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2/25/2008 9:51 AM  
D/RC \$104.00  
Whatcom County, WA

Request of: miller nash

**RETURN DOCUMENT TO:**

Ian T. Sutton, Attorney

Miller Nash LLP

Post Office Box 694

Vancouver, Washington 98666

*Use dark black ink and print legibly. Documents not legible will be rejected per RCW***DOCUMENT TITLE(S):**

RESTRICTIVE COVENANT

**AUDITOR FILE NUMBER (and VOL. & PG. NUMBERS) OF DOCUMENT(S) BEING ASSIGNED OR RELEASED:**

Additional reference numbers can be found on page \_\_\_\_ of document.

**GRANTOR(S):** INTALCO ALUMINUM CORP.

Additional grantor(s) can be found on page \_\_\_\_ of document.

**GRANTEE(S):** WASHINGTON DEPARTMENT OF ECOLOGY

Additional grantee(s) can be found on page \_\_\_\_ of document.

**ABBREVIATED LEGAL DESCRIPTION:** (Lot, block, plat name OR; qtr/qtr, section, township & range OR; unit, building and condo name).

GOV'T LOTS 1, 3, 4, SEC. 29 T39N, R1E

Additional legal(s) can be found on page \_\_\_\_ of document.

**ASSESSOR'S PARCEL NUMBER:**

390129 408325 0000

The Auditor/Recorder will rely on the information provided on this form. The responsibility for the accuracy of the indexing information is that of the document preparer.

**NOTICE:** RCW 65.04.047. Section 14: eff. 8/1/99

"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."

**SIGNED BY:**

**RESTRICTIVE COVENANT**  
**Historic "Beach I" and "Beach II" Intalco Landfills**

This Declaration of Restrictive Covenant is made under the Uniform Environmental Covenants Act (2007 Wash. Laws ch. 104), RCW 70.105D.030(l)(f), RCW 70.105D.030(1)(g), and WAC 173-340-440 by Intalco Aluminum Corporation (hereafter "Intalco"), its successors and assigns, and the State of Washington Department of Ecology, its successors and assigns (hereafter "Ecology").

**RECITALS**

A. A 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 Consent Decree entered in the *State of Washington Department of Ecology v. Intalco*, Whatcom County Superior Court No. 07-2-00181-2, and in attachments to the Decree and in documents referenced in the Decree.

B. This Restrictive Covenant is required because, after the Remedial Action is complete, the property will contain contaminated soils within a physical barrier that will prevent plants or wildlife from being exposed to the soil. See WAC 173-340-7991(l)(b). Furthermore, this Restrictive Covenant prohibits groundwater withdrawal on the site due to the presence of contaminants of concern in the groundwater.

C. The undersigned, Intalco, is the fee owner of real property (hereafter "Property") located in the County of Whatcom, State of Washington, and more particularly described in Exhibit A attached to this Restrictive Covenant.

D. Within the Property are located the two parcels that are the subject of this Restrictive Covenant (the "Restricted Sites").

E. The Restricted Sites, known as the Beach I and Beach II Landfills, are more particularly described in Exhibits B and C attached to this Restrictive Covenant.

F. The restrictions and covenants agreed to under this Restrictive Covenant apply solely to the Restricted Sites and do not apply in any way to the remainder of the Property.

**DECLARATION OF RESTRICTIONS AND COVENANTS**

Intalco makes the following declaration as to limitations, restrictions, and uses to which the Restricted Sites 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 Restricted Sites (hereafter "Owner").

**Section 1.** The Restricted Sites shall be used only for traditional industrial uses, as described in RCW 70.105D.020(23) and defined in and allowed under Whatcom County Code 20.68.054(7) as of the date of this Restrictive Covenant.

**Section 2.** Withdrawal of groundwater at the Restricted Sites is prohibited.

**Section 3.** Any activity on the Restricted Sites that may interfere with the integrity of the Remedial Action and continued protection of human health and the environment is prohibited.

**Section 4.** Any activity on the Restricted Sites 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 5.** The Owner of the Restricted Sites must give fifteen (15) day advance written notice to Ecology of the Owner's intent to convey any interest in the Restricted Sites. No conveyance of title, easement, lease, or other interest in the Restricted Sites shall be consummated by the Owner without adequate and complete provision for continued monitoring, operation, and maintenance of the Remedial Action.

**Section 6.** 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 Restricted Sites.

**Section 7.** The Owner must notify and obtain approval from Ecology prior to any use of the Restricted Sites that is inconsistent with the terms of this Restrictive Covenant. Ecology may approve any inconsistent use only after public notice and comment. If Ecology approves an inconsistent use, this Restrictive Covenant must be amended to reflect the change.

**Section 8.** The Owner shall allow authorized representatives of Ecology the right to enter the Restricted Sites at reasonable times for the purpose of evaluating the Remedial Action, to take samples, to inspect remedial actions conducted at the Restricted Sites, and to inspect records that are related to the Remedial Action.

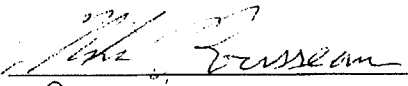
**Section 9.** If the conditions at the Restricted Sites which require a restrictive covenant no longer exist, the Owner may submit a request to Ecology that this Restrictive Covenant be removed. This Restrictive Covenant shall be removed only if Ecology, after public notice and comment, concurs.

***Signatures on pags 3***

Executed on the 18 day of January, 2008.

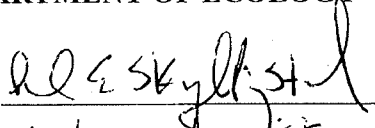
**GRANTOR:**

**INTALCO ALUMINUM CORP.,  
PROPERTY OWNER**

By:   
Its: President

**HOLDER:**

**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

By:   
Title: Hydrogeologist

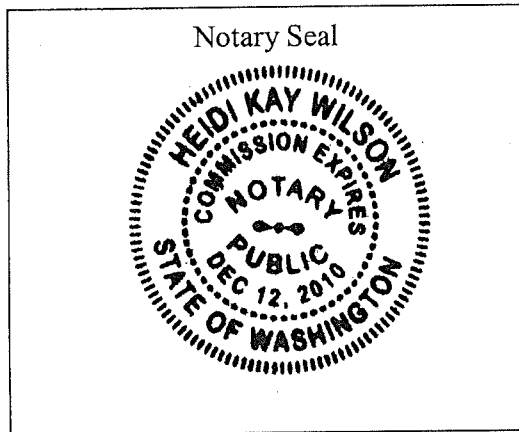
Attachments: Exhibit A – Legal Description of the Property  
Exhibit B – Legal Description of the Beach I Landfill  
Exhibit C – Legal Description of the Beach II Landfill

*Notary acknowledgements on page 4*

State of Washington )  
 ) ss.  
County of Clark )

I certify that I know or have satisfactory evidence that  
Mike Kuisseau is the person who appeared before me, and  
said person acknowledged that he/she signed this instrument, on oath, stated that he/she was  
authorized to execute the instrument and acknowledged it as the President of  
Intalco to be the free and voluntary act of such party for the uses and purposes mentioned in the  
instrument.

Dated: 18 Jan, 2008.



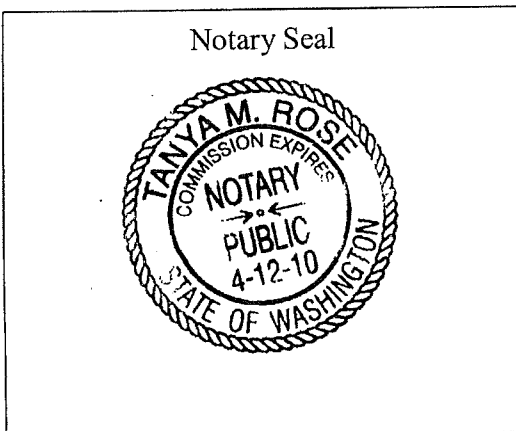
Heidi Kay Wilson  
Notary Public for Washington

Name of Notary

My appointment expires: 12 Dec 2010

I certify that I know or have satisfactory evidence that  
Paul Skillingstad is the person who appeared before me, and  
said person acknowledged that he/she signed this instrument, on oath stated that he/she was  
authorized to execute the instrument and acknowledged it as the Project Manager of the  
State of Washington Department of Ecology to be the free and voluntary act of such party for the  
uses and purposes mentioned in the instrument.

Dated: February 4, 2008.



Tanya M. Rose  
Notary Public for Washington

Name of Notary

My appointment expires: 4-12-10

**EXHIBIT A**  
**LEGAL DESCRIPTION OF THE PROPERTY**  
**[SEE NEXT PAGE]**


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## Assessor

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Parcel Summary	Tax Summary	Tax Detail	Assessment/History	Appeals/Permits/Sales	Building Details	Map List
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### 390129 408325 0000

Site address: 4050 MOUNTAIN VIEW RD

Legal: ALL OF SECTION 29-EXC R/W RR SPUR TRACK

Description: R/W RUNNING N-S THRU SEC DESC AF 1031595  
TOG WI VAC RD VAC CP 44-189-LESS RD-SUBJ  
TO ESMT TO CASCADE NATURAL GAS CORP DESC

Owner: AF 996718-19-EXC PTN TO USA FOR BPA SITE  
ALUMET CORP 61% &  
INTALCO ALUMINUM CORP 39%  
P O BOX 937  
FERNDAL WA 98248-0937

Taxpayer: ALUMET CORP 61% &

#### Property Characteristics

	Assessed Value	Total Acres	
Land:	3,402,450	232.83	
Imp:	85,031,700		
Total:	88,434,150		
Land Use:	3334 PRI SMLT/REFINE NONFERROUS MTL		
Tax Dist:	2025 502 F7 C7	F/P?	Y
Zoning:	HEAVY IM IND	F/P Ac:	60.00
Tax Status:	TAXABLE	Exempt Prog:	

[<< Back to parcel list](#)



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Webmaster: [webmaster@co.whatcom.wa.us](mailto:webmaster@co.whatcom.wa.us)

Search Engine By



**EXHIBIT B**

**[SEE NEXT PAGE]**

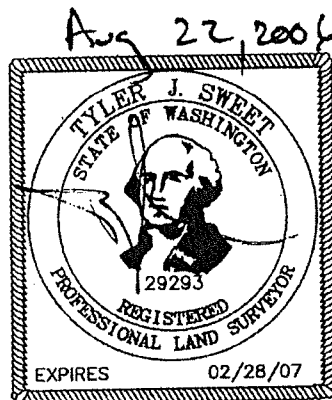


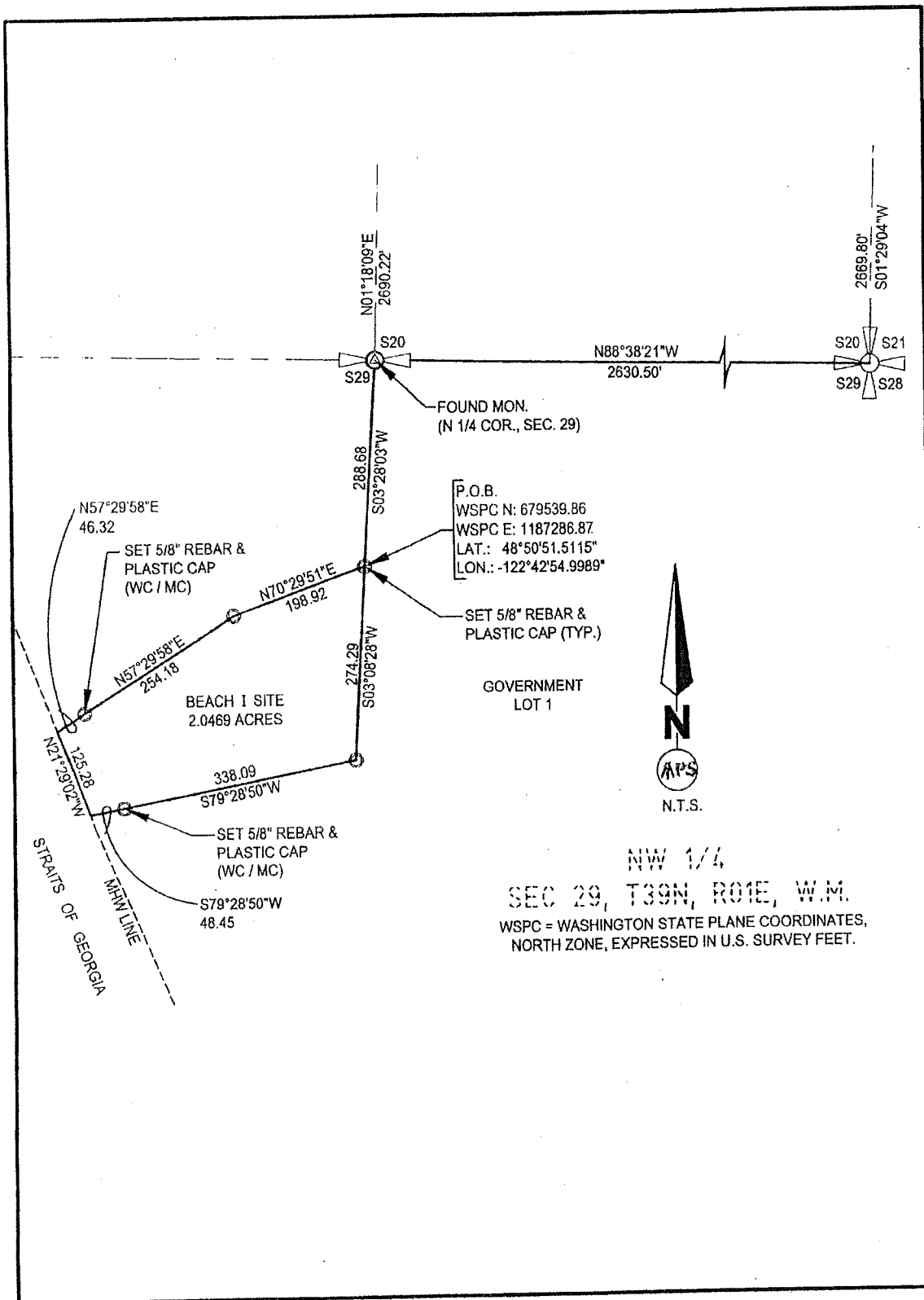
BEACH I SITE

A PARCEL OF LAND LOCATED WITHIN GOVERNMENT LOT 1 OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 01 EAST, W.M., WASHINGTON. SAID PARCEL IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST SECTION CORNER OF SAID SECTION 29;  
THENCE N88°38'21"W ALONG THE NORTH LINE OF SAID SECTION 29 FOR 2630.50 FEET TO THE NORTH  
QUARTER CORNER OF SECTION 29;  
THENCE S03°28'03"W FOR 288.68 FEET TO THE TRUE POINT OF BEGINNING;  
THENCE S03°08'28"W FOR 274.29 FEET;  
THENCE S79°28'50"W FOR 338.09 FEET TO A REBAR AND CAP BEING A WITNESS  
CORNER TO A MEANDER CORNER;  
THENCE S79°28'50"W FOR 48.45 FEET TO THE MEANDER CORNER AND THE MEAN HIGH WATER MARK OF THE  
STRAITS OF GEORGIA;  
THENCE N21°29'02"W ALONG THE MEAN HIGH WATER MARK FOR 125.28 FEET TO A MEANDER CORNER;  
THENCE N57°29'58"E FOR 46.32 FEET TO A REBAR AND CAP BEING A WITNESS CORNER TO THE MEANDER  
CORNER;  
THENCE N57°29'58"E FOR 254.18 FEET;  
THENCE N70°29'51"E FOR 198.92 FEET TO THE TRUE POINT OF BEGINNING.

SAID PARCEL CONTAINS 2.0469 ACRES, MORE OR LESS.





**EXHIBIT C**

**[SEE NEXT PAGE]**

BEACH II SITE

A PARCEL OF LAND LOCATED WITHIN GOVERNMENT LOT 3 AND 4 OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 01 EAST, W.M., WASHINGTON. SAID PARCEL IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE MONUMENTED SOUTHEAST SECTION CORNER OF SAID SECTION 29, FROM WHICH THE MONUMENTED EAST QUARTER CORNER BEARS N01°17'54"E AT A DISTANCE OF 2642.11 FEET;  
THENCE N01°17'54"E ALONG SAID EAST SECTION LINE FOR 710.14 FEET;  
THENCE N87°38'50"W ALONG THE PROPERTY LINE OF THE TEXACO INC. PROPERTY FOR 593.27 FEET;  
THENCE N00°00'20"W CONTINUING ALONG SAID PROPERTY FOR 300.25 FEET;  
THENCE N87°39'32"W CONTINUING ALONG SAID PROPERTY FOR 990.27 FEET TO THE TRUE POINT OF BEGINNING;  
THENCE N87°35'16"W CONTINUING ALONG SAID PROPERTY FOR 249.92 FEET;  
THENCE S08°39'13"E CONTINUING ALONG SAID PROPERTY FOR 156.64 FEET;  
THENCE N83°08'47"W FOR 209.74 FEET TO A REBAR AND CAP BEING A WITNESS CORNER TO THE MEANDER CORNER;  
THENCE N83°08'47"W FOR 75.93 FEET TO A MEANDER CORNER AND THE MEAN HIGH WATER MARK ALONG THE STRAITS OF GEORGIA;  
THENCE N07°22'06"W ALONG SAID MEAN HIGH WATER MARK FOR 93.91 FEET;  
THENCE N08°32'18"W ALONG SAID MEAN HIGH WATER MARK FOR 4.93 FEET TO A MEANDER CORNER;  
THENCE N51°51'43"E FOR 79.06 FEET TO A REBAR AND CAP BEING A WITNESS CORNER TO THE MEANDER CORNER;  
THENCE N51°51'43"E FOR 258.80 FEET;  
THENCE N55°51'29"E FOR 231.05 FEET;  
THENCE S24°49'36"E FOR 219.60 FEET;  
THENCE S11°52'00"W FOR 129.55 FEET TO THE TRUE POINT OF BEGINNING.

SAID PARCEL CONTAINS 2.929 ACRES, MORE OR LESS.

