



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

**CERTIFIED MAIL**

June 27, 2006

Ms. E. Patricia Vernon  
Manager, Environmental Affairs  
Fred Meyer Stores, Inc.  
3800 SE 22<sup>nd</sup> Avenue  
Portland, OR 97202

**Re: No Further Action Determination under WAC 173-340-515(5) for the following Hazardous Waste Site:**

- Name: Former Totem Pole Restaurant
- Address: 7720 NE Highway 99, Vancouver, WA
- Facility/Site No.: 21515785
- VCP No.: SW0188

Dear Ms. Vernon:

Thank you for submitting your independent remedial action report for the Former Totem Pole Restaurant (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. Site Investigation and Method B Evaluation, Former Totem Pole Restaurant, 7720 NE Highway 99, Vancouver, Washington, dated June 17, 1999 by Hahn and Associates, Inc.
2. Data Gap Investigation Report, Former Totem Pole Restaurant, 7720 NE Highway 99, Vancouver, Washington, dated October 12, 1999 by Hahn and Associates, Inc.
3. Data Package for February 2000 Site Characterization Activities, dated February 24, 2000 by Hahn and Associates, Inc.
4. Voluntary Cleanup Program, Remedial Action Summary Report, Former Service Station Facility—Hazel Dell, Vancouver, Washington, dated August 11, 2000 by GeoEngineers, Inc.
5. Monitoring Well Installation and Quarterly Groundwater Monitoring Report, March 2001, Former Service Station Facility, Vancouver, Washington, dated June 5, 2001 by GeoEngineers, Inc.
6. Quarterly Groundwater Monitoring Report, June 2001, Former Service Station Facility, Vancouver, Washington, dated October 22, 2001 by GeoEngineers, Inc.
7. Quarterly Groundwater Monitoring Report, September 2001, Former Service Station Facility, Vancouver, Washington, dated December 6, 2001 by GeoEngineers, Inc.
8. Quarterly Groundwater Monitoring Report, December 2001, Former Service Station Facility, Vancouver, Washington, dated May 7, 2002 by GeoEngineers, Inc.
9. Quarterly Groundwater Monitoring Report, March 2002, Former Service Station Facility, Vancouver, Washington, dated June 26, 2002 by GeoEngineers, Inc.
10. Monitoring Well Installation and Quarterly Groundwater Monitoring Report, June 2004, Fred Meyer, Hazel Dell, Vancouver, Washington, dated August 5, 2004 by GeoEngineers, Inc.
11. Monitoring Well Development and Quarterly Groundwater Monitoring Report, September 2004, Fred Meyer, Hazel Dell, Vancouver, Washington, dated December 1, 2004 by GeoEngineers, Inc.

Ms. E. Patricia Vernon  
June 27, 2006  
Page 3

12. Monitoring Well Replacement and Quarterly Groundwater Monitoring Report, April 2005, Fred Meyer, Hazel Dell, Vancouver, Washington, dated May 16, 2005 by GeoEngineers, Inc.
13. Quarterly Groundwater Monitoring Report, July 2005, Fred Meyer, Hazel Dell, Vancouver, Washington, dated August 5, 2005 by GeoEngineers, Inc.
14. Quarterly Groundwater Monitoring Report, October 2005, Fred Meyer, Hazel Dell, Vancouver, Washington, dated November 11, 2005 by GeoEngineers, Inc.
15. Quarterly Groundwater Monitoring Report, January 2006, Fred Meyer, Hazel Dell, Vancouver, Washington, dated January 20, 2006 by GeoEngineers, Inc.

The documents listed above will be kept in the Central Files of the Southwest Regional Office of Ecology (SWRO) for review by appointment only. Appointments can be made by calling the SWRO resource contact at (360) 407-6365.

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

- Documented release of gasoline-range petroleum hydrocarbons (TPH-G) and benzene, toluene, ethylbenzene, and xylene (BTEX) compounds in soil;
- Documented release of TPH-G, BTEX compounds, and lead in groundwater.

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) conducted at the Site are 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 the contamination at the Site.** Therefore, pursuant to WAC 173-340-515(5), Ecology is issuing this opinion that **no further remedial action is necessary at the Site under MTCA.**

Based on this no further action determination, Ecology will update the status of the Site on its site database and remove the Site from the Confirmed and Suspected Contaminated Sites List and the Leaking Underground Storage Tank (LUST) List.

A copy of the Restrictive Covenant filed for this Site is enclosed with this letter as Enclosure B.



Ms. E. Patricia Vernon  
June 27, 2006  
Page 4

As a result of this no further action determination, pursuant to WAC 173-340-440(12), a request may be submitted to Ecology for elimination of the Restrictive Covenant on soil and groundwater.

This no further action determination does not apply to any other release(s) or potential release(s) of contaminant(s) that may impact any other portion of any property impacted by this Site, or any other property owned or operated by Fred Meyer Stores, Inc.

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 and further remedial action may be required at the Site.

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 successfully completing cleanup under the Voluntary Cleanup Program (VCP). If you have any questions regarding this opinion, please contact me at (360) 407-6347.

Sincerely,



Scott Rose  
SWRO Toxics Cleanup Program

SR/ksc:Totem Pole Restaurant NFA

Enclosures: A: Site Summary, Current Site Diagram, Historical Site Diagram, Locations of Previous Explorations Diagram, Remedial Excavation Limits Diagram  
B: Restrictive Covenant  
C: Previous Opinion Letters

Cc: Sean Ragain, GeoEngineers, Inc.  
Paul Turner, Ecology  
Bob Warren, Ecology  
Chuck Cline, Ecology  
Trish Akana, Ecology (SW0188)

## Enclosure A

### Site Description

The Former Totem Pole Restaurant site is located at 7720 NE Highway 99 in Vancouver, Clark County, Washington (WA). The area surrounding the site is predominantly commercial. The 0.75-acre site is currently occupied by a commercial building, the tenants of which include a framing store, a cellular phone store, a coffee shop, and a private business. The site is bounded to the east by Highway 99, to the north by NE 78<sup>th</sup> Street, to the west by Interstate 5, and to the south by a Fred Meyer store.

Sometime between the 1930s and the 1960s, an automotive service station occupied the northeast portion of the site. A geophysical survey conducted on site in 1999 indicated the presence of two anomalies. Subsequent test pitting activities identified a former fuel dispenser island and product piping; however, no underground storage tanks (USTs) were identified. The consultant concluded that any former USTs had likely already been removed.

Soils encountered beneath the site consisted of fine- and medium-grained sands to the maximum depth of exploration at 20 feet below ground surface (bgs). Groundwater was encountered between 10 and 12.5 feet bgs. Based on data collected from monitoring wells on site and from an adjacent site to the southwest, shallow groundwater flow beneath the site is to the west-southwest.

### Soil and Groundwater Contamination

In April 1999, three soil samples were collected from the test pit where the former fuel dispenser island and product piping were discovered. The samples were analyzed for hydrocarbon identification (HCID) by Ecology Method NWTPH-HCID, with follow-up analyses on selected samples for gasoline-range petroleum hydrocarbons (TPH-G) by Ecology Method NWTPH-Gx, and for diesel- and oil-range petroleum hydrocarbons (TPH-D and TPH-O) by Ecology Method NWTPH-Dx.

Analytical results of the sample collected from the southeast sidewall at 1.5 feet bgs indicated the presence of TPH-G at 1,030 milligrams per kilogram (mg/kg) and TPH-O at 202 mg/kg. A sample collected from the floor of the excavation at 8 feet bgs contained TPH-G at 4,880 mg/kg. These concentrations exceeded the Model Toxics Control Act (MTCA) Method A cleanup levels of 100 mg/kg for TPH-G and 200 mg/kg for TPH-O that were in place at the time of sampling. The current cleanup level for TPH-O is 2,000 mg/kg.

Also in April 1999, following test pit excavation activities, 12 soil borings (B-1 through B-12) were advanced on site throughout the area of the former service station. Boring B-5 was advanced in the area of the former fuel dispenser island, while the remaining borings were advanced north, south, and west of that area. The borings were advanced to depths of approximately 16 to 20 feet bgs. A total of 19 soil samples were collected from the borings and analyzed for TPH-G by Ecology Method NWTPH-Gx and for benzene, toluene, ethylbenzene, and xylene (BTEX) compounds by EPA Method 8020M. Four of the samples were also analyzed for TPH-D and TPH-O by Ecology Method NWTPH-Dx, and one sample was analyzed for total lead by EPA Method 6010.

Analytical results indicated concentrations of TPH-G ranging in excess of MTCA Method A cleanup levels in borings B-2 through B-6, and B-12. Concentrations of TPH-G ranged from 138 mg/kg in B-6 to 5,580 mg/kg in B-5. Toluene, ethylbenzene, and xylenes were detected in B-5 and B-2 at concentrations in excess of their respective current MTCA Method A cleanup levels of 7 mg/kg, 6 mg/kg, and 9 mg/kg. Concentrations of toluene ranged from 15.4 mg/kg to 32.4 mg/kg; ethylbenzene ranged from 7.48 mg/kg to 36.1 mg/kg; and xylenes ranged from 13.2 mg/kg to 93.7 mg/kg. No other contaminants were detected above MTCA Method A cleanup levels.

Groundwater samples were collected from temporary well points installed in borings B-1, and B-7 through B-10, and analyzed for BTEX compounds, naphthalene, and methyl tert-butyl ether (MTBE) by EPA Method 8020M, TPH-G by Ecology Method NWTPH-Gx, and total and/or dissolved lead by EPA Method 6010. Analytical results indicated the presence of lead above the current MTCA Method A cleanup level of 15 micrograms per liter ( $\mu\text{g/L}$ ). Total lead was detected in B-8 (93  $\mu\text{g/L}$ ) and B-10 (35  $\mu\text{g/L}$ ). No other contaminants were detected above MTCA Method A cleanup levels.

In September 1999, two additional soil borings (B-13 and B-14) were advanced approximately 25 feet south-southwest and 30 feet west, respectively, of boring B-5. One soil sample collected from 11.5 feet bgs in B-14 was selected for laboratory analysis for TPH-G by Ecology Method NWTPH-Gx. Groundwater samples were also collected from temporary well points in each of the borings and analyzed for BTEX compounds, naphthalene, and MTBE by EPA Method 8020M, TPH-G by Ecology Method NWTPH-Gx, and total and/or dissolved lead by EPA Method 6010.

Analytical results of the soil sample indicated the presence of TPH-G at 6,280 mg/kg. Analytical results of the groundwater samples indicated elevated concentrations of TPH-G (28,400  $\mu\text{g/L}$ ) and xylenes (2,280  $\mu\text{g/L}$ ) in B-14 in excess of their respective current MTCA Method A cleanup levels of 1,000  $\mu\text{g/L}$ . No other contaminants were detected above current MTCA Method A cleanup levels.

In February 2000, six additional soil borings (B-15 through B-20) were advanced on site and three monitoring wells were installed (MW-1 through MW-3). Soil samples collected from the soil boring and monitoring well locations were submitted for laboratory analysis for TPH-G by Ecology Method NWTPH-Gx and for BTEX compounds by EPA Method 8020M. Analytical results indicated concentrations of TPH-G above MTCA Method A cleanup levels at B-18, B-19, B-20, MW-2, and MW-3. Concentrations of TPH-G ranged from 703 mg/kg to 8,770 mg/kg. Benzene was detected in B-20 at 10 feet bgs at 3.79 mg/kg, which exceeds its MTCA Method A cleanup level of 0.03 mg/kg. Concentrations of toluene, ethylbenzene, and xylenes were also detected in excess of MTCA Method A cleanup levels.

Groundwater samples collected from the monitoring wells were analyzed for TPH-G by Ecology Method NWTPH-Gx, volatile organic compounds (VOCs), including naphthalene, MTBE, 1,2-dichloroethane (EDC), and ethylene dibromide (EDB), by EPA Method 8260, and for total and dissolved lead by EPA Method 6010. Analytical results indicated concentrations of TPH-G, benzene, xylenes, and total lead in excess of their respective MTCA Method A cleanup levels of 800  $\mu\text{g/L}$ , 5  $\mu\text{g/L}$ , 1,000  $\mu\text{g/L}$ , and 15  $\mu\text{g/L}$ . Concentrations of TPH-G ranged from 5,260  $\mu\text{g/L}$  to 13,700  $\mu\text{g/L}$ ; benzene ranged from 12.8  $\mu\text{g/L}$  to 135  $\mu\text{g/L}$ ; xylenes ranged from 1,328  $\mu\text{g/L}$  to 1,402  $\mu\text{g/L}$ ; and total lead ranged from 15.1  $\mu\text{g/L}$  to 44.9  $\mu\text{g/L}$ .



Monitoring wells MW-1 through MW-3 were removed from the site during June 2000 soil excavation activities. The three wells were replaced in March 2001, and were sampled on a quarterly basis until March 2002. The samples collected during the monitoring events were analyzed for TPH-G by Ecology Method NWTPH-Gx, BTEX compounds by EPA Method 8021B, naphthalene by EPA Method 8260B, and dissolved lead by EPA Method 7420/6010. A steady decrease in contaminant concentration to non-detect was noted for all contaminants, except for TPH-G. As a result, in July 2002, Ecology agreed that TPH-G was the only remaining contaminant of concern and that final site compliance would be achieved when four consecutive quarters of groundwater monitoring indicate TPH-G concentrations below the MTCA Method A cleanup level of 800 µg/L.

In June 2004, a fourth monitoring well (MW-4) was installed on site and quarterly groundwater monitoring resumed until January 2006. In April 2005, MW-3 was believed to be damaged and it was replaced with a new well (MW-3a) installed in approximately the same location. The analytical results of groundwater monitoring in January 2006 indicated the fourth consecutive quarter that concentrations of TPH-G in groundwater had decreased to below the MTCA Method A cleanup level of 800 µg/L.

### **Cleanup Activities To Date**

In June 2000, an estimated 2,020 tons of petroleum contaminated soil was excavated from the site and transported off site for disposal at either Hawks Prairie Waste & Recovery in Olympia, WA or at Rabanco Regional Disposal Company in Roosevelt, WA. A total of 35 confirmational soil samples (SS-1 through SS-35) were collected during excavation activities. Six of these locations were subsequently excavated. Of the 35 samples collected, 29 samples were collected from the floor and sidewalls of the final limits of the excavation, and 21 of these 29 samples were submitted for laboratory analysis for TPH-G by Ecology Method NWTPH-Gx and BTEX compounds by EPA Method 8021B. Ten of the 21 samples analyzed indicated concentrations of TPH-G and/or BTEX compounds above MTCA Method A cleanup levels. Residual concentrations of TPH-G ranged from 82 mg/kg to 2,960 mg/kg; benzene ranged from 1.25 mg/kg to 2.04 mg/kg; ethylbenzene ranged from 6.65 mg/kg to 16.6 mg/kg; and xylenes ranged from 9.38 mg/kg to 24.4 mg/kg.

One of these 10 samples (SS-30) was further evaluated using Ecology Interim Total Petroleum Hydrocarbon (TPH) Policy analytical methods, consisting of volatile petroleum hydrocarbon (VPH) and extractable petroleum hydrocarbon (EPH) analyses. Based on the analytical results, a MTCA Method B cleanup level of 3,333 mg/kg for TPH was calculated for the site. This site-specific cleanup level was based on a residential direct contact exposure scenario, the reference dose values, and the total aliphatic and aromatic hydrocarbons detected in sample SS-30, which is representative of the residual petroleum contamination present at the site.

A total of approximately 17,000 gallons of groundwater was pumped from the excavation during remedial activities and discharged under permit to a manhole associated with the Hazel Dell Sewer District.

A passive bio-venting system was installed during backfilling activities along the north and east sidewalls of the excavation. The system includes slotted horizontal piping consisting of 2-inch diameter, Schedule

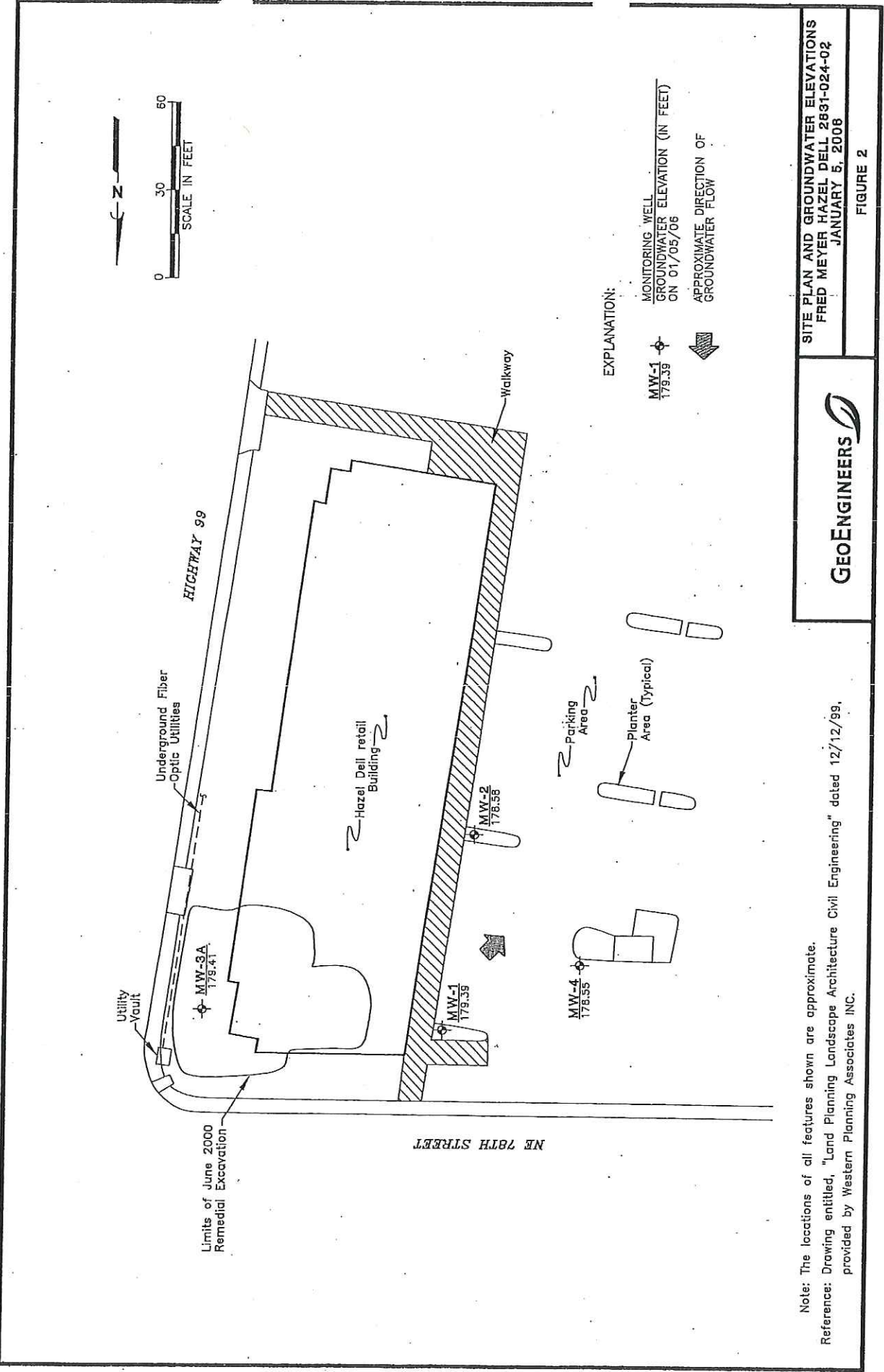
40 polyvinyl chloride (PVC). The slotted horizontal piping was installed approximately 4.5 feet bgs and is connected to two 2-inch risers that extend above the ground surface. The risers are temporarily sealed. Future use of the bio-venting system was to be evaluated pending the evaluation of groundwater monitoring results. Available file information does not indicate that the bio-venting system was ever used.

### **Restrictive Covenant**

On October 10, 2000, a Restrictive Covenant was issued to the site owner, Fred Meyer. The following restrictions were imposed on the site as part of the restrictive covenant:

1. The property contains petroleum-contaminated soil and groundwater. No soil or groundwater may be taken for any use whatsoever from the property, except as needed for sample collection and analysis or as provided in Section 2 below.
2. Any activity on the property that may result in a release or exposure to the environment of petroleum-contaminated soil or groundwater, or that may create a new pathway for exposure to petroleum-contaminated soil or groundwater, is prohibited without written approval from Ecology. Ecology may provide its written approval only after public notice and comment. Construction activities (including excavation and removal of soil) outside areas of petroleum contaminated soil and above the seasonal high groundwater level do not require written approval from Ecology.
3. 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.
4. 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 collect samples, to inspect remedial actions conducted at the property, and to inspect records that are related to the remedial action.
5. The owner of the property reserves the right to record an instrument that provides that the restrictive covenant shall no longer limit the 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.



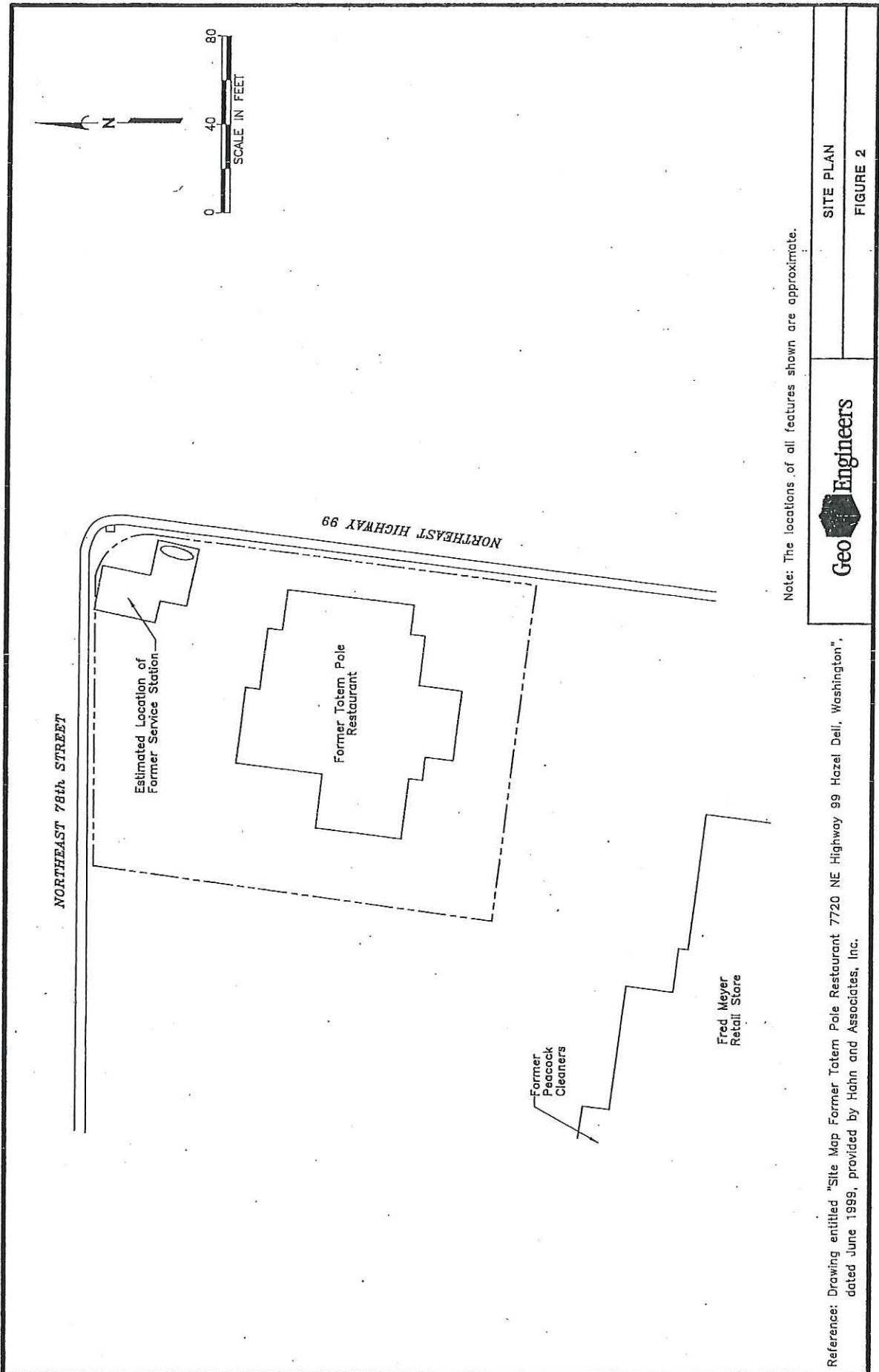


Note: The locations of all features shown are approximate.  
 Reference: Drawing entitled, "Land Planning Landscape Architecture Civil Engineering" dated 12/12/99, provided by Western Planning Associates INC.



**SITE PLAN AND GROUNDWATER ELEVATIONS**  
**FRED MEYER HAZEL DELL 2691-024-02**  
 JANUARY 5, 2006

FIGURE 2

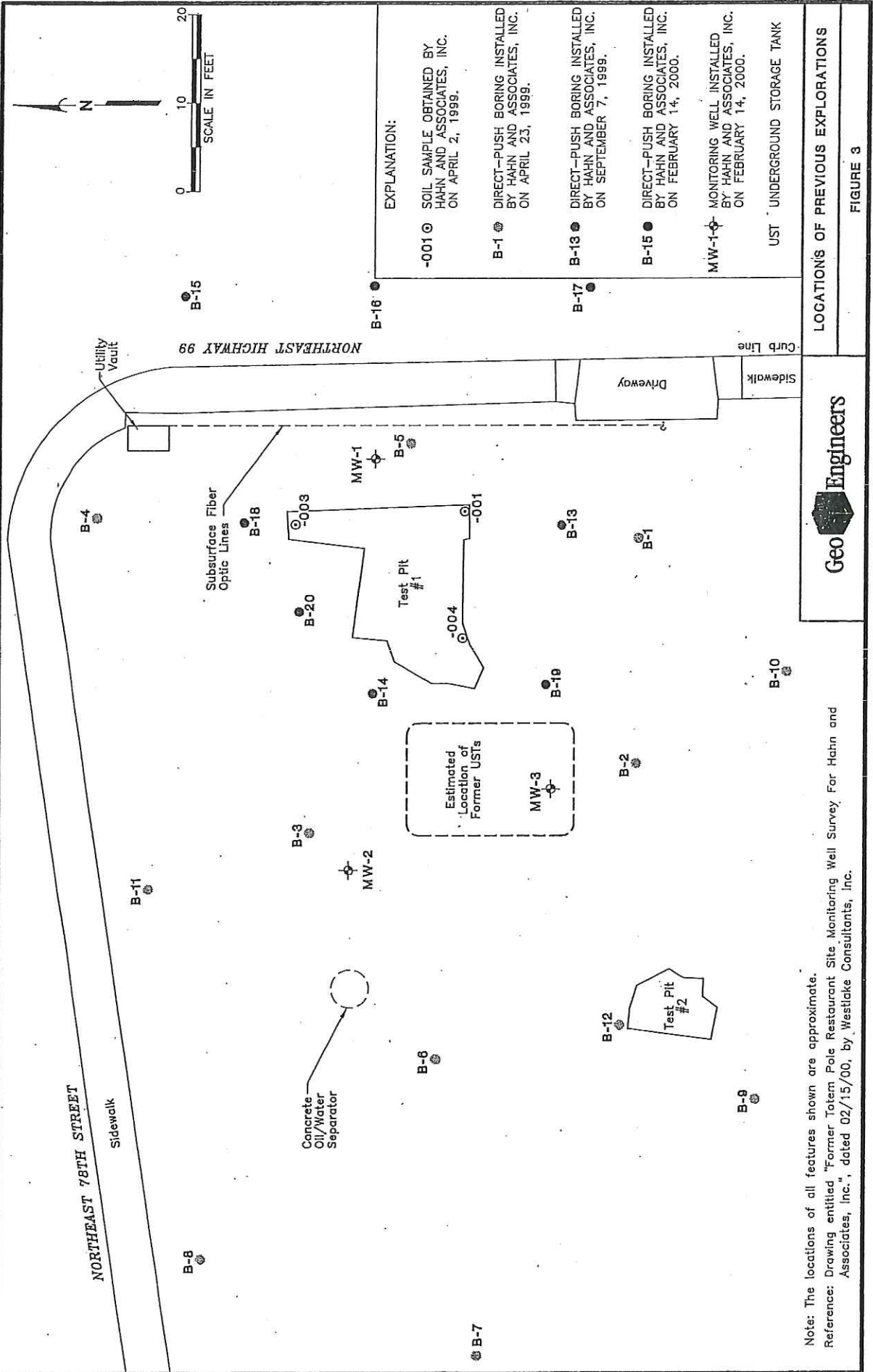


Note: The locations of all features shown are approximate.

SITE PLAN  
FIGURE 2



Reference: Drawing entitled "Site Map Former Totem Pole Restaurant 7720 NE Highway 99 Hazel Dell, Washington", dated June 1999, provided by Hahn and Associates, Inc.



Note: The locations of all features shown are approximate.  
 Reference: Drawing entitled "Former Totem Pole Restaurant Site Monitoring Well Survey For Hahn and Associates, Inc.", dated 02/15/00, by Westlake Consultants, Inc.

FIGURE 3



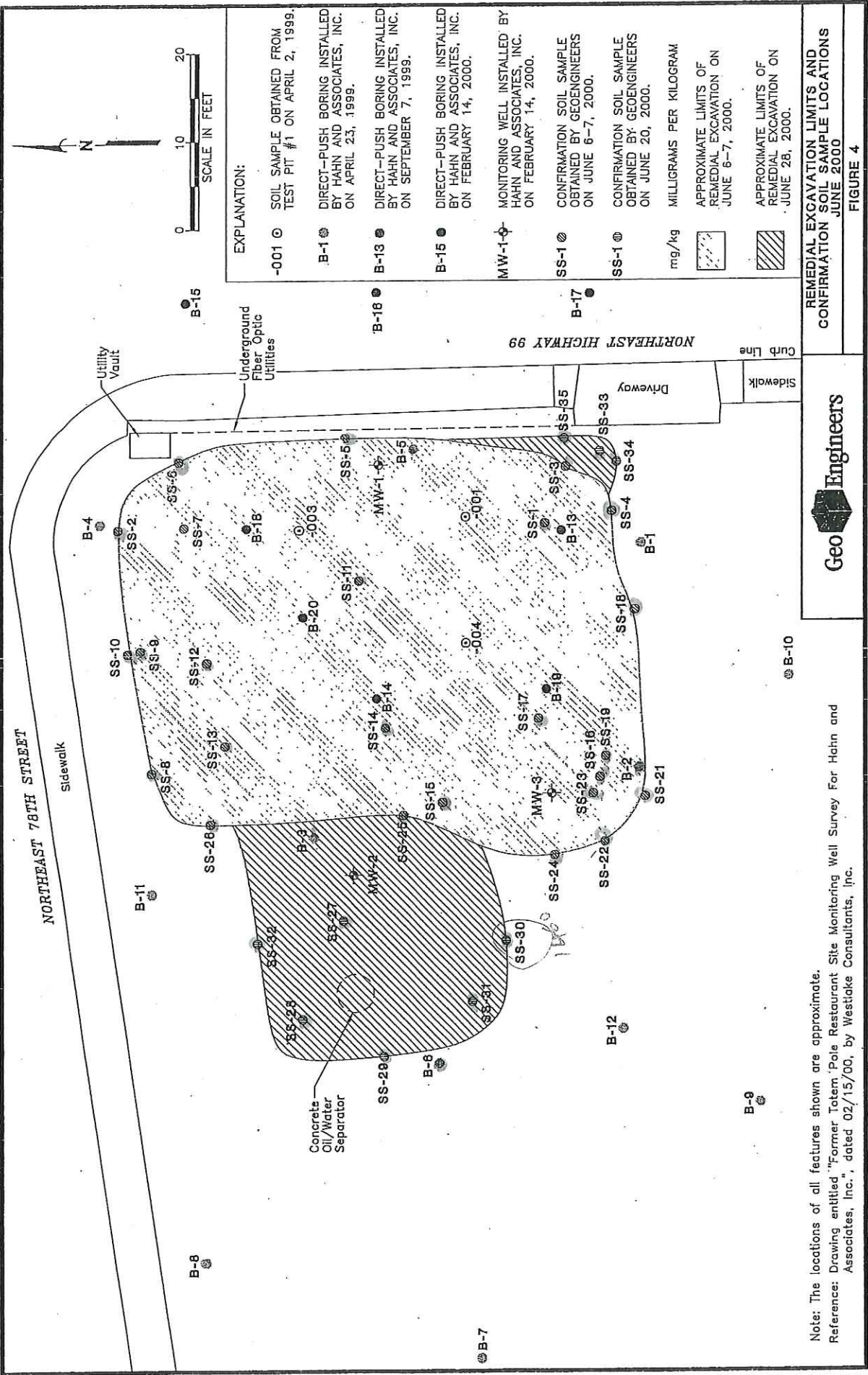


FIGURE 4

Note: The locations of all features shown are approximate.  
 Reference: Drawing entitled "Former Totem Pole Restaurant Site Monitoring Well Survey For Hahn and Associates, Inc.", dated 02/15/00, by Westlake Consultants, Inc.

Ms. E. Patricia Vernon  
June 27, 2006  
Page 9

**Enclosure B**

**Restrictive Covenant**

Ms. E. Patricia Vernon  
June 27, 2006  
Page 9

**Enclosure B**  
**Restrictive Covenant**





3259370

Page: 1 of 7  
10/12/2000 11:18A  
Clark County, WA

2

7

Recording requested  
By and after recording  
Return to:  
Pat Vernon  
Fred Meyer, Inc.  
P.O. Box 42121  
Portland, Oregon 97242

*M-9036*

(Space above this line for Recorder's use)

**DECLARATION OF RESTRICTIVE COVENANT**  
**(Hazel Dell, Washington)**

**Grantor:**

1. ROUNDUP CO., a Washington corporation

**Grantee:**

1. ROUNDUP CO., a Washington corporation

**Legal Description:**

1. Short Legal Description: SECTION 10, T2N, R1E, WM, CLARK COUNTY, WASHINGTON
2. Complete legal description is on Exhibit A of the document

**Assessor's Property Tax Account Number(s): 147997-000 AND 148041-000**



DECLARATION OF RESTRICTIVE COVENANT  
(Hazel Dell, Washington)

This Declaration of Restrictive Covenant ("Declaration") dated as of October 10, 2000, is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by Roundup Co., a Washington corporation doing business in the state of Washington as Fred Meyer, ("Fred Meyer") its successors and assigns.

RECITALS

1. Fred Meyer is the fee owner of property located in the city of Vancouver, Clark County, Washington that is more specifically described on the attached Exhibit A ("Property").
2. An independent remedial action ("Remedial Action") occurred at the Property that is the subject of this Declaration. The Remedial Action conducted at the Property is described in the following documents:
  - a. "Site Investigation and Method B Evaluation" (June 17, 1999), by Hahn and Associates, Inc.
  - b. "Data Gap Investigation Report (October 12, 1999), by Hahn and Associates, Inc.
  - c. "Data Package for February 2000 Site Characterization Activities" (February 24, 2000), by Hahn and Associates, Inc.
  - d. "Voluntary Cleanup Program Remedial Action Summary Report" (August 11, 2000), by GeoEngineers, Inc.
  - e. "Responses to August 30, 2000 Opinion Letter from Ecology" (September 7, 2000), by GeoEngineers, Inc. ("Ecology" as referenced therein is the State of Washington Department of Ecology).

3. The above named reports are on file at Ecology's Southwest Regional Office.
4. This Declaration is required because the Remedial Action resulted in residual concentrations remaining at the site that exceed the Model Toxics Control Act Method A Cleanup Levels. Cleanup levels were exceeded for Total Petroleum Hydrocarbon for Gasoline (TPH-G) benzene, toluene, ethylbenzene, and total xylenes in groundwater (established under WAC 173-340-720) and TPH-G, benzene and total xylenes in soil (established under WAC 173-340-740).

### DECLARATION OF COVENANTS

Fred Meyer hereby makes the following declarations as to limitations, restrictions, and uses on or under the Property. This Declaration specifies that such declarations shall constitute covenants to run with the land, as provided by law. These covenants shall be binding on all parties and all persons claiming under them, including all current and future owners of any portion or interest in the Property (hereinafter referred to as an "Owner").

1. The Property contains petroleum-contaminated soil and groundwater. No soil or groundwater may be taken for any use whatsoever from the Property, except as need for sample collection and analysis or as provided in Section 2 below.
2. Any activity on the Property that may result in the release or exposure to the environment of petroleum-contaminated soil or groundwater, or that may create a new pathway for exposure to petroleum-contaminated soil or groundwater, is prohibited without written approval from Ecology. Ecology may provide its written approval only after public notice and comment. Construction activities (including excavation and removal of soil) outside areas of petroleum-contaminated soil and above the seasonal high groundwater level, do not require written approval from Ecology.





3259370

Page: 4 of 7  
10/12/2000 11:15a  
Clark County, WA

3. Owner must restrict leases to uses and activities consistent with this Declaration and notify all lessees of the Declaration and resultant restrictions on the use of the Property.
4. Owner shall allow authorized representatives of Ecology the right to enter the Property at reasonable times for the purpose of evaluating the Remedial Action, for the following purposes: to take samples, to inspect Remedial Actions conducted at the Property, and to inspect records that are related to the Remedial Action.
5. Owner reserves the right under WAC 173-340-440 to record an instrument that provides that this Declaration shall no longer limit use of the Property or be of any further force or effect. Such instrument may be recorded only if and when Ecology, after public notice and opportunity for comment, concurs in the release of the Property from this Declaration.

IN WITNESS WHEREOF, this Declaration was signed to be effective on the date first above written.

ROUNDUP CO., a Washington corporation

Robert T. Currey-Wilson, Vice President



ACKNOWLEDGMENT

STATE OF OREGON                    )  
  ) ss.  
COUNTY OF MULTNOMAH         )

On this 10<sup>th</sup> day of October, 2000, before me, the undersigned, a Notary Public in and for the State of Oregon, duly commissioned and sworn, personally appeared ROBERT T. CURREY-WILSON to me known to be the person who signed on behalf of ROUNDUP CO., the Washington corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned; and on oath stated that he or she was duly elected, qualified and acting as said officer of the corporation and was authorized to execute said instrument on behalf of the corporation, that the seal affixed, if any, is the corporate seal of the corporation.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first above written.

Maureen Flanagan  
NOTARY PUBLIC in and for the State of  
Oregon, residing at Portland, Oregon  
My Appointment Expires: July 7, 2001



Legal Description  
(Hazel Dell, Washington)

PARCEL I

The Easterly 180 feet of the following described real property:

That portion of the Northeast quarter in section 10, Township 2 North, Range 1 East of the Willamette Meridian, Clark County, Washington, described as follows:

BEGINNING at the intersection of the West line of Highway 99 with the South line of NE 78<sup>th</sup> Street; thence South 8° 32' West along the West line of said Highway 101.12 feet; to the Northeast corner of the first tract of land described in the deed to Vanoak Corporation, an Oregon corporation, by deed recorded November 8, 1962, under Auditor's File No. G 344575, thence West along the North line of the Vanoak Corporation Tract to the West line of the tract of land conveyed to Delima B. Curtis, et ux, by deed recorded August 26, 1927, under Auditor's File No. C 50358 in Book 184, page 115, records of said County; thence Northerly along said West line to the south line of NE 78<sup>th</sup> Street; thence Easterly along said South line to the Point of Beginning.

EXCEPT that portion conveyed to Clark County, Washington, under Auditor's File No. 8506280145.

ALSO EXCEPT that portion conveyed to Clark County, Washington, under Auditor's File No. 8707100002,

TOGETHER WITH an easement for a nonexclusive right-of-way and access over and across a 40 foot strip of land lying immediately West of and adjacent to the above described property.

PARCEL II

BEGINNING at the intersection of the West line of the Pacific Highway, now known as NE Highway 99, with the South line of the county road running along the North line of Lot 1 of Section 10, Township 2 North, Range 1 East of the Willamette Meridian, and running thence South 8° 32' West, along the West line of said highway, 101.12 feet to the True Place of Beginning of the tract herein described; and running thence South 8° 32' West, along the West line of said highway, to the Northeast corner of that certain tract conveyed to John Struchen et ux by deed recorded in Book 201, at page 452, Clark County Deed Records, thence West along the North line of said Struchen tract, 261 feet, more or less, to the Northwest corner thereof; thence Northwesterly along the West line of that certain tract conveyed to Delima B.





FIRST AMERICAN TITLE

CCR

14.00

Curtis et vir by deed recorded in Bood 184, at page 115, Clark County Deed Records, to its intersection with a line, parallel to the North line of said Lot 1 passing through the Place of Beginning; and thence East to the Place of Beginning.

EXCEPT that portion described as follows:

BEGINNING at a point that is South 89° 05' West 71.35 feet and South 5° 59' 15" West 284.33 feet from the Northeast corner of said Section 10, said point of beginning also being on the Westerly line of NE Highway 99, and thence continuing South 5° 59' 15" West 823.54 feet to the Northeast corner of the Alexander Tracts, a duly recorded plat; thence South 88° 17' West along the North line of said subdivision 311.81 feet to the East line of Primary State Highway No. 1; thence North 3° 48' East along said Highway, 1047.94 feet; thence North 88° 27' 15" East 11.10 feet; thence South 12° 42' 15" East 76.72 feet, thence North 89° 05' East 134.36 feet, thence South 5° 59' 15" West 126.76 feet and thence South 84° 00' 45" East 180.0 feet to the Point of Beginning.

TOGETHER WITH an easement for a nonexclusive right-of-way and access over and across a 40 foot strip of land lying immediately West of and adjacent to the above described property.