



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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

June 20, 2012

Pat McGuire  
1681 Eastmont Avenue  
East Wenatchee, WA 98802

**Re: Opinion on Proposed Cleanup of the following Site:**

- **Site Name:** McGuire Property
- **Site Address:** Grover between 8<sup>th</sup> and 10<sup>th</sup>, East Wenatchee
- **Facility/Site No.:** 11044
- **VCP Project No.:** CE0372

To Whom It May Concern:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your proposed independent cleanup of the McGuire Property (Site). This letter provides our opinion. This letter also serves to approve activities that are restricted by the conditions of the environmental covenant that has been recorded for your property. We are providing this opinion under the authority of the Model Toxics Control Act (MTCA), Chapter 70.105D RCW.

**Issue Presented and Opinion**

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**

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

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



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

Please note that a parcel of real property can be affected by multiple sites. At this time, we have no information that the parcel(s) associated with this Site are affected by other sites.

### **Basis for the Opinion**

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

1. Independent Cleanup Action Report: Eastmont Junior High Site, Forsgren Associates, Inc., October 20, 2005.
2. Recorded Restrictive Covenant, October 25, 2005.
3. Site Remediation Proposal, Pat McGuire, April 26, 2012.

Those documents are kept in the Central Regional Office of Ecology 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**

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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**.

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.**

It was determined that MTCA Method A cleanup levels for soil are appropriate for this Site. Method A cleanup levels for soil are stringent and intended to be protective for properties with residential use.

**3. Selection of cleanup action.**

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

A soil cap has already been implemented at the Site. Construction activities at the Site will remove portions of the cap. Following construction activities, the cap will be replaced or repaired to its original condition. The success of the proposed cleanup action is contingent on maintaining the environmental covenant that has been recorded for the Site.

### **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.

**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 at 509-454-7842.

Sincerely,



Jeff Newschwander  
CRO Toxics Cleanup Program

Enclosures (1): A – Description of the Site

cc: Dolores Mitchell, VCP Financial Manager