



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

1250 W Alder St • Union Gap, WA 98903-0009 • (509) 575-2490

July 1, 2019

Ryan Mathews
Fulcrum Environmental Consulting, Inc.
406 North Second Street
Yakima, WA 98901

Re: Ecology Opinion on Proposed Cleanup Action for the following Contaminated Site:

- **Site Name:** Congdon Retail Property Lots 2, 4, 5, 6
- **Site Address:** 901 South 72nd Avenue, Yakima
- **Cleanup Site ID:** 14991
- **Facility/Site ID:** 42789196
- **VCP Project ID:** CE0504

Dear Ryan Mathews:

Thank you for submitting your request for an opinion of your work plan by the Department of Ecology (Ecology) under the Voluntary Cleanup Program (VCP). This work plan was submitted to Ecology by Fulcrum Environmental Consulting, Inc.

Issues Presented and Opinions

1. Does Ecology approve the proposed work plan at the Site?

YES, the remedial actions presented in the Proposed Cleanup Action are likely to result in Site eligibility for a No Further Action determination (NFA), with the addition of the following details:

- **The final paragraph of section 6.0 states that excess soils can be reused on an adjacent portion of the parent parcel. This would only be acceptable under the following conditions:**
 - Analytical data indicates that the destination parcel is already impacted with lead and arsenic at concentrations equal to or above those found in the excess soils designated for export.
 - The lots receiving excess soil would become part of the Site, to be addressed when those lots are developed for non-agricultural use in the future.



- Section 5.5.4 titled, 'Other Conditions' will require additional detail agreed upon with Ecology. This proposed action is acceptable, contingent on agreement upon the type of fencing, signage, and associated institutional controls.
- Ecology must approve of the final Operation and Maintenance Plan; however the proposed scope of content is acceptable, including:
 - Visual inspection requirements
 - Procedures for addressing impacted soils during maintenance and repairs
 - Reporting requirements
- The Site will be subject to periodic review every 5 years by Ecology due to the use of a capping remedy and institutional controls.

Basis for the Opinion

This opinion and analysis was based on the information contained in the following documents:

1. *"Lead and Arsenic Contaminated Soil Remediation Plan,"* prepared by Fulcrum Environmental Consulting, Inc., dated June 14, 2019.

This document is kept in the Central Regional Office (CRO) of Ecology for review by appointment only. You can make an appointment by calling the CRO public records coordinator at (509) 454-7658. This opinion is void if any of the information contained in those documents is materially false or misleading.

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).

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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.

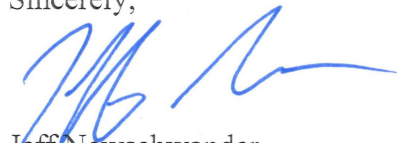
3. State is immune from liability.

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).

Thank you for cleaning up the Site under the Voluntary Cleanup Program (VCP). 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 email at Jeff.Newschwander@ecy.wa.gov.

Sincerely,



Jeff Newschwander
Cleanup Site Manager
Toxics Cleanup Program
Central Regional Office

cc: Byron Borton, The Lodges in West Yakima, LLC