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FEB 12 2002

JoAnne McBride, Clerk, Clark Co

**IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON
FOR THE COUNTY OF CLARK**

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

LEICHNER BROTHERS LAND
RECLAMATION CORPORATION,

Defendant.

No. 96-2-03081-7

**AMENDMENT NO. 1 TO
CONSENT DECREE**

This amendment to Consent Decree No. 96-2-03081-7 is issued pursuant to the authority of Chapter 70.105D RCW, the Model Toxics Control Act (MTCA).

STATEMENT OF CURRENT CONDITIONS

A. Consent Decree No. 96-2-03081-7 was signed by the Court and filed on July 17, 1996. The Decree was a negotiated settlement between the Washington State Department of Ecology (Ecology) and Leichner Brothers Land Reclamation Corporation (Leichner).

B. The Consent Decree governed the remedial activities for the Leichner Brothers Land Reclamation Corporation Landfill Site (Site) located near Vancouver, WA and surrounding areas where hazardous substances have come to be located. The Site encompassed the area described in Exhibit A attached hereto.

C. The Site included a specific area described in Exhibit B attached hereto. The area described in Exhibit B is currently slated to be redeveloped into residential housing units as part of the Neston Square Development Project.

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1. The soils within the area described in Exhibit B are not contaminated, and currently no waste materials are present.
2. The groundwater beneath the area described in Exhibit B is not contaminated.
3. The area described in Exhibit B is upgradient of the Site, such that no contamination from soils or groundwater can migrate to the area.
4. The area described in Exhibit B contains monitoring well LB-9S. This monitoring well has never indicated any contamination in groundwater beneath the area. Monitoring well LB-9S will be abandoned as part of the redevelopment of the area described in Exhibit B, and will be replaced with a piezometer in the public right-of-way adjacent to the area where monitoring well LB-9S is located.
5. To ensure continued monitoring of the Leichner Landfill, the gas probe located in the area described in Exhibit B shall be relocated to a point that is closer to the Leichner Landfill to better monitor gas production on the landfill for the benefit of human health and the environment.
6. To ensure proper functioning of the Leichner Landfill, the stormwater discharge line located in the area described in Exhibit B shall be relocated to the western boundary of Exhibit "B" to allow for current and future redevelopment of the Exhibit "B" property.

D. The Site included an area described in Exhibit C attached hereto. The area described in Exhibit C will be maintained by Leichner under the terms and conditions of the Consent Decree and does not represent a part of the Neston Square Development Project.

E. This amendment to the Consent Decree is to redefine the boundaries of the Site that will be subject to the Consent Decree. Specifically, this amendment to the Consent Decree will remove the area described in Exhibit B from the Site.

F. Ecology has concluded that the removal of the area described in Exhibit B from the Site is in the public interest, and will not pose a threat to human health or the environment.

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AMENDMENT TO CONSENT DECREE

Based on the foregoing, the parties stipulate and agree that the Decree, including Exhibits A and B should be amended, pursuant to the provisions of Section XV, "AMENDMENT OF CONSENT DECREE", as follows:

- A. All of the terms of the Consent Decree remain in effect unless expressly amended herein.
- B. Exhibit A (Site Diagram) to the Consent Decree shall be amended as follows:
 - (1) The area designated in Exhibit B is hereby removed from the Site. A revised Site Diagram (Exhibit A to the Consent Decree) is attached.
 - (2) The area designated in Exhibit C remains part of the Site. A revised Site Diagram (Exhibit A to the Consent Decree) is attached.
- C. The area designated in Exhibit B shall no longer be subject to the requirements and restrictions of the Consent Decree.





JUDGE / COMMISSIONER
Clark County Superior Court

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DEPARTMENT OF ECOLOGY

CHRISTINE O. GREGOIRE
Attorney General


By: 
JIM PENDOWSKI
Program Manager
Toxics Cleanup Program

By: 
KEN LEDERMAN, WSBA #26515
Assistant Attorney General
Attorneys for Plaintiff


Date: 1/25/02

Date: 2/5/02

LEICHER BROTHERS LAND
RECLAMATION CORPORATION

By: 
CRAIG ZEICHNER
President
Leichner Brothers Land Reclamation Corporation

Date: January 16, 2002

By: 
STEPHEN W. HORENSTEIN, WSBA #6183
Miller Nash LLP
Attorneys for Defendant

Date: 1/16/01

SURVEY IN THE
J. MCALLISTER D.L.C. & WM. GOLDBECK D.L.C.
 IN
SEC. 4, T2N, R2E B THE N 1/2 OF
SEC. 33, T3N, R2E, WM.
 CLARK COUNTY

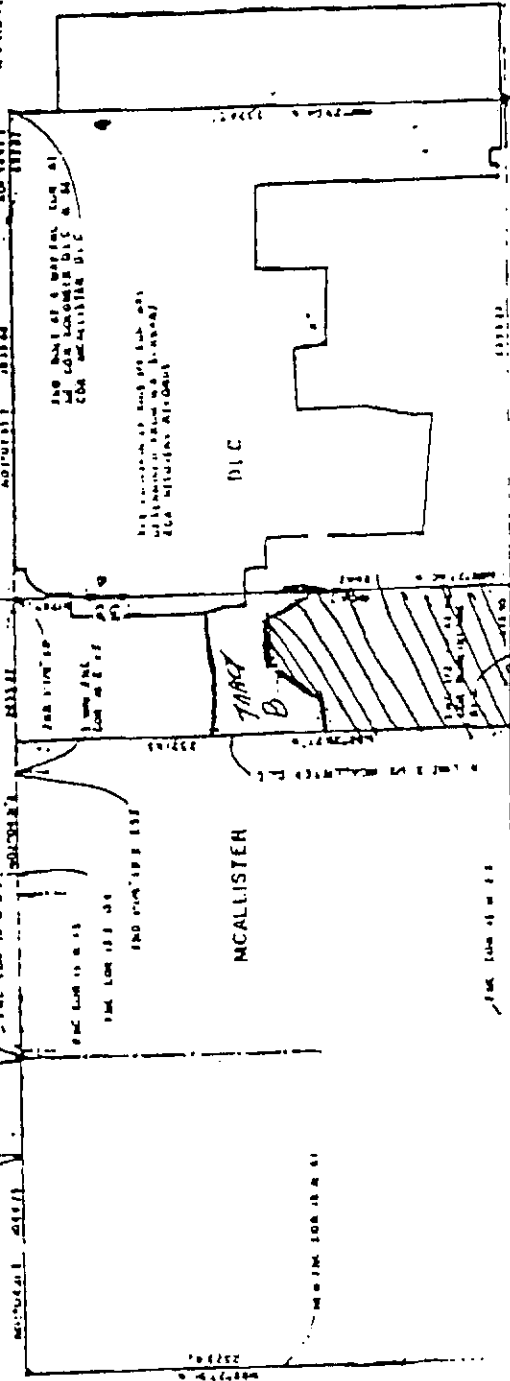
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NOTE: IN ORDER TO CORRECTLY LOCATE THE POINTS OF THIS SURVEY, THE FOLLOWING DATA IS GIVEN:

THE CORNER IS AT THE POINT OF INTERSECTION OF THE LINE DESCRIBED IN THE ADJACENT SECTION AND THE LINE DESCRIBED IN THIS SECTION.

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OLSON
 ENGINEERING INC.
 1115 HARRISON ST.
 PORTLAND, OREGON 97201
 PHONE 503-241-1111



HAGEDORN, INC.

SURVEYORS AND ENGINEERS

1924 Broadway, Suite B • Vancouver, WA 98663 • (360) 696-4428 • (503) 283-6778 • Fax: (360) 694-8934 • www.hagedornse.com

June 19, 2001

LEGAL DESCRIPTION
FOR
HOLT HOMES

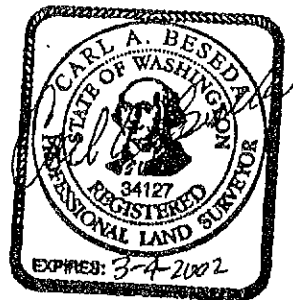
TRACT B OF PROPOSED "NESTON SQUARE":

A portion of the James McAllister Donation Land Claim in the Southwest quarter of Section 33, Township 3 North, Range 2 East, Willamette Meridian, Clark County, Washington, described as follows:

BEGINNING at a brass cap in concrete marking the Southwest corner of the James McAllister D.L.C. as shown in Book 18 of Surveys, Page 9, Clark County Auditor's Records; thence North $02^{\circ} 09' 58''$ East along the West line of the James McAllister D.L.C. as shown in a 2001 "Hagedorn, Inc. survey", for a distance of 2660.23 feet to the Northeast corner of the Henry Burlingame D.L.C. as shown in a 2001 "Hagedorn, Inc. survey"; thence North $02^{\circ} 02' 17''$ East along said West line for a distance of 175.33 feet; thence South $87^{\circ} 45' 00''$ East for a distance of 962.00 feet to the TRUE POINT OF BEGINNING; thence South $02^{\circ} 11' 21''$ West, 134.17 feet; thence South $87^{\circ} 48' 39''$ East, 62.00 feet; thence South $32^{\circ} 49' 09''$ East, 99.70 feet; thence South $01^{\circ} 55' 27''$ West, 89.73 feet; thence South $39^{\circ} 48' 38''$ West, 86.18 feet to the South line of the "Leichner tract" as described under Clark County Auditor's File No. 9108090261; thence North $87^{\circ} 48' 39''$ West, along said South line of the "Leichner tract" (A.F. 9108090261), for a distance of 119.48 feet to a 1/2 inch iron rod; thence North $02^{\circ} 20' 48''$ East, 373.63 feet; thence North $87^{\circ} 45' 00''$ West, a distance of 187.51 feet to the TRUE POINT OF BEGINNING.

Containing 1.04 acres.

LD-2001/Holt-Neston B.acb





HAGEDORN, INC.

SURVEYORS AND ENGINEERS

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June 19, 2001

LEGAL DESCRIPTION
FOR
HOLT HOMES

LEICHTNER PROPERTY LYING WITHIN PROPOSED PLAT OF "NESTON SQUARE",
EXCLUDING TRACT B:

A portion of the James McAllister Donation Land Claim in the Southwest quarter of Section 33, Township 3 North, Range 2 East, Willamette Meridian, Clark County, Washington, described as follows:

BEGINNING at a brass cap in concrete marking the Southwest corner of the James McAllister D.L.C. as shown in Book 18 of Surveys, Page 9, Clark County Auditor's Records; thence North $02^{\circ} 09' 58''$ East along the West line of the James McAllister D.L.C. as shown in a 2001 "Hagedorn, Inc. survey", for a distance of 2660.23 feet to the Northeast corner of the Henry Burlingame D.L.C. as shown in a 2001 "Hagedorn, Inc. survey"; thence North $02^{\circ} 02' 17''$ East along said West line for a distance of 175.33 feet; thence South $87^{\circ} 45' 00''$ East, 464.00 feet to the TRUE POINT OF BEGINNING; thence continuing South $87^{\circ} 45' 00''$ East, 498.00 feet; thence South $02^{\circ} 11' 21''$ West, 134.17 feet; thence South $87^{\circ} 48' 39''$ East, 62.00 feet; thence South $32^{\circ} 49' 09''$ East, 99.70 feet; thence South $01^{\circ} 55' 27''$ West, 89.73 feet; thence South $39^{\circ} 48' 38''$ West, 86.18 feet to the South line of the "Leichner tract" as described under Clark County Auditor's File No. 9108090261; thence South $87^{\circ} 48' 39''$ West along the South line of the "Leichner tract" (A.F. 9108090261) for a distance of 1028.45 feet to the West line of the James McAllister D.L.C.; thence North $02^{\circ} 09' 59''$ East, along said West line, for a distance of 169.74 feet to the Southwest corner of the "Freund tract" as described under Clark County Auditor's File No. 3044516; thence South $88^{\circ} 28' 28''$ East, along the South line of said "Freund tract" for a distance of 464.00 feet to the Southeast corner thereof; thence North $02^{\circ} 09' 57''$ East, along the East line of said "Freund tract" for a distance of 25.11 feet; thence North $02^{\circ} 02' 17''$ East, along the East line of said "Freund tract" and the extension of said East line of a distance of 174.13 feet to the TRUE POINT OF BEGINNING.

Containing 6.67 acres.

LD-2001/Holt-Leichner.acb

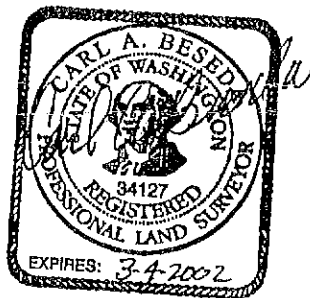


EXHIBIT C