



file room

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

P.O. Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

April 28, 1999

Mr. Thomas J. Lusardi
Corporate Health, Safety & Environment
Clorox Services Co.
1319 Perryman Road
Aberdeen, MD 21001-4026

Dear Mr. Lusardi:

Thank you for submitting the results of your independent remedial action for review by the Washington State Department of Ecology (Ecology). Ecology appreciates your initiative in pursuing this administrative option under the Model Toxics Control Act (MTCA).

Ecology's Toxics Cleanup Program has reviewed the following information regarding the soils remediation activities at the Building 10, solvent-impacted area, Lakewood Industrial Park, located at 9314-47th Avenue SW, Lakewood, Washington 98499:

- ✓ Hart Crowser, Inc., Recommended Soil and Water Management Plan, MTCA Remedial Action, Former Xytec Site, Tacoma, Washington, September 26, 1997.
- Hart Crowser, Inc., "Data Package, Hart Crowser J-4689", transmitted June 3, 1997.
- ✓ Hart Crowser, Inc., Remediation System Startup and First Quarterly Report, Building 10, Lakewood Industrial Park, Tacoma, Washington, March 3, 1998.
- ✓ Hart Crowser, Inc., Xytec Site Closure Plan, Building 10, Lakewood Industrial Park, Tacoma, Washington, August 19, 1998.
- ✓ Hart Crowser, Inc., Xytec Final Groundwater Monitoring Report, Building 10, Lakewood Industrial Park, Tacoma, Washington, January 6, 1999.

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

Based upon the above listed information, Ecology has determined that, at this time, the release of chlorinated hydrocarbons into the soil and the ground water no longer poses a threat to human health or the environment. Therefore, Ecology is issuing this determination that no further remedial action is necessary at this site under MTCA, Chapter 70.105D RCW. However, please note that because your actions were not conducted under a consent decree with Ecology, this letter is written pursuant to RCW 70.105D.030(1)(i) and does not constitute a settlement by the state under RCW 70.105D.040(4) and is not binding on Ecology.

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Ecology's no further action determination is contingent upon filing the Restrictive Covenant, enclosed, with the Pierce County auditor's office within two weeks of the date of this letter. No later than thirty (30) days from the date the Restrictive Covenant is recorded, you must send a notarized copy of the recorded Restrictive Covenant to Ecology. Ecology's no further action determination automatically terminates and will have no force and effect if you fail to record this Restrictive Covenant or violate any portions of the Restrictive Covenant. WAC 173-340-440(6) requires you to notify and seek comment from a city or county department with land-use planning authority for real property subject to the Restrictive Covenant.

Ecology's no further action determination is made only with respect to the releases identified in the reports listed above and applies only to the area of the property affected by the releases at the Lakewood Industrial Park, Building 10 facility, located at 9314-47th Avenue S.W., Lakewood, Washington as identified in the reports. It does not apply to any other release or potential release at the property, any other areas on the property, nor any other properties owned or operated by Clorox Products Manufacturing Company.

Ecology will update its databases and your site will not appear in future publications of the Confirmed and Suspected Contaminated Sites Report (previously known as the Affected Media and Contaminants Report). The thirty-day public comment period has ended and your site has been removed from the Hazardous Sites List.

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 determination.

If you have any questions about any of the information presented in this letter, please contact me at (360) 407-6267.

Sincerely,



Charles S. Cline
Toxics Cleanup Program
Southwest Regional Office

CSC:td
Enclosure

cc: Lynn Tadlock Manolopoulos, Davis Wright Tremaine, LLP
Lori Herman, Hart Crowser, Inc.

DECLARATION OF RESTRICTIVE COVENANTS

Northwest Building Corporation
Xytec Site — Building 10
Lakewood-Tacoma Industrial Park

The property that is the subject of this Restrictive Covenant is the north side of Building 10 of the Lakewood/Tacoma Industrial Park, located in Lakewood, Washington (hereinafter referred to as "Building 10"). (This site is also referred to as the "Xytec Plastics" site on the W.D.O.E. Hazardous Sites List.) Building 10 has been the subject of an independent remedial action under Chapter 70.105D RCW. The remedial action undertaken to cleanup Building 10 (hereinafter referred to as the "Cleanup Action") is described in several documents prepared by Hart Crowser and PTI. These documents are listed in a "no further action" letter ("NFA Letter") to Thomas J. Lusardi of The Clorox Company from Charles S. Cline of the State of Washington Department of Ecology ("Ecology") dated April 23, 1999. The Cleanup Action documents and the NFA Letter are kept in the Central Files of the Southwest Regional Office (SWRO) of Ecology.

The undersigned, Northwest Building Corporation, is the fee owner ("Owner") of real property in the County of Pierce, State of Washington (the "Property"), which includes Building 10. The portion of the Property on which Building 10 is located is described in Exhibit A attached hereto, and is located on the survey attached as Exhibit B. A map of Building 10 is attached hereto as Exhibit C.

The residual contamination that is the subject of this restrictive covenant is chlorinated solvent contamination as described in the above-referenced documents.

This restrictive covenant is required by Ecology per WAC 173-340-440 because the Cleanup Action resulted in the residual concentrations noted above, which exceed the Model Toxics Control Act Method A Cleanup Levels for soil established under WAC 173-340-740.

The Owner makes the following declaration as to limitations, restrictions, and uses to which Building 10 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 Building 10.

Section 1. Building 10 contains soil with residual chlorinated solvents contamination located on the north side, as described in the above-referenced documents. The area on the north side of Building 10 has been capped and the roof drains have been routed so drainage flows away from the north side of Building 10. Any plans for alteration, modification or removal of the cap or the modified roof drains shall be submitted to and approved by Ecology or its successor agency prior to such actions.

Section 2. No title, easement, lease or other interest in Building 10 (as described in Exhibit A) shall be conveyed or entered into without adequate provision for the terms of this Declaration of Restrictive Covenants.

Section 3. The Owner must notify and obtain approval from Ecology, or its successor agency, prior to any use of Building 10 that is inconsistent with the terms of this Restrictive Covenant. Ecology or its successor agency may approve any inconsistent use only after public notice and comment.

Section 4. The Owner shall allow authorized representatives of Ecology, or its successor agency, the right to enter Building 10 at a reasonable time after prior notice for the purpose of evaluating the Cleanup Action, taking samples, inspecting remedial actions conducted at Building 10, and inspecting records that are related to the Cleanup Action.

Section 5. The Owner of Building 10 and the Owner's assigns and successors in interest reserve the right under WAC 173-340-440 (8) to record an instrument which provides that this Restrictive Covenant shall no longer limit use of Building 10 or be of any further force or effect.

However such an instrument may be recorded only with the consent of Ecology, or its successor agency. Ecology or its successor agency may consent to the recording of such an instrument only after public notice and comment.

NORTHWEST BUILDING CORPORATION

By: _____

Its: _____

Date: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

On this _____ day of April, 1999, before me, a Notary Public in and for the State of Washington, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument, on oath stated that _____ was authorized to execute the instrument, and acknowledged it as the _____ of Northwest Building Corporation to be the free and voluntary act and deed of said corporation for the uses and purposes mentioned in the instrument.

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

NOTARY PUBLIC in and for the State of
Washington, residing at _____
My appointment expires _____