STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

November 24, 2010

Peggy Williamson
Fulcrum Environmental Consulting, Inc.
406 N. Second Street
Yakima, WA 98901

Re: No Further Action at the following Site:

- **Site Name:** West Valley Commercial Center
- **Site Address:** 6600 West Nob Hill Boulevard
- **Facility/Site #** 3473432
- **VCP Project #** CE0295

Dear Ms. Williamson:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your independent cleanup of the West Valley Commercial Center 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 and monitoring specified below:

1) **Continued performance of barriers designed to prevent exposure to contaminated soil**
2) **Continued effective implementation of the approved Operations and Maintenance Plan**
3) **Site subject to five-year reviews under UECA**

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, arsenic, and DDT into the soil

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 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. "Soil Remediation Plan, West Valley Commercial Center," Fulcrum Environmental Consulting Inc, July 28, 2008, revised 8/12/08 and 8/22/08.

2. "Soil Remediation Report, West Valley Commercial Center," Fulcrum Environmental Consulting Inc, February 24, 2010, revised April 23, 2010.

3. "Notice of Protective Barrier Modification," Fulcrum Environmental Consulting Inc, October 7, 2010.

Those documents are kept at the Central Regional Office of Ecology (CRO) for review by appointment only. You can make an appointment by calling 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 and points of compliance you established for the Site meet the substantive requirements of MTCA.

a. Cleanup levels.

The site has been developed as a commercial shopping center. Applicable MTCA Method A or MTCA Method B soil cleanup levels for unrestricted land use were used to screen soils for remediation. MTCA Method A soil cleanup levels for unrestricted land use are 250 mg/kg for lead, 20 mg/kg for arsenic, and 3 mg/kg for DDT. Method B soil cleanup level for unrestricted land use for DDE is 2.9 mg/kg and DDD is 4.2 mg/kg. The Cleanup Plan proposed that soils with concentrations of contaminants above applicable MTCA Method A or MTCA Method B soil cleanup levels for unrestricted land use, but below "low-to-moderate risk levels" for commercial property would be utilized onsite and capped. Soils above the "low-to-moderate risk levels" for commercial property were to be characterized for disposal at an appropriate facility based on waste designation. The "low-to-moderate risk" values proposed for the project were $\leq$ 200 ppm for arsenic, 700-1000 ppm for lead, 30 ppm for DDT and 29 ppm for DDE) in soil. These values were derived from Ecology's Area-Wide Soil Contamination Task Force recommendations as explained in section 4.2 of the "Soil Remediation Plan," referenced earlier.

Because no soils exceeded the remediation level for low-to-moderate risk, no soils were exported from the site due to excessive concentrations of contaminants. Soils which could not be utilized on site were characterized for disposal and disposed of at the Terrace Heights landfill. Impacted soils remaining on site were capped with various materials including: permanent building structures, impervious concrete and asphalt pavement, 4-inches of clean soil and sod, and 4-inches of rock over landscaping fabric.

b. Points of compliance.

The cleanup levels are based on human exposure via direct contact (ingestion only) with soil. The point of compliance is standard throughout the site.

Please note that other requirements apply to the cleanup based on the type of the action and location of the Site. Those requirements are specified in the report referenced above, and include Environmental Covenants filed for each lot and a Maintenance and Operations Plan approved by Ecology.

3. Selection of cleanup action.

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

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.

The cleanup action primarily consisted of capping contaminated soils. Because none of the sampled soils exceeded the remediation level for low-to-moderate risk (see 2a above), no soils were exported from the site due to excessive concentrations of contaminants. All soils which could not be utilized on site were characterized for disposal and disposed of at the Terrace Heights landfill. Impacted soils remaining on site were capped with various materials including; permanent building structures, impervious concrete and asphalt pavement, 4-inches of clean soil and sod, and 4-inches of rock over landscaping fabric. Environmental Restrictive Covenants have been filed and a Maintenance and Operations Plan is in place to ensure that engineered barriers remain effective.

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:

- Restrictive Environmental Covenant
- Operations and Maintenance Plan

To implement those controls, Environmental Covenants have been recorded on the following parcels of real property in Yakima County:

- 18132941415.
- 18132941414
- 18132941413

- 18132941412
- 18132941411

Ecology approved the recorded Covenants. Language in each of the covenants is identical for each parcel. A scanned copy of the Covenant for parcel 18132941411 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:

- Contaminated soils are capped with a combination of buildings, pavement, clean soil, landscaping, geotextile, and crushed rock.

Ecology has approved the operation and maintenance plan you submitted for these engineered controls. A copy of the plan is included in **Enclosure C**.

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 Ecology determines, based on a periodic review, that 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 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 (#CE0295).

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 509.454.7836 or e-mail at mdun461@ecy.wa.gov.

Sincerely,

Mark Dunbar
CRO Toxics Cleanup Program

Enclosures (3): A – Description and Diagrams of the Site
B – Environmental Covenants for Institutional Controls
C – Operation and Maintenance Plan for Engineered Controls

cc: Mr. Steve Dyer, Wal-Mart Stores Inc.
Ms. Peggy Williamson, Fulcrum Environmental Consulting Inc.
Dolores Mitchell, Ecology TCP-HQ (without enclosures)

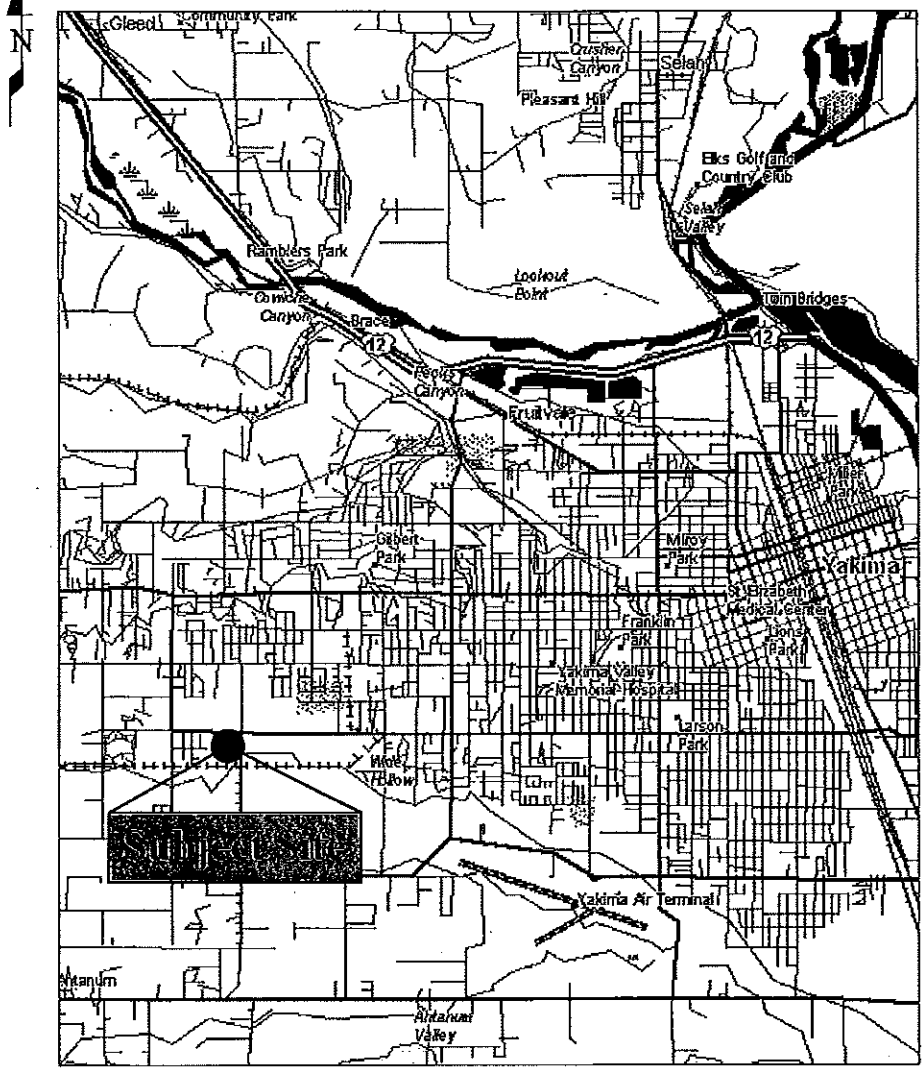
Enclosure A
Description and Diagrams of the Site

Site Description

The Site is located at 6600 West Nob Hill Boulevard and lies within Yakima County Assessor's parcel 181329-41404. Parcel 181329-41404 comprises the parent parcel of the Short Plat recorded under Auditor's File No. 7686513, which further divides the 34.2 acre parcel into eight lots. Lots 1 through 5 are addressed in the Soil Remediation Report. Lots 6, 7, and 8 were not identified with contaminants of concern above the applicable MTCA Method A or Method B cleanup levels during previous sampling events, and are not included in the Soil Remediation Report. Contaminants of concern at the Site are lead, arsenic, DDT, and DDE consistent with area-wide contamination resulting from the application of pesticides on orchards. Parcel numbers for the five lots included in the soil remediation project are:

Lot 1 – Parcel #18132941411
Lot 2 – Parcel #18132941412
Lot 3 – Parcel #18132941413
Lot 4 – Parcel #18132941414
Lot 5 – Parcel #18132941415

Site Diagrams



LEGEND

Subject site:

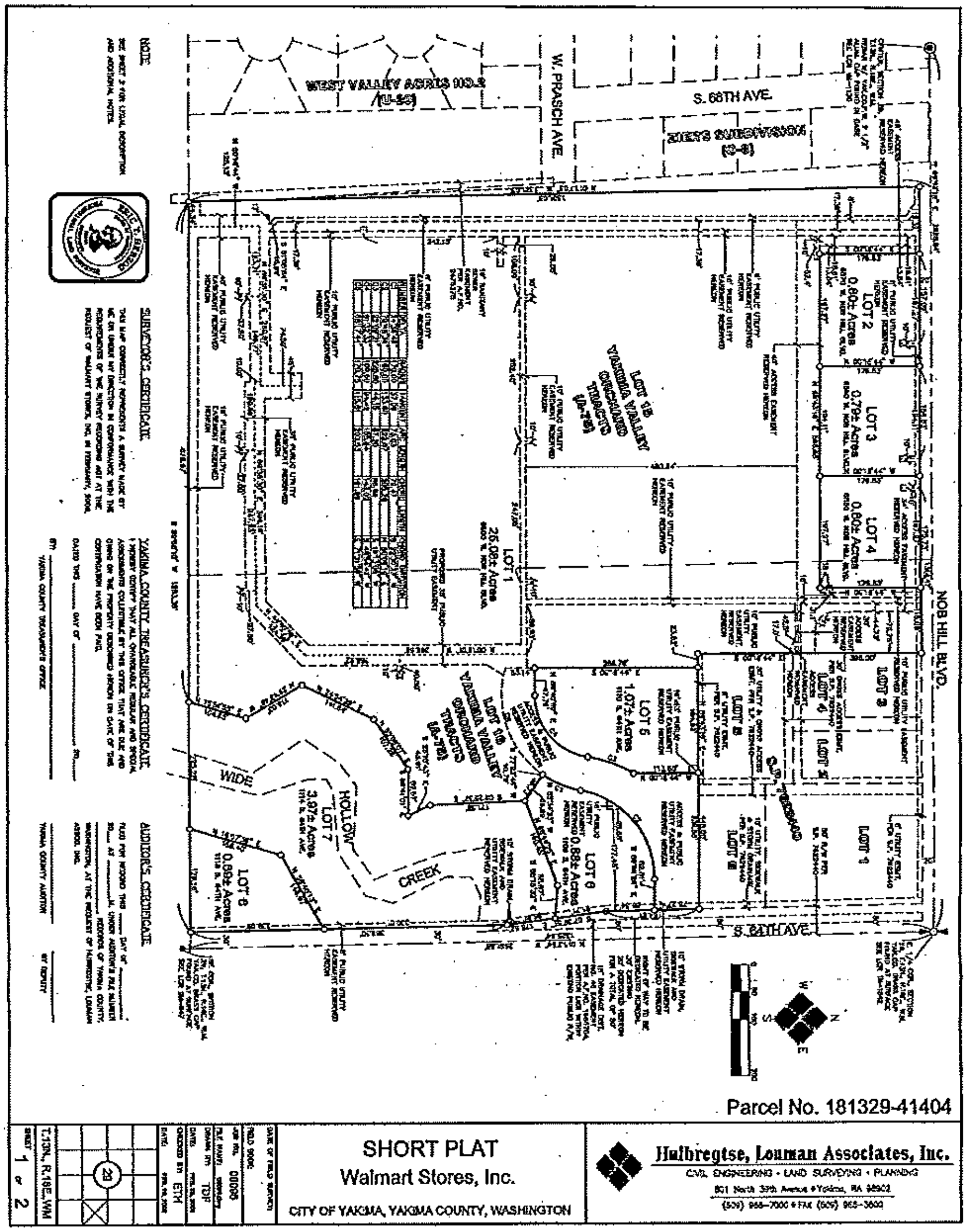
Approximate Scale: 1/2 mile

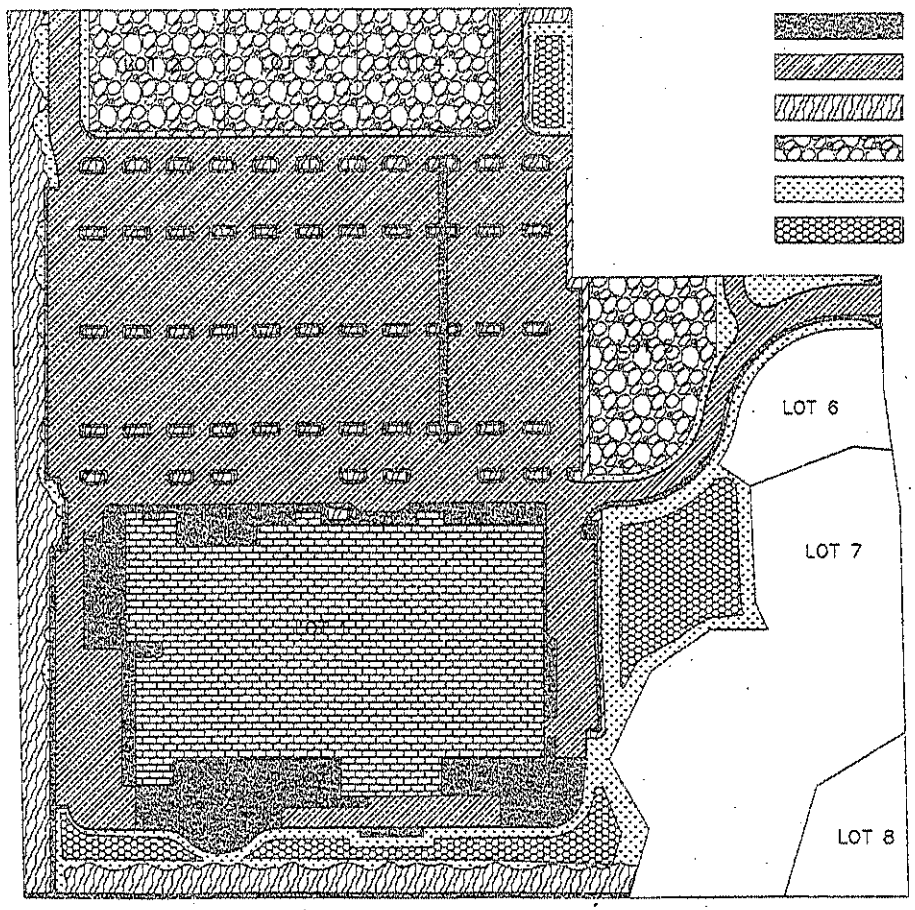
Map Base Courtesy of 3-D Topoquad, Delorme Yarmouth, ME 04096

Figure 1
General Site Map
West Valley Commercial Center
Yakima, Washington

Fulcrum Environmental Consulting, Inc.
406 North Second Street
Yakima, Washington 98901
Phone (509) 574-0839 Fax (509) 575-8453

Revised By: AMP	Project Number: 06-211.1
Date: 07/10/2006	Project Name: WVCC Remediation


W. PRASCH AVE.
S. 68TH AVE.
NOB HILL BLVD.
S. 64TH AVE.
LOT 1
26.08± Acres
LOT 2
0.60± Acres
LOT 3
0.79± Acres
LOT 4
0.60± Acres
LOT 5
1.07± Acres
LOT 6
0.88± Acres
LOT 7
3.97± Acres
WIDE
HOLLOW
CREEK
NOTE
SURVEYOR'S CERTIFICATE
YAKIMA COUNTY TREASURER'S CERTIFICATE
AUDITOR'S CERTIFICATE
Parcel No. 181329-41404
SHORT PLAT
Walmart Stores, Inc.
CITY OF YAKMA, YAKMA COUNTY, WASHINGTON
Hulbregtse, Louman Associates, Inc.
CIVIL ENGINEERING • LAND SURVEYING • PLANNING
T.13N., R.18E.,W.M.
1 of 2



LEGEND

USE	PERCENTAGE	AREA
Concrete Building Footprint over 4" of Rock	17.26%	214,575 SF
Concrete over 4" of Rock	11.29%	140,408 SF
Asphalt over 4" of Rock	37.94%	471,734 SF
4" of Landscaping Bark over 4" of Clean Soil	9.30%	115,685 SF
4" of Rock over Fabric	12.56%	156,189 SF
Sod over 4" of Clean Soil	6.45%	80,196 SF
Pond Bottom	5.20%	64,660 SF
TOTAL	100%	1,243,447 SF

NORTH 150 0 75 150
SCALE: 1" = 150'-0"

WAL-MART SUPERCENTER
STORE #5078-01
64TH AVENUE AND NOB HILL BLVD
YAKIMA, WASHINGTON

GROUND COVER

SHEET 1

Enclosure B

Environmental Covenants for Institutional Controls

RECEIVED
JUL 01 2010
DEPARTMENT OF ECOLOGY - CENTRAL REGIONAL OFFICE

FILE# 7695345
YAKIMA COUNTY, WA
06/22/2010 03:28:39PM
COVENANT
PAGES: 6
VALUED CUSTOMER
FULCRUM ENVIRONMENTAL CONSULTING
Recording Fee: 67.00

After Recording Return to:
Mark Dunbar
Department of Ecology
15 W. Yakima Avenue, Suite 200
Yakima, WA 98902-3452

Environmental Covenant

Grantor: Wal-Mart Stores, Inc.
Grantee: State of Washington, Department of Ecology
Legal: **Lot 1 of that Short Plat recorded under Auditor's File No. 7686513, records of Yakima County, Washington.**
Tax Parcel No.: 18132941411

Grantor, Wal-Mart Stores, 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 __ day of _____, 2010 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 Grantor, 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] prepared by Fulcrum Environmental Consulting, Inc.:

Soil Remediation Plan -- West Valley Commercial Center, Yakima, WA dated August 22, 2008.

Soil Remediation Report -- West Valley Commercial Center, Yakima, WA dated February 24, 2010 and revised April 23, 2010.

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

This Covenant is required because the Remedial Action resulted in residual concentrations of arsenic, lead, 4,4'-dichlorodiphenyltrichloroethane (DDT), and an associated DDT breakdown product, 4,4'-dichlorodiphenyldichloroethylene (DDE), which exceed the Model Toxics Control Act Method A or Method B Cleanup Level(s) for soil established under WAC 173-340-740. Wal-Mart has prepared an Operations and Maintenance Plan that provides guidelines on maintaining the protective barriers overlying the residual contaminants in soil as described in the Soil Remediation Report. This Operations and Maintenance Plan is also available at Ecology's Central Regional Office.

The undersigned Grantor is the fee owner of real property (hereafter "Property") in the County of Yakima County, State of Washington, that is subject to this Covenant. The Property is legally described as stated on Page 1.

Grantor 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.

a. As shown on Exhibit A, a portion of the Property contains arsenic, lead, DDT, and DDE located in soil beneath buildings, pavement, sidewalks, or other protective barriers. The Owner shall not alter, modify, or remove the existing structure[s] or other protective barriers in any manner that may result in the release or exposure to the environment of that contaminated soil or create a new exposure pathway without prior written approval from Ecology.

b. 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 without prior written approval by Ecology. 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.

WAL-MART STORES, INC.

Vice President of Real Estate

[Name of Signatory] **[Title]**

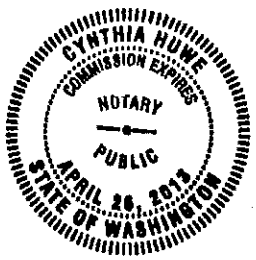
Dated: 6/15/2010

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Valerie Bound Section Manager

[Name of Person Acknowledging Receipt] [Title]

Dated: 6-22-10



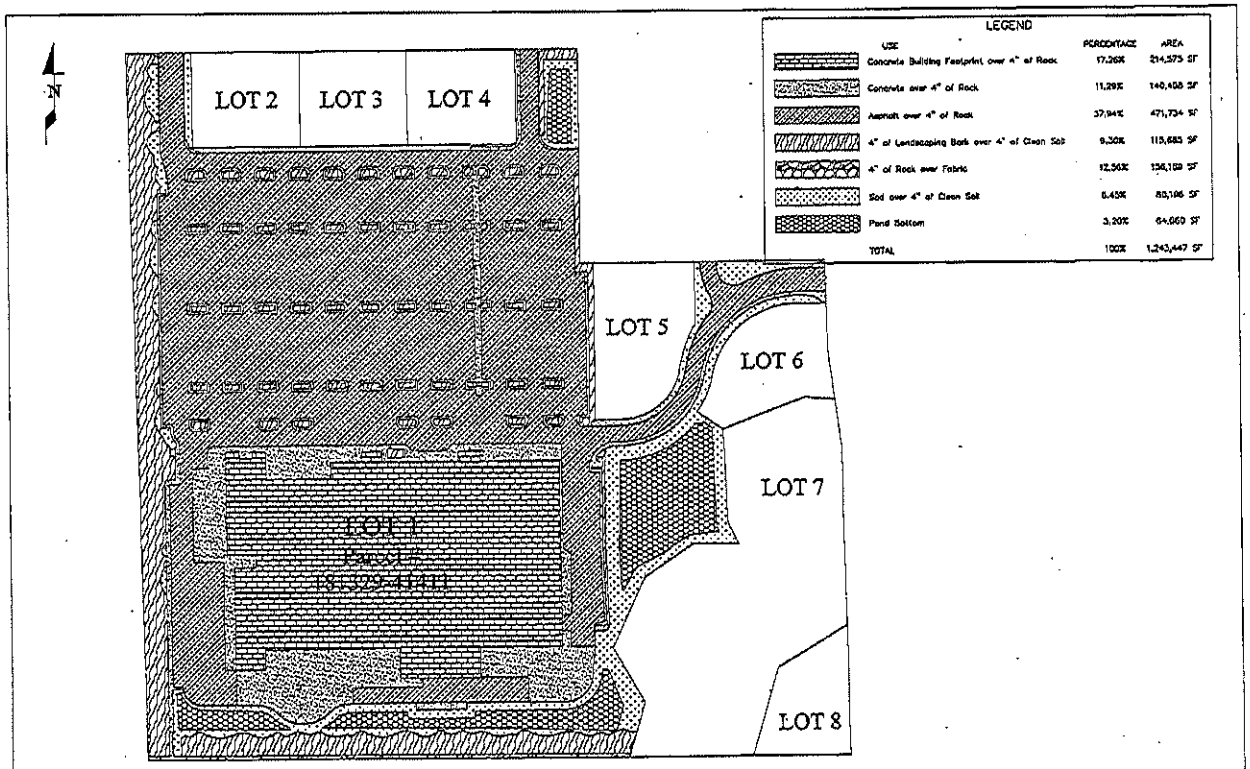
6/22/10
Cynthia Huwe
4/26/13

STATE OF Arkansas
COUNTY OF Benton

On this 15th day of June, 2010, I certify that John E. Clarke personally appeared before me, acknowledged that he/~~she~~ is the Vice President & Real Estate Officer 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.

Jane Bennett
County of Benton
Notary Public - Arkansas
My Commission Exp. 03/13/2012

Jane Bennett
Notary Public in and for the State of Arkansas, residing at Bentonville, Ar.
My appointment expires 3-13-2012.



Legend

Scale: Not to Scale

Original Map Courtesy of CLC Associates

Exhibit A
Ground Cover Map

64th Avenue and Nob Hill Boulevard
Yakima, Washington

Fulcrum Environmental Consulting, Inc.
406 North Second Street
Yakima, Washington 98901
Phone (509) 574-0839 Fax (509) 575-8453

Drawn by: AMP.	Project Number: 06211.3
Date: 04/27/2010	File Name: WVCC O&M

Enclosure C

Operation and Maintenance Plan for Engineered Controls

RECEIVED
NOV 10 2010
DEPARTMENT OF ECOLOGY - CENTRAL REGIONAL OFFICE

OPERATIONS AND MAINTENANCE PLAN

West Valley Commercial Center
6600 West Nob Hill Boulevard
Yakima, Washington 98908

Project Number: 06211.3

February 24, 2010
Revised May19, 2010

Prepared for:

CLC Associates, Inc.
Attn: Dean Logsdon
12730 East Mirabeau Parkway, Suite 100
Spokane Valley, Washington 99216

Prepared by:

Fulcrum Environmental Consulting, Inc.
406 North Second Street
Yakima, Washington 98901

TABLE OF CONTENTS

SECTION		PAGE
1.0	INTRODUCTION	1
2.0	BACKGROUND and SITE DESCRIPTION	1
3.0	NOTIFICATION PROCEDURES	2
3.1	Maintenance and Landscape Workers	2
3.2	Occasional Site Workers or Contractors	2
3.3	Environmental Covenant	3
3.4	Property Transfer	3
4.0	SITE CONTROLS	3
4.1	Impermeable Surfaces	3
4.2	Permeable Surfaces	3
4.3	Areas Absent of Impacted Soils	4
4.4	Installation of Water Conveying Systems	4
4.5	Protective Barrier Inspection Procedure	4
4.5.1	Inspection Schedule	5
4.5.2	Inspection Criteria	5
5.0	WORKER PROTECTION	6
5.1	Dust Suppression	6
5.2	Work Area Containment	6
5.3	Decontamination	7
6.0	PROCEDURES FOR BREACHING PROTECTIVE BARRIERS	7
6.1	Planned Protective Barrier Breach	8
6.2	Unplanned Protective Barrier Breach	8
7.0	CONCLUSIONS	8

FIGURES

Short Plat Walmart Stores Inc. Sheet 1 of 2
Short Plat Walmart Stores Inc. Sheet 2 of 2
Wal-Mart Supercenter Store #5078-01 Ground Cover

APPENDIX

A - Draft Environmental Covenant

1.0 INTRODUCTION

The purpose of this Operations and Maintenance Plan (O&M Plan) is to establish long-term onsite management of protective barriers overlaying soils with agricultural chemicals in excess of Washington State Department of Ecology (Ecology) Model Toxic Control Act (MTCA) Method A and B cleanup values, but below remedial values established for the site in the site specific soil remediation plan (impacted soils).

The pertinent reports issued by Fulcrum Environmental Consulting, Inc. (Fulcrum) that describe the remediation of impacted soils are *Soil Remediation Plan – West Valley Commercial Center, Yakima, Washington*, dated August 22, 2008 (2008 SRP) and the *Soil Remediation Report– West Valley Commercial Center, Yakima, Washington*, dated February 24, 2010, revised April 7, 2010 (2010 SRR).

The objective of this O&M Plan is to reduce the risk that workers are exposed to impacted soils or that such soils migrate beyond property boundaries. This O&M Plan describes the procedure for notifying tenants, maintenance workers, and repair contractors of residual impacted soil. In addition, the O&M Plan describes the following:

- Protective barriers in place to prevent exposure or offsite migration.
- Recommended inspection criteria and schedule.
- Describes how site workers can protect themselves from exposure.
- Describes what to do in the event that impacted soils need to be excavated or protective barriers breached.

2.0 BACKGROUND and SITE DESCRIPTION

The agricultural chemicals identified in soil at the West Valley Commercial Center (WVCC) located at 6600 West Nob Hill Avenue in Yakima, Washington (Site), above regulatory cleanup levels are lead, arsenic, and select organochlorinated pesticides (OCPs), namely 4,4'-dichlorodiphenyltrichloroethane (DDT) and the associated DDT breakdown product 4,4'-dichlorodiphenyl-dichloroethylene (DDE). The DDT breakdown product 4,4'-dichlorodiphenyldichloroethane (DDD) was also detected but below applicable regulatory cleanup levels. No organochlorinated herbicides (OCHs) or organophosphoric pesticides (OPPs) were identified in site soils.

The parent parcel is identified as tax parcel 181329-41404 by the Yakima County Assessor's office records and consists of 34.2 acres. A Short Plat Layout was prepared prior to division of the parent parcel into eight (8) separate tax parcels. See Short Plat drawings (sheets 1 and 2 of 2) at the end of the report illustrating the eight lots. The 2008 SRP was limited to the WVCC parcel (designated as "Lot 1") and peripheral activities on adjacent Lots 2 through 5. Lots 6, 7, and 8 were documented to be free of lead, arsenic, OCP, OCH, and OPP impacts and therefore were not included in the 2008 SRP or in the 2010 SRR. This O&M plan is applicable to Lots 1 through 5.

During development, impacted soils were graded and then covered beneath building footprint, pavement, sidewalks, or other protective barriers. See the drawing titled *Wal-Mart Supercenter Store #5078-01 Ground Cover* for an illustration of the various types of protective barriers and associated locations. Following is a summary of cover types:

- 4-inches of bedding rock overlain with building footprint, concrete or asphalt (Lot 1).
- 4-inches of clean topsoil overlain with sod (Lot 1), partially fenced.
- 4-inches of clean topsoil overlain with 4 inches of landscaping bark (Lot 1), partially fenced.
- Geotextile-type fabric overlain with 4-inches of bedding rock (Lots 2 through 5).

In Lot 1 landscape areas, a combination of deciduous and evergreen trees and shrubs was utilized in a compact planting design that, when mature, will further stabilize protective barriers while additionally providing a deterrent to unscheduled human access to these areas. The stormwater detention ponds and landscaping areas on the south portion of Lot 1 are additionally fenced with chain-link fencing to deter uncontrolled access to these areas.

3.0 NOTIFICATION PROCEDURES

Notifying personnel who may potentially disturb site soils is the best way to prevent inadvertent worker exposure, offsite migration of impacted soils, or destruction of protective barriers.

3.1 Maintenance and Landscape Workers

It is unlikely that during routine maintenance and landscape tasks workers will encounter impacted site soils in excess of threshold concentrations. However, during non-routine tasks, such as replacement of large shrubs/trees or sprinkler line repair, maintenance and landscape workers may encounter impacted soils.

As part of a Hazard Communication program, employees or subcontractors who may be expected to encounter impacted soils should be notified of the presence, location, and expected concentrations of such soils. Employees should also be notified of how to protect themselves should they encounter impacted soils and how to replace barrier materials so that the integrity of the protective barriers remains sound.

3.2 Occasional Site Workers or Contractors

Occasional site workers or contractors are those individuals or companies who are brought onsite to complete a specific task. Many tasks, such as painting or mowing, will not result in contact with impacted soil. However some tasks, such as main water line replacement, will require careful excavation and replacement of barrier materials so that impacted soils do not end up near the surface or become washed or transported offsite.

As part of a Hazard Communication program, occasional site workers/contractors who may be expected to encounter impacted soils should be notified of the presence, location, and expected concentrations of such soils. Occasional site workers or contractors should also be notified of how their employees should protect themselves when they come in contact with impacted soils and how to replace barrier materials so that the integrity of the protective barriers remains sound.

3.3 Environmental Covenant

An Environmental Covenant has been recorded on Lots 1 through 5 which contain the legal requirements pertaining to impacted soils. Refer to the draft Environmental Covenant provided in Appendix A for additional detail. Refer to the Environmental Covenant available at the Yakama County Assessor's office for a copy of the final recorded Environmental Covenant for each lot.

3.4 Property Transfer

When the owner conveys interest in the property (title, easement, lease, etc.) to a separate entity, provision for continued operations and maintenance of the protective barriers should be made by providing a copy of the current O&M Plan or a notice where it is available.

4.0 SITE CONTROLS

As part of development, protective barriers were constructed over impacted soils. The following subsections and the drawing titled *Wal-Mart Supercenter Store #5078-01 Ground Cover* described the protective barriers and suggested protective barrier inspection procedures summarized in Section 4.5.

4.1 Impermeable Surfaces

The impermeable surfaces at the site consist of building footprint, paved parking and drive areas, sidewalks and other ancillary features such as curbs. The following table presents approximate square footage and percentages of impermeable surface located on Lot 1. All impermeable surfaces (concrete and asphalt) are placed over 4 inches of clean bedding rock. No impermeable surfaces are present within Lots 2, 3, 4, or 5. However, for presentation purposes the percentage shown represents the percent of Lots 1 – 5.

Surface Type	Square Feet	Lots 1 through 5 Percentage of Area
Building Footprint	214,575	17.26%
Concrete	140,408	11.29%
Asphalt	471,734	37.94%
Total	826,717	66.49%

These impermeable materials are to be maintained in good condition for the life of the buildings and site operation. Refer to Section 4.5 for suggested protective barrier inspection procedures and associated responses. Impermeable surfaces should be inspected at least annually to confirm that no significant cracks or voids have developed that would result in exposure of impacted soils. Should replacement of any of these materials or structures be required, an environmental and health professional should be contacted to assess and develop the appropriate procedures to be followed.

4.2 Permeable Surfaces

Permeable surfaces consist of landscaping areas, stormwater detention pond sidewalls on Lot 1; and rock and fabric covering on Lots 2 through 5. Refer to Section 4.5 for suggested protective barrier

inspection procedures and associated responses. The following table presents total square footage and approximate percentages of permeable surfaces within Lots 1 through 5.

Surface Type	Square Feet	Percentage of Area of Lots 1 through 5
4 inches of bark overlying 4 inches of clean soil	115,685	9.30%
4 inches of rock overlying fabric	156,189	12.56%
Sod overlying 4 inches of clean soil -- Inclusive of Stormwater Detention Pond Sidewalls	80,196	6.45%
Total	350,070	28.31%

Near surface (less than 4-inches deep) plantings can be replaced as desired. Plantings at depths greater than 4-inches should be maintained as originally placed. Should replacement of deeper plantings be required, the work procedures outlined in Section 5.0 should be followed. If required, landscape areas should be hand cultivated. Rototilling or other soil relocation activities that disturb materials at depths greater than 4-inches are prohibited.

4.3 Areas Absent of Impacted Soils

The bottom of the stormwater system was installed at an elevation below impacted soils or was excavated to below the level of impact and then backfilled with clean soil. Water collected in the stormwater system will not percolate through impacted soils.

Surface Type	Square Feet	Percentage of Area of Lots 1 through 5
Stormwater Detention Pond Bottom	64,660	5.20%

4.4 Installation of Water Conveying Systems

Water conveying systems at the site include the stormwater system and the main water line. The stormwater system should be maintained as installed. Minor repair or cleanout of the system can be accomplished by following the procedures outlined in Section 5.0. An environmental and health consultant should be contacted to assess and develop a work plan for major repairs or replacement of the stormwater system.

Whenever feasible, the main water line was installed at elevations below impacted soils. However, connections with building systems required that portions of the main water line be installed within elevations containing impacted soils in excess of threshold concentrations. Minor repairs to the main water line can be accomplished by following the procedures outlined in Section 5.0. An environmental and health consultant should be contacted to assess and develop a work plan for major repairs or replacement of the main water line.

4.5 Protective Barrier Inspection Procedure

Area-wide soil contamination present at the West Valley Commercial Center (WVCC) is covered with a protective barrier or has been removed. **There is no immediate danger to human health.** However, damage to the protective barrier could result in a future exposure. The following contains protective barrier summary information and suggested inspection schedule, procedures and associated responses that may be useful in assuring that protective barriers remain effective.

The largest percentage (66.5%) of low-to-moderate concentrations of arsenic and lead has been covered with impermeable surfaces such as the building footprint, asphalt parking area, and concrete ancillary features. The next largest portion (28.3%) of the WVCC site has been covered with permeable surfaces consisting of a geotextile type fabric and 4 inches of clean rock, or 4 inches of clean soil and either sod or 4 inches of bark. A small portion (5.2%) of the WVCC site is free from low-to-moderate concentrations of arsenic and lead. Refer to the drawing titled *Wal-Mart Supercenter Store #5078-01 Ground Cover* for an illustration of the various types of protective barriers and associated locations.

4.5.1 Inspection Schedule

Protective barriers should be visually inspected semi-annually, ideally in the spring to verify that damage has not occurred during the winter and in the fall to assure that barriers are in good condition before winter storms commence.

4.5.2 Inspection Criteria

The following summary provides guidance for identifying damage criteria during an inspection and the associated response action and schedule.

- Installed Impermeable Features: Inspection of concrete and asphalt surfaces should note cracks, voids or other separations (surface imperfections) that are sufficient to allow exposure to underlying clean gravel or soils.
  - Minor surface imperfections, defined as routine surface cracking that does not penetrate the depth of the asphalt or concrete, do not require repair.
  - Moderate surface imperfections, defined as visual exposure to underlying clean rock, should be repaired before the following winter season.
  - Significant surface imperfections, defined as exposure of the underlying soil below the underlying clean rock, should be repaired as soon as feasible.

- Installed Permeable Features: Inspect permeable features for damage to overlying sod, bark, or rock, and underlying fabric or clean soil materials. Inspect stormwater features and assess whether proper infiltration and/or drainage is occurring. Inspect the landscaped area for indications of damaged sod materials or areas with dying vegetation. Inspect the overlying bark and rock areas for indications of uneven distribution or material migration that could potentially result in exposure of underlying materials. Classify damage, if identified as minor, major or significant using the following guidance.

  - Minor damage has less than 10 percent overall or less than 25 square feet in a localized area, provided the exposure to underlying soils is not present.
  - Major damage has between 10 and 20 percent overall or between 25 and 100 square feet in a localized area, or result in less than 10 percent overall or less than 25 square feet of exposure to the native soils underlying the 4" of topsoil.
  - Significant damage has more than 20 percent overall or more than 100 square feet in a localized area, or result in more than 10 percent overall or more than 25 square feet of exposure to the native soils underlying the 4 inches of topsoil.

Noted damage, if present, should be repaired in conformance with the original construction detail and consistent with the following schedule.

- Minor damage should be replaced or repaired before the following winter season.
- Major damage should be replaced or repaired before the following winter season.
- Significant damage should be repaired as soon as feasible.

5.0 WORKER PROTECTION

Several controls and work practices used singly or in combination, can be employed to reduce potential exposure to impacted soils. Following is a summary of control measures and work practices.

5.1 Dust Suppression

By keeping impacted soils moist during a work activity, dust is less likely to become suspended in the air causing potential worker exposures or offsite migration. Whenever feasible, the work area should be pre-moistened prior to soil impacting activities. Periodically during soil impacting activities, the stockpiled soil and the excavation area should be rewetted to enhance dust suppression. A surfactant can be added to dust suppression water to increase the water's effectiveness; however, any additives should be selected with consideration for potential environmental and worker impact.

Other factors that will aid dust suppression are weather conditions and work practices. Impacting materials on low wind days (generally less than 10-miles per hour) will decrease the likelihood of site soils becoming airborne and migrating offsite or resulting in employee exposure. In addition to adequate wetting of site soils (discussed above), work area containment and decontamination (discussed below) are additional work practices that will aid dust suppression.

5.2 Work Area Containment

The goal of work practice implementation is to keep all impacted soils in excess of threshold concentrations within their containment area. Most maintenance and landscaping activities will not impact the in-place protective barriers. However, if maintenance or landscaping activities require excavation greater than 4-inches deep, but less than 100-square feet in surface area, the suggested work practices should be implemented:

1. Lay plastic sheeting on all sides of the proposed excavation ground surface. Sheeting should extend approximately 4 to 10-feet from proposed excavation edge, depending on estimated amount of material removed. Lap plastic sheeting seams so that dust and soil cannot become lodged or migrate underneath the plastic.

2. Place traffic barriers or other identification around the perimeter of the work area to prevent inadvertent access to the area during excavation.

3. Place the sod or bark with the upper 4-inches of topsoil; or fabric and gravel; on one side of the excavation. This is the clean capping material.

4. Place the remaining subgrade soil excavated to facilitate the maintenance or landscaping activity on the side of the excavation opposite of the sod. This is the soil potentially impacted with agricultural chemicals.

5. Conduct the maintenance or landscaping activity.

6. Replace soil potentially impacted with agricultural chemicals in the excavation.

7. Offsite disposal of excavated material is prohibited. Contact an environmental and health profession to determine disposal requirements if excess excavated materials requires transportation offsite.

8. Clean tools, equipment, and protective clothing of remaining soils by dry brushing damp soil followed by wet cleaning. Place the accumulated soil in the excavation.

9. Replace the clean capping topsoil, compacting as necessary.

10. If the distance from the replaced soil surface to the ground surface exceeds the thickness of the sod, bark, or gravel then place additional clean soil imported from offsite sources into the excavation until the depth discrepancy matches the sod, bark, or gravel thickness.

11. Replace the sod; fabric and bark; or fabric and rock.

12. Remove the plastic sheeting.

13. Thoroughly wash hands and face to remove any remaining soil.

5.3 Decontamination

Wet cleaning of tools, equipment, and workers will also reduce potential exposure and offsite migration. After completing the work task and replacing the impacted soil (soil excavated below 4-inches), clean tools and equipment used during the project. Moist soil can be dry brushed from tools, equipment, personnel clothing, and from the plastic sheeting where the impacted soil was staged. Following dry brushing, complete the cleaning process by wet wiping or washing these items.

After replacement of the clean topsoil and sod, site workers should proceed to a wash station/facility and thoroughly wash their hands and face to remove any potentially remaining particles of impacted soil in excess of threshold concentrations.

6.0 PROCEDURES FOR BREACHING PROTECTIVE BARRIERS

Planned and unplanned protective barrier breaches may occur at the site as part of operations consistent with developed site use. A planned protective barrier breach is the result of a scheduled maintenance or construction activity. For example, installation of a new retaining wall is a planned

event that may breach the protective barrier. An unplanned protective barrier breach is the result of an accident or emergency repair activity. For example, the rapid repair of a broken main water line is an unplanned event that could result in a protective barrier breach. Following is a procedure summary for each type of protective barrier breach.

6.1 Planned Protective Barrier Breach

During the planning phase, the potential for the additional site development or maintenance activity to impact the protective barrier should be evaluated. For small projects (less than 100-square feet of protective barrier) where in-house employees or contractors will conduct the work preformed, the feasibility of implementing the procedures outlined in Section 5.0 should be considered. If these procedures can be implemented, work can proceed as planned. If Section 5.0 work procedures cannot be feasibly implemented, work should be put on hold until an environmental and health professional can assess the planned work and recommend alternative work procedures.

For large projects (greater than 100-square feet of protective barrier), an environmental professional should evaluate the proposed work and develop procedures during the project-planning phase that can be implemented during the actual work.

6.2 Unplanned Protective Barrier Breach

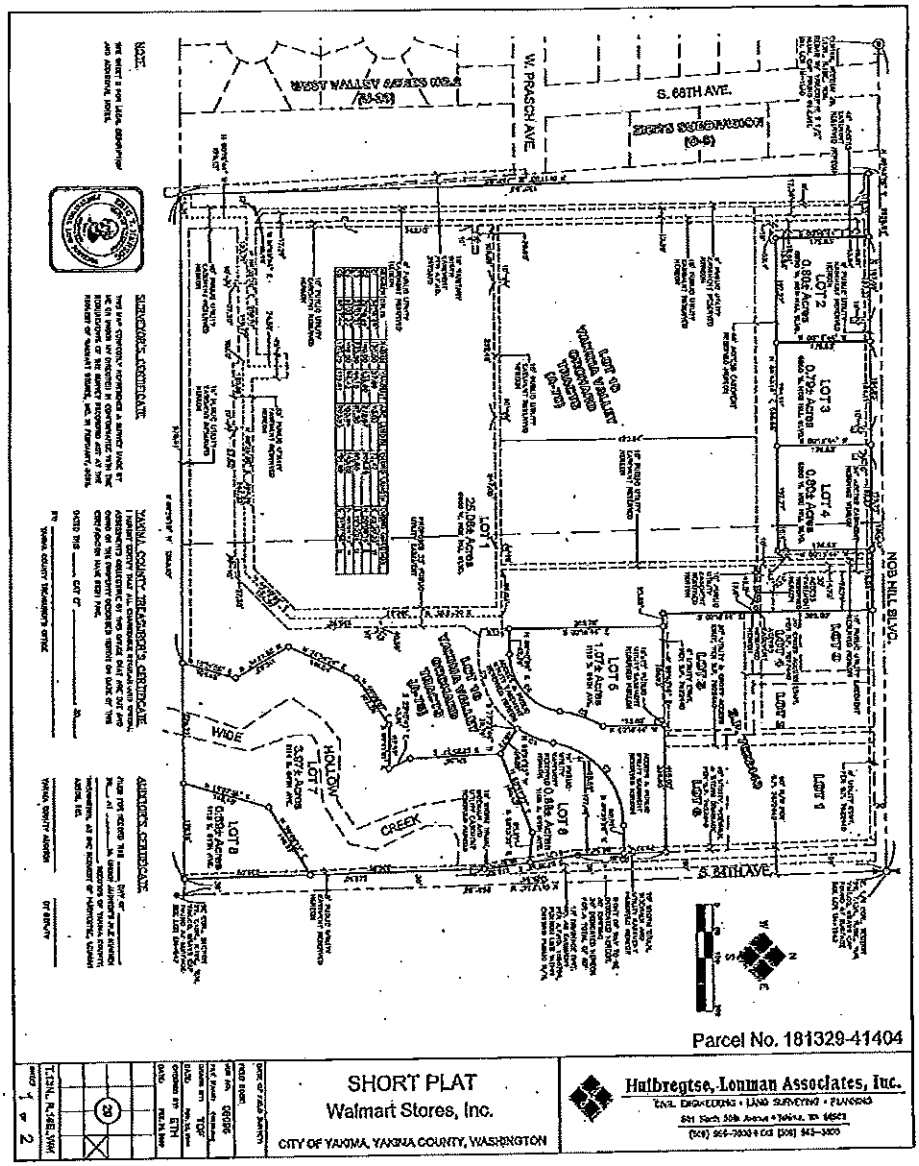
The first step when an unplanned protective barrier breach occurs is to control the event that caused the breach and then contain any offsite soil migration. Once the site is temporarily stabilized, an environmental and health professional should be contacted to assess the extent of protective barrier impact, develop a work plan for repairing or replacing the protective barrier, and determine whether to notify Ecology of the unplanned protective barrier breach.

7.0 CONCLUSION

Initial soil sampling investigations identified lead, arsenic, DDT, and DDE present in soils at the Site above MTCA cleanup levels. Lead, DDT, and DDE were identified to an approximate depth of 1-feet below ground surface across the Site. Arsenic was identified to an approximate depth of 4 to 6-feet below ground surface across the site. During construction, soils were graded to facilitate Site development.

Following construction of the buildings and associated paved areas (impermeable areas), the remaining landscaped areas (permeable areas) were capped with protective barriers consisting of 4-inches of clean topsoil and sod; 4-inches of clean topsoil and 4-inches of bark; or fabric and 4-inches of rock.

This O&M Plan describes measures that should be taken to maintain the protective barriers and summarizes what should be done in the event the barriers are breached.


W. PRASCH AVE.
S. 68TH AVE.
NOB HILL BLVD.
S. 84TH AVE.
CREEK
LOT 1
25.008 Acres
LOT 2
0.806 Acres
LOT 3
0.792± Acres
LOT 4
0.804 Acres
LOT 5
1.074± Acres
LOT 6
1.074± Acres
LOT 7
0.934± Acres
LOT 8
0.939± Acres
LOT 9
0.939± Acres
LOT 10
VANDENBERG VILLAGE
SHORT PLAT NO. 98-053
Parcel No. 181329-41404
SHORT PLAT
Walmart Stores, Inc.
CITY OF YAKIMA, YAKIMA COUNTY, WASHINGTON
Hulbregtse, Louman Associates, Inc.
CIVIL ENGINEERING • LAND SURVEYING • PLANNING

LEGAL DESCRIPTION

DEDICATION AND MASTER DEED CLAUSE

IRRIGATION DISTRICT CERTIFICATE

ACKNOWLEDGEMENT

NOTES

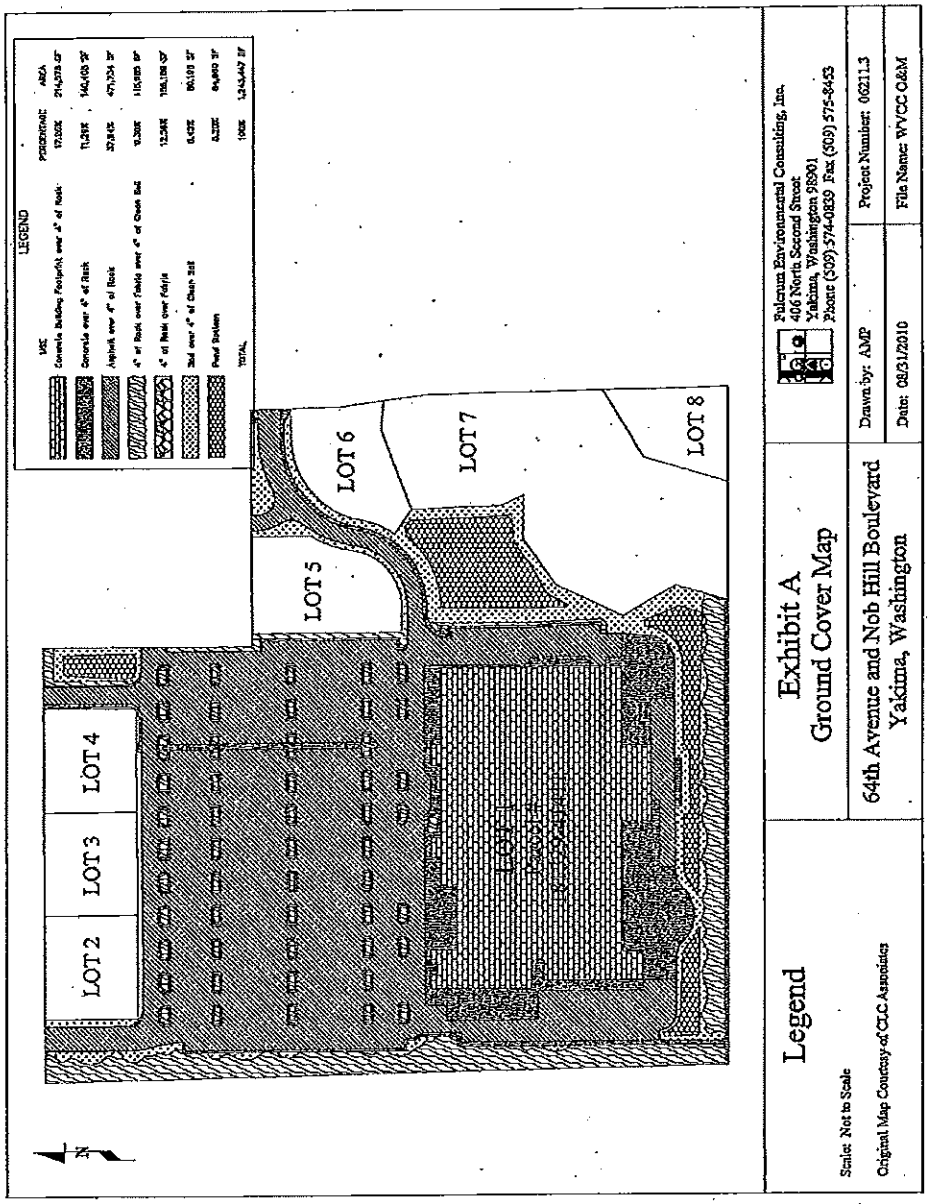
APPROVALS

Parcel No. 181329-41404

SHORT PLAT
Walmart Stores, Inc.
CITY OF YAKIMA, YAKIMA COUNTY, WASHINGTON

Hulbregtse, Louman Associates, Inc.
CIVIL ENGINEERING • LAND SURVEYING • PLANNING

SHEET 2 of 2


LEGEND
LOT 2
LOT 3
LOT 4
LOT 5
LOT 6
LOT 7
LOT 8
N
Legend
Scale: Not to Scale
Original Map Courtesy of CLC Associates
Exhibit A
Ground Cover Map
64th Avenue and Nob Hill Boulevard
Yakima, Washington
Fulcrum Environmental Consulting, Inc.
406 North Second Street
Yakima, Washington 98901
Phone (509) 574-0839 Fax (509) 575-8453
Drawn by: AMP
Project Number: 062113
Date: 08/31/2010
File Name: WVCC O&M

APPENDIX A

Draft Environmental Covenant

After Recording Return to:
Mark Dunbar
Department of Ecology
15 W. Yakima Avenue, Suite 200
Yakima, WA 98902-3452

Environmental Covenant

Grantor:	Wal-Mart Stores, Inc.
Grantee:	State of Washington, Department of Ecology
Legal:	**Lot 1, 2, 3, 4 and 5 of that Short Plat recorded under Auditor's File No. 7686513, records of Yakima County, Washington.**
Tax Parcel No.:	18132941411, 18132941412, 18132941413, 18132941414, 18132941415

Grantor, Wal-Mart Stores, 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 __ day of _____, 2010 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 Grantor, 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] prepared by Fulcrum Environmental Consulting, Inc.:

Soil Remediation Plan -- West Valley Commercial Center, Yakima, WA dated August 22, 2008.

Soil Remediation Report -- West Valley Commercial Center, Yakima, WA dated February 24, 2010 and revised April 23, 2010.

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

This Covenant is required because the Remedial Action resulted in residual concentrations of arsenic, lead, 4,4'-dichlorodiphenyltrichloroethane (DDT), and an associated DDT breakdown product, 4,4'-dichlorodiphenyldichloroethylene (DDE), which exceed the Model Toxics Control Act Method A or Method B Cleanup Level(s) for soil established under WAC 173-340-740. Wal-Mart has prepared an Operations and Maintenance Plan that provides guidelines on maintaining the protective barriers overlying the residual contaminants in soil as described in the Soil Remediation Report. This Operations and Maintenance Plan is also available at Ecology's Central Regional Office.

The undersigned Grantor is the fee owner of real property (hereafter "Property") in the County of Yakima County, State of Washington, that is subject to this Covenant. The Property is legally described as stated on Page 1.

Grantor 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.

a. As shown on Exhibit A, a portion of the Property contains arsenic, lead, DDT, and DDE located in soil beneath buildings, pavement, sidewalks, or other protective barriers. The Owner shall not alter, modify, or remove the existing structure[s] or other protective barriers in any manner that may result in the release or exposure to the environment of that contaminated soil or create a new exposure pathway without prior written approval from Ecology.

b. 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 without prior written approval by Ecology. 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.

WAL-MART STORES, INC.

_____

[Name of Signatory] [Title]

Dated: _____

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

_____

[Name of Person Acknowledging Receipt] [Title]

Dated: _____

STATE OF _____
COUNTY OF _____

On this _____ day of _____, 2010, I certify that _____ personally appeared before me, acknowledged that he/she is the _____ 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
Arkansas, residing at _____.
My appointment expires_____.

Semi-Annual West Valley Commercial Center Inspection Form

Person Inspecting:_____ **Date:**_____

Protective barriers should be visually inspected semi-annually, ideally in the spring to verify that damage has not occurred during the winter, and in the fall to assure that barriers are in good condition before winter storms commence.

Installed Impermeable Features: Inspect concrete and asphalt surfaces and note cracks, voids, or other separations (surface imperfections) that are sufficient to allow exposure to underlying clean gravel or soils. Place a check mark next to the most appropriate category:

_____ **No Damage**
_____ **Minor surface imperfections**, defined as routine surface cracking that does not penetrate the depth of the asphalt or concrete, does not require repair.
_____ **Moderate surface imperfections**, defined as visual exposure to underlying clean rock, should be repaired before the following winter season.
_____ **Significant surface imperfections**, defined as exposure of the underlying soil below the underlying clean rock, should be repaired as soon as feasible.

Comments:_____

Installed Permeable Features: Inspect permeable features for damage to overlying sod, bark, or rock, and underlying fabric or clean soil materials. Inspect stormwater features and assess whether proper infiltration and/or drainage is occurring. Inspect the landscaped area for indications of damaged sod materials or areas with dying vegetation. Inspect the overlying bark and rock areas for indications of uneven distribution or material migration that could potentially result in exposure of underlying materials. Classify damage, if identified as minor, major or significant using the following guidance.

_____ **No Damage**
_____ **Minor damage** has less than 10 percent overall or less than 25 square feet in a localized area, provided the exposure to underlying soils is not present.
_____ **Major damage** has between 10 and 20 percent overall or between 25 and 100 square feet in a localized area, or result in less than 10 percent overall or less than 25 square feet of exposure to the native soils underlying the 4 inches of topsoil.
_____ **Significant damage** has more than 20 percent overall or more than 100 square feet in a localized area, or result in more than 10 percent overall or more than 25 square feet of exposure to the native soils underlying the 4 inches of topsoil.

Comments:_____