



FILE COPY

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

October 7, 2008

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

**Re: Further Action Determination under WAC 173-340-515(5) for the following
Hazardous Waste Site:**

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

Dear Mr. Harris:

Thank you for submitting your independent remedial action report for the Harvest Orchard Park facility (Site) for review by the State of Washington Department of Ecology (Ecology) under the Voluntary Cleanup Program (VCP). Ecology appreciates your initiative in pursuing this administrative option for cleaning up hazardous waste sites under the Model Toxics Control Act (MTCA), Chapter 70.105D RCW.

This letter constitutes an advisory opinion regarding whether further remedial action is necessary at the Site to meet the substantive requirements of MTCA and its implementing regulations, Chapter 70.105D RCW and Chapter 173-340 WAC. Ecology is providing this advisory opinion under the specific authority of RCW 70.105D.030(1)(i) and WAC 173-340-515(5).

This opinion does not resolve a person's liability to the state under MTCA or protect a person from contribution claims by third parties for matters addressed by the opinion. The state does not have the authority to settle with any person potentially liable under MTCA except in accordance with RCW 70.105D.040(4). The opinion is advisory only and not binding on Ecology.

Ecology's Toxics Cleanup Program has reviewed the following information regarding the Site:

1. Limited Site Characterization, April 24, 2007, Associated Environmental Group, LLC.

The document listed above will be kept in the Central Files of the Central Regional Office of Ecology (CRO) for review by appointment only. Appointments can be made by calling the CRO resource contact at (509) 454-7658.



Mr. Don Harris
October 7, 2008
Page 2

The Site is defined by the extent of contamination caused by the following release(s):

- Lead in Soil;
- Arsenic in Soil.

The Site is more particularly described in Enclosure A to this letter, which includes a detailed Site diagram. The description of the Site is based solely on the information contained in the documents listed above.

Based on a review of the independent remedial action report and supporting documentation listed above, **Ecology has determined that the independent remedial action(s) performed at the Site are not sufficient to meet the substantive requirements contained in MTCA and its implementing regulations, Chapter 70.105D RCW and Chapter 173-340 WAC, for characterizing and addressing any of the contamination at the Site.** Therefore, pursuant to WAC 173-340-515(5), Ecology is issuing this opinion that **further remedial action is necessary** at the Site under MTCA.

The Operation and Maintenance Plan, while valuable in educating residents and employees of safe practices regarding contaminated soils at the Site, does not address the presence of exposed contaminated soils at the Site.

Please note that this opinion is based solely on the information contained in the documents listed above. Therefore, if any of the information contained in those documents is materially false or misleading, then this opinion will automatically be rendered null and void.

The state, Ecology, and its officers and employees make no guarantees or assurances by providing this opinion, and no cause of action against the state, Ecology, its officers or employees may arise from any act or omission in providing this opinion.

Again, Ecology appreciates your initiative in requesting technical consultation under the VCP. As the cleanup of the Site progresses, you may request additional consultative services under the VCP, including assistance in identifying applicable regulatory requirements and opinions regarding whether remedial actions proposed for or performed at the Site meet those requirements.

If you have any questions regarding this opinion, please contact me at (509) 454-7842.

Sincerely,



Jeff Newschwander
Site Manager
Toxics Cleanup Program - CRO

Enclosure