



## **Second Periodic Review**

Hilltop Apartments Development Site  
1509 S Mission Street  
Wenatchee, Washington 98801

Facility/Site ID: 5823960  
Cleanup Site ID: 3946

Prepared by:

Washington State Department of Ecology  
Central Regional Office  
Toxics Cleanup Program

April 2021

<b>1.0</b>	<b>INTRODUCTION.....</b>	<b>1</b>
<b>2.0</b>	<b>SUMMARY OF SITE CONDITIONS .....</b>	<b>2</b>
2.1	Site History .....	2
2.2	Site Investigations .....	2
2.3	Cleanup Levels and Point of Compliance.....	3
2.4	Remedial Actions .....	3
2.5	Institutional Controls .....	3
<b>3.0</b>	<b>PERIODIC REVIEW .....</b>	<b>6</b>
3.1	Effectiveness of completed cleanup actions .....	6
3.2	New scientific information for individual hazardous substances for mixtures present at the Site .....	6
3.3	New applicable state and federal laws for hazardous substances present at the Site ...	6
3.4	Current and projected Site use .....	7
3.5	Availability and practicability of higher preference technologies .....	7
3.6	Availability of improved analytical techniques to evaluate compliance with cleanup levels .....	7
<b>4.0</b>	<b>CONCLUSIONS.....</b>	<b>8</b>
<b>5.0</b>	<b>REFERENCES.....</b>	<b>9</b>
<b>6.0</b>	<b>APPENDICIES.....</b>	<b>10</b>
6.1	Vicinity Map .....	11
6.2	Site Map .....	12
6.3	Environmental Covenant .....	13
6.4	Photo log.....	19

## 1.0 INTRODUCTION

This document is the Washington State Department of Ecology's (Ecology) periodic review of post-cleanup site conditions and monitoring data to assure that human health and the environment are being protected at the Hilltop Apartments Development Site (Site). This is the second periodic review for this Site, and evaluates the period from 2013 through 2021. The Cleanup at this Site was implemented under the Model Toxics Control Act (MTCA), Chapter 173-340 of the Washington Administrative Code (WAC).

Cleanup activities at a portion of this Site were conducted through the Voluntary Cleanup Program. The cleanup actions resulted in residual concentrations of lead and arsenic that exceed MTCA Method A cleanup levels for soil established under WAC 173-340-740(2). As a result of residual contamination, institutional controls were required the Site to be eligible for a no further action (NFA) determination. A property-specific NFA determination was issued for the Site in 2008, and was updated in 2021 as a Site NFA. WAC 173-340-420(2) requires that Ecology conduct a periodic review of a site every five years under the following conditions:

- (a) Whenever the department conducts a cleanup action
- (b) Whenever the department approves a cleanup action under an order, agreed order or consent decree
- (c) Or, as resources permit, whenever the department issues a no further action opinion
- (d) And one of the following conditions exists:
  - 1. Institutional controls or financial assurance are required as part of the cleanup
  - 2. Where the cleanup level is based on a practical quantitation limit
  - 3. Where, in the department's judgment, modifications to the default equations or assumptions using site-specific information would significantly increase the concentration of hazardous substances remaining at the site after cleanup or the uncertainty in the ecological evaluation or the reliability of the cleanup action is such that additional review is necessary to assure long-term protection of human health and the environment.

When evaluating whether human health and the environment are being protected, the factors the department shall consider include [WAC 173-340-420(4)]:

- (a) The effectiveness of ongoing or completed cleanup actions;
- (b) New scientific information for individual hazardous substances or mixtures present at the Site;
- (c) New applicable state and federal laws for hazardous substances present at the Site;
- (d) Current and projected Site use;
- (e) Availability and practicability of higher preference technologies; and
- (f) The availability of improved analytical techniques to evaluate compliance with cleanup levels.

The department shall publish a notice of all periodic reviews in the Site Register and provide an opportunity for public comment.

## **2.0 SUMMARY OF SITE CONDITIONS**

### **2.1 Site History**

The Hilltop Apartments Site is located in the City of Wenatchee, Chelan County, Washington. The Site consists of multiple parcels located on the east side of South Mission Street, south of Crawford Street and north of Vista Street. A vicinity map is available as Appendix 6.1 and a Site plan is available as Appendix 6.2.

Though the Site was previously developed into an orchard, the Site was vacant, grass-covered land at the outset of development activities. A private residence with a detached garage is present at the center of the Site's western boundary. The residence is not part of the development and was not included in Site investigation and evaluation. The Site is limited to the area occupied by the Hilltop Apartment complex, and consists of the entirety of Chelan County Tax Parcel # 222014230100.

The Site is bordered to the west by South Mission Street with commercial and residential properties and Lincoln Park beyond. The Site is situated on a northeast-facing slope with elevation dropping approximately 30-feet from the Site's southwest corner to northeast corner. A storage unit complex is located to the east, and a new apartment complex has been constructed to the south.

### **2.2 Site Investigations**

In September 2003, Hammond Collier Wade Livingstone (HCWL) of Wenatchee, Washington, collected composite soil samples from five locations in the 0- to 10-inch below ground surface (bgs) soil horizon. Samples were submitted for total lead and arsenic analyses. Arsenic concentrations ranged from 30.9 to 109 parts per million (ppm) exceeding the MTCA Method A value of 20 ppm. Lead concentrations ranged from 189 to 1,090 ppm with four of the five analytical results exceeding the MTCA Method A value of 250 ppm.

In October 2005, HCWL completed a Phase I Environmental Site Assessment (ESA) for the Site. Historic Site use was identified as orchard, though the era and length of production was not specified. No evidence was reported in the Phase I ESA suggesting that historic chemical mixing or storage areas have existed onsite. The ESA concluded that lead and arsenic contaminated soils remain onsite along with miscellaneous "household-type" debris.

In April 2006, Fulcrum conducted an initial soil sampling event including sampling of surface soils, as well as sampling of soils at depth, with focus on specific areas of design concern, such as planned stormwater infiltration areas. Analytical parameters were expanded from HCWL's investigation to include organic pesticides and herbicides. Analytical results confirmed the presence of arsenic concentrations above applicable cleanup levels in soils at 2 feet bgs. Lead

was only identified in one sample above applicable cleanup levels. Other pesticides were detected at concentrations below MTCA cleanup levels.

### **2.3 Cleanup Levels and Point of Compliance**

WAC 173-340-704 states that MTCA Method A may be used to establish cleanup levels at sites that have few hazardous substances, are undergoing a routine cleanup action, and where numerical standards are available for all indicator hazardous substances in the media for which the Method A cleanup level is being used.

MTCA Method A cleanup levels for unrestricted land use were determined to be appropriate for contaminants at this Site. The cleanup actions conducted at the Site were determined to be 'routine', few hazardous substances were found at the Site, and numerical standards were available in the MTCA Method A table for each hazardous substance. The MTCA Method A cleanup levels for arsenic, lead and DDT are 20 ppm, 250 ppm and 1.0 ppm, respectively.

For soil, the point of compliance is the area where the soil cleanup levels must be attained. For this Site, the point of compliance is established as soils throughout the Site.

### **2.4 Remedial Actions**

The Site (referred to as the 'Property') was developed as an apartment complex. Pesticide contamination has not been addressed for two small areas along the entrance to the Site, but these areas are located on separate parcels and will be addressed if they are developed in the future. They are not considered part of the same Site. Remedial actions goals were accomplished on the apartment complex Property during Site construction activities. Due to property grading requirements, much of the material above MTCA Method A cleanup levels was relocated to the northern portion of the Property and used as fill beneath the parking area. Remaining native soil containing residual agricultural chemicals above the remedial threshold was covered with impermeable parking, sidewalk, or building footprint areas; or was capped with 6 inches of topsoil and an additional 2 to 3 inches of sod. In select locations landscaping fabric was covered with approximately 3 inches of gravel. Capping prevents inadvertent surface contact and windborne or mechanical (physical relocation) migration.

### **2.5 Institutional Controls**

Because contamination was capped on the Property at concentrations exceeding MTCA Method A Cleanup levels, institutional controls were required for the Property to be eligible for a NFA determination. Institutional controls in the form of a restrictive covenant were recorded for the property in August 2008 and a Property-specific NFA determination was issued in September 2008. It was determined that the cleanup addressed the entire Site, and a Site NFA was issued in 2021. The conditions of the restrictive covenant are available below:

- 
1. The Property contains arsenic, lead, and DDT concentrations in soil located under impermeable surfaces such as Building A and B and associated asphalt areas; or under sod and 6" of clean topsoil in permeable surface areas such as landscaped areas. The Owner shall not alter, modify, or remove the existing structure or clean top soil/sod harrier in any manner that may result in the release or exposure to the environment of soil containing arsenic, lead and DDT, or create a new exposure pathway without prior written approval from Ecology.

Any activity on the Property that may result in the release or exposure to the environment of the soil containing arsenic, lead, DDT, that was contained as part of the Remedial Action, or create a new exposure pathway, is prohibited. Some examples of activities that are prohibited on this site include: drilling, digging, placement of any objects or use of any equipment which deforms or stresses the surface beyond its load bearing capability, piercing the surface greater than 6" with a rod, spike, or similar item, bulldozing or earthwork.

2. Any activity on the Property that may interfere with the integrity of the Remedial Action and continued protection of human health and the environment is prohibited.
  3. Any activity on the Property that may result in the release or exposure to the environment of a hazardous substance that remains on the Property as part of the Remedial Action, or create a new exposure pathway, is prohibited without prior written approval from Ecology.
  4. The Owner of the property must give thirty (30) day advance written notice to Ecology of the Owner's intent to convey any interest in the Property. No conveyance of title easement, lease, or other interest in the Property shall be consummated by the Owner without adequate and complete provision for continued monitoring, operation, and maintenance of the Remedial Action
  5. The Owner must restrict leases to uses and activities consistent with the Restrictive Covenant and notify all lessees of the restrictions on the use of the Property. This provision shall not require notification of residents of individual beds or suites within the Property while being used essentially in its present fashion.
  6. The Owner must notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Restrictive Covenant. Ecology may approve any inconsistent use only after public notice and comment.
  7. The Owner shall allow authorized representatives of Ecology the right to enter the Property at reasonable times for the purpose of evaluating the Remedial Action; to take samples, to inspect remedial actions conducted at the property, and to inspect records that arc related to the Remedial Action
-

8. The Owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this Restrictive Covenant shall no longer limit use of the Property or be of any further force or effect. However, such an instrument may be recorded only if Ecology, after public notice and opportunity to comment finds it appropriate to do so.

A copy of the restrictive covenant is available as Appendix 6.3.

## **3.0 PERIODIC REVIEW**

### **3.1 Effectiveness of completed cleanup actions**

Clean soil, asphalt, and building structures continue to serve as a cap for the Property and eliminate the direct exposure pathways (ingestion, inhalation, direct contact) to contaminated soils. Based upon the Site visit conducted on February 2, 2021, no repair, maintenance or contingency actions have been required. A photo log is available as Appendix 6.3.

The restrictive covenant for the Property was recorded and remains active. There is no evidence that a new document has been recorded that limits the effectiveness or applicability of the covenant. The restrictive covenant prohibits activities that will result in the release of contaminants contained as part of the cleanup without Ecology's approval, and prohibits any use of the property that is inconsistent with the covenant. This restrictive covenant serves to assure the long term integrity of the cap.

Soils with arsenic, lead, and DDT concentrations higher than MTCA Method A cleanup levels are still present at the Site. However, the cap prevents human exposure to this contamination in the vicinity of the apartment complex. The Restrictive Covenant for the property will ensure that the integrity of the cap will be protected through maintaining the current use of the Property.

### **3.2 New scientific information for individual hazardous substances for mixtures present at the Site**

There is no new pertinent scientific information for the contaminants related to the Site.

### **3.3 New applicable state and federal laws for hazardous substances present at the Site**

The cleanup at the Site was governed by Chapter 173-340 WAC (1996 ed.). WAC 173-340-702(12)(c) [2001 ed.] provides that,

"A release cleaned up under the cleanup levels determined in (a) or (b) of this subsection shall not be subject to further cleanup action due solely to subsequent amendments to the provision in this chapter on cleanup levels, unless the department determines, on a case-by-case basis, that the previous cleanup action is no longer sufficiently protective of human health and the environment."

Contamination remains at the Site above MTCA Method A cleanup levels and the cleanup action is still protective of human health and the environment.



### **3.4 Current and projected Site use**

The Site has been developed for multi-family residential use. There is no indication that this land use will change in the foreseeable future.

### **3.5 Availability and practicability of higher preference technologies**

The remedy implemented included capping of hazardous substances, and it continues to be protective of human health and the environment. While higher preference cleanup technologies may be available, they are still not practicable at this Site.

### **3.6 Availability of improved analytical techniques to evaluate compliance with cleanup levels**

The analytical methods used at the time of the remedial action were capable of detection well below MTCA Method A cleanup levels. The presence of improved analytical techniques would not affect decisions or recommendations made for the Site.

## 4.0 CONCLUSIONS

- The cleanup actions completed at the Site remain protective of human health and the environment. A property-specific NFA determination was issued for the Site, but the Site is eligible for a full Site NFA. The portions of property identified in the remedial action report as not being cleaned up are not considered part of the Site and will be addressed if they are developed in the future.
- Soil cleanup levels have not been met at the Site; however, the cleanup action for the Property is determined to comply with cleanup standards under WAC 173-340-740(6)(f), since the long-term integrity of the containment system is ensured and the requirements for containment technologies have been met.
- The Restrictive Covenant for the Property is in place and will be effective in protecting public health and the environment from exposure to hazardous substances and protecting the integrity of the cleanup action.

Based on this periodic review, the Department of Ecology has determined that the requirements of the Restrictive Covenant are being followed. No additional remedial actions are required by the Property owner. It is the Property owner's responsibility to continue to inspect the Site to assure that the integrity of the cap is maintained.

## 5.0 REFERENCES

Fulcrum Environmental Consulting, Inc. *Hilltop Apartments Site Remedial Actions Summary*.  
September 2007.

Ecology. *Restrictive Covenant*. August 2008.

Ecology. *No Further Action Letter*. September 2008.

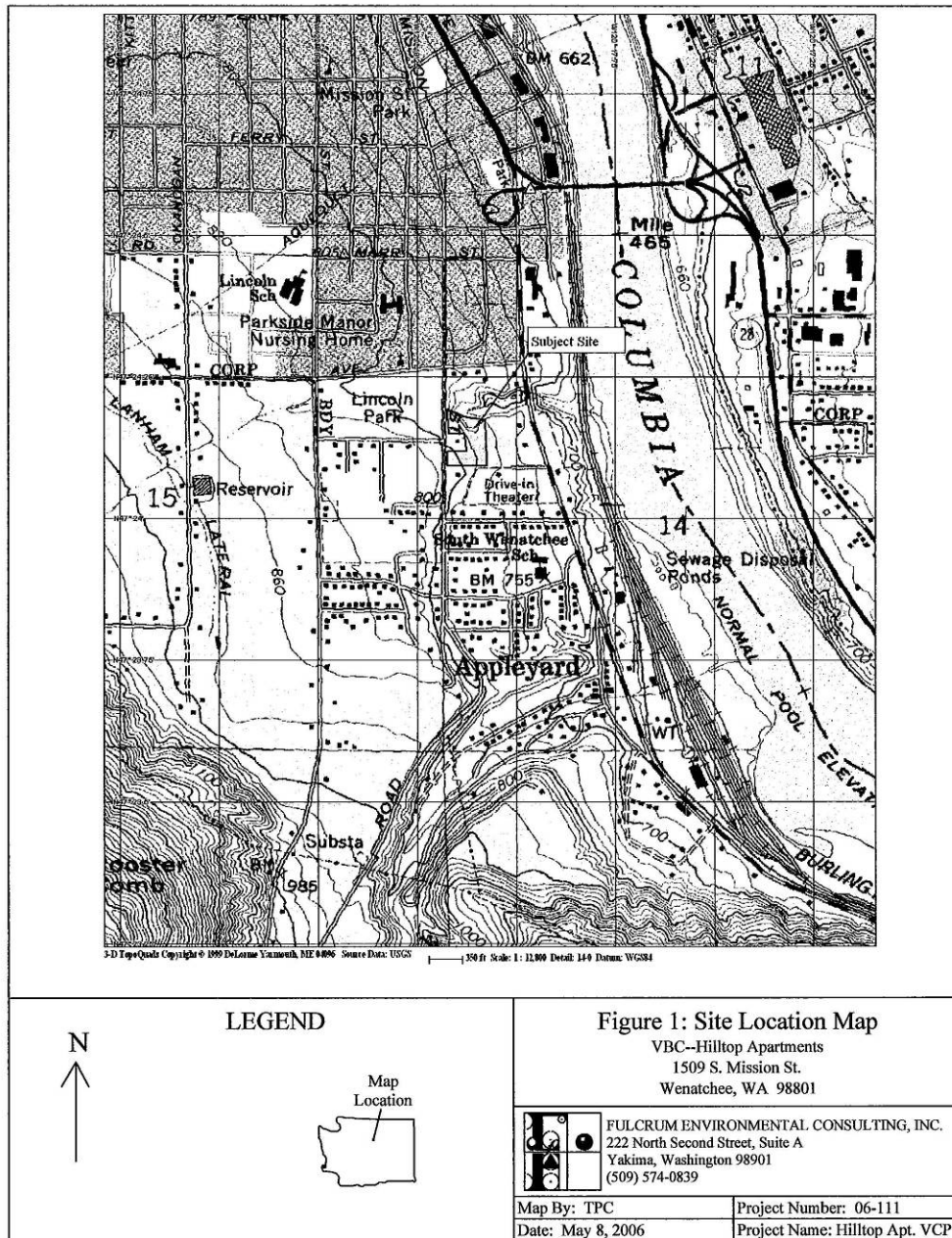
Ecology. *Periodic Review*. December 2013.

Ecology. *Site Visit*. February 2, 2021

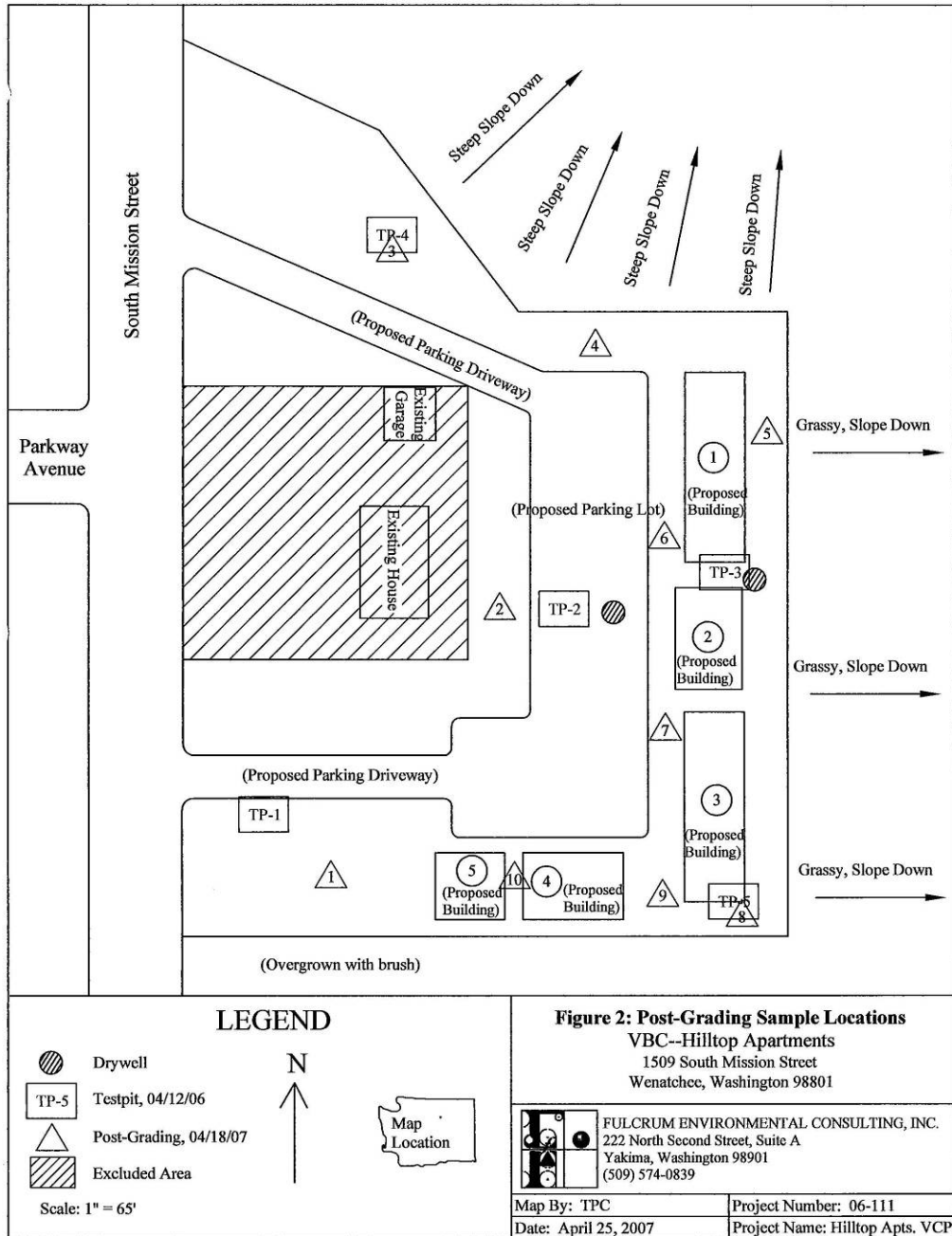
---

## **6.0 APPENDICIES**

## 6.1 Vicinity Map



## 6.2 Site Map



### 6.3 Environmental Covenant

Evelyn L. Arnold, Auditor, Chelan County, WA.  
AFN # **2287632** Recorded 08/08/2008 at 03:12 PM  
COVEN Page: 1 of 8 Filing Instrument \$47.00  
FIRST AMERICAN TITLE - WENATCHEE

After Recording Return to:

Jeff Newschwander

Department of Ecology, Central Region Office

15 West Yakima Avenue, Suite 200

Yakima, Washington, 98902

**RECEIVED**

AUG 22 2008

DEPARTMENT OF ECOLOGY - CENTRAL REGION OFFICE  
FIRST AMERICAN TITLE  
recorded this document as a  
customer courtesy & accepts  
no liability for validity

#### Restrictive (Environmental) Covenant

**Grantor:** VBC Hilltop Housing Limited Partnership

**Grantee:** State of Washington, Department of Ecology

**Legal:** Lot 1 of Hilltop Short Plat in Northwest Quarter of Section 14, Township 22 North,  
Range 20 E. W.M., Wenatchee, Chelan County, Washington.

**Tax Parcel No.:** 222014230100

**Cross Reference:** N/A

Grantor, **VBC Hilltop Housing Limited Partnership** hereby binds Grantor, its successors and assigns to the land use restrictions identified herein and grants such other rights under this environmental covenant ( hereafter "Covenant" ) made this **18th** day of **July**, 2008 in favor of the State of Washington Department of Ecology (Ecology). Ecology shall have full right of enforcement of the rights conveyed under this Covenant pursuant to the Model Toxics Control Act, RCW 70.105D.030(1)(g), and the Uniform Environmental Covenants Act, 2007 Washington Laws ch. 104, sec. 12.

This Declaration of Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by **VBC Hilltop Housing Limited Partnership**, its successors and assigns, and the State of Washington Department of Ecology, its successors and assigns (hereafter "Ecology").

A remedial action (hereafter "Remedial Action") occurred at the property that is the subject of this Covenant. The Remedial Action conducted at the property is described in the following document[s]:

*Hilltop Apartment Site Remedial Actions Summary*, dated September 17, 2007, prepared by Fulcrum Environmental Consulting, Inc.

These documents are on file at Department of Ecology's Central Region Office at **15 West Yakima Avenue, Suite 200, Yakima, Washington, 98902**

This Covenant is required because the Remedial Action resulted in residual concentrations of Lead and Arsenic which exceed the Model Toxics Control Act Method A cleanup level(s) for soils established under WAC 173-340-740.

The undersigned, **VBC Hilltop Housing Limited Partnership**, is the fee owner of real property (hereafter "Property") in the County of Chelan, State of Washington, which is subject to this Covenant. The Property is legally described as Lot 1 of Hilltop Short Plat in Northwest Quarter of Section 14, Township 22 North, Range 20 E. W.M., Wenatchee, Chelan County, Washington.

**VBC Hilltop Housing Limited Partnership** makes the following declaration as to limitations, restrictions, and uses to which the Property may be put and specifies that such declarations shall constitute covenants to run with the land, as provided by law and shall be binding on all parties and all persons claiming under them, including all current and future owners of any portion of, or interest in, the Property.

Section 1. The Property contains lead and arsenic contaminated soil located beneath impermeable surfaces; such as building foundations, parking and sidewalk areas, and permeable areas such as landscaped areas. The Owner shall not alter, modify, or remove the existing structure[s] in any manner that may result in the release or exposure to the environment of that contaminated soil or create a new exposure pathway without prior written approval from Ecology.



Any activity on the Property that may result in the release or exposure to the environment of the contaminated soil that was contained as part of the Remedial Action, or create a new exposure pathway, is prohibited. Some examples of activities that are prohibited in the capped areas include: drilling, digging; placement of any objects, or use of any equipment, which deforms or stresses the surface beyond its load bearing capability; piercing the surface with a rod, spike or similar item; bulldozing or earthwork.

Section 2. Any activity on the Property that may interfere with the integrity of the Remedial Action and continued protection of human health and the environment is prohibited.

Section 3. Any activity on the Property that may result in the release or exposure to the environment of a hazardous substance that remains on the Property as part of the Remedial Action, or create a new exposure pathway, is prohibited without prior written approval from Ecology.

Section 4. The Owner of the property must give thirty (30) days advance written notice to Ecology of the Owner's intent to convey any interest in the Property. No conveyance of title, easement, lease, or other interest in the Property shall be consummated by the Owner without adequate and complete provision for continued monitoring, operation, and maintenance of the Remedial Action.

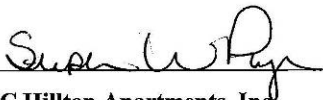
Section 5. The Owner must restrict leases to uses and activities consistent with the Covenant and notify all lessees of the restrictions on the use of the Property.

Section 6. The Owner must notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Covenant. Ecology may approve any inconsistent use only after public notice and comment.

Section 7. The Owner shall allow authorized representatives of Ecology the right to enter the Property at reasonable times for the purpose of evaluating the Remedial Action; to take samples, to inspect remedial actions conducted at the property, to determine compliance with this Covenant, and to inspect records that are related to the Remedial Action.

Section 8. The Owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this Covenant shall no longer limit use of the Property or be of any further force or effect. However, such an instrument may be recorded only if Ecology, after public notice and opportunity for comment, concurs.

VBC Hilltop Housing Limited Partnership

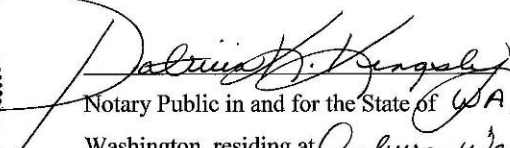
  
VBC Hilltop Apartments, Inc.  
Its General Partner  
By: Stephen W. Page  
President of General Partner

Dated: July 28, 2008

STATE OF Washington  
COUNTY OF Pierce

On this 28 day of July, 2008, I certify that Stephen W. Page  
personally appeared before me, acknowledged that he is the Pres. of GP of the  
corporation that executed the within and foregoing instrument, and signed said instrument by  
free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned,  
and on oath stating that he was authorized to execute said instrument for said corporation.



  
Notary Public in and for the State of WA  
Washington, residing at Auburn, Wa  
My appointment expires 12-15-2011.

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

  
**Don Abbott**  
**Section Manager**

Dated: Aug 4 2008

## 6.4 Photo log

**Photo 1: Landscaping at Front of Facility - from the west**



**Photo 2: Parking Area - from the south**





**Photo 3: Landscaping Area East of Apartments - from the south**



**Photo 4: Play Equipment - from northwest**

