



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

4601 N Monroe Street • Spokane, Washington 99205-1295 • (509)329-3400

July 3, 2013

Mr. Rick Bates
CHS, Inc.
16124 E. Marietta Avenue
Spokane Valley, WA 99216

Re: No Further Action at the following Site:

- **Site Name:** Zip Trip #35
- **Site Address:** 909 N. Division, Spokane, WA
- **Facility/Site No.:** 33243444
- **VCP Project No.:** EA0202

Dear Mr. Bates:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your independent cleanup of the Zip Trip #35 facility (Site). This letter provides our opinion. We are providing this opinion under the authority of the Model Toxics Control Act (MTCA), Chapter 70.105D RCW.

Issue Presented and Opinion

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

NO. Ecology has determined no further remedial action is necessary to clean up contamination at the Site.

This opinion is dependent on the continued performance and effectiveness of the post-cleanup controls specified below.

This opinion is based on an analysis of whether the remedial action meets the substantive requirements of MTCA, Chapter 70.105D RCW, and its implementing regulations, Chapter 173-340 WAC (collectively “substantive requirements of MTCA”). The analysis is provided below.

Description of the Site

This opinion applies only to the Site described below. The Site is defined by the nature and extent of contamination associated with the following releases:

- Trichloroethylene (TCE) and cadmium into the Soil.
- MTBE into the Groundwater.



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Enclosure A includes a detailed description and diagram of the Site, as currently known to Ecology.

Please note a parcel of real property can be affected by multiple sites. At this time, we have no information the parcel(s) associated with this Site are affected by other sites.

Basis for the Opinion

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

1. Site Characterization Report, 909 North Division Street Property, Spokane, Washington: Tetra Tech, Inc., March 2009.
2. Groundwater Monitoring Report, 909 North Division Street Property, Spokane, Washington: Tetra Tech, Inc., February 2010.
3. Groundwater Monitoring Report, Zip Trip #35: Tetra Tech, Inc., January 2013.

Those documents are kept in the Central Files of the Eastern Regional Office of Ecology (ERO) for review by appointment only. You can make an appointment by calling Kari Johnson at 509-329-3415.

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

Analysis of the Cleanup

Ecology has concluded **no further remedial action** is necessary to clean up contamination at the Site. That conclusion is based on the following analysis:

1. Characterization of the Site.

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

Soil borings and groundwater monitoring wells were installed at the Site to determine the extent of contamination in soil and groundwater and to determine contaminants of concern.

2. Establishment of cleanup standards.

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

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For soil, the cleanup levels were established using MTCA Method A and are based on the protection of groundwater. The cleanup levels are as follows:

- TCE: 0.03 mg/kg
- Cadmium: 2 mg/kg

The point of compliance for soil is throughout the soils at the Site. This is the standard point of compliance.

For groundwater, the cleanup levels were established using MTCA Method A and are based on the protection of drinking water beneficial uses. The cleanup levels are as follows:

- MTBE: 20 ug/l

The point of compliance is throughout the Site from the uppermost level of the saturated zone extending vertically to the lowest most depth which could potentially be affected by the Site. This is the standard point of compliance.

3. Selection of cleanup action.

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

The selected cleanup includes the following:

- Soil borings were installed to determine extent of impacted soil.
- Groundwater monitoring wells were installed to determine impacts to groundwater.

4. Cleanup.

Ecology has determined the cleanup you performed meets the cleanup standards established for the Site. This determination is dependent on the continued performance and effectiveness of the post-cleanup controls specified below.

A cap was placed over the contaminated soil to prevent infiltration and mobilization of contaminated soil.

An Environmental Covenant was required because the remedial actions resulted in residual concentrations of cadmium and TCE in soil at the Site.

Post-Cleanup Controls and Monitoring

Post-cleanup controls and monitoring are remedial actions performed after the cleanup to maintain compliance with cleanup standards. This opinion is dependent on the continued performance and effectiveness of the following:

1. Compliance with institutional controls.

Institutional controls prohibit or limit activities that may interfere with the integrity of engineered controls or result in exposure to hazardous substances. The following institutional control is necessary at the Site:

- Prohibition of activities that may interfere with the cleanup action or that may result in exposure of the hazardous substances at the Site.

To implement that control, an Environmental Covenant has been recorded on the following parcel of real property in Spokane County:

- 35181.0037

Ecology approved the recorded Covenant. A copy of the Covenant is included in **Enclosure B**.

2. Operation and maintenance of engineered controls.

Engineered controls prevent or limit movement of, or exposure to, hazardous substances. The following engineered control is necessary at the Site:

- A cap over the contaminated soil.

The cap must be inspected and maintained to prevent infiltration and mobilization of contaminated soil.

Periodic Review of Post-Cleanup Conditions

Ecology will conduct periodic reviews of post-cleanup conditions at the Site to ensure they remain protective of human health and the environment. If Ecology determines, based on a periodic review, further remedial action is necessary at the Site, then Ecology will withdraw this opinion.

Listing of the Site

Based on this opinion, Ecology will remove the Site from our Confirmed and Suspected Contaminated Sites List and Leaking Underground Storage Tank List.

Limitations of the Opinion

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**:

- 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 70.105D.040(4).

2. Opinion does not constitute a determination of substantial equivalence.

To recover remedial action costs from other liable persons under MTCA, one must demonstrate the action is the substantial equivalent of an Ecology-conducted or Ecology-supervised action. This opinion does not determine whether the action you performed is substantially equivalent. Courts make that determination. *See* RCW 70.105D.080 and WAC 173-340-545.

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 70.105D.030(1)(i).

Termination of Agreement

Thank you for cleaning up the Site under the Voluntary Cleanup Program (VCP). This opinion terminates the VCP Agreement governing this project (# EA0202).

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For more information about the VCP and the cleanup process, please visit our web site: www.ecy.wa.gov/programs/tcp/vcp/vcpmain.htm. If you have any questions about this opinion or the termination of the Agreement, please contact me by phone at 509-329-3522 or e-mail at patti.carter@ecy.wa.gov.

Sincerely,



Patti Carter
ERO Toxics Cleanup Program

PC:eh

Enclosures (2): A – Description and Diagram of the Site
 B – Environmental Covenant

cc: Jon Welge, Tetra Tech
 Dolores Mitchell, VCP Financial Manager (without enclosures)

Site Description

- The Site was railroad property for approximately 100 years prior to removal of the railroad tracks.
- A commercial gasoline station was constructed on the Site in 1995. A Zip Trip gasoline station and convenience store is currently located at the Site.
- Groundwater samples from borings installed in 2004 identified diesel, oil, MTBE, and lead in groundwater. Soil samples from borings installed in 2009 identified TCE and cadmium in soil.
- Basalt bedrock is located at approximately two feet below ground surface at the Site. Depth to groundwater is between 12 and 37 feet below ground surface.

(Tetra Tech, 2009, 2010, 2013).

Site Diagram

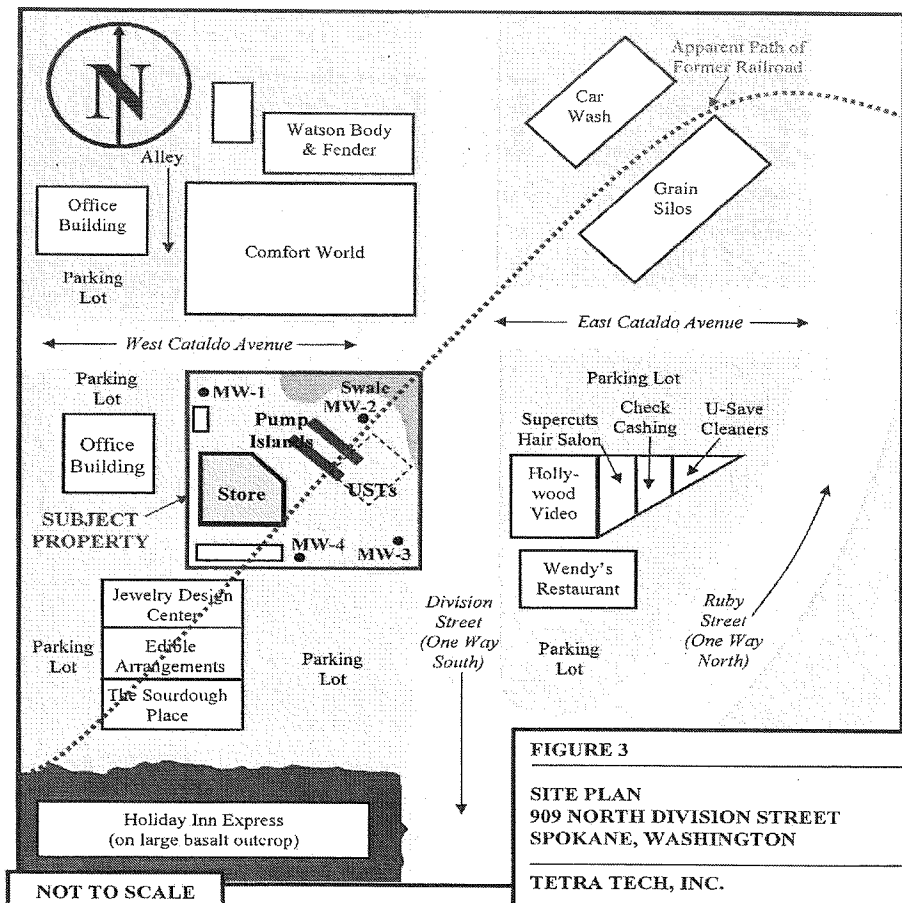


FIGURE 3
SITE PLAN
909 NORTH DIVISION STREET
SPOKANE, WASHINGTON
TETRA TECH, INC.



RETURN NAME and ADDRESS

Department of Ecology - Patti Carter

4601 N. Monroe Street

Spokane, WA 99205

Please Type or Print Neatly and Clearly All Information

Document Title(s)

Environmental Covenant

Reference Number(s) of Related Documents

Grantor(s) (Last Name, First Name, Middle Initial)

CHS Inc.

Grantee(s) (Last Name, First Name, Middle Initial)

State of Washington, Department of Ecology

Legal Description (Abbreviated form is acceptable, i.e. Section/Township/Range/Qtr Section or Lot/Block/Subdivision)

Parcel "F", Northbank Development, SP NO 91-07, Vol. 8, P 22, Spokane County

Assessor's Tax Parcel ID Number 35181.0037

The County Auditor will rely on the information provided on this form. The Staff will not read the document to verify the accuracy and completeness of the indexing information provided herein.

Sign below only if your document is Non-Standard.

I am requesting an emergency non-standard recording for an additional fee as provided in RCW 36.18.010. I understand that the recording processing requirements may cover up or otherwise obscure some parts of the text of the original document. Fee for non-standard processing is \$50.

Signature of Requesting Party

Environmental Covenant

After Recording Return to:
Patti Carter
Department of Ecology
4601 N. Monroe Street
Spokane, WA 99205

Environmental Covenant

Grantor: CHS Inc.
Grantee: State of Washington, Department of Ecology
Legal: Parcel "F", Northbank Development, SP NO 91-07, Vol. 8, P 22, Spokane County
Tax Parcel Nos.: 35181.0037

Grantor, CHS Inc., hereby binds Grantor, its successors and assigns to the land use restrictions identified herein and grants such other rights under this environmental covenant (hereafter "Covenant") made this 13 day of June, 2013 in favor of the State of Washington Department of Ecology (Ecology). Ecology shall have full right of enforcement of the rights conveyed under this Covenant pursuant to the Model Toxics Control Act, RCW 70.105D.030(1)(g), and the Uniform Environmental Covenants Act, 2007 Wash. Laws ch. 104, sec. 12.

This Declaration of Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by CHS Inc., its successors and assigns, and the State of Washington Department of Ecology, its successors and assigns (hereafter "Ecology").

A remedial action (hereafter "Remedial Action") occurred at the property that is the subject of this Covenant. The Remedial Action conducted at the property is described in the following document[s]:

1. Site Characterization Report, 909 North Division Street Property, Spokane, Washington: Tetra Tech, Inc. March 2009
2. Groundwater Monitoring Report, 909 North Division Street Property, Spokane, Washington: Tetra Tech, Inc., February 2010

3. Groundwater Monitoring Report, 909 North Division Street Property, Spokane, Washington: Tetra Tech, Inc., January 2013

These documents are on file at Ecology's Eastern Regional Office.

This Covenant is required because the Remedial Action resulted in residual concentrations of cadmium and Trichloroethene which exceed the Model Toxics Control Act Method A Cleanup Level(s) for SOIL established under WAC 173-340-740. The southeast corner of the Property, as identified below, contains the contaminated soil.

The undersigned, CHS Inc., is the fee owner of real property (hereafter "Property") in the County of Spokane, State of Washington that is subject to this Covenant. The Property is legally described as follows:

PARCEL "F", NORTHBANK DEVELOPMENT, AS PER CITY SHORT PLAT 91-07 RECORDED IN VOLUME 8 OF SHORT PLATS, PAGE 22, RECORDS OF SPOKANE COUNTY; EXCEPT THAT PORTION CONVEYED TO THE STATE OF WASHINGTON BY DEED RECORDED OCTOBER 13, 1993, UNDER AUDITOR'S FILE NO. 9310130046, RECORDS OF SPOKANE COUNTY.

CHS Inc. makes the following declaration as to limitations, restrictions, and uses to which the Property may be put and specifies that such declarations shall constitute covenants to run with the land, as provided by law and shall be binding on all parties and all persons claiming under them, including all current and future owners of any portion of or interest in the Property (hereafter "Owner").

Section 1. Any activity on the Property that may result in the release or exposure to the environment of the contaminated soil that was contained as part of the Remedial Action, or create a new exposure pathway, is prohibited. Some examples of activities that are prohibited in the capped areas include: drilling, digging, placement of any objects or use of any equipment which deforms or stresses the surface beyond its load bearing capability, piercing the surface with a rod, spike or similar item, bulldozing or earthwork.

Section 2. Any activity on the Property that may interfere with the integrity of the Remedial Action and continued protection of human health and the environment is prohibited.

Section 3. Any activity on the Property that may result in the release or exposure to the environment of a hazardous substance that remains on the Property as part of the Remedial

Action, or create a new exposure pathway, is prohibited without prior written approval from Ecology.

Section 4. The Owner of the property must give thirty (30) day advance written notice to Ecology of the Owner's intent to convey any interest in the Property. No conveyance of title, easement, lease, or other interest in the Property shall be consummated by the Owner without adequate and complete provision for continued monitoring, operation, and maintenance of the Remedial Action.

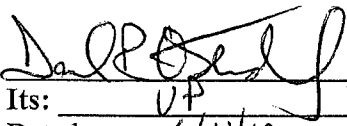
Section 5. The Owner must restrict leases to uses and activities consistent with the Covenant and notify all lessees of the restrictions on the use of the Property.

Section 6. The Owner must notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Covenant. Ecology may approve any inconsistent use only after public notice and comment.

Section 7. The Owner shall allow authorized representatives of Ecology the right to enter the Property at reasonable times for the purpose of evaluating the Remedial Action; to take samples, to inspect remedial actions conducted at the property, to determine compliance with this Covenant, and to inspect records that are related to the Remedial Action.

Section 8. The Owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this Covenant shall no longer limit use of the Property or be of any further force or effect. However, such an instrument may be recorded only if Ecology, after public notice and opportunity for comment, concurs.

CHS Inc.



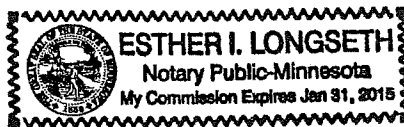
Its: VP
Dated: 6/13/13

STATE OF Minnesota
COUNTY OF Dakota

On this 13th day of June, 2013, I certify that Daniel Ostendorf personally appeared before me, acknowledged that ~~he/she~~ is the Vice President of the corporation that executed the within and foregoing instrument, and signed said instrument by free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that ~~he/she~~ was authorized to execute said instrument for said corporation.

Esther I. Longseth

Notary Public in and for the State of
Minnesota, residing at Stillwater, MN.
My appointment
expires 1/31/15.



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Michael A. Hibbler

Michael A. Hibbler

Section Manager, Toxics Cleanup Program

Dated: 17 June 2013