



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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

October 31, 2014

Paul Trone  
Evren Northwest  
PO Box 14488  
Portland, OR 97293

**Re: Likely No Further Action for the following Site:**

- **Site Name:** United Builders
- **Site Address:** 2204 W. Nob Hill Blvd., Yakima
- **Facility/Site No.:** 5883805
- **VCP Project No.:** CE407

Dear Mr. Trone:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your independent cleanup of the United Builders 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**

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Upon completion of the proposed cleanup, will further remedial action likely be necessary to clean up contamination at the Site?

**NO. Ecology has determined that, upon completion of your proposed cleanup, no further remedial action will likely be necessary to clean up contamination at the Site.**

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**

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

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- Diesel to heavy (lube oil) range petroleum hydrocarbons into the MEDIA (Soil and Ground Water) associated with past operations by United Builders on tax parcel 8132642054, property now owned by Argo Yakima LLC.

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

Please note the Tiger Oil 24<sup>th</sup> Ave & W Nob Hill facility (#469) also affects different parts of the parcel(s) of real property associated with this Site. This opinion does not apply to any contamination associated with the Tiger Oil 24<sup>th</sup> & W Nob Hill facility.

### **Basis for the Opinion**

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

1. Well KMW-03 Environmental Investigation, Mercy Development Company Property, 2204 West Nob Hill Boulevard, Yakima, Washington 98902 (sic), Landau Assoc., August 27, 1999
2. Phase II Environmental Assessment Letter, Store No. 1235 Proposed Fueling Center, 2204-A Nob Hill Boulevard, Yakims, Washington, EPA Project No. 082132.1, 2002.
3. Groundwater Sampling and Testing, Vicinity of Safeway Gas Sales, Safeway Shopping Center, 2204 West Nob Hill Boulevard, Yakima, Washington: Prepared for Glacier Real Estate Finance, Report JN25092, Environmental Associates, Inc., June 27, 2005
4. Supplemental Groundwater Sampling and Testing with Water Table Survey, Safeway Shopping Center, 2204 West Nob Hill Boulevard, Yakima, Washington: Prepared for Glacier Real Estate Finance, Report JN25092-2, Environmental Associates, Inc., July 25, 2005
5. Focused Subsurface Investigation, Safeway Fueling Center #1235, 2204 W. Nob Hill Boulevard, Yakima, Washington, Facility Site ID No. 5883805, VCP No. CE407, EvrenNorthwest, Inc., ENW Project No. 773-13001-03, May 8, 2014

Those documents are kept at the Central Regional Office of Ecology (CRO) for review by appointment only. You can make an appointment by calling our office 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**

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Ecology has concluded that, upon completion of your proposed cleanup, **no further remedial action** will likely be 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**.

Historic site characterization and remedial action (soil removal) appeared to address most of the soil contamination at this site, but failed to properly monitor groundwater. Groundwater testing preliminary results from a temporary well installed indicate that cleanup standards have likely been met.

**2. Establishment of cleanup standards.**

**a. Substance-specific standards.**

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

MTCA Method A Cleanup Standards for unrestricted land use in soil and groundwater have been selected for the remedial action at this site. Method A Cleanup Standards are appropriate for use at simple sites with few contaminants, such as this site. The standard point of compliance throughout the site has been selected. These points of compliance have been selected to protect groundwater quality.

MTCA Method A Cleanup Standards are those determined by regulation to be protective of human health and the environment under most conditions.

**b. Action and location-specific requirements.**

An environmental covenant prohibiting use of groundwater at this site, and requiring maintenance of and access to monitoring wells at the property is in effect for the tax parcel on which this site is located. That environmental covenant was placed in association with the Tiger Oil Site (see above), will apply throughout the property until such time as a final NFA determination is made and must remain in effect until Ecology determines it is no longer needed. Ecology will not currently require that a new Environmental Covenant be filed, but may do so if conformational monitoring does not demonstrate that cleanup standards have been achieved.

Please note that other requirements apply to the cleanup action based on the type of the action or location of the Site. Those requirements are specified in an email to Evren NW dated June 19, 2014 and Attachment B.

**3. Selection of cleanup action.**

Ecology has determined the soil removal cleanup action selected for the Site meets the substantive requirements of MTCA by removing soil identified as containing petroleum contaminants at above MTCA Method A Cleanup Standards and disposing of those soils off-site followed by monitored natural attenuation. This cleanup is permanent to the maximum extent practicable, has a reasonable restoration timeframe and is protective of human health and the environment as required by WAC 173-340-360(2).

**4. Cleanup.**

Ecology has determined the cleanup performed will meet the cleanup standards established for the Site. This determination is dependent on the continued two additional quarters of groundwater monitoring.

Ecology has approved the monitoring plan you submitted. A copy of the plan is included in **Attachment A to this letter**.

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**Limitations of the Opinion**

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**1. Opinion does not settle liability with the state.**

Liable persons are strictly liable, jointly and severally, for all remedial action costs and for all natural resource damages resulting from the release or releases of hazardous substances at the 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 proposed will be substantially equivalent. Courts make that determination. *See* RCW 70.105D.080 and WAC 173-340-545.

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

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

**4. State is immune from liability.**

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

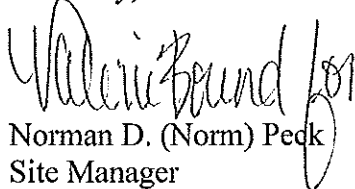
**Contact Information**

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

For more information about the VCP and the cleanup process, please visit our web site: [www.ecy.wa.gov/programs/tcp/vcp/vcpmain.htm](http://www.ecy.wa.gov/programs/tcp/vcp/vcpmain.htm). If you have any questions about this opinion, please contact me by phone at 509-454-7837 or e-mail at [nope461@ecy.wa.gov](mailto:nope461@ecy.wa.gov).

Sincerely,

  
Norman D. (Norm) Peck  
Site Manager

CRO Toxics Cleanup Program

Enclosures:      A – Description and Diagrams of the Site  
                         B – Restrictive (Environmental) Covenant  
                         C – Confirmational Monitoring Plan

cc:      Jon Lefferts, Chief Financial Officer, ARGO Yakima, LLC  
         Mary Monahan, Site Manager, CRO TCP  
         Delores Mitchell, HQ TCP