



STATE OF WASHINGTON  
**DEPARTMENT OF ECOLOGY**

Central Region Office

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

June 17, 2024

Dietrich Haar  
SFP-E, LLC  
PO Box 5350  
Bend, OR 97708

**Re: Ecology Opinion on Proposed Cleanup of a Property associated with the following Site:**

- **Site Name:** Les Schwab Yakima West
- **Property Address:** 6905 W. Nob Hill Boulevard, Yakima
- **Facility/Site No.:** 100000290
- **Cleanup Site ID:** 16984
- **VCP Project No.:** CE0553

Dear Dietrich Haar:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your proposed independent cleanup of a Property associated with the Les Schwab Yakima West facility (Property). 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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1. Upon completion of the proposed cleanup, will further remedial action likely be necessary at the Property to clean up contamination associated with the Site?

**NO. Ecology has determined that no further remedial action will likely be necessary at the Property 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 Property and the Site

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This opinion applies only to the Property described below. This opinion does not apply to any other sites that may affect the Property. Any such sites, if known, are identified separately below.

### 1. Description of the Property.

The Property includes the following tax parcel in Yakima County, which will be addressed by your cleanup:

- 18132914416

**Enclosure A** includes a legal description of the Property. **Enclosure B** includes a description and diagrams of the Property that illustrates the location of the Property.

### 2. Description of the Property.

The Property is defined by the nature and extent of contamination associated with the following releases:

- Arsenic into the Soil.
- Lead into 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.

**Enclosure B** includes a detailed description and diagram of the Property, as currently known to Ecology. Please note that the property address provided in the Cleanup Action Report is not consistent with the property address that corresponds to the parcel number on the Yakima County Assessor website.

## Basis for the Opinion

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This opinion is based on the information contained in the following documents:

1. Cleanup Action Plan (CAP), Krazan & Associates, Inc., May 14, 2024<sup>3</sup>

Ecology bases this opinion on information in the document listed above.

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<sup>3</sup> <https://apps.ecology.wa.gov/cleanupsearch/document/141974>

You can request these documents by filing a records request.<sup>4</sup> For help making a request, contact the Public Records Officer 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 the Site webpage.<sup>5</sup> This opinion is void if any of the information contained in those documents is materially false or misleading.

## Analysis of the Cleanup

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### 1. Cleanup of the Property located within the Site.

Ecology has concluded that, upon completion of your proposed cleanup, **no further remedial action** will likely be necessary at the Property to clean up contamination associated with the Property. That conclusion is based on the following analysis:

#### a. Characterization of the Property.

Ecology has determined your characterization of the Property is sufficient to establish cleanup standards for the Site and select a cleanup for the Property. The Property is described above and in **Enclosure B**.

Sampling conducted has revealed the presence of lead and arsenic above cleanup levels. Since no other contaminants are present except for these legacy pesticides, the Property is eligible for use of the Model Remedies for Cleanup of Former Orchard Properties as long as you can confirm that **groundwater is not present at depths five feet below ground surface or higher**.

#### b. Establishment of cleanup standards for the Site.

Ecology has determined the cleanup levels and points of compliance you established for the Property meet the substantive requirements of MTCA.

#### ii. Action and location-specific requirements.

Please note that compliance sampling will be required for all areas that remain beneath the capped areas. In addition, any areas where water-bearing utilities (water and irrigation lines) are buried below ground must be excavated fully so that no lead or arsenic-containing soils are present in the utility trenches. Stormwater catch basins and underground stormwater trenches must also be completely free of any lead or arsenic-containing soils. Any soils in areas where stormwater will be allowed to infiltrate must be confirmed to be free of lead and arsenic.

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<sup>4</sup> <https://ecology.wa.gov/About-us/Accountability-transparency/Public-records-requests>

<sup>5</sup> <https://apps.ecology.wa.gov/cleanupsearch/site/16984>

Orange construction fencing is not permitted to be used to demarcate areas where contaminated soils are located beneath soft capping; geotextiles must be Ecology-approved. Ecology will draft the Environmental Covenant that will be necessary for a No Further Action determination for the property. The property cleanup will not be complete until Ecology receives a copy of the filed Environmental Covenant from the Yakima County Auditor's office.

**c. Selection of cleanup for the Property.**

Ecology has determined the cleanup you proposed for the Property meets the substantive requirements of MTCA. Your proposed cleanup meets minimum cleanup requirements and will not exacerbate conditions or preclude reasonable cleanup alternatives elsewhere at the Site. Use of the Model Remedies for Cleanup of Former Orchard Properties is allowed for remediation of this property.

## **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 Property. This opinion **does not**:

- Change the boundaries of the Property.
- 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>6</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. This opinion does not determine whether the action you proposed will be substantially equivalent. Courts make that determination. See RCW 70A.305.080<sup>7</sup> and WAC 173-340-545.<sup>8</sup>

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<sup>6</sup> <https://app.leg.wa.gov/rcw/default.aspx?cite=70A.305.040>

<sup>7</sup> <https://app.leg.wa.gov/rcw/default.aspx?cite=70A.305.080>

<sup>8</sup> <https://apps.leg.wa.gov/wac/default.aspx?cite=173-340-545>

**3. Opinion is limited to proposed cleanup.**

This letter does not provide an opinion on whether further remedial action will actually be necessary at the Property upon completion of your proposed cleanup. To obtain such an opinion, you must submit a report to Ecology upon completion of your cleanup and request an opinion under the VCP.

**4. 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>9</sup>

**Contact Information**

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Thank you for choosing to clean up your Property under the Voluntary Cleanup Program (VCP). As you conduct your cleanup, please do not hesitate to request additional services. We look forward to working with you.

For more information about the VCP and the cleanup process, please visit our website: [www.ecy.wa.gov/programs/tcp/vcp/vcpmain.htm](http://www.ecy.wa.gov/programs/tcp/vcp/vcpmain.htm).<sup>10</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 (2):     A – Legal Description of the Property  
                             B – Description and Diagrams of the Site (including the Property)

cc:     Jessep Englert, L.G., Krazan & Associates

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<sup>9</sup> <https://app.leg.wa.gov/rcw/default.aspx?cite=70A.305.170>

<sup>10</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**

Section 29 Township 13 Range 18 Quarter NE: That portion of Lot 11, of YAKIMA VALLEY ORCHARD TRACTS, according to the official Plat thereof recorded in Book "A" of Plats, page 75, records of Yakima, County. Washington, described as follows: Beginning at the intersection of the West line of said Lot 11 and the Northerly right of way of line of Nob Hill Boulevard, said point being 105.51 feet North 1°18'28" West of the South line of the Northeast Quarter of Section 29, Township 13 North, Range 18 East, W.M.as measured along said West line of said Lot 11; Thence North 1°18'28" East along the West line of Said Lot 11 a distance of 208.17 feet; Thence North 89°54'28" East 311.00 feet; Thence South 0°05'32" East 208.12 feet to said North right of way line of Nob Hill Boulevard; Thence South 89°54'28" West along said right of way line 306.58 feet to the Point of Beginning.





## **Enclosure B**

### **Description and Diagrams of the Property**



## **Site Description**

The Property is located at 6905 West Nob Hill Boulevard in Yakima. It was formerly agricultural property and is currently vacant. Releases at the property are consistent with former agricultural use as an orchard and consist of lead and arsenic above MTCA cleanup levels in the soils.




## Site Diagrams





Source: Google Maps

VICINITY MAP	Scale: NTS	Date: Dec. 2022	 <b>Krazan</b> SITE DEVELOPMENT ENGINEERS <i>Offices Serving the Western United States</i>
<b>Les Schwab Yakima</b> <b>Arsenic &amp; Lead Soil Sampling</b> <b>6809 W Nob Hill Blvd</b> <b>Yakima, WA</b>	Modified By: JDE		
	Project No. 064-22024	Figure No. 1	







**Figure 3 - Site Plan**

**Reference:**

Google Earth.

LSWA\_21YAKWEST LANDSCAPE STAMPED, *Site Plan, Cushing Terrell, October 27, 2023*



**Krazan**

Project: Les Schwab Yakima West, 6809 West Nob Hill Blvd, Yakima, WA

Date: January 2024

Project Number: 064-22024

Drawn By: JDE

Not to Scale

Figure 3 Barrier Overlay Map