



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

March 30, 2009

Mr. Ben Settecase
Mountain West Senior Housing
3220 State Street, Suite 200
Salem, OR 97301

Re: No Further Action at the following Site:

- **Site Name:** Zur Hausen Orchard
- **Site Address:** Sunset Hwy N & 27th Street NW, East Wenatchee, WA
- **Facility/Site No.:** 5449470
- **VCP Project No.:** CE0258

Dear Mr. Settecase:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your independent cleanup of the Zur Hausen Orchard 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?

Ecology has determined that 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 and monitoring 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:

- Lead into the Soil.
- Arsenic into the Soil.

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



Please note that a parcel of real property can be affected by multiple sites. At this time, we have no information that 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. V Environmental, LLC, Former Zur Hausen Orchards, January 7, 2009
2. V Environmental, LLC, Cleanup Action Plan, January 8, 2006
3. V Environmental, LLC, Phase One Environmental Site Assessment, August 24, 2005
4. V Environmental, LLC, Limited Subsurface Soil Investigation Report, September 26, 2005

Those documents are kept in the Central Files of the Central Regional Office of Ecology (CRO) for review by appointment only. You can make an appointment by calling the CRO resource contact, Roger Johnson, at (509) 454-7658.

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 that **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**.

2. **Establishment of cleanup standards.**

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

- a. **Cleanup levels.**

MTCA Method A cleanup levels for soil are used for the site.

3. Selection of cleanup action.

Ecology has determined the cleanup action you selected for the Site meets the substantive requirements of MTCA. Soil capping was selected as the remedial action for the site.

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 and monitoring specified below.

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 controls are necessary at the Site:

- 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.
- 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.
- 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.
- 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.
- 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.

- 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.

To implement those controls, an Environmental Covenant has been recorded on the following [parcel / parcels] of real property at the Site:

- ,40600005501

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:

- Soil Cap

Periodic Review of Post-Cleanup Conditions

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

Listing of the Site

Based on this opinion, Ecology will initiate the process of removing the Site from our lists of hazardous waste sites, including:

- Confirmed and Suspected Contaminated Sites List

That process includes public notice and opportunity to comment. After the public comment period has ended, Ecology will remove the Site from the applicable lists.

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**:

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- 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 that 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.

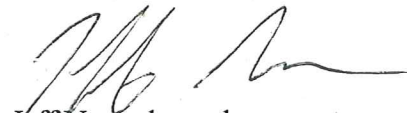
The state, Ecology, and its officers and employees are immune from all liability, and no cause of action of any nature may arise from any act or omission in providing this opinion. *See* RCW 70.105D.030(1)(i).

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 (CE0258).

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 at (509) 454-7842.

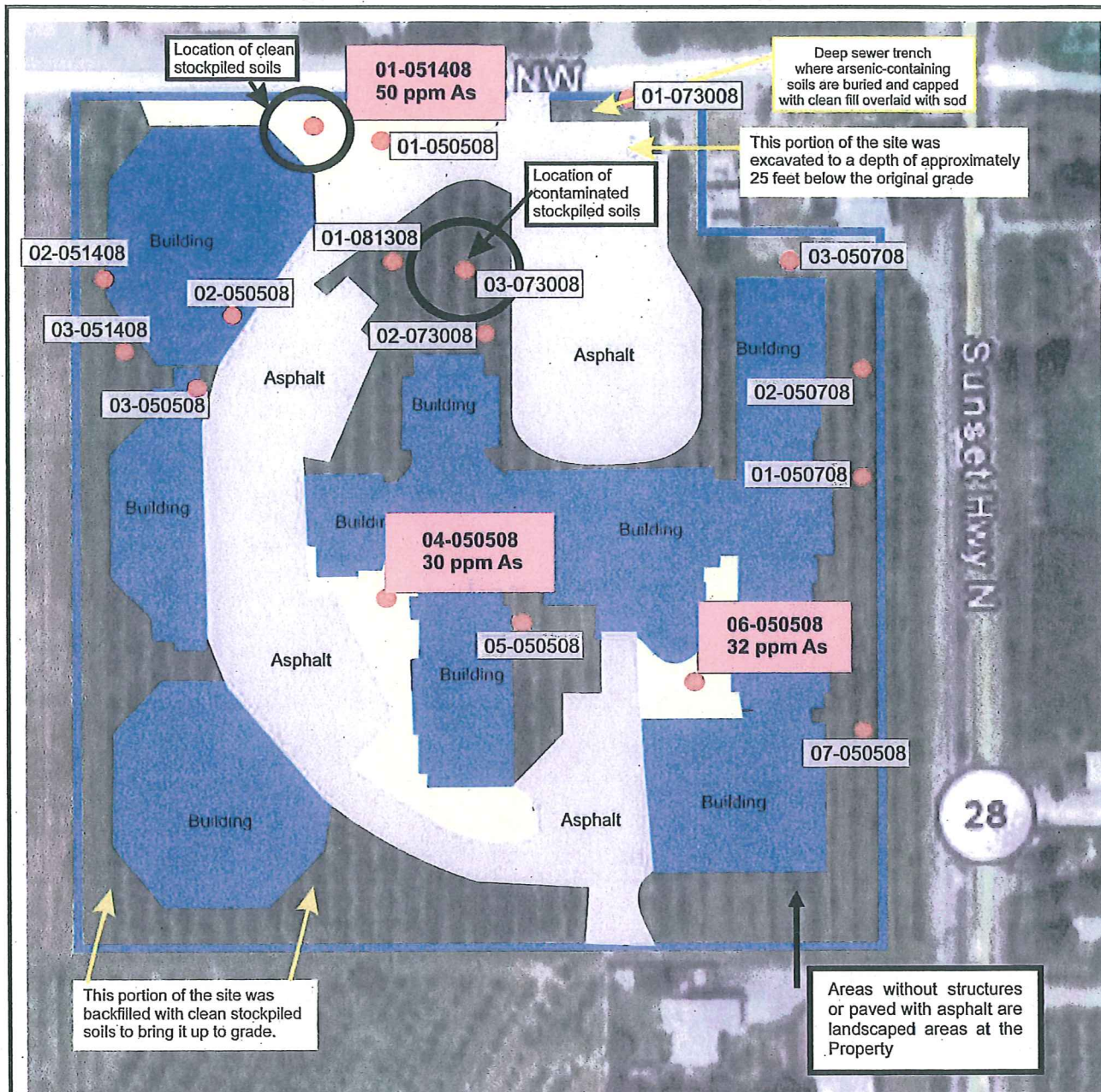
Sincerely,



Jeff Newschwander
Site Manager
CRO Toxics Cleanup Program

Enclosures


cc: Dan Howell, Forsgren Associates, Inc.
Dolores Mitchell, VCP Financial Manager



● Soil sampling locations. Soil samples from three locations indicated the presence of arsenic (As) in concentrations greater than current MTCA Method A Cleanup levels (pink boxes). Soil samples without laboratory results included are those with no detections of or concentrations less than current MTCA Method A Cleanup levels (gray boxes).

Soil samples were not collected from the SW corner since that area was filled with stockpiled clean soils.

Yellow-filled areas show the areas receiving a six-inch clean cap.

<p>Figure 2. SITE PLAN</p>	<p>DRAWING NOT TO SCALE N↑</p>
	<p>Site Name: Bonaventure/formerly Mountain West 50 29th Street NW East Wenatchee, Washington 98802</p> <p>VE Project Number: 214-1-2</p>