



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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June 30, 2010

Mr. Don Harris
Harvest Orchard Park Retirement Residence, LLC
2250 McGilchrist Street SE
P.O. Box 14111
Salem, OR 97309

Mr. Mark Fischer
EMG Corporation
222 Schilling Circle, Suite 275
Hunt Valley, MD 21031

Ms. Yen-vy Van
Associated Environmental Group, LLC.
1018 Capitol Way South, Suite 201
Olympia, WA 98501

Re: Further Action at the following Site:

- **Site Name:** Harvest Orchard Park Retirement Residence
- **Site Address:** 620 North 34th Avenue, Yakima, WA
- **Facility/Site No.:** 1431907
- **VCP Project No.:** CE0287

Dear Mr. Harris:

The Washington State Department of Ecology (Ecology) received a request for an opinion on the independent cleanup of the Harvest Orchard Park 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?

YES. Ecology has determined that further remedial action is 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

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 in Soil
- Arsenic in Soil

Enclosure A includes a 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. Limited Site Characterization, April 24, 2007, Associated Environmental Group, LLC.
2. Final Remedial Action, June 3, 2010, Associated Environmental Group, LLC.

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 at (509) 575-2490.

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 **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 shown 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.

Arsenic and lead soil cleanup levels (20, 250, respectively) are established by Method A for unrestricted land use. The cleanup level for:

Arsenic is based on direct contact and protection of groundwater.

Lead is based on preventing unacceptable blood lead levels.

3. Selection of cleanup action.

Ecology has determined the cleanup action you selected for the Site does not meet the substantive requirements of MTCA.

The cleanup action conducted at the Site included the removal of approximately six inches of soil contaminated with lead and arsenic. Clean fill soil and sod were imported to create a barrier cap.

4. Cleanup.

Ecology has determined the cleanup you performed does not meet cleanup standards at the Site.

The cleanup action conducted at the Site involved capping of contaminated soils. This cleanup action resulted in residual contaminated soils with arsenic concentrations up to 271 milligrams per kilogram (mg/Kg). Confirmation samples were not analyzed for lead, so residual lead concentrations are not known. However, remedial actions sufficient to prevent exposure to arsenic contaminated soils are typically sufficient to address lead contaminated soils, as well.

Capping is an effective method of preventing exposure to contaminated soils when used in conjunction with institutional controls. Institutional controls are necessary to prevent activities that may damage the soil cap and to inform future property owners of contaminated soil remaining at the Site.

For the Site to be eligible for a no further action determination, institutional controls in the form of an environmental covenant must be implemented.

The current Model Environmental Covenant template is available on Ecology's website here: <http://www.ecy.wa.gov/programs/tcp/vcp/vcp2008/vcpRequirements.html>

Prior to recording an environmental covenant, local planning authorities must be given the opportunity to review and comment on the document. Following review by the planning authorities, the signed, notarized environmental covenant should be submitted to Ecology. Ecology will review and sign the covenant, and then return it to you for recording. The original recorded environmental covenant should be returned to Ecology for holding.

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).

Contact Information

Thank you for choosing to clean up the Site under the Voluntary Cleanup Program (VCP). After you have addressed our concerns, you may request another review of your cleanup. Please do

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not hesitate to request additional services as your cleanup progresses. 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. If you have any questions about this opinion, please contact me by phone at (509) 454-7842 or e-mail at jene461@ecy.wa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeff Newschwander', is written over the word 'Sincerely,'.

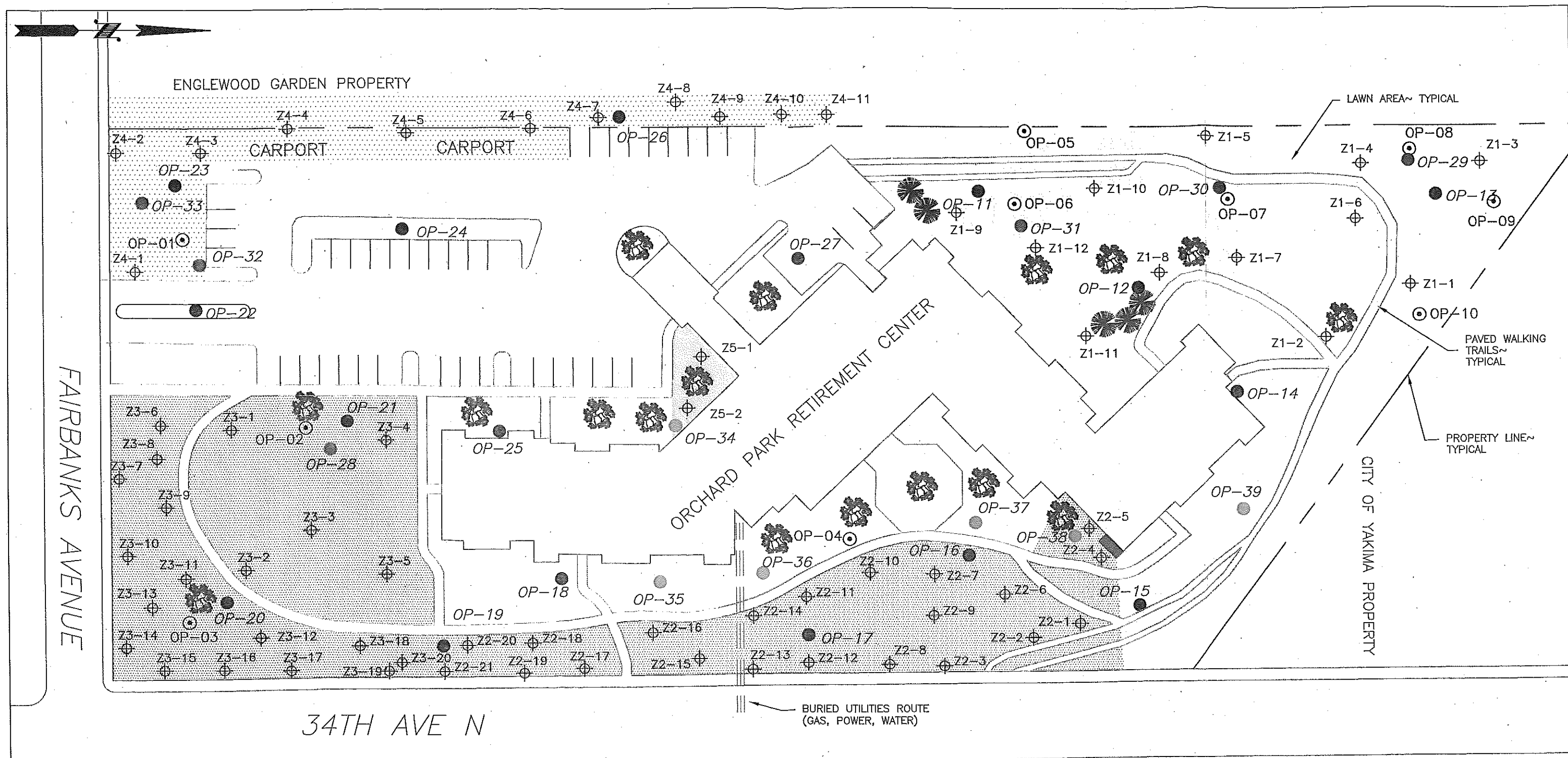
Jeff Newschwander
Site Manager
CRO Toxics Cleanup Program

Enclosure: A – Diagram of the Site

cc: Dolores Mitchell, Ecology

Enclosure A

Diagram of the Site



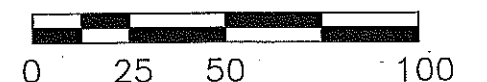
LEGEND

ZONE 1	OP-1	SOIL SAMPLES BY AEG 10/2007: OP-1 to OP-10
ZONE 2	OP-11	HAND AUGERED SOIL SAMPLES BY AEG 11/2008: OP-11 to OP-27
ZONE 3	OP-28	HAND AUGERED SOIL SAMPLES BY AEG 10/2009: OP-28 to OP-33
ZONE 4	OP-34	HAND AUGERED SOIL SAMPLES BY AEG 03/2010: OP-34 to OP-39
ZONE 5	Z1-1	RA SOIL SAMPLE LOCATIONS BY ZONE (Z1) AND SAMPLE NUMBER (AEG 2010)
EXISTING TREE		

STONE CHURCH ASSEMBLY OF GOD PROPERTY

MORAN PROPERTY

SCALE: 1"=50 FEET



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 Environmental Consulting and Contracting
 1018 CAPITOL WAY S, SUITE 201
 OLYMPIA, WA 98501
 (360) 352-9835 Fax (360) 352-8164

FIGURE 2

SOIL SAMPLE LOCATION MAP

ORCHARD PARK FACILITY 620 34TH AVE N YAKIMA, WA	
Project:	Date:
07-139	05/10/2010