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Page: 1 of 15

2/25/2008 9:51 AM

D/RC

\$106.00

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).

SE 1/4 SEC. 20 T39N, R1E; PTN. OF 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**  
**Capped and/or Lined Intalco Landfills**

This Declaration of Restrictive Covenant is made under the Uniform Environmental Covenants Act (2007 Wash. Laws ch. 104), RCW 70.105D.030(1)(f), RCW 70.105D.030(1)(g), and WAC 173-340-440 by Intalco Aluminum Corp. ("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(1)(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 Double-Lined Solid Waste Landfill and Closed Construction Debris Landfill, 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 contains PAHs or PCB contaminated soils. The Restricted Sites are being capped as part of the Remedial Action to prevent human, plant, or wildlife

exposure to the contaminated soils. The Owner shall not alter, modify, or remove the existing structure in any manner that may result in the release or exposure to the environment of that contaminated soil or create a new exposure pathway without prior written approval from Ecology. Any activity on the Restricted Sites 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. Some examples of activities that are prohibited in the Restricted Sites include: drilling, digging, placement of any objects or use of any equipment which deforms or stresses the surface beyond its load bearing capability, piercing the surface with a rod, spike or similar item, bulldozing or earthwork.

**Section 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 Restricted Sites 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) days 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.

Excuted on the 18 day of January, 2008.

**GRANTOR:**

**INTALCO ALUMINUM CORP.,  
PROPERTY OWNER**

By: MT. CHAN  
Its: President

**HOLDER:**

**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

By: L. E. Skelton  
Title: Hydrogeologist

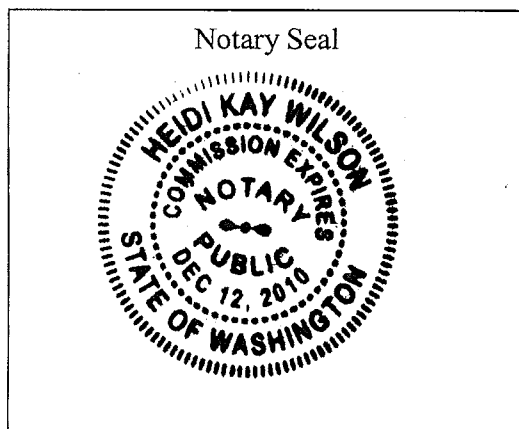
Attachments: Exhibit A – Legal Description of the Property  
Exhibit B – Legal Description of the Double-Lined Solid Waste Landfill  
Exhibit C – Legal Description of the Closed Construction Debris Landfill

*Notary acknowledgements on page 4*

State of Washington )  
 ) ss.  
County of Clark )

I certify that I know or have satisfactory evidence that Mr. Rousseau 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.



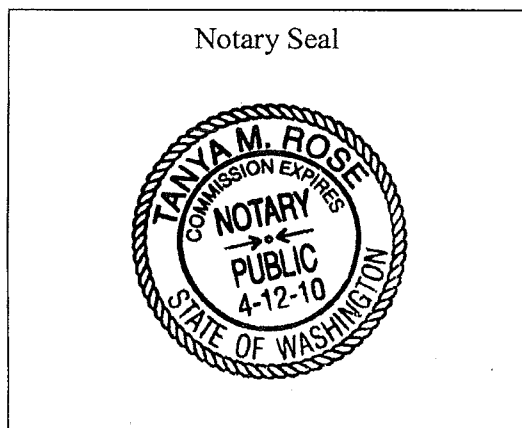
Heidi Kay Wilson  
Notary Public for Washington

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  
Feb. 4, 2008

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


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## Assessor

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<a href="#">Parcel Summary</a>	<a href="#">Tax Summary</a>	<a href="#">Tax Detail</a>	<a href="#">Assessment/History</a>	<a href="#">Appeals/Permits/Sales</a>	<a href="#">Building Details</a>	<a href="#">Map List</a>
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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

AF 996718-19-EXC PTN TO USA FOR BPA SITE

 Owner: ALUMET CORP 61% &  
 INTALCO ALUMINUM CORP 39%  
 P O BOX 937  
 FERNDAL WA 98248-0937

Taxpayer: ALUMET CORP 61% &amp;

#### 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]**

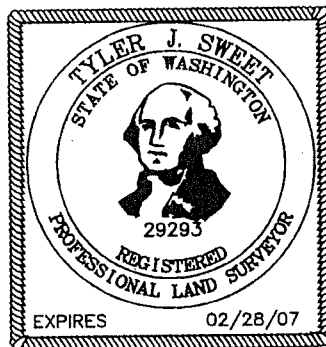


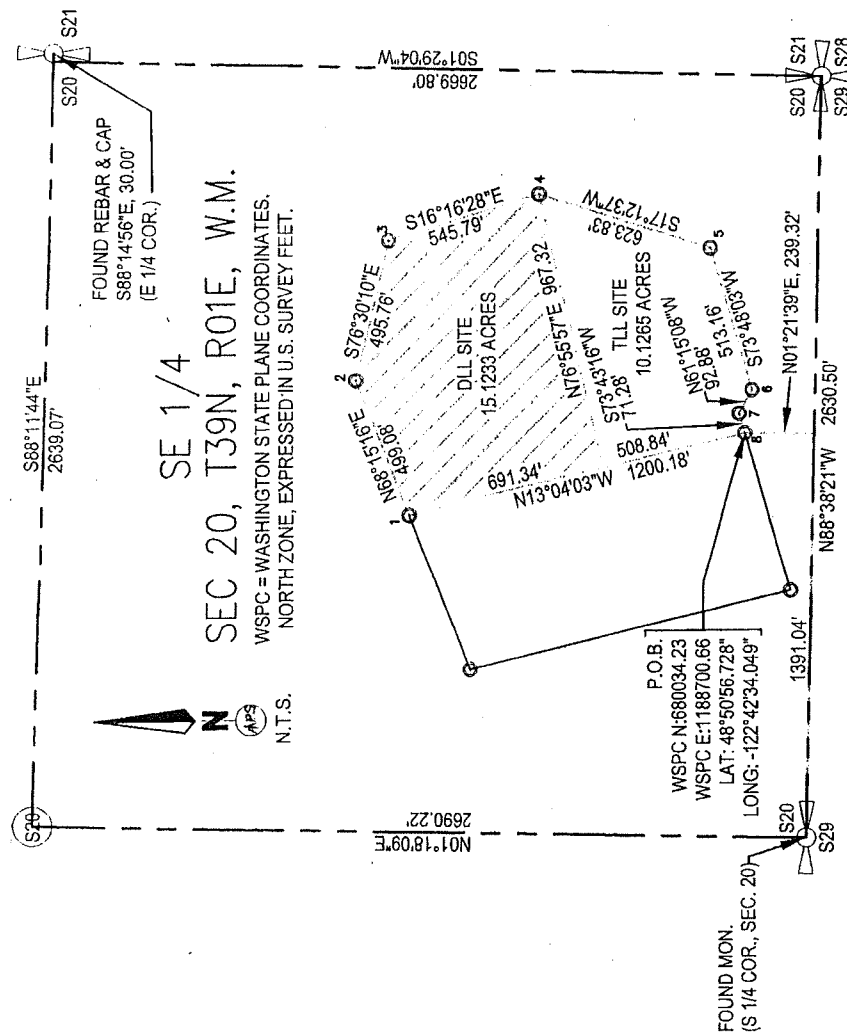
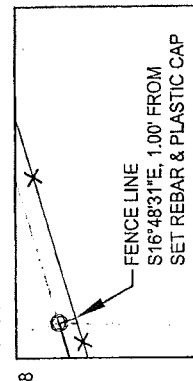
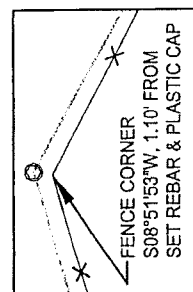
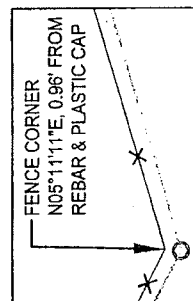
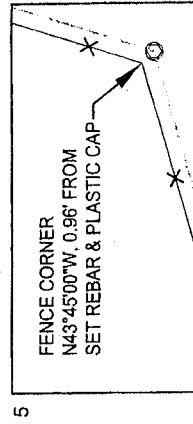
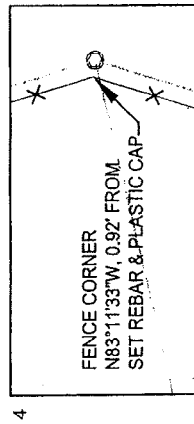
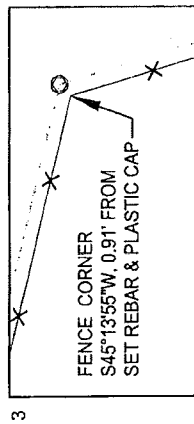
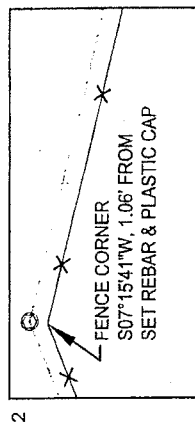
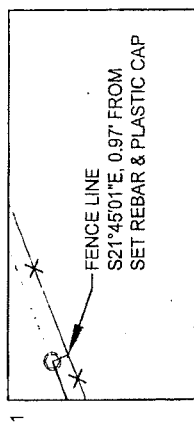
DLL SITE

A PARCEL OF LAND WITHIN THE SOUTHEAST ¼ OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 01 EAST, WM., IN WHATCOM COUNTY, WASHINGTON. SAID PARCEL IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE MONUMENTED SOUTH QUARTER CORNER OF SAID SECTION 20;  
THENCE S 88°38'21" E ALONG THE SOUTH LINE OF SAID SECTION 20 FOR 1391.04 FEET;  
THENCE N 01°21'39" E AT RIGHT ANGLES TO SAID SECTION LINE FOR 239.32 FEET;  
THENCE N 13°04'03" W FOR 508.84 FEET TO THE TRUE POINT OF BEGINNING;  
THENCE N 13°04'03" W FOR 691.34 FEET;  
THENCE N 68°15'16" E FOR 499.08 FEET;  
THENCE S 76°30'10" E FOR 495.76 FEET;  
THENCE S 16°16'28" E FOR 545.79 FEET;  
THENCE S 76°55'57" W FOR 967.32 FEET TO THE TRUE POINT OF BEGINNING.  
SAID PARCEL CONTAINS 15.1233 ACRES, MORE OR LESS.

PREPARED BY TYLER SWEET, PLS  
APS SURVEY & MAPPING, LLC  
13221 SE 26TH STREET, SUITE A  
BELLEVUE, WA. 98005  
NOVEMBER 30, 2007





**INTALCO ALUMINUM CORPORATION**  
***DOUBLE-LINE SOLID WASTE LANDFILL***  
**4050 Mountain View Road, Ferndale, Washington**  
**STATEMENT OF FACT**

Intalco Aluminum Corporation ("Intalco") owns property located at 4050 Mountain View Road in Ferndale, Washington (the "Site"). Intalco constructed and has operated a double-lined solid waste landfill (the "Landfill") on the northern portion of the Site since 1987. Intalco closed the Landfill in 2007. To comply with the limited purpose landfill closure requirements under WAC 173-350-400(6), Intalco has recorded this statement of fact to provide basic information regarding the Landfill's history and use.

As noted, Intalco constructed and has operated the Landfill since 1987 and it is located on the northern portion of the Site. The Landfill was a facility permitted by the Whatcom County Health Department (Permit No. P008035) and served as the solid waste disposal facility for the aluminum reduction plant that Intalco operates on the Site. During this operation, Intalco disposed only non-dangerous wastes generated by Intalco's aluminum reduction plant. These wastes typically include: insulating brick, refractory brick from pots and induction furnaces, salt cake from the cast house, primary water treatment sludge, baghouse bags, waste dust, and scrap paste. Intalco also disposed of soils from the remediation of the on-site Beach I and Beach II historic landfills under a plan approved by the Washington Department of Ecology.

**EXHIBIT C**

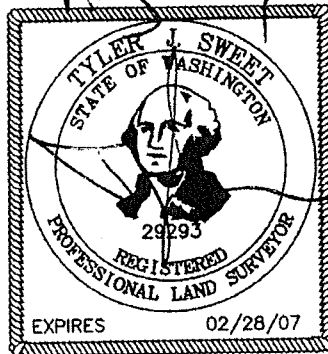
**[SEE NEXT PAGE]**

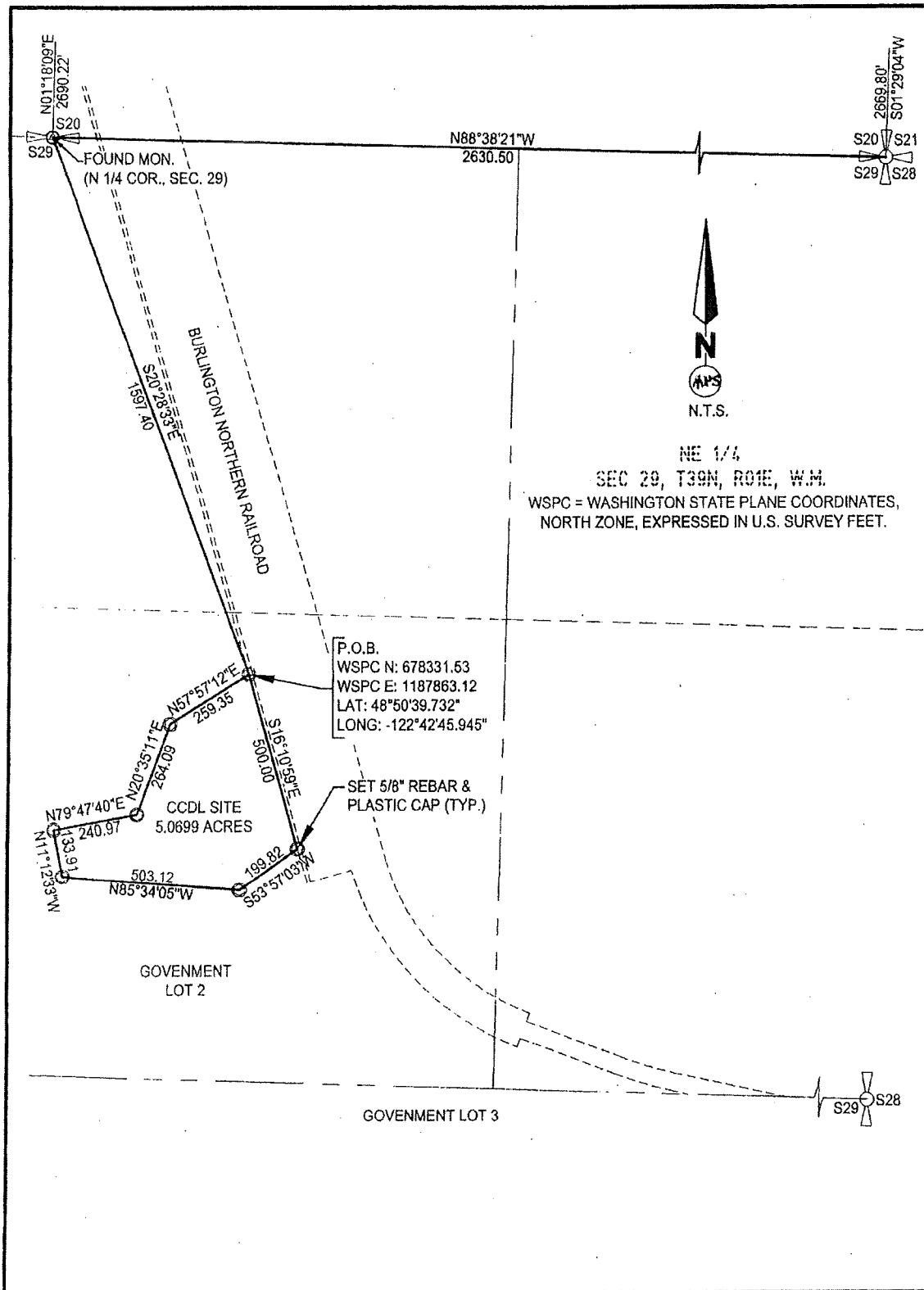
CCDL SITE

A PARCEL OF LAND LOCATED WITHIN GOVERNMENT LOT 2 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 S20°28'33"E FOR 1597.40 FEET TO THE TRUE POINT OF BEGINNING;  
THENCE S16°10'59"E ALONG A LINE PARALLEL WITH AND 10 FEET DISTANT OF THE MOST WESTERLY RIGHT-OF-WAY OF THE BURLINGTON NORTHERN RAILROAD, FOR 500.00 FEET;  
THENCE S53°57'03"W FOR 199.82 FEET;  
THENCE N85°34'05"W FOR 503.12 FEET;  
THENCE N11°12'33"W FOR 133.91 FEET;  
THENCE N79°47'40"E FOR 240.97 FEET;  
THENCE N20°35'11"E FOR 264.09 FEET;  
THENCE N57°57'12"E FOR 259.35 FEET TO THE TRUE POINT OF BEGINNING.

SAID PARCEL CONTAINS 5.0699 ACRES, MORE OR LESS.





**INTALCO ALUMINUM CORPORATION**  
***CLOSED CONSTRUCTION DEBRIS LANDFILL***  
**4050 Mountain View Road, Ferndale, Washington**  
**STATEMENT OF FACT**

Intalco Aluminum Corporation ("Intalco") owns property located at 4050 Mountain View Road in Ferndale, Washington (the "Site"). Intalco constructed a closed construction debris landfill (the "Landfill") in 1966 on the western portion of the Site, directly west of the western access road to the aluminum reduction plant that Intalco operates on the Site. Intalco constructed the Landfill by filling a natural ravine that cuts and drains into a steep 180-foot bluff that forms the western boundary of the Site and that is adjacent to the Strait of Georgia. The Landfill occupies the northern half of the ravine extending from the bluff to the Strait of Georgia. Intalco closed the landfill in 1980. To comply with the limited purpose landfill closure requirements under WAC 173-350-400(6), Intalco has recorded this statement of fact to provide basic information regarding the Landfill's history and use.

The Landfill was never a facility permitted by the Whatcom County Health Department. Intalco used the Landfill originally to dispose of debris created during construction of the plant. Intalco then used the Landfill to dispose of industrial solid waste. Aerial photographs indicate that the Landfill attained its current shape by 1973. This fact suggests that the Landfill received little to no waste after 1973.