-340-7490>

<sup>8</sup> <https://app.leg.wa.gov/rcw/default.aspx?cite=70A.305.040>

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This opinion does not determine whether the action you performed is substantially equivalent. Courts make that determination. *See* RCW 70A.305.080<sup>9</sup> and WAC 173-340-545.<sup>10</sup>

**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 70A.305.170.<sup>11</sup>

**Contact Information**

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Thank you for choosing to clean up your Property under the Voluntary Cleanup Program (VCP). After you have addressed our concerns, you may request another review of your cleanup. Please do not hesitate to request additional services as your cleanup progresses. We look forward to working with you.

For more information about the VCP and the cleanup process, please visit our Voluntary Cleanup Program website.<sup>12</sup> If you have any questions about this opinion, please contact me by phone at 509-571-6661 or by e-mail at [Mary.Monahan@ecy.wa.gov](mailto:Mary.Monahan@ecy.wa.gov).

Sincerely,



Mary Monahan  
Toxics Cleanup Program  
Central Regional Office

Enclosures (3):     A – Legal Description of the Property (including the unsigned draft copy of the previous environmental covenant)  
                          B – Description and Diagrams of the Site (including the Property)  
                          C – Basis for the Opinion: List of Documents

By certified mail:     7014 3490 0001 5526 5714

cc:     Aaron Edwards, Lake Chelan Community Hospital

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<sup>9</sup> <https://app.leg.wa.gov/rcw/default.aspx?cite=70A.305.080>

<sup>10</sup> <https://app.leg.wa.gov/wac/default.aspx?cite=173-340-545>

<sup>11</sup> <https://app.leg.wa.gov/rcw/default.aspx?cite=70A.305.170>

<sup>12</sup> [www.ecy.wa.gov/programs/tcp/vcp/vcpmain.htm](http://www.ecy.wa.gov/programs/tcp/vcp/vcpmain.htm)



## **Enclosure A**

**Legal Description of the Property  
(Including the unsigned draft copy of the previous  
environmental covenant)**





## Exhibit A

### LEGAL DESCRIPTION

Lot 22, Lake Chelan Community Hospital Binding Site Plan (City of Chelan BSP 2009-001), recorded October 14, 2009, in Book SP-23 of Short Plats, page 23.

Except that portion of said Lot 22, more particularly described as follows:

Beginning at the most easterly corner of said Lot 22, said corner being common with Lot 21 of said Binding Site Plan;

Thence South  $47^{\circ}40'18''$  West along the common line of Lots 21 and 22, a distance of 538.80 feet;

Thence North  $41^{\circ}09'08''$  West a distance of 42.76 feet to the southwest corner of said Lot 22;

Thence North  $06^{\circ}29'30''$  East along the westerly line thereof a distance of 45.14 feet;

Thence North  $51^{\circ}03'53''$  East, a distance of 507.20 feet to the easterly line of said Lot 22;

Thence South  $39^{\circ}09'08''$  East, a distance of 42.52 feet to the Point of Beginning.

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Lots 20 and 21, Lake Chelan Community Hospital Binding Site Plan (City of Chelan BSP 2009-001), recorded October 14, 2009, in Book SP-23 of Short Plats, page 23.

Together with that portion of Lot 22, Lake Chelan Community Hospital Binding Site Plan (City of Chelan BSP 2009-001), recorded October 14, 2009, in Book SP-23 of Short Plats, page 23, more particularly described as follows:

Beginning at the most easterly corner of said Lot 22, said corner being common with Lot 21 of said Binding Site Plan;

Thence South  $47^{\circ}40'18''$  West along the common line of Lots 21 and 22, a distance of 538.80 feet;

Thence North  $41^{\circ}09'08''$  West, a distance of 42.76 feet to the southwest corner of said Lot 22;

Thence North  $06^{\circ}29'30''$  East along the westerly line thereof a distance of 45.14 feet;

Thence North  $51^{\circ}03'53''$  East, a distance of 507.20 feet to the easterly line of said Lot 22;

Thence South  $39^{\circ}09'08''$  East, a distance of 42.52 feet to the Point of Beginning.



## **Enclosure B**

### **Description and Diagrams of the Site (Including the Property)**

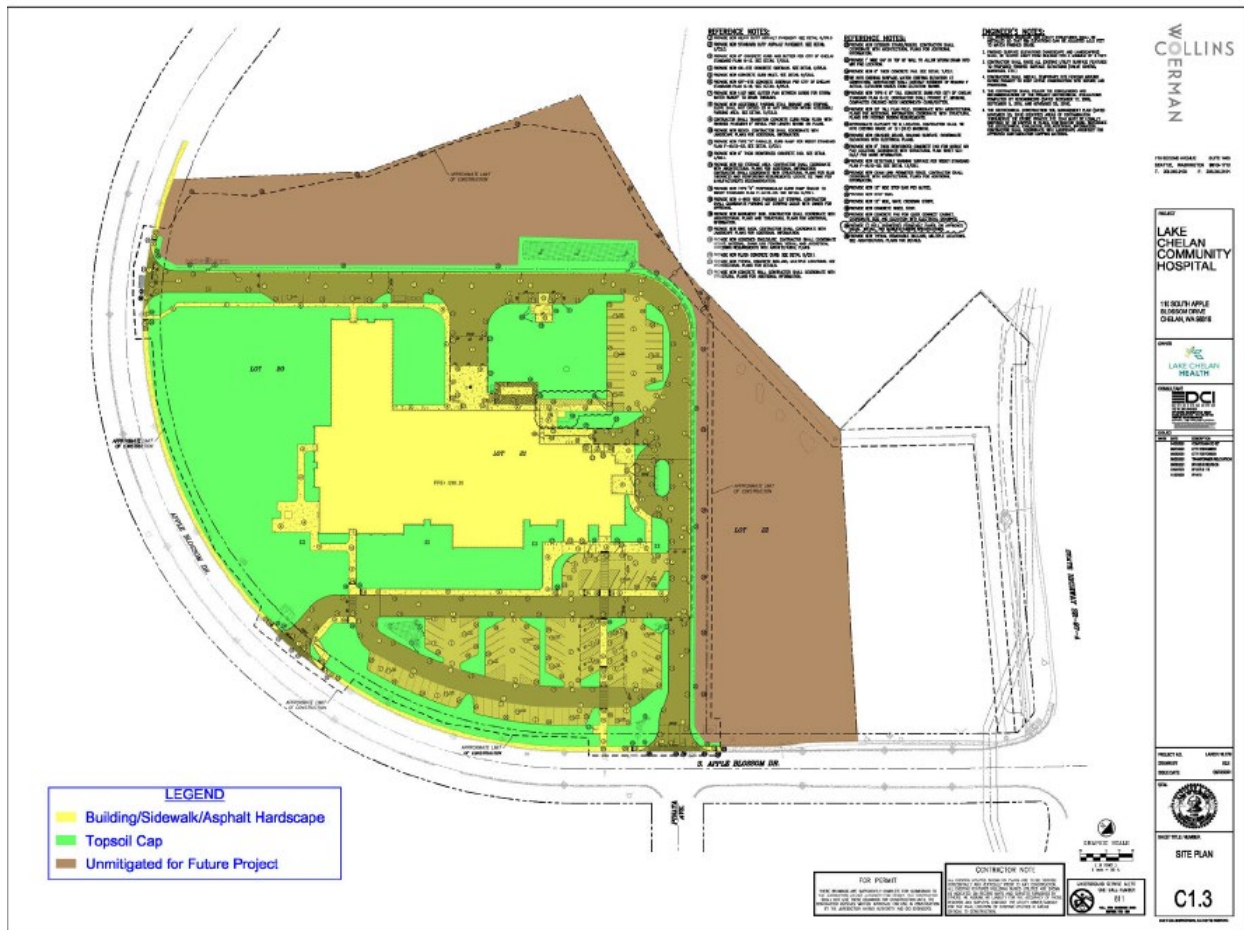


# Site Description

The Site is located within the Former Orchard Lands of Central Washington and comprises two parcels in Chelan, WA. The street addresses associated with the Site are 106 and 110 South Apple Blossom Drive, Chelan. The parcels were historically agricultural use as an apple orchard. Site characterization has revealed the presence of lead and arsenic in site soils that exceed MTCA Method A cleanup levels for unrestricted land use. The lead and arsenic in Site soils is consistent with legacy pesticides used for agricultural reasons. Groundwater is not affected at this Site.

## Site Diagrams

Diagram of property (parcel 272318672013) after completion of the cleanup action. Please note the areas in brown where soils have not been removed or capped, resulting in a Further Action opinion.





## Enclosure C

### Basis for the Opinion: List of Documents

Limited Phase II Environmental Site Assessment Proposed Commercial Site Former Isenhardt Orchards Property, Kleinfelder, October 7, 2004.<sup>13</sup>

Phase I and II Environmental Site Assessment, Proposed Hospital Property Apple Blossom Drive, GeoEngineers, Inc., February 6, 2009.<sup>14</sup>

Phase I Environmental Site Assessment, Lot 18 Apple Blossom, Aerotech Environmental Consulting, Inc., February 28, 2017.<sup>15</sup>

Limited Subsurface Sampling and Testing, Environmental Associates, Inc., April 12, 2017.<sup>16</sup>

Construction Soil Management Plan Lake Chelan Community Hospital, GeoEngineers, Inc., September 5, 2019.<sup>17</sup>

Operations and Management Report, Lake Chelan Community Hospital, September 23, 2022.<sup>18</sup>

Remedial Investigation Report, Lake Chelan Community Hospital, New Construction, Construction Special Inspections, November 22, 2022.<sup>19</sup>

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<sup>13</sup> <https://apps.ecology.wa.gov/cleanupsearch/document/121502>

<sup>14</sup> <https://apps.ecology.wa.gov/cleanupsearch/document/121504>

<sup>15</sup> <https://apps.ecology.wa.gov/cleanupsearch/document/121461>

<sup>16</sup> <https://apps.ecology.wa.gov/cleanupsearch/document/121507>

<sup>17</sup> <https://apps.ecology.wa.gov/cleanupsearch/document/121505>

<sup>18</sup> <https://apps.ecology.wa.gov/cleanupsearch/document/119515>

<sup>19</sup> <https://apps.ecology.wa.gov/cleanupsearch/document/119516>