



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

July 11, 2013

Mr. Robert Ogan
Ogan & Ogan Enterprises LLC
PO Box 2233
Wenatchee, WA 98807

Re: No Further Action at the following Site:

- **Site Name:** Big Wallys
- **Site Address:** 9976 N Hwy 2, Coulee City, WA
- **Facility/Site No.:** 14558
- **VCP Project No.:** EA0251

Dear Mr. Ogan:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your independent cleanup of the Big Wallys 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 release:

- Petroleum hydrocarbons into the Soil.



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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. Leak Investigation and Cleanup (final), Big Wally's Premium Fuel Leak and Cleanup, Coulee City, WA: Eco-Nomic, April 9, 2010.

This document is 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 the document 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**.

The lateral and vertical extent of petroleum hydrocarbons in soil was defined in the report listed above.

2. Establishment of cleanup standards.

Ecology has determined that 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 land use is classified as Unrestricted. The cleanup levels are as follows:

- Gasoline range hydrocarbons: 30 mg/kg
- Benzene: 0.03 mg/kg
- Toluene: 7 mg/kg
- Ethylbenzene: 6 mg/kg
- Xylenes: 9 mg/kg

The point of compliance for soil is throughout the soils at 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

- Excavation and removal of contaminated soil.
- Institutional controls.

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.

The leak in the gasoline line was repaired. Contaminated soil was removed to the maximum extent practicable. Some contaminated soil remains adjacent to the concrete containment structure.

The impacted area is capped to prevent infiltration and mobilization of contaminated soil left in place adjacent to the containment structure.

An environmental covenant was required because the remedial actions resulted in residual concentrations of petroleum contaminated 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 Grant County:

- 070720000

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 impacted area.

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.

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 (#EA0251).

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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): Description and Diagram of the Site
Environmental Covenant for Institutional Controls

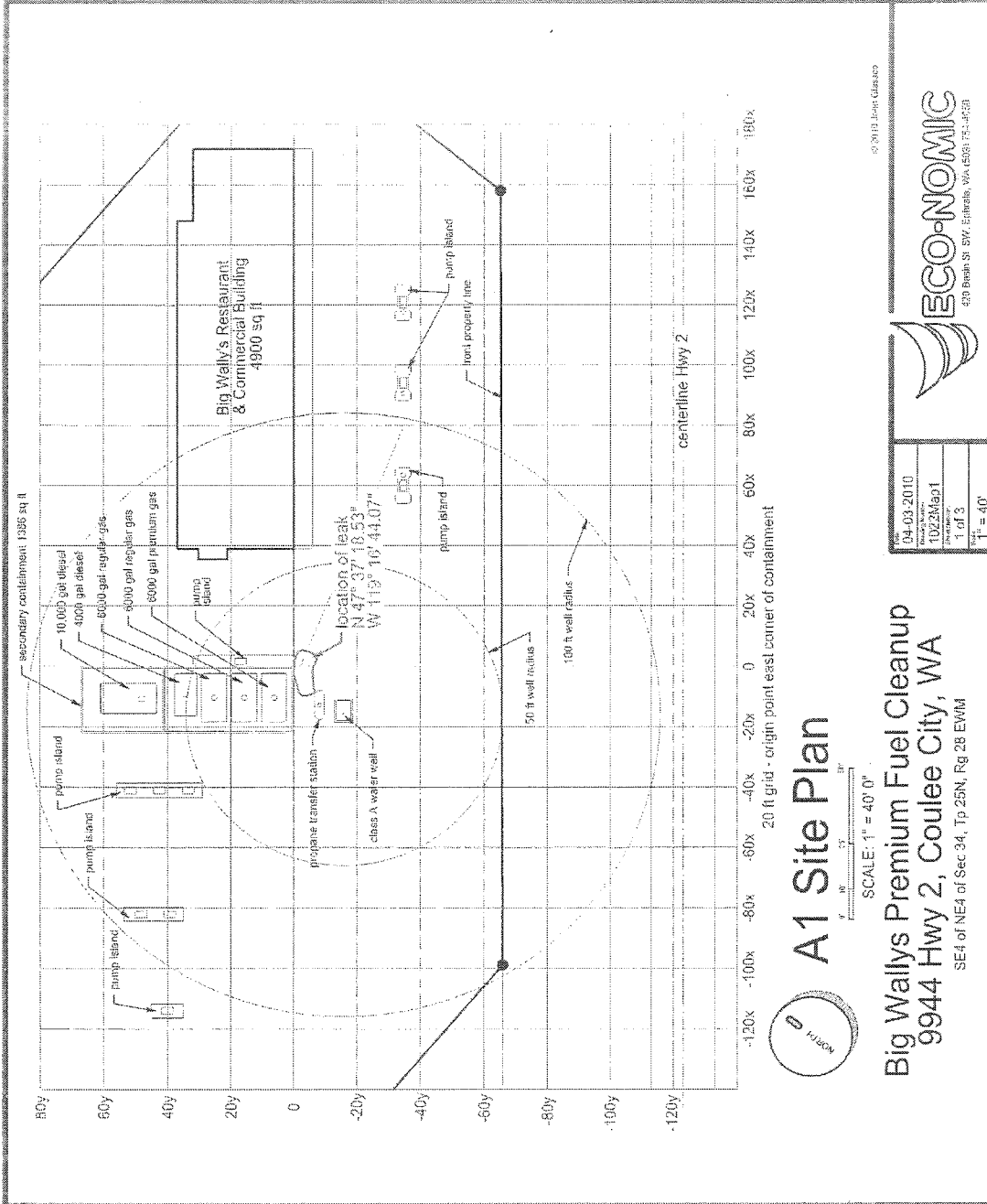
cc: John Glassco, Eco-Nomic
Dolores Mitchell, VCP Financial Manager (without enclosures)

Site Description

- In March 2010 a leak in the premium gasoline line was discovered after the leak detection system indicated the loss of fuel. During a paving job adjacent to the concrete aboveground storage tank (AST) containment system, a contractor accidentally punctured the line that delivers fuel from the storage tank to the main pump island.
- Petroleum-impacted soil was excavated from beneath and around the leak to bedrock. Soil sample results indicated that contaminated soil had been removed except adjacent to the concrete containment structure. Additional soil could not be removed without jeopardizing the structural integrity of the containment structure.
- Approximately 40 yards of impacted soil was removed and transported off-site for treatment.
- Groundwater was not encountered during remedial activities. Depth to groundwater in the area is approximately 100 feet below ground surface.
- A cap was placed over the impacted area to prevent infiltration and mobilization of contaminated soil.

(Eco-Nomic, 2010)

Site Diagram



A1 Site Plan

Big Wally's Premium Fuel Cleanup
 9944 Hwy 2, Coulee City, WA
 SE 4 of NE 4 of Sec 34, Tp 25N, Rg 28 EWM

ECO-NOMIC
 430 Birch St SW, Ephrata, WA 98933

After Recording Return to:

Patti Carter
Department of Ecology
4601 N. Monroe Street
Spokane, WA 99205

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Page 1 of 4 R 75.00 Grant Co, WA
LANÇE SILVA



Environmental Covenant

Grantor: Ogan & Ogan Enterprises, LLC

Grantee: State of Washington, Department of Ecology

Legal: Convenience Store Fuel Station, known as "Big Wally's" located at 9944 Highway 2 East Coulee City, WA 99115-9629 *SE NE 34-25-J8*

Tax Parcel Nos.: 070720000: Grant County, State of Washington; See Attached: Exhibit "A"

Grantor, Ogan & Ogan Enterprises, LLC, 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 day of May 29, 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 Ogan & Ogan Enterprises, LLC 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 documents:

Leak Investigation and Cleanup (Final), Big Wally's Premium Fuel Leak and Cleanup, Coulee City, WA: Eco-Nomic, March 23 – June 25, 2010.

This document is on file at Ecology's Eastern Regional Office.

This Covenant is required because the Remedial Action resulted in residual concentrations of Petroleum Hydrocarbons which exceed the Model Toxics Control Act Method A Cleanup Levels for SOIL established under WAC 173-340-740.

The undersigned, Ogan & Ogan Enterprises, LLC is the fee owner of real property (hereafter "Property") in the County of Grant, State of Washington, that is subject to this



Covenant. The Property is legally described as Follows: Convenience Store Fuel Station, known as "Big Wally's" located at 9944 Highway 2 East Coulee City, WA 99115-9629. Ogan & Ogan Enterprises, LLC 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.

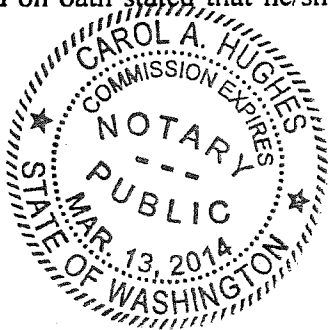
Ogan & Ogan Enterprises, LLC

Dated: May 29, 2013

Robert W. Ogan; President

STATE OF Washington
COUNTY OF Chelan

On this 29th day of May, 2013, I certify that Robert W Ogan personally appeared before me, acknowledged that he/she is the 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.



Notary Public in and for the State of
Washington, residing at
Douglas
My appointment
expires March 13, 2014

**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

Dated: 10 June 2013

Michael A. Hibbler; Section Manager, Toxics Cleanup Program



Exhibit A Legal Description

TX# 6334 & POR B, WILSHIRE STS & ALLY ADJ AKA LOTS 13-21,30 & 32-36 BLK 26 C C HOLLYWOOD MANOR (UNRECORDED) TX# 6334 THOSE PORTIONS OF THE FOLLOWING DESCRIBED TRACTS IN THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 25 NORTH, RANGE 28 EAST W.M., GRANT COUNTY, WASHINGTON, LYING NORTHWESTERLY OF THE PRIMARY STATE HIGHWAY #2 DESCRIBED AS: 1. BEGINNING AT A POINT 375 FEET SOUTH OF THE NORTHEAST CORNER OF THE ABOVE DESCRIBED GEOGRAPHICAL SUBDIVISION; THENCE WEST, 300 FEET; THENCE SOUTH, 120 FEET; THENCE EAST, 300 FEET; THENCE NORTH, 120 FEET. 2. BEGINNING AT A POINT 510 FEET SOUTH OF THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 25 NORTH, RANGE 28 EAST W.M., GRANT COUNTY, WASHINGTON; THENCE WEST, 300 FEET; THENCE SOUTH, 120 FEET; THENCE EAST, 300 FEET; THENCE NORTH, 120 FEET TO THE TRUE POINT OF BEGINNING. 3. BEGINNING AT A POINT 510 FEET SOUTH AND 300 FEET WEST OF OF THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 25 NORTH, RANGE 28 EAST W.M., GRANT COUNTY, WASHINGTON; THENCE WEST, 300 FEET; THENCE SOUTH, 120 FEET; THENCE EAST, 300 FEET; THENCE NORTH, 120 FEET TO THE POINT OF BEGINNING. 4. BEGINNING AT A POINT 375 FEET SOUTH AND 300 FEET WEST OF THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 34 AND EXTENDING WEST, 300 FEET; THENCE SOUTH, 120 FEET; THENCE EAST, 300 FEET; THENCE NORTH, 120 FEET TO THE POINT OF BEGINNING. 5. BEGINNING AT A POINT 167.50 FEET SOUTH OF THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 34; THENCE WEST, 620 FEET; THENCE SOUTH, 167.50 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING SOUTH, 40 FEET; THENCE EAST, 620 FEET; THENCE NORTH, 40 FEET; THENCE WEST, 620 FEET TO THE TRUE POINT OF BEGINNING. EXCEPT THAT PORTION THEREOF CONVEYED TO THE STATE OF WASHINGTON FOR HIGHWAY BY DEED DATED APRIL 20, 1949, RECORDED JUNE 2, 1949, UNDER AUDITOR'S FILE NUMBER 145878. SOMETIMES KNOWN AS A PORTION OF THE AREA DESIGNATED AS "B" STREET ADJOINING LOTS 13 TO 23, INCLUSIVE, BLOCK 26 AND A PORTION OF THE AREA DESIGNATED AS WILSHIRE AVENUE, IN UNRECORDED HOLLYWOOD MANOR ADDITON TO COULEE CITY, AMENDED. EXCEPT THAT PORTION OF "B" STREET ADJACENT TO LOTS 13 TO 15, BLOCK 26. LESS TAX# 11248