



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

P.O. Box 47600 • Olympia, Washington 98504-7600
(360) 407-6000 • TDD Only (Hearing Impaired) (360) 407-6006

RECEIVED
JAN 27 1999
Ans'd.....

January 25, 1999

Richard Truax, P.E.
RETEC
1011 SW Klickitat Way
Suite 207
Seattle, WA 98314-1162

RE: Independent Remedial Action
BMW Seattle, 714 E. Pike St., Seattle, WA

Dear Mr Truax.

Thank you for submitting the results of your independent remedial action(s) for review by the State of Washington 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 for Parcel "A" and "B" located at BMW Seattle, 714 E. Pike St.:

"Site Risk Assessment and Request for No-Further-Action Approval, BMW Seattle", August 18, 1998. Prepared by Richard Truax, P.E. and Jill Nordstrom of RETEC.

The report(s) listed above will be kept in the Central Files of the Northwest Regional Office (NWRO) of Ecology for review by appointment only. Appointments can be made by calling Sally Perkins at the NWRO at (425) 649-7190.

Based upon the information in the reports listed above, Ecology has determined that, at this time, the release of diesel fuel, lead and cadmium into the soil 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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RETEC
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In addition, a copy of the attached Restrictive Covenant (with noted changes on page 2 of the covenant incorporated) on the property must be filed with King County within 8 weeks of the date of this letter to maintain Ecology's no further action determination. This no further action determination automatically terminates if Ecology does not receive a filed copy of the Restrictive Covenant dated within 8 weeks of the date of this letter. In addition, the NFA determination will have no force and effect if any portion of the Restrictive Covenant is violated. 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 release identified in the report(s) listed above. This no further action determination applies only to the area of the property affected by the release identified in the report at BMW Seattle, 714 E. Pike St..

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 Seattle BMW.

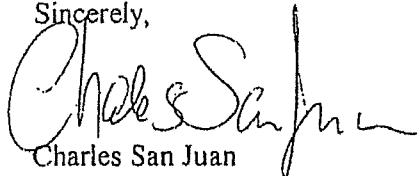
Ecology will update its database to reflect this "No Further Action" determination. Your site will not appear in future publications of the Confirmed & Suspected Contaminated Sites Report (previously known as the Affected Media and Contaminants Report.)

Ecology will update its Leaking Underground Storage Tank database to reflect this "No Further Action" determination. Your site will not appear in future publications of the LUST database.

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, please contact Lydia Lindwall at (360) 407-7205, or Dan Cargill at (425) 649-7023.

Sincerely,



Charles San Juan
Toxics Cleanup Program

LL.csj
Enclosures

cc. John C Bjorkman, Preston Gates & Ellis ✓
Dan Cargill, TCP NWRO

980202263-7

Return To:
PRESTON GATES & ELLIS LLP
701 Fifth Avenue
Suite 5000
Seattle, WA 98104-7078
Attn: John C. Bjorkman



AMENDED RESTRICTIVE COVENANT:

Grantor: Norman Enterprises, Inc., its successors and assigns

Grantee: State of Washington, Department of Ecology, its successors and assigns

Legal Description:

Abbreviated form: 714 East Pike Street and 715 East Pine Street
Seattle, King County, Washington

Additional legal on page 1 of document

Assessor's Property Tax Parcel Account Number(s):

880490-0215-03 and 880490-0230-04, respectively

Reference number(s) of documents being assigned or released and related documents:

9812162604

333222-2337 02:53:00 PM KING COUNTY RECORDS 004 PC 11.03



AMENDED RESTRICTIVE COVENANT
Norman Enterprises, Inc., 714 E. Pike and 715 E. Pine.

This Declaration of Amended Restrictive Covenant (hereafter "Restrictive Covenant") is made pursuant to RCW 70.105D.030(1)(f) and WAC 173-340-440 by Norman Enterprises, Inc., its successors and assigns, and the State of Washington Department of Ecology, its successors and assigns (hereafter "Ecology").

An independent remedial action (hereafter "Remedial Action") occurred at the property that is the subject of this Restrictive Covenant. The Remedial Action conducted at the property is described in the Risk Assessment (ReTec April 1998) and Remedial Action letter both of which are on file at Ecology's Northwest Regional Office.

This Restrictive Covenant is required because the Remedial Action resulted in residual concentrations of total petroleum hydrocarbons, lead and cadmium which exceed the Model Toxics Control Act Method METHOD A Cleanup Level for soil established under WAC 173-340-740.

The undersigned, Norman Enterprises, Inc., is the fee owner of real property (hereafter "Property") in the County of King, State of Washington, that is subject to this Restrictive Covenant. The Property is legally described as follows:

Parcel A:

Lots 8 and 9 and the south half of lots 10 and 11, Block 4, Supplementary Plat of Union Addition to the City of Seattle, according to the plat thereof recorded in Volume 9 of Plats, page 12, records of King County, Washington.

Parcel B:

The north half of lots 10 and 11 and all of lots 12 and 13, Block 4, Supplementary Plat of Union Addition to the City of Seattle, according to the plat thereof recorded in Volume 9 of Plats, page 12, records of King County, Washington.

Norman Enterprises, Inc. makes the following declarations 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 (hereafter "Owner").

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Section 1. A portion of the Property contains total petroleum hydrocarbons (diesel), lead, and cadmium contaminated soil. The contaminated soil is located under the northern portion of parcel A and the southern portion of parcel B, that is, the portions contiguous to each other and the center of the buildings now existing on the two parcels. The Owner shall not alter, modify, or remove the existing structure 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.

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) day advance written notice to Ecology of the Owner's intent to convey any interest in the Property. No conveyance of this 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 Restrictive Covenant and notify all lessees of the restrictions on the use of the Property.

and obtain approval from
Section 6. The Owner must notify 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.

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, and to inspect records that are related to the Remedial Action.

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