



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

May 1, 2013

Mr. Dennis Smart
2930 76th Avenue SE, #301
Mercer Island, WA 98040

Re: No Further Action at the following Site:

- **Site Name:** Foss Car Audio
- **Site Address:** 3732 S. Cedar Street, Tacoma, Washington
- **Facility/Site No.:** 60958235
- **Cleanup Site ID No.:** 4221

Dear Mr. Smart:

The Washington State Department of Ecology (Ecology) reviewed your independent cleanup of the Foss Car Audio Property (Site) as part of a Periodic Review for the Site. On September 26, 2001, Ecology issued an Interim no further action (NFA) determination for this Site. However, at that time, a deed restriction was not placed on the property, which is typically required when inaccessible contamination is left in place. As a part of the Periodic Review, Ecology worked with you to resolve this issue by filing an Environmental Covenant (attached as Enclosure B) with the Pierce County. In addition, Ecology's review determined that no additional remedial action is required at the Site at this time, and is issuing this NFA letter to replace the September 26, 2001 Interim NFA letter. We are providing this opinion under the authority of the Model Toxics Control Act (MTCA), Chapter 70.105D RCW.

Issue Presented and Opinion

Is further remedial action necessary to clean up contamination at the Site?

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

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

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 Site

This opinion applies only to the Site described below. The Site is defined by the nature and extent of contamination associated with the following releases:

- Diesel and oil-range total petroleum hydrocarbons (TPH-D and TPH-O) into the Soil.

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

Please note a parcel of real property can be affected by multiple sites. At this time, we have no information that the parcel(s) associated with this Site are affected by other sites.

Basis for the Opinion

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

1. Ecology's Interim NFA letter dated September 26, 2001.
2. Contamination Delineation Assessment Report, Saltbush Environmental Services, Inc., May 7, 2001.
3. Ecology's Opinion Letter, April 6, 2001.
4. Limited Soils Sampling and Testing, Saltbush Environmental Services, Inc., October 18, 1999.
5. Voluntary Cleanup Program Application Requesting for NFA Determination, Saltbush Environmental Services, Inc., April 4, 2001.

Those documents are kept in the Central Files of the Southwest Regional Office of Ecology (SWRO) for review by appointment only. You can make an appointment by calling the SWRO resource contact at (360) 407-6365.

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

Analysis of the Cleanup

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

1. **Characterization of the Site.**

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

The Foss Car Audio facility is located at 3732 South Cedar Street in the City of Tacoma in Pierce County, Washington. The property contains a single 4,000-square-foot building on approximately 0.40 acres of land. The Site was first developed as a car lot in 1971. A transmission repair facility occupied the Site from 1972 to 1987. Several hydraulic lifts were installed in the service bays of the building during this time. Foss Car Audio has occupied the Site since 1987.

A Site assessment was conducted at the Site in 1999. The assessment consisted of soil sampling and analysis of samples collected from nine soil borings advanced by direct push hydraulic sampling rig. Four borings were advanced in the service bays adjacent to hydraulic lifts, and five borings were advanced in the northern parking area.

Sample results indicated the presence of TPH-D at 2100 milligrams per kilogram (mg/Kg) at 9 feet below ground surface (bgs) at one boring location. This TPH-D concentration exceeded the MTCA Method A cleanup level of 2000 mg/Kg. Due to the composition of the contamination, it was suspected that this contamination was related to floor drains rather than the hydraulic lifts. No contamination was detected north of the building.

In 2001, an additional four borings were advanced in the service bays and seven more were advanced along the east side of the building. This sampling confirmed contamination in the service bay area to a maximum depth of 15 feet bgs at two boring locations. The detected TPH (diesel plus oil) concentrations were 3050 mg/Kg, which also exceeded MTCA Method A cleanup level of 2000 mg/Kg. No contamination was detected on the east side of the building. Since all the petroleum-contaminated soil (PCS) was below the building and/or service bay area, no excavation was conducted.

The groundwater occurs at a depth of approximately 83 feet bgs in the vicinity of the Site. Since the moderate concentrations of PCS extend to a maximum depth of 15 feet, it was concluded that it is highly unlikely that the groundwater is impacted by this contamination.

2. Establishment of cleanup standards.

Ecology has determined the cleanup levels and points of compliance you established for the Site meet the substantive requirements of MTCA. MTCA Method A cleanup levels for unrestricted land uses for TPH-D and TPH-O in soil were used for the Site.

Standard points of compliance were used for the Site. The point of compliance for protection of groundwater was established in the soils throughout the Site. For soil cleanup levels based on human exposure via direct contact or other exposure pathways where contact with the soil is required to complete the pathway, the point of compliance was established in the soils throughout the Site from the ground surface to 15 feet bgs. As discussed above, since it was

concluded that it is highly unlikely that the groundwater is impacted by this contamination; no cleanup level or point of compliance were established for groundwater.

3. Selection of cleanup action.

Ecology has determined the cleanup action you selected for the Site meets the substantive requirements of MTCA.

Currently, all the PCS is either beneath the building or service bay area at approximately 9 to 12 feet bgs and is inaccessible for excavation. All the PCS is covered with either asphalt or concrete pavement eliminating the direct contact exposure pathway.

4. Cleanup.

Ecology has determined the cleanup you performed meets the cleanup standards established for the Site. This determination is dependent on the continued performance and effectiveness of the post-cleanup controls specified below.

Soil sampling conducted in 1999 and 2001 have delineated the extent of PCS in the bay area and adjacent to the building. Currently, all the PCS is present either below the building and/or service bay area covered with either asphalt or concrete pavement preventing exposure to the soil via direct contact (see Attachment C of Enclosure B). The asphalt/concrete pavement and building cover is also likely to prevent leaching of TPH to groundwater. In addition, the depth of groundwater in the vicinity of the Site is approximately 83 feet bgs. Since the moderate concentrations of PCS extend to a maximum depth of 15 feet, it is highly unlikely that the groundwater is impacted by this contamination.

On November 13, 2012, an environmental covenant (*attached as Enclosure B*) was filed with Pierce County for the Site documenting the use of institutional controls for the soil containing TPH-D and TPH-O below the building, as well as PCS beneath the asphalt/concrete cap in the service bay area.

Post-Cleanup Controls and Monitoring

Post-cleanup controls are remedial actions performed after the cleanup to maintain compliance with cleanup standards. This opinion is dependent on the continued performance and effectiveness of the following:

1. 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 controls are necessary at the Site:

- Restrictions on activities that may alter, modify, or remove the building or asphalt/concrete cap.
- Any activity on the Property that may interfere with the integrity of the Remedial Action that may result in the release and/or exposure to the environment of hazardous substances that remains on the Property.

To implement those controls, an Environmental Covenant has been recorded on the following parcels of real property in Pierce County:

- 1200055884 and 9710001072.

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

2. Operation and maintenance of engineered controls.

Engineered controls prevent or limit movement of, or exposure to, hazardous substances. The following engineered controls are necessary at the Site:

- Building.
- Asphalt/concrete cap in the service area.

Periodic Review of Post-Cleanup Conditions

Ecology will conduct periodic reviews of post-cleanup conditions at the Site 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 Site, then Ecology will withdraw this opinion.

Listing of the Site

Based on this opinion, Ecology will remove the Site from our Confirmed and Suspected Contaminated Sites List.

Limitations of the Opinion

1. Opinion does not settle liability with the state.

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**:

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

Mr. Dennis Smart
May 1, 2013
Page 6

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.

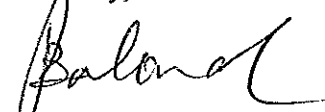
To recover remedial action costs from other liable persons under MTCA, one must demonstrate that the action is the substantial equivalent of an Ecology-conducted or Ecology-supervised action. This opinion does not determine whether the action you performed is substantially equivalent. Courts make that 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).

If you have any questions about this opinion, please contact me at (360) 407-6335 or via email at Panjini.balaraju@ecy.wa.gov

Sincerely,



Panjini Balaraju
Periodic Review Coordinator
Toxics Cleanup Program
Southwest Regional Office

PB/ksc:Foss Car Audio NFA letter

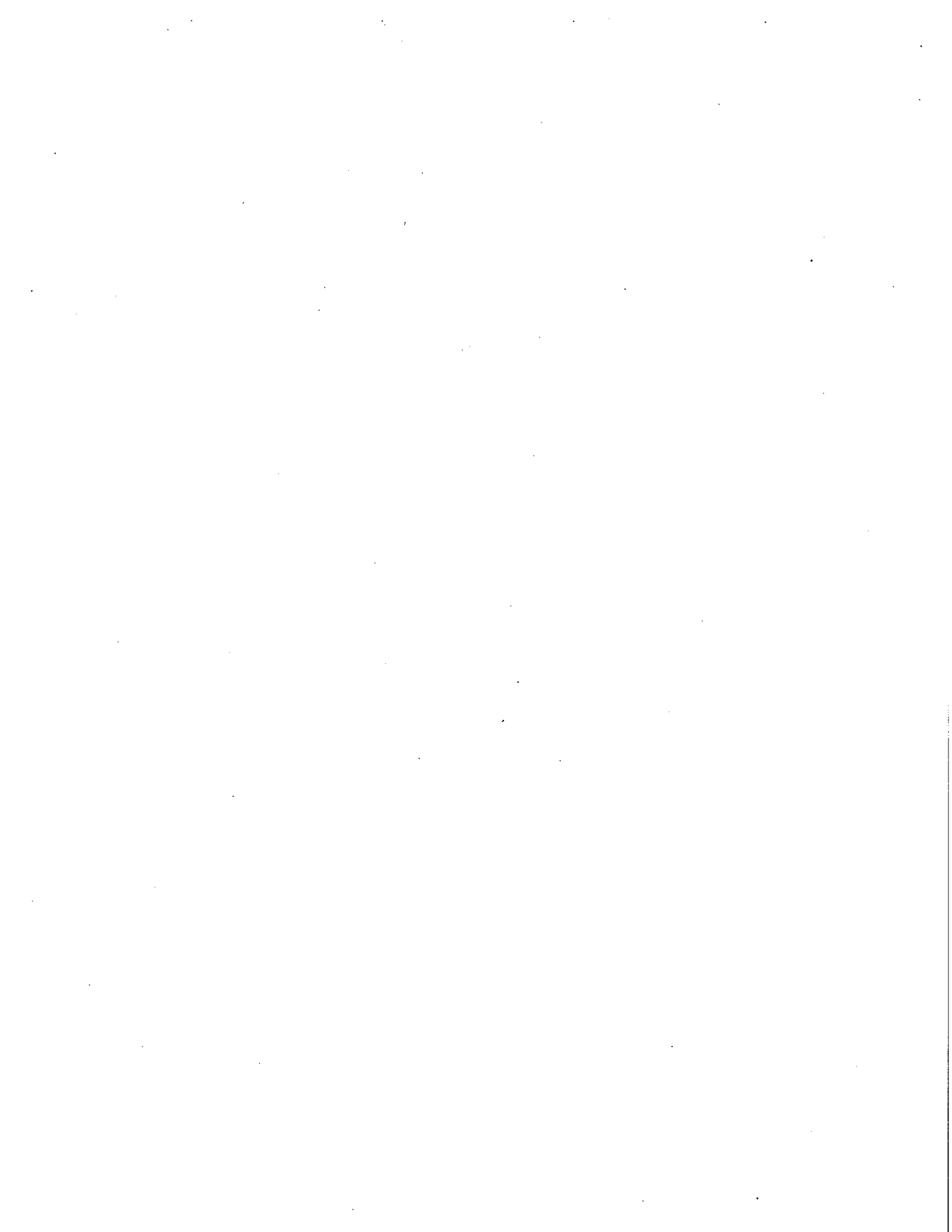
Enclosures (2): A – Description and Diagrams of the Site
B – Environmental Covenant for Institutional Controls

By certified mail: (7012 1010 0003 0195 2716)

cc: Scott Rose, Ecology
Central Files

Enclosure A

Description and Diagrams of the Site

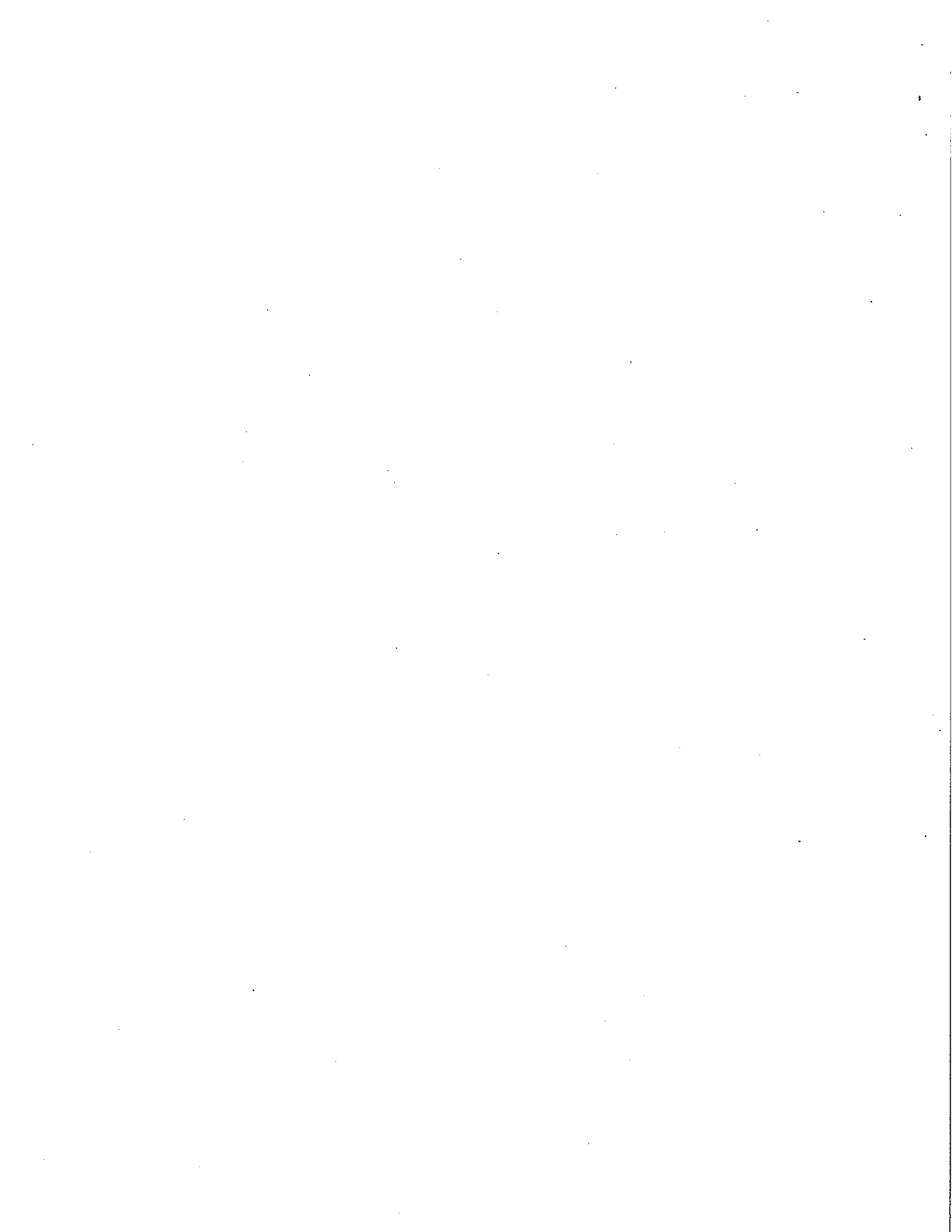


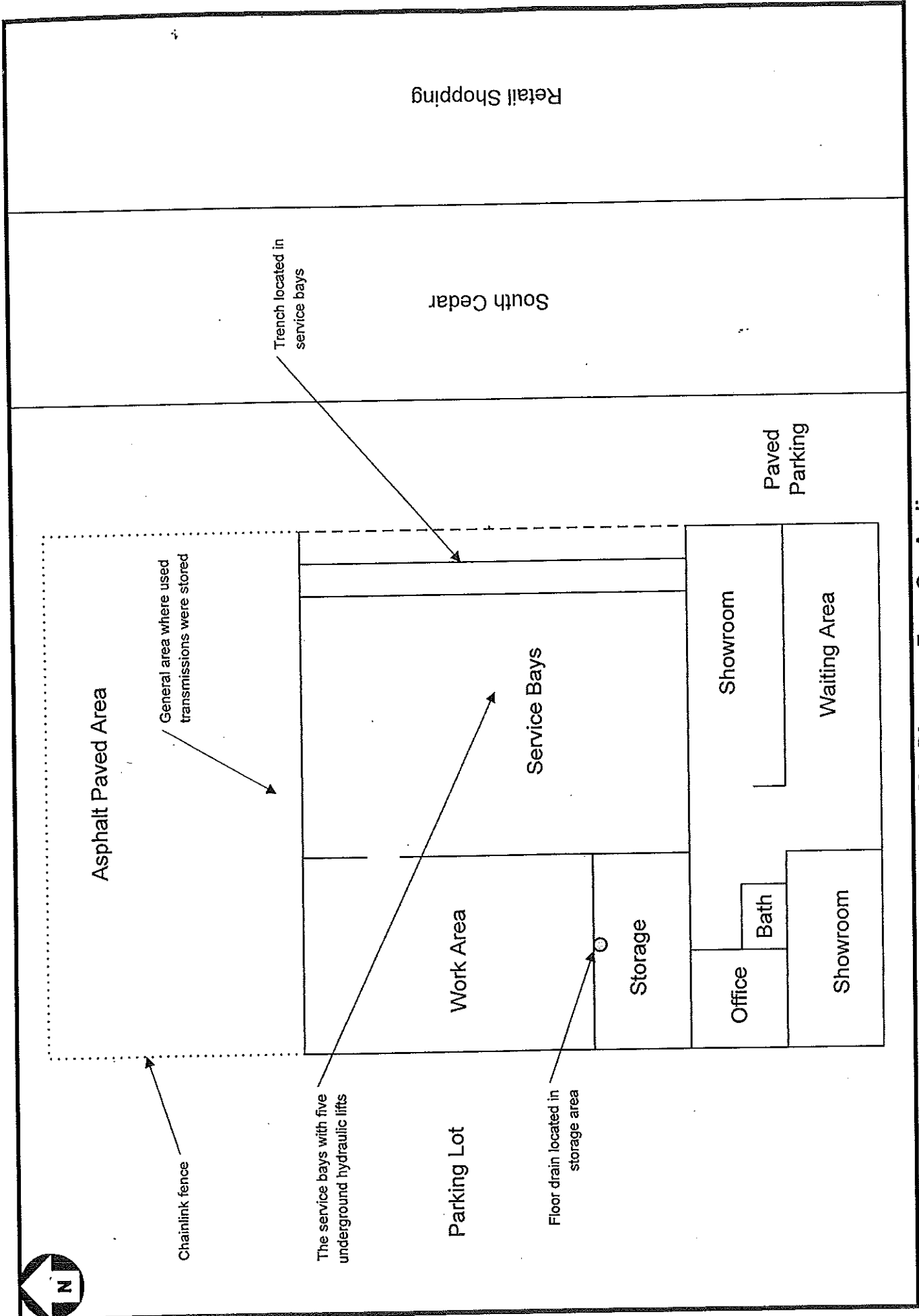
Site Description

The Site consists of a 4,000-square foot building occupying an approximately 0.40-acre parcel of land. The Site generally located within the Southeast Quarter of the Northwest Quarter of Section 18, Township 20 North, Range 03 East, W. M. The Site consists of a building containing a retail automotive electronics store and installation service bay. The north and east sections of the property are asphalt-paved parking areas.

The U.S. Department of Agriculture Soil Survey of Tacoma shows that the primary soils at the Site are moderately well drained nearly level Everett gravelly, loamy sand, rolling. The boring logs show that the Site resides on a regional glacial till formation above a glacial outwash channel (South Tacoma Channel). The soil is somewhat excessively drained and droughty above the till. Some areas are underlain by a semi-cemented hardpan; the depth to the hardpan is widely variable. This soil exhibits a low erosion hazard.

The Site is located at an elevation of approximately 320 feet above sea level. Based on the information contained in the Clover/Chambers Creek Geohydrogeologic Study (Tacoma-Pierce County Health Department-July, 1985) the regional shallow groundwater is generally found at elevations of 180 to 240 feet above sea level. This translates into estimated depths of between 83 feet and 143 feet bgs. Well logs and potentiometric map excerpted from the above study in the vicinity of the Site, indicates that the depth of groundwater is at approximately 83 feet bgs and estimated to flow in northeast direction.





Retail Shopping

South Cedar

Paved Parking

Asphalt Paved Area

General area where used transmissions were stored

Trench located in service bays

Service Bays

Work Area

Storage

Showroom

Waiting Area

Parking Lot

Floor drain located in storage area

The service bays with five underground hydraulic lifts

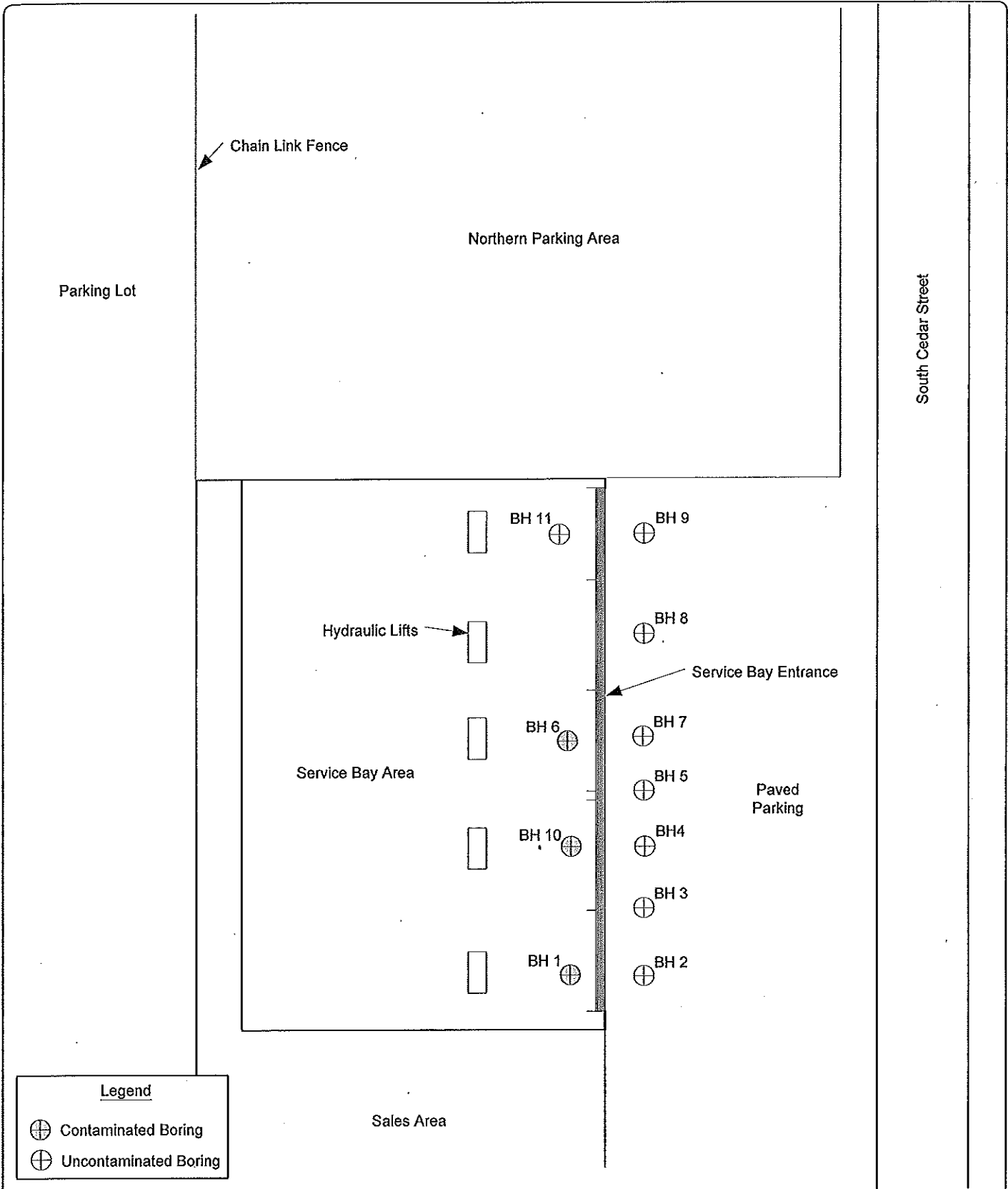
Chainlink fence

Office

Bath

Showroom

Site Diagram: Foss Car Audio
3732 South Cedar Street, Tacoma, WA
Saltbush Environmental Services, Inc.
August 4, 1999 : No Scale



Legend

- ⊕ Contaminated Boring
- ⊕ Uncontaminated Boring

Saltbush Environmental Services, Inc.
 805 Pacific Avenue
 P.O. Box 505
 Tacoma, WA 98401-0505
 Tel. (253) 383-1914 Fax (253) 383-4525
 Operations@Saltbush.com

Boring Location Diagram
The 3732 South Cedar Street Project
Tacoma, Washington 98409

Project Number:
010421047

Drawn By:
Franz A. Carmine

Date:
April 25, 2001

No Scale
Locations Estimated

Diagram #1 of 1
1047-2/Diagram 1



Boring Diagram: Foss Car Audio
3732 South Cedar Street, Tacoma, WA
Saltbush Environmental Services, Inc.
October 5, 1999 : 1 inch = 20 feet



Chain Link Fence

Service Bay Area

Sales Area

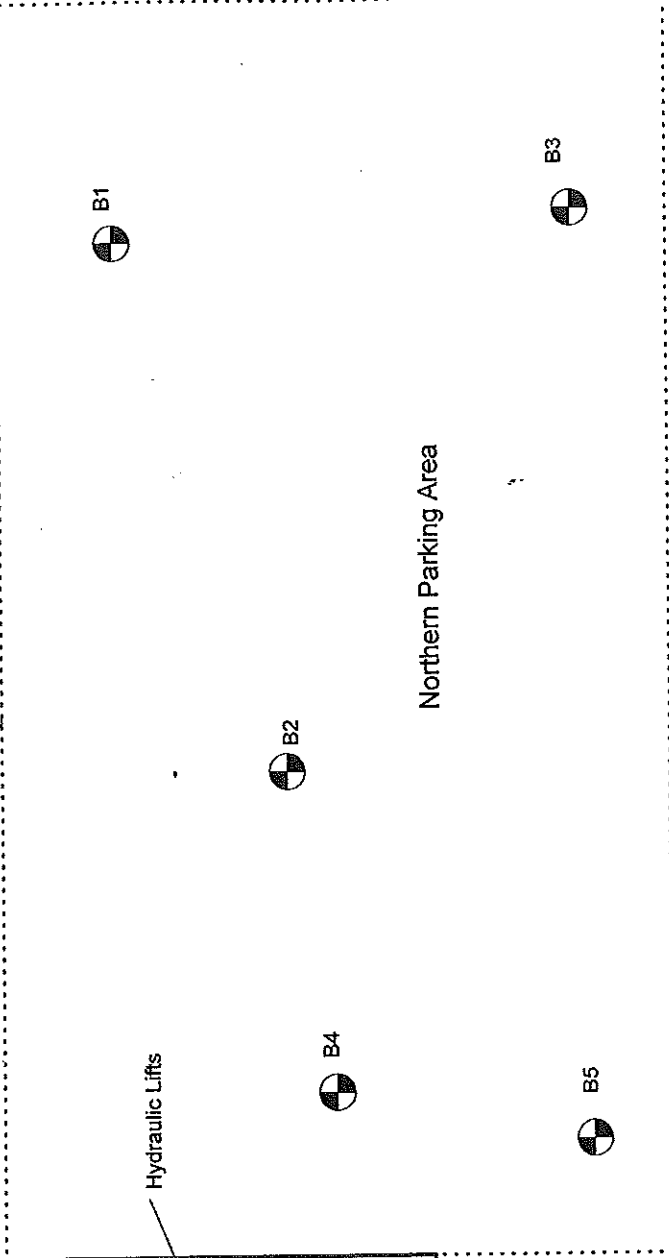
Hydraulic Lifts

Northern Parking Area

Service Bay Entrance

Paved
Parking

South Cedar



Enclosure B

**Environmental Covenant
for Institutional Controls**

201211020979 CSHEARE 8 PGS
11/02/2012 04:22:22 PM \$79.00
AUDITOR, Pierce County, WASHINGTON

After Recording Return to:

Dennis Smart
Cedar Properties Management Inc.
2940 76th Avenue SE, Suite 301
Mercer Island, WA 98040

RECEIVED

NOV 13 2012

WA State Department
of Ecology (SWRO)

WASHINGTON STATE COUNTY AUDITOR / RECORDER'S
INDEXING FORM (Cover Sheet)
(RCW 65.04)

Please print or type information

Documents Title(s) (or transactions contained therein):

Foss Car Audio, 3732 South Cedar Street, Tacoma, WA 98409
DECLARATION OF RESTRICTIVE COVENANT

Reference Number(s) of Documents assigned or released:

Additional reference #s on page _____ of document.

Grantor(s) (Last name first, then first name and initials)

Cedar Properties Management Inc.

Additional names on page _____ of document.

Grantee(s) (Last name first, then first name and initials)

State of Washington, Department of Ecology

Additional names on page _____ of document.

Legal description (abbreviated: i.e. lot, block, plat or section, township, range)

Section 18 Township 20 Range 03 Quarter 24 WINGS: WINGS E 70 FT L 10 THRU 19 B 19 SE
OF NW 18-20-03E APPROX 17,500 SQ FT OUT OF 107-1 SEG S-0716 SG ES

Additional legal is on page _____ document.

Assessor's Property Tax Parcel / Account Number

1200055884 9710001072

Assessor Tax # not yet assigned.

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



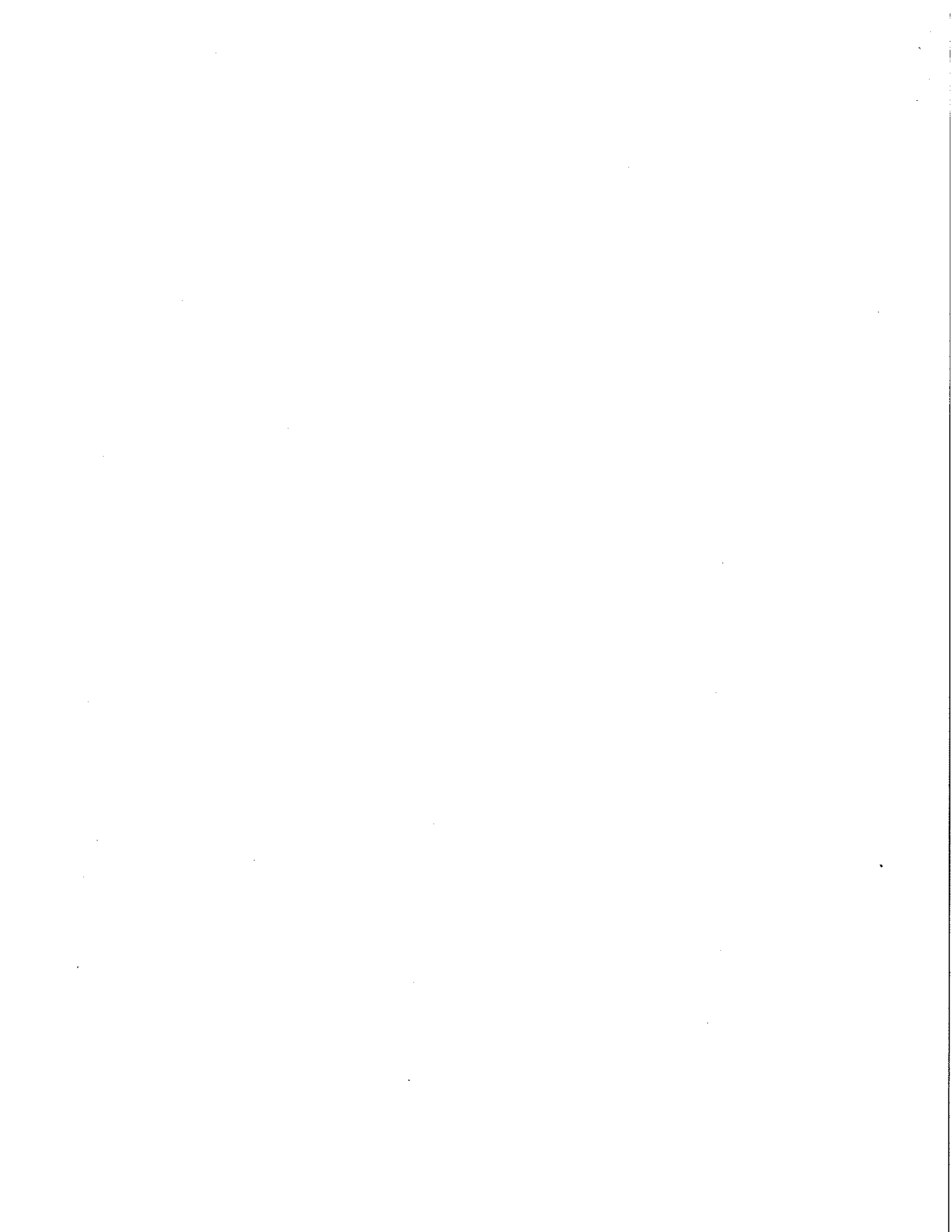
RESTRICTIVE COVENANT

Mr. Dennis Smart and Ms. LaFaye Smart, Foss Car Audio Property

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.03⁰⁰(1)(f) and (g) and WAC 173-340-440 by Mr. Dennis Smart and Ms. LaFaye Smart, 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 consisted of identifying inaccessible contamination located underneath an existing building on the property. These activities are described in the following documents: Phase I Environmental Site Assessment dated 8/9/99, Limited Soils Sampling and Testing Assessment dated 10/2/99, Limited Phase II Environmental Assessment dated 4/30/01, Contamination Delineation Assessment dated 5/7/01. These documents are on file at Ecology's SWRO and define the probable nature of and limited extent of contamination underneath an existing building.

This Restrictive Covenant is required because the site characterization resulted in residual concentrations of petroleum hydrocarbons that exceed the Model Toxics Control Act Method A

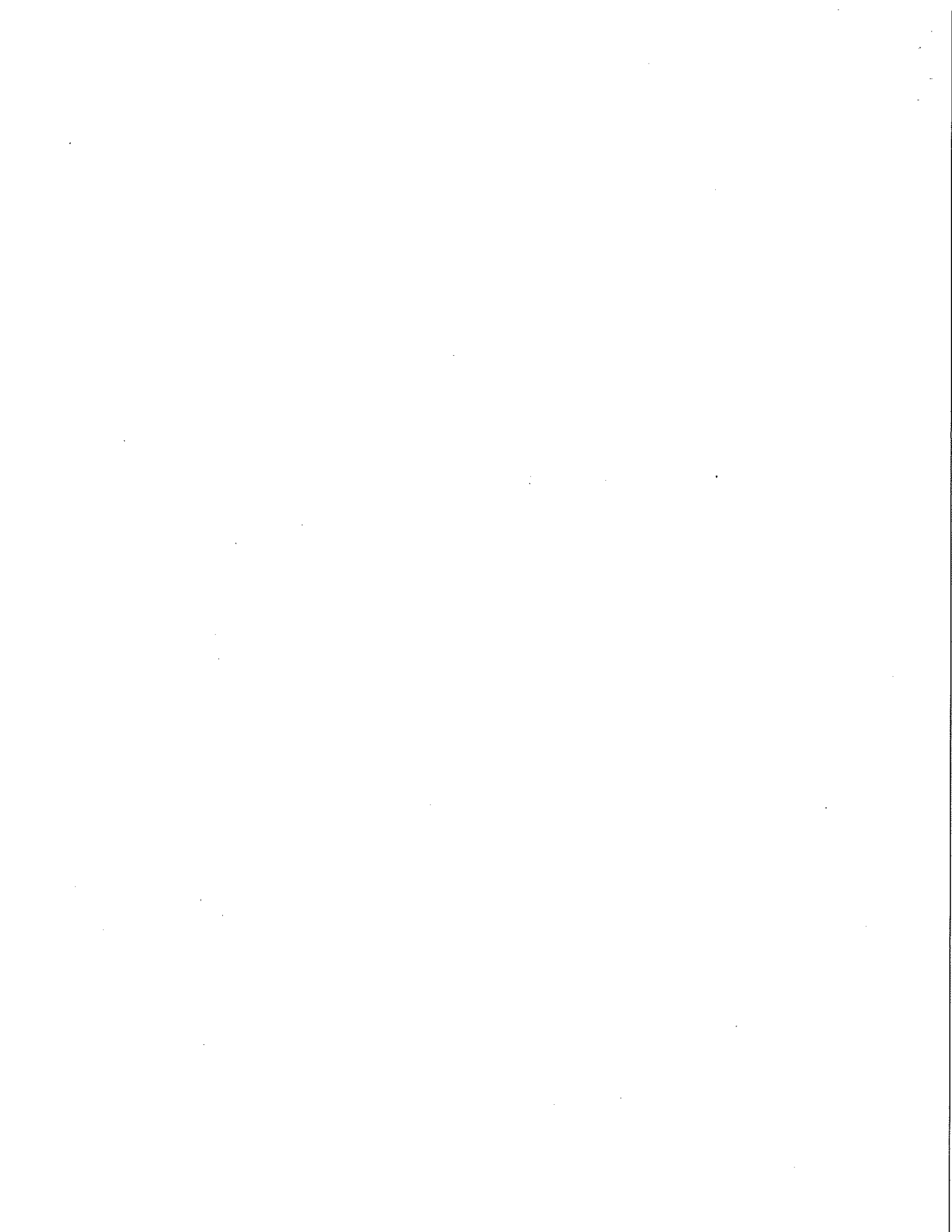


Residential Cleanup Levels for soil established under WAC 173-340.

The undersigned, Mr. Dennis Smart and Ms. LaFaye Smart are the fee owners of real property (hereafter "Property") in the County of Pierce, State of Washington, that is subject to this Restrictive Covenant. The Property is legally described as generally located within the Southeast Quarter of the Northwest Quarter of Section 18, Township 20 North, Range 03 East, W.M. More specifically, the site is located at 3732 South Cedar Street, Tacoma, Washington 98409. Pierce County records note the subject property as one (1) tax parcel assigned account number 971000-107-2.

Mr. Dennis Smart and Ms. LaFaye Smart 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 portion of the Property contains petroleum hydrocarbon contaminated soil located under the building. 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.

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) days 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 monitoring, operation, and maintenance of the Remedial Action.

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.

Dennis K Smart
Mr. Dennis Smart

PEGGY E. CARVER
STATE OF WASHINGTON
NOTARY PUBLIC
MY COMMISSION EXPIRES 1-01-04

9/7/01
DATE SIGNED

LaFaye Smart
Ms. LaFaye Smart

PEGGY E. CARVER
STATE OF WASHINGTON
NOTARY PUBLIC
MY COMMISSION EXPIRES 1-01-04

9-11-01
DATE SIGNED

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

PEGGY E. CARVER
STATE OF WASHINGTON

ACKNOWLEDGMENT - ORDINARY
STATE OF WASHINGTON } ss.
County of King

NOTARY PUBLIC
MY COMMISSION EXPIRES 1-01-04

On this day personally appeared before me Dennis K. Smart

to me known to be the individual described in and who executed the within and foregoing instrument and acknowledged to me that He signed the same as HIS free and voluntary act and deed for the purposes therein mentioned.

Given under my hand and official seal this 7th of September, 2001
Peggy E. Carver / PEGGY E. CARVER
Notary Public in and for the State of Washington, residing at Seattle, WA

PEGGY E. CARVER
STATE OF WASHINGTON

PEGGY E. CARVER
STATE OF WASHINGTON
NOTARY PUBLIC
MY COMMISSION EXPIRES 1-01-04

ACKNOWLEDGMENT -- ORDINARY
STATE OF WASHINGTON } ss.
County of King

On this day personally appeared before me La Faye Smakt

to me known to be the individual described in and who executed the within and foregoing instrument and acknowledged to me that She signed the same as Hew free and voluntary act and deed for the purposes therein mentioned.

Given under my hand and official seal this 11th Day of September, 2001

Peggy E. Carver / Peggy E. Carver
Notary Public in and for the State of Washington, residing at Seattle, WA

FR
OR
S

RECEIVED
DEPT. OF ECOLOGY/SWRD

'01 SEP 14 A10:40

