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TITLE: DEPARTMENT OF ECOLOGY VS CITY OF YAKIMA
FILED: 09/15/1994
CAUSE: MSC MISCELLANEOUS
RESOLUTION: STPR DATE: 09/15/1994 SETTLED BY PARTIES AND/OR AGREED JUDGMEN
COMPLETION: JODF DATE: 09/15/1994 JUDGMENT/ORDER/DECREE FILED
CASE STATUS: CMPL DATE: 09/15/1994 COMPLETED/RE-COMPLETED

OFF-LINE DATE: 05/08/1996

ARCHIVED: 03/21/1998
CONSOLIDATED:
NOTE1:
NOTE2:

----------PARTIES----------

CONN	LAST NAME, FIRST MI TITLE	LITIGANTS	DATE
PLA01	DEPARTMENT OF ECOLOGY		
DEF01	CITY OF YAKIMA		

----------ATTORNEYS----------

CONN	LAST NAME, FIRST MI TITLE	LITIGANTS	DATE
ATP01	MORRILL, THOMAS C.		

----------APPEARANCE DOCKET----------

SUB#	DATE	CD/CONN	DESCRIPTION	SECONDARY
1	09/15/1994	SMCMP	SUMMONS & COMPLAINT	
	09/15/1994	$FFV	FILING FEE VOUCHERED	
2	09/15/1994	MT	JOINT MTN FOR ENTRY OF PURCHASER CONSENT DECREE	
3	09/15/1994	AF	AFFIDAVIT OF RICK ROEDER	
4	09/15/1994	AF	AFFIDAVIT OF THOMAS MORRILL	
5	09/15/1994	DC	PROSPECTV PURCHSR CONSENT DECREE (LEAVITT)	
		MFILM	524-0294	
	10/18/1994	$FFR	FILING FEE RECEIVED	110.00

----------END COPY CASE----------

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rec'd 9-15-94

FILED
SEP 15 1994
KIM M. EATON, YAKIMA COUNTY CLERK

SUPERIOR COURT OF WASHINGTON IN AND FOR YAKIMA COUNTY

STATE OF WASHINGTON DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

CITY OF YAKIMA, a Washington municipal corporation,

Defendant.

No. 94 2 02050 1

PROSPECTIVE PURCHASER CONSENT DECREE RE: YAKIMA GOODWILL INDUSTRIES SITE

TABLE OF CONTENTS

PRESTON GATES & ELLIS
5000 Columbia Center
701 Fifth Avenue
Seattle, Washington 98104
Telephone: (206) 623-7580

OFFICE OF THE CITY ATTORNEY
CITY OF YAKIMA
424 East Yakima Avenue, Ste. 100
Yakima, Washington 98901
Telephone: (509) 575-6030

INTRODUCTION

This prospective purchaser consent decree ("Decree") is made and entered into by and between the Washington State Department of Ecology ("Ecology") and the City of Yakima, a first class, charter city. Successors in Interest and Assigns may become parties to this Decree as provided herein, in Section XI.

1. WHEREAS, the purpose of this Decree is to perform an Interim Action for source control and complete soil remediation of PCE, TPH, and other known hazardous substances which have been released at the Yakima Goodwill Industries site (the "Property"), to promote the public interest by expediting cleanup activities at the Property and by facilitating construction of a police station/legal center in Yakima, Washington, to provide for the preparation of a Phase I Remedial Investigation (RI) at the conclusion of the Interim Action, and to resolve the possible liability of the City of Yakima for known hazardous substances which have been released at the property. The Property is located at 222 South Third Street and is bounded by South Third Street on the east, a military armory on the north, East Spruce Street on the south and an alley on the west.

2. WHEREAS, the City of Yakima has undertaken substantial steps to acquire the Property by purchase or condemnation in exercise of its powers of eminent domain under ch. 35.22.280(6) RCW. The City of Yakima has entered into a Purchase and Sale Agreement, dated February 11, 1994, with Goodwill Industries Rehabilitation Center, Inc., a Washington charitable non-profit corporation, the current owner of the Property ("Goodwill"), to purchase the Property. The City of Yakima passed a condemnation ordinance, dated August 9, 1994, authorizing the acquisition of the Property by condemnation, if necessary, in the event that current negotiations to purchase the Property prove unfruitful.

3. WHEREAS, the City of Yakima proposes to demolish the existing structure on

PRESTON GATES & ELLIS
5000 Columbia Center
701 Fifth Avenue
Seattle, Washington 98104
Telephone: (206) 623-7580

OFFICE OF THE CITY ATTORNEY
CITY OF YAKIMA
424 East Yakima Avenue, Ste. 100
Yakima, Washington 98901
Telephone: (509) 575-6030

the Property and construct a police station/legal center (the "Center") on the Property and several adjacent parcels currently owned or leased by the City of Yakima.

4. WHEREAS, the Center is needed to address overcrowding of existing Police Department offices and prisoner holding facilities, to house the City of Yakima's entire City Attorney's Office, and provide needed space for a 24-hour 911 emergency communications center for the City of Yakima and other Yakima Valley jurisdictions.

5. WHEREAS, the State of Washington has a substantial interest in this criminal justice facility and has contributed both state-owned property (military armory) and $3,000,000 in capital construction funds appropriated by the Washington State Legislature.

6. WHEREAS, the Center is an essential public facility under the Growth Management Act, RCW 36.70A.200(1), the Property is a key parcel of land needed to realize completion of the Center, and no other reasonable alternative for siting the Center exists.

7. WHEREAS, in the absence of this Decree, the City of Yakima would, as a consequence of acquiring the Property, incur potential liability under RCW 70.105D.040(1)(a) of the Model Toxics Control Act ("MTCA") for performing remedial actions or for paying remedial costs incurred by Ecology, resulting from the release or threatened release of hazardous substances at the Property.

8. WHEREAS, the City of Yakima has performed an Environmental Site Assessment which revealed that groundwater at the Property exceeds MTCA Method A and Method B cleanup levels for certain hazardous substances. In addition, soil samples taken at the Property exceed MTCA Method A cleanup levels for certain hazardous substances, and sump sediment samples taken at the Property exceed MTCA Method A and B cleanup levels for certain hazardous substances. The sump sediments have been collected and containerized by Goodwill for proper disposal prior to transfer of title to the Property to the City of Yakima.

9. WHEREAS, this Decree promotes the public interest by expediting hazardous substance remediation at the Property and by facilitating construction of needed public law

PRESTON GATES & ELLIS
5000 Columbia Center
701 Fifth Avenue
Seattle, Washington 98104
Telephone: (206) 623-7580

OFFICE OF THE CITY ATTORNEY
CITY OF YAKIMA
424 East Yakima Avenue, Ste. 100
Yakima, Washington 98901
Telephone: (509) 575-6030

enforcement, legal, and safety facilities.

10. WHEREAS, the City of Yakima has offered to further certain Ecology goals as provided in this Decree, in exchange for a covenant not to sue and protection from contribution under MTCA. Among other things, the City of Yakima will, as part of any redevelopment activities undertaken by the City of Yakima on the Property, conduct necessary soil remediation to bring the Property into compliance with MTCA Method A cleanup standards for tetrachloroethene (also referred to as perchloroethene - "PCE") and total petroleum hydrocarbons ("TPH"). The City of Yakima will also, according to Ecology's requirements, remediate other hazardous substances which, during the process of remediating PCE and TPH contaminated soils, are encountered in concentrations requiring remedial action under MTCA standards. The City of Yakima also agrees to perform groundwater monitoring according to the terms of this Decree.

11. WHEREAS, the City of Yakima's plans for the Property are not likely to aggravate or contribute to the Present Contamination on the Property, interfere with remedial actions that may be needed on the Property, or increase human health risks to persons at or in the vicinity of the Property.

12. WHEREAS, this Decree will provide for the first source removal of PCE contaminated soil in the Yakima Railroad Area, and generally an environmentally beneficial project and is within the public interest.

13. WHEREAS, the Court is fully advised of the reasons for entry of this Decree, and good cause having been shown:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

I. AUTHORITY, JURISDICTION AND VENUE

14. This Court has authority, under Washington's Uniform Declaratory Judgment Act (RCW 7.24 et seq.) to resolve the liability of the parties to this Decree.

15. This Court has jurisdiction over the subject matter and over the parties pursuant to MTCA, ch. 70.105D RCW. Venue is proper in Yakima County pursuant to RCW

PRESTON GATES & ELLIS
5000 Columbia Center
701 Fifth Avenue
Seattle, Washington 98104
Telephone: (206) 623-7580

OFFICE OF THE CITY ATTORNEY
CITY OF YAKIMA
424 East Yakima Avenue, Ste. 100
Yakima, Washington 98901
Telephone: (509) 575-6030

70.105D.050(5)(b).

16. Authority is conferred upon the Washington State Attorney General by RCW 70.105D.040(4)(a) to agree to a settlement with any potentially liable person ("PLP") if, after public notice and hearing, Ecology finds the proposed settlement would lead to a more expeditious cleanup of hazardous substances in compliance with cleanup standards under RCW 70.105D.030(2)(d). RCW 70.105D.040(4)(b) requires that such a settlement be entered as a consent decree issued by a court of competent jurisdiction.

17. Authority is also conferred upon the Washington State Attorney General by RCW 70.105D.040(5) to settle with non-PLPs who propose to purchase, redevelop, or reuse a property where hazardous substances have or may have been released so long as the settlement provides a substantial public benefit, yields substantial new resources to facilitate and expedite remedial action, and so long as the redevelopment or reuse is not likely to contribute to the existing release or threatened release, interfere with remedial actions that may be needed at the site, or increase health risks to persons at or in the vicinity of the site.

18. Ecology has determined that hazardous substances have been released at the Property. The City of Yakima has certified that it is not now a PLP for the Property. Were the City of Yakima to acquire an interest in the Property, however, without this Prospective Purchaser Consent Decree, it could be a PLP as an owner under RCW 70.105D.040(1)(a).

19. This Decree is entered prior to the City of Yakima's acquisition of the Property to resolve its possible liability for known hazardous substances which have been released at the Property and to facilitate a more comprehensive and expeditious remedial action at the Property than otherwise would occur.

20. By entering into this Decree, the City of Yakima agrees not to challenge Ecology's jurisdiction in any proceeding to enforce this Decree. The City of Yakima consents to the issuance of this Decree and has agreed to perform an interim remedial action and monitoring as specified in this Decree.

PRESTON GATES & ELLIS
5000 Columbia Center
701 Fifth Avenue
Seattle, Washington 98104
Telephone: (206) 623-7580

OFFICE OF THE CITY ATTORNEY
CITY OF YAKIMA
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Yakima, Washington 98901
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II. DEFINITIONS

21. Unless otherwise expressly provided herein, terms used in this Decree that are defined in MTCA or in regulations promulgated under MTCA shall have the meaning assigned to them in MTCA or in such regulations. Whenever terms listed below are used in this Decree or in the attachments hereto, the following definitions shall apply:

"Decree" shall mean this Decree and all attachments hereto. In the event of conflict between this Decree and any attachment, this Decree shall control;

"Paragraph" shall mean a portion of this Decree identified by an Arabic numeral;

"PCE" shall mean the substance known by a variety of names, including, but not limited to, tetrachloroethene, perchloroethylene, and specifically identified by Chemical Abstract System Number 127-18-4;

"The Property" shall mean the Yakima Goodwill Industries site bounded by South Third Street on the east, East Spruce Street on the south, and an alley on the west, depicted on Attachment B and legally described in Attachment A, attached hereto and incorporated by reference;

"Section" shall mean a portion of this Decree identified by a Roman numeral and including one or more Paragraphs.

"Successors in Interest and Assigns" shall mean any party who acquires an interest in the Property through purchase, lease, transfer, assignment, or otherwise.

III. DESCRIPTION OF SITE AND CONTAMINATION PROBLEMS

22. The Property is located at 222 South Third Street in Yakima, Washington and occupies the site bounded by South Third Street on the east, a military armory on the north, East Spruce Street on the south, and an alley on the west. Hazardous substances, including PCE, have historically been used at the Property.

23. A number of businesses, including automobile dealerships and dry-cleaning facilities, conducted business on the Property between 1942 and the present. Handling and disposal practices have not been established. Several drains and a sump are located within the Yakima

PRESTON GATES & ELLIS
5000 Columbia Center
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CITY OF YAKIMA
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Goodwill Industries building and may have acted as conduits to the subsurface.

24. A retail store is currently located on the Property, and a grated sump is located in the retail store's production area. This sump appears to have been located beneath a vehicle wash rack when the facility was used as automobile dealership/body shop.

25. The City of Yakima conducted an Environmental Site Assessment, completed in July 1994, which revealed soils on the Property with elevated concentrations of TPH and exceeding MTCA Method A cleanup levels for PCE. In addition, other substances have been detected below MTCA action levels as described in Attachment C which is incorporated by reference herein.

26. The City of Yakima's Environmental Site Assessment revealed sump sediments on the Property exceeding MTCA Method A cleanup levels for TPH and MTCA Method B cleanup levels for vinyl chloride. These sump sediments have been collected and containerized by Goodwill for proper disposal prior to transfer of title to the Property to the City of Yakima.

27. The City of Yakima's Environmental Site Assessment revealed groundwater on the Property exceeding MTCA Method A cleanup levels for PCE and MTCA Method B cleanup levels for chloroform.

28. Hazardous substances slightly in excess of MTCA cleanup levels for PCE and chloroform have been found in groundwater at the adjacent upgradient parcel which was formerly owned by Wikstrom Motors (the "Wikstrom Parcel"). The City of Yakima acquired the Wikstrom Parcel in 1994, in anticipation of construction of the Center. In January 1989, Ecology conducted a site inspection at the Wikstrom Parcel for the United States Environmental Protection Agency ("EPA"). At the time of the inspection, no evidence of past on-site release or disposal of hazardous substances was identified, and EPA deferred additional characterization to Ecology. Subsequently, prior to its acquisition by the City of Yakima, petroleum contaminated soils were removed from the Wikstrom Parcel. In a memorandum dated October 20, 1993, attached hereto and incorporated herein as Attachment D, Ecology stated that the removal of petroleum contaminated soils from the Wikstrom Site was successful and concluded the Wikstrom Parcel was no longer a source of contamination. Ecology

PRESTON GATES & ELLIS
5000 Columbia Center
701 Fifth Avenue
Seattle, Washington 98104
Telephone: (206) 623-7580

OFFICE OF THE CITY ATTORNEY
CITY OF YAKIMA
424 East Yakima Avenue, Ste. 100
Yakima, Washington 98901
Telephone: (509) 575-6030

also concluded that the presence of tetrachloroethene and chloroform in the groundwater at the Wikstrom Site does not require further remedial action.

29. Ecology has made a determination of "No Further Action" for the Wikstrom Parcel and noted that "[a] past investigation during the course of a site hazard assessment being performed by Ecology found no evidence of a release of tetrachloroethene [PCE], in addition no tetrachloroethene [PCE] was detected in the soil samples taken from the Wikstrom Site during the independent remedial actions." Ecology Memorandum, October 20, 1993 (Attachment D). This conclusion was corroborated by the results of samples from monitoring wells installed by the City of Yakima which found PCE in the groundwater on the downgradient edges of the Wikstrom Parcel, which is upgradient to the Property, at non-detect concentrations.

30. The Property is located within the Yakima Railroad Area. The Yakima Railroad Area is a mile-wide corridor straddling First Street and extending south from Lincoln Avenue on the north to Ahtanum Road in Union Gap. Groundwater within this area has been contaminated by PCE.

IV. DESCRIPTION OF PROPOSED PROJECT

31. The City of Yakima proposes to acquire the Property through purchase or condemnation, as necessary, through its powers of eminent domain, pursuant to RCW 36.70A.200(1). The City of Yakima proposes to demolish the existing structure and to construct a police station/legal center, a two-story free-standing facility, on both the Property and on adjacent property to which the City of Yakima already holds title. Funds for the project will be provided by a $3,000,000 grant appropriation from the State Legislature, revenues from additional utilities taxes, and revenue from the sale of limited tax general obligation bonds. In addition, the State of Washington Military Department has granted the City of Yakima a 99-year ground lease for $1.00 for a parcel adjacent to the Property , which parcel is necessary to construct the Center.

32. The Center will house the City of Yakima Police Department, all administrative, operational, investigative, training and support service functions associated with the City of Yakima Police Department, and the Offices of the City Attorney.

PRESTON GATES & ELLIS
5000 Columbia Center
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Seattle, Washington 98104
Telephone: (206) 623-7580

OFFICE OF THE CITY ATTORNEY
CITY OF YAKIMA
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33. The Center is sized to house and designed to support area-wide 911 emergency communication services for the City of Yakima and other upper Yakima Valley jurisdictions.

34. The Center will house a prisoner holding facility for up to 80 criminal defendants.

35. Development of the Center will further urban renewal/revitalization in this area of downtown Yakima, in particular, by the removal of several public safety hazards, including structures which have been abandoned, burned-out and condemned.

36. Ecology has determined that remediation of contaminated soils at the Property and monitoring of groundwater at the Property is required. The primary objective of any soil remediation undertaken on the Property will be to stop any further release of PCE into groundwater. A secondary and related objective will be to reduce PCE and TPH levels in the soil above the groundwater table to conform to MTCA cleanup standards. Other hazardous substances which are encountered during the process of remediating PCE and TPH contaminated soils in concentrations requiring remedial action under MTCA standards, will be remediated according to Ecology's requirements. Such soil remediation and groundwater monitoring will be conducted as part of the City of Yakima's redevelopment of the Property according to Section V of this Decree and Attachment E. A third and related objective will be to prepare a Phase I Remedial Investigation (RI) at the conclusion of soil remediation.

37. The City of Yakima's remediation of contaminated soil, installation of groundwater monitoring wells, and monitoring of groundwater will lead to a more expeditious remediation of hazardous substances at the Property and will promote protection of the public health and the environment.

V. WORK TO BE PERFORMED

38. This Decree contains a program designed to protect public health, welfare, and the environment from the known release of hazardous substances or contaminants at, on, or from the Property. The requirements of such program are outlined in detail in the Interim Action Work Plan in

PRESTON GATES & ELLIS
5000 Columbia Center
701 Fifth Avenue
Seattle, Washington 98104
Telephone: (206) 623-7580

OFFICE OF THE CITY ATTORNEY
CITY OF YAKIMA
424 East Yakima Avenue, Ste. 100
Yakima, Washington 98901
Telephone: (509) 575-6030

Attachment E, attached hereto and incorporated herein.

39. The City of Yakima or its Successors in Interest and Assigns will perform an Interim Action consisting of soil sampling and remediation as described in Attachment E. Soil remediation will be commenced and completed as part of any construction excavation and grading undertaken for redevelopment of the Property. Soil known to be contaminated with PCE and TPH in areas of the Property being excavated and graded for redevelopment of the Property will be removed for treatment or disposal. The City of Yakima will also, according to Ecology's requirements, remediate other hazardous substances which are encountered during the process of remediating PCE and TPH contaminated soils in concentrations requiring remedial action under MTCA standards. Such removal of contaminated soil will continue until analytical results of excavation sidewall and bottom samples are below cleanup levels, or until groundwater contact (approximately fourteen (14) feet in May, 1994) or the adjacent streets (South Third Street and East Spruce Street) are encountered. The cleanup criteria used will be MTCA Method A cleanup levels for PCE and TPH in soil. Treatment or disposal of the contaminated soil will be performed in accordance with MTCA and other applicable regulations and as described in Attachment E.

40. The City of Yakima or its Successors in Interest and Assigns will install two (2) groundwater monitoring wells, as depicted in Figure 2 of Attachment E, during construction of the Center, in addition to the two (2) groundwater monitoring wells already installed as part of the Environmental Site Assessment for the Property. Collectively, the wells are positioned to provide a representative sampling of groundwater conditions surrounding the Property, with emphasis on the downgradient boundaries. The City of Yakima or its Successors in Interest and Assigns will sample and analyze groundwater for the presence of PCE in accordance with Attachment E. Groundwater sampling shall commence upon installation of the groundwater monitoring wells. Results will be submitted to the Ecology designated project coordinator within thirty (30) days following sampling. An interim groundwater monitoring report will be submitted to the designated Ecology project coordinator at the end of one year. At that time, Ecology will evaluate sample results. In the event

PRESTON GATES & ELLIS
5000 Columbia Center
701 Fifth Avenue
Seattle, Washington 98104
Telephone: (206) 623-7580

OFFICE OF THE CITY ATTORNEY
CITY OF YAKIMA
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there is a significant increase in PCE levels, quarterly sampling will be continued for another year. A significant increase in contaminant levels shall be deemed to have occurred in the event there is an exceedance of a ninety-five percent (95%) upper confidence interval for specified contaminants derived from methods specified in the Department of Ecology Toxics Cleanup Program Statistical Guidance for Site Managers, dated August 1992.

41. Provided that there is no significant increase in PCE levels (as defined above), sampling and analysis will continue for another year on a semi-annual basis, with results reported to the designated Ecology project coordinator within thirty (30) days following sampling, with a final report on the two years of groundwater monitoring submitted within ninety (90) days of conclusion of sampling.

42. The City of Yakima and its Successors in Interest and Assigns agree to exercise due care in the demolition, removal or development of any structure or improvement, including, but not limited to, USTs, buildings, paving, gravel surfacing, tanks, piping, utilities, monitoring wells, or other surface improvements.

43. In the event the City of Yakima or its Successors in Interest and Assigns discover any contamination not known, documented or suspected to exist on the Property as described in Section III, the City of Yakima and Successors in Interest and Assigns agree to a) notify Ecology of exposure of contaminated or potentially contaminated fill soils or of releases or threatened releases of hazardous substances within forty-eight (48) hours of discovery, unless or except when immediate response is required to prevent an imminent threat to human health or the environment in which case the City of Yakima and Successors in Interest and Assigns will notify Ecology immediately; and, b) notify Ecology of any plans to characterize the fill materials encountered at the site with respect to hazardous substance and/or dangerous wastes characteristics, prior to initiating such characterization. A response plan, which may include a sampling and analysis plan, will be developed at the time of discovery of such contamination by the City of Yakima or its Successors in Interest and Assigns, and submitted to Ecology for Ecology's approval. Nothing herein precludes Ecology from taking action or

PRESTON GATES & ELLIS
5000 Columbia Center
701 Fifth Avenue
Seattle, Washington 98104
Telephone: (206) 623-7580

OFFICE OF THE CITY ATTORNEY
CITY OF YAKIMA
424 East Yakima Avenue, Ste. 100
Yakima, Washington 98901
Telephone: (509) 575-6030

requiring action to address such releases consistent with the terms and conditions of this Decree. Nothing herein exempts the City of Yakima or Successors in Interest and Assigns from notification requirements under all applicable federal and state laws and regulations, as provided in Section XVIX of this Decree.

VI. DESIGNATED PROJECT COORDINATORS

44. The project coordinator for Ecology is:

Rick Roeder
Site Manager
Washington Department of Ecology
Central Regional Office
106 South Sixth Avenue
Yakima, Washington 98902

The project coordinators for the City of Yakima are:

Raymond L. Paolella, City Attorney
Lawrence A. Peterson, Assistant City Attorney
City of Yakima
424 East Yakima Avenue
Suite 100
Yakima, Washington 98901

45. Each project coordinator shall be responsible for overseeing the implementation of this Decree. The Ecology project coordinator will be Ecology's designated representative at the Property. To the maximum extent possible, communications between Ecology and the City of Yakima or its Successors in Interest and Assigns and all documents, including reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Decree, shall be directed through the project coordinators. The project coordinators may designate, in writing, working-level staff contacts for all or portions of the implementation of the work plan incorporated in this Decree as Attachment E. The project coordinators may agree to minor modifications to the work to be performed without formal amendments to this Decree. Minor modifications will be documented in writing by Ecology.

46. Any party may change its respective project coordinator. Written notification shall be given to the other parties at least ten (10) calendar days prior to the change.

PRESTON GATES & ELLIS
5000 Columbia Center
701 Fifth Avenue
Seattle, Washington 98104
Telephone: (206) 623-7580

OFFICE OF THE CITY ATTORNEY
CITY OF YAKIMA
424 East Yakima Avenue, Ste. 100
Yakima, Washington 98901
Telephone: (509) 575-6030

VII. PERFORMANCE

47. All work performed pursuant to this Decree shall be under the direction and supervision, as necessary, of a professional engineer or hydrogeologist, or equivalent, with experience and expertise in hazardous waste site investigation and cleanup. Any construction work must be under the supervision of a professional engineer. The City of Yakima or its Successors in Interest and Assigns shall notify Ecology in writing as to the identity of such engineer(s) or hydrogeologist(s), or others and of any contractors and subcontractors to be used in carrying out the terms of this Decree, in advance of their involvement at the Property.

VIII. CERTIFICATION OF THE CITY OF YAKIMA

48. The City of Yakima certifies that to the best of its knowledge and belief it has fully and accurately disclosed to Ecology the information currently in its possession or control that relates to the environmental conditions at and in the vicinity of the Property, or to the City of Yakima's right and title thereto.

49. If the information provided by the City of Yakima pursuant to this Section is not materially true and complete, the Covenant Not to Sue in Section XIV shall not be effective with respect to the City of Yakima, and Ecology reserves all rights it may have against the City of Yakima.

IX. CERTIFICATION OF THE CITY OF YAKIMA AND SUCCESSORS AND ASSIGNS

50. The City of Yakima and its Successors in Interest and Assigns certify that they did not participate in the discharge of hazardous materials at the Property.

51. If the certification provided by the City of Yakima or Successors in Interest and Assigns pursuant to this Section is not true, the Covenant Not to Sue in Section XIV shall not be effective with respect to the City of Yakima or its Successors in Interest and Assigns, and Ecology reserves all rights it may have against the City of Yakima or Successors in Interest and Assigns.

X. CONVEYANCE OF PROPERTY

52. The restrictions, obligations and rights set forth in this Decree shall hereafter run with the land and shall be binding upon any and all persons who acquire any interest in all or any

PRESTON GATES & ELLIS
5000 Columbia Center
701 Fifth Avenue
Seattle, Washington 98104
Telephone: (206) 623-7580

OFFICE OF THE CITY ATTORNEY
CITY OF YAKIMA
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Telephone: (509) 575-6030

portion of the Property, provided that such persons become parties to this Decree and follow the amendment procedures set forth in Section XI. Within twenty-one (21) calendar days of the effective date of this Decree, the City of Yakima shall record a memorandum of this Decree with the Auditor's Office, Yakima County, Washington.

53. The City of Yakima and its Successors in Interest and Assigns may freely alienate their interest, or any portion thereof, in the Property, provided that at least sixty (60) calendar days prior to the date of any sale of all or any portion of the Property or lease of all or a material portion of the Property, the City of Yakima or its Successors in Interest and Assigns proposing to transfer such interest shall, by use of the form of Notice of Proposed Transfer (Attachment F), notify Ecology of the proposed transfer, and the names of the proposed Successors in Interest and Assigns that would acquire such interest.

54. The Covenant Not to Sue shall not be effective with respect to any Successors in Interest and Assigns who fail to execute the attached Agreement of Successors in Interest and Assigns, or a substantially equivalent document, and follow the amendment procedure set forth in Section XI. Failure of the City of Yakima or Successors in Interest and Assigns who acquire an interest in the Property and who are subject to this Section's notification requirements to timely comply with this Section's notification requirements shall subject such party to a stipulated penalty of $5,000, and does not in any way alter the rights and obligations of such party as set forth in this Decree, including Ecology's reservation of rights under Section XI of this Decree.

XI. AMENDMENT OF CONSENT DECREE; ADDING NEW PARTIES TO DECREE

55. This Decree may only be amended by a written stipulation among the parties to this Decree that is thereafter entered and approved by order of the Court, except as provided in Paragraph 57. Such amendment shall become effective upon entry by the Court, or upon a later date if such date is expressly stated in the parties' written stipulation or the Court so orders.

56. Amendments may cover any subject or be for any purpose agreed to by the parties to this Decree, including for the purpose of making Successors in Interest and Assigns new

PRESTON GATES & ELLIS
5000 Columbia Center
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Telephone: (509) 575-6030

parties to the Decree. If Ecology determines that the subject of an amendment requires public input, Ecology shall provide thirty (30) days public notice prior to seeking entry of the amendment by the Court, except that Ecology agrees that an amendment to make Successors in Interest and Assigns parties to this Decree shall not require public notice or comment.

57. As part of the notice to Ecology required by Section X of this Decree, when the City of Yakima or Successors in Interest and Assigns contemplate conveyance of the Property, the proposed Successors in Interest and Assigns shall request that the Decree be amended as required by, and provided for in, this paragraph. The amendment to the Decree may be in the form of Attachment G, "Agreement of Successors in Interest and Assigns." Ecology may only withhold consent to an amendment making Successors in Interest and Assigns party to this Decree if it provides written notification to the party or parties notifying Ecology of the proposed transfer in interest pursuant to Section X of this Decree. The written notification shall state that the City of Yakima or its Successors in Interest and Assigns is in violation or will be in violation of a material term of the Decree. Such written notification must be received within thirty (30) days of the date Ecology was notified of the proposed transfer. If Ecology does not provide such notification within thirty (30) days, the Court is authorized to enter the amendment without further action by Ecology. Provided, however, that failure of Ecology to comment within thirty (30) days does not compromise or affect any rights Ecology may have under this Decree, MTCA, or other applicable law.

XII. DISPUTE RESOLUTION

58. In the event a dispute arises as to an approval, disapproval, proposed modification, or other decision or action by Ecology's project coordinator, the parties shall use the dispute resolution procedure set forth below.

(1) Upon receipt of the Ecology project coordinator's decision, the City of Yakima or its Successors in Interest and Assigns have fourteen (14) days within which to notify Ecology's project coordinator of any objection to the decision.

(2) The parties' project coordinators shall then confer in an effort to resolve

PRESTON GATES & ELLIS
5000 Columbia Center
701 Fifth Avenue
Seattle, Washington 98104
Telephone: (206) 623-7580

OFFICE OF THE CITY ATTORNEY
CITY OF YAKIMA
424 East Yakima Avenue, Ste. 100
Yakima, Washington 98901
Telephone: (509) 575-6030

the dispute. If the project coordinators cannot resolve the dispute within fourteen (14) days, Ecology's project coordinator shall issue a written decision.

(3) The City of Yakima or its Successors in Interest and Assigns may then request Ecology management review of the decision. This request shall be submitted in writing to the Toxics Cleanup Program Manager within seven (7) days of receipt of Ecology's project coordinator's written decision.

(4) Ecology's Toxics Cleanup Program Manager shall conduct a review of the dispute and shall issue a written decision regarding the dispute within thirty (30) days of the City of Yakima's or its Successors' in Interest and Assigns' request for review. The Toxics Cleanup Program Manager's decision shall be Ecology's final decision on the disputed matter.

59. If Ecology's final written decision is unacceptable to the City of Yakima or its Successors in Interest and Assigns, the City of Yakima or its Successors in Interest and Assigns have the right to submit the dispute to the Court for resolution. The parties agree that one judge should retain jurisdiction over this case and shall, as necessary, resolve any dispute arising under this Decree. In the event the City of Yakima or its Successors in Interest and Assigns present an issue to the Court for review, the Court shall review the action or decision of Ecology under an arbitrary and capricious standard of review.

60. The parties agree to use the dispute resolution process in good faith and agree to expedite, to the extent possible, the dispute resolution process whenever it is used. When either party uses the dispute resolution in bad faith or for purposes of delay, the other party may seek sanctions.

61. The implementation of these dispute resolution procedures shall not provide a basis for delay of any activities required in this Decree, unless Ecology agrees in writing to a schedule extension or the Court so orders.

XIII. CONTRIBUTION PROTECTION

62. With regard to claims for contribution against the City of Yakima or its Successors in Interest and Assigns for matters addressed in this Decree, Ecology agrees that the City

PRESTON GATES & ELLIS
5000 Columbia Center
701 Fifth Avenue
Seattle, Washington 98104
Telephone: (206) 623-7580

OFFICE OF THE CITY ATTORNEY
CITY OF YAKIMA
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of Yakima and its Successors in Interest and Assigns are entitled to protection from contribution actions or claims as is provided by MTCA, RCW 70.105D.040(4)(d), as currently enacted or as may be amended in the future, or as otherwise provided by law.

XIV. COVENANT NOT TO SUE UNDER MTCA; REOPENERS

63. In consideration of the mutual promises and covenants herein, Ecology hereby covenants not to sue, not to execute judgment, nor to take any civil judicial, or administrative action, nor to establish any lien against the City of Yakima or its Successors in Interest and Assigns for claims pursuant to RCW 70.105D.040, as currently enacted or as may be amended in the future, or otherwise under state or federal law with respect to PCE and TPH contamination in soils and groundwater and other hazardous substances encountered during the process of remediating PCE and TPH contaminated soils in concentrations requiring remedial action under MTCA standards which are remediated by the City of Yakima according to Ecology's requirements as of the date Ecology certifies completion as contemplated is Paragraph 84. This Covenant Not to Sue does not apply to Ecology's claims with respect to PCE and TPH contamination in soils and groundwater and other hazardous substances encountered during the process of remediating PCE and TPH contaminated soils in concentrations requiring remedial action under MTCA standards which are remediated by the City of Yakima according to Ecology's requirements under RCW 70.105D.040, as currently enacted or as may be amended in the future, arising from:

(1) The City of Yakima's or Successor in Interest and Assign's ownership or operation or future acquisition of a property or business other than the Property.

(2) Successors in Interest and Assigns' activities prior to the effective date of this Decree.

(3) Any liability arising from the City of Yakima's or Successors in Interest and Assigns' activities as generator, transporter, broker, storage facility, user, distributor, blender, or vendor of hazardous substances, or storage, use, management or other responsibility for hazardous substances that result or have resulted in releases that would be sufficient to create liability under

PRESTON GATES & ELLIS
5000 Columbia Center
701 Fifth Avenue
Seattle, Washington 98104
Telephone: (206) 623-7580

OFFICE OF THE CITY ATTORNEY
CITY OF YAKIMA
424 East Yakima Avenue, Ste. 100
Yakima, Washington 98901
Telephone: (509) 575-6030

RCW 70.105D.040(1)(c)-(e), as currently enacted or as may be amended in the future, except as provided in the work plan in Attachment E.

64. The City of Yakima has consented to the consideration set forth in this Decree and stipulated penalties set forth in Section X.

65. All of the City of Yakima's and its Successors in Interest and Assigns' rights, benefits, and obligations under this Decree and Covenant Not to Sue may be assigned, transferred, and shall run to any person that acquires an interest in the Property pursuant to the procedures set forth in Section X and Section XI of this Decree. Such rights, benefits, obligations and the Covenant Not to Sue shall not take effect until this Decree is amended pursuant to Section XI.

66. The City of Yakima and Successors in Interest and Assigns agree not to assert any claims or causes of action against the State Toxics Control Account, any local toxics control account, or Ecology, for reimbursement of funds expended, or to seek any other costs, damages, or attorney's fees from Ecology, with respect to any remedial activities undertaken or costs incurred pursuant to this Decree, or arising from contamination on the property; provided, however, that nothing contained in this paragraph shall be construed as precluding the City of Yakima, as a municipal corporation, from applying for any available state grant funds.

67. Ecology retains all of its legal and equitable rights against all persons, except as otherwise provided in this Decree. The legal and equitable rights retained by Ecology include, but are not limited to, the right to compel any person, other than the City of Yakima or Successors in Interest and Assigns, to take remedial actions for known, documented or suspected on or off-site contamination, and to seek reimbursement against such persons for costs incurred by Ecology as a result of such contamination.

68. Reopeners:

(1) Ecology reserves the right to seek modification of this Decree or to institute an action under § 70.105D.050 of MTCA, as currently enacted or as may be amended in the future, or take any other action authorized by law against any person, including the City of Yakima or

PRESTON GATES & ELLIS
5000 Columbia Center
701 Fifth Avenue
Seattle, Washington 98104
Telephone: (206) 623-7580

OFFICE OF THE CITY ATTORNEY
CITY OF YAKIMA
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its Successors in Interest and Assigns, if contamination unknown, undocumented or unsuspected to exist on the Property at the time of entry of the Decree is discovered subsequent to entry of the Decree and presents a previously unknown threat to human health or the environment. This reopener shall not apply to unknown, undocumented or unsuspected contamination on the Property discovered subsequent to entry of the Decree which is remediated during the Interim Action according to Ecology's requirements or where the City of Yakima or its Successors in Interest and Assigns agree to implement the response plan developed by the City of Yakima or its Successors in Interests and Assigns and Ecology under Paragraph 43 at the time of discovery of such contamination.

(2) Ecology reserves the right to seek modification of this Decree or to institute an action under § 70.105D.050 of MTCA, as currently enacted or as may be amended in the future, or take any other action authorized by law in the event the City of Yakima or its Successors in Interest and Assigns fail to comply with the terms and conditions of this Decree, and after written notice of noncompliance fail to come into compliance. Ecology agrees that it will use good faith in determining whether to invoke this reopener. This reopener should ordinarily not be invoked, for example, where the City of Yakima's or its Successors in Interest and Assigns' noncompliance with a term or condition of this Decree results in an insignificant time delay in performance.

69. Prior to initiating any proceeding against the City of Yakima or Successors in Interest and Assigns for liability with respect to the matters covered by the Covenant Not to Sue at Paragraph 63 as a result of previously unknown, undocumented or unsuspected factors, or a breach of this Decree, Ecology shall first provide the City of Yakima and Successors in Interest and Assigns an opportunity to provide Ecology with evidence rebutting such claims, to which Ecology will respond in writing. In asserting this Decree as a defense in any proceeding by Ecology for costs or claims involving the Property, the City of Yakima and Successors in Interest and Assigns shall have the burden of proving that such claim(s) were covered by this Decree or that such claim(s) were satisfied by the performance of their obligations under this Decree.

70. Applicability: Notwithstanding any other provisions of this Decree, Ecology

PRESTON GATES & ELLIS
5000 Columbia Center
701 Fifth Avenue
Seattle, Washington 98104
Telephone: (206) 623-7580

OFFICE OF THE CITY ATTORNEY
CITY OF YAKIMA
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Telephone: (509) 575-6030

reserves the right to assert, and the Covenant Not to Sue set forth in Paragraph 63 shall not apply with respect to, any claims or causes of action against the City of Yakima and Successors in Interest and Assigns, either administrative or judicial, after the effective date of this Decree, arising from any:

(1) Release or threat of release of hazardous substances, pollutants or contaminants, other than the hazardous substances remediated under the terms of this Decree, resulting from the City of Yakima's or Successors in Interest and Assigns' ownership, operation, use, or development of the Property;

(2) Introduction of any hazardous substances, pollutant, or contaminant, not including the hazardous substances remediated under the terms of this Decree, to or at the Property in the future;

(3) Interference with any remediation of the Property conducted or required by Ecology and any failure of the City of Yakima or Successors in Interest and Assigns to cooperate, as required by MTCA, with Ecology, its employees, agents, contractors or other authorized representatives conducting response activities under Ecology direction or oversight at the Property;

(4) Future transportation and disposal of hazardous substances from the Property, except as provided under the work plan in Attachment E;

(5) Exacerbation of on-site contamination, by the City of Yakima or Successors in Interest and Assigns;

(6) Failure to exercise due care with respect to any hazardous substances, pollutants or contaminants at the Property;

(7) Any and all criminal liability;

(8) Claims based on failure of the City of Yakima or Successors in Interest and Assigns to meet a requirement of this Decree, except as provided in Paragraph 56 with respect to notification only; or

(9) Liability for damages for injury to, destruction of, or loss of natural resources.

PRESTON GATES & ELLIS
5000 Columbia Center
701 Fifth Avenue
Seattle, Washington 98104
Telephone: (206) 623-7580

OFFICE OF THE CITY ATTORNEY
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XV. THE CITY OF YAKIMA RESERVATION OF RIGHTS

71. The City of Yakima and any Successors in Interest and Assigns reserve all rights and defenses which they may have and which are not otherwise addressed in this Decree. The execution of the "Agreement of Successors in Interest and Assigns" attached hereto as Attachment G or an amendment to this Decree by the City of Yakima or Successors in Interest and Assigns is not an admission of liability on their part.

72. Except as provided herein for the City of Yakima and Successors in Interest and Assigns, this Decree does not grant any rights or affect any liabilities of any person, firm or corporation or subdivision or division of state, federal, or local government.

XVI. DISCLAIMER

73. This Decree in no way constitutes a finding by Ecology as to the risks to human health or the environment that may be posed by contamination at the Property.

XVII. RETENTION OF RECORDS

74. The City of Yakima and Successors in Interest and Assigns shall retain for a minimum of ten (10) years, all business records, reports, and contracts, except those documents previously provided to Ecology, as referenced in Paragraphs 25 through 30, that relate to the work performed by that party and Assigns pursuant to Section V above, or that relate to the Present Contamination and known, documented and suspected off-site contamination if and when such contamination migrates onto the Property. Thereafter, no such record shall be destroyed unless notice of the destruction is provided to Ecology by registered mail at least sixty (60) days prior to the destruction. All non-privileged archived records, until destroyed pursuant to this Paragraph, shall be made available for copying upon Ecology's written request.

XVIII. SITE ACCESS

75. The City of Yakima and Successors in Interest and Assigns grant to Ecology, its employees, agents, contractors and authorized representatives, an irrevocable right to enter upon the Property, with reasonable notice and at any reasonable time for purposes of allowing Ecology to

PRESTON GATES & ELLIS
5000 Columbia Center
701 Fifth Avenue
Seattle, Washington 98104
Telephone: (206) 623-7580

OFFICE OF THE CITY ATTORNEY
CITY OF YAKIMA
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monitor or enforce compliance with this Decree. This right of entry is in addition to any right Ecology may have to enter onto the Property pursuant to specific statutory or regulatory authority. Consistent with Ecology's responsibilities under state and federal law, Ecology, and any persons acting for it, shall use their best efforts to minimize any interference and use their best efforts not to unreasonably interfere with the operations of the City of Yakima or Successors in Interest and Assigns by any such entry. In the event Ecology enters the Property for reasons other than emergency response, Ecology agrees that it shall provide reasonable advance notice to the City of Yakima or its Successors in Interest and Assigns of any planned entry, as well as schedules and locations of activity on the Property. Ecology further agrees to accommodate reasonable requests that it modify its scheduled entry or activities at the Property.

76. Notwithstanding any provision of this Decree, Ecology retains all of its access authorities and access rights, including enforcement authorities related thereto, under MTCA and any other applicable state statute or regulations.

77. Nothing in this Decree shall in any manner restrict or limit the nature or scope of response actions which may be taken by Ecology in fulfilling its responsibilities under state or federal law. The City of Yakima recognizes that even with the use of best efforts on the part of Ecology, the implementation of response actions at the Property may interfere with the City of Yakima's or Successors in Interest and Assigns' use or development of the site. The City of Yakima and Successors in Interest and Assigns agree to cooperate with Ecology in the implementation of response actions, provided that they do not waive any due process rights related thereto unless specifically waived pursuant to this Decree.

XIX. OTHER APPLICABLE LAWS

78. The City of Yakima and Successors in Interest and Assigns agree that they will abide by all federal and state laws and regulations and that they will exercise due care with respect to any hazardous substances, pollutants, or contaminants at the Property unless a higher standard of care is required by law.

PRESTON GATES & ELLIS
5000 Columbia Center
701 Fifth Avenue
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OFFICE OF THE CITY ATTORNEY
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XX. DURATION OF DECREE AND RETENTION OF JURISDICTION

79. This Decree shall remain in effect and this Court shall retain jurisdiction over both the subject matter of this Decree and the parties for the duration of the performance of the terms and provisions of this Decree for the purpose of enabling any of the parties to apply to the Court, consistent with the dispute resolution process set forth in Section XII, and the amendment process set forth in Section XI, at any time for such further order, direction, and relief as may be necessary or appropriate to ensure that obligations of the parties have been satisfied.

XXI. PUBLIC NOTICE AND WITHDRAWAL OF CONSENT

80. This Decree has been the subject of public notice and comment under RCW 70.105D.040(4)(a). As a result of this process, Ecology has found that this Decree will lead to a more expeditious cleanup of hazardous substances at the Property, in compliance with applicable cleanup standards, and is in the public interest.

81. If the Court withdraws its consent, this Decree shall be null and void at the option of any party. In such an event, no party shall be bound by the requirements of this Decree.

XXII. REMEDIAL ACTION COSTS

82. City of Yakima shall pay to Ecology costs incurred by Ecology pursuant to this Decree. These costs shall include work performed by Ecology or its contractors at the site under Chapter 70.105D RCW both prior to and subsequent to the issuance of this Decree for investigations, remedial actions, and Decree preparation, oversight and administration. Ecology costs shall include costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2). City of Yakima shall pay the required amount within ninety (90) days of receiving from Ecology an itemized statement of costs that includes a summary of costs incurred, an identification of involved staff, and the amount of time spent by involving staff members on the project. A general description of work performed will be provided upon request. Itemized statements shall be prepared quarterly. Failure to pay Ecology's costs within ninety (90) days of receipt of an itemized statement of costs will result in interest charges pursuant to WAC 173-340-550(4).

PRESTON GATES & ELLIS
5000 Columbia Center
701 Fifth Avenue
Seattle, Washington 98104
Telephone: (206) 623-7580

OFFICE OF THE CITY ATTORNEY
CITY OF YAKIMA
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Telephone: (509) 575-6030

XXIII. EFFECTIVE DATE

83. The effective date of this Decree is the date on which title to the Property vests in the City of Yakima.

84. The City of Yakima may request, and Ecology may not unreasonably refuse to provide, certification by Ecology that all requirements of this consent decree pertaining to soil remediation have been completed by the City of Yakima. Similarly, the City of Yakima may request, and Ecology may not unreasonably refuse to provide, certification by Ecology that all requirements of this consent decree pertaining to groundwater monitoring have been completed by the City of Yakima.

So ordered this 15th day of Sept., 1994.

Michael W. Leavitt

Judge
Yakima County Superior Court

The undersigned parties enter into this Prospective Purchaser Consent Decree on the date specified below.

THE CITY OF YAKIMA

By: [signature], City Manager

Date: 9/15/94

By: Raymond L. Paolella, City Attorney WSBA#16634

Date: 9/15/94

By: Karen S Roberts

Date: 9/15/94

PRESTON GATES & ELLIS
5000 Columbia Center
701 Fifth Avenue
Seattle, Washington 98104
Telephone: (206) 623-7580

OFFICE OF THE CITY ATTORNEY
CITY OF YAKIMA
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DEPARTMENT OF ECOLOGY

By: Carol Kraege
CAROL KRAEGE
PROGRAM MANAGER
TOXICS CLEANUP PROGRAM

Date: 9/13/94

By: _____

Date: _____

By: _____

Date: _____

ATTORNEY GENERAL'S OFFICE

By: Thomas C Morrill WSBA # 18388

Date: 9-13-94

By: _____

Date: _____

By: _____

Date: _____

PRESTON GATES & ELLIS
5000 Columbia Center
701 Fifth Avenue
Seattle, Washington 98104
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ATTACHMENT A

DESCRIPTION OF PROPERTY

The Property is located at 222 South Third Street in Yakima, Washington and is bounded by South Third Street on the east, East Spruce Street on the south, a military armory on the north and an alley on the west. Attachment B shows a plat map with Block and Parcel numbers.

The legal description is as follows:

LOTS 7 THRU 16 INCLUSIVE, BLOCK 53, TOWN OF NORTH YAKIMA, NOW YAKIMA, WASHINGTON, ACCORDING TO THE OFFICIAL PLAT THEREOF RECORDED IN VOLUME "A" OF PLATS, PAGE 10, AND RE-RECORDED IN VOLUME "E" OF PLATS, PAGE 1, RECORDS OF YAKIMA COUNTY, WASHINGTON.

SITUATED IN YAKIMA COUNTY, STATE OF WASHINGTON

(Yakima County Assessor's Parcel No. 191319-31439)

PRESTON GATES & ELLIS
5000 Columbia Center
701 Fifth Avenue
Seattle, Washington 98104
Telephone: (206) 623-7580

OFFICE OF THE CITY ATTORNEY
CITY OF YAKIMA
424 East Yakima Avenue, Ste. 100
Yakima, Washington 98901
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ATTACHMENT B

SITE MAPS

PRESTON GATES & ELLIS
5000 Columbia Center
701 Fifth Avenue
Seattle, Washington 98104
Telephone: (206) 623-7580

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CITY OF YAKIMA
424 East Yakima Avenue, Ste. 100
Yakima, Washington 98901
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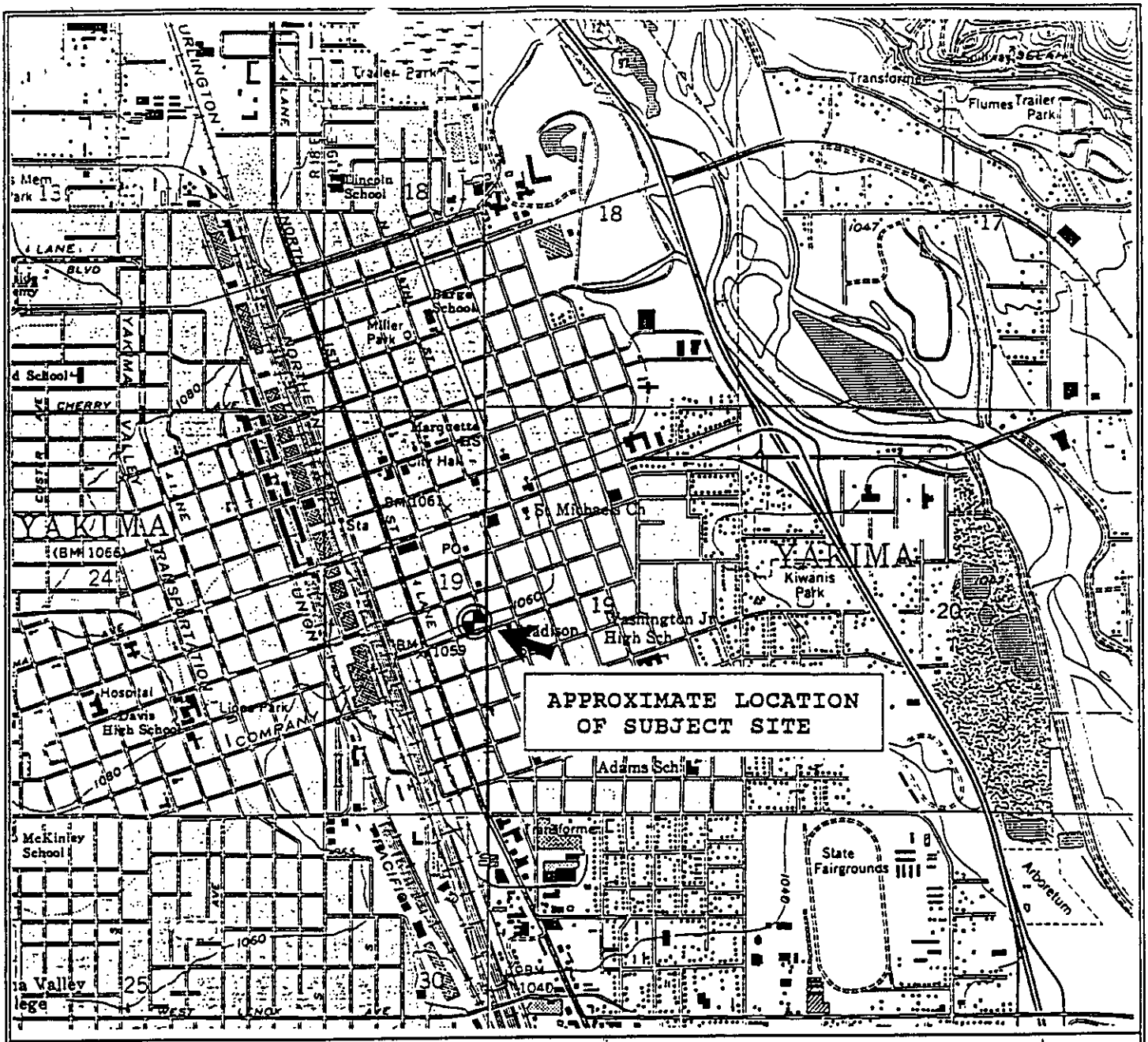
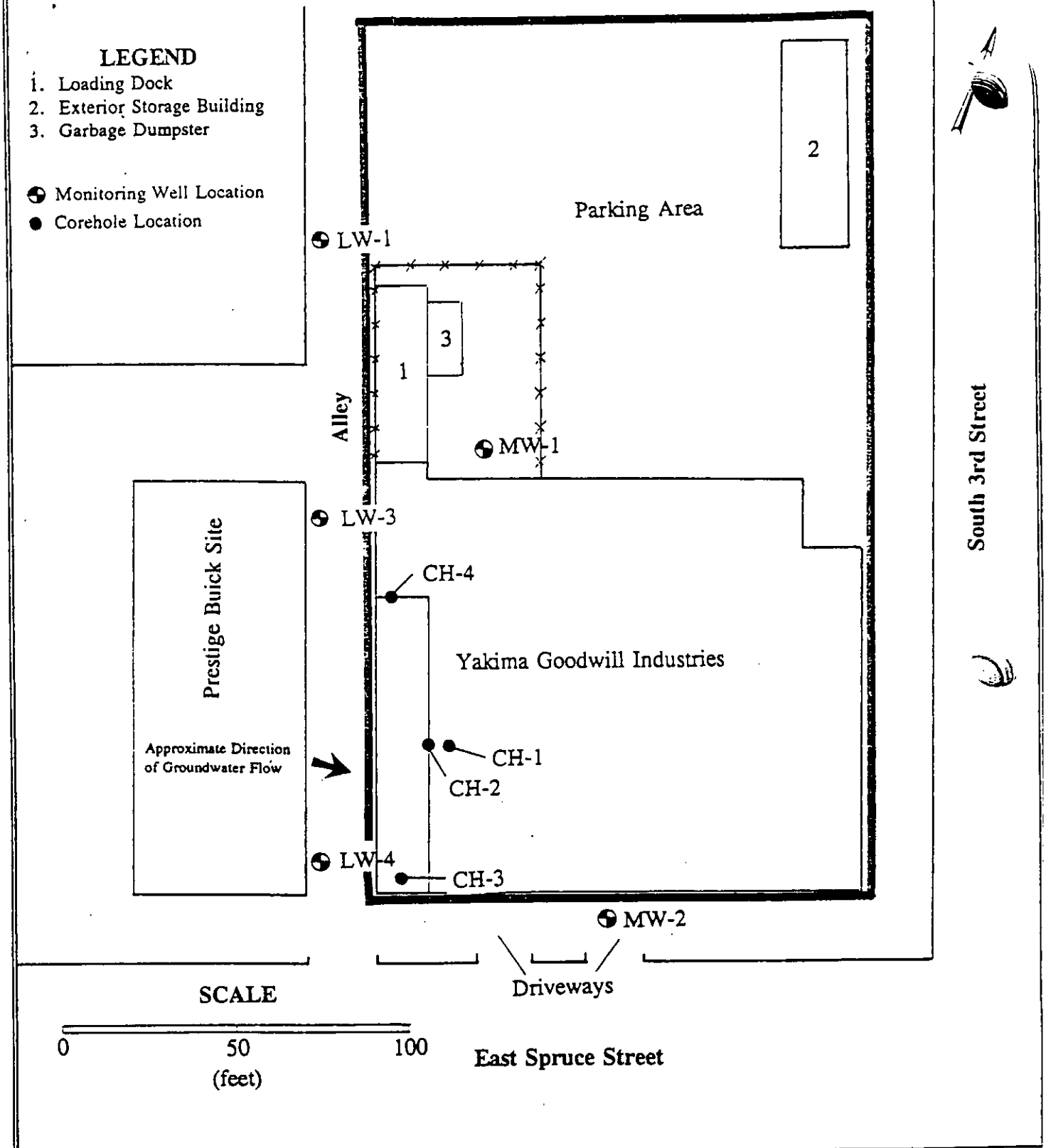


HUNTINGDON
CHEN-NORTHERN

Job No.: 194-1904

Site Location Map
USGS 7.5 Minute Series (Yakima East and West Quadrangles)
Phase I Environmental Site Assessment
With Cursory Asbestos Survey
Yakima Goodwill Industries Site
Yakima, Washington

DATE:	Mounted By:	Reviewed By:	SCALE:	FIGURE NO.
1985	JB	GH	As Shown	1



HUNTINGDON

Job No.: 194-1969

Site Plan
Phase II Environmental Site Assessment
Yakima Goodwill Industries Site
222 South 3rd Street
Yakima, Washington

DATE:	DRAWN BY:	REVIEWED BY:	SCALE:	FIGURE NO.
4/94	JB	GH	As Shown	2

hip 13 North, Range 19 E.W.M.

ATTACHMENT C

TABLES 2, 3, 4, and 5 from Phase II SITE ASSESSMENT

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5000 Columbia Center
701 Fifth Avenue
Seattle, Washington 98104
Telephone: (206) 623-7580

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CITY OF YAKIMA
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TABLE 2
Summary of Subsoil Analytical Results (mg/kg[1])
Sample No. 48941040A5MW1 (MW-1, 5.0 ft. BGS).

Analyte	Measured Value	Cleanup ~~Action~~ Level (A, B, or C)[2]
Total petroleum hydrocarbons as gasoline	2.5	100.0 (A)
Benzene	<0.005	0.5 (A)
Ethylbenzene	<0.005	20.0 (A)
Toluene	<0.005	40.0 (A)
Total xylenes	0.017	20.0 (A)
Lead	60.0	250.0 (A)

Notes: 1 Soil sample results are reported as a dry weight basis in milligrams per kilogram (mg/kg).
2 The most stringent MTCA Action Level as adopted by the Washington State Department of Ecology.
A (<) sign indicates the value reported was the practical detection limit of the analytical method. Concentrations, if present, below this were not quantifiable.

TABLE 3
Summary of Groundwater Analytical Results (mg/l[1])
Sample No. 41194240PMW1 (MW-1).

Analyte	Measured Value	Cleanup ~~Action~~ Level (A, B, or C)[2]
Total petroleum hydrocarbons as gasoline	0.3	1.0 (A)
Benzene	<0.001	0.005 (A)
Ethylbenzene	<0.001	0.030 (A)
Toluene	<0.001	0.040 (A)
Total xylenes	<0.003	0.020 (A)
Lead	<0.005	0.005 (A)

Notes: 1 Milligrams per liter or parts per million.
2 The most stringent MTCA Action Level as adopted by the Washington State Department of Ecology.
A (<) sign indicates the value reported was the practical detection limit of the analytical method. Concentrations, if present, below this were not quantifiable.

TABLE 4
Summary of Groundwater Analytical Results (mg/l[1])
Sample No. 41194320PMW2 (MW-2).

Analyte	Measured Value	Cleanup ~~Action~~ Level (A, B, or C)[2]
Chloroform	**0.019**	0.08 (Noncarc-B)[3] 0.007 (Carc-B)[4]
Tetrachloroethene	**0.046**	0.005 (A)

Notes:
1 Milligrams per liter or parts per million.
2 The most stringent MTCA Action Level as adopted by the Washington State Department of Ecology.
3 Noncarcinogenic - the level defined for developing noncancerous type illnesses in humans.
4 Carcinogenic - the level defined for developing cancer during a lifetime of exposure.
A (<) sign indicates the value reported was the practical detection limit of the analytical method. Concentrations, if present, below this were not quantifiable.
Bold type indicates that measured value exceeded MTCA Action Level.

TABLE 5
Summary of Sediment Analytical Results (mg/kg[1])
Sample No. 4894300PSS (Sump)

Analyte	Measured Value	Cleanup ~~Action~~ Level (A, B, or C)[2]
Total recoverable petroleum hydrocarbons (TRPH)	**15,000**	200.0 (A)
t-Butylbenzene	0.180	No Action Level Established
1,4-Dichlorobenzene	0.680	41.7 (Carc-B)[3]
1,1-Dichloroethene	0.110	720 (Noncarc-B)[4] 1.67 (Carc-B)
c-1,2-Dichloroethene	670	800 (Noncarc-B)
t-1,2-Dichloroethene	2.40	1,600 (Noncarc-B)
Ethylbenzene	0.089	20.0 (A)
Isopropylbenzene	0.030	No Action Level Established
Naphthalene	0.320	320 (Noncarc-B)
n-Propylbenzene	0.077	No Action Level Established
Tetrachloroethene	0.062	0.5 (A)
Toluene	0.056	40.0 (A)
1,2,4-Trimethylbenzene	0.670	No Action Level Established
1,3,5-Trimethylbenzene	0.600	No Action Level Established
Vinyl chloride	**0.450**	0.435 (Carc-B)
Total xylenes	0.5	20.0 (A)

Notes:
1 Sample results are reported as a dry weight basis in milligrams per kilogram (mg/kg).
2 The most stringent MTCA Action Level as adopted by the Washington State Department of Ecology.
3 Carcinogenic - the level defined for developing cancer during a lifetime of exposure.
4 Noncarcinogenic - the level defined for developing noncancerous type illnesses in humans.
A (<) sign indicates the value reported was the practical detection limit of the analytical method. Concentrations, if present, below this were not quantifiable.
Bold type indicates that measured value exceeded MTCA action level.

ATTACHMENT D

OCTOBER 20, 1993 ECOLOGY MEMORANDUM

PRESTON GATES & ELLIS
5000 Columbia Center
701 Fifth Avenue
Seattle, Washington 98104
Telephone: (206) 623-7580

OFFICE OF THE CITY ATTORNEY
CITY OF YAKIMA
424 East Yakima Avenue, Ste. 100
Yakima, Washington 98901
Telephone: (509) 575-6030

DEPARTMENT OF ECOLOGY

TCP-CRO

October 20, 1993

TO: Files

FROM: Mark Peterschmidt, TCP

SUBJECT: Independent Remedial Action Review of the Wikstrom Motors site, 217 South 2nd Street, Yakima, WA.

As a result of reviewing the available documentation on the remedial actions taken at the Wikstrom motors site located at 217 South 2nd Street, the Washington State Department of Ecology (Ecology) has made the determination of No Further Action for the releases of hazardous substances documented in the remedial action reports.

It appears that the remedial actions have reduced the threat from hazardous substances originating at the facility to the extent that they no longer pose a threat to human health or the environment. It should be noted that tetrachloroethene and chloroform were detected in the ground water at the site. In both instances the detected concentrations were slightly above the standards defined in the Model Toxics Control Act implementing regulations Chapter 173-340 of the Washington Administrative Code. In each case the threat posed by the contaminants does not require further remediation to take place at this site.

The presence of tetrachloroethene in the ground water at the Wikstrom Motors site does not require further remedial action because the site lies within the Yakima Railroad Area, an area where ground water has been contaminated by tetrachloroethene. The concentrations detected at the Wikstrom Motors site are common within the Yakima Railroad Area. A past investigation during the course of a site hazard assessment being performed by Ecology found no evidence of a release of tetrachloroethene, in addition no tetrachloroethene was detected in the soil samples taken from the Wikstrom Motors site during the independent remedial actions.

I believe that the presence of chloroform in the ground water does not require further remedial action. While the detected concentrations of chloroform (high value being 8.9 parts per

billion) are slightly above (approximately 1 part per billion above the standard) the Method "B" standard, this concentration is far below the Department of Health standard of 100 parts per billion for the combined trihalomethanes, which includes chloroform.

The remedial action of removing the petroleum contaminated soils from the Wikstrom Motors site to a treatment facility appears to have been successful and the site is no longer a source of contamination.

This decision of No Further Action by Ecology is based on the information submitted to Ecology by Mr. Halverson, interviews and a site visit with Mr. Wikstrom, and meetings that included the consultants and contractors who conducted the remediation and site investigations. This does not release the Wikstrom Motors site from further remedial actions should a new release occur on the site or new information becomes available that indicates contamination remains on the property and is a threat to human health or the environment.

MP:vw
g:wikstrom.mmo

ATTACHMENT E

WORK PLAN

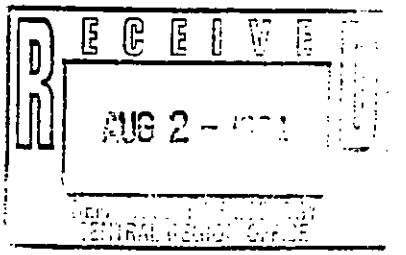
PRESTON GATES & ELLIS
5000 Columbia Center
701 Fifth Avenue
Seattle, Washington 98104
Telephone: (206) 623-7580

OFFICE OF THE CITY ATTORNEY
CITY OF YAKIMA
424 East Yakima Avenue, Ste. 100
Yakima, Washington 98901
Telephone: (509) 575-6030

Job # 194-1969

INTERIM ACTION WORK PLAN
YAKIMA GOODWILL INDUSTRIES PROPERTY
YAKIMA, WASHINGTON

Prepared for:
City of Yakima
Yakima, Washington



Prepared by:
HUNTINGDON ENGINEERING AND ENVIRONMENTAL, INC.
Consulting Engineers and Scientists
2214 North 4th Avenue
Pasco, Washington 99302
(509) 547-1671
FAX (509) 547-1673

July, 1994

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1.0 INTRODUCTION

1.1 DESCRIPTION OF PROPERTY

The site is located at 222 South 3rd Street near the intersection of East Spruce Street in Yakima Washington 98901. The site is composed of parcel 191319-31439 as recorded in documents on file with Yakima County Assessor. An approximate legal description for the site is Lots 7 through 16, Block 53, North Yakima, southeast quarter of the southwest quarter of section 19, township 13 north, range 19 east of the Willamette, Yakima County, Washington. Based on the United States Geological Survey, (USGS) 7.5 minute series topographic map of the area (Yakima West Quadrangle), the latitude is 46 degrees 35 minutes 57 seconds and the longitude is 120 degrees 30 minutes 5 seconds. The approximate location is depicted in Figure 1, the Site Location Map.

1.1.1 Description Of Site Structures

The subject site is currently developed with a retail store and storage area. The two level 19,250 ft^2 retail store is constructed from masonry and stone block and contains a partial basement. A single level 1,200 ft^2 storage structure of masonry block construction is located near the east-northeast margin of the site.

1.2 INTERIM ACTION PURPOSE

All remedial activities will be conducted with Ecology approval and in accordance with the prospective purchaser consent decree. The purpose of the work is to remediate contaminated soil and to generate data which will provide a basis for characterizing the environmental condition of the property after soil remediation.

2.0 SAMPLING AND ANALYSIS PLAN

2.1 STATEMENT OF PURPOSE AND OBJECTIVES

This Sampling and Analysis Plan (SAP) describes the field activities, sampling and analysis methods, and Quality Assurance (QA) and Quality Control (QC) procedures for the proposed Phase III remediation at the Yakima Goodwill Industries Site, 222 South 3rd Street, Yakima Washington. This SAP was prepared in accordance with Chapter 173-340-820 WAC.

2.2 ORGANIZATION AND RESPONSIBILITIES

2.2.1 Ecology Project coordinator

The Ecology Project Coordinator is responsible for coordinating all activities relating to this project on behalf of Ecology. This includes:

- Oversight of project activities
- Determining and documenting compliance with the prospective purchaser agreement and this workplan
- Review of project work plans
- Review of project deliverables (interim action and water monitoring reports)

2.2.2 City of Yakima Project Coordinator

The City of Yakima Project coordinator reports to the Ecology Project Coordinator and is responsible for the overall completion of the scope of work outlined in the agreement. Specific responsibilities of the City of Yakima Coordinator include:

- Serving as a central point of contact for the interim action
- Oversight of interim action work plan
- Assuring compliance with the prospective purchaser consent decree and this workplan
- Submission of interim action work plans
- Submission of project deliverables (interim action and ground water monitoring reports)

2.2.3 Analytical Project Coordinator

The analytical laboratory will assign a person to be their Project Coordinator. This individual will be responsible for the timely analysis of the samples, all analytical QA/QC procedures, and sample custody within the laboratory. The Analytical Project Coordinator will report to the City of Yakima Project Coordinator and will interact with the field project team.

2.3 SCOPE OF WORK

Based on Huntingdon's Phase II site assessment, elevated concentrations of total petroleum hydrocarbons and tetrachloroethene were detected in the site soil.

Prior to commencing site demolition activities, a corehole will be cut approximately 2 feet below the base of the sump. A soil sample from the corehole will be analyzed by an off-site laboratory for dangerous waste characteristics. This information will allow finalization of the interim action for the site.

The surface structures will be demolished down to the concrete slab and the partial basement without impacting the site soil. Site monitoring with a photoionization detector will be conducted while the floor slab is removed. A mobile laboratory will be moved on-site prior to initiating excavation in the areas suspected to have contaminated soil. Building demolition at this point will be conducted concurrently with soil remediation.

Soil samples will be collected from excavated areas beneath the floor slab and basement area. The analytical results for the samples will be used to segregate soil. Up to 17 samples a day

may be analyzed to confirm field screening procedures. Near real time analysis will be used to determine the limit to the excavation.

Excavated soil will be segregated based on the laboratory analysis. Contaminated soil will be disposed of in accordance with the remedial alternative approved by Ecology.

2.4 SOIL SAMPLING

Soil samples will be collected during demolition and excavation. The following sections describe the soil sampling methods and procedures.

2.4.1 Excavation

Samples will be collected from excavated soil and the excavation boundaries where Health and Safety considerations allow. Sampling will be performed with the frequency listed below as suggested in Ecology's guidance documents.

Cubic Yards of Soil Excavated	Minimum Number of Samples
0 - 100	3
101 - 500	5
501 - 1000	7
1001 - 2000	10
> 2000	10+1 for each additional 500 cubic yards

2.5 SOIL SAMPLE ANALYSIS

A mobile laboratory will be used on the project to assist in defining the limits of the excavation. The mobile lab will allow the project team to segregate soil based on clean up levels and hazardous waste characteristics.

Field staff will deliver samples to the on-site mobile analytical laboratory upon collection. Chain-of-custody will be employed (see Section 2.6). The laboratory will analyze soil samples for the following constituents and other hazardous constituents discovered at the site:

Analysis	Method
TRPH	WTPH 418.1
Volatile Organic Constituents (including PCE-tetrachloroethene)	VOC EPA METHOD 8260

If other hazardous substances are encountered in concentration requiring remedial action under MTCA guidelines, Ecology will be notified.

Table 1 lists the containers and the holding times for the analyses.

TABLE 1

SOIL CONTAINER REQUIREMENTS AND HOLDING TIMES

ANALYTICAL METHOD	REQUIRED CONTAINER METHOD	PRESERVATION TIME	HOLDING TIME
VOC	4 oz. GLASS JAR W/ TEFLON LID LINER	4 C	10 DAYS
WTPH 418.1	4 oz. GLASS JAR WITH TEFLON LID LINER	4 C	14 DAYS

2.6 FIELD PROCEDURES

EQUIPMENT DECONTAMINATION

Sampling equipment used in the collection process will be decontaminated to minimize potential for cross contamination. All sampling equipment will be decontaminated prior to use on site and between sampling tests. The following steps will constitute the decontamination procedure:

1. Wash items in a solution of Alconox detergent and tap water
2. Rinse with tap water
3. Triple rinse with deionized water
4. Air dry

Decontamination water will be disposed of in accordance with applicable regulations. Procedures for personnel decontamination will be described in the Site Health and Safety Plan (See Sec. 6.0 below).

FIELD LOG BOOK

Documentation of the field assessment is critical. A bound and numbered field log books will be maintained by the field team to provide a daily record of activities, observations, deviations from the sampling plan and measurements collected during the field activities. The field team leader will determine the necessity for any changes to the sampling plan. The nature of the change and the reason for changes will be recorded. The field log will contain sufficient information so that the sampling activity can be reconstructed. All entries will be signed dated and made with waterproof ink. Corrections to the log book will be made by drawing a line through the error, initialing and dating.

CHAIN-OF-CUSTODY PROGRAM

The objective of the chain-of-custody program is to allow the tracking of possession and handling of individual samples from the time of field collection through laboratory analysis. Once a sample is collected, it becomes part of the chain-of-custody process. A sample is "in custody" when (1) it is in someone's possession, (2) it is within visual proximity of that person, (3) it is in that person's possession, but locked up and sealed (e.g., during transport), and (4) it is in a designated secure sample storage area.

CHAIN-OF-CUSTODY RECORD

Chain-of-custody records establish the documentation necessary to trace sample possession from the time of collection to analysis. A serialized chain-of-custody record will be completed and will accompany each batch of samples. The record will contain the following information:

* Project name and number
* Names of sampling team members
* Laboratory destination
* Requested testing program
* Sample numbers
* Date and time collected
* Sample matrix
* Number and type of containers
* Special Instructions
* Possible sample hazards
* Signatures of persons involved in the chain of possession

When sample custody is transferred from one individual to another, the samples must be relinquished by the present custodian and received by the new custodian. This will be recorded at the bottom of the chain-of-custody report where the persons involved will sign, date and note the time of transfer.

The chain-of-custody record is a multi-part form that allows the record to be kept in triplicate. Two copies will accompany the sample shipment to the laboratory and one copy will be kept with the field log book. Upon completion of sample analyses the laboratory will return the original form to the originator. All documents that accompany shipments will be enclosed in a zip-lock bag and taped to the inside top cover of the shipping container.

CUSTODY SEALS

Custody seals are used to detect unauthorized tampering with samples during storage and transport. Several seals will be attached to each shipping container (iced coolers) in a manner such that the container cannot be opened without breaking the seal. Clear strapping tape will be placed over the seals to ensure that seals are not accidentally broken during transportation. The following information will be recorded on each seal:

* Sampler's signature
* Date of seal attachment

SAMPLE IDENTIFICATION

Sample labels prevent the misidentification of samples. following sample collection, labels will be affixed to each sample container. Labels will be sufficiently durable to remain legible even when wet. Labels will record the following type of information:

* Project name and number
* Sample identification number
* Date and time of collection
* Required test methods
* Name of sample collector

2.7 QUALITY ASSURANCE/QUALITY CONTROL

Samples will be collected and analyzed with sufficient QA/QC to ensure representative and reliable results. The overall QA objective for this investigation is to ensure that all decisions based on laboratory and field data are technically sound, statistically valid, and properly documented. Specific QA protocols will be executed and are described for all activities related to the collection of samples, the analyses of these samples by the laboratory, and the handling of data generated during the investigation. There are two parts to the QA/QC program for this project: field and laboratory.

2.7.1 Field QA/QC

Field QA/QC includes proper documentation of field activities and sampling/handling procedures, as described in Section 2.6. Field QA/QC samples will consist of the following:

*	Duplicate samples (Split Samples)	5%
*	Equipment rinsate blanks	5%
*	Trip blanks	Accompanying each sampling shipment.

Duplicate samples will be taken from a homogenized sample for non-volatile compounds. A third sample will be collected prior to homogenization for analysis of volatile constituents. Equipment rinsate blanks will be prepared in the field by running deionized water through and over non-dedicated sampling equipment (after decontamination) and into sample containers. Dedicated sample equipment may be used for sampling monitoring wells to reduce the need for equipment blanks. Trip blank will accompany all shipments to the laboratory where volatile constituent analyses are required.

2.7.2 Laboratory QA/QA

The acceptance criteria for the specific analyses used in will be expressed in terms of precision, accuracy, completeness, comparability, and representativeness.

Precision: Precision is the degree of agreement between repeated measurements of the same parameter under prescribed, similar conditions. The precision, or repeatability of a series of measurements can be expressed in terms of relative percent difference (RPD). Precision between matrix spikes and matrix spike duplicates is determined by calculating the RPD between the spike recoveries. Precision will be assessed by analysis of matrix spike duplicates and replicates, determining the RPD, and by comparing the RPD with the acceptance criteria for each analytical method.

Accuracy: Accuracy is the measure of the degree of agreement between an analyzed value and the true or accepted value where it is known. Accuracy will be represented by calculating percent recovery of a known standard added to the sample of interest. Laboratory accuracy will be assessed through the analyses of instrument calibration verification standards, laboratory control samples, matrix spiked samples, surrogate spiked samples, and performance evaluation QC check samples. The degree of accuracy depends on the sample matrix method of analysis, sample preparation method and the analysis being determined. The concentrate of the analysis relative to the detection limit is also a major factor in determining the accuracy of the measurement. The analytical lab will perform all analysis within the prescribed limits of accuracy described in each method.

Completeness: Completeness is the ratio of the number of valid sample results to the total number run with a specific analysis of a specific matrix. In terms of sampling protocols, completeness is the ratio of the number of valid samples collected to the total number of samples required to be representative. Laboratory completeness will be based on the total number of samples that are analyzed under controlled conditions that meet the project precision and accuracy objectives for each analytical method. Data produced by the laboratory should achieve completeness of greater than or equal to 95% for soil matrices.
Field sampling completeness is defined as the ratio of the number of valid samples collected to the total number of samples required to be representative. A goal of 95% completeness of soil samples is established for the investigation.

Comparability: Comparability is the confidence with which one data set can be compared with another. Each value reported for a given measurement should be similar to other values within the same data set and within other related data sets. Comparability will be ensured through the use of the standardized, approved sampling and analytical methodologies.

The following steps will be taken to ensure data set comparability.

* Standardized, approved analytical methodologies will be used, and instruments will be properly tuned and calibrated. Analyses will be performed using Ecology approved methods.

* Measurements compared with similar measurements that appear as "outliers" will be reassessed.

* Approved procedures to collect, composite, and homogenize the samples will be used when possible. Explanations will be documented for any deviation from approved procedures.

* Data will be reported in conventional and standard units. Units of measurement will be externally comparable by using the appropriate standard units for each measurement system.

Representativeness: Is the degree with which the data collected accurately and precisely characterize a population, a parameter of interest, variation at sampling point, a process or an environmental condition. Obtaining representative samples will be facilitated by using appropriate sample collection and handling procedures presented in Section 2.6 of this SAP. Sampling protocols have been developed to assure that samples collected are representative of the media. Sample handling protocols (e.g., storage and transportation) are selected to protect the integrity and representativeness of the collected sample. Proper documentation will establish that protocols have been followed and sample identification and integrity assured. Field QA/QC samples will be collected to verify that sampling and decontamination procedures are not introducing trace constituents of concern. In addition, other samples will be analyzed as a part

of the overall QA program that will help provide information on the representatives of the collected samples. These QC samples include field replicates, equipment rinsate blanks, and laboratory matrix spikes/spike duplicates

3.0 INTERIM ACTION STRATEGY (FS)

3.1 INTRODUCTION

Various treatment technologies have been reviewed upon completion of our Phase II site characterization activities. Physical, chemical and biologic treatment options for soil cleanup have been considered for in-place and off-site treatment. The interim action strategy examines these options and considers them with the project goal.

Our project goal is to bring site soils into compliance with the Department of Ecology action levels using a viable, timely and cost effective treatment method. We have narrowed the technological alternatives by completing the following tasks:

- Estimating the quantity of impacted soil
- Reviewing the concentration of site contaminants
- Establishing project deadlines and planned site utilization,
- Identifying remedial alternatives, and;
- Evaluating the viability of the remedial alternatives.

3.2 INTERIM ACTION OBJECTIVES

The interim action is being conducted to reduce the environmental and health risk associated with elevated concentrations of tetrachloroethene and total petroleum hydrocarbons in the site soil. The interim action will prevent further migration of contaminants into the groundwater. Cleanup levels for site contaminants have been established by the Washington State Department of Ecology in the Model Toxic Control Act Cleanup Regulations (WAC 173-340). Method A cleanup levels are appropriate for this site because a limited number of compounds are expected. If other hazardous constituents are found, appropriate Method A or B cleanup levels will be used per Ecology approval. The Method A cleanup levels are provided in Table 4.1.

TABLE 2
SOIL CLEANUP LEVELS

COMPOUND	ANALYTICAL METHOD	CLEAN-UP LEVELS
TPH	WTPH-418.1	200 MG/KG
PCE	EPA-8260	0.5 MG/KG

3.3 INITIAL SCREENING OF ALTERNATIVES

Treatment technologies were screened based on current site data developed in the Phase II Site assessment and on general design parameters for potential treatment technologies. Traditional and developing technologies were explored. Alternatives were evaluated according to the following criteria:

1. Overall protectiveness of human health and the environment
2. Long term effectiveness
3. Short term effectiveness
4. Permanent reduction of toxicity, mobility and volume
5. Ability to implement
6. Cleanup cost
7. Community concerns

MTCA lists cleanup technologies (in order of descending preference) as follows:

1. Reuse or recycling
2. Destruction or detoxification
3. Separation or volume reduction followed by reuse, recycling, destruction or detoxification of residual
4. Immobilization of hazardous substances
5. On site or off site disposal
6. Isolation or containment with engineering controls
7. Institutional controls and monitoring

3.4 FEASIBLE REMEDIATION ALTERNATIVES

Soil samples collected from beneath a sump have been analyzed and found to contain elevated concentrations of tetrachloroethene and total petroleum hydrocarbons. Additional soil analysis is necessary to establish dangerous waste characteristics in accordance with Dangerous Waste Regulations (WAC 173-303).

Several remedial alternatives have been considered in conjunction with the proposed site use. The following removal options with treatment or disposal alternatives were considered:

* Thermal desorption
* Off site disposal (landfill)
* Solid phase bioremediation
* Soil washing

The in-situ treatment methods involving bioremediation, vapor extraction and soil venting are considered less feasible for project conditions. First, removal options with treatment or disposal options are preferable over in-situ treatment methods where the impacted soil will be disturbed during demolition and excavation activities. Second, the time required to complete the in-situ methods does not meet the project timetable.

A no action alternative was not considered since soil excavation will be occurring during demolition.

3.4.1 Thermal Desorption

Description of process

The thermal desorption of a solid is a process in which volatile organics along with moisture are removed through the application of heat. The waste is retained in a heating chamber for the duration necessary to remove the contaminants to the desired cleanup level. This process is also known as thermal devolatilization, or low temperature thermal treatment. Thermal desorption involves heating the soil in a low temperature chamber (600 F) to volatilize the hydrocarbons, which are then oxidized in a high temperature burner (1400 F). Thermal disorption differs from incineration in that all carbon is not oxidized. Gases released during volatilization from a primary thermal chamber are completely oxidized in a secondary gas combustion chamber and then treated in a scrubber for removal of acid gas and particulate.

Applicability

Thermal desorbers can be fixed-base or mobile. Mobile units have the advantage of reducing soil transportation costs. Size and processing rates of thermal desorbers vary ranging from small mobile 4 ton/hour units to large fixed base or mobile 50 ton/hour units. Costs for thermal desorption vary, decreasing as the volume increases, and range from $35 to $60 per ton, excluding excavation, transportation and treated soil disposal. Since the construction project will require a net export of soil from the site, soil treated on site will have to be transported off site. Air permits may be required for on site thermal treatment.

Advantages/Disadvantages

Advantages:

* Contaminants are destroyed by the treatment
* Cleanup level achieved are typically very low, facilitating treated soil disposal.

The disadvantages of thermal desorption for this project include:

* Air permits may be required
* On site treatment may generate negative community acceptance issues.

3.4.2 Off Site Disposal (landfill)

Description of process

Contaminated solid may be excavated and disposed of in an appropriate landfill without any treatment. Off site disposal involves further analysis of the soil for acceptance and transporting to a landfill. The use of a mobile laboratory can help minimize soil volumes by segregating the impacted soil.

Discussion

Table 4-3 shows the different types of landfills and their applications. Acceptance of wastes is variable, and depends on federal, state and local regulations, as well as the landfill's own acceptance criteria. Contaminated soil from the site would probably be disposed of in a TSCA landfill.

TABLE 3
LANDFILL TYPES

LANDFILL TYPE	WASTE TYPE	CONSTRUCTION	COST
CLASS I	RCRA, ALSO TSCA WASTES	LINE, MONITORED, LEACHATE, COLLECTED	150
TSCA	TSCA WASTES, PCB	LINE, MONITORED, LEACHATE, COLLECTED	100
CLASS II	STATE REGULATED WASTE	LINED, MONITORED	25-100
MUNICIPAL	UNREGULATED WASTE, MUNICIPAL WASTE	MAY BE LINED	0-25

* Cost in dollars per ton, tipping fee only (not including state or local taxes, analytical, excavation or transportation.

Advantages/Disadvantages

The advantages of landfill disposal include:

* No treatment is required.
* Solid would be removed from the site.

The disadvantages of landfill disposal include:

* Contaminants are not destroyed, just transferred to another location. Potential liability remains, although the Rebanco Landfill will take title to the soil reducing the potential liability.

Off site disposal costs for this site are estimated at $40/ton, including transportation.

3.4.3 Solid Phase Bioremediation

Description of process

Solid phase bioremediation, or land treatment, involves excavating the contaminated soil and spreading it out over a large area. The soil is amended with nutrients, water, and in some instances microbes to enhance the biological activity. Soil is then turned regularly to increase air infiltration.

Discussion

Microorganisms in solid metabolize a variety of inorganic substances and carbon. Some organisms are adapted to utilizing organic compounds as a carbon source, transforming it into carbon dioxide, water and cell mass. The parameters that control the rate of biotransformation are oxygen, temperature, Ph and nutrient supply. For aerobic systems, oxygen is generally the limiting factor. Oxygen may be supplied with liquids (e.g., hydrogen peroxide). Subsurface temperature is important since chemical and biological reaction rates are controlled to a large extent by temperature. The subsurface Ph may affect the availability/solubility of contaminants and may also be inhibitory or toxic to microbial life. The most important inorganic nutrients needed by the microorganisms are nitrogen (typically as ammonia or nitrate) and phosphorus (typically as orthophosphate). Treatability studies are typically performed before field implementation to define the nutrient requirements for a particular site.

Applicability

The applicability of solid phase bioremediation depends on the type of contaminants, starting concentrations, type of soils, and site logistics. Vapor control can be implemented using liners and covers, or covered soil piles with aeration piping. As molecular weight and boiling point increase, bioremediation rates decrease. In some cases, a treatability study (bench or pilot scale) is needed to predict treatment rates and achievable cleanup levels. Soil inorganic nutrient levels, Ph, and the presence of competing organic carbon or inhibitory (toxic compounds also needs to be determined. Solid phase bioremediation typically requires a large amount of open space to spread the soil out.

Advantages/Disadvantages

Advantages:

* Contaminants are converted to harmless byproducts.
* Treatment is relatively simple to implement.

The disadvantages of bioremediation for this site include:

* A large area is needed.
* Long treatment times may be required
* Treated soil will still need to be disposed of off site due to construction specifications
* The different hydrocarbon and solvents found on site may require different treatment approaches.

On site biotreatment may not be a feasible alternative due to the tight construction schedule and the need to locate a treatment site. Off site biotreatment may be a viable option if a suitable site can be found for which transportation costs are not too high. Treatment costs vary significantly, decreasing as the volume increases. This option may be used in conjunction with landfill activities if local facilities require this for disposal. Approximate costs excluding excavation, transportation, and disposal of treated soil are $15-35/ton.

3.4.4 Soil Washing

Description of process

Soil washing is a remediation technology aimed at removing inorganic, organic, and radionuclide contaminants from the soil. The goal is to get the residual levels of these contaminants in the coarse fraction (the bulk), below clean up levels. The remediated coarse soil is returned to the excavation source, and the smaller volume of soil containing the contaminants is disposed. Typically, soil washing is accomplished with physical or chemical techniques, or a combination. The effectiveness of soil washing depends mainly on the type of binding processes that exists between the contaminants and the soil particles.

Discussion

Typically, the initial step in the soil washing process consists of separating the soils into the different sized fractions. This is generally accomplished by wet sieving the soil. Depending on the soil and the types of contaminants, this initial physical separation process may accomplish the goal of recovering clean soil that constitutes the major, coarse grained fraction of the soil mass, and isolating the contaminants in a smaller volume of fine-grained soil that can be removed for disposal. If the contaminant distribution includes the coarse grained fraction, additional physical and/or chemical treatments may be necessary to release the surface-bound contamination. The principal physical method used to release the contaminants, through grinding action, is attrition scrubbing. In this method, the moist soil particles are agitated vigorously to dislodge the surface-bound contaminants. Such scrubbing will generate contaminant-laden fine material that is washed out of coarser material containing significantly lower concentrations of contaminants. Attrition scrubbing may also be conducted with surfactants or electrolytes to attenuate the re-absorption of released contaminants onto the freshly exposed surfaces of the soil particles. Generally, attrition scrubbing with a suitable electrolyte increases contaminant removal through a combination of physical and chemical processes.

Applicability

The equipment used for soil washing can be fixed base or mobile. Mobile units have the advantage of reducing soil transportation costs. Wet sieve costs are $15.60/ton. Adding Attrition scrubbing will cost $29.50/ton, and adding chemical extraction will cost $64.70/ton

Advantages/Disadvantages

Advantages:

* Reduced volumes of soils to transport offsite.
* Some of the material can be used as backfill or structural fill.

The disadvantages of soil washing for this project include:

* May be costly if the contaminants are not effectively stripped by wet sieving.
* The residual contaminated soil will have to be transported offsite.
* Waste water will be produced and will have to be disposed.
* Time consuming process.

3.5 SCREENING OF ALTERNATIVES

Table 4 shows a cost comparison of treatment methods for excavated soils.

TABLE 4
EXCAVATED SOIL TREATMENT ALTERNATIVES

TREATMENT METHOD	COST (PER TON)	TRANSPORTATION COST (PER TON\HR)	TOTAL COST (PER TON)
THERMAL DESORPTION	$40 TO $60	RE-USE	$40 TO $60
OFF SITE DISPOSAL	$25.00	15.00/TON	$40
BIOREMEDA-TION	$15-$35	15.00/TON	$40 to $50
SOIL WASHING	WET SIEVE: $16.00 W/ATTRITION: $30.00; W/CHEMICAL EXTRACTION: $65.00	PARTIAL RE-USE 15.00/TON	$40

Off site disposal offers the advantage of removing the soil from the site. Costs for disposal of the treated soil could range from $0 to $100/ton, depending on the final contaminant concentrations. The local landfills may not be able to accept tetrachloroethene contaminated soil increasing disposal cost from $32/ton to $40/ton or more for regional landfills. Soils treated by thermal desorption or bioremediation may not require disposal but may allow reuse as fill during the construction project.

3.6 CONCLUSIONS

The interim action strategy suggests soil removal and disposal at the Rebanco Landfill will be the preferred remedial option. This option is selected for the following reasons:

- Soil will be excavated during demolition of the existing structure.
- A facility capable of handling contaminated soil is willing to accept the material at a cost comparable to other treatment options.
- On-site material handling and stockpiling times will be minimized.
- Rebanco Landfill takes title to the soil and this may reduce future liability.
- Equipment and procedures are in-place to allow timely implementation of this option.

4.0 INTERIM ACTION WORK PLAN AND GROUND WATER MONITORING PLAN

Proper state and local permits will be obtained prior to initiating site activities. These permits may include building permits and well construction permits.

The information obtained from this interim action and the groundwater monitoring will be used to complete a Phase I remedial investigation.

4.1 SOIL

Contaminated soils under the Yakima Goodwill Industries structure, which are encountered during excavation and grading, will be removed prior to construction of the new structure and disposed.

Soil in areas of identified contaminated soils will be excavated until analytical results of excavation sidewall and bottom samples are below cleanup levels, or until ground water contact (approximately 14 feet in May, 1994) or until the adjacent streets (South 3rd street and East Spruce street) may be impacted. Disposal of contaminated soils will be performed in accordance with Ecology and other applicable regulations.

4.2 GROUND WATER

Remedial actions addressing ground water at the site involve a major source removal effort, consisting of the removal of contaminated soils above ground water over the entire site. After these remedial actions have been completed, the city of Yakima will implement a ground water monitoring plan. Two (2) new ground water monitoring wells will be installed at the location shown in Figure 2. The new ground water monitoring wells will be in addition to the two (2) monitoring wells previously installed by Huntingdon (MW-1 and MW-2, Figure 2). The wells are positioned to provide a representative sampling of ground water conditions surrounding the site, with emphasis on the down gradient boundaries. The wells will be drilled and installed according to Ecology Minimum Standards for Construction and Maintenance of Wells. (Chapter 173-160 WAC).

4.2.1 Soil Borings

Borings for the monitoring wells will be advanced using air rotary drilling methods. Soil cuttings will be placed in sealed, labeled drums in a selected location at the site pending analytical results. The scientist or engineer will collect soil samples at a minimum of five foot intervals, starting at five feet below grade. They will collect soil samples through the rotary casing using a split spoon sampler driven head of the auger bit to collect undisturbed samples.

The scientist or engineer will log the soil borings in accordance with the Unified Soil Classification System ASTM D-2488. Pertinent information including soil sample depth,

stratigraphy, soil engineering characteristics, ground water occurrence, blow counts and any observations regarding the presence of contamination. At each sampling interval, the sampler will place sampled soil in the following containers:

* Glass Jar (4 oz.) no headspace
* Glass Jar (4 oz.) with headspace for field screening

4.2.2 Well Construction

The monitoring wells will be constructed using 2-inch-diameter, schedule 40, PVC casing, with 0.020-inch, mill slotted well screen. The wells will be screened in first encountered ground water which is anticipated to be around 14 feet below grade. Well screens will be 10 feet in length, and will be positioned to intersect the top of the ground water table, and to allow for seasonal variation in ground water levels.

After drilling has advanced to the desired depth, PVC casing will be installed. A bottom cap will be attached to the lowermost section of screened casing. After all of the PVC casing is installed, the top section will be capped to prevent entry of stray materials. A #8-12 mesh silica sand will be introduced as the filter pack into the annular space surrounding the PVC casing. Sand will be kept in the annular space at all times to ensure complete filling of the well annulus with sand, and to prevent caving or sloughing of the borehole. The sand filter pack will be extended 3 feet above the top of the screen. The remainder of the well annulus will be filled to within 18 inches of the surfaces with hydrated granular or pelletized bentonite, or a bentonite slurry.

Flush mount wellheads will be installed using steel road rated well covers with watertight gaskets. The well covers will be sloped slightly to prevent surface water from entering. The true elevation of each wellhead will be surveyed.

4.2.3 Well Development

After the wells are installed, they will be developed to improve hydraulic connection with the aquifer. The wells will be developed by surging with a surge block and pumping or bailing. Development water will be collected and stored for disposal or treatment.

5.0 GROUND WATER MONITORING

The four wells will be sampled on a bimonthly basis during the first six months then on a quarterly basis for two years, or modified as specified in Section V of the Prospective Purchaser Agreement. At each sampling event, ground water levels will be measured. This data will be used to interpret ground water flow direction and record seasonal variations in ground water levels.

5.3 QUALITY ASSURANCE/QUALITY CONTROL

Samples will be collected and analyzed with sufficient QA/QC to ensure representative and reliable results. The overall QA objective for this investigation is to ensure that all decisions based on laboratory and field data are technically sound, statistically valid, and properly documented. There are two parts to the QA/QC program for this project: field and laboratory.

Field QA/QC includes proper documentation of field activities and sampling/handling procedures, as described in Section 2.6. Field QA/QC samples will consist of the following:

*	Trip Blanks (Volatile Constituents)	1 per sample shipment
*	Duplicate samples	5%
*	Equipment rinsate blanks	5%

Trip blanks will be prepared by filling sample vials with deionized or distilled water prior to sampling and transport to the laboratory. These vials then accompany the sample containers through the sampling process and the laboratory. Duplicate samples will be collected from the same bailer or consecutive bailer volumes. Equipment rinsate blanks will be prepared in the field by running deionized or distilled water through and over non-dedicated sampling equipment (after decontamination) and into sample containers. Dedicated sampling devices are planned for the project to minimize field sampling time and reduce costly analytical charge.

Laboratory QA/QC will include analysis of duplicate samples, method blanks, spike and surrogate samples. These analyses provide information about accuracy, precision, and detection limits. See Section 2.7.2 for a discussion of Laboratory QA/QC procedures.

6.0 HEALTH AND SAFETY PLAN

Prior to the beginning of field work, a site specific Health and Safety Plan (H&S) will be prepared. The H&S plan will be tailored to address specific site health and safety concerns, and will provide guidelines and procedures to ensure the health and physical safety of those individuals working on the site during the activities described under this agreement. The H&S Plan will be consistent with Chapter 296-62 and 296-155 WAC. For reference and an example of a H&S plan, please find enclosed the H&S plan Huntingdon used for Phase II ESA on the Yakima Goodwill Industries Site.

6.1 Huntingdon H&S Plan Phase II Yakima Goodwill Industries Site

5.1 GROUND WATER SAMPLING

Prior to collection of ground water samples, the wells will be purged by pumping or bailing a minimum of 3 casing volumes. Conductivity, temperature and Ph of the purge water will be monitored, and samples will be collected once the parameter values have stabilized over the course of three sets of measurements. If the well can be pumped dry prior to reaching the desired purge volume, it will be allowed to recover prior to sampling, using the minimum time between purging and sampling that allows collection of sufficient sample volume.

Samples will be collected using dedicated or decontaminated polyethylene, teflon or stainless steel hand bailers secured with nylon cord. New cord will be used for each well. The samples will be transferred directly from the bailer to the sample containers, using a bottom emptying sampling device which minimizes sample aeration. Samples will be collected in a) two 40 ml glass VOA vials, by Slowly filling the vials to capacity, allowing no headspace or bubbles. Field documentation, chain-of-custody procedures, and decontamination procedures for all down-well sampling and measuring equipment are described in Section 2.6. After collection, the samples will be labeled, chilled in a cooler to 4 C, and shipped to an Ecology certified analytical laboratory for analysis. Table 5-1 shows sample container requirements and holding times.

ANALYTICAL METHOD	REQUIRED CONTAINER	PRESERVATION METHOD	HOLDING TIME
PCE	(2) 40 ML VOA	HCI (PH<2), 4° C	14 DAYS

5.2 GROUND WATER ANALYSIS

Field staff will deliver samples to the analytical laboratory within 48 hours of sampling. Full chain-of-custody procedures will be employed. The laboratory will analyze ground water samples for the following constituents:

ANALYSIS	METHOD
Volatile Organic Constituents	EPA 8260

Should other constituents be discovered, these parameters will be included in the analysis pan as directed by Ecology.

Job No. 194-1969

HUNTINGDON ENGINEERING AND ENVIRONMENTAL HEALTH AND SAFETY PLAN

Prepared for:

City of Yakima
424 East Yakima Avenue
Suite 100
Yakima, Washington 98901

Phase II Environmental Site Assessment
Yakima Goodwill Industries Site
222 South 3rd Street
Yakima, Washington

Prepared by:

Huntingdon Engineering and Environmental
2214 North 4th Avenue
Pasco, Washington
(509) 547-1671

Project Manager(s): Gerald Harper and Justin Bolles
Site Safety Officer: Justin Bolles and/or Greg Thurman

SITE HEALTH AND SAFETY PLAN (HASP) FORM

Prepared by: Justin Bolles, Geologist
Huntingdon, 2214 N 4th Ave., Pasco, Washington

Date: 4/1/94
Job Number: 194-1969

Project Identification:

Division: Huntingdon (Western Group)
Department/Office: Environmental
Site Name: Yakima Goodwill Industries
Client: City of Yakima
Work Location Address: 222 South 3rd Street
Yakima, Washington

Site History: (describe briefly)
The property is currently used as a retail store and as a training center for the physically challenged. Salvageable clothing items brought to the store's receiving area are processed by employees. Prior to 1968, several automobile dealerships occupied the site. A 500 gallon gasoline underground storage tank was installed in 1981. The underground storage tank was closed by removal in 1991. Our Phase II investigation will attempt to identify potential hydrocarbon contamination.

Scope of Work: (describe briefly)
Work will involve the drilling of two borings. The two borings will be completed as 2 inch diameter monitoring wells. Soil and groundwater samples will be collected to assess potential petroleum hydrocarbon contamination.

Hazard Assessment and Regulatory Status:

Indicate types of hazards anticipated:

- ☑ Physio-chemical
- ☑ Toxic Chemical - Levels
  - ☑ >TLV-TWA ☑ TLV-STEL ☐ >IDLH
- ☐ Bio-Hazards
- ☐ Radiation
- ☑ Physical
- ☑ Construction type
- ☐ Industrial type
- ☐ Nuclear Industry type

Site regulatory status:

CERCLA/SARA
- ☐ US EPA
- ☐ State
- ☐ NPL Site

RCRA
- ☐ US EPA
- ☐ State

NRC
- ☐ 10 CFR 20

OSHA
- ☑ 1910
- ☑ 1926
- ☑ State

Other Federal Agency
- ☐ DOE
- ☐ USATHAMA
- ☐ Air Force

Review and Approval Documentation:

Reviewed by:

a. P.M.: Justin Bolles — Date:

b. SHSC: Justin Bolles and/or Greg Thurman — Date:

Approved by: — Date:

☑ Corporate Health and Safety Manager (CHSM)

Project start date: To be announced
End date: To be announced

This site HASP must be **reissued/reapproved** for any activities conducted after: 10/6/94

Amendment date(s):
1.
2.
3.
4.
5.

Huntingdon Representativr

Organization/Branch	Name/Title	Address	Telephone
Environmental Services	Justin Bolles/Geologist	2214 N. 4th Ave. Pasco, Washington	(509) 547-1671
Environmental Services	Greg Thurman/Engineer	2214 N. 4th Ave. Pasco, Washington	(509) 547-1671
Environmental Services			

Roles and Responsibilities: Justin Bolles and/or Greg Thurman are the designated Project Site Manager and will direct environmental sampling activities and subcontracted drilling crew. Justin Bolles and/or Greg Thurman will also serve as the site safety health and safety coordinator.

Huntingdon Subcontractors

Organization/Branch	Name/Title	Address	Telephone
Environmental West, Inc.	Josh Burrows/President	P.O. Box 11095 Spokane, Washington	(509) 534-2740
Environmental West, Inc.	Drill Crew	P.O. Box 11095 Spokane, Washington	(509) 534-2740

Roles and Responsibilities: Environmental West is the selected drilling firm which will drill and install the two monitoring wells.

Site Specific Health and Safety Personnel

The Site Health and Safety Coordinator (SHSC) for activities to be conducted at this site is: Justin Bolles and/or Greg Thurman

The SHSC has total responsibility for ensuring that the provisions of this Site HASP are adequate and implemented in the field.

Changing field conditions may require decisions to be made concerning adequate protection programs. Therefore, the personnel assigned as SHSCs are experienced and meet the additional training requirements specified by OSHA in 29 CFR 1910.120

Qualifications: Bolles and Thurman have received OSHA 40-hour Hazardous Waste Operations training, are current with annual refresher training, and have completed 8-hour OSHA Supervisor training for hazardous waste sites.

Designated alternates include: N/A

HEALTH AND SAFETY EVALUATION

Hazard Assessment

Background Review: ☑ Complete ☐ Partial If partial why?

Activities Covered Under This Plan:

No.	Task/Subtask	Description	Schedule
1.	Drill Borings	Drilling firm will be directed to drill two borings. The borings will be completed to 25 feet. Cuttings will be placed in barrels.	Dependent on specific site conditions.
2.	Monitoring Well Installation	Monitoring wells will installed in the 25 foot borings.	Dependent on specific site conditions.
3.	Groundwater Sampling	Wells will be purged and sampled according to EPA and WDOE guidelines.	Dependent on specific site conditions.
4.	Soil Sampling	A sample of soil, if present, in an interior sump will be collected.	

Types of Hazards:

Numbers refer to one of the following hazard evaluation forms. Complete hazard evaluation forms for each appropriate hazard class.

Physiochemical [1]

- ☑ Flammable
- ☐ Explosive
- ☐ Corrosive
- ☐ Reactive
- ☐ O_2 Rich
- ☐ O_2 Deficient

Chemically Toxic [1]

- ☑ Inhalation
- ☑ Ingestion
- ☑ Contact
- ☑ Absorption
- ☑ Carcinogen
- ☑ Mutagen
- ☑ Teratogen
- ☑ OSHA Listed Substance

☑ OSHA Specific Hazard Sub. Standard
Describe: **Benzene** (29CFR1910.1028)
Lead (29CFR1910.1025)

Radiation [3]

Ionizing:

- ☐ Internal exposure
- ☐ External exposure

Non-ionizing:

- ☐ UV
- ☐ IR
- ☐ RF
- ☐ MicroW
- ☐ Laser

Biological [2]

- ☐ Etiological Agent
- ☐ Other (Plant, insect, animal)

- ☑ Physical Hazards [4]
- ☑ Construction Activities [4]

Source/Location of Contaminants and Hazardous Substances

Directly Related to Tasks

- ☑ Air
- ☑ Other Surface
- ☑ Groundwater
- ☑ Soil
- ☐ Surface Water
- ☐ Other:

Indirectly Related to Tasks - Nearby Process(es) That Could Affect Team Members:

- ☑ Not Applicable
- ☐ Client Facility
- ☐ Nearby Non-client Facility

Describe:

☐ Client Briefing Arranged

HEALTH AND SAFETY EVALUATION - CHEMICALS OF CONCERN

☐ Not Applicable

Chemical Name	Flam.*	Carc.*	Symptoms of Overexposure/Target Organs	Exposure Limit**
Benzene	✓	✓	Eye, nasal, respiratory irritation; giddiness; headache; blood diseases including cancer.	1 ppm
Toluene	✓		Dizziness, fatigue, nervousness, headache, dermatitis.	100 ppm
Ethyl Benzene	✓		Eye and mucous membrane irritation, headache, dermatitis, stupor, coma.	100 ppm
Xylene	✓		Eye, nose, throat irritation; dizziness; nausea; abdominal pain.	100 ppm
Tetraethyl Lead			Insomnia, lassitude, anxiety; tremors, spastic; increased heart rate, low blood pressure; hypothermia, pallor, nausea; hallucinations, mania, convulsions, coma; eye irritation.	0.075 mg/m^3
Tetramethyl Lead			Insomnia, bad dreams, restless, anxious, low blood pressure, nausea, delirium, mania, convulsions, coma.	0.075 mg/m^3

* Flam. = Flammable; Carc. = Cancer Hazard

** Permissible Exposure Limit (PEL) established by OSHA

HEALTH AND SAFE :VALUATION - ☑ PHYSICAL/CONSTR' ION HAZARDS OF CONCERN

Hazard	Task No.(s)	Protection Procedure
☑ Noise	1	Ear muffs or plugs if > 85dbA
☑ Heat - ambient air	1, 2, & 3	Drink Fluids, rest if HR > 110
☐ Hot Process - Steam		
☐ Hot Process - LT3		
☐ Hot Process - Incineration		
☐ Cold		
☑ Rain	1, 2, & 3	Rain suits, watch footing
☐ Snow		
☑ Electrical Storms	1, 2, & 3	Discontinue operations
☐ Confined Space Entry		
☐ "Hot Work"		
☑ Heavy Manual Lifting/Moving	1 & 2	Proper lifting techniques
☐ Rough Terrain		
☐ Housekeeping		
☐ Structural Integrity		
☐ Neighborhood		
☐ Remote Area		
☐ Compressed Gases		
☐ Diving		
☐ Using Boats		
☐ Working Over Water		
☑ Traffic	1, 2, & 3	Use proper traffic control barriers.
☐ Explosives		
☐ Heavy Equipment Operation		
☐ Lifting Equipment Operation		
☐ Cranes		
☐ Manlifts		
☐ Working at Elevation		
☐ Using Ladders		
☐ Using Scaffolding		
☐ Excavating/Trenching		
☐ Materials Handling		
☑ Hazardous Materials Use/Storage	1 & 3	See Health & Safety Manual
☐ Flammable liquid/gases		
☐ Oxidizers		
☐ Corrosives		
☑ Fire Prevention/Response Plan Required	1	See Contingency Plan
☑ Fire Extinguisher Required	1, 2, & 3	Keep in truck
☐ Demolition		
☑ Utilities	1	Have utility locate before work begins
☑ Underground	1	Have utility locate before work begins
☑ Overhead	1, 2, & 3	Keep more than 20 feet from power lines
☑ Electrical - General	1	See Health & Safety Manual
☐ High Voltage		
☐ Welding/Cutting/Burning		
☑ Hand Tools	1, 2, & 3	Use proper tool for job
☑ Power Hand Tools	1	Use proper tool and extension cord
☐ High Pressure Water		
☑ Other: Drilling	1	See Health & Safety Manual
☐ Other:		
☐ Other:		

* Follow procedures described in Huntingdon Health & Safety Manual

TASK BY TASK RISK ANALYSI

The preceding Tables identify the hazards known or suspected to be present in accomplishing the tasks involved in this project.

Section II, A.2, of this HASP describes the background of this site/project and identifies the tasks involved.

Below briefly describe each task and the likelihood of exposure to the hazards identified and the protective protocols to be used.

Task: 1 Drilling

Likelihood of Exposure: Low

Associated Hazards: Chemical exposure to volatile organic compounds (VOCs) such as benzene, toluene, ethyl benzene, and xylene associated with petroleum fuels during the drilling is expected to be low. Exposure to lead, often used as a fuel additive, is also expected to be extremely low. Air monitoring with a direct reading organic vapor monitor will indicate whether chemical releases to the breathing zone are higher than expected. If readings exceed 25 ppm in the breathing zone, the level of protective clothing will be upgraded to include air purifying respirators fitted with organic vapor/HEPA filters. If breathing zone concentrations exceed 50 ppm, work will be stopped and the Corporate Health and Safety Manager (CHSM) consulted.

Due to the nature of drilling activities, the risk from physical hazards during field activities is considered to be moderate. Such hazards include material handling (strains and sprains), pinch points, trips/falls, electrical, underground utilities, weather related (cold/heat stress, rain, lightning), and noise during operation of the excavation equipment, and traffic from the street. The Site Health and Safety Coordinator (SHSC) will identify these specific hazards on the site and shall insure that safe operating procedures are followed. Procedures will include the use of hearing protection if noise exposures exceed 85 decibels, designing safe routes of travel and good housekeeping to prevent trips and falls, requiring underground utility searches prior to drilling, use of UL approved electrical equipment in good working order, use of ground fault circuit interrupters (GFCI) for all electrically powered hand tools, and observation of workers for symptoms of heat and cold stress, as appropriate. It is the responsibility of the SHSC to implement appropriate traffic control measures (traffic cones and signs).

Task: 2 Monitoring Well Installation

Likelihood of Exposure: Low

Associated Hazards: The chemical exposure hazards for this task are the same as for Task 1. The physical hazards during this task will be low compared to Task 1, however, the SHSC must still enforce safe practices related to material handling, electrical equipment, heat/cold stress, traffic control, and trips/falls.

Task: 3 Groundwater Sampling

Likelihood of Exposure: Low

Associated Hazards: Chemical exposure is considered to be low. The physical hazards during this task will be low compared to Task 1, however, the SHSC must still enforce safe practices related to material handling, electrical equipment, heat/cold stress, traffic control, and trips/falls.

TASK BY TASK RISK ANALYSIS

Tasks Continued....

Task: 4 Sludge Sampling

Likelihood of Exposure: Low

Associated Hazards: Chemical exposure is considered to be low. The physical hazards during this task will be low compared to Task 1. Proper lifting techniques will be used when removing grated sump cover. Gloves will be worn when collecting a sample of the material at the base of the sump.

Task:

Likelihood of Exposure:

Associated Hazards:

Task:

Likelihood of Exposure:

Associated Hazards:

SITE AIR MONITORING PROGRAM

Program Status

☐ No air sampling is required on this site.

☑ An air sampling plan is incorporated in this HASP.

Situations Requiring Increased Scope of Air Sampling

☑ Dry weather occurs for 10 days or more.

☑ Ambient temperatures above 80 °F are observed.

☑ High winds occur increasing the potential of more contaminant dispersion in or migration out of controlled area.

☑ New contamination is discovered on the site.

☑ Major spills occur.

☑ New site activity results in the potential presence of new chemical hazards.

☑ Site activity increases airborne contaminants possibilities.

☑ Visible vapor or gas clouds are observed.

☑ Visible dust or particulate levels occur. If measured with Direct Reading Instrument (DRI), levels are two to three times background or above action level, sustained over a 10-15 minute period.

☑ Air sampling documentation is required for:

- ☑ Downgrading from stipulated level of protection.
- ☑ Recording the prevention of contaminant migration offsite through the air.

AIR SAMPLING PLAN

The following requirements apply to air sampling:

1. **Sampling Matrix/Air Interface** - Monitor matrix/air interface and breathing zone periodically with Direct Reading Instrument (DRI). If vapor levels are greater than 2-3 times background, monitor continuously. Follow No. 3 below.

2. **Excavation/Drilling/Intrusive Work** - Monitor at ground level and breathing zone periodically with DRI. If vapor levels are greater than 2-3 times background, monitor opening and breathing zone continuously. Follow No. 3 below.

3. **Breathing Zone** - Ensure level of protection specified in HASP is being used. Consult HASP or Corporate Health and Safety Manual relative to instituting personnel, area, or perimeter sampling.

☑ Other

A PID direct reading air monitor for organic vapors equipped with a 10.2 ev lamp and a Combustible Gas Indicator (CGI) will be used as described above to monitor contaminants in the air. The action levels for the Photovac are 25 ppm in the breathing zone to upgrade from level D protection to level C protection, and 50 ppm to stop work and consult with the Corporate Health and Safety Manager (CHSM). The action levels for the CGI are 10% to proceed with caution and 20% to evacuate from the work area.

SITE OR PROJECT HAZARD MONITORING PROGRAM

Direct Reading Air Monitoring Instruments

Instrument Selection and Initial Check Record

Reporting Format: ☑ Field Notebook ☐ Field Data Sheets ☐ Air Monitoring Log ☐ Trip Report ☐ Other

Instrument	Task No.(s)	Number Required	Number Received	Checked Upon Receipt	Comment	Initials
☐ CGI				☐		
☐ O_2				☐		
☐ CGI/O_2				☐		
☐ CGI/O_2/tox-PPM, H_2S,H_2S/CO				☐		
☐ RAD-GM				☐		
☐ NaI				☐		
☐ ZnS				☐		
☐ Other				☐		
☑ PID				☐		
☐ HNU 10.2				☐		
☐ HNU 11.7				☐		
☐ HNU 9.5				☐		
☑ Photovac, TMA, Other	1	1		☐		
☐ FID				☐		
☐ FOX-128				☐		
☐ FOX 128GC				☐		
☐ Heath, AID, Other				☐		
☐ RAM, Mini-RAM, Other				☐		
☐ Monitox-HCN				☐		
☐ H_2S				☐		
☐ COCL				☐		
☐ SO_2				☐		
☐ Other				☐		
☐ Bio-Aerosol Monitor				☐		
☐ Detector Tubes				☐		
☐ Pump - MSA, Dräeger, Sensidyne				☐		
☐ Tubes/type:				☐		
☐ Tubes/type:				☐		

SITE AIR MONITORING PROGRAM

Action Levels

These Action Levels, if not defined by regulation, are some percent (usually 50%) of the applicable PEL/REL/TLV. That number must also be adjusted to account for instrument response factors.

	Tasks	Action Level	Action
☐ Explosive atmosphere			
☐ Oxygen			
☐ Radiation			
☑ Organic gases and vapors	1	25 ppm	Upgrade to Level C
		50 ppm	Evacuate site, Contact Corp. H & S Mgr.
☑ Inorganic gases and vapors	1	Visible Dust	Upgrade to Level C PPE

PERSONNEL PROTECTION PLAN

Engineering Controls
Describe Engineering Controls used as part of Personnel Protection Plan:

Task(s) 1, 2, & 3

If necessary, place safety fencing and barriers around work zone;
Equipment will be in proper working order;

Administrative Controls
Describe Administrative controls used as part of Personnel Protection Plan:

Task(s) 1, 2, & 3

Perform drilling, well installation, and groundwater sampling in accordance with Federal, State and local guidelines;
Do not allow public to enter work zone;

Personnel Protective Equipment
Action Levels for Changing Levels of Protection. Define Action Levels for up or down grade for each task:

Task(s) 1

Upgrade to Level C PPE if PID readings in breathing zone exceed 25 ppm. Evacuate area and consult CHSM if PID readings in breathing zone exceed 50 ppm.

Description of Levels of Protection — Level D

Task(s): 1 & 2		Task(s): 3	
☑ Head	Hard Hat	☑ Head	Hard Hat
☑ Eye and Face	Safety Glasses	☑ Eye and Face	Safety Glasses
☑ Hearing	Ear muffs or plugs	☐ Hearing	
☐ Arms and Legs Only		☐ Arms and Legs Only	
☐ Whole Body		☐ Whole Body	
☐ Apron		☐ Apron	
☑ Hand - Gloves		☑ Hand - Gloves	
☑ Gloves	Leather outer gloves	☑ Gloves	Nitrile outer gloves
☐ Gloves		☐ Gloves	
☑ Foot - Boots		☑ Foot - Boots	
☑ Boots	Steel Toe	☑ Boots	Steel Toe
☐ Boots		☐ Boots	

Description of Levels of Protection — Levels B and C

Task(s): 1,2,3, & 4 (if required)		Task(s):
☑ Head	Hard Hat	☐ Head
☑ Eye and Face	Safety Goggles	☐ Eye and Face
☑ Hearing	Ear muffs or plugs	☐ Hearing
☐ Arms and Legs Only		☐ Arms and Legs Only
☑ Whole Body	Coated Tyvek coverall	☐ Whole Body
☐ Apron		☐ Apron
☑ Hand - Gloves		☐ Hand - Gloves
☑ Gloves	Nitrile outer gloves	☐ Gloves
☑ Gloves	Latex inner gloves	☐ Gloves
☑ Foot - Boots		☐ Foot - Boots
☑ Boots	Steel toe	☐ Boots
☐ Boots		☐ Boots
☐ APR - Neg. Pres.		☐ APR - Neg. Pres.
☑ Half Face		☐ Half Face
☑ Cart./Canister	Organic Vapor/HEPA	☐ Cart./Canister
☐ Full Face		☐ Full Face
☐ Cart./Canister		☐ Cart./Canister
☐ PAPR		☐ PAPR
☐ Cart./Canister		☐ Cart./Canister
☐ Type C		☐ Type C
☐ SAR - Airline		☐ SAR - Airline
☐ SCBA		☐ SCBA
☐ Comb. Airline/SCBA		☐ Comb. Airline/SCBA
☐ Cascade System		☐ Cascade System
☐ Compressor		☐ Compressor
☐ Fall Protection		☐ Fall Protection
☐ Flotation		☐ Flotation
☐ Other		☐ Other

DECONTAMINATION PLAN

Personnel Decontamination

Section III C. lists the tasks and specific levels of protection required for each. Consistent with the levels of protection required, step-by-step procedures for personnel decontamination for each Level of Protection are attached.

Levels of Protection Required for Decontamination Personnel

The levels of protection required for personnel assisting with decontamination will be:

☐ Level B
☐ Level C
☑ Level D

Modifications include:

Disposition of Decontamination Wastes

Provide a description of waste disposition including identification of storage area, hauler, and final disposal site, if applicable:
If petroleum contaminated wastes are encountered, they will be contained for transport by authorized carrier and disposed at a licensed facility such as Remtech or Robanco.

Equipment Decontamination

A procedure for decontamination steps required for non-sampling equipment and heavy machinery follows: **Clean augers will be used for each boring.**

Sampling Equipment Decontamination

Sampling equipment will be decontaminated in accordance with the following procedure: **Disposable bailers will be used to obtain groundwater samples. All other sampling equipment will be decontaminated between sampling events using an alconox wash and fresh water line.**

LEVEL C DECONTAMINATION

Check indicated functions or ac ips as necessary:

Function	Description of Process, Solution, and Container
☐ Segregated equipment drop	
☐ Boot cover and glove wash	
☐ Boot cover and glove rinse	
☐ Tape removal - outer glove and boot	
☐ Boot cover removal	
☐ Outer glove removal	
HOTLINE	
☐ Suit/safety boot wash	
☐ Suit/boot/glove rinse	
☐ Safety boot removal	
☐ Suit removal	
☐ Inner glove wash	
☐ Inner glove rinse	
☐ Face piece removal	
☐ Inner glove removal	
☐ Inner clothing removal	
CRC/SAFE ZONE BOUNDARY	
☐ Field wash	
☐ Redress	

Disposal Plan, End of Day: All disposable protective clothing will be containerized and disposed of in an appropriate landfill.

Disposal Plan, End of Week:

Disposal Plan, End of Project:

CONTINGENCIES

Emergency Contacts and Phone Numbers

Agency	Contact	Phone Number
Local Medical Emergency Facility	St. Elizabeth Medical Center	(509) 575-5000
Huntingdon Medical Emergency Contact	Tom Bauckham	(303) 744-7105
Huntingdon Corporate Health and Safety	Tom Bauckham	(303) 744-7105
Fire Department	Yakima Fire Dept.	911
Police Department	Yakima Police Dept.	911
Onsite Coordinator	Justin Bolles	(509) 547-1671
Site Telephone	Yakima Goodwill Industries	(509) 453-7489
Nearest Telephone	Yakima Goodwill Industries	(509) 453-7489

Local Medical Emergency Facility(s)

Name of Hospital: St. Elizabeth Medical Center

Address: 110 South 9th Avenue, Yakima, Washington — **Phone No.:** (509) 575-5000

Name of Contact: Emergency Room — **Phone No.:** (509) 575-5060

Type of Service:
- ☐ Physical trauma only
- ☐ Chemical exposure only
- ☑ Physical trauma and chemical exposure
- ☑ Available 24 hours

Route to Hospital:
1) Go north on South 3rd St. one block to Walnut Ave., turn left.
2) Go west on Walnut Ave. twelve blocks (approximately 0.93 mile) to St. Elizabeth Medical Center, right of street. Hospital located at the intersection of South 9th Street and Walnut Ave.

Travel time from site: 10 min.

Distance to hospital: 0.93 mile

Name/No. of 24-hr Ambulance Service: 911

Secondary or Specialty Service Provider

Name of Hospital: Not Applicable

Address: — **Phone No.:**

Name of Contact: — **Phone No.:**

Type of Service:
- ☐ Physical trauma only
- ☐ Chemical exposure only
- ☐ Physical trauma and chemical exposure
- ☐ Available 24 hours

Route to Hospital (attach map):

Travel time from site:

Distance to hospital:

Name/No. of 24-hr Ambulance Service:

Response Plans

Medical - General Call 911

First aid kit:	Type: Portable	Location: Truck
Eyewash required ☑ Yes ☐ No	Type: Hand-Held	Location: Truck
Safety shower ☐ Yes ☑ No	Type:	Location:

Special First Aid Procedures

Hydrofluoride on site ☐ Yes ☑ No

Cyanides on site ☐ Yes ☑ No

Plan for Response to Fire/Explosion

Put out small fires with fire extinguisher.
Contact fire department for larger fires.
Evacuate area if background LEL exceeds 20%.

Fire Extinguisher	Type: ABC Dry Chemical	Location: Truck

Plan for Response to Spill/Release

Build dirt barrier. Place contaminated material in drums.

Spill Response Gear ☐ Yes ☑ No	Description	Location

Plan for Response to Security Problems

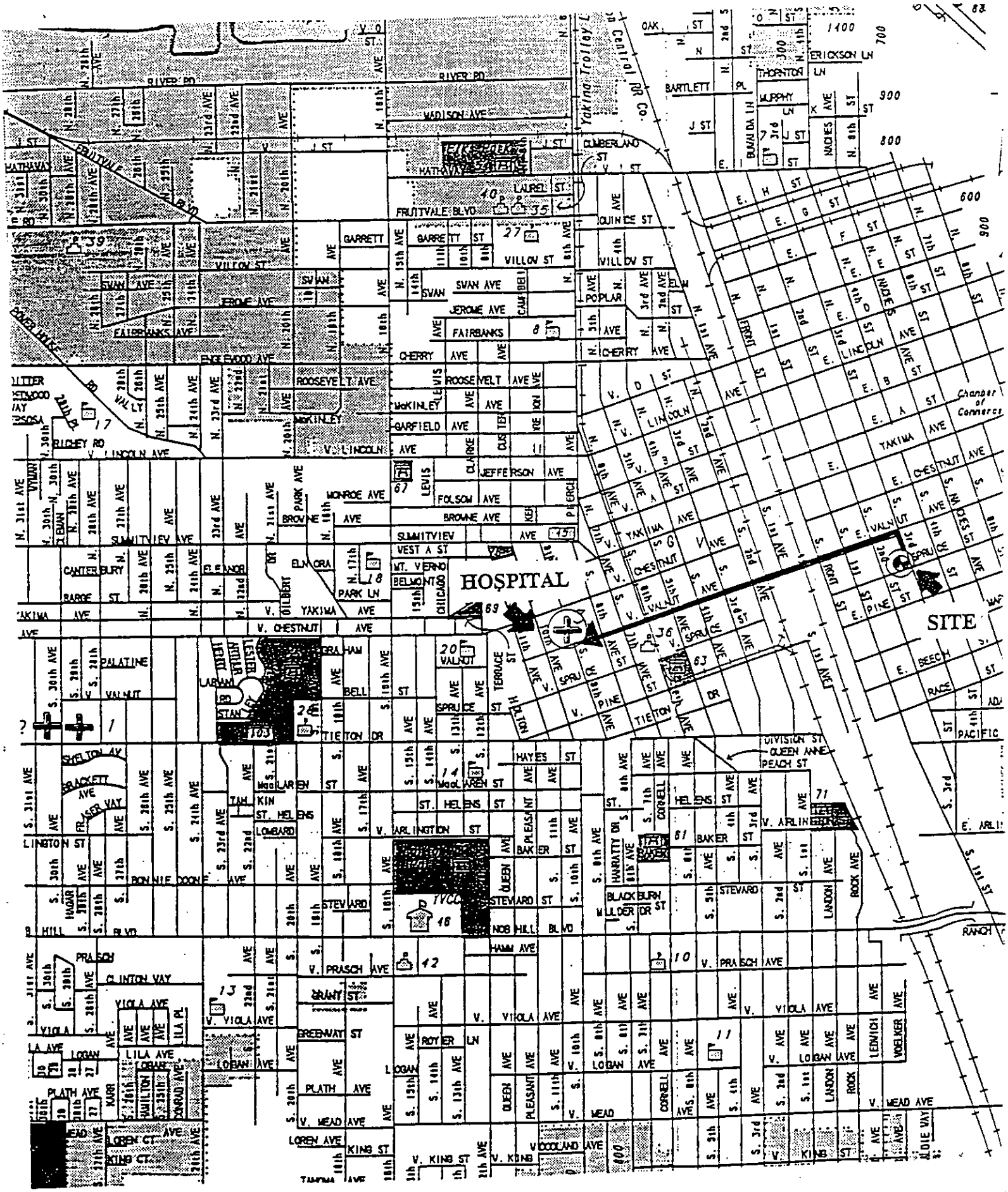
Call Prosser Police Dept. at (509) 786-1500

CONTINGENCIES

Contacts and Phone Numbers

Agency	Contact	Phone Number
Client: City of Yakima	Mr. Ray Paolilela - City Attorney Mr. Larry Peterson - Asst. City Attorney	(509) 575-6030 (509) 575-6030
Huntingdon - Pasco, WA	Jerry Harper - Division Manager	(509) 547-1671
Health Department	Yakima County Health Dept. 104 North 1st Street Yakima, Washington	(509) 575-4265
Poison Control Center	Poison Center - Spokane	1-800-572-5842
Environmental Protection Agency (EPA)	Regional Office	(206) 553-1234
EPA (environmental emergencies)	Regional Office	(206) 553-1263
Department of Transportation (USDOT)	Regional Office	(206) 753-9875
Department of Energy (USDOE)	Regional Office	(509) 376-7501
Department of Ecology	Headquarters	(206) 459-6000
Department of Ecology (USTs)	Jim Chulos - Central Region	(509) 454-7294
Department of Ecology	24-hour Spill Number	1-800-258-5990
Corporate H&S Director	Tom Bauckham	(303) 744-7105
H&S Manager	Jerry Harper	(509) 547-1671
24-Hour (Huntingdon) National Medical Emergency Service		
National Response Center		1-800-424-8802
CHEMTREC		1-800-424-9300
Center for Disease Control	Day: Environmental Health	(404) 329-3311
	Night: Environmental Health	(404) 329-2888
	Day: Superfund	(404) 452-4100
National Pesticide Information Service		(800) 845-7633
Bureau of Explosives, Association of American Railroads		(800) 835-9500
Bureau of Alcohol, Tobacco, and Firearms (Explosives - EOD)		(800) 424-9555 (202) 566-7777
EPA - TSCA Hotline	Week day	(800) 424-9065
	Week day	(202) 554-1404
EPA - Occupational Health and Safety	Week day	(202) 382-3648
NIOSH - Health Hazard Evaluation	Week day	(513) 684-4382
OSHA - Technical Data Center	Week day	(202) 523-9700
OSHA - Health Response Team	Week day	(801) 524-5896

Figure 1. Route to Hospital



SITE PERSONNEL AND CERTIFICATION STATUS

HUNTINGDON

Name: Justin Bolles **Title:** Geologist **Task(s):** **Certification Level or Description:** ☑ Medical Current ☑ Training Current ☑ Fit Test Current (Qual.) ☐ Fit Test Current (Quant.)	**Name:** Greg Thurman **Title:** Asst. Project Engineer **Task(s):** **Certification Level or Description:** ☑ Medical Current ☑ Training Current ☑ Fit Test Current (Qual.) ☐ Fit Test Current (Quant.)
Name: **Title:** **Task(s):** **Certification Level or Description:** ☐ Medical Current ☐ Training Current ☐ Fit Test Current (Qual.) ☐ Fit Test Current (Quant.)	**Name:** **Title:** **Task(s):** **Certification Level or Description:** ☐ Medical Current ☐ Training Current ☐ Fit Test Current (Qual.) ☐ Fit Test Current (Quant.)
Name: **Title:** **Task(s):** **Certification Level or Description:** ☐ Medical Current ☐ Training Current ☐ Fit Test Current (Qual.) ☐ Fit Test Current (Quant.)	**Name:** **Title:** **Task(s):** **Certification Level or Description:** ☐ Medical Current ☐ Training Current ☐ Fit Test Current (Qual.) ☐ Fit Test Current (Quant.)
Name: **Title:** **Task(s):** **Certification Level or Description:** ☐ Medical Current ☐ Training Current ☐ Fit Test Current (Qual.) ☐ Fit Test Current (Quant.)	**Name:** **Title:** **Task(s):** **Certification Level or Description:** ☐ Medical Current ☐ Training Current ☐ Fit Test Current (Qual.) ☐ Fit Test Current (Quant.)
Name: **Title:** **Task(s):** **Certification Level or Description:** ☐ Medical Current ☐ Training Current ☐ Fit Test Current (Qual.) ☐ Fit Test Current (Quant.)	**Name:** **Title:** **Task(s):** **Certification Level or Description:** ☐ Medical Current ☐ Training Current ☐ Fit Test Current (Qual.) ☐ Fit Test Current (Quant.)

MEDICAL CURRENT - TRAINING: All personnel, including visitors, entering the exclusion or contamination zones must have certifications of completion of training in accordance with OSHA 29 CFR 1910 29, CFR 1926/1910 or 20 CFR 1910.120.

FIT TEST CURRENT - RESPIRATOR FIT TESTING: All persons, including visitors, entering any area requiring the use or potential use of any negative pressure respirator must have had as a minimum, a qualitative fit test, administered in accordance with OSHA 20 CFR 1910.134 or ANSI within the last 12 months. If site conditions require the use of a full face negative pressure, air purifying respirator for the protection from Asbestos or Lead, employees must have had a quantitative fit test, administered according to OSHA 20 CFR 1910.1002 or 1025 within the last 6 months.

TRAINING CURRENT - MEDICAL MONITORING REQUIREMENTS: All personnel, including visitors, entering the exclusion or contamination reduction zones must be certified as medically fit to work, and to wear a respirator, if appropriate, in accordance with 29 CFR 1910, 20 CFR 1926/1910 or 29 CFR 1910.120.

The Site Health and Safety Coordinator is responsible for verifying all certifications and fit tests.

TRAINING AND BRIEFING TOPICS

The following items will be cov at the site specific training meeting, daily or p cally.

☑ Site characterization and analysis, Sec. 3.0, 29 CFR 1910.120 i	☑ Daily	☐ Periodically
☑ Physical hazards, Table 3.2	☐ Daily	☑ Periodically
☑ Chemical hazards, Table 3.1	☐ Daily	☑ Periodically
☐ Animal bites, stings, and poisonous plants	☐ Daily	☐ Periodically
☐ Etiologic (infectious) agents	☐ Daily	☐ Periodically
☐ Site control, Sec. 8.0; 29 CFR 1910.120 d	☐ Daily	☐ Periodically
☑ Engineering controls and work practices, Sec. 8.5; 25 CFR 1910.120 g	☑ Daily	☐ Periodically
☐ Heavy machinery	☐ Daily	☐ Periodically
☐ Forklift	☐ Daily	☐ Periodically
☐ Backhoe	☐ Daily	☐ Periodically
☑ Equipment	☐ Daily	☑ Periodically
☑ Tools	☐ Daily	☑ Periodically
☐ Ladder 29 CFR 1910.27 d	☐ Daily	☐ Periodically
☑ Overhead and underground utilities	☑ Daily	☐ Periodically
☐ Scaffolds	☐ Daily	☐ Periodically
☐ Structural integrity	☐ Daily	☐ Periodically
☐ Unguarded openings - wall, floor, ceilings	☐ Daily	☐ Periodically
☐ Pressurized air cylinders	☐ Daily	☐ Periodically
☑ Personnel protective equipment, Sec. 5.0; 25 CFR 1910.120 g; 29 CFR 1910.134	☐ Daily	☑ Periodically
☑ Respiratory protection, Sec. 5.8; 29 CFR 1910.120 g; Z88.2-1980	☐ Daily	☑ Periodically
☐ Level A	☐ Daily	☐ Periodically
☐ Level B	☐ Daily	☐ Periodically
☑ Level C	☐ Daily	☑ Periodically
☑ Level D	☐ Daily	☑ Periodically
☑ Monitoring, Sec. 7.0; 29 CFR 1910.120 h	☑ Daily	☐ Periodically
☐ Decontamination, Sec. 9.0; 29 CFR 1910.120 k	☐ Daily	☐ Periodically
☑ Emergency response, Sec. 10.0; 29 CFR 1910.120 l	☐ Daily	☑ Periodically
☑ Elements of an emergency response, Sec. 100; 29 CFR 1910.120 l	☐ Daily	☑ Periodically
☑ Procedures for handling site emergency incidents, Sec. 10.0; 29 CFR 1910.120 l	☐ Daily	☑ Periodically
☐ Offsite emergency response, 29 CFR 1910.120 l	☐ Daily	☐ Periodically
☐ Handling drums and containers, 29 CFR 1910.120 j	☐ Daily	☐ Periodically
☐ Opening drums and containers	☐ Daily	☐ Periodically

TRAINING AND BRIEFING TOPICS		
☐ Electrical material handling e[illegible]ment	☐ Daily	☐ Periodically
☐ Radioactive waste	☐ Daily	☐ Periodically
☐ Shock sensitive waste	☐ Daily	☐ Periodically
☐ Laboratory waste packs	☐ Daily	☐ Periodically
☐ Sampling drums and containers	☐ Daily	☐ Periodically
☑ Shipping and transport, 49 CFR 172.101	☐ Daily	☑ Periodically
☐ Tank and vault procedures	☐ Daily	☐ Periodically
☐ Illumination, 29 CFR 1910.120 m	☐ Daily	☐ Periodically
☐ Sanitation, 29 CFR 1910.120 n	☐ Daily	☐ Peri[illegible]

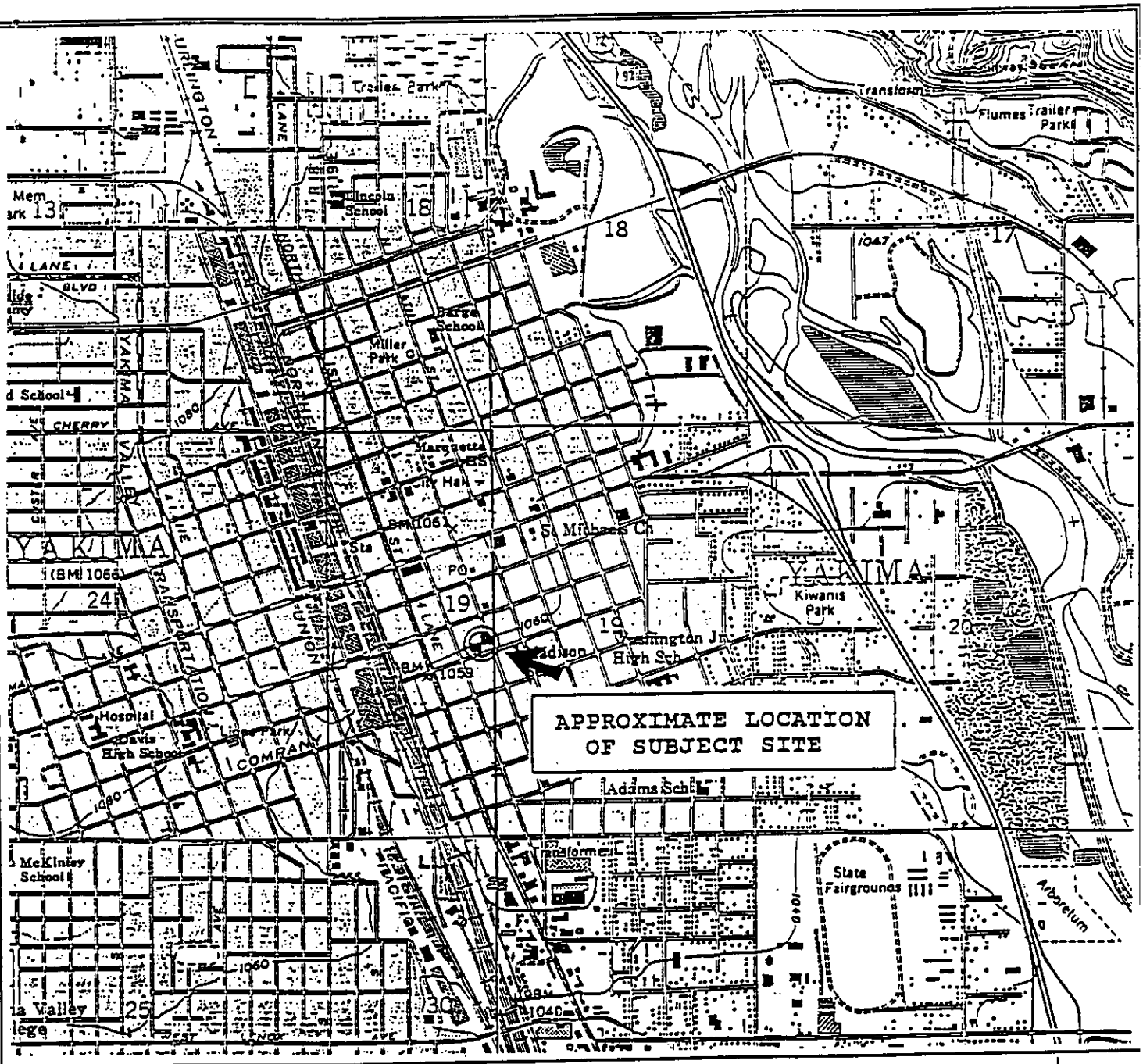
HEALTH AND SAFETY PLAN APPROVAL/SIGNOFF FORMAT

Site Name: Phase II Environmental Site Assessment **Job No.:** 194-1969

Address: Yakima Goodwill Industries Site, 222 South 3rd Street, Yakima, Washington

I have read, understood, and agreed with the information set forth in this Health and Safety Plan (and attachments) and discussed in the Personnel Health and Safety briefing.

Name	Signature	Date

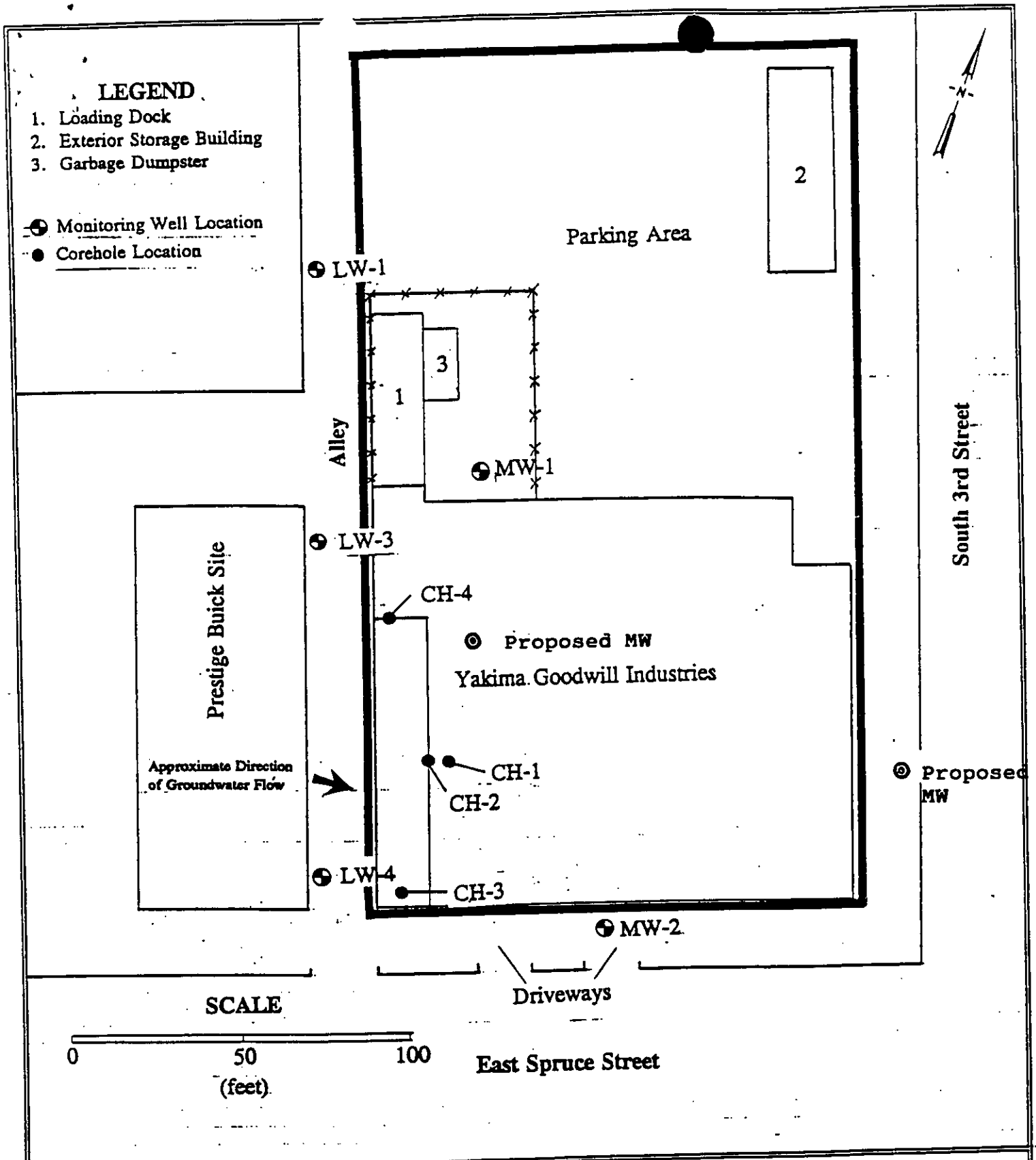


HUNTINGDON

Job No.: 194-1969

Site Location Map
USGS 7.5 Minute Series (Yakima East and West Quadrangles)
Phase II Environmental Site Assessment
Yakima Goodwill Industries Site
Yakima, Washington

DATE:	Mounted By:	Reviewed By:	SCALE:	FIGURE NO.
1985	JB	GH	As Shown	1



HUNTINGDON

Job No.: 194-1969

Site Plan
Phase II Environmental Site Assessment
Yakima Goodwill Industries Site
222 South 3rd Street
Yakima, Washington

DATE: 4/94	DRAWN BY: JB	REVIEWED BY: GH	SCALE: As Shown	FIGURE NO. 2

ATTACHMENT F-1
NOTICE OF PROPOSED TRANSFER

To: Ecology Project Coordinator

From: _____
City of Yakima or Current Successor in Interest and Assigns

and

_____
Proposed Successors in Interest and Assigns

1. Pursuant to Sections X and XI of the Prospective Purchaser Consent Decree re: Goodwill Industries (Yakima County Superior Court Cause No. _____), ____ _____ and _____ hereby give Ecology notice of a proposed transfer in interest of the Property and a proposed amendment to the Consent Decree (see attached proposed amendment).

2. [Proposed Successor in Interest and Assigns] proposes [insert intended use].

3. [Proposed Successor in Interest and Assigns] proposes to satisfy its Payment Obligation under the Consent Decree by: [insert method per Paragraph 53 of Decree] [if proposing a modified profit sharing arrangement, specify how modification will achieve goals set forth in Paragraph 56 of Decree].

4. Ecology has thirth (30) days from this notification to initiate negotiations regarding modification of any proposed profit-sharing arrangment pursuant to Paragraph 56 of the Decree.

5. Ecology has thirty (30) days from this notification to inform [Proposed Successor in Interest and Assigns] that Ecology has determined that a modified profit sharing arrangement will not satisfy the goals set forth in Paragraph 56 of the Decree.

6. Ecology has thirty (30) days from this notification to object to [Proposed Successors in Interest and Assigns] becoming a party to the Decree on the basis of an Ecology determination that [Current Owner] or [Proposed Successors in Interest and Assigns] is or will be in violation of a material term of the Decree as contemplated by Paragraph 62 of the Decree.

7. Failure of Ecology to take any of the actions described in Paragraphs 4, 5, or 6 above shall result in acceptance of the terms proposed by [Proposed Successor in Interest and Assigns] and [Proposed Successors in Interst and Assigns] may seek entry by the court of its proposed amendment (see attached) without signature by Ecology.

8. The undersigned hereby certify that they are in compliance with all terms and conditions of the Decree including but not limited to making the certification referenced in Section XI of the Consent Decree (Certification).

_____
City of Yakima or Successors in Interest and Assigns

_____
Proposed Successors in Interest and Assigns

PRESTON GATES & ELLIS
5000 Columbia Center
701 Fifth Avenue
Seattle, Washington 98104
Telephone: (206) 623-7580

OFFICE OF THE CITY ATTORNEY
CITY OF YAKIMA
424 East Yakima Avenue, Ste. 100
Yakima, Washington 98901
Telephone: (509) 575-6030

ATTACHMENT G

STATE OF WASHINGTON DEPARTMENT OF ECOLOGY, Plaintiff, v. CITY OF YAKIMA, Defendant.	No. _____ AMENDMENT TO PROSPECTIVE PURCHASER CONSENT DECREE RE: YAKIMA GOODWILL INDUSTRIES SITE (AGREEMENT OF SUCCESSORS IN INTEREST AND ASSIGNS)

Pursuant to Sections X and XI of the attached Prospective Purchaser Consent Decree ("Decree"), the undersigned Successors in Interest and Assigns hereby provide notice to the Washington Department of Ecology ("Ecology") of their acquisition of a right, title, or interest in the Property (as defined in the Decree).

The undersigned Successors in Interest and Assigns further agree, as set forth in Section X of the Decree, to be bound by all applicable provisions of the Decree, including but not limited to the specific obligations of a Successor in Interest and Assigns as set forth in Section V (Work to Be Performed), Section IX (Certification), Section X (Conveyance of Property), Section XIV (Covenant Not to Sue), Section XVII (Retention of Records), Section XVIII (Site Access), and XVIX (Other Applicable Laws).

This Agreement of Successors in Interest and Assigns shall be effective upon approval by the court.

So ordered this ____ day of _____, 1994.

_____
Judge
Yakima County Superior Court

PRESTON GATES & ELLIS
5000 Columbia Center
701 Fifth Avenue
Seattle, Washington 98104
Telephone: (206) 623-7580

OFFICE OF THE CITY ATTORNEY
CITY OF YAKIMA
424 East Yakima Avenue, Ste. 100
Yakima, Washington 98901
Telephone: (509) 575-6030

IT IS SO AGREED BY THE UNDERSIGNED SUCCESSORS IN INTEREST AND ASSIGNS:

_____

By_____

Its_____

Date_____

Address:_____

_____

_____

_____

IT IS SO AGREED BY THE DEPARTMENT OF ECOLOGY:

_____

By_____

Its_____

Date_____

Address:_____

_____

_____

_____

PRESTON GATES & ELLIS
5000 Columbia Center
701 Fifth Avenue
Seattle, Washington 98104
Telephone: (206) 623-7580

OFFICE OF THE CITY ATTORNEY
CITY OF YAKIMA
424 East Yakima Avenue, Ste. 100
Yakima, Washington 98901
Telephone: (509) 575-6030

SUPERIOR COURT OF WASHINGTON IN AND FOR YAKIMA COUNTY

STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

CITY OF YAKIMA, a Washington municipal corporation,

Defendant.

No. 94 2 02050 1

AFFIDAVIT OF THOMAS MORRILL

STATE OF WASHINGTON)
) ss.
COUNTY OF YAKIMA)

I, Thomas Morrill, being first duly sworn on oath, depose and say:

1. I am over twenty-one years of age and am competent to testify herein. The facts set forth in this Affidavit are from my personal knowledge.

2. I am an Assistant Attorney General assigned to represent the Washington State Department of Ecology and the Attorney General's Office on legal matters relating to the Yakima Goodwill Industries Site.

3. On behalf of Ecology and the Attorney General's Office, I took part in the negotiations that led to the Prospective Purchase Consent Decree that is being presented to the court.

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
P.O. P.O. Box 40117
Olympia, WA 98504-0117
FAX (206) 438-7743

4. The Consent Decree was the subject of public notice and public comment as required by RCW 70.105D.040(4)(a). Ecology also conducted a public hearing as required by WAC 173-340-600(9)(d).

5. Ecology received no oral or written comments during the public comment period.

6. WAC 173-340-600(9)(e) provides:

> Revisions. If the state and the potentially liable person agree to substantial changes to the proposed consent decree, the department shall provide additional public notice and opportunity to comment.

7. The changes to the Consent Decree made following the public comment period serve only to correct clerical errors or to make more explicit a condition of the Consent Decree that has been a part of the entire negotiation process and that has been explained to the public throughout the public participation process. Therefore, the revisions made to the Consent Decree do not constitute substantial changes and no additional public notice is required by WAC 173-340-600(9)(e).

Thomas Morrill WSBA # 18388
Assistant Attorney General
State of Washington
Department of Ecology

SUBSCRIBED AND SWORN to before me this 13 day of Sept., 1994.

BEVERLY J JOLLEY NOTARY PUBLIC STATE OF WASHINGTON COMMISSION EXPIRES DEC. 21, 1997

NOTARY PUBLIC, in an for the State of Washington
Print Name Beverly J. Jolley
My Commission expires 12/21/97

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
P.O. P.O. Box 40117
Olympia, WA 98504-0117
FAX (206) 438-7743

SUPERIOR COURT OF WASHINGTON IN AND FOR YAKIMA COUNTY

STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY, Plaintiff, v. CITY OF YAKIMA, a Washington municipal corporation, Defendant.	No. 94 2 02050 1 AFFIDAVIT OF RICK ROEDER

STATE OF WASHINGTON)
) ss.
COUNTY OF YAKIMA)

I, Rick Roeder, being first duly sworn on oath, depose and say:

1. I am over twenty-one years of age and am competent to testify herein. The facts set forth in this Affidavit are from my personal knowledge.

2. I am a Site Manager employed by the Washington State Department of Ecology's Toxic Cleanup Program. I am Ecology's Project Coordinator for the Yakima Goodwill Industries Site.

3. On behalf of Ecology, I took part in the negotiations that led to the Prospective Purchaser Consent Decree that is being presented to the court. I was Ecology's main representative for developing the Work Plan (Attachment E to the Consent Decree).

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
P.O. Box 40117
Olympia, WA 98504-0117
FAX (206) 438-7743

4. The Consent Decree was the subject of public notice and public comment as required by RCW 70.105D.040(4)(a). Ecology also conducted a public hearing as required by WAC 173-340-600(9)(d).

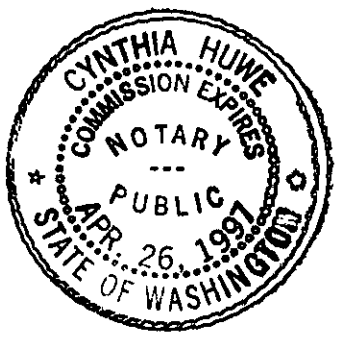
5. Ecology received no oral or written comments during the public comment period. On behalf of Ecology, I prepared Ecology's Responsiveness Summary, which is attached to this Affidavit as Exhibit A. The changes to the Consent Decree made following the public comment period serve only to correct clerical errors or to make more explicit a condition of the Consent Decree that has been a part of the entire negotiation process and that has been explained to the public throughout the public participation process.

6. Ecology has entered into this Prospective Purchaser Consent Decree based upon a determination that the Consent Decree is in the public interest.

Rick Roeder

Rick Roeder
Site Manager
State of Washington
Department of Ecology

SUBSCRIBED AND SWORN to before me this 13th day of September, 1994.



Cynthia Huwe

NOTARY PUBLIC, in and for the State of Washington
Print Name Cynthia Huwe
My Commission expires 4/26/97

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
P.O. Box 40117
Olympia, WA 98504-0117
FAX (206) 438-7743

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
106 South 6th Ave. • Yakima, Washington 98902-3387 • (509) 575-2490

RESPONSIVENESS SUMMARY
City of Yakima Prospective Purchaser Agreement

The City of Yakima and The Washington Department of Ecology are entering into a Prospective Purchaser Agreement for the Goodwill Site located at 222 South 3rd Street. As part of this process, a formal public comment period commenced on August 2, 1994 and ended September 1, 1994. A public hearing was held on August 30, 1994 at 7:00 p.m. in the Yakima City Council Chambers. No public comments were received regarding this Agreement.

Signed

Richard M Roeder

Richard M. Roeder
Site Manager
Toxics Cleanup Program.

EXHIBIT A

RECEIVED
'94 SEP 15 AM 10 15
KIM EATON
EX OFFICIO CLERK OF
SUPERIOR COURT
YAKIMA, WASHINGTON

FILED
SEP 15 1994
KIM M. EATON, YAKIMA COUNTY CLERK

SUPERIOR COURT OF WASHINGTON IN AND FOR YAKIMA COUNTY

STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

CITY OF YAKIMA, a Washington municipal corporation,

Defendant.

No. 94 2 02050 1

JOINT MOTION FOR ENTRY OF PROSPECTIVE PURCHASER CONSENT DECREE

The parties to this action hereby jointly move for entry of the Consent Decree in the above-entitled matter. The Consent Decree has been signed by the parties to this action. Moreover, the Consent Decree has been the subject of public notice and public comment. The attached Affidavits of Rick Roeder and Thomas Morrill are submitted in support of this Motion.

CHRISTINE O. GREGOIRE
Attorney General

Thomas C. Morrill
Thomas Morrill WSBA # 18388
Assistant Attorney General
Attorneys for State of Washington
Department of Ecology

Date: 9-13-94

CITY OF YAKIMA

Raymond L. Paolella
Raymond L. Paolella
Yakima City Attorney

Date: 9/15/94

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
FAX (206) 438-7743

RECEIVED

'94 SEP 15 AM 10 15

FILED

SEP 15 1994

KIM M. EATON, YAKIMA COUNTY CLERK

EX OFFICIO CLERK OF SUPERIOR COURT

SUPERIOR COURT OF WASHINGTON IN AND FOR YAKIMA COUNTY

94 2 02050 1

STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

CITY OF YAKIMA, a Washington municipal corporation,

Defendant.

No. _____

SUMMONS

To: City of Yakima, a Washington Municipal Corporation,

A lawsuit has been started against you in the above-entitled court by the State of Washington, Department of Ecology, Plaintiff. Plaintiff's claim is stated in the written complaint, a copy of which is served upon you with this Summons.

The parties have agreed to resolve this matter by entry of a Consent Decree. Accordingly, this Summons shall not require the filing of an answer. Further, all disputes arising under this cause shall be resolved under the terms of the Consent Decree.

DATED this 13th day of September, 1994.

Respectfully submitted,

CHRISTINE O. GREGOIRE
Attorney General

Thomas C Morrill

Thomas Morrill WSBA # 18388
Assistant Attorney General
(206) 459-6159

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
FAX (206) 438-7743

SUPERIOR COURT OF WASHINGTON IN AND FOR YAKIMA COUNTY

STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY, Plaintiff, v. CITY OF YAKIMA, a Washington municipal corporation, Defendant.	No. 94 2 02050 1 COMPLAINT

Plaintiff, State of Washington, Department of Ecology ("Ecology"), alleges as follows:

I. JURISDICTION

This court has jurisdiction under ch. 7.24 RCW, the Uniform Declaratory Judgment Act, and under ch. 70.105D RCW, the Model Toxics Control Act ("MTCA"), to resolve the controversy presented.

II. PARTIES

1. Plaintiff Ecology is an agency of the State of Washington responsible for overseeing remedial action at sites contaminated with hazardous substances under ch. 70.105D RCW.

2. Defendant, the City of Yakima, is a Washington municipal corporation.

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
FAX (206) 438-7743

III. FACTUAL ALLEGATIONS

3. The City of Yakima proposes to demolish the existing structure on the Property and construct a police station/legal center (the "Center") over the Property and other adjacent parcels owned or leased by the City in downtown Yakima.

4. The City of Yakima intends to acquire the Yakima Goodwill Industries Site (the "Property") by purchase or, if necessary, by exercise of its powers of eminent domain, pursuant to RCW 35.22.280(6). Acquisition of the Property is expected to be concluded by September 30, 1994, so long as the proposed Prospective Purchaser Consent Decree has been approved by the Court by that date.

5. Groundwater at the Property exceeds MTCA Method A and Method B cleanup levels for certain contaminants.

6. Soils at the Property also exceed MTCA Method A cleanup levels for certain contaminants.

7. The City of Yakima certifies that it has not caused or contributed to a release or threat of release of hazardous substances at the Property and would not otherwise be potentially liable under RCW 70.105D.040(1), except by becoming an owner of the Property.

8. It is not expected that the City of Yakima's plans for the Property will aggravate or contribute to the Present Contamination, interfere with any future remedial actions at the site, nor increase health risks to persons at or in the vicinity of the Property.

9. In addition to yielding substantial new resources to facilitate cleanup of the soil at the Property and expediting remedial action, the Consent Decree will provide a substantial public benefit through the provision of a sorely-needed public facility to the City of Yakima, the Center, which will house important law enforcement, public safety and legal departments.

10. Ecology and the City of Yakima have entered into a Prospective Purchase Consent Decree regarding the Property. If approved by the Court, the Consent Decree will go into effect

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
FAX (206) 438-7743

upon the acquisition by the City of Yakima of the Property. The Consent Decree resolves the City of Yakima's potential liability as the owner of the Property under ch. 70.105D RCW.

11. The Consent Decree has been subject to public notice and comment under RCW 70.105D.040(4)(a), and all comments have been addressed by Ecology in a responsiveness summary.

IV. CAUSES OF ACTION

12. Plaintiff realleges paragraphs 1 through 10, above.

13. Upon acquiring ownership of the Property, the City of Yakima could be subject to potential liability under RCW 70.105D.040(1)(a).

14. Plaintiff alleges that an actual, present, existing dispute exists between Plaintiff and Defendant, or, in the alternative, that the mature seeds of a controversy exist because when the City of Yakima becomes the owner of the Property, Ecology could identify the City of Yakima as a potentially liable party (PLP) under MTCA. As a PLP under MTCA, Ecology can require the City of Yakima to perform remedial actions and/or pay response costs incurred by Ecology for cleanup of the Property.

14. Pursuant to RCW 70.105D.040(2), liability as a PLP is strict, joint and several. Such liability can be financially significant.

V. PRAYER FOR RELIEF

Ecology and the City of Yakima have entered into a Consent Decree addressing the City of Yakima's potential liability for the Present Contamination at the Property and any off-site contamination that may migrate onto the Property. Ecology has determined that the City of Yakima's plans for the Property will not aggravate or contribute to the Present Contamination, interfere with future remedial actions or increase health risks to persons at or in the vicinity of the Property. Additionally, if the Consent Decree is approved by the Court, the City of Yakima will take actions to further certain Ecology goals for the protection of human health and the environment in exchange for

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
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Olympia, WA 98504-0117
FAX (206) 438-7743

a covenant not to sue, subject to reopener, as well as protection from contribution claims under MTCA.

Therefore, all parties to this action request that the Court grant the following relief:

1. Enter judgment declaring that a MTCA Prospective Purchaser Consent Decree, effective at the date of the City of Yakima's acquisition of the Property, may be entered by Ecology and the City of Yakima to absolve the City of Yakima of PLP status as an owner or operator of the Property.

2. Sign the Consent Decree in this matter and retain jurisdiction to enforce the terms of the Consent Decree.

DATED this 13th day of September, 1994.

Respectfully submitted,

CHRISTINE O. GREGOIRE
Attorney General

Thomas C Morrill

Thomas Morrill WSBA # 18388
Assistant Attorney General
(206) 459-6159

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
FAX (206) 438-7743