



Fourth Periodic Review Burlington Northern Othello

**Broadway and Main Street, Othello, WA 99344
Facility Site ID 558, Cleanup Site ID 1909**

Toxics Cleanup Program, Eastern Region

Washington State Department of Ecology
Spokane, Washington

April 2022

Document Information

This document is available on the Department of Ecology's [Burlington Northern Othello cleanup site page](#)¹.

Related Information

- Cleanup site ID: 1909
- Facility site ID: 558

Contact Information

Toxics Cleanup Program

Eastern Regional Office
Ted Uecker, Site Manager
4601 N. Monroe St.
Spokane, WA 99205
Phone: 509-329-3522

Website²: [Washington State Department of Ecology](#)

ADA Accessibility

The Department of Ecology is committed to providing people with disabilities access to information and services by meeting or exceeding the requirements of the Americans with Disabilities Act (ADA), Section 504 and 508 of the Rehabilitation Act, and Washington State Policy #188.

To request an ADA accommodation, contact the Ecology ADA Coordinator by phone at 360-407-6831 or email at ecyadacoordinator@ecy.wa.gov. For Washington Relay Service or TTY call 711 or 877-833-6341. Visit Ecology's website³ for more information.

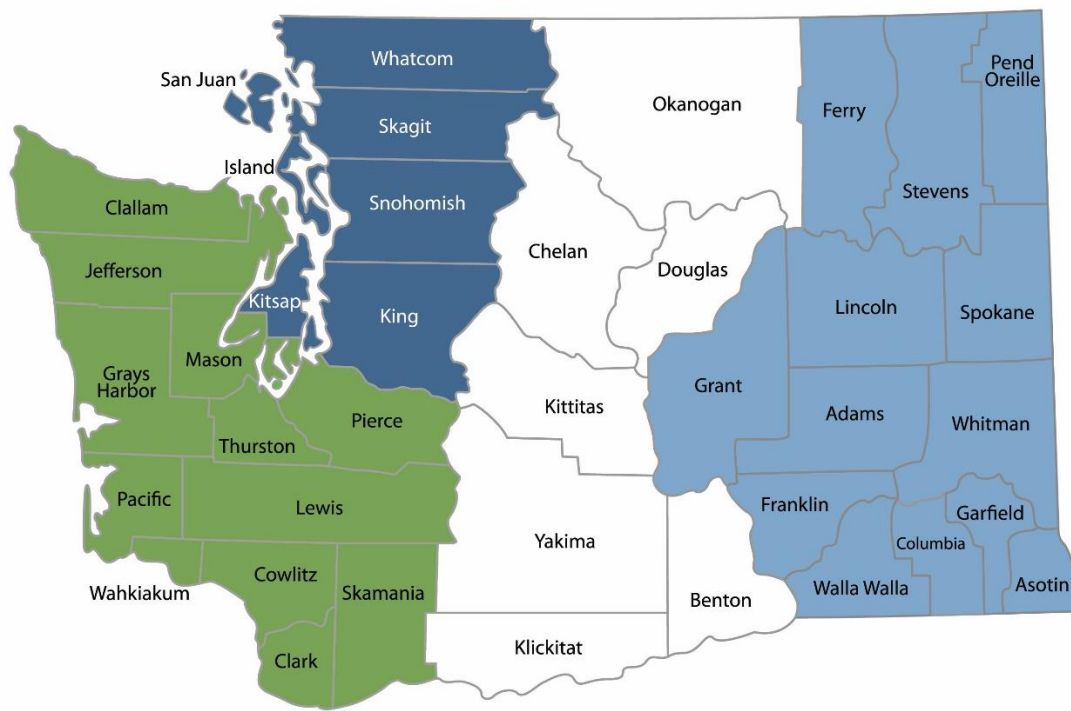
¹ Bro

² www.ecology.wa.gov/contact

³ <https://ecology.wa.gov/About-us/Accountability-transparency/Our-website/Accessibility>

Department of Ecology's Regional Offices

Map of Counties Served



Southwest Region
360-407-6300

Northwest Region
206-594-0000

Central Region
509-575-2490

Eastern Region
509-329-3400

Region	Counties served	Mailing Address	Phone
Southwest	Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Mason, Lewis, Pacific, Pierce, Skamania, Thurston, Wahkiakum	PO Box 47775 Olympia, WA 98504	360-407-6300
Northwest	Island, King, Kitsap, San Juan, Skagit, Snohomish, Whatcom	PO Box 330316 Shoreline, WA 98133	206-594-0000
Central	Benton, Chelan, Douglas, Kittitas, Klickitat, Okanogan, Yakima	1250 W Alder St Union Gap, WA 98903	509-575-2490
Eastern	Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman	4601 N Monroe Spokane, WA 99205	509-329-3400
Headquarters	Across Washington	PO Box 46700 Olympia, WA 98504	360-407-6000

Table of Contents

Introduction.....	5
Summary of Site Conditions	6
Site history	6
Remedial actions.....	7
Cleanup levels and points of compliance.....	8
Restrictive Covenant	8
Periodic Review	9
Direct contact	9
Protection of groundwater	9
Institutional controls.....	9
New scientific information for individual hazardous substances or mixtures present at the Site	10
New applicable state and federal laws for hazardous substances present at the Site.....	10
Current and projected site use	10
Availability and practicability of higher preference technologies	10
Availability of improved analytical techniques to evaluate compliance with cleanup levels	11
Conclusions.....	11
Next review	11
References.....	12
Appendix A. Vicinity Map.....	13
Appendix B. Site Plan	14
Appendix C. Restrictive Covenant.....	15
Appendix D: Original and Modified Restrictive Covenant Map.....	20
Appendix E: City of Othello Partial Covenant Removal.....	21
Appendix F. Photo Log	24
Photo 1: Eastern portion of the Site – from the southeast	24
Photo 2: Former dewatering sump and vicinity of barrier wall – from the north	25
Photo 3: Railcars staged at north end of Site – from the southeast.....	26
Photo 4: Southern Portion of the Site – from the northeast.....	27
Photo 5: Central portion of the Site – from the northeast	28

Introduction

This document is a review by the Washington State Department of Ecology (Ecology) of post-cleanup site conditions and monitoring data at the Burlington Northern Othello site (Site). Site cleanup was implemented under the Model Toxics Control Act (MTCA) regulations, Chapter 173-340 Washington Administrative Code (WAC). This is the fourth periodic review conducted for this Site. The first was completed in July 2003, the second in September 2008, and the third in September 2012. This periodic review evaluates October 2012 through March 2022.

Cleanup actions at this Site were completed under a Consent Decree filed in Adams County Superior Court on November 10, 1997, and amended on April 17, 2000. The remedy involved containing hazardous materials. Concentrations of total petroleum hydrocarbons (TPH) remain in soil exceeding MTCA Method A cleanup levels. The MTCA Method A cleanup levels for soil are established under WAC 173-340-740, and the MTCA Method C cleanup levels for soil are established under WAC 173-340-745.

The MTCA cleanup levels for groundwater are established under WAC 173-340-720:

- 1) Whenever Ecology conducts a cleanup action;
- 2) Whenever Ecology approves a cleanup action under an order, agreed order, or consent decree;
- 3) Or, as resources permit, whenever Ecology issues a no further action opinion;
- 4) And, one of the following conditions exists:
 - a) Institutional controls or financial assurance are required as part of the cleanup.
 - b) Where the cleanup level is based on a practical quantitation limit.
 - c) 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 Ecology 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.

- f) The availability of improved analytical techniques to evaluate compliance with cleanup levels.

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

Summary of Site Conditions

Site history

The Site, also referred to as the Othello Railyard, is in the City of Othello in Adams County, Washington. The Site is an industrial facility with two rail spurs Columbia Basin Railroad operates. The Chicago, Milwaukee, St. Paul, and Pacific Railroad Company built the railyard in 1908. The railyard was used as a refueling and maintenance facility for steam and electric locomotives. BNSF Railway Company (BNSF) purchased the Site in 1980 and conducted refueling activities until 1982. The Columbia Basin Railroad now operates the land as a grain-car loading spur and main line thoroughfare. See appendices A and B for the Vicinity Map and Site Plan.

In 1986, site investigations indicated soils were contaminated with Bunker C fuel oil. Petroleum constituents were also detected in the shallow perched groundwater. This shallow groundwater is the result of upgradient irrigation practices. A pilot remediation system including sumps, trenches, and piping was installed in 1987 to wash soil and recover non-aqueous phase liquid petroleum (free product). Eighty gallons of heavy, viscous hydrocarbon product were recovered while this system was active. A pilot-scale soil composter was also constructed and operated at the Site in 1988.

In 1991, Ecology and BNSF entered into an Agreed Order under MTCA to initiate a remedial investigation to determine the extent of contamination at the Site and to perform an interim action to reduce the immediate risks the contamination posed. This investigation showed soils with elevated TPH concentrations representing residual hydrocarbon and localized occurrences of free product. TPH contamination in the perched groundwater was also found within the contaminated soil area.

Interim actions were conducted in 1992 to remove highly contaminated soils and free product in the soil or floating on the groundwater table, and to divert clean groundwater away from the contaminated soil area.

The Agreed Order was amended in 1993 to complete the remedial investigation and to prepare a feasibility study to evaluate remedial technologies and alternatives.

A draft Cleanup Action Plan (CAP) was prepared and finalized in 1997 after public review and comment. Construction activities to implement the CAP under a Consent Decree were done in November 1997. The cleanup actions included capping the contaminated soils remaining onsite, groundwater diversion away from the residual soil contamination, and institutional controls to restrict land use and protect the remedial actions.

The Consent Decree and CAP were amended in February 2000 to remove an adjacent property from consideration as part of the Site.

Remedial actions

Interim actions conducted in 1992 involved excavating 10,370 cubic yards of highly contaminated soils that were recycled into asphalt. The area was excavated until no free product was found in the soil. Clean, silty soil was used to backfill the excavated area. A groundwater diversion and drainage system was installed to prevent further perching and contamination of groundwater. A recovery drain was installed upgradient of the excavated area to intercept the groundwater; the collected water was routed to the City of Othello sanitary sewer system under a State Waste Discharge Permit. The Site Plan in Appendix B shows the areas of excavation and the groundwater diversion/collection system. Quarterly monitoring of groundwater for TPH and/or polycyclic aromatic hydrocarbons (PAHs) in selected wells and of the groundwater discharged to the sewer system was conducted from November 1992 until August 1997.

Cleanup actions completed in 1997 in accordance with the CAP include the following:

- Installation of a subsurface asphalt cap. An approximately 1.3-acre asphalt cap was placed over TPH-impacted soil at the western portion of the Site. The cap surface was graded to drain water away from the TPH-impacted area and then covered with 6 to 15 inches of clean soil to a grade that generally matched the pre-existing Site. The clean, less permeable soils that overlie the contaminated soils at the eastern edge of the Site served as a cap. The asphalt and soil caps minimize the potential for dermal contact with soil that exceeds the MTCA Method A level for TPH of 200 mg/kg.
- An alternative groundwater diversion system was installed. The groundwater diversion system installed during the interim action was removed. A groundwater diversion wall was constructed to assist the previously installed silt/clay backfill in diverting the shallow groundwater around the area of contaminated soils.

Compliance monitoring

Semi-annual groundwater monitoring was conducted from June 1998 through November 2002 in monitoring wells O-87-6, O-87-7, and the dewatering sump. Monitoring wells MW-12 and MW-14 were dry throughout the monitoring period and could not be sampled. All samples were analyzed for diesel-range petroleum hydrocarbons (TPH-D) and the monitoring wells were analyzed for PAHs. The Site Plan in Appendix B shows the locations of the wells and the dewatering sump.

The groundwater compliance monitoring results demonstrated groundwater cleanup levels at the Site had been met. The groundwater diversion system was left in-place to ensure groundwater will not be contaminated by soils with residual TPH concentrations exceeding MTCA cleanup levels.

After completing a periodic review, Ecology removed the Site from the Hazardous Sites List in 2003, and groundwater monitoring stopped.

Inspections and maintenance

Semiannual Site inspections of the soil over the asphalt cap and the clean overburden soil were conducted from 1997 to 2002. These included inspecting for overall Site integrity, undocumented Site excavation or disturbance activities, or for visual signs of possible disturbance of the subsurface asphalt cap.

Site inspections did not indicate the cap integrity had been compromised; there were no signs of undocumented Site excavation or disturbance activities, and no visual signs of possible disturbance of the subsurface asphalt cap. No repair, maintenance, or contingency actions were required.

Semi-annual Site inspections stopped after Ecology removed the Site from the Hazardous Sites List in 2003. The 1997 Remedial Design Report contains the following cap inspection and maintenance requirements:

- Annual inspection of the soil over the asphalt cap or inspection following any activities that may disturb the soil.
- Annual inspection of the clean overburden soil on the east side of the site that serves as a cap to impacted soil or inspection following any activities that may disturb the soil.

Since the periodic review in 2003, the Site has remained vacant with the exception of the rail line. There have not been activities that could disturb soil at the Site; therefore, no annual inspections have been required or conducted.

Cleanup levels and points of compliance

WAC 173-340-704 states 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 used.

MTCA Method A cleanup levels for industrial 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.

For soil, the point of compliance is the area where the soil cleanup levels shall be attained. For soil cleanup levels based on the protection of groundwater, as they are for this Site, the point of compliance is established as soils throughout the Site.

Restrictive Covenant

An Restrictive Covenant was recorded for the BNSF Property in 1997. A copy of this covenant is in Appendix C. It notifies prospective purchasers of the location of contained petroleum contamination and specifies the limitations, restrictions, and uses to which the property may be subjected.

In 2002, Ecology agreed to remove restrictions on a small portion of the BNSF property the City of Othello purchased. It was determined this property did not contain contamination above Site-specific cleanup levels. A map showing the original and modified Environmental Covenant area is in Appendix D, and the recorded Covenant removal document is in Appendix E.

Periodic Review

BNSF owns the Site, but Columbia Basin Railroad leases the Site as a grain-car loading spur and main line thoroughfare. Based on photos BNSF provided (Appendix F), the Site surface covers appear in satisfactory condition. According to BNSF, there have been no activities at the Site since the 2012 periodic review that may have disturbed the Site surface; therefore, no inspection, repair, maintenance or contingency actions have been required. Unmaintained vegetation covers portions of the Site not used for railroad activities as well as it being unsecured and accessible to the public.

Direct contact

The excavation conducted during the interim action eliminated potential human exposure (ingestion, contact) to highly contaminated soils and free product. The groundwater diversion system eliminated the soil-to-groundwater pathway. Groundwater monitoring from 1998 through 2002 showed no exceedances to the Method A cleanup levels.

Soils with TPH concentrations higher than the 200 mg/kg Method A cleanup level are still present. However, the asphalt cap on the western part of the Site and the soil cap on the eastern part of the Site continue to prevent direct contact with the contaminated soils.

Protection of groundwater

Groundwater compliance monitoring conducted at the Site between 1998 and 2002 did not detect contaminants of concern above Site cleanup levels, and demonstrated that groundwater cleanup levels at the Site have been met. The groundwater diversion system will continue to ensure groundwater does not become contaminated by soils with elevated TPH concentrations.

Institutional controls

The Restrictive Covenant for the BNSF property was recorded and remains active. The covenant prohibits groundwater use from any well in the property, prohibits activities that will result in the release of contaminants contained as part of the cleanup without Ecology's approval, and prohibits non-industrial uses. The covenant will maintain the integrity of the cap and the groundwater diversion system.

In 2002, the covenant was removed for part of the property that did not contain contamination above Site-specific cleanup levels. Removing the covenant from this property did not impact the protectiveness of the remedy at the Site.

New scientific information for individual hazardous substances or mixtures present at the Site

There is no new relevant scientific information for the hazardous substances remaining at the Site.

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

This cleanup is governed by Chapter 173-340 WAC (1996 ed.), which was amended in 2001. Although TPH cleanup levels changed because of this modification, Site cleanup levels determined in the CAP will not change. 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.”

Table 1 compares the applicable Method A cleanup levels for Site contaminants between the 1996 and the 2001 amendments of MTCA.

Table 1. MTCA Method A cleanup levels in 1996 and 2001.

Analyte	1996 soil cleanup level (ppm)	2001 soil cleanup level (ppm)	1996 groundwater cleanup level (ppb)	2001 groundwater cleanup level (ppb)
TPH	No value	No value	1,000	No value
TPH-diesel	200	2000	No value	500
TPH-oil	200	2000	No value	500

ppb = parts per billion

ppm = parts per million

TPH = total petroleum hydrocarbons

Current and projected site use

Columbia Basin Railroad uses the Site as a grain-car loading spur and main line thoroughfare. These uses are unlikely to have a negative impact on the risk posed by hazardous substances contained at the Site as long as the surface is not disturbed.

Availability and practicability of higher preference technologies

The remedy included removal/recycling and containment 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.

Availability of improved analytical techniques to evaluate compliance with cleanup levels

The analytical methods used at the time of the remedial actions were capable of detection below cleanup levels for contaminants of concern at the Site. The presence of improved analytical techniques would not affect Ecology's decisions or recommendations.

Conclusions

- The cleanup actions completed at the Site appear to be protective of human health and the environment.
- Soil cleanup levels have not been met at the Site; however, the cleanup action for the Site 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 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.
- Sufficient compliance monitoring has been conducted to demonstrate the remedy has effectively contained the heavy oil contamination in soils.

Based on this periodic review, Ecology has determined no additional remedial actions or monitoring are required at the Site. BNSF is responsible for continuing to inspect the Site to assure that cap integrity and the groundwater diversion system are maintained.

Next review

Ecology will schedule the next review for the Site five years from the date of this periodic review. If additional cleanup actions or institutional controls are required, the next periodic review will be scheduled five years after those activities are complete.

References

RETEC, *Final Construction Report for Interim Remedial Action*, 1992.

BNSF, *Restrictive Covenant*, December 3, 1997.

RETEC, *Cleanup Action Report – Groundwater Diversion Wall and Asphalt Cap Completion Report*, July 20, 1998.

RETEC, *Cleanup Action Plan – Othello Railyard*, February 2000.

Ecology, *Removal of Restrictive Covenant*, March 25, 2003.

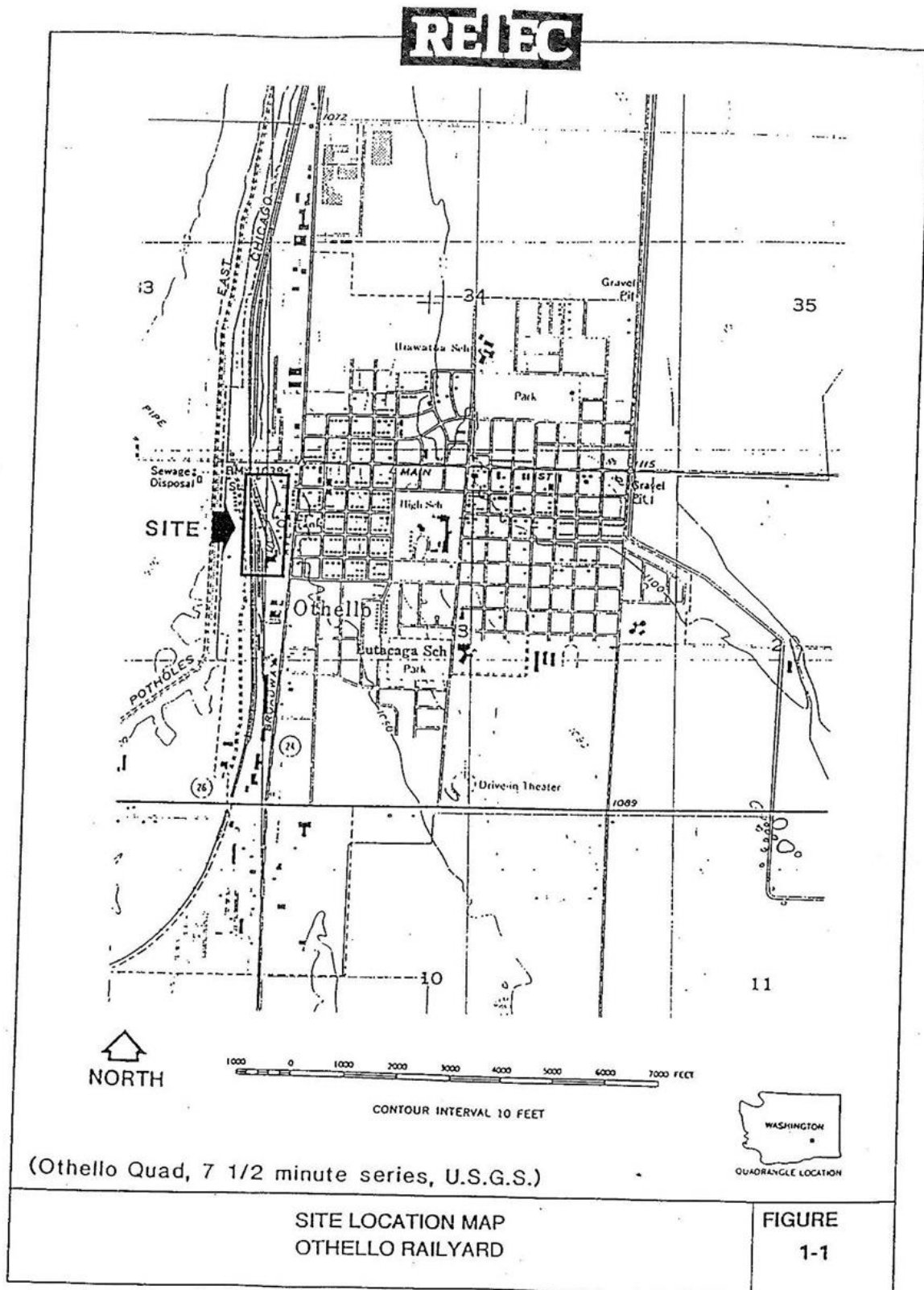
Ecology, *Five-Year Review*, July 2003.

Ecology, *Five-Year Review and Proposed Delisting Letter*, August 6, 2003.

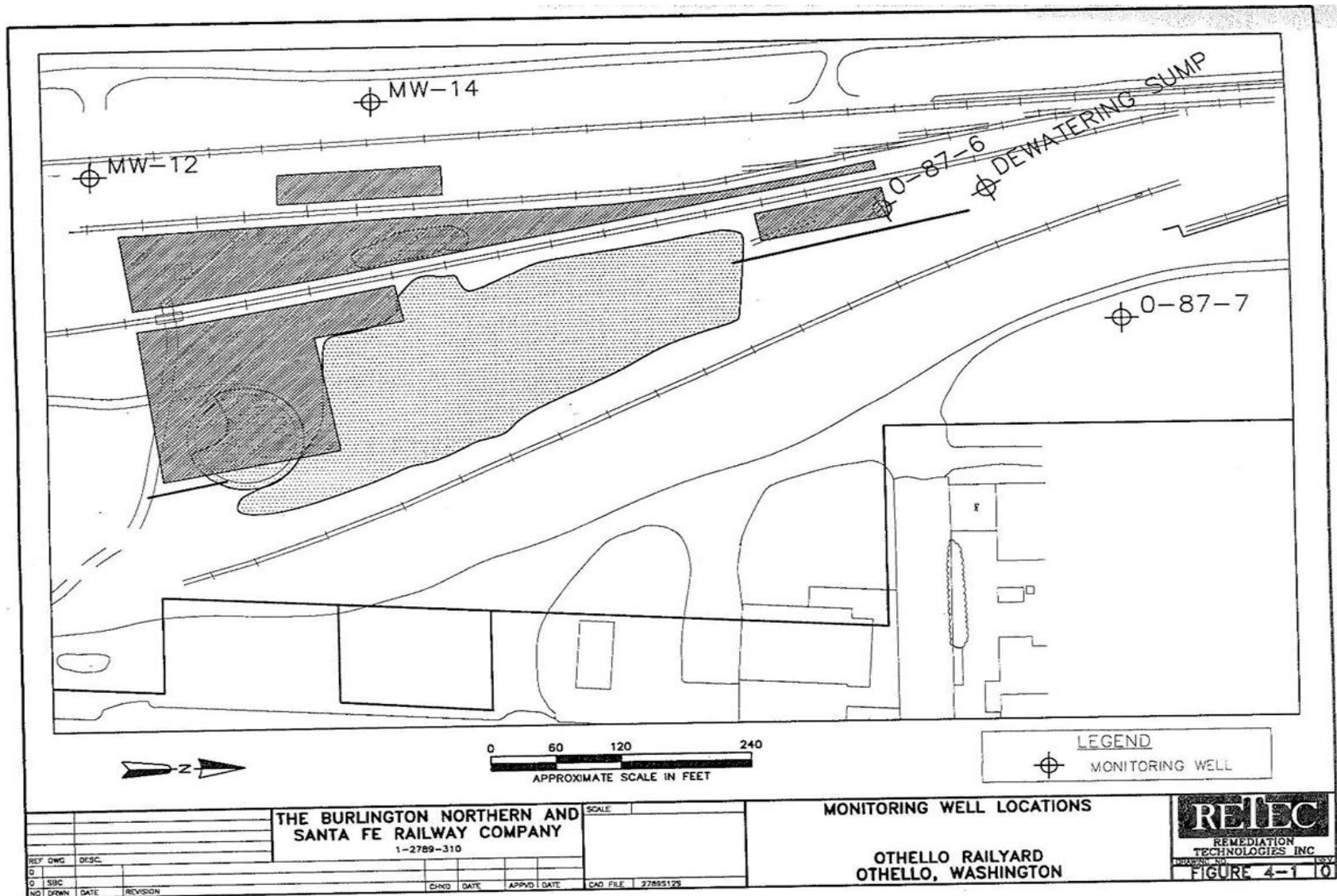
Ecology, *Site Visit*, May 17, 2012.

BNSF, *Site Visit and Photo Log*, November 10, 2021.

Appendix A. Vicinity Map



Appendix B. Site Plan

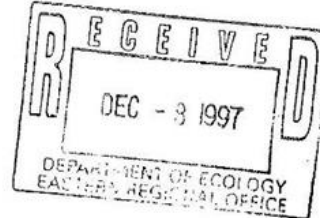


Appendix C. Restrictive Covenant



PRESTON GATES & ELLIS LLP
ATTORNEYS

December 5, 1997



Ms. Kathryn L. Gerla
Assistant Attorney General
Ecology Division
P.O. Box 40117
Olympia, Washington 98504-0117

Re: Othello Railyard Site - Consent Decree 97-2-00237-4

Dear Kathy:

Enclosed is a copy of the restrictive covenant filed by BNSF with the Adams County Auditor pursuant to Paragraph VI.3. of the above Consent Decree. BNSF is currently in negotiations with Les Schwab Tire Company regarding a similar restrictive covenant for its property and we intend to keep you and Ecology informed of the status of those negotiations. Please call if you have any questions.

Very truly yours,

PRESTON GATES & ELLIS LLP

A handwritten signature in black ink, appearing to read 'Craig S. Trueblood'.

Craig S. Trueblood

cc: Bruce Sheppard, BNSF - Environmental Remediation
Pam Nehring, BNSF - Legal
Teresita Bala, Ecology
Rich Truax, ReTeC

CST\16065-88022\39L6ZB.DOC

A LIMITED LIABILITY PARTNERSHIP INCLUDING OTHER LIMITED LIABILITY ENTITIES
ANCHORAGE • COEUR D'ALENE • HONG KONG • LOS ANGELES • PORTLAND • SEATTLE • SPOKANE • WASHINGTON, D.C.
601 WEST RIVERSIDE AVENUE SUITE 1400 SPOKANE, WASHINGTON 99201-0636 509-624-2100 FX: 509-456-0146 www.prestongates.com

WHEN RECORDED RETURN TO:

Craig S. Trueblood
Preston Gates & Ellis LLP
1400 Seafirst Financial Center
601 W. Riverside Avenue
Spokane, WA 99201-0636

RESTRICTIVE COVENANT

Reference No. of Related Documents:

Unknown

Grantor:

THE BURLINGTON NORTHERN SANTA FE RAILWAY COMPANY
P.O. Box 961050
2650 Lou Menk Drive
Fort Worth, TX 76161-0050

Grantee:

WASHINGTON DEPARTMENT OF ECOLOGY
Suite 100
4601 North Monroe
Spokane, WA 99205-1295

Legal Description:

1. A portion of the Northeast Quarter of Section 4, Township 15 North, Range 29 East, W.M., Adams County, Washington.
2. Additional legal description is on Exhibit A of document.

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

RESTRICTIVE COVENANT

The property that is the subject of this Restrictive Covenant has been the subject of remedial action under Chapter 70.105D RCW. The work done to clean up the property and conduct long-term operation and maintenance (hereafter the "Cleanup Action") is described in the Consent Decree entered in State of Washington Department of Ecology v. Burlington Northern Railroad Company, Adams County Superior Court Cause No. 97-2-00237-4, and in attachments to the Decree and in documents referenced in the Decree. This Restrictive Covenant is required by Ecology under Ecology's rule WAC 173-340-440 (1996 ed.) because the Cleanup Action on the Site resulted in residual concentrations of total petroleum hydrocarbons which exceed Ecology's Method A cleanup levels for soil established under WAC 173-340-740(2). Contaminated soil is contained on site under a clean soil cover on the eastern portion of the Site and an asphalt cover on the western portion. Long-term groundwater monitoring, diversion, and drainage devices are in place on the Site.

The undersigned, Burlington Northern Railroad Company (BNRR), is the fee owner of real property (hereafter "the Property") in the County of Adams, State of Washington (legal description attached), that constitutes a portion of the BN-Othello Cleanup Site. BNRR 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. No groundwater may be taken for domestic, agricultural, commercial, or industrial purposes from any well at the Property.

Section 2. Any activity on the Property that may interfere with the Cleanup Action is prohibited. Any activity on the Property that may result in the release to the environment of a hazardous substance that was contained as a part of the Cleanup Action is prohibited unless approved by Ecology. 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 3. The Property shall not be used for any activities other than traditional industrial uses, as described in RCW 70.105D.020(23) and allowed under the City of Othello's zoning regulations.

Section 4. The owner of the Property must give written notice to the Department of Ecology, or to a successor agency, 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 the continued operation, maintenance and monitoring of the Cleanup Action.

Section 5. The owner must notify and obtain approval from the Department of Ecology, or from a successor agency, prior to any use of the Property that is inconsistent with the terms of this Restrictive Covenant. The Department of Ecology or its successor agency may approve such a use only after public notice and comment.

Section 6. The owner shall allow authorized representatives of the Department of Ecology or of a successor agency the right to enter the Property at reasonable times for the purpose of evaluating compliance with the Cleanup Action Plan and the Consent Decree, to take samples, to inspect Cleanup Actions conducted at the Property and to inspect records that are related to the Cleanup Action.

Section 7. The owner of the Property and the owner's assigns and successors in interest reserve the right under WAC 173-340-440 (1996 ed.) to record an instrument which 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 with the consent of the Department of Ecology or of a successor agency. The Department of Ecology or a successor agency may consent to the recording of such an instrument only after public notice and comment.

Dated: 12/2/97


Name: D.P. Schneider

Title: General Director Real Estate
For Burlington Northern
Railroad Company

LEGAL DESCRIPTION

THAT PORTION OF THE NORTHEAST QUARTER OF SECTION 4, TOWNSHIP 15 NORTH, RANGE 29 EAST, W.M., ADAMS COUNTY, WASHINGTON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Commencing at the southeast corner of the Northeast Quarter of Section 4, thence northerly along the easterly line of said section a distance of 847.40 feet; thence westerly measured at a right angle a distance of 67.00 feet to THE TRUE POINT OF BEGINNING; thence continuing westerly to a line lying 200.00 feet westerly and parallel with the as-built centerline of the Chicago Milwaukee St. Paul and Pacific Railroad; thence northerly along said parallel line to the south margin of Main Street; thence easterly along said margin to the west margin of Railroad Avenue; thence southerly along said margin to the southerly margin of Larch Street, said margin also being the northerly line of Block 26 prolonged westerly; thence easterly along said margin to a line being 167.00 feet more or less, westerly and parallel with east line of said Section, said point also being the northeast corner of Lot 6, Block 26, town of Othello, Washington; thence southerly along said parallel line to the southwest corner of Lot 5 of said Block 26, thence easterly along the south line of said Lot 5 to the westerly margin of Broadway Avenue; thence southerly along said margin to the northeast corner of Lot 1 of Block 35; thence westerly along the north line of said Lot 1 to the northwest corner of said Lot 1; thence southerly along a line which lies 167.00 feet westerly of and parallel with the east line of said Section 4, to the southwest corner of Lot 5 of said Block 35, town of Othello, Washington; thence along the south line of said lot to the west margin of Broadway Avenue; said margin lying 67.00 feet westerly and perpendicular to the east line of said section; thence southerly along said margin to the TRUE POINT OF BEGINNING.

EXHIBIT A

Appendix D: Original and Modified Restrictive Covenant Map



Appendix E: City of Othello Partial Covenant Removal

STEVENS COUNTY
843 - OTHELLO

BA SIT 6.13



268629

Page: 1 of 3

03/25/2003 11:25A

98 0.00 Adams Co. Aud.

Return address:

City of Othello
500 E. Main
Othello, WA 99344

Please print neatly or type information
Document Title(s)

Removal of Restrictive Covenant

Reference Number(s) of related documents

Additional Reference Numbers on page _____

Grantor(s) (Last, First and Middle Initial)

Department of Ecology
4601 N. Monroe Street
Spokane, WA 99205

Additional Grantees on page _____

Grantee(s) (Last, First and Middle Initial)

City of Othello
500 E. Main
Othello, WA 99344

Additional Grantees on page _____

Legal Description (abbreviated form: i.e. lot, block, plat or section, township, range, quarter/quarter)

Lots 6-8 and 9-16, Block 26, Original Town of Othello Addition

Additional Legal Description on page _____

Assessor's Property Tax Parcel/Account Number

1-529-03-050-2609 & 1-529-03-050-2612

Additional Parcel Numbers on page _____

The Auditor/Recorded will rely on the information provided on this form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.



268629

Page: 2 of 3

03/25/2003 11:25A

98 0.00

Adams Co. Aud.

REMOVAL OF RESTRICTIVE COVENANT
LOTS 6 THROUGH 16 OF BLOCK 26
AND
THE PUBLIC RIGHT OF WAY FOR SPRUCE STREET
AND RAILROAD AVENUE ADJACENT TO BLOCK 26
BN-OTHELLO SITE

The City of Othello has purchased from Burlington Northern Santa Fe Railway Company Lots 9 through 16 of Block 26 that are included in the BN-Othello Site (the Site) as shown in the attached Site map. The City intends to use the property for a fire station and for vehicle parking. The City also plans to install utilities and extend Railroad Avenue to Spruce Street, and Spruce Street between Broadway and Railroad Avenue, the public right of way adjacent to Block 26.

Lots 6 through 8 of Block 26 were deeded to the Adams County Fire Department in 1972. These lots were included as part of the Site as shown in the accompanying Site map.

The attached Restrictive Covenant was required for the Burlington Northern-Othello Site because the cleanup action at this Site, conducted under the authority of the Model Toxics Control Act (MTCA), resulted in residual concentrations of total petroleum hydrocarbons exceeding the Method A cleanup level for soil established under WAC 173-340-740(2) (1996 ed.). Contaminated soil is contained on Site under an asphalt cover on the western portion and a clean soil cover on the eastern portion of the Site. Long-term ground water monitoring, diversion, and drainage devices are in place on the site.

Lots 6 through 8 and 9 through 16 of Block 26, as well as the public right of way for Spruce Street and Railroad Avenue adjacent to Block 26, are outside of the area where contaminated soil is contained and where the ground water diversion and devices are in place at the Site.

As provided for in Section 7 of the Restrictive Covenant, the City of Othello has requested that the Restrictive Covenant shall no longer be of further force or effect for



268629
Page: 3 of 3
03/25/2003 11:25A
98 0.00 Adams Co. Aud.

Lots 9 through 16. Adams County has made a similar request for Lots 6 through 8. The Department of Ecology, after public notice and opportunity to comment as required under MTCA, agrees to remove the restrictions. The Restrictive Covenant therefore is removed for Lots 6 through 8 (County property) of Block 26, Lots 9 through 16 (City property) of Block 26, and the public right of way for Spruce Street and Railroad Avenue adjacent to Block 26.

Date: 2.28.02
Flora J. Goldstein
Flora Goldstein
Section Manager
Toxics Cleanup Program
Washington Department of Ecology

BN-Othello Site
Removal of Restrictive Covenant

Appendix F. Photo Log

Photo 1: Eastern portion of the Site – from the southeast



**Photo 2: Former dewatering sump and vicinity of barrier wall
– from the north**



Photo 3: Railcars staged at north end of Site – from the southeast



Photo 4: Southern Portion of the Site – from the northeast



Photo 5: Central portion of the Site – from the northeast

