



**15 West Yakima Avenue, Suite 200 • Yakima, Washington 98902-3452 • (509) 575-2490**

Yen-Vy Van  
Associated Environmental Group  
1728 State Avenue NE  
Olympia, WA 98506

- Property Address: 620 North 34th Avenue, Yakima, Washington
- Facility/Site No.: 1431907
- VCP Project No.: CE0287

The Washington State Department of Ecology (Ecology) received your request for an opinion on your proposed independent cleanup of a Property associated with the Harvest Orchard Park Retirement 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.

**NO. Ecology has determined that no further remedial action will likely be necessary at the Property to clean up contamination associated with the Site.**

### Description of the Property and the Site

The Property includes the following tax parcel, which was affected by the Site and will be



addressed by your cleanup:

- 18131544419

The location of the Property within the Site is illustrated in **Enclosure A**.

**2. Description of the Site.**

The Site is defined by the nature and extent of contamination associated with the following releases:

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

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

**3. Identification of Other Sites that may affect the Property.**

Please note that a parcel of real property can be affected by multiple sites. At this time, we have no information that this Property is 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. Associated Environmental Group, LLC. *Proposed Cleanup Action Plan*. September 3, 2009

This document is 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, 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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**1. Cleanup of the Property located within the Site.**

Ecology has concluded that, upon completion of your proposed cleanup, **no further remedial action** will likely be necessary at the Property to clean up contamination associated with the Site. That conclusion is based on the following analysis:

**a. Characterization of the Site.**

Ecology has determined your characterization of the Site is sufficient to establish cleanup standards for the Site and select a cleanup for the Property. The Site is described above and in **Enclosure B**.

**b. Establishment of cleanup standards for the Site.**

Ecology has determined the cleanup levels and points of compliance you established for the Site meet the substantive requirements of MTCA.

**i. Cleanup levels.**

Due to the residential use of the property, MTCA Method A cleanup levels have been selected as the appropriate cleanup standards for the Site.

**ii. Points of compliance.**

Standard points of compliance will be used for the Site.

**c. Selection of cleanup for the Property.**

Ecology has determined the cleanup you proposed for the Property meets the substantive requirements of MTCA. Your proposed cleanup meets minimum cleanup requirements and will not exacerbate conditions or preclude reasonable cleanup alternatives elsewhere at the Site.

The proposed cleanup action consists of excavation of all contaminated soils with arsenic concentrations above MTCA Method A cleanup levels.

### **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**:

- Change the boundaries of the Site.
- 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 Property 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).

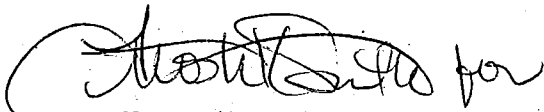
**Contact Information**

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Thank you for choosing to clean up your Property 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  
Site Manager  
CRO Toxics Cleanup Program

Enclosure:        A – Description and Diagram of the Site

cc:        Dolores Mitchell, VCP Financial Manager (without enclosures)