



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

July 6, 2011

Darin Harvey
Mountain Hi Trucking & Equipment
PO Box 165
Walla Walla, WA 99362

Re: No Further Action at the following Site:

- **Site Name:** Walla Walla City Shop
- **Site Address:** 812 Rees Ave, Walla Walla, WA
- **Facility/Site No.:** 88514759
- **VCP Project No.:** EA0222

Dear Mr. Harvey:

The WA Department of Ecology (Ecology) received your request for an opinion on your independent cleanup of the Walla Walla City Shop 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 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:

- Petroleum hydrocarbons into the Soil.



- Chloroform into the Groundwater.

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 associated with this Site is affected by other sites.

Basis for the Opinion

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

- Report of Underground Storage Tank Site Assessment, Walla Walla City Shop, 812 Rees Street, Walla Walla, Washington: Huntingdon, Inc., February 1995.
- Phase 2 Environmental Site Assessment, Former City Shop Site, 812 Rees Avenue, Walla Walla, Washington: Shannon & Wilson, Inc., April 1999.
- Summary of Groundwater Monitoring, Former City Shop Site, 812 Rees Avenue, Walla Walla, Washington: Shannon & Wilson, Inc., February 2000.
- Supplemental Groundwater Monitoring, Former City Shop Site, Walla Walla, Washington: Shannon & Wilson, Inc., July 2001.

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

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

Analysis of the Cleanup

Ecology has concluded 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**.

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

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.

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:

Oil-range hydrocarbons: 2,000 mg/kg

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

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

Chloroform: 7.17 ug/l

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

3. Selection of cleanup action.

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

The selected cleanup includes the following:

SOIL

- Removal of source (underground storage tanks).
- Excavation and removal of contaminated soil.
- Institutional controls due to residual concentrations of petroleum contaminated soil.

GROUNDWATER

- Installation of groundwater monitoring wells.
- Sampling of groundwater until results were below cleanup levels.

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 source (underground storage tanks) was removed and contaminated soil was removed and transported off site. Some contaminated soil remains adjacent to the building and was not removed due to proximity of the building. The Site is capped to prevent infiltration and mobilization of contaminated soil left in place adjacent to the building.

An Environmental Covenant was required because the remedial actions resulting in residual concentrations of petroleum contaminated soil at the Site.

Groundwater monitoring was conducted until results were below cleanup levels.

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 the exposure of hazardous substances at the Site.

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

- 360719520230.

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

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 and Leaking Underground Storage Tank List.

Limitations of the Opinion

1. Opinion does not settle liability with the state.

Liable persons are strictly liable, jointly and severally, for all remedial action costs and for all natural resource damages resulting from the release or releases of hazardous substances at the Site. This opinion **does not**:

- Resolve or alter a person's liability to the state.
- Protect liable persons from contribution claims by third parties.

To settle liability with the state and obtain protection from contribution claims, a person must enter into a consent decree with Ecology under RCW 70.105D.040(4).

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

To recover remedial action costs from other liable persons under MTCA, one must demonstrate 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 (#EA0222).

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

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

Enclosure A

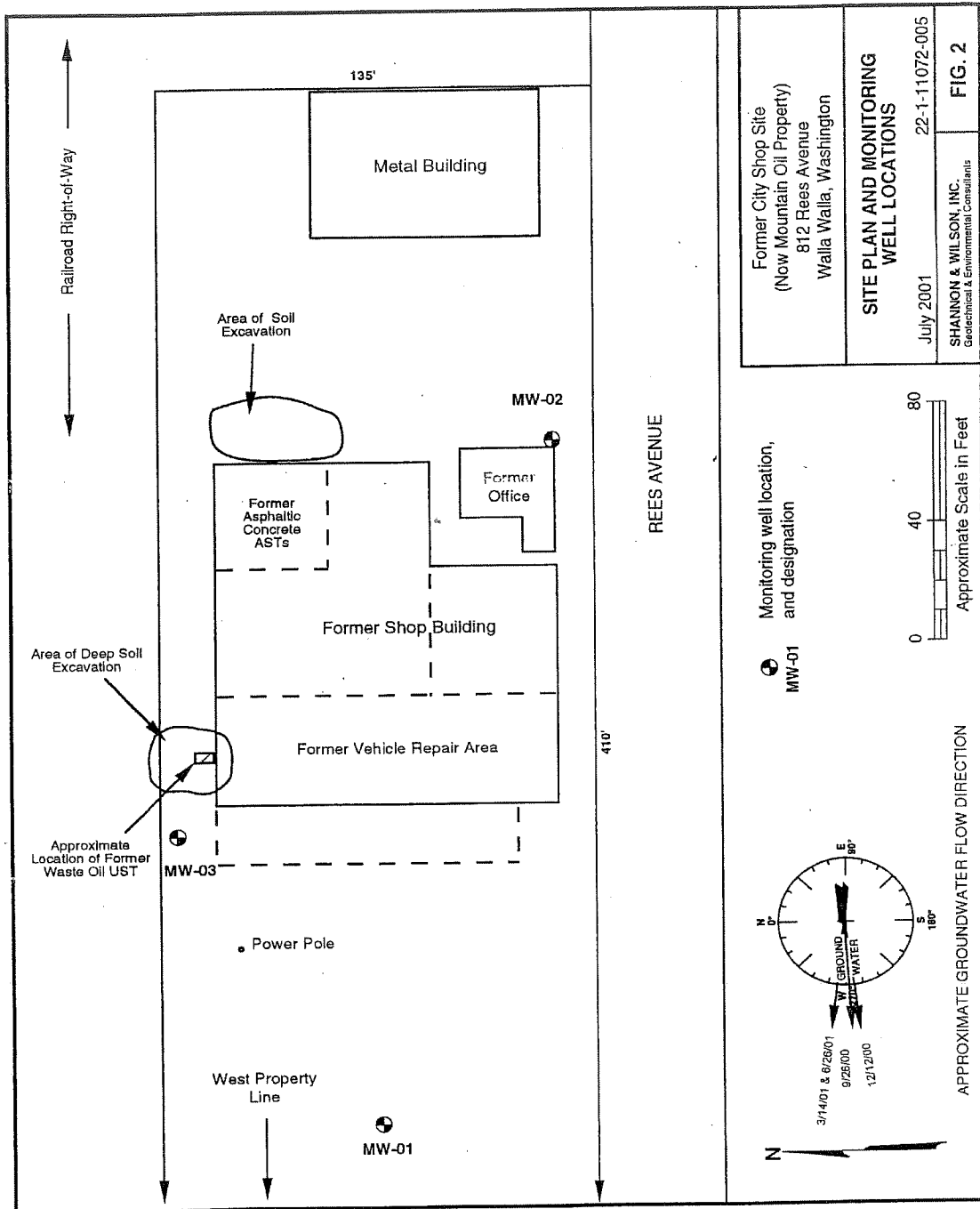
Description and Diagram of the Site

Site Description

- The Site is a former City shop and operations included vehicle maintenance, sign and street painting, and asphalt mixing. The City discontinued use of the shop building about 1986. A building on the property was used for the building maintenance department until 1990. An automobile repair shop operated at the property in 1993 and 1994.
- Three underground storage tanks (USTs) were removed from the Site in November 1994. Approximately 390 cubic yards of petroleum contaminated soil was removed from the former waste oil UST location and shop building, and asphalt paving area.
- Three monitoring wells were installed and were sampled quarterly in 1999. Chloroform was detected above cleanup levels. Additional groundwater monitoring was conducted in 2000 and 2001. All results were below cleanup levels.
- Petroleum contaminated soil remains adjacent to the building in the area of the former waste oil UST. An Environmental Covenant was required and was recorded in July 2011.

(Shannon & Wilson, Inc.)

Site Diagram



Enclosure B

Environmental Covenant for Institutional Controls

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

Environmental Covenant

Grantor: DARIN HARVEY AND RICHARD HARVEY
Grantee: State of Washington, Department of Ecology
Legal: 812 AND 840 WEST REES AVE, WALLA WALLA, WA 99362
Tax Parcel Nos.: 360719520230

Grantor, DARIN HARVEY AND RICHARD HARVEY, 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 27 day of JUNE, 2011, 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 DARIN HARVEY AND RICHARD HARVEY 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]:

- Report of Underground Storage Tank Site Assessment, Walla Walla City Shop:
Huntingdon, Inc., February 1995.



- Phase 2 Environmental Site Assessment, Former City Shop Site: Shannon & Wilson, Inc., April 1999.
- Groundwater Sampling and Analysis Plan, Former City Shop Site: Shannon & Wilson, Inc., May 6, 1999.
- Groundwater Samples, Former City Shop: Shannon & Wilson, Inc., July 21, 1999 and October 14, 1999.
- Summary of Groundwater Monitoring, Former City Shop: Shannon & Wilson, February 2000.
- Results of Quarterly Groundwater Monitoring, Former City Shop Site: Shannon & Wilson, October 17, 2000 and April 2, 2001.
- Supplemental Groundwater Monitoring, Former City Shop Site: Shannon & Wilson, Inc., July 2001.

These documents are 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, DARIN HARVEY AND RICHARD HARVEY, are the fee owners of real property (hereafter "Property") in the County of Spokane, State of Washington, that is subject to this Covenant. The Property is legally described AS FOLLOWS: BUTLER'S LOT D OF SHORT PLAT (NON-OPR RR PROP-SPUR RUNNING THRU LOTS 14 & 13 BLOCK 1; LOTS 13 & LOCATION: 812 & 840 W REES AVE DEEDED ACRES: 1:65

DARIN HARVEY AND RICHARD HARVEY make 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.

DARIN HARVEY AND RICHARD HARVEY

Darin Harvey R.L. / W.D. Harvey

Darin Harvey and Richard Harvey

[Title]

Dated: 6-27-2011

[Scribbled text]

County of Walla Walla 6-27-11
Randall Scott Stokes - Notary
Comm. Exp 7-31-2013

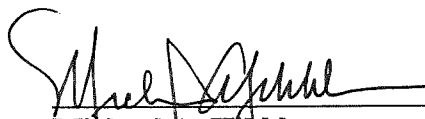


STATE OF WASHINGTON_____
COUNTY OF WALLA WALLA_____

On this 27TH_ day of _____ JUNE _____, 20_11_, I certify that DARIN HARVEY
AND RICHARD HARVEY_____ personally appeared before me, and
acknowledged that **he/she** is the individual described herein and who executed the within and
foregoing instrument and signed the same at **his/her** free and voluntary act and deed for the
uses and purposes therein mentioned.

Notary Public in and for the State of
Washington, residing at _____.
My appointment expires _____.

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY



Michael A. Hibbler
Section Manager, Toxics Cleanup Program

Dated: 29 June 2011



Exhibit A
Legal Description



2009 WALLA WALLA COUNTY PROPERTY TAX STATEMENT

GORDON R. HEIMBIGNER, CFE

WALLA WALLA COUNTY TREASURER

PO Box 777, Walla Walla, WA 99362

LEGAL DESCRIPTION (May be abbreviated): BUTLER'S LOT D OF SHORT PLAT
(NON-OPR RR PROP-SPUR RUNNING THRU LOTS 14 & 13 BLOCK 1; LOTS 13 &
LOCATION: 00812 & 840 W REES AVE

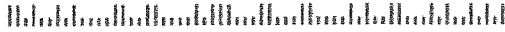
DEEDED ACRES: 1.65

REAL

LEVY CODE	LEVY RATE	PARCEL NUMBER
1	10.503679	360719520230

CURRENT YEAR TAXES		
Due April 30	Due October 31	Current Year Total Due
\$	\$ 1959.44	\$ 3918.88

Land Value	CURRENT TAX INFORMATION	\$ 72000
Improvement Value		\$ 300300
Taxable Value		\$ 372300
Gross Tax		\$ 3910.52
Misc Assessments		\$ 8.36



HARVEY, DARIN R. KORI S & RICHARD W
PO BOX 165
WALLA WALLA WA 99362-0005

5780 13 23
1/1

SEE IMPORTANT NOTICE ON BACK

TAXES AND SPECIAL ASSESSMENTS	
Year	Total Due
2009	\$ 1959.44

CURRENT YEAR DISTRIBUTION	
District	Amount
CURRENT EXPENSE	\$ 528.70
HUMAN SERVICES	\$ 6.88
SOLDIERS RELIEF	\$ 4.19
EMS	\$ 186.15
JUVENILE DET BOND	\$ 26.11
STATE SCHOOL	\$ 699.54
STATE REFUND LEVY	\$ 0.06
CITY OF WW	\$ 832.78
PORT OF WW	\$ 134.47
SD #140 GENERAL	\$ 1,094.87
SD #140 BOND	\$ 396.77
FLOOD	\$ 8.36

FORECLOSURE BEGINS AFTER APRIL 30 ON ALL PROPERTY WITH TAXES
DELINQUENT THREE YEARS OR MORE

IF FIRST PORTION DUE IS NOT PAID BY APRIL 30, INTEREST AND PENALTY
IS DUE ON TOTAL YEAR. SECOND PORTION MUST BE PAID BY OCT. 31
WITH THE EXCEPTION OF PERSONAL PROPERTY SEE BACK OF FORM

DELINQUENT AMOUNTS WILL INCLUDE INTEREST

Voter Approved Tax \$1517.75 or 38.8%

KEEP THIS PORTION

For online payment options: (internet check or credit card) go to www.co.walla-walla.wa.us

2011-05073 CV

06/30/2011 02:50:31 PM Page 7 of 8 Fees: 69.00
Karen Martin County Auditor, Walla Walla County WA

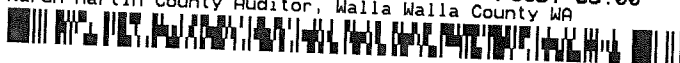


Exhibit A

Lots 15, 16, 17, 18 and 19 in Block 1 of Butler's Addition to the City of Walla Walla, according to the official plat thereof of record in the office of the Auditor of Walla Walla County, Washington, in Volume C of Plats at Page 6.

ALSO,

Lot 6 in Block 1 of Butler's Addition to the City of Walla Walla, according to the official plat thereof of record in the office of the Auditor of Walla Walla County, Washington, in Volume C of Plats at Page 6.

EXCEPTING from said Lot 6 the following described portion thereof owned by the Walla Walla Valley Railway Company:

Commencing at the Northwest corner of Lot 6 in Block 1 of Butler's Addition to the City of Walla Walla, according to the official plat thereof of record in the office of the Auditor of Walla Walla County, Washington; thence Easterly, along the North line of said Lot 6, a distance of 50 feet to the Northeast corner of said Lot 6; thence Southerly, along the East line of said Lot 6, a distance of 36 feet to a point; thence Northwesterly a distance of 52.5 feet, more or less, to an intersection with the West line of said Lot 6; thence Northerly, along the West line of said Lot 6, a distance of 20 feet to The Point of Beginning.

Situated in the County of Walla Walla, State of Washington.

Lot D of that certain Short Plat filed November 5, 2002, in Volume 4 of Short Plats at Page 79, under Auditor's File No. 2002-12600, in the office of the Auditor of Walla Walla County, Washington.

