



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Avenue SE • Bellevue, Washington 98008-5452 • (425) 649-7000

April 26, 2011

Pamela Keske
Vintage at Everett, LP
1001 East Marine View Drive,
Everett, WA 98201

Notice of Rescission of 'No Further Action' Status at the following Hazardous Waste Site:

- Name: North Point Apartments
- Address: 1001 East Marine View Drive, Everett, Washington
- Facility/Site No.: 43112633
- VCP ID No.: NW0713

Dear Ms. Keske:

In a letter dated September 16, 2010, Ecology informed you that the North Point Apartments facility failed the Periodic Review for the following reasons:

- The cleanup actions completed at the Site appear to be protective of human health and the environment.
- Soils cleanup levels have not been met at the standard point of compliance for the Site; however, the cleanup action has been determined to comply with cleanup standards since the long-term integrity of the containment system is ensured, and the requirements for containment technologies are being met.
- The Restrictive Covenant for the property is in place and continues to be effective in protecting public health and the environment from exposure to hazardous substances and protecting the integrity of the cleanup action.
- The 'No Further Action' (NFA) letter issued by Ecology was for an entire Site, but since the Site as defined by MTCA consists of the larger Everett Smelter Site, it is more appropriate to issue a 'Property Specific' NFA letter. The use of the word 'Site' in this review equates to the North Point Apartment property, and is not the same as the MTCA definition.

A "No Further Action" (NFA) determination with a Restrictive Covenant letter for the North Point Apartments facility was issued on May 14th 2001. Ecology has determined that the 2001 NFA determination will be rescinded for the reasons listed above. The effective date of the NFA rescission is the date of this letter.



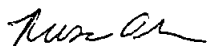
Ms. Pamela Keske
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Ecology has determined that this Site does qualify for a Property Specific letter which is enclosed.

Ecology will update its database to reflect this "Property Specific" determination and that Ecology has rescinded the previously issued NFA for North Point Apartments. The site will be listed in future publications of the Confirmed & Suspected Contaminated Sites Report and will be submitted for hazard ranking for inclusion on the Hazardous Sites list.

Please contact me at (425) 649-7038 if you have any questions relating to this letter.

Sincerely,



Russell E. Olsen
Voluntary Cleanup Program Unit Supervisor
NWRO Toxics Cleanup Program

ro/kh

By certified mail 7009 2820 0001 7154 5843



STATE OF WASHINGTON
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April 26, 2011

Pamela Keske
Vintage at Everett, LP
1001 East Marine View Drive
Everett, WA 98201

Re: No Further Action at a Property associated with a Site:

- Name: North Point Apartments
- Address: 1001 East Marine View Drive, Everett, Washington
- Facility/Site No.: 43112633
- VCP ID No.: NW0713

Dear Ms. Keske:

The Washington State Department of Ecology (Ecology) is re-issuing the opinion on your independent cleanup. This letter provides our opinion on the cleanup for the Property associated with the North Point Apartments facility, separated from the larger Site. We are providing this opinion under the authority of the Model Toxics Control Act (MTCA), Chapter 70.105D RCW.

Issues Presented and Opinion

1. Is further remedial action necessary at the Property to clean up contamination associated with the Site?

NO. Ecology has determined that no further remedial action is necessary at the Property to clean up contamination associated with the Site.

This opinion is dependent on the continued performance and effectiveness of the post-cleanup controls and monitoring specified below.

2. Is further remedial action still necessary elsewhere at the Site?

YES. Ecology has determined that further remedial action is still necessary elsewhere at the Site.

This opinion is based on an analysis of whether the remedial action meets the substantive requirements of MTCA, Chapter 70.105D RCW, and its implementing regulations, Chapter 173-340



WAC (collectively "substantive requirements of MTCA"). The analysis is provided below.

Description of the Property and the Site

This opinion applies only to the Property and the Site described below. This opinion does not apply to any other sites that may affect the Property. Any such sites, if known, are identified separately below.

1. Description of the Property.

The Property includes the following tax parcel in Snohomish County, which was affected by the Site and addressed by your cleanup:

- 2905-1700-100500
- Legal description: NE quarter of Section 17, Township 29 North, Range 5 East, Willamette Meridian

Enclosure A includes a legal description of the Property. **Enclosure B** includes a diagram of the Site that illustrates the location of the Property within the Site.

2. Description of the Site.

The Site is defined by the nature and extent of contamination associated with the following release:

- Arsenic into the Soil.

That release has affected more than one parcel of real property, including the parcel identified above.

Enclosure B includes a detailed description and diagram of the Site, as currently known to Ecology.

3. Identification of Other Sites that may affect the Property.

Please note the Property is also located within the boundaries of the Everett Smelter Slag Site facility (# 2744) which affects the Property. This opinion does not apply to any contamination associated with the Everett Smelter Slag Site facility.

Basis for the Opinion

This opinion is based on the information contained in the following documents:

- *Phase 1 Environmental Site Assessment, Undeveloped Land*, East Marine View Drive Everett, Washington Geotech Consultants, Inc., November 10, 1997;
- *Phase 2 Environmental Site Assessment, Undeveloped Land*, East Marine View Drive Everett, Washington Geotech Consultants, Inc., March 20, 1998;
- *Geotechnical Engineering Study, Proposed North Point Apartments*, East Marine View Drive Everett, Washington, Geotech Consultants, Inc., August 17, 1998;
- *Remedial Action Work Plan North Point Apartments Site*, Everett, Washington Envirocon, Inc., February 12, 2001;
- *Final Independent Remedial Action Program Report, North Point Apartments Site*, Everett, Washington, Envirocon, Inc., April 30, 2001;
- *Periodic Review*, by Ecology, dated May 2010.

Those documents are kept in the Central Files of the Northwest Regional Office of Ecology (NWRO) for review by appointment only. You can make an appointment by calling the NWRO resource contact at 425.649.7239.

This opinion is void if any of the information contained in those documents is materially false or misleading.

Analysis of the Cleanup

1. Cleanup of the Property located within the Site.

Ecology has concluded that **no further remedial action** is necessary at the Property to clean up contamination associated with the Site. That conclusion is based on the following analysis:

a. Characterization of the Site.

Ecology has determined your characterization of the Site is sufficient to establish cleanup standards for the Site and select a cleanup for the Property. The Site is described above and in **Enclosure B**.

b. Establishment of cleanup standards for the Site.

Ecology has determined the cleanup levels and points of compliance you established for the Site meet the substantive requirements of MTCA. Cleanup

standards used for this independent remedial action were determined using the State of Washington Model Toxics Control Act (MCTA) Method A cleanup levels for hazardous substances in soil and the remediation levels established in The Washington State Department of Ecology's Integrated Final Cleanup Action Plan and Final Environmental Impact for the Upland Area for the Everett smelter Site. Arsenic cleanup standards in soil were set at 20 ppm for all areas on-Site with the exception of the landscape strip. This was a 20 foot wide area on the western boundary of the Site, which was to be excavated to a depth of 4-6 feet below ground surface and backfilled with imported fill sand. Due to the depth of clean overburden fill soils the cleanup standard for the landscape strip was established at 500 ppm for arsenic.

c. Selection of cleanup for the Property.

Ecology has determined the cleanup you selected for the Property meets the substantive requirements of MTCA. The cleanup meets the minimum cleanup requirements and does not exacerbate conditions or preclude reasonable cleanup alternatives elsewhere at the Site. Off-Site disposal with a smaller area of isolation, containment and control was chosen as the remedial action to be implemented at the Site.

d. Cleanup of the Property.

Ecology has determined the cleanup you performed meets the applicable Site cleanup standards within the Property. This determination is dependent on the continued performance and effectiveness of the post-cleanup control specified below.

The cleanup work on this project included excavation and off-Site disposal in two phases of approximately 16,000 cubic yards (25,000 tons) of arsenic containing soils above the MTCA residential action level (20 parts per million [ppm]), and performance of confirmation sampling to verify that action levels have been met. A groundwater investigation was not conducted nor deemed necessary for a number of reasons. Groundwater was not encountered during any of the boring, test pitting or excavation activities conducted on-Site. The contaminant of concern was arsenic, which has low mobility in soils, and Site testing indicated no evidence of migration of metals to underlying soils. The geologic unit that characterizes the Site is relatively low permeability. Shallow groundwater would be seasonal and transitory at the Site. It is not believed that there are any potential groundwater users at or near the property.

2. **Cleanup of the Site as a whole.**

Ecology has concluded that **further remedial action** under MTCA is still necessary elsewhere at the Site. In other words, while your cleanup constitutes the final action for the Property, it constitutes only an **“interim action”** for the Site as a whole.

Post-Cleanup Controls and Monitoring

Post-cleanup controls and monitoring are remedial actions performed after the cleanup to maintain compliance with cleanup standards. This opinion is dependent on the continued compliance with institutional controls. Institutional controls prohibit or limit activities that may interfere with the integrity of engineered controls or result in exposure to hazardous substances. The following institutional control is necessary at the Property:

- Restrictive Covenant Snohomish County Assessor No.: 200108140640 recorded on the parcel 2905-1700-100500 of real property in Snohomish County.

Ecology approved the recorded Covenant. A copy of the Covenant is included in **Enclosure C**.

Periodic Review of Post-Cleanup Conditions

Ecology may conduct periodic reviews of post-cleanup conditions at the Property to ensure that they remain protective of human health and the environment. If Ecology determines, based on a periodic review, that further remedial action is necessary at the Property, then Ecology will withdraw this opinion.

Listing of the Site

Based on this opinion, Ecology will update the status of remedial action at the Site on our database of hazardous waste sites. However, because further remedial action is still necessary elsewhere at the Site, we will not remove the Site from our lists of hazardous waste sites. Furthermore, the Property will remain listed as part of the Site because the cleanup of the Property does not change the boundaries of the Site.

Limitations of the Opinion

1. **Opinion does not settle liability with the state.**

Ms. Pamela Keske
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Liable persons are strictly liable, jointly and severally, for all remedial action costs and for all natural resource damages resulting from the release or releases of hazardous substances at the Site. This opinion **does not**:

- Change the boundaries of the Site.
- Resolve or alter a person's liability to the state.
- Protect liable persons from contribution claims by third parties.

To settle liability with the state and obtain protection from contribution claims, a person must enter into a consent decree with Ecology under RCW 70.105D.040(4).

2. Opinion does not constitute a determination of substantial equivalence.

To recover remedial action costs from other liable persons under MTCA, one must demonstrate that the action is the substantial equivalent of an Ecology-conducted or Ecology-supervised action. This opinion does not determine whether the action you performed is substantially equivalent. Courts make that determination. See RCW 70.105D.080 and WAC 173-340-545.

3. State is immune from liability.

The state, Ecology, and its officers and employees are immune from all liability, and no cause of action of any nature may arise from any act or omission in providing this opinion. See RCW 70.105D.030(1)(i).

Contact Information

Thank you for cleaning up your Property under the Voluntary Cleanup Program (VCP). We look forward to working with you to clean up the remainder of the Site. For more information about the VCP and the cleanup process, please visit our web site: www.ecy.wa.gov/programs/tcp/vcp/vcpmain.htm. If you have any questions about this opinion, please contact me by phone at 425.649.7038 or by e-mail at rols461@ecy.wa.gov.

Sincerely,



Russell E. Olsen
Voluntary Cleanup Program Unit Supervisor
NWRO Toxics Cleanup Program

Ms. Pamela Keske
April 26, 2011
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ro/kh

By certified mail 7009 2820 0001 7154 5904

Enclosures (3): A - Legal Description of the Property
B - Description and Diagrams of the Site (including the Property)
C - Environmental Covenants for Institutional Controls]

Enclosure A

Legal Description of the Property

The Property includes the following tax parcel in Snohomish County, which was affected by the Site and addressed by your cleanup:

- 2905-1700-00506
- Legal description: NE quarter of Section 17, Township 29 North, Range 5 East, Willamette Meridian (please see page 5 of Enclosure C for full description).

Enclosure B

Description and Diagrams of the Site (including the Property)

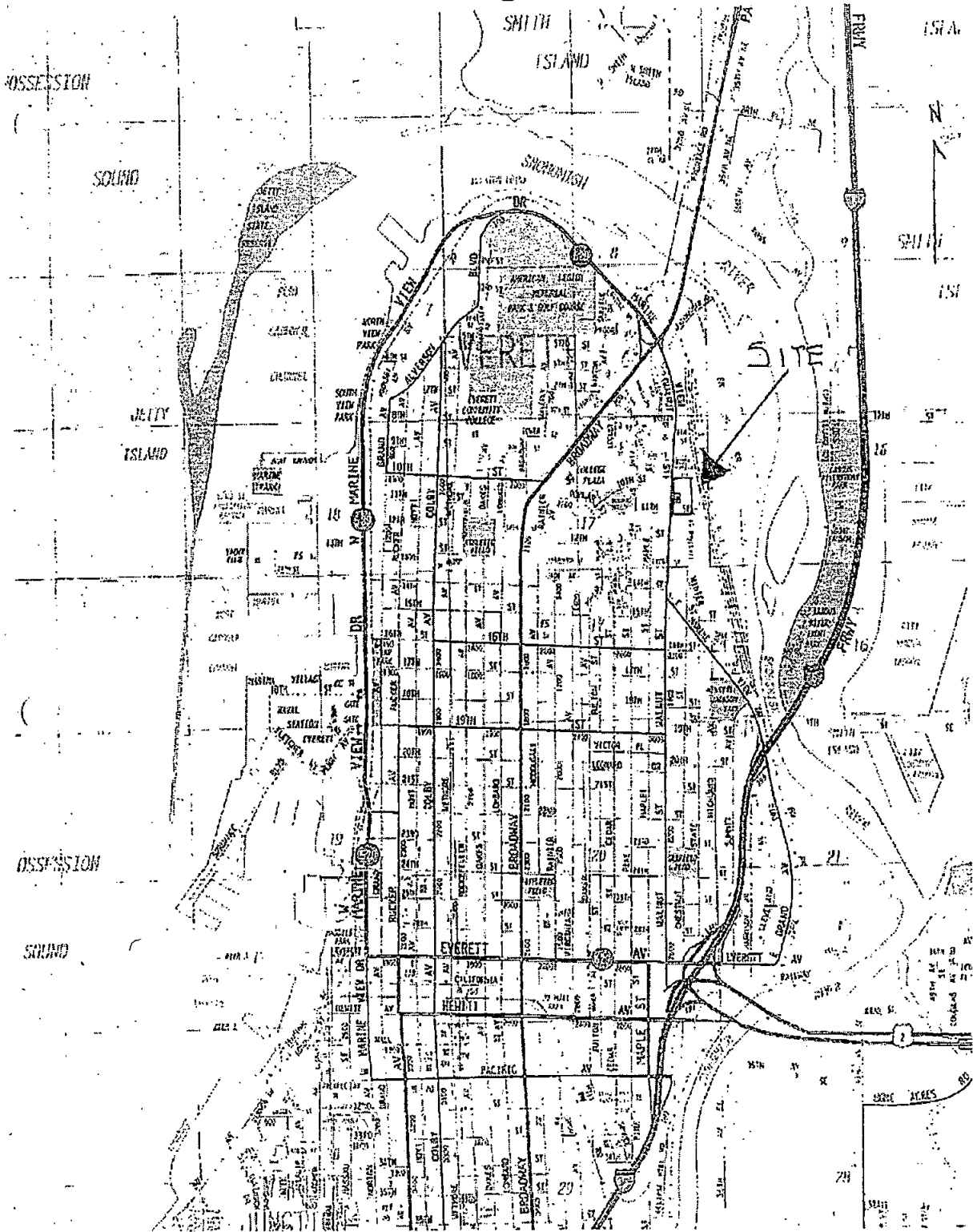
Site Description

North Point Apartment Site (SEPA #73-98), is located at 1001 East Marine View Drive in Everett, Washington, 3/4 miles northeast of downtown Everett. The Site is bordered on the west by Marine View Drive, on the south by 11th Street, on the North by an apartment complex and on the east by a rail yard. Currently there are apartments for seniors for lease. The taxpayer is Vintage at Everett, LP.

The lot is 4.22-acre, rectangular in shape with approximate dimensions of 600 feet north to south and 335 feet east to west. It is fronted on the west side by East Marine View Drive and is flat in an eastward direction for 30 to 40 feet then drops steeply 10-15 feet in elevation. The Site slopes from this point downward to the eastern property line. The western border of the Site is at an approximate elevation of 90 feet above sea level. The eastern boundary of the Site is approximately 30 feet above sea level. Prior to remediation activities the Site was well vegetated with numerous trees and dense underbrush. The vegetation was all removed during Phase I remediation activities and the Site was then covered with a thin layer of wood chips and straw for dust control purposes. Tests indicate that the over the majority of the Site 6-12 inches of topsoil layer was underlain by native soils consisting of 3 to 5 feet of loose to medium dense, brown, weathered, silty sand with gravel which then became gray and very dense. The silty sands were referred to as glacier till. The till exhibits relatively low vertical hydraulic conductivity. The western portion of the Site, which was the focus of the Phase II remediation activities, consisted of 6-10 feet of fill material, mostly loose silty sand with some concrete and asphalt debris. The fill layer was underlain by glacier till. The Site's topsoil layer was removed during Phase I and Phase II remediation activities. Groundwater was not encountered on-Site during any test pitting, boring or excavation activities.

The property is located within the southeastern portion of the area designated as the Everett Smelter Site. A smelter processing lead, gold, silver and arsenic ore operated in the area from 1894 to 1912. It was discovered in 1990 that many of the properties surrounding the smelter were impacted by air emissions from the smelter stacks and had elevated levels of arsenic in Site soils.

Site Diagrams

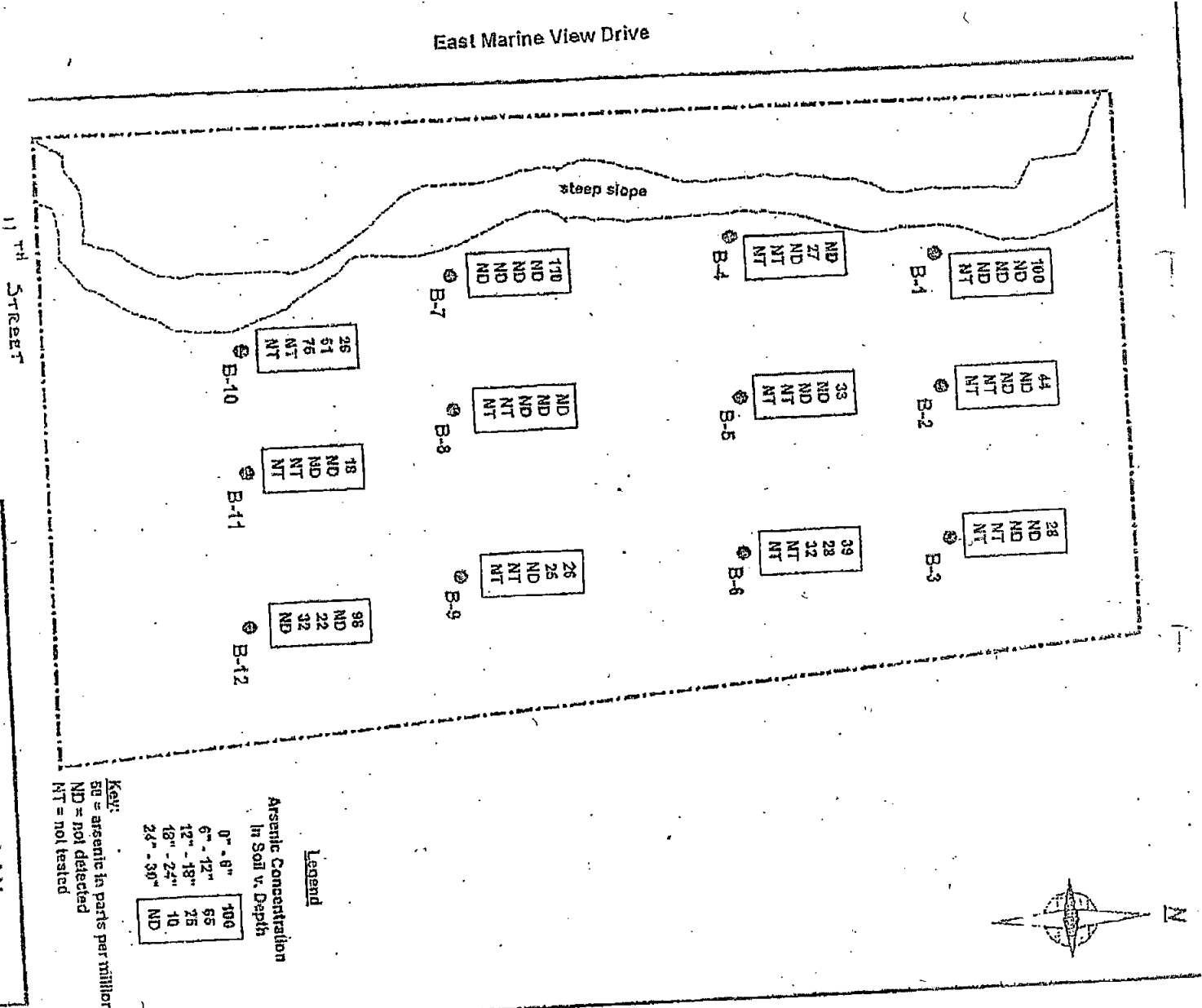




GOTECH
CONSULTANTS, INC.

SAMPLE LOCATION PLAN

Undeveloped 4.22-Acre Parcel
East Marine View Drive
Everett, Washington



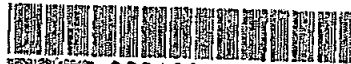
Enclosure C

Environmental Covenants for Institutional Controls

200108140640

RETURN ADDRESS

STEPHEN JACOBSON
PO Box 394
GRAYLAND WA 98547



200108140640
08/14/2001 03:51 PM Snohomish
P.0006 RECORDED County

Please print neatly or type information
Document Title(s)

RESTRICTIVE COVENANT

Reference Number(s) of related documents

Additional Reference #'s on page ___

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

STEPHEN JACOBSON

ANN M. STOCKTON

Additional Grantors on page ___

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

PUBLIC

Additional Grantees on page ___

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

S-17 T-29 R-5

Assessor's Property Tax Parcel/Account Number

2905 1700 100500

Additional parcel #'s on page ___

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

*Signature required only if requesting Non-Standard document processing:

*I am requesting an emergency nonstandard recording for an additional fee as provided in RCW 36.18.010. I understand that the recording processing requirements may cover up or otherwise obscure some part of the text of the original document

Stephen Jacobson
Signature of Requesting Party

CONFIRMED COPY
200108140640
08/14/2001 03:51 PM Snohomish
P.0006 RECORDED County

RESTRICTIVE COVENANT

Steffen Jacobson/Ann M. Stockton-Northpoint Apt. Site
East side of East Marine View Drive between 10th and 11th Street, Everett, WA

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by Steffen Jacobson/Ann M. Stockton, its successors and assigns, and the State of Washington Department of Ecology, its successors and assigns (hereafter "Ecology").

An independent remedial action (hereafter "Remedial Action") occurred at the property that is the subject of this Restrictive Covenant. The Remedial Action conducted at the property is described in the following document:

Final Independent Remedial Action Program Report
Northpoint Apartments Site
Everett, Washington
Envirocon, Inc. dated April 30, 2001

This document is on file at Ecology's Northwest Regional Office in Bellevue, Washington.

This Restrictive Covenant is required because the Remedial Action resulted in residual concentrations of arsenic which exceed the Model Toxics Control Act Method Residential Cleanup Level for soil established under WAC 173-340-740.

The undersigned, Steffen Jacobson/Ann M. Stockton, are the fee owners of real property (hereafter "Property") in the County of Snohomish, State of Washington, that is subject to this Restrictive Covenant. The Property is legally described [AS FOLLOWS: (insert legal description language)] -or- [IN ATTACHMENT A OF THIS RESTRICTIVE COVENANT AND MADE A PART HEREOF BY REFERENCE (attach document containing legal description)].

Steffen Jacobson & Ann M. Stockton make the following declaration as to limitations, restrictions, and uses to which the Property may be put and specifies that such declarations shall constitute covenants to run with the land, as provided by law and shall be binding on all parties and all persons claiming under them, including all current and future owners of any portion of or interest in the Property (hereafter "Owner").

Section 1. A 20 foot wide strip on the western side of the slope along East Marine View Drive was excavated to 4-6 feet below ground surface for a landscape strip. A demarcation fabric consisting of 4 oz. nonwoven geotextile was placed at the bottom of the excavation in the landscape area to delineate contaminant removal boundaries for future construction personnel. Soils below this fabric contain arsenic that exceeds 500 mg/kg (parts per million). This area of arsenic contaminated soils is covered with a minimum of four feet of clean fill material and serves to prevent direct contact with the contaminated soil. In addition, the demarcation fabric serves to delineate the boundaries for future site development.

Any activity on the Property that may result in the release or exposure to the environment of the contaminated soil that was contained as part of the Remedial Action, or create a new exposure pathway, is prohibited.

Section 2. Any activity on the Property that may interfere with the integrity of the Remedial Action and continued protection of human health and the environment is prohibited.

Section 3. Any activity on the Property that may result in the release or exposure to the environment of a hazardous substance that remains on the Property as part of the Remedial Action, or create a new exposure pathway, is prohibited without prior written approval from Ecology.

Section 4. The Owner of the property must give thirty (30) day advance written notice to Ecology of the Owner's intent to convey any interest in the Property. No conveyance of title, easement, lease, or other interest in the Property shall be consummated by the Owner without adequate and complete provision for continued maintenance of the soil cover.

Section 5. The Owner must restrict leases to uses and activities consistent with the Restrictive Covenant and notify all lessees of the restrictions on the use of the Property.

Section 6. The Owner must notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Restrictive Covenant. Ecology may approve any inconsistent use only after public notice and comment.

Section 7. The Owner shall allow authorized representatives of Ecology the right to enter the Property at reasonable times for the purpose of evaluating the Remedial Action; to take samples, to inspect remedial actions conducted at the property, and to inspect records that are related to the Remedial Action.

Section 8. The Owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this Restrictive Covenant shall no longer limit use of the Property or be of any further force or effect. However, such an instrument may be recorded only if Ecology,

after public notice and opportunity for comment, concurs.

Steffen Jacobson
Steffen Jacobson

11th AUGUST 2001
[DATE SIGNED]

Ann M Stockton
Ann M. Stockton

13th AUGUST 2001
[DATE SIGNED]

NOTE: The Property Owner must have this restrictive Covenant notarized.]

Steffen Jacobson/Ann M. Stockton
PO Box 396
Grayland, WA 98547

RESTRICTIVE COVENANT

This declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f and g), and WAC 173-340-440 Name of Property Owner, its successors and assigns, and the Washington State Department of Ecology, its successors and assigns.

Legal Description:

Tax Parcel I.D. #: 29051700100500

LEGAL DESCRIPTION

ALL THAT PORTION OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER AND OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER SECTION 17, TOWNSHIP 29 NORTH, RANGE 5 EAST, W.M. IN SNOHOMISH COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING ON THE EAST LINE OF WALNUT STREET WHERE IT INTERSECTS THE SOUTH LINE OF SAID NORTHEAST QUARTER OF THE NORTHEAST QUARTER;
THENCE NORTH ALONG THE EAST LINE OF WALNUT STREET 205 FEET;
THENCE EAST TO THE WEST LINE OF THE GREAT NORTHERN RAILROAD RIGHT-OF-WAY;
THENCE SOUTH ALONG SAID RIGHT-OF-WAY TO THE NORTH LINE OF 11TH STREET;
THENCE WEST ALONG THE SAID NORTH LINE OF 11TH STREET TO THE EAST LINE OF WALNUT STREET;
THENCE NORTH ALONG THE EAST LINE OF WALNUT STREET TO THE TRUE POINT OF BEGINNING.

Acknowledgment by Individual

State of WA.

County of King

On this 14th day of August, 192001

before me, MICHAEL P. RAINERI
Name of Notary Public

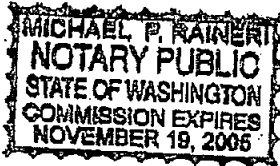
the undersigned Notary Public, personally appeared

Stetten Jacobson & Ann M. Stocketon
Name of Signer(s)

- Proved to me on the oath of _____
 Personally known to me
 Proved to me on the basis of satisfactory evidence _____
(Description of ID)

to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged that he/she/they executed it.

WITNESS my hand and official seal.



Michael P. Raineri
(Signature of Notary Public)

My commission expires _____

(seal)

OPTIONAL

Though the information in this section is not required by law, it may prevent fraudulent removal and reattachment of this form to another document and could prove valuable to persons relying on the document.

Description of Attached Document

Type or Title of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

