



**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

**Central Region Office**

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

February 9, 2024

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

**Re: No Further Action Opinion for the Following Property Associated with a Contaminated Site:**

- **Site Name:** Lake Chelan Hospital New Construction Site
- **Site 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 on December 21, 2023 for an opinion regarding the sufficiency of the Property cleanup associated with the Lake Chelan Hospital New Construction Site (Site) under the Voluntary Cleanup Program (VCP).<sup>1</sup> To provide an opinion, we requested additional information from you in writing on November 17, 2023. We received the additional information on December 20, 2023. 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>2</sup>

## **Opinion**

---

Ecology has determined that no further remedial action is necessary at the Property to clean up contamination associated with the Site. However, further remedial action remains necessary elsewhere at the Site to clean up contamination.

This opinion depends on the continued performance and effectiveness of the post-cleanup controls and monitoring specified in this letter and in the environmental covenant(s) in **Enclosure A**.

---

<sup>1</sup> <https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Voluntary-Cleanup-Program>

<sup>2</sup> <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305>

Ecology bases this opinion on an analysis of whether the remedial action meets the substantive requirements of MTCA and its implementing regulations which are specified in Chapter 70A.305 RCW and Chapter 173-340 WAC<sup>3</sup> (collectively called “ MTCA”).

## Property Description

---

This opinion applies only to the Property described in this section, which was affected by release(s) at the Site and addresses by your cleanup. The Property includes the following parcel of real property in Chelan County.

### Parcel Number

- 27231567013

**Enclosure B** includes a legal description of the Property and **Enclosure C** includes a site description and diagrams that shows where the Property is located within the Site.

## Site Description

---

This opinion applies to only the Site described in this section. The Site is defined by the nature and extent of contamination associated with the following release(s):

- Lead in soils
- Arsenic in soils

This opinion does not apply to any other sites that may affect the Property. 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>4</sup> to identify former orchards and sampling results.

The Property is also located within the projected boundaries of the Lake Chelan Hospital New Construction Site Facility Site ID 66314. This opinion does not apply to any contamination associated with the adjacent parcel number 27231867014 associated with the Site.

## Basis for the Opinion

---

Ecology bases this opinion on the information contained in the following documents:

- Response Document to Ecology, Dave Schettler, PE, dated December 20, 2023<sup>5</sup>

---

<sup>3</sup> <https://apps.leg.wa.gov/wac/default.aspx?cite=173-340>

<sup>4</sup> <https://apps.ecology.wa.gov/dirtalert/orchard?lat=47.125327&lon=-120.317961&zoom=7>

<sup>5</sup> <https://apps.ecology.wa.gov/cleanupsearch/document/135640>

- Lake Chelan Hospital New Construction Site-Soil Capping for Remaining Area of Parcel Number 272318627013, Schettler Civil Engineering Services, LLC, dated August 27, 2023<sup>6</sup>
- Lake Chelan Community Hospital-New Construction, Dave Schettler, dated November 22, 2022<sup>7</sup>
- Operation and Maintenance Report, Lake Chelan Community Hospital, GeoEngineers, dated September 23, 2022<sup>8</sup>
- Construction Soil Management Plan, Lake Chelan Community Hospital, GeoEngineers, dated September 5, 2019<sup>9</sup>

You can request these documents by filing a records request.<sup>10</sup> For help making a request, contact the Public Records Office at [recordsofficer@ecy.wa.gov](mailto:recordsofficer@ecy.wa.gov) or call (360) 407-6040. Before making a request, check if the documents are available on Ecology's Lake Chelan Hospital New Construction Site cleanup site website.<sup>11</sup>

This opinion is void if information in any of the listed documents is materially false or misleading.

## Analysis of the Cleanup

---

Ecology has concluded that no further remedial action is necessary at the Property to clean up contamination associated with the Site. However, Ecology has also concluded that further remedial action is still necessary to clean up contamination elsewhere at the Site. Ecology bases its conclusions on the following analysis:

### Characterizing the Site

Ecology has determined your completed Site characterization is sufficient for setting cleanup standards for the Site and selecting a cleanup action for the Property. **Enclosure B** contains diagrams of the Site and Property. Use of the Model Remedies for Cleanup of Former Orchard Properties in Central and Eastern Washington<sup>12</sup> (Model Remedy) is sufficient to protect human health and the environment at the Property.

### Setting Cleanup Standards for the Site

Ecology has determined the cleanup levels and points of compliance you set for the Site meet the substantive requirements of MTCA. Cleanup standards are:

---

<sup>6</sup> <https://apps.ecology.wa.gov/cleanupsearch/document/132517>

<sup>7</sup> <https://apps.ecology.wa.gov/cleanupsearch/document/119516>

<sup>8</sup> <https://apps.ecology.wa.gov/cleanupsearch/document/119515>

<sup>9</sup> <https://apps.ecology.wa.gov/cleanupsearch/document/121505>

<sup>10</sup> <https://ecology.wa.gov/About-us/Accountability-transparency/Public-records-requests>

<sup>11</sup> <https://apps.ecology.wa.gov/cleanupsearch/site/15142>

<sup>12</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/2109006.html>

- Lead in soils: 250mg/k
- Arsenic in soils: 20 mg/k

An environmental covenant detailing land use restrictions for the Property was recorded at the Chelan County Auditor's office on July 15, 2022.

### **Selecting the Cleanup Action for the Property**

Ecology has determined the cleanup action you selected for the Property meets the substantive requirements of MTCA.

Implementation of Model Remedy 4 – Consolidation and Capping contained in the Model Remedy meets the substantive requirements of MTCA.

### **Implementing the Cleanup Action**

Ecology has determined your cleanup of the Property meets the standards set for the Site. Successful completion of Model Remedy 4 – Consolidation and Capping of the Model Remedy on the Property meets the substantive requirements of MTCA.

### **Post-Cleanup Controls and Monitoring**

---

Post-cleanup controls and monitoring are remedial actions performed to ensure compliance with cleanup standards. Ecology is issuing this No Further Action opinion based on the continued performance and effectiveness of the post-cleanup remedial actions at the Property. Ecology may rescind this opinion if these remedial actions are not performed or are not effective in maintaining cleanup standards.

### **Compliance with Institutional Controls**

Institutional controls prohibit or limit activities that may interfere with the integrity of engineering controls or result in exposure to contamination. The following site-specific institutional controls are needed at the Property.

- The remedial action for the Property is based on containing contaminated soil under a cap consisting of buildings, pavement, sidewalks, and other protective barriers.

The primary purpose of the cap is to minimize the potential for contact with contaminated soil, minimize leaching of contaminants to groundwater and surface water, prevent runoff from contacting contaminated soil, and minimize airborne contaminants. Any activity on the Property that will compromise the integrity of the cap including: Drilling, digging, piercing the cap with a sampling device, post, stake or similar device, grading, excavation, installation of underground utilities, removal of the cap, or application of loads in excess of the cap load bearing capacity, is prohibited without prior written approval by Ecology.

The Grantor of the environmental covenant shall report to Ecology within forty-eight (48) hours of the discovery of any damage to the cap. Unless an alternative plan has been approved by Ecology in writing, the Grantor shall promptly repair the damage and submit a report documenting this work to Ecology within thirty (30) days of completing the repairs.

To implement the controls, you recorded an environmental covenant on the following parcels of real property in Chelan County:

- 272318627013
- 272318627014

Parcel number 272318627014 is not included in this opinion for Property No Further Action.

Ecology approved the recorded environmental covenant (see **Enclosure A**). To amend or terminate the covenant, you must request additional review under the VCP.<sup>13</sup>

### **Periodic Review of Post-Cleanup Conditions**

Ecology will conduct periodic reviews of post-cleanup conditions at the Property to evaluate if they remain protective of human health and the environment. Based on a periodic review, if Ecology determines the Property needs further remedial action, Ecology will rescind this opinion.

### **Listing of the Site**

---

Based on this opinion, Ecology will update the Site status on its Contaminated Sites database. However, because further remedial action is still necessary elsewhere at the Site, Ecology will not remove the Site from its lists of contaminated sites. Furthermore, the Property will remain listed as part of the Site because the Property cleanup does not change Site boundaries.

### **Limitations of the Opinion**

---

#### **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.

---

<sup>13</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/1509057.html>

Dick Bratton  
Dick Bratton Project Management LLC  
February 9, 2024  
Page 6

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>1</sup>

### **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 if the action you performed is substantially equivalent. Courts make that determination. See RCW 70A.305.080<sup>2</sup> and WAC 173-340-545.<sup>3</sup>

### **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(6).<sup>4</sup>

### **Contact Information**

---

If you have any questions about this opinion, please contact me by phone at 509-571-6661 or email at Mary.Monahan@ecy.wa.gov.

Sincerely,



Mary Monahan  
Toxics Cleanup Program  
Central Regional Office

Enclosures (3):        A – Environmental Covenant  
                              B – Property Legal Description  
                              C – Site Description and Diagrams

By certified mail:        9589 0710 5270 0589 5642 11

cc:        Brant Truman, Chelan County Hospital District No. 2  
              Dave Schettler, Schettler Civil Engineering Services LLC  
              Fiscal, VCP Fiscal Analyst  
              TCP Operating Budget Analyst

---

<sup>1</sup> <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305.040>

<sup>2</sup> <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305.080>

<sup>3</sup> <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-340-545>

<sup>4</sup> <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305.170>

# Enclosure A

---

Environmental Covenant



# Enclosure B

---

Legal Property Description



### 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°40'18" West along the common line of Lots 21 and 22, a distance of 538.80 feet; Thence North 41°09'08" West a distance of 42.76 feet to the southwest corner of said Lot 22; Thence North 06°29'30" East along the westerly line thereof a distance of 45.14 feet;

Thence North 51°03'53" East, a distance of 507.20 feet to the easterly line of said Lot 22; Thence South 39°09'08" East, a distance of 42.52 feet to the Point of Beginning.

---

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°40'18" West along the common line of Lots 21 and 22, a distance of 538.80 feet;

Thence North 41°09'08" West, a distance of 42.76 feet to the southwest corner of said Lot 22; Thence North 06°29'30" East along the westerly line thereof a distance of 45.14 feet;

Thence North 51°03'53" East, a distance of 507.20 feet to the easterly line of said Lot 22; Thence South 39°09'08" East, a distance of 42.52 feet to the Point of Beginning.



# Enclosure C

---

Site Description and Diagrams



## 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.

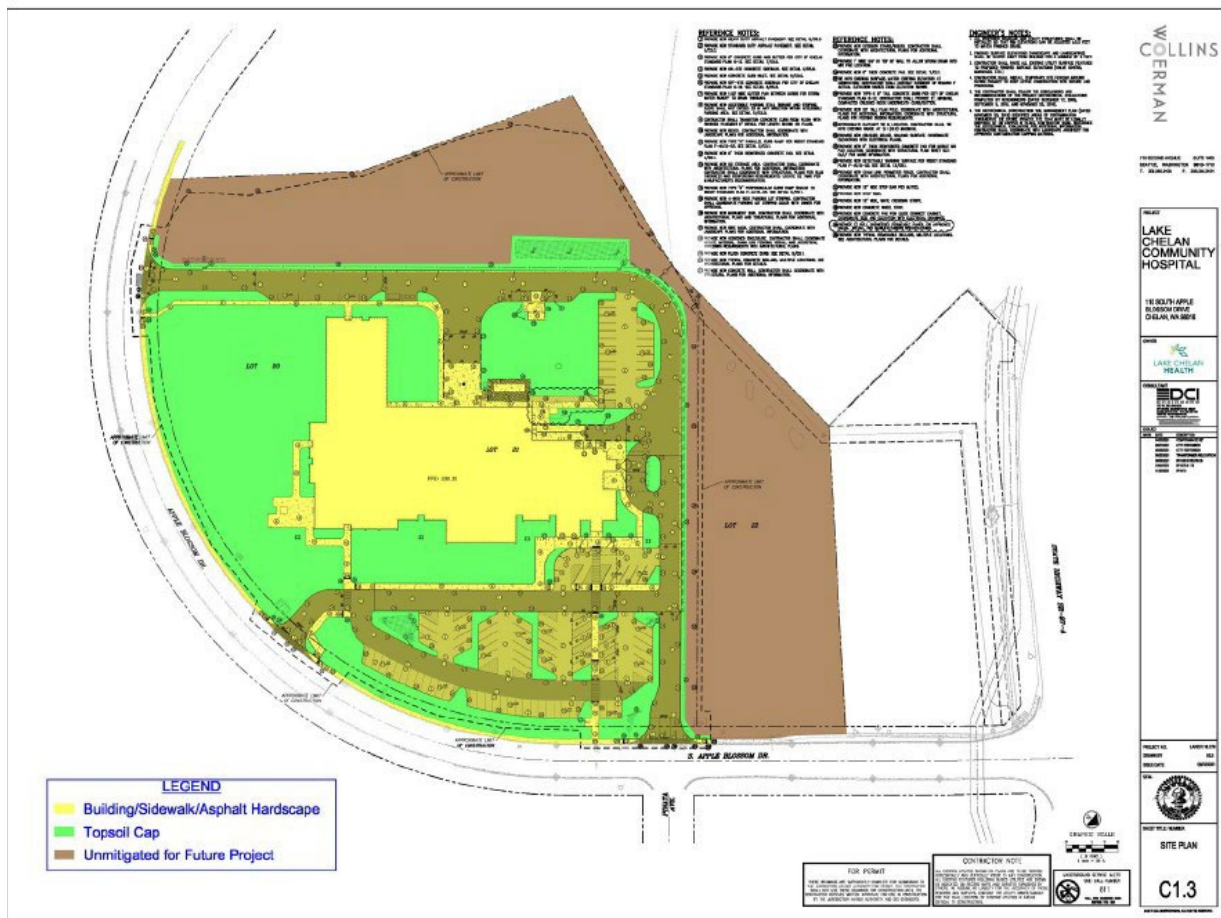




Diagram of Site (both parcels contained within boundaries)



