



2040904916
 Page: 1 of 7
 9/29/2004 9:48 AM
 D/RC \$25.00
 Whatcom County, WA

Request of: BELLINGHAM CITY OF

AFTER RECORDING RETURN DOCUMENT TO:

City of Bellingham – Legal Department
 210 Lottie Street
 Bellingham, WA 98225

DOCUMENT TITLE: Restrictive Covenant

REFERENCE NUMBER OF RELATED DOCUMENT:

GRANTOR: City of Bellingham

GRANTEE(S): State of Washington Department of Ecology

ABBREVIATED LEGAL DESCRIPTION: CENTRAL WHATCOM ALL LOTS 2-3-4-E
 1/2 OF LOT 19 BLK 15

ASSESSOR'S TAX/PARCEL NUMBER(S): 3803300712440000

RESTRICTIVE COVENANT

HOLLY STREET LANDFILL
Maritime Heritage Park
500 – 600 West Holly Street
Bellingham, WA 98225

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by the City of Bellingham and its successors and assigns (“the City”), in favor of the State of Washington Department of Ecology and its successors and assigns (“Ecology”).

The property that is the subject of this Restrictive Covenant is the subject of remedial action under the Washington State Model Toxics Control Act (“MTCA”), Chapter 70.105D RCW, (“Remedial Action”) pursuant to a Consent Decree in the matter State of Washington, Department of Ecology v. City of Bellingham, et al., Cause No. 03-2-02164-1, which was entered by the Whatcom County Superior Court on September 23, 2003 (“Consent Decree”). The property is part of the larger Holly Street Landfill Site (the Site). The Site is defined in

Restrictive Covenant - 1
 AK/Restrictive Covenant Maritime Heritage 4

City of Bellingham
 CITY ATTORNEY
 210 Lottie Street
 Bellingham, Washington 98225
 Telephone (360) 676-6903

RECEIVED

19 2004
 DEPT OF ECOLOGY

Exhibit B to the Consent Decree. The Remedial Action to be conducted pursuant to the Consent Decree at the property is described in the *Holly Street Landfill Final Cleanup Action Plan*, dated April, 2003, ("Cleanup Action Plan"), which is Exhibit A to the Consent Decree and is located at Ecology's Northwest Regional Office (NWRO) in Bellevue, Washington.

This Restrictive Covenant is required because the Remedial Action will result in the containment of municipal type waste with residual concentrations of hazardous substances at the Site which exceed the MTCA unrestricted land use (e.g., residential) cleanup level for soil established under WAC 173-340-740. Further, certain geochemical oxidation processes acting within the immediate shoreline zones result in exceedances of surface water cleanup standards established under WAC 173-340-730 at the points of groundwater discharge into surface water. The extent of contamination and the Remedial Action to be conducted at the site are contained in the following Reports:

1. *Remedial Investigation/Feasibility Study, Holly Street Landfill Development Project Final Report – City of Bellingham*, by Anchor Environmental, LLC, April, 2003
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These documents are on file at Ecology's NWRO.

The undersigned, the City, is the fee owner of real property (hereafter "Property") in the City of Bellingham, State of Washington, which is subject to this Restrictive Covenant. The Property is part of the former Holly Street Landfill situated in the City of Bellingham, State of Washington, and is legally described in Attachment A, 'LEGAL DESCRIPTION' and identified in Attachment B, Site Diagram.

The City makes 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. Future use of the Property shall be limited to those uses defined in and allowed under the City of Bellingham zoning and Shoreline Management regulations codified in the City of Bellingham Municipal Code as of the date of this Restrictive Covenant and as they may be amended from time to time. No groundwater may be withdrawn from the property for any use that is inconsistent with the remedial action implementation. The Property shall not be used for ground floor residential or day care center uses.

Section 2. Pursuant to the Cleanup Action Plan, Owner must maintain the integrity of

the Remedial Action. Specifically, Owner must maintain two feet of soil cap or equivalent structural cover (e.g., building or two-inch paving layer overlying ballast) over the Property. For building structures within the Maritime Heritage Park portion of the Site, Owner must conduct supplemental soil gas monitoring and/or use engineered passive gas venting systems as required under the Cleanup Action Plan and described in the *Compliance Monitoring and Contingency Response Plan*, which is Exhibit E to the Consent Decree. 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. These activities include those that may result in the release or exposure to the environment of the municipal type waste or contaminated soil, soil-gas and shoreline seepage that was contained as part of the Remedial Action, or that create an exposure pathway, unless such activities are authorized by the Cleanup Action Plan or this Restrictive Covenant. Where utility or other work at the Property requires excavation, Owner must comply with state and City standards, and must provide one foot of overexcavation or use geofabric lining to provide a clean perimeter around the excavation. All refuse materials excavated from the Property must be disposed off-site at a permitted solid waste disposal facility or contained on-site below an engineered cap meeting the specifications outlined in the Cleanup Action Plan or subsequent Remedial Design (RD) documents (i.e., two feet of soil cap or equivalent structural cover). Personnel performing excavation at the Property should be familiar with the applicable health and safety training requirements, and should take the necessary precautions to minimize direct contact with municipal type waste and contaminated soils that are above state standards and are contained at the Site as part of the Remedial Action. Excavations conducted in accordance with the above conditions shall not constitute activities that interfere with the Remedial Action or continued protection of human health and the environment.

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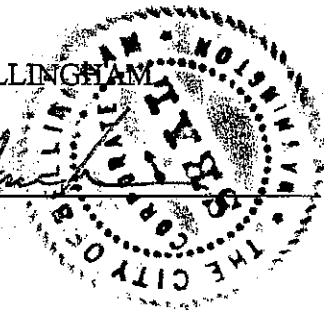
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Section 8. The Owner reserves the right under WAC 173-340-440 to record an instrument that provides that this Restrictive Covenant shall no longer limit use of the Property or be of any further force or effect. However, such an instrument may be recorded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

DATED this 16th day of Sept, 2004.

CITY OF BELLINGHAM

Mayor



STATE OF WASHINGTON)
COUNTY OF WHATCOM) ss.

I CERTIFY that I know or have satisfactory evidence that MARK ASMUNDSON is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Mayor of the CITY OF BELLINGHAM to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

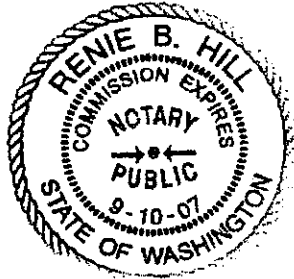
SEP 16 2004
Dated

Renie B Hill
Signature

RENIE B. HILL
Name Printed

Title: Notary Public

My commission expires: 10 Sept 2007

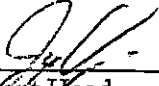


Attest:
Theresa Hill
Finance Director

Restrictive Covenant -

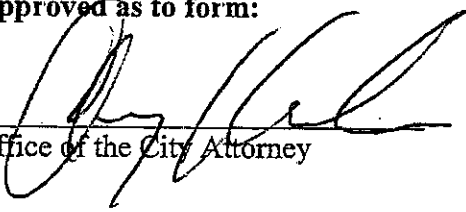
City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903

Departmental Approval:



Department Head

Approved as to form:



Office of the City Attorney

ATTACHMENT A

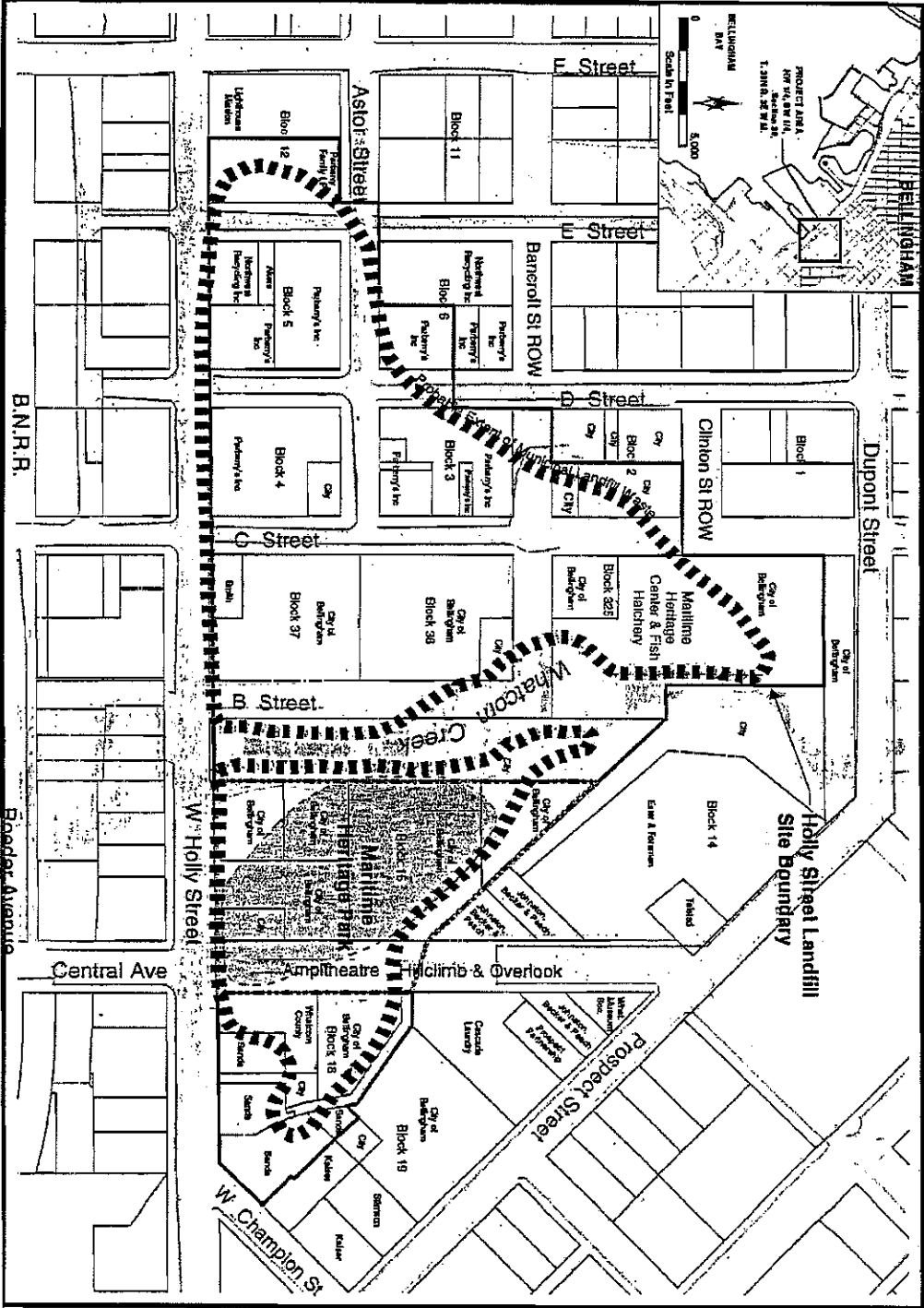
LEGAL DESCRIPTION

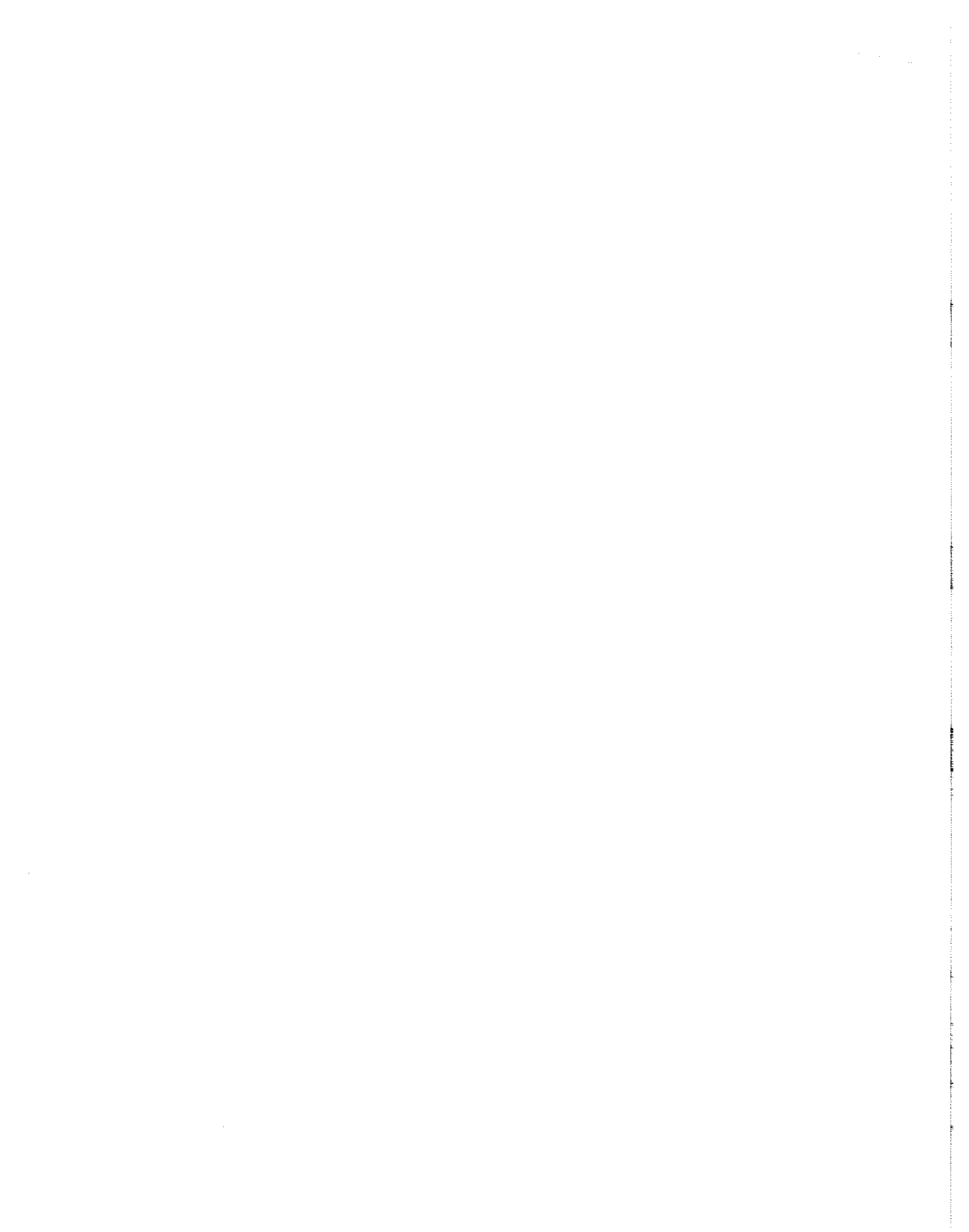
CENTRAL WHATCOM ALL LOTS 2-3-4-E ½ OF LOT 19 BLK 15-SUBJ TO CITY
OF BELLINGHAM REC IN VOL 352-D-126-IN VOL 352-D-122-IN VOL 352-D-
124—AFFT 149 RCW 30



Approximate Extent of Soil Gas Walkways Above Lower Epifaunal Unit (LEU)
Note: Basemap prepared from GIS data provided by City of Bellingham.

Attachment "B"
Project Area
Holly Street Landfill







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ASSESSOR'S TAX/PARCEL NUMBER(S): 3803300782610000

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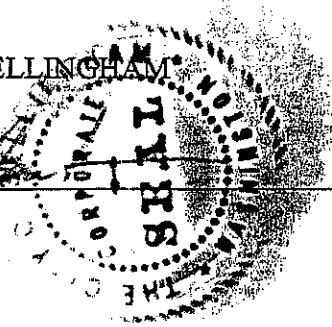
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CITY OF BELLINGHAM

Mark Asmundson
Mayor



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COUNTY OF WHATCOM) ss.

I CERTIFY that I know or have satisfactory evidence that **MARK ASMUNDSON** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the **Mayor** of the **CITY OF BELLINGHAM** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

SEP 16 2004

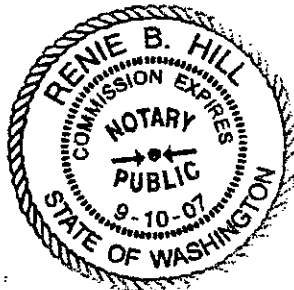
Dated

Renie B Hill
Signature

RENIE B HILL
Name Printed

Title: Notary Public

My commission expires: 10 Sept 2007




Attest:

Therese Helz
Finance Director

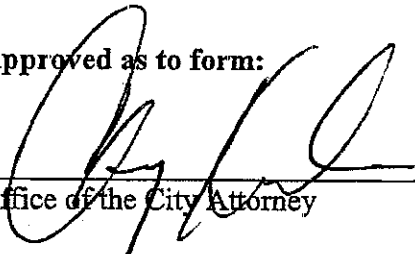
Restrictive Covenant -

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Departmental Approval:



Department Head

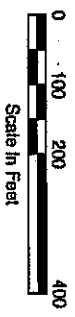
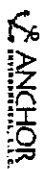
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ATTACHMENT A

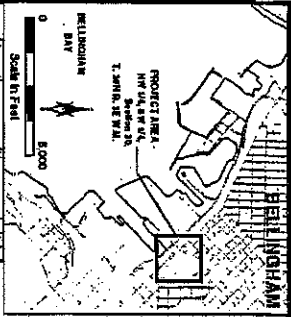
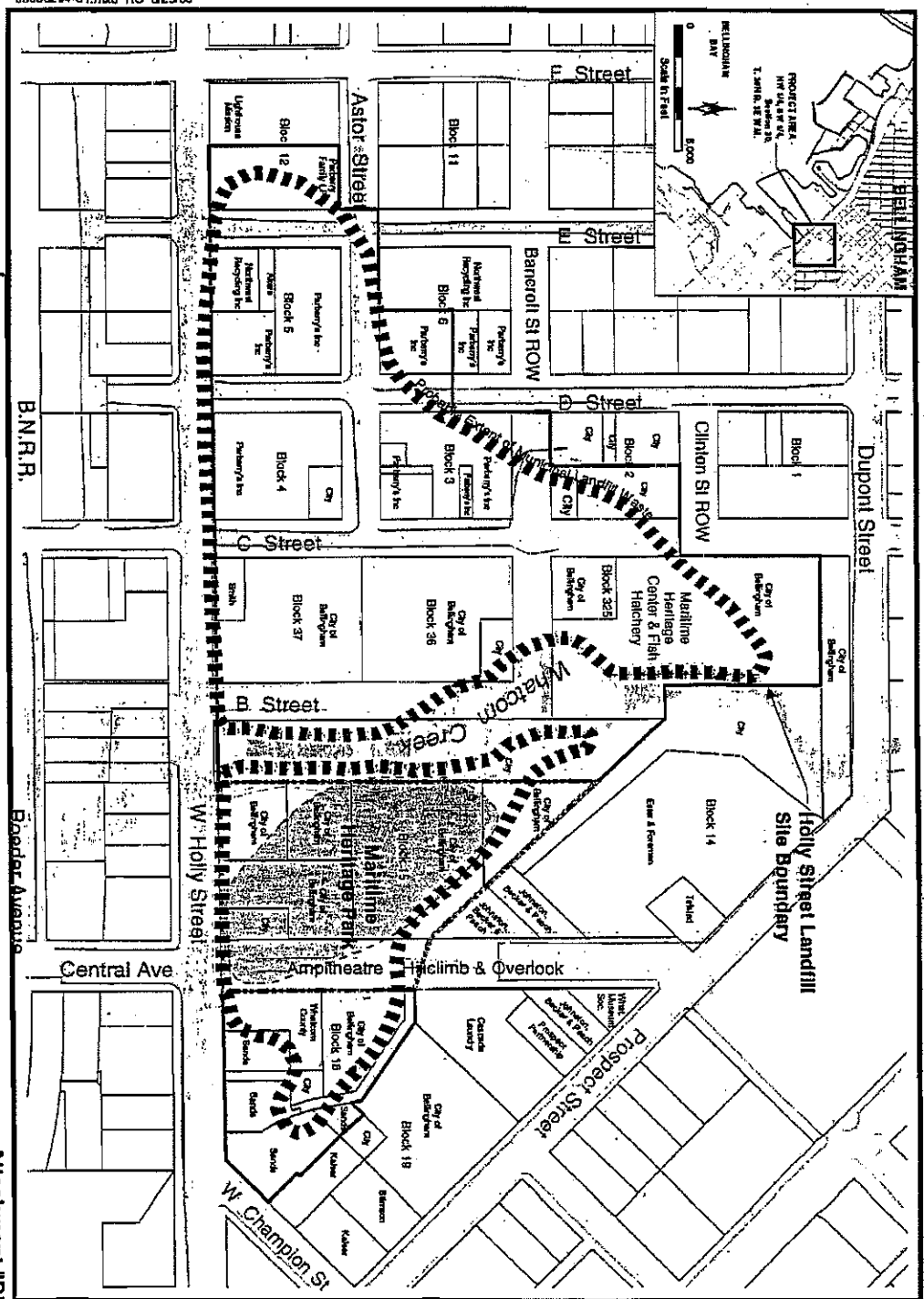
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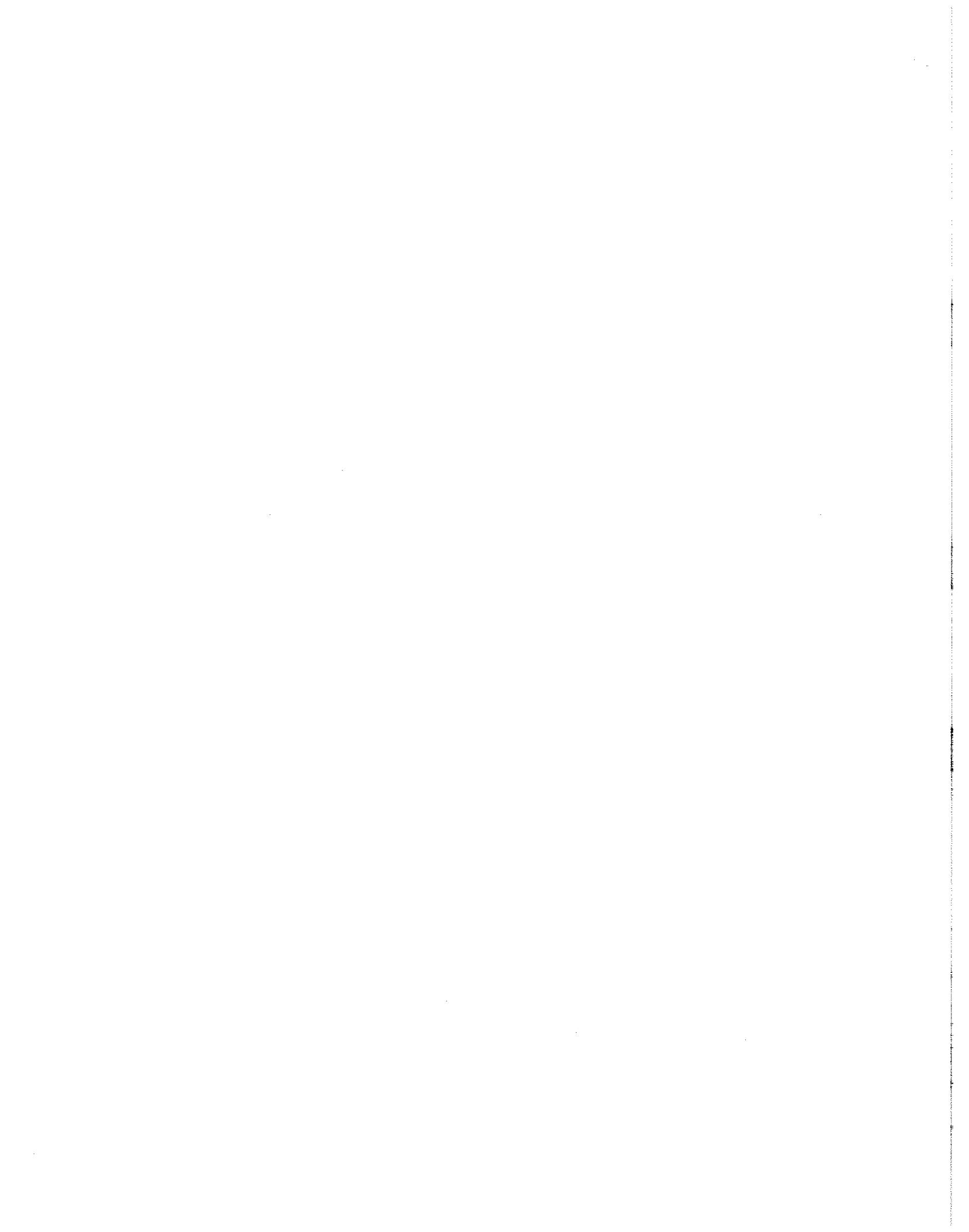
CENTRAL WHATCOM LOTS 5 THRU 8-11 THRU 14 BLK 15



Approximate Extent of Solid Gas Methane Above Lower Epifaunal Limit (EL)
Note: Basemap prepared from GIS data provided by City of Birmingham.

Attachment "B"
Project Area
Holly Street Landfill







2040904907

Page: 1 of 7
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GRANTEE(S): State of Washington Department of Ecology

ABBREVIATED LEGAL DESCRIPTION: SUPPLEMENTAL MAP OF WHATCOM
LOTS 3 THRU 16 BLK 36

ASSESSOR'S TAX/PARCEL NUMBER(S): 3803300583240000

RESTRICTIVE COVENANT

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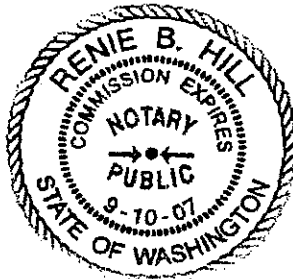
SEP 16 2004
Dated

Rennie B Hill
Signature

RENNIE B. HILL
Name Printed

Title: Notary Public

My commission expires: 10 Sept 2007



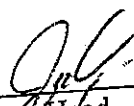
Attest:

Therese Hill
Finance Director

Restrictive Covenant -

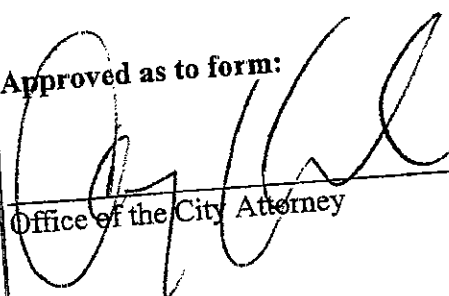
City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903

Departmental Approval:



Department Head

Approved as to form:



Office of the City Attorney

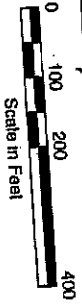
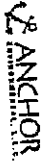
Restrictive Covenant -

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903

ATTACHMENT A

LEGAL DESCRIPTION

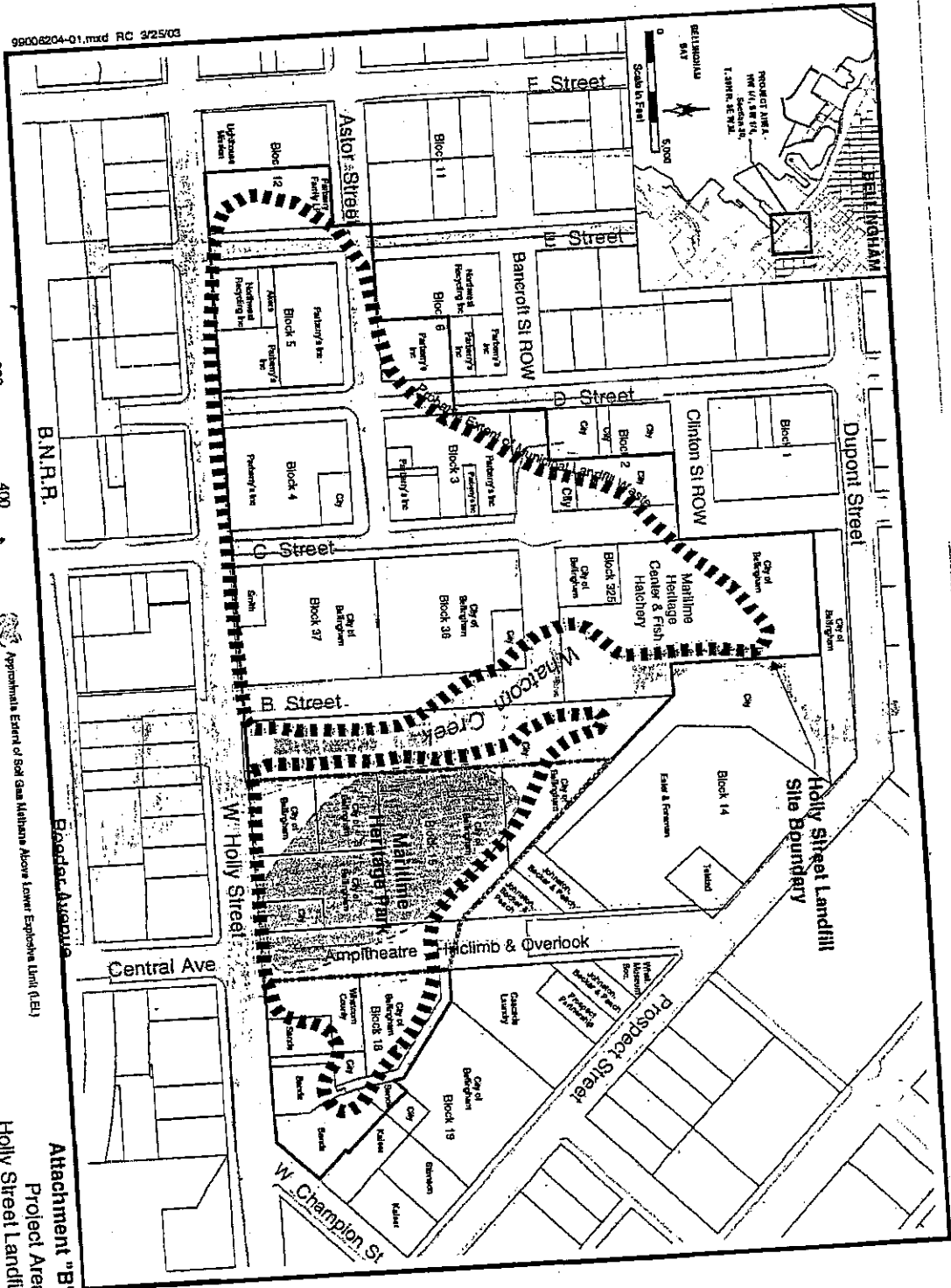
**SUPPLEMENTAL MAP OF WHATCOM LOTS 3 THRU 16 BLK 36-TOG WINELY
½ VAC ASTOR ST ABTG LOTS 8-9 AS VAC ORD 6414 5/1946**



Note: Basemap prepared from GIS data provided by City of Bellingham.

Approximate East of Seal Gas Wellbore Above Lower Explosive Limit (LEL)

Attachment "B"
Project Area
Holly Street Landfill





2040904908

Page: 1 of 7
9/29/2004 9:40 AM
D/RC \$25.00
Whatcom County, WA

Request of: BELLINGHAM CITY OF

AFTER RECORDING RETURN DOCUMENT TO:

City of Bellingham – Legal Department
210 Lottie Street
Bellingham, WA 98225

DOCUMENT TITLE: Restrictive Covenant

REFERENCE NUMBER OF RELATED DOCUMENT:

GRANTOR: City of Bellingham

GRANTEE(S): State of Washington Department of Ecology

ABBREVIATED LEGAL DESCRIPTION: LOTS 9 & 10, BLK 37, SUPP TOWN OF WHATCOM, VOL 1, P 42 (PLAT)

ASSESSOR'S TAX/PARCEL NUMBER(S): 3803300313070000

RESTRICTIVE COVENANT

HOLLY STREET LANDFILL

**500 – 600 West Holly Street
Bellingham, WA 98225**

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by the City of Bellingham and its successors and assigns (“the City”), in favor of the State of Washington Department of Ecology and its successors and assigns (“Ecology”).

The property that is the subject of this Restrictive Covenant is the subject of remedial action under the Washington State Model Toxics Control Act (“MTCA”), Chapter 70.105D RCW, (“Remedial Action”) pursuant to a Consent Decree in the matter State of Washington, Department of Ecology v. City of Bellingham, et al., Cause No. 03-2-02164-1, which was entered by the Whatcom County Superior Court on September 23, 2003 (“Consent Decree”). The property is part of the larger Holly Street Landfill Site (the Site). The Site is defined in

Restrictive Covenant - 1
AK/Restrictive Covenant 612

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903

RECEIVED

NOV 19 2004

DEPT OF ECOLOGY

Exhibit B to the Consent Decree. The Remedial Action to be conducted pursuant to the Consent Decree at the property is described in the *Holly Street Landfill Final Cleanup Action Plan*, dated April, 2003, ("Cleanup Action Plan"), which is Exhibit A to the Consent Decree and is located at Ecology's Northwest Regional Office (NWRO) in Bellevue, Washington.

This Restrictive Covenant is required because the Remedial Action will result in the containment of municipal type waste with residual concentrations of hazardous substances at the Site which exceed the MTCA unrestricted land use (e.g., residential) cleanup level for soil established under WAC 173-340-740. Further, certain geochemical oxidation processes acting within the immediate shoreline zones result in exceedances of surface water cleanup standards established under WAC 173-340-730 at the points of groundwater discharge into surface water. The extent of contamination and the Remedial Action to be conducted at the site are contained in the following reports:

1. ***Remedial Investigation/Feasibility Study, Holly Street Landfill Development Project Final Report – City of Bellingham***, by Anchor Environmental, LLC, April, 2003.
2. ***Holly Street Landfill Final Cleanup Action Plan*** (Exhibit A to the Consent Decree).

These documents are on file at Ecology's NWRO.

The undersigned, the City, is the fee owner of real property (hereafter "Property") in the City of Bellingham, State of Washington, which is subject to this Restrictive Covenant. The Property is part of the former Holly Street Landfill situated in the City of Bellingham, State of Washington, and is legally described in Attachment A, 'LEGAL DESCRIPTION' and identified in Attachment B, Site Diagram.

The City makes 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. Future use of the Property shall be limited to those uses defined in and allowed under the City of Bellingham Zoning and Shoreline Management regulations codified by the City of Bellingham Municipal Code as of the date of this Restrictive Covenant and as they may be amended from time to time. No groundwater may be withdrawn from the property for any use that is inconsistent with the Remedial Action implementation. The Property shall not be used for ground floor residential or day care center uses.

Restrictive Covenant - 2
AK/Restrictive Covenant 612

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903

Section 2. Pursuant to the Cleanup Action Plan, Owner must maintain the integrity of the Remedial Action. Specifically, Owner must maintain two feet of soil cap or equivalent structural cover (e.g., building or two-inch paving layer overlying ballast) over the Property. 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. These activities include those that may result in the release or exposure to the environment of the municipal type waste or contaminated soil, soil-gas and shoreline seepage that was contained as part of the Remedial Action, or that create an exposure pathway, unless such activities are authorized by the Cleanup Action Plan or this Restrictive Covenant. Where utility or other work at the Property requires excavation, Owner must comply with state and City standards, and must provide one foot of overexcavation or use geofabric lining to provide a clean perimeter around the excavation. All refuse materials excavated from the Property must be disposed off-site at a permitted solid waste disposal facility or contained on-site below an engineered cap meeting the specifications outlined in the Cleanup Action Plan or subsequent Remedial Design (RD) documents (i.e., two feet of soil cap or equivalent structural cover). Personnel performing excavation at the Property should be familiar with the applicable health and safety training requirements, and should take the necessary precautions to minimize direct contact with the municipal type waste and contaminated soils that are above state standards and are contained at the Site as part of the Remedial Action. Excavations conducted in accordance with the above conditions shall not constitute activities that interfere with the Remedial Action or contained protection of human health and the environment.

Section 3. Any activity on the Property that may interfere with the integrity of the Remedial Action, operation and maintenance, or monitoring and continued protection of human health and the environment is prohibited without prior written approval from Ecology, which approval shall not be unreasonably withheld. Details about the compliance monitoring requirements to ensure continued protection of human health and the environment are contained in EXHIBIT E of the Consent Decree.

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 title or easement 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. Ecology will provide Owner advance notice of its entry onto the Property when feasible.

Section 8. The Owner 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 to comment, concurs.

DATED this 16th day of Sept, 2004.

CITY OF BELLINGHAM

Mark
Mayor



STATE OF WASHINGTON)
COUNTY OF WHATCOM) ss.

I CERTIFY that I know or have satisfactory evidence that **MARK ASMUNDSON** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the **Mayor** of the **CITY OF BELLINGHAM** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

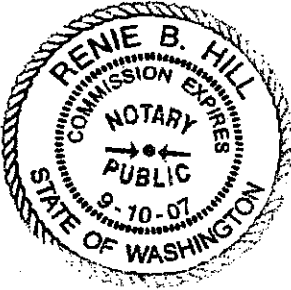
SEP 16 2004
Dated

Renie B Hill
Signature

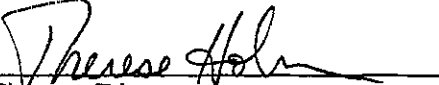
RENIE B. HILL
Name Printed

Title: Notary Public

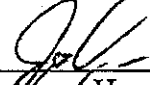
My commission expires: 10 Sept 2007



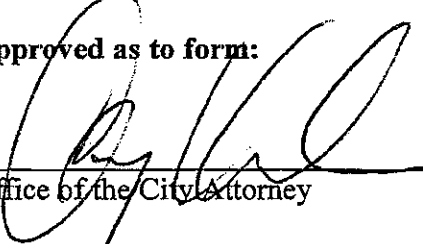
Attest:


Finance Director

Departmental Approval:


Department Head

Approved as to form:


Office of the City Attorney

Restrictive Covenant - 5
AK/Restrictive Covenant 612

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903

ATTACHMENT A

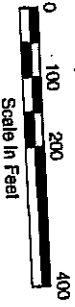
LEGAL DESCRIPTION

LOTS 9 AND 10, BLOCK 37, "SUPPLEMENTAL MAP OF THE TOWN OF WHATCOM, WHATCOM CO. W.T. 1884", NOW A PART OF THE CONSOLIDATED CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 1 OF PLATS, PAGE 42, IN THE AUDITOR'S OFFICE OF SAID COUNTY AND STATE.

SITUATE IN COUNTY OF WHATCOM, STATE OF WASHINGTON

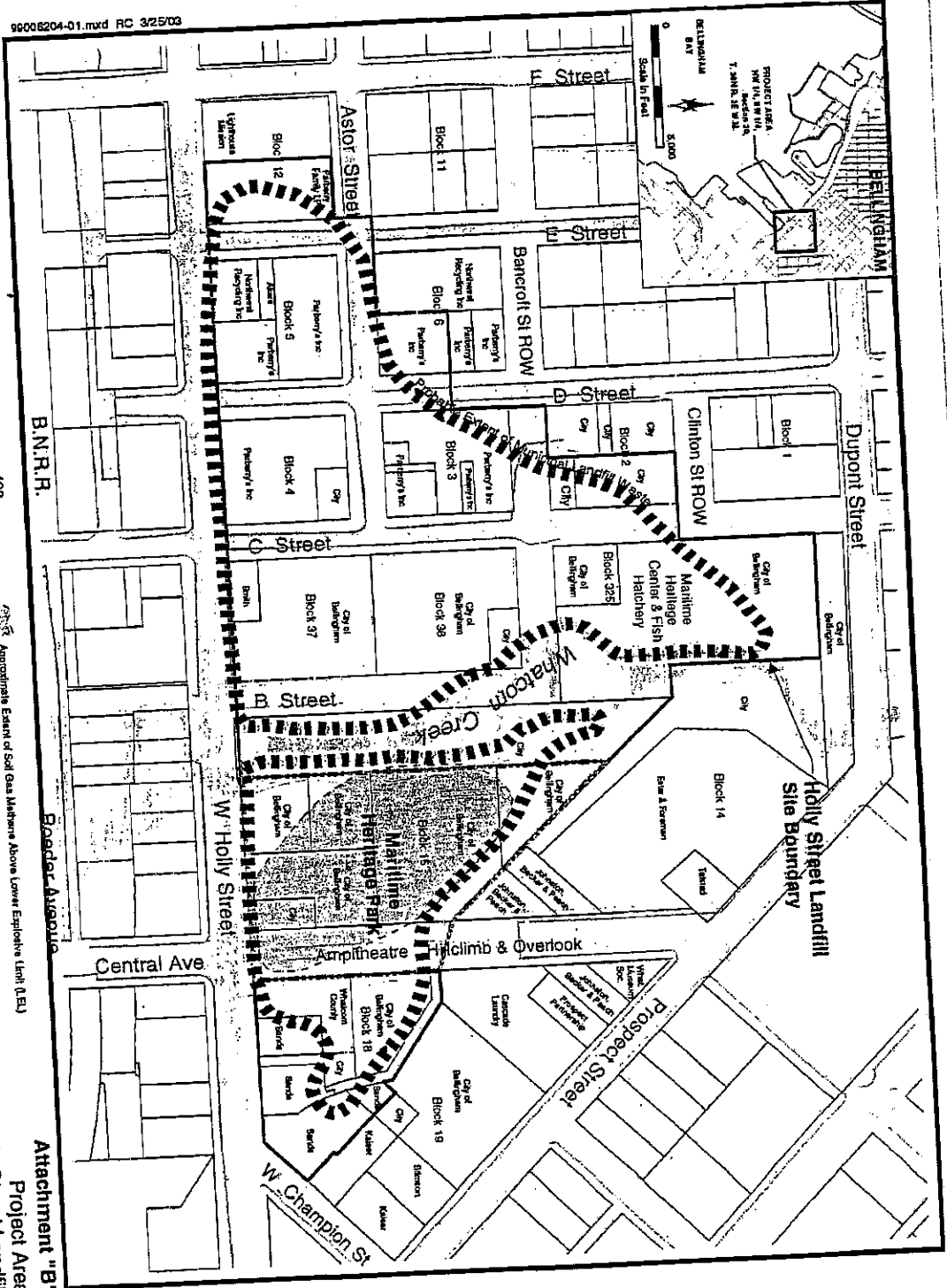
Restrictive Covenant - 6
AK/Restrictive Covenant 612

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903



Approximate Escent of Sol Gas Migration Above Lower Explores (LLEU)
Note: Basemap prepared from GIS data
provided by City of Bellingham.

Attachment "B"
Project Area
Holly Street Landfill

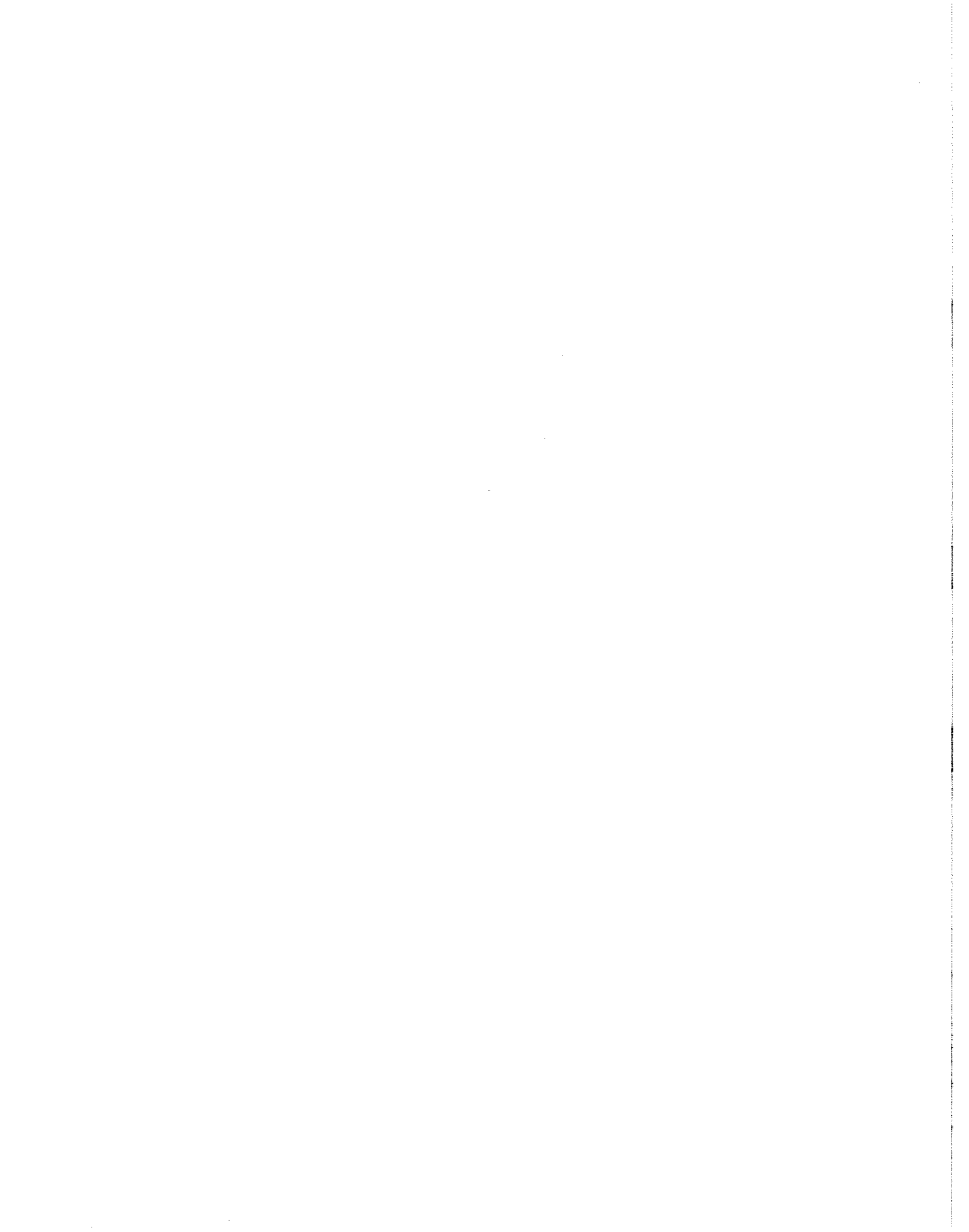


PROJECT AREA
MAY 1991
T. AMB. 2E 21.1



Scale in Feet







2040904909

Page: 1 of 7
9/29/2004 9:40 AM
D/RC \$25.00
Whatcom County, WA

Request of: BELLINGHAM CITY OF

AFTER RECORDING RETURN DOCUMENT TO:

City of Bellingham – Legal Department
210 Lottie Street
Bellingham, WA 98225

DOCUMENT TITLE: Restrictive Covenant

REFERENCE NUMBER OF RELATED DOCUMENT:

GRANTOR: City of Bellingham

GRANTEE(S): State of Washington Department of Ecology

ABBREVIATED LEGAL DESCRIPTION: CENTRAL WHATCOM LOTS 15-16 BLK
15

ASSESSOR’S TAX/PARCEL NUMBER(S): 3803300662530000

RESTRICTIVE COVENANT

HOLLY STREET LANDFILL

**Maritime Heritage Park
500 – 600 West Holly Street
Bellingham, WA 98225**

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by the City of Bellingham and its successors and assigns (“the City”), in favor of the State of Washington Department of Ecology and its successors and assigns (“Ecology”).

The property that is the subject of this Restrictive Covenant is the subject of remedial action under the Washington State Model Toxics Control Act (“MTCA”), Chapter 70.105D RCW, (“Remedial Action”) pursuant to a Consent Decree in the matter State of Washington, Department of Ecology v. City of Bellingham, et al., Cause No. 03-2-02164-1, which was entered by the Whatcom County Superior Court on September 23, 2003 (“Consent Decree”).

Restrictive Covenant - 1
AK/Restrictive Covenant Maritime Heritage 1

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903

RECEIVED

NOV 19 2004

DEPT OF ECOLOGY

The property is part of the larger Holly Street Landfill Site (the Site). The Site is defined in Exhibit B to the Consent Decree. The Remedial Action to be conducted pursuant to the Consent Decree at the property is described in the *Holly Street Landfill Final Cleanup Action Plan*, dated April, 2003, ("Cleanup Action Plan"), which is Exhibit A to the Consent Decree and is located at Ecology's Northwest Regional Office (NWRO) in Bellevue, Washington.

This Restrictive Covenant is required because the Remedial Action will result in the containment of municipal type waste with residual concentrations of hazardous substances at the Site which exceed the MTCA unrestricted land use (e.g., residential) cleanup level for soil established under WAC 173-340-740. Further, certain geochemical oxidation processes acting within the immediate shoreline zones result in exceedances of surface water cleanup standards established under WAC 173-340-730 at the points of groundwater discharge into surface water. The extent of contamination and the Remedial Action to be conducted at the site are contained in the following Reports:

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The undersigned, the City, is the fee owner of real property (hereafter "Property") in the City of Bellingham, State of Washington, which is subject to this Restrictive Covenant. The Property is part of the former Holly Street Landfill situated in the City of Bellingham, State of Washington, and is legally described in Attachment A, 'LEGAL DESCRIPTION' and identified in Attachment B, Site Diagram.

The City makes 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").

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Section 2. Pursuant to the Cleanup Action Plan, Owner must maintain the integrity of the Remedial Action. Specifically, Owner must maintain two feet of soil cap or equivalent structural cover (e.g., building or two-inch paving layer overlying ballast) over the Property. For building structures within the Maritime Heritage Park portion of the Site, Owner must conduct supplemental soil gas monitoring and/or use engineered passive gas venting systems as required under the Cleanup Action Plan and described in the *Compliance Monitoring and Contingency Response Plan*, which is Exhibit E to the Consent Decree. 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. These activities include those that may result in the release or exposure to the environment of the municipal type waste or contaminated soil, soil-gas and shoreline seepage that was contained as part of the Remedial Action, or that create an exposure pathway, unless such activities are authorized by the Cleanup Action Plan or this Restrictive Covenant. Where utility or other work at the Property requires excavation, Owner must comply with state and City standards, and must provide one foot of overexcavation or use geofabric lining to provide a clean perimeter around the excavation. All refuse materials excavated from the Property must be disposed off-site at a permitted solid waste disposal facility or contained on-site below an engineered cap meeting the specifications outlined in the Cleanup Action Plan or subsequent Remedial Design (RD) documents (i.e., two feet of soil cap or equivalent structural cover). Personnel performing excavation at the Property should be familiar with the applicable health and safety training requirements, and should take the necessary precautions to minimize direct contact with municipal type waste and contaminated soils that are above state standards and are contained at the Site as part of the Remedial Action. Excavations conducted in accordance with the above conditions shall not constitute activities that interfere with the Remedial Action or continued protection of human health and the environment.

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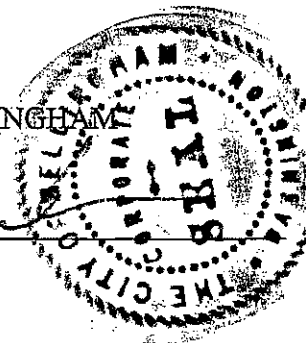
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DATED this 16~~th~~ day of Sept, 2004.

CITY OF BELLINGHAM

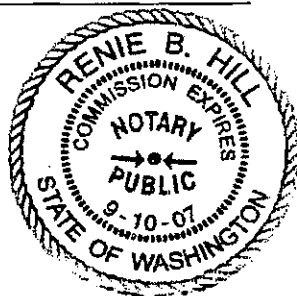
Mark Asmundson
Mayor



STATE OF WASHINGTON)
COUNTY OF WHATCOM) ss.

I CERTIFY that I know or have satisfactory evidence that **MARK ASMUNDSON** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the **Mayor** of the **CITY OF BELLINGHAM** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

SEP 16 2004
Dated



Renie B Hill
Signature

RENIE B HILL
Name Printed

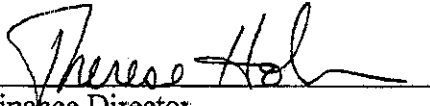
Title: Notary Public

My commission expires: 10 Sept 2007

Restrictive Covenant

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903

Attest:



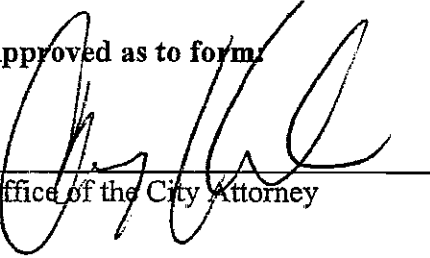
Finance Director

Departmental Approval:



Department Head

Approved as to form:



Office of the City Attorney

Restrictive Covenant

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903

ATTACHMENT A

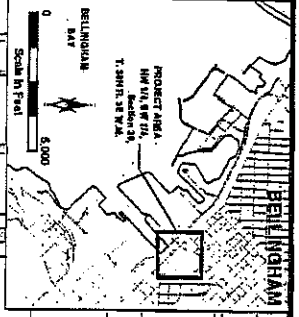
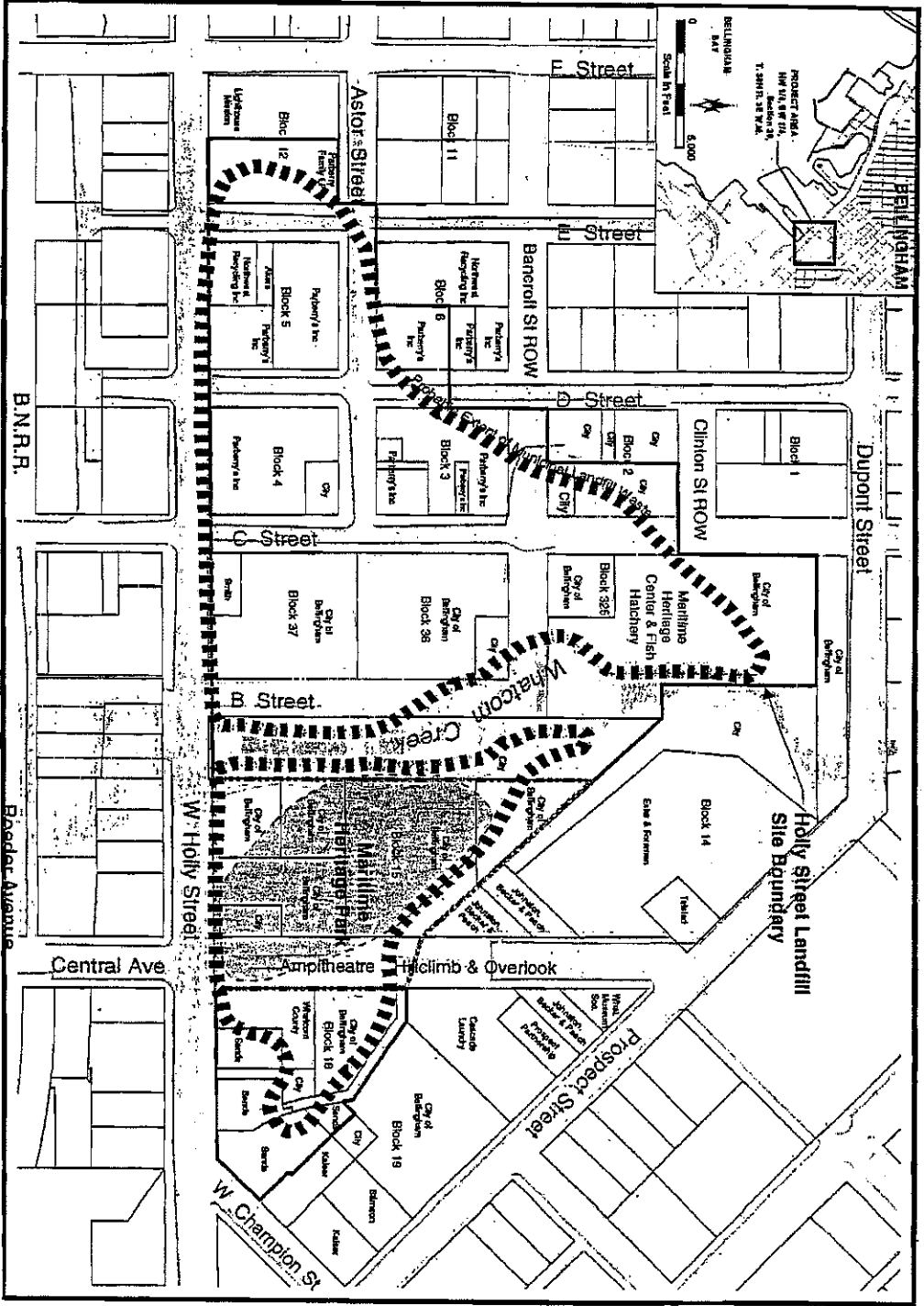
LEGAL DESCRIPTION

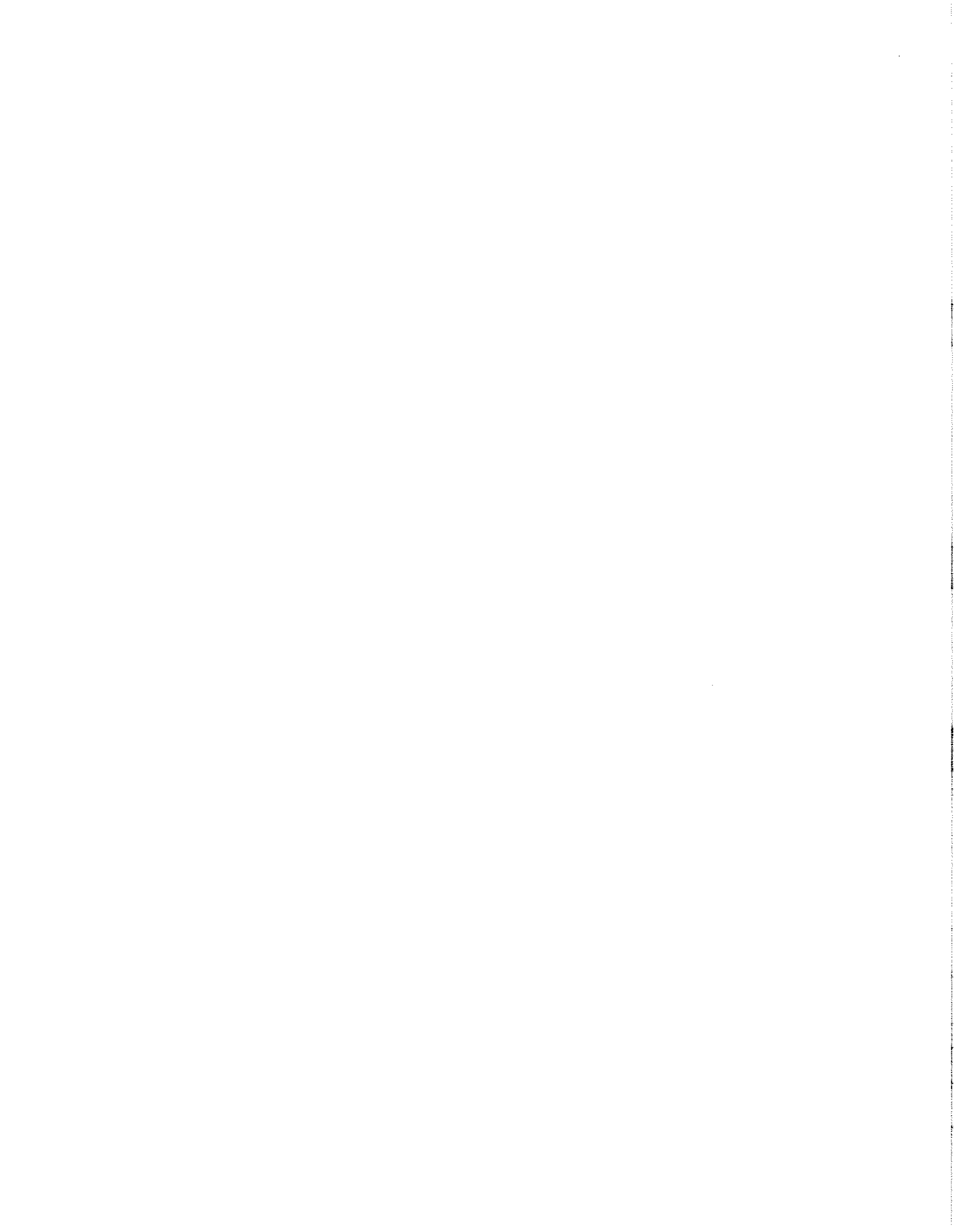
CENTRAL WHATCOM LOTS 15-16 BLK 15



Approximate Exam of Soil Gas Walkdown Above Lower Explosive Limit (LEL)
Note: Basemap prepared from GIS data provided by City of Bellingham.

Attachment "B"
Project Area
Holly Street Landfill







2040904910

Page: 1 of 7
9/29/2004 9:40 AM
D/RC \$25.00
Whatcom County, WA

Request of: BELLINGHAM CITY OF

AFTER RECORDING RETURN DOCUMENT TO:

City of Bellingham -- Legal Department
210 Lottie Street
Bellingham, WA 98225

DOCUMENT TITLE: Restrictive Covenant

REFERENCE NUMBER OF RELATED DOCUMENT:

GRANTOR: City of Bellingham

GRANTEE(S): State of Washington Department of Ecology

ABBREVIATED LEGAL DESCRIPTION: CENTRAL WHATCOM ALL LOTS 17-18-
W 1/2 OF LOT 19 BLK 15

ASSESSOR'S TAX/PARCEL NUMBER(S): 3803300592470000

RESTRICTIVE COVENANT

HOLLY STREET LANDFILL

**Maritime Heritage Park
500 -- 600 West Holly Street
Bellingham, WA 98225**

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Restrictive Covenant - 1
AK/Restrictive Covenant Maritime Heritage 2

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903

RECEIVED

NOV 19 2004

DEPT OF ECOLOGY

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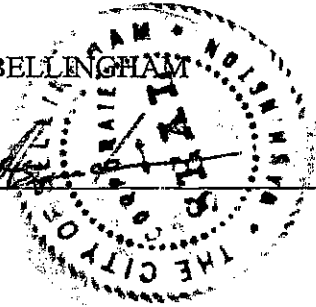
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DATED this 16th day of Sept, 2004.

CITY OF BELLINGHAM

Mark Asmundson
Mayor

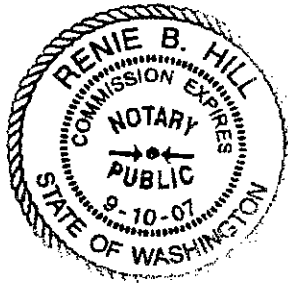


STATE OF WASHINGTON)
COUNTY OF WHATCOM) ss.

I CERTIFY that I know or have satisfactory evidence that **MARK ASMUNDSON** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the **Mayor** of the **CITY OF BELLINGHAM** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

SEP 16 2004

Dated



Renie B. Hill
Signature

RENIE B. HILL
Name Printed

Title: Notary Public

My commission expires: 10 Sept 2007

Attest:

Theresa Holm
Finance Director

Restrictive Covenant -

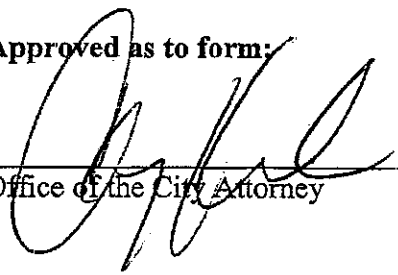
City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903

Departmental Approval:



Department Head

Approved as to form:

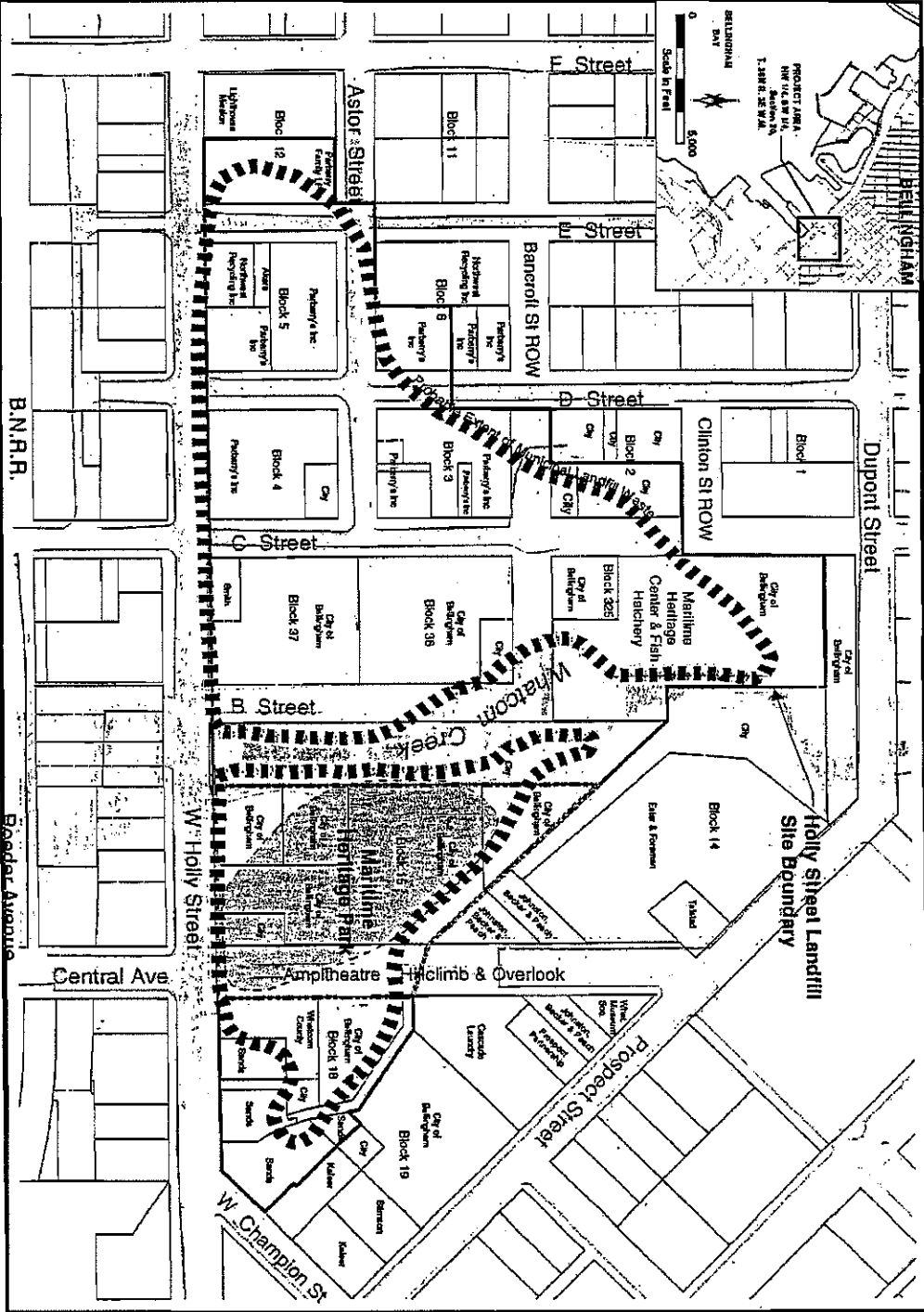


Office of the City Attorney

ATTACHMENT A

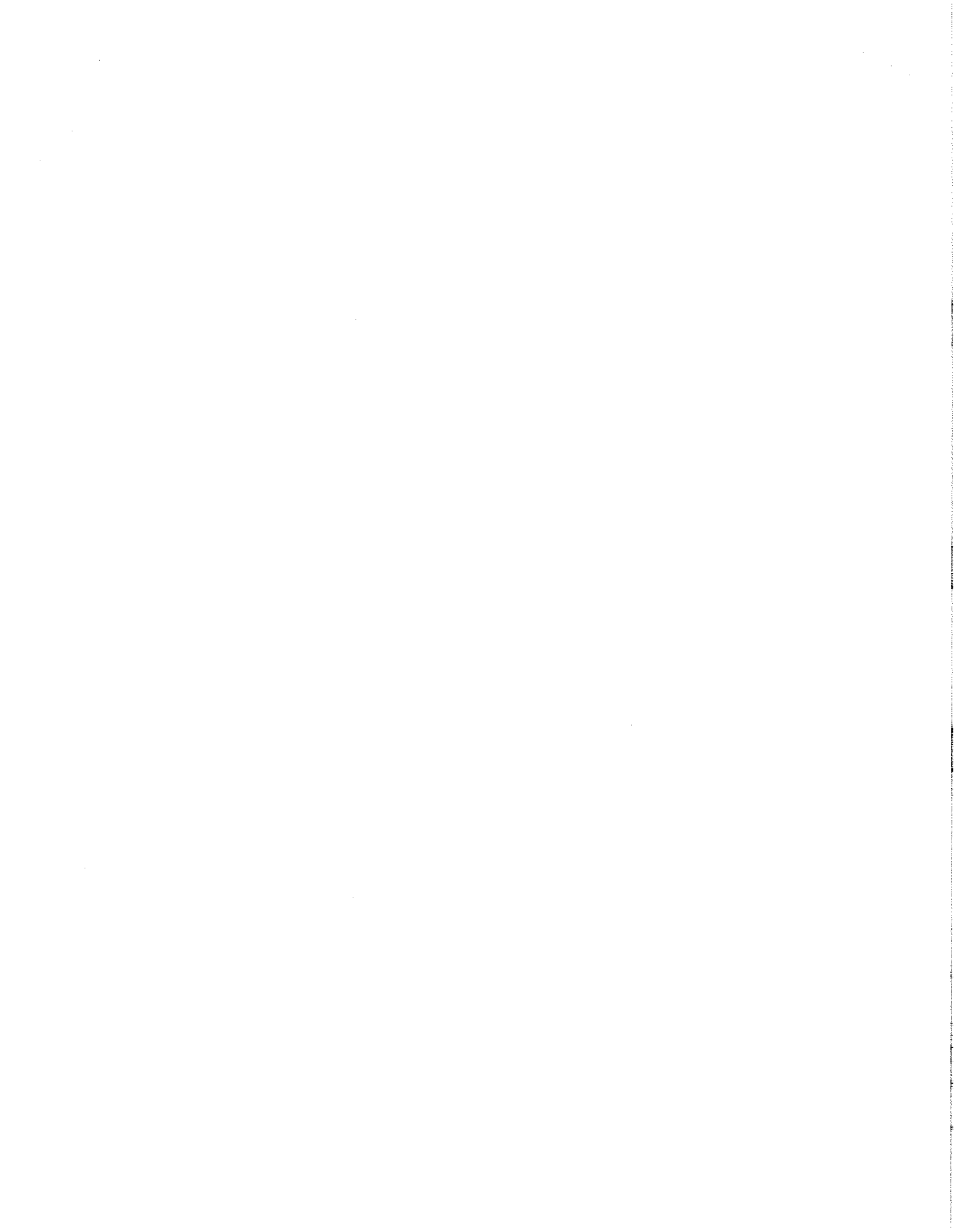
LEGAL DESCRIPTION

CENTRAL WHATCOM ALL LOTS 17-18-W ½ OF LOT 19 BLK 15- SUBJ TO ESMT
TO CITY OF BELLINGHAM REC IN VOL 352-D-122



Approximate Extent of Sed Gas Methane Above Lower Explosive Limit (LEL)
 Note: Basemap prepared from GIS data provided by City of Bellingham.

Attachment "B"
 Project Area
 Holly Street Landfill





2040904911

Page: 1 of 7
9/29/2004 9:48 AM
D/RC \$25.00
Whatcom County, WA

AFTER RECORDING RETURN DOCUMENT TO:

City of Bellingham – Legal Department
210 Lottie Street
Bellingham, WA 98225

Request of: BELLINGHAM CITY OF

DOCUMENT TITLE: Restrictive Covenant

REFERENCE NUMBER OF RELATED DOCUMENT:

GRANTOR: City of Bellingham

GRANTEE(S): State of Washington Department of Ecology

ABBREVIATED LEGAL DESCRIPTION: CENTRAL WHATCOM LOT 1 BLK 15

ASSESSOR'S TAX/PARCEL NUMBER(S): 3803300712380000

RESTRICTIVE COVENANT

HOLLY STREET LANDFILL

**Maritime Heritage Park
500 – 600 West Holly Street
Bellingham, WA 98225**

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by the City of Bellingham and its successors and assigns ("the City"), in favor of the State of Washington Department of Ecology and its successors and assigns ("Ecology").

The property that is the subject of this Restrictive Covenant is the subject of remedial action under the Washington State Model Toxics Control Act ("MTCA"), Chapter 70.105D RCW, ("Remedial Action") pursuant to a Consent Decree in the matter State of Washington, Department of Ecology v. City of Bellingham, et al., Cause No. 03-2-02164-1, which was entered by the Whatcom County Superior Court on September 23, 2003 ("Consent Decree"). The property is part of the larger Holly Street Landfill Site (the Site). The Site is defined in Exhibit B to the Consent Decree. The Remedial Action to be conducted pursuant to the

Restrictive Covenant - 1
AK/Restrictive Covenant Maritime Heritage 3

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903

RECEIVED

SEP 19 2004

DEPT OF ECOLOGY

Consent Decree at the property is described in the *Holly Street Landfill Final Cleanup Action Plan*, dated April, 2003, ("Cleanup Action Plan"), which is Exhibit A to the Consent Decree and is located at Ecology's Northwest Regional Office (NWRO) in Bellevue, Washington.

This Restrictive Covenant is required because the Remedial Action will result in the containment of municipal type waste with residual concentrations of hazardous substances at the Site which exceed the MTCA unrestricted land use (e.g., residential) cleanup level for soil established under WAC 173-340-740. Further, certain geochemical oxidation processes acting within the immediate shoreline zones result in exceedances of surface water cleanup standards established under WAC 173-340-730 at the points of groundwater discharge into surface water. The extent of contamination and the Remedial Action to be conducted at the site are contained in the following Reports:

1. ***Remedial Investigation/Feasibility Study, Holly Street Landfill Development Project Final Report – City of Bellingham***, by Anchor Environmental, LLC, April, 2003
2. ***Holly Street Landfill Final Cleanup Action Plan*** (Exhibit A to the Consent Decree).

These documents are on file at Ecology's NWRO.

The undersigned, the City, is the fee owner of real property (hereafter "Property") in the City of Bellingham, State of Washington, which is subject to this Restrictive Covenant. The Property is part of the former Holly Street Landfill situated in the City of Bellingham, State of Washington, and is legally described in Attachment A, 'LEGAL DESCRIPTION' and identified in Attachment B, Site Diagram.

The City makes 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").

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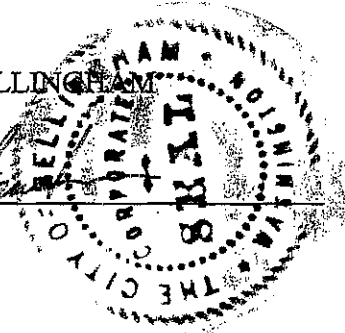
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DATED this 16th day of Sept, 2004.

CITY OF BELLINGHAM

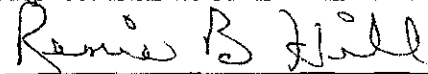

Mayor



STATE OF WASHINGTON)
COUNTY OF WHATCOM) ss.

I CERTIFY that I know or have satisfactory evidence that **MARK ASMUNDSON** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the **Mayor** of the **CITY OF BELLINGHAM** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

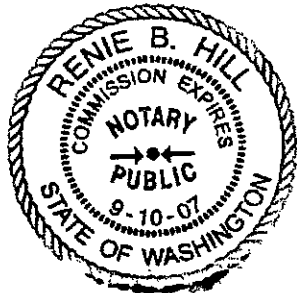
SEP 16 2004
Dated

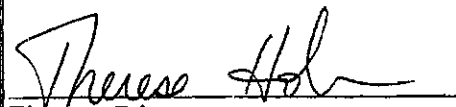

Signature

RENIE B. HILL
Name Printed

Title: Notary Public

My commission expires: 10 Sept 2007

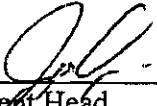


Attest:

Finance Director

Restrictive Covenant -

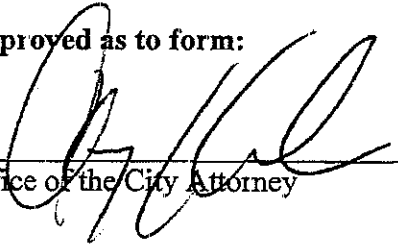
City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903

Departmental Approval:



Department Head

Approved as to form:



Office of the City Attorney

Restrictive Covenant --

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903

ATTACHMENT A

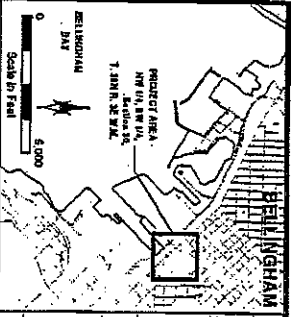
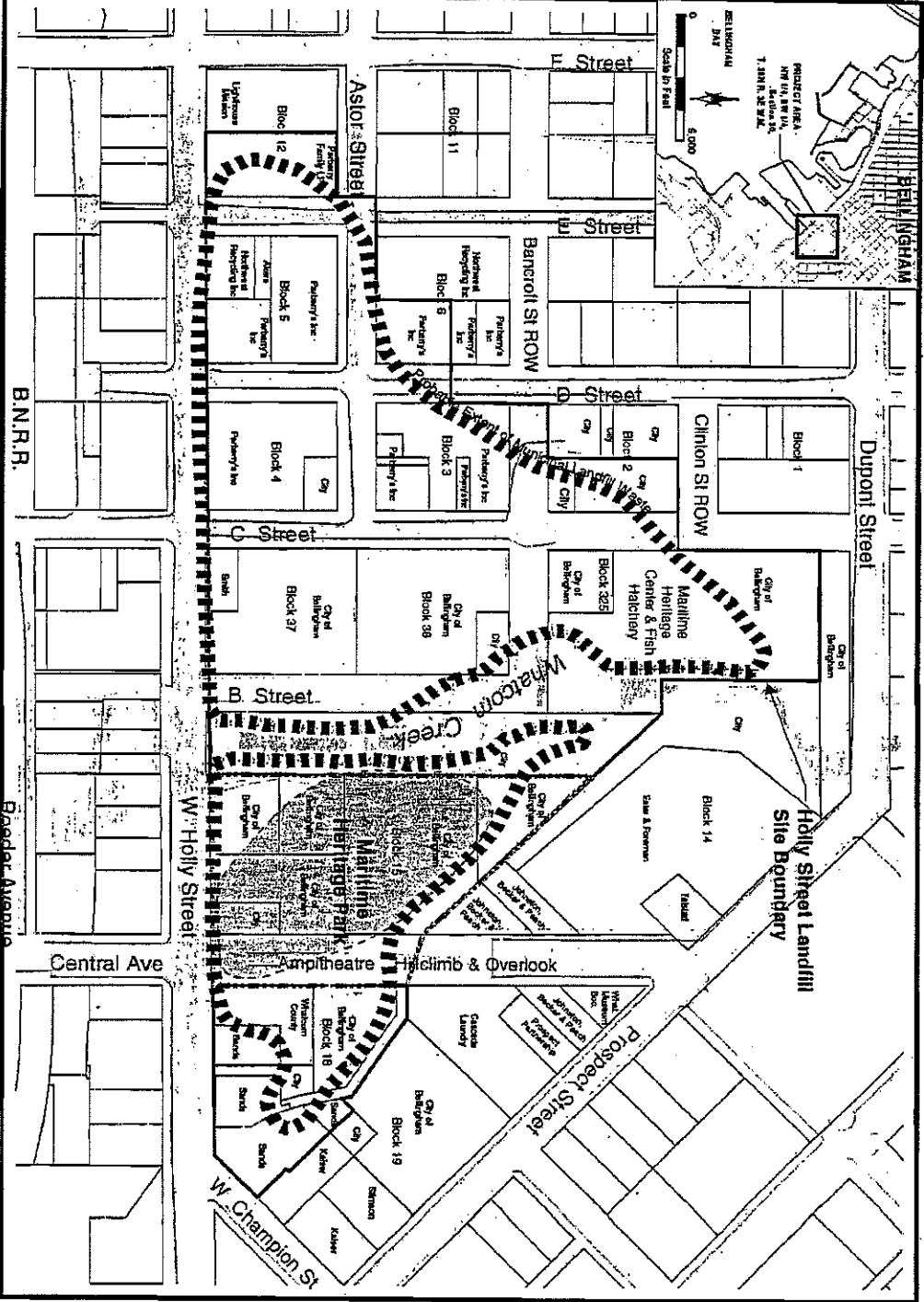
LEGAL DESCRIPTION

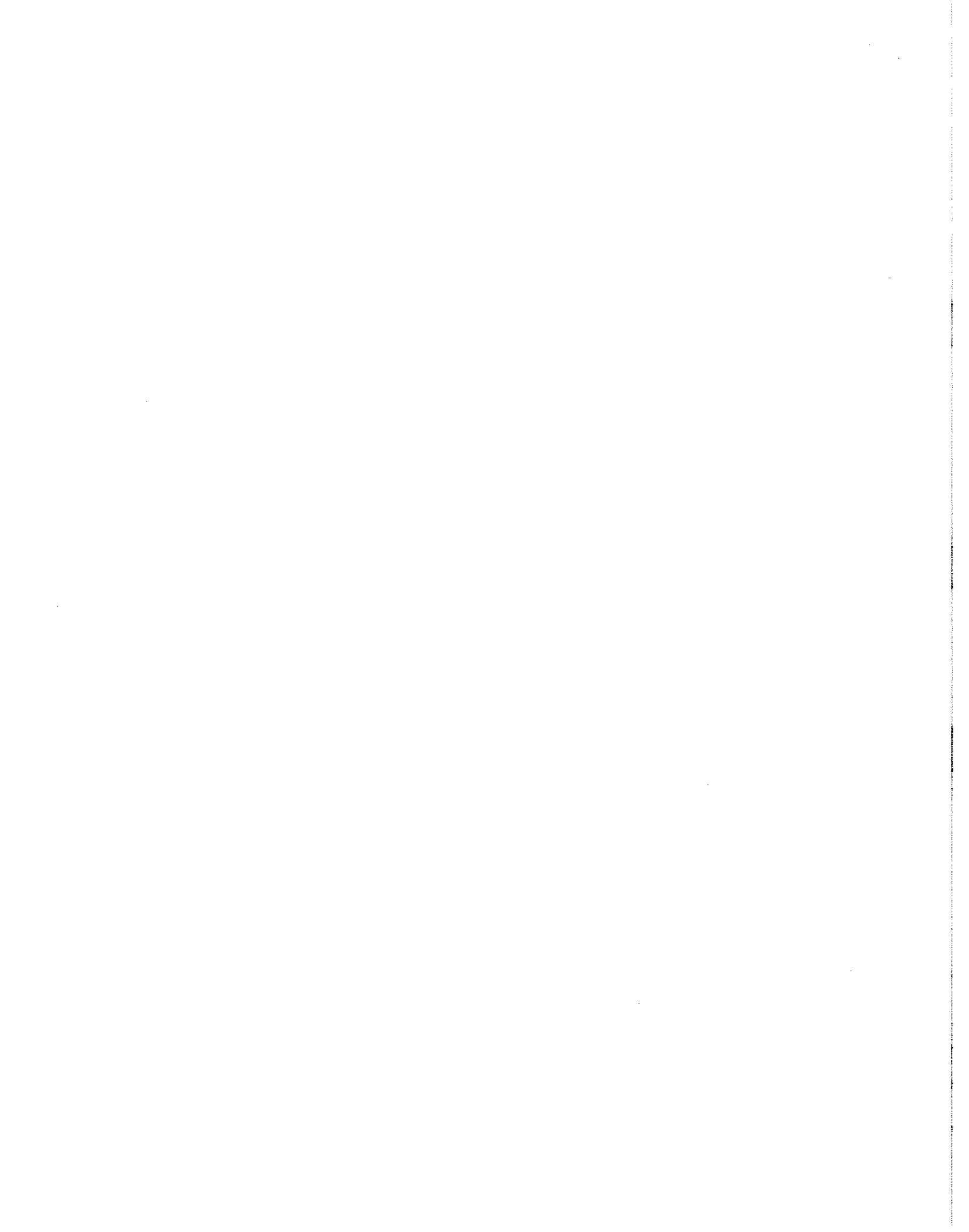
CENTRAL WHATCOM ALL LOT 1 BLK 15-SUBJ TO ESMT FOR SANITARY FILL
REC IN VOL 357-D-306



Approximate Extent of Sed Gas Methane Above Lower Explosive Limit (LEL)
Note: Basemap prepared from GIS data provided by City of Bellingham.

Attachment "B"
Project Area
Holly Street Landfill





AFTER RECORDING RETURN DOCUMENT TO:

City of Bellingham – Legal Department
210 Lottie Street
Bellingham, WA 98225



2040904901
Page: 1 of 7
9/29/2004 9:40 AM
D/RC \$25.00
Whatcom County, WA

Request of: BELLINGHAM CITY OF

DOCUMENT TITLE: Restrictive Covenant

REFERENCE NUMBER OF RELATED DOCUMENT:

GRANTOR: City of Bellingham

GRANTEE(S): State of Washington Department of Ecology

ABBREVIATED LEGAL DESCRIPTION: Supplemental Map of Whatcom Lots 1-2
Blk 4

ASSESSOR'S TAX/PARCEL NUMBER(S): 3803300383200000

RESTRICTIVE COVENANT

HOLLY STREET LANDFILL
500 – 600 West Holly Street
Bellingham, WA 98225

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by the City of Bellingham and its successors and assigns ("the City"), in favor of the State of Washington Department of Ecology and its successors and assigns ("Ecology").

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Restrictive Covenant - 1
AK/Restrictive Covenant 1

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NOV 19 2004
DEPT OF ECOLOGY

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903

Exhibit B to the Consent Decree. The Remedial Action to be conducted pursuant to the Consent Decree at the property is described in the *Holly Street Landfill Final Cleanup Action Plan*, dated April, 2003, ("Cleanup Action Plan"), which is Exhibit A to the Consent Decree and is located at Ecology's Northwest Regional Office (NWRO) in Bellevue, Washington.

This Restrictive Covenant is required because the Remedial Action will result in the containment of municipal type waste with residual concentrations of hazardous substances at the Site which exceed the MTCA unrestricted land use (e.g., residential) cleanup level for soil established under WAC 173-340-740. Further, certain geochemical oxidation processes acting within the immediate shoreline zones result in exceedances of surface water cleanup standards established under WAC 173-340-730 at the points of groundwater discharge into surface water. The extent of contamination and the Remedial Action to be conducted at the site are contained in the following reports:

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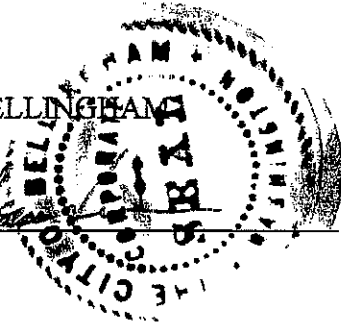
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DATED this 16th day of Sept, 2004.

CITY OF BELLINGHAM


Mayor

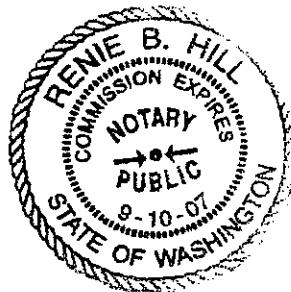


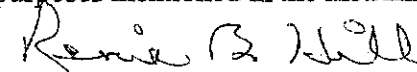
STATE OF WASHINGTON)
COUNTY OF WHATCOM) ss.

I CERTIFY that I know or have satisfactory evidence that **MARK ASMUNDSON** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Mayor of the **CITY OF BELLINGHAM** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

SEP 16 2004

Dated





Signature

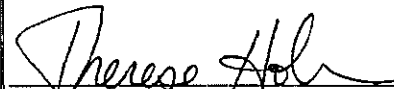
RENIE B. HILL

Name Printed

Title: Notary Public

My commission expires: 10 Sept 2007


Attest:


Finance Director

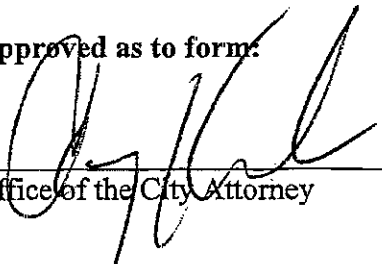
Restrictive Covenant -

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903

Departmental Approval:



Department Head

Approved as to form:


Office of the City Attorney

ATTACHMENT A
LEGAL DESCRIPTION

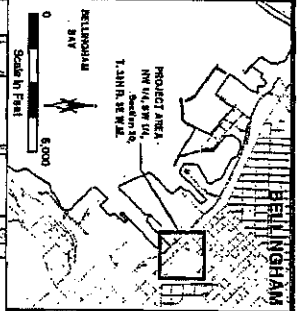
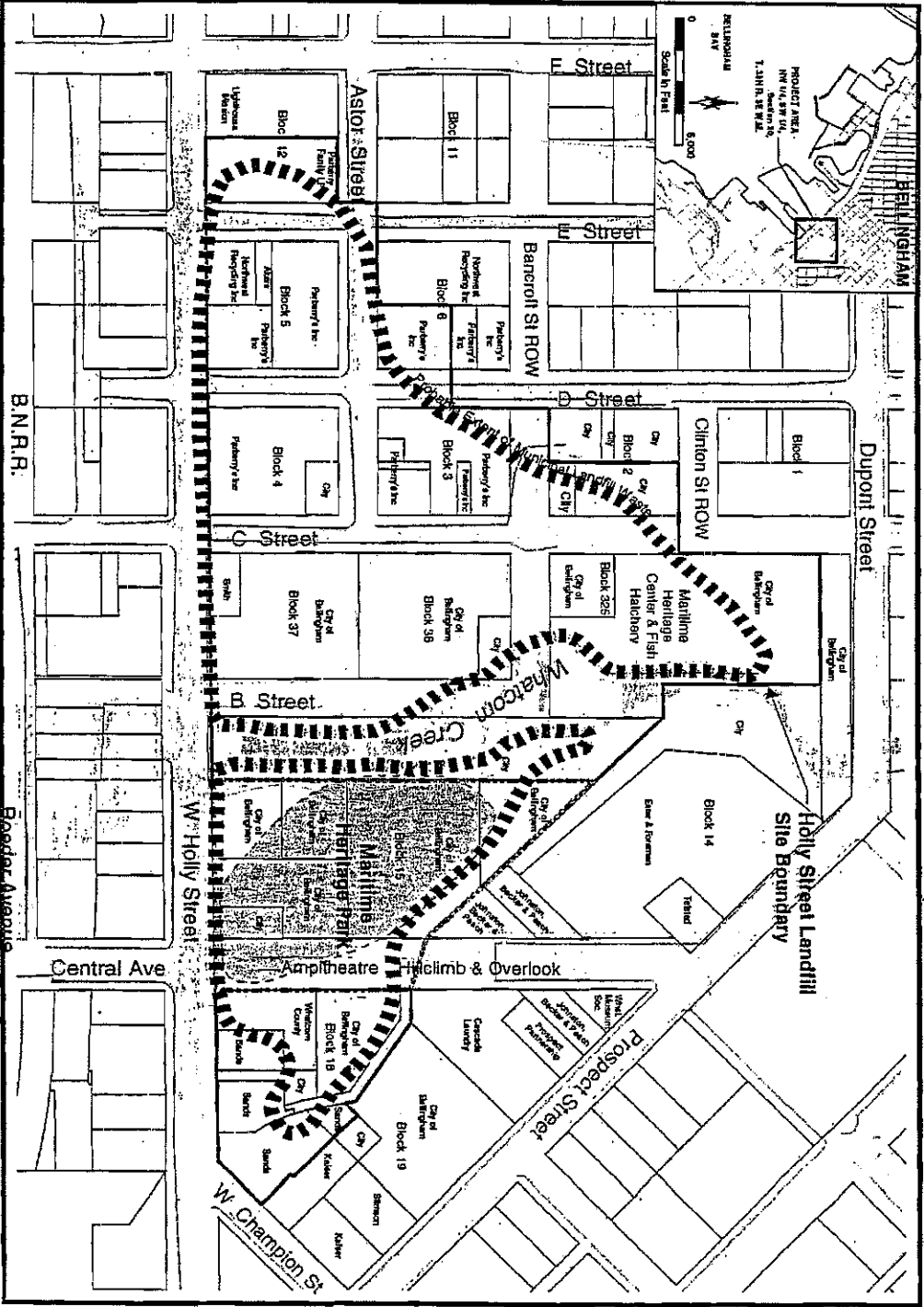
Supplemental Map of Whatcom Lots 1-2 Blk 4

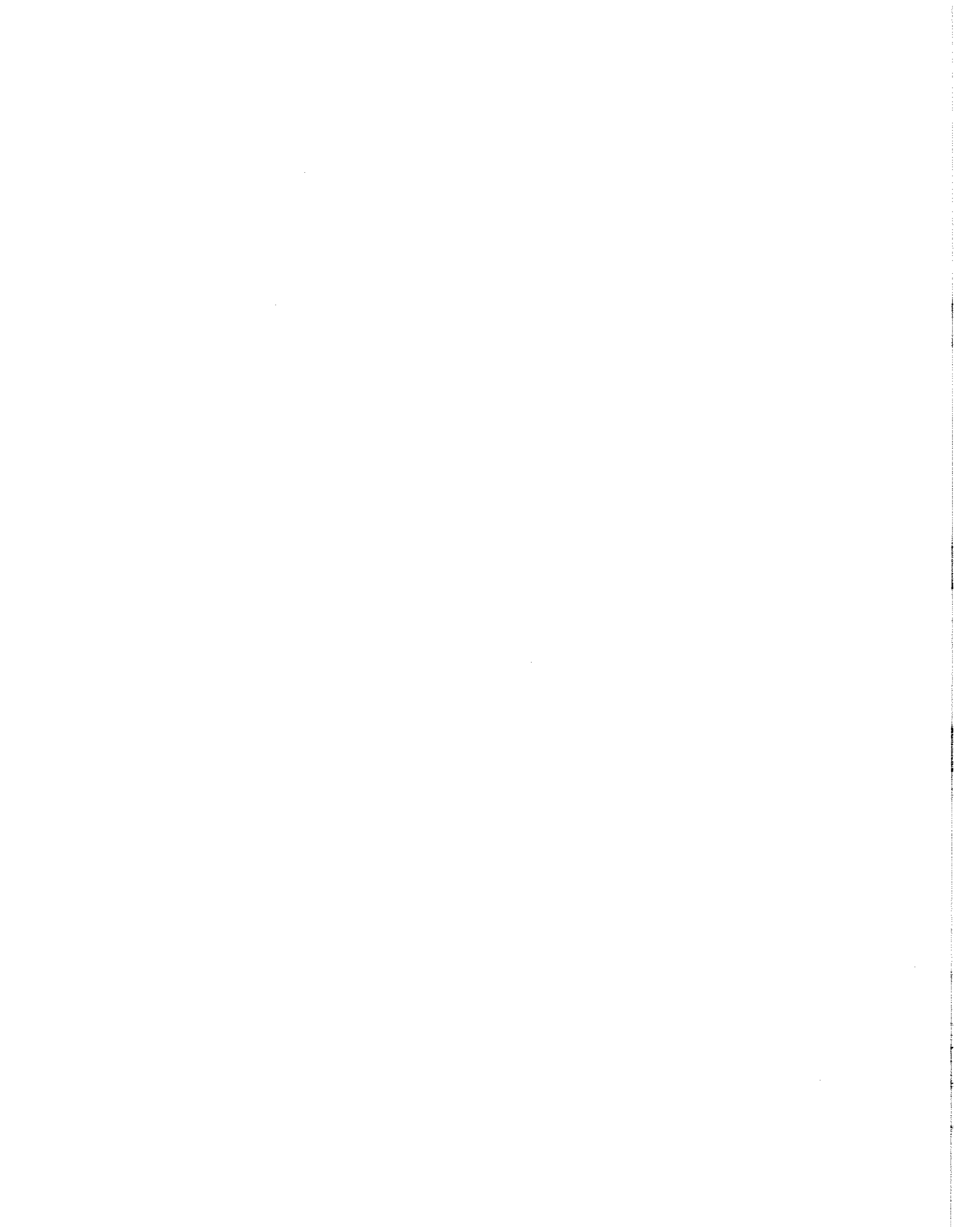
ANCHOR



Approximate Extent of Sed Gas Mathews Above Lower Explosive Limit (EL)
Note: Basemap prepared from GIS data provided by City of Baltimore.

Attachment "B"
Project Area
Holly Street Landfill







2040904902

Page: 1 of 7
9/29/2004 9:40 AM
D/RC \$25.00
Whatcom County, WA

Request of: BELLINGHAM CITY OF

AFTER RECORDING RETURN DOCUMENT TO:

City of Bellingham -- Legal Department
210 Lottie Street
Bellingham, WA 98225

DOCUMENT TITLE: Restrictive Covenant

REFERENCE NUMBER OF RELATED DOCUMENT:

GRANTOR: City of Bellingham

GRANTEE(S): State of Washington Department of Ecology

ABBREVIATED LEGAL DESCRIPTION: Supplemental map of Whatcom Lots 11 thru
16 Blk 37

ASSESSOR'S TAX/PARCEL NUMBER(S): 3803300443110000

RESTRICTIVE COVENANT

HOLLY STREET LANDFILL
500 – 600 West Holly Street
Bellingham, WA 98225

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Restrictive Covenant - 1
AK/Restrictive Covenant 2

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903

RECEIVED

NOV 19 2004

DEPT OF ECOLOGY

RECEIVED

NOV 19 2004

DEPT OF ECOLOGY

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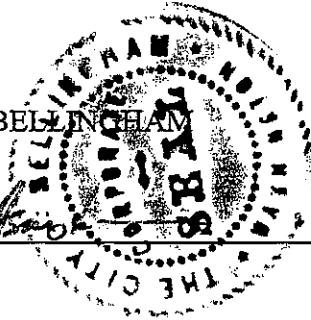
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DATED this 16th day of Sept, 2004.

CITY OF BELLINGHAM

Mark Asmundson

Mayor



STATE OF WASHINGTON)
COUNTY OF WHATCOM) ss.

I CERTIFY that I know or have satisfactory evidence that **MARK ASMUNDSON** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Mayor of the **CITY OF BELLINGHAM** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

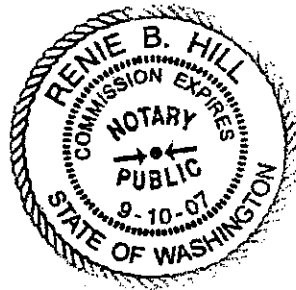
SEP 16 2004
Dated

Renie B Hill
Signature

RENIE B HILL
Name Printed

Title: Notary Public

My commission expires: 10 Sept 2007

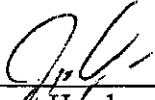


Attest:
Theresa Holm
Finance Director

Restrictive Covenant -

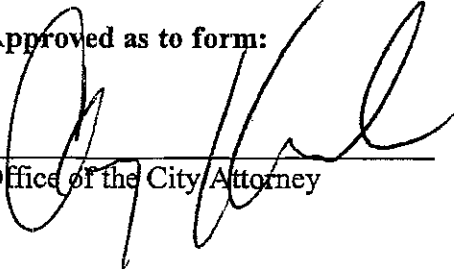
City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903

Departmental Approval:



Department Head

Approved as to form:



Office of the City Attorney

Restrictive Covenant -

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903

ATTACHMENT A

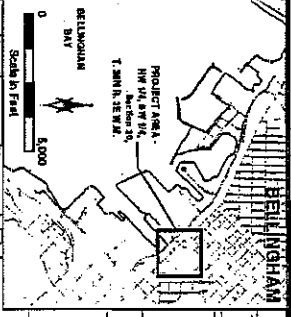
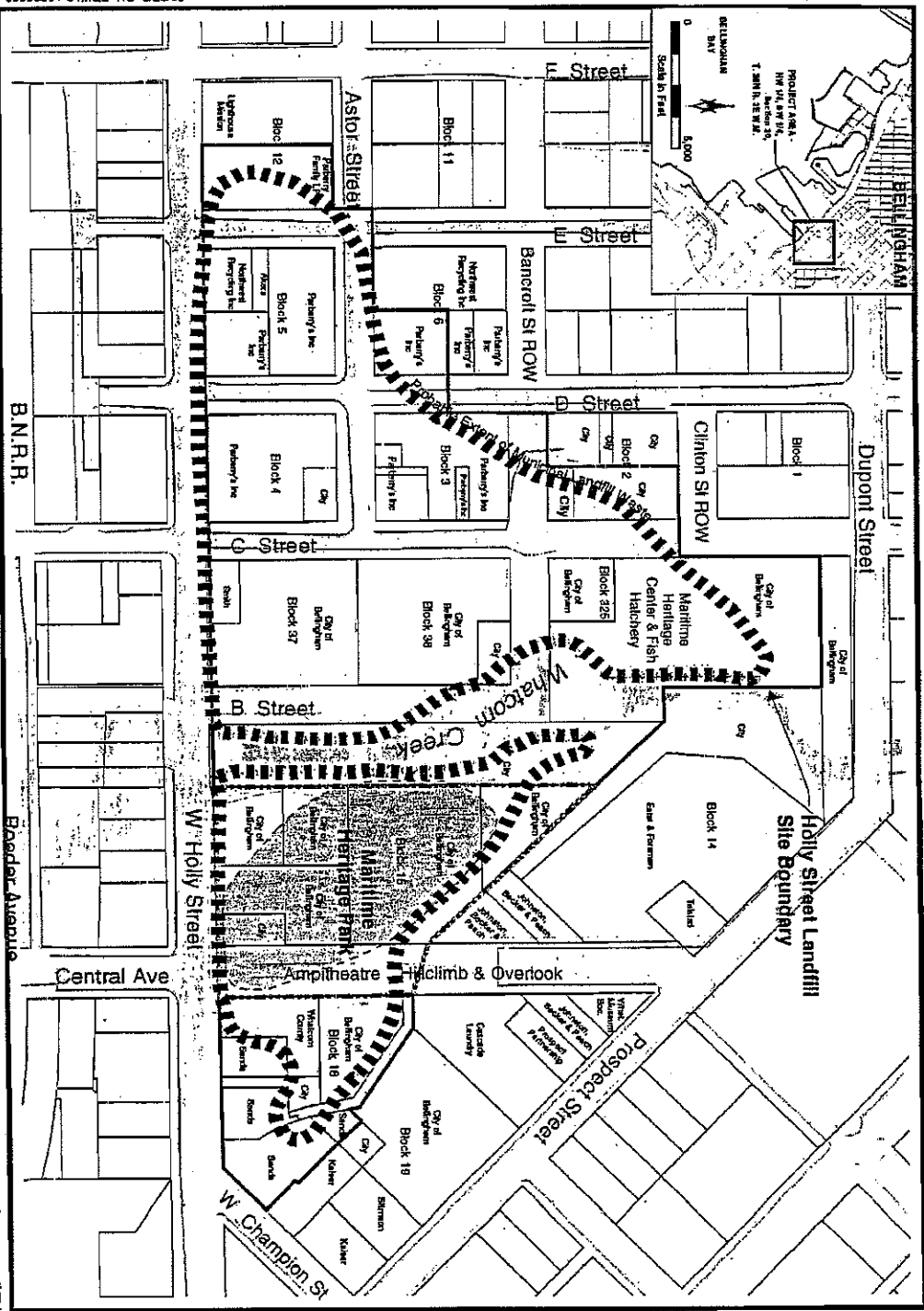
LEGAL DESCRIPTION

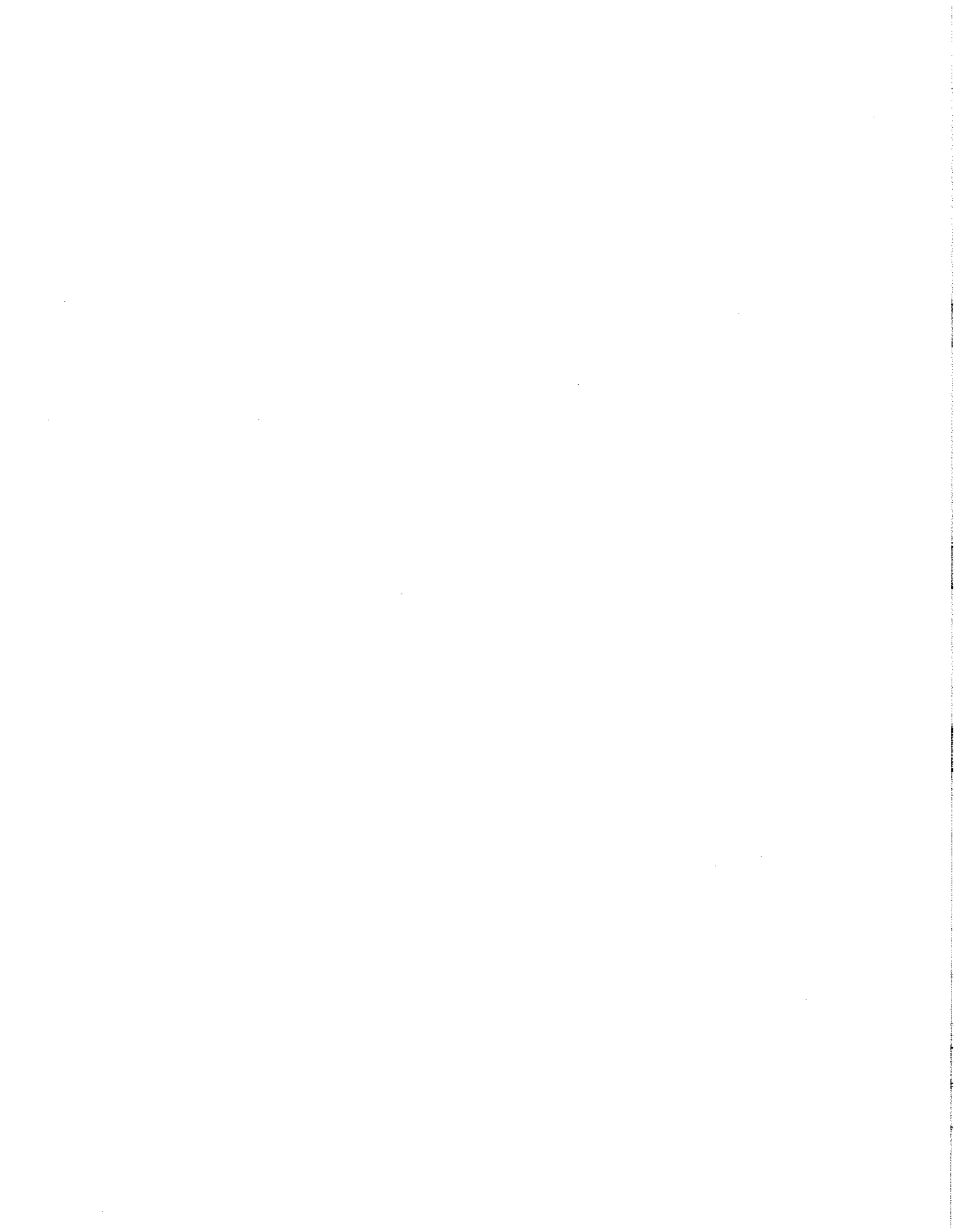
Supplemental Map of Whatcom Lots 11 Thru 16 Blk 37-That Portion of Blk 37 Not
Subdivided-Being Sely $\frac{1}{2}$ of Blk 37-Subj to Esmt to City of Bellingham for Slope Fill
Desc AF 735973 Over SE



Approximate Extent of Soil Gas Hearings Above Lower Esplanade Limit (d.s.)
Note: Basemap prepared from GIS data provided by City of Beelingham.

Attachment "B"
Project Area
Holly Street Landfill







2040904903
 Page: 1 of 7
 9/29/2004 9:46 AM
 D/RC \$25.00
 Whatcom County, WA

Request of: BELLINGHAM CITY OF

AFTER RECORDING RETURN DOCUMENT TO:

City of Bellingham – Legal Department
 210 Lottie Street
 Bellingham, WA 98225

DOCUMENT TITLE: Restrictive Covenant

REFERENCE NUMBER OF RELATED DOCUMENT:

GRANTOR: City of Bellingham

GRANTEE(S): State of Washington Department of Ecology

ABBREVIATED LEGAL DESCRIPTION: Supplemental Map of Whatcom Lots 9-10
 Blk 2

ASSESSOR'S TAX/PARCEL NUMBER(S): 3803300553540000

RESTRICTIVE COVENANT

HOLLY STREET LANDFILL
 500 -- 600 West Holly Street
 Bellingham, WA 98225

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 AK/Restrictive Covenant 3

City of Bellingham
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 Telephone (360) 676-6903

RECEIVED

NOV 19 2004

DEPT OF ECOLOGY

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CITY OF BELLINGHAM

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Mayor

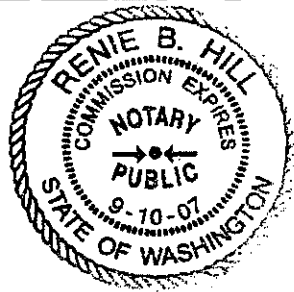


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SEP 16 2004

Dated



Renie B Hill

Signature

RENIE B HILL

Name Printed

Title: Notary Public

My commission expires: 10 Sept 2007

Attest:

Therese Hill
Finance Director

Restrictive Covenant --

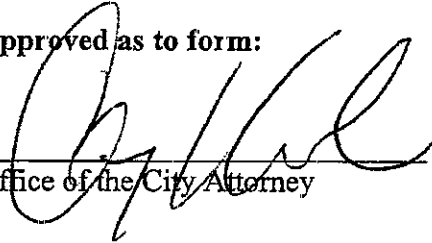
City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903

Departmental Approval:



Department Head

Approved as to form:



Office of the City Attorney

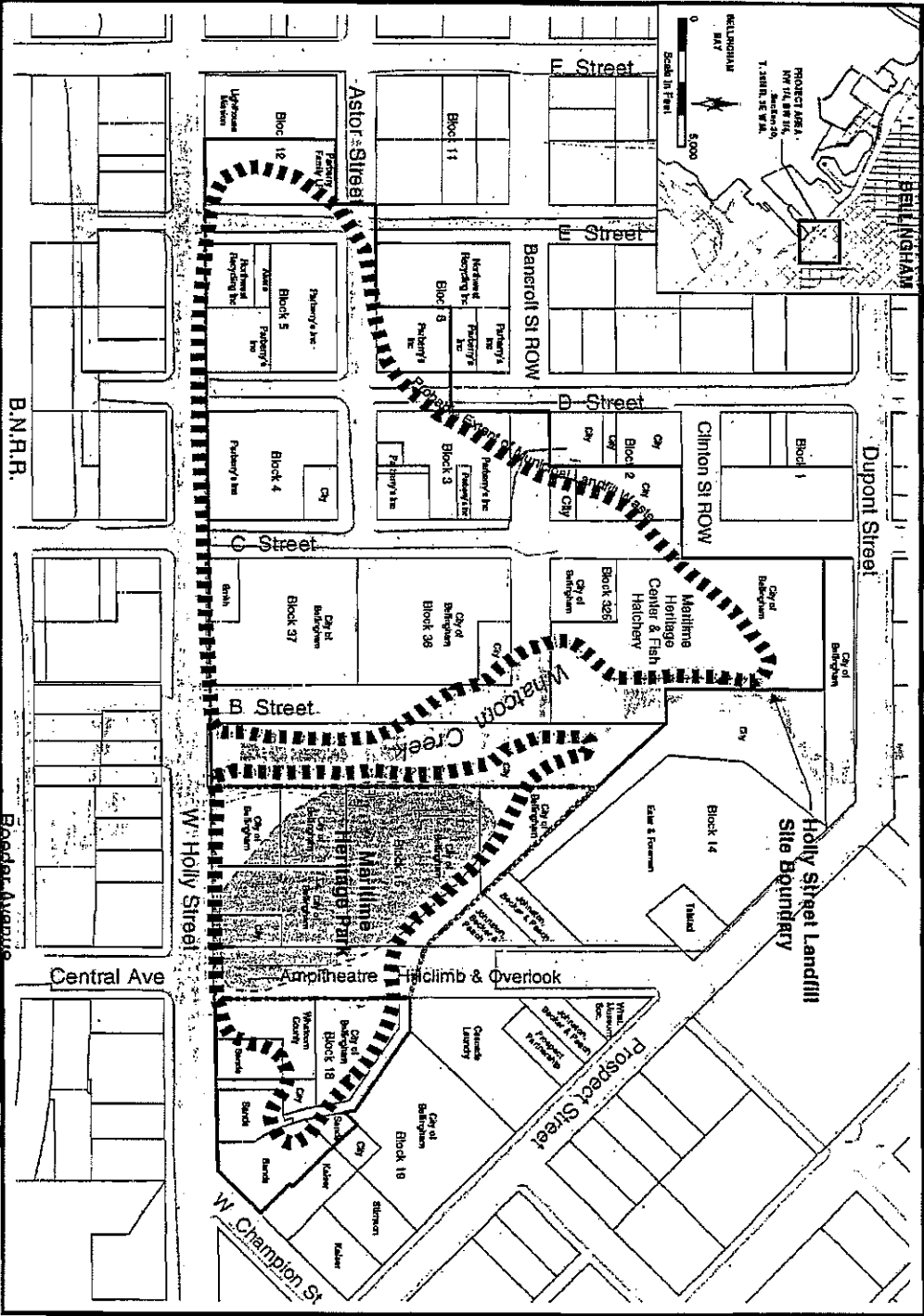
Restrictive Covenant -

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ATTACHMENT A

LEGAL DESCRIPTION

Supplemental Map of Whatcom Lots 9-10 Blk 2-Tog Wi Vac 12 Ft Division St ABTG
As Vac City Ord Vol 65 Pg 14



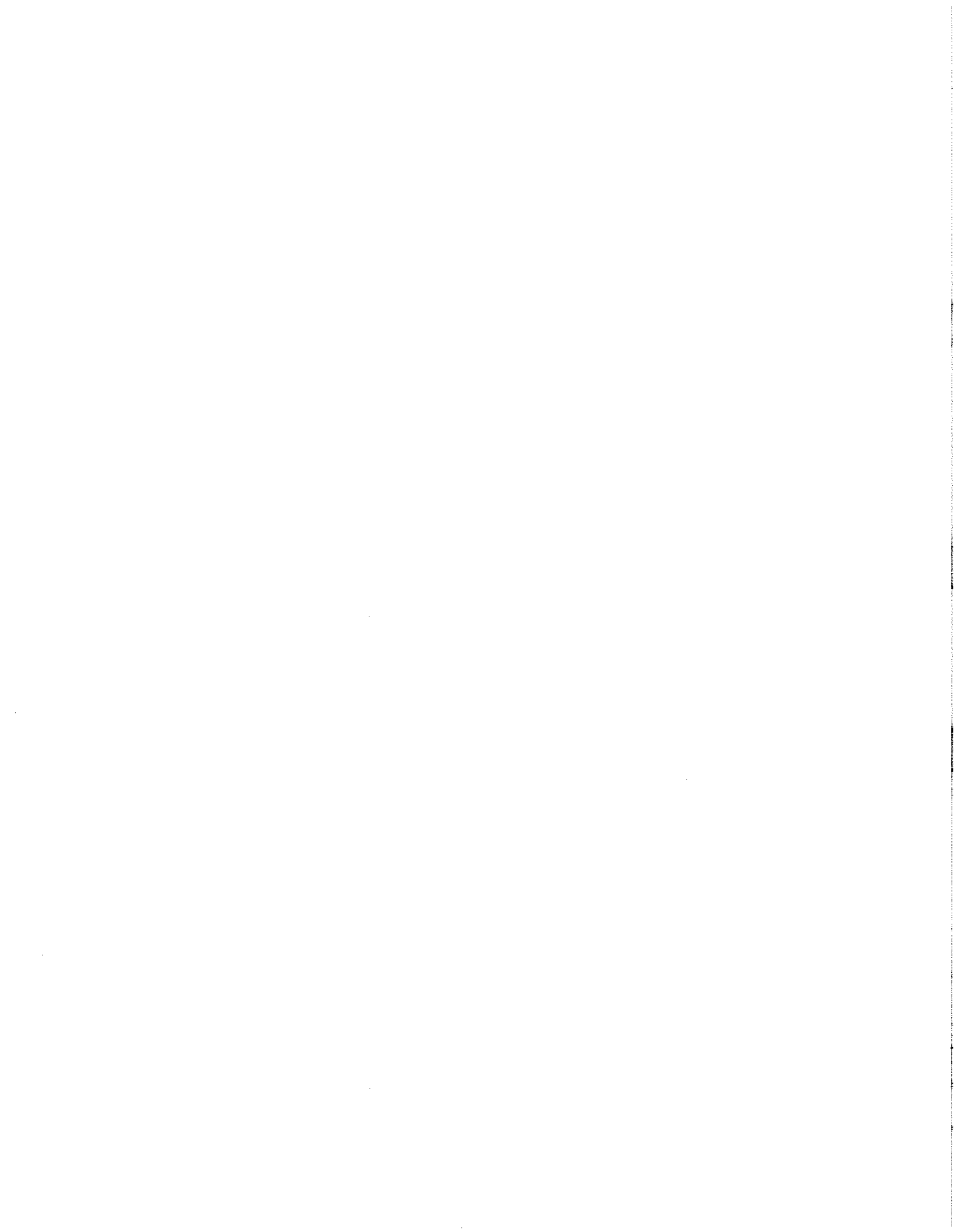
ANCHOR
 Environmental Solutions, LLC

0 100 200 400
 Scale in Feet

Approximate Extent of Seal Gas Mathews Above Lower Explosive Limit (AEL)

Note: Basemap prepared from GIS data provided by City of Beilingham.

Attachment "B"
Project Area
Holly Street Landfill





2040904900

Page: 1 of 7

9/29/2004 9:40 AM

D/RC \$25.00

Whatcom County, WA

Request of: BELLINGHAM CITY OF

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Bellingham, WA 98225

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REFERENCE NUMBER OF RELATED DOCUMENT:

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GRANTEE(S): State of Washington Department of Ecology

ABBREVIATED LEGAL DESCRIPTION: SUPPLEMENTAL MAP OF WHATCOM
METES-BOUND'S TRACTS A THRU G
RESERVE

ASSESSOR'S TAX/PARCEL NUMBER(S): 3803300883580000

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Restrictive Covenant - 1
AK/Restrictive Covenant 8

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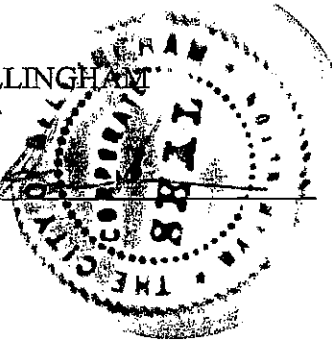
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Mark Asmundson
Mayor



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COUNTY OF WHATCOM) ss

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SEP 16 2004

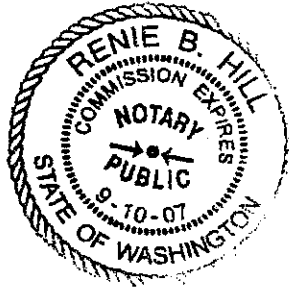
Dated

Renie B Hill
Signature

RENIE B. HILL
Name Printed

Title: Notary Public

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Attest:

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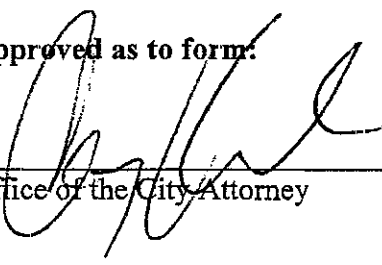
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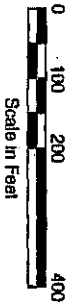
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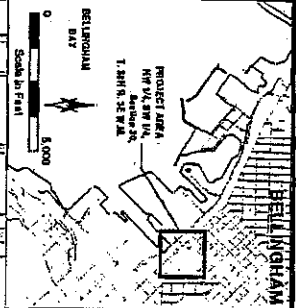
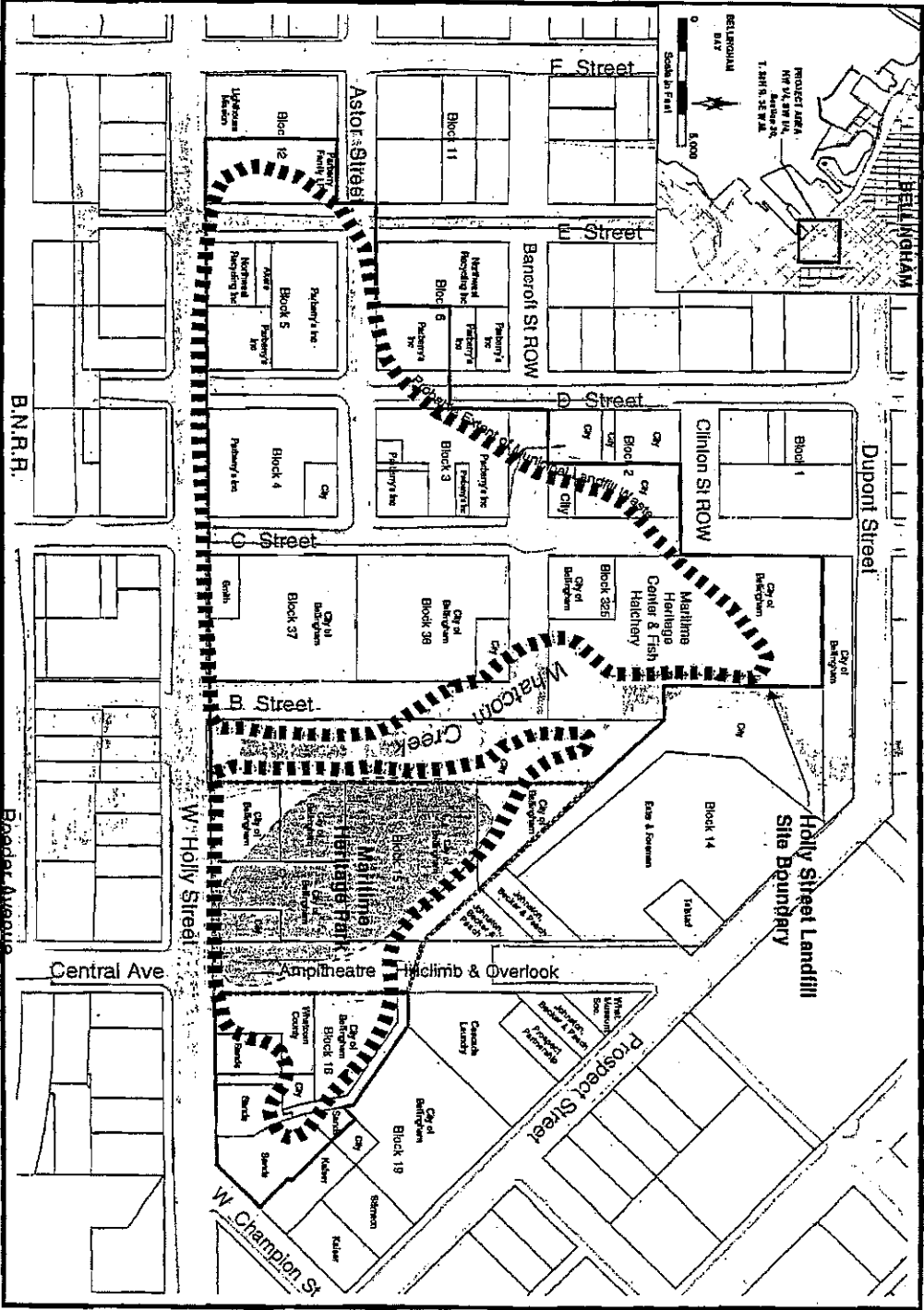
LEGAL DESCRIPTION

SUPPLEMENTAL MAP OF WHATCOM METES-BOUND'S TRACTS A THRU G
RESERVE-BEING WHATCOM MILL PARCELS OF LAND REC IN VOL 9-D-138-
EXC PTN DAF-BEG AT CITY SURVEY MON AT INTERS OF C/L OF DUPONT
STREET



Approximate Extent of Solid Gas Migration Above Lower Explosive Limit (LEL)
Note: Gasmap prepared from GIS data provided by City of Bellingham.

Attachment "B"
Project Area
Holly Street Landfill







2040904905

Page: 1 of 7
9/29/2004 9:40 AM
D/RC \$25.00
Whatcom County, WA

Request of: BELLINGHAM CITY OF

AFTER RECORDING RETURN DOCUMENT TO:

City of Bellingham -- Legal Department
210 Lottie Street
Bellingham, WA 98225

DOCUMENT TITLE: Restrictive Covenant

REFERENCE NUMBER OF RELATED DOCUMENT:

GRANTOR: City of Bellingham

GRANTEE(S): State of Washington Department of Ecology

ABBREVIATED LEGAL DESCRIPTION: Supplemental Map of Whatcom Lots 1 thru 5
Blk 325

ASSESSOR'S TAX/PARCEL NUMBER(S): 3803300683450000

RESTRICTIVE COVENANT

HOLLY STREET LANDFILL

**500 - 600 West Holly Street
Bellingham, WA 98225**

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173.340-440 by the City of Bellingham and its successors and assigns ("the City"), in favor of the State of Washington Department of Ecology and its successors and assigns ("Ecology").

The property that is the subject of this Restrictive Covenant is the subject of remedial action under the Washington State Model Toxics Control Act ("MTCA"), Chapter 70.105D RCW, ("Remedial Action") pursuant to a Consent Decree in the matter State of Washington, Department of Ecology v. City of Bellingham, et al., Cause No. 03-2-02164-1, which was entered by the Whatcom County Superior Court on September 23, 2003 ("Consent Decree"). The property is part of the larger Holly Street Landfill Site (the Site). The Site is defined in

Restrictive Covenant - 1
AK/Restrictive Covenant 5

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903

RECEIVED

NOV 19 2004

DEPT OF ECOLOGY

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The City makes 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").

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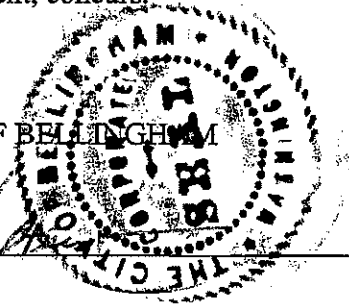
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DATED this 16th day of Sept, 2004.

CITY OF BELLINGHAM


Mayor

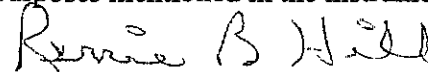


STATE OF WASHINGTON)
COUNTY OF WHATCOM) ss.

I CERTIFY that I know or have satisfactory evidence that **MARK ASMUNDSON** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the **Mayor** of the **CITY OF BELLINGHAM** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

SEP 16 2004

Dated



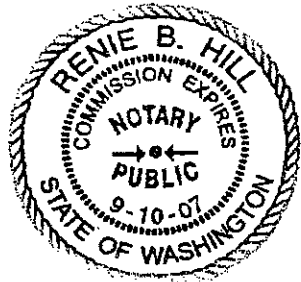
Signature

RENIE B. HILL

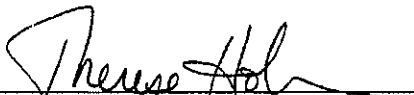
Name Printed

Title: Notary Public

My commission expires: 10 Sept 2007



Attest:


Finance Director

Restrictive Covenant --

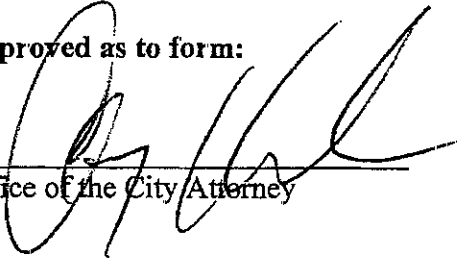
City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903

Departmental Approval:



Department Head

Approved as to form:



Office of the City Attorney

Restrictive Covenant --

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903

ATTACHMENT A
LEGAL DESCRIPTION

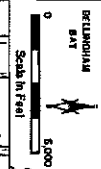
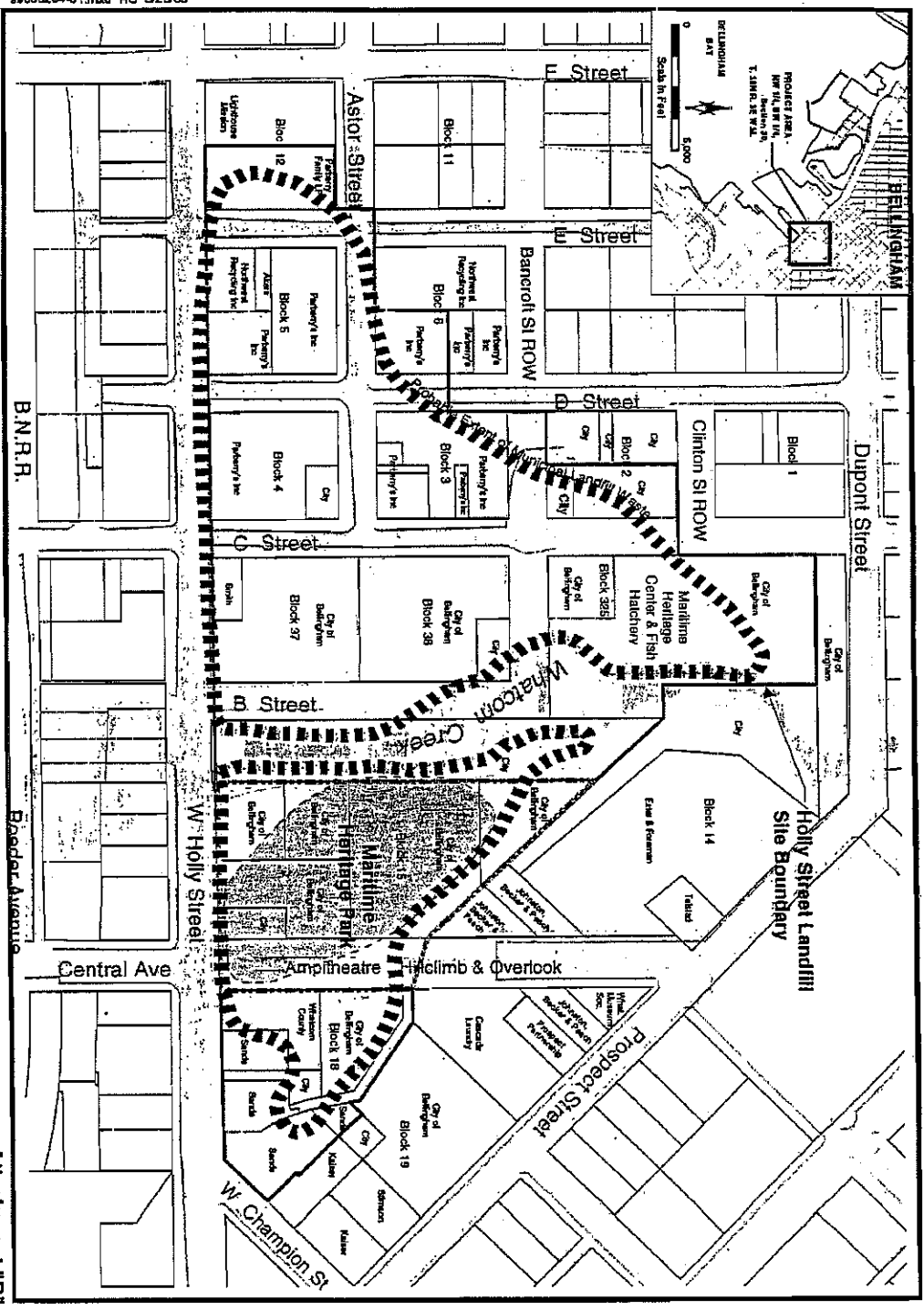
Supplemental Map of Whatcom Lots 1 Thru 5 Blk 325



Note: Basemap prepared from GIS data provided by City of Beilngham.

Approximate Extent of Soil Gas Methane Above Lower Explosive Limit (LEL)

Attachment "B"
Project Area
Holly Street Landfill



Scale in Feet
0 5000
Beilngham
Map

PROJECT AREA
HW 0.45% TO 1.1%
T. 1.1% TO 1.5%
T. 1.5% TO 2.0%

Beilngham

Dupont Street

Holly Street Landfill Site Boundary

Prospect Street

Block 14

Clinton St ROW

Block 1

Block 2

Block 3

Block 4

Block 5

Block 6

Block 7

Block 8

Block 9

Block 10

Block 11

Block 12

Block 13

Central Ave

Amphitheatre

W. Holly Street

W. Champion St

Block 18

Block 19

Block 20

Block 21

Block 22

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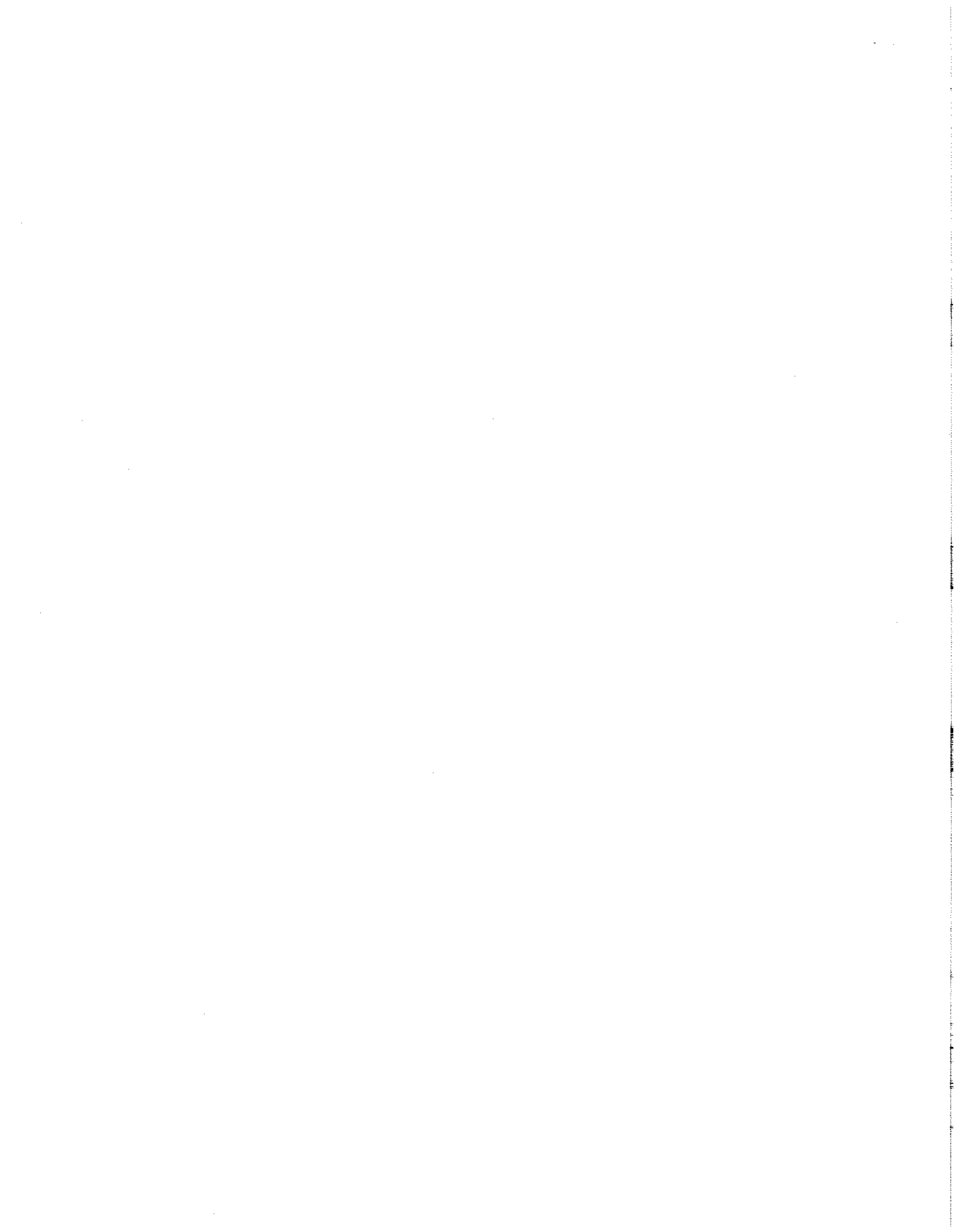
Block 282

Block 283

Block 284

Block 285

Block 286



AFTER RECORDING RETURN DOCUMENT TO:

City of Bellingham – Legal Department
210 Lottie Street
Bellingham, WA 98225



2040904906
Page: 1 of 7
9/29/2004 9:40 AM
D/RC \$25.00
Whatcom County, WA

Request of: BELLINGHAM CITY OF

DOCUMENT TITLE: Restrictive Covenant

REFERENCE NUMBER OF RELATED DOCUMENT:

GRANTOR: City of Bellingham

GRANTEE(S): State of Washington Department of Ecology

ABBREVIATED LEGAL DESCRIPTION: Supplemental Map of Whatcom Lots 1 -2
Blk 36

ASSESSOR'S TAX/PARCEL NUMBER(S): 3803300663290000

RESTRICTIVE COVENANT

HOLLY STREET LANDFILL
500 – 600 West Holly Street
Bellingham, WA 98225

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Restrictive Covenant - 1
AK/Restrictive Covenant 6

RECEIVED

SEP 29 2004

DEPT OF ECOLOGY

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903

Exhibit B to the Consent Decree. The Remedial Action to be conducted pursuant to the Consent Decree at the property is described in the *Holly Street Landfill Final Cleanup Action Plan*, dated April, 2003, ("Cleanup Action Plan"), which is Exhibit A to the Consent Decree and is located at Ecology's Northwest Regional Office (NWRO) in Bellevue, Washington.

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DATED this 16~~th~~ day of Sept, 2004.

CITY OF BELLINGHAM


Mayor

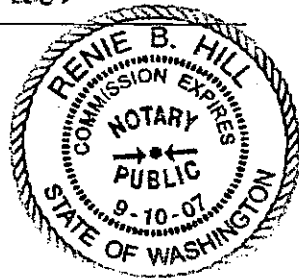


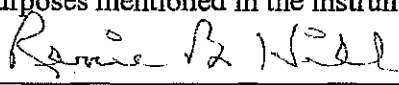
STATE OF WASHINGTON)
COUNTY OF WHATCOM) ss.

I CERTIFY that I know or have satisfactory evidence that **MARK ASMUNDSON** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the **Mayor** of the **CITY OF BELLINGHAM** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

SEP 16 2004

Dated



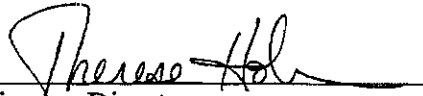

Signature

RENIE B. HILL
Name Printed

Title: Notary Public

My commission expires: 10 Sept 2007

Attest:


Finance Director

Restrictive Covenant -

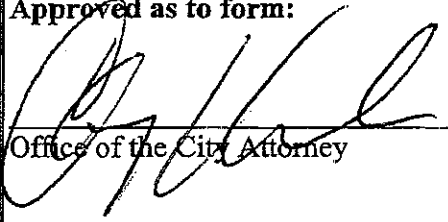
City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903

Departmental Approval:



Department Head

Approved as to form:



Office of the City Attorney

Restrictive Covenant -

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903

ATTACHMENT A
LEGAL DESCRIPTION

Supplemental Map of Whatcom Lots 1-2 Blk 36



2040904904

Page: 1 of 7
9/29/2004 9:40 AM
D/RC \$25.00
Whatcom County, WA

Request of: BELLINGHAM CITY OF

AFTER RECORDING RETURN DOCUMENT TO:

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210 Lottie Street
Bellingham, WA 98225

DOCUMENT TITLE: Restrictive Covenant

REFERENCE NUMBER OF RELATED DOCUMENT:

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GRANTEE(S): State of Washington Department of Ecology

ABBREVIATED LEGAL DESCRIPTION: Supplemental Map of Whatcom Lots 1 thru 8
Blk 2

ASSESSOR'S TAX/PARCEL NUMBER(S): 3803300633610000

RESTRICTIVE COVENANT

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Bellingham, WA 98225**

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Restrictive Covenant - 1
AK/Restrictive Covenant 4

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903

RECEIVED

NOV 19 2004

DEPT OF ECOLOGY

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Section 2. Pursuant to the Cleanup Action Plan, Owner must maintain the integrity of the Remedial Action. Specifically, Owner must maintain two feet of soil cap or equivalent structural cover (e.g., building or two-inch paving layer overlying ballast) over the Property. 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. These activities include those that may result in the release or exposure to the environment of the municipal type waste or contaminated soil, soil-gas and shoreline seepage that was contained as part of the Remedial Action, or that create an exposure pathway, unless such activities are authorized by the Cleanup Action Plan or this Restrictive Covenant. Where utility or other work at the Property requires excavation, Owner must comply with state and City standards, and must provide one foot of overexcavation or use geofabric lining to provide a clean perimeter around the excavation. All refuse materials excavated from the Property must be disposed off-site at a permitted solid waste disposal facility or contained on-site below an engineered cap meeting the specifications outlined in the Cleanup Action Plan or subsequent Remedial Design (RD) documents (i.e., two feet of soil cap or equivalent structural cover). Personnel performing excavation at the Property should be familiar with the applicable health and safety training requirements, and should take the necessary precautions to minimize direct contact with municipal type waste and contaminated soils that are above state standards and are contained at the Site as part of the Remedial Action. Excavations conducted in accordance with the above conditions shall not constitute activities that interfere with the Remedial Action or continued protection of human health and the environment.

Section 3. Any activity on the Property that may interfere with the integrity of the Remedial Action, operation and maintenance, or monitoring and continued protection of human health and the environment is prohibited without prior written approval from Ecology, which approval shall not be unreasonably withheld. Details about the compliance monitoring requirements to ensure continued protection of human health and the environment are contained in EXHIBIT E of the Consent Decree.

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 title or easement 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.

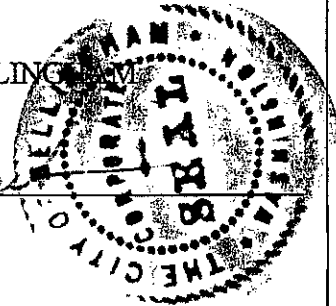
Section 7. The Owner shall allow authorized representatives of Ecology the right to enter the Property at reasonable times for the purpose of evaluating the Remedial Action; to take samples, to inspect remedial actions conducted at the property, and to inspect records that are related to the Remedial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

Section 8. The Owner 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 to comment, concurs.

DATED this 15th day of Sept, 2004.

CITY OF BELLINGHAM

Mark Asmundson
Mayor

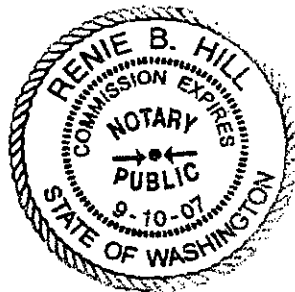


STATE OF WASHINGTON)
COUNTY OF WHATCOM) ss.

I CERTIFY that I know or have satisfactory evidence that **MARK ASMUNDSON** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the **Mayor** of the **CITY OF BELLINGHAM** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

SEP 16 2004

Dated



Renie B Hill

Signature

RENIE B HILL

Name Printed

Title: Notary Public

My commission expires: 10 Sept 2007

Attest:

Therese Hol
Finance Director

Restrictive Covenant -

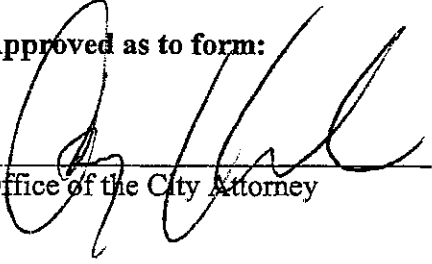
City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903

Departmental Approval:



Department Head

Approved as to form:

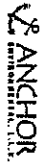


Office of the City Attorney

ATTACHMENT A

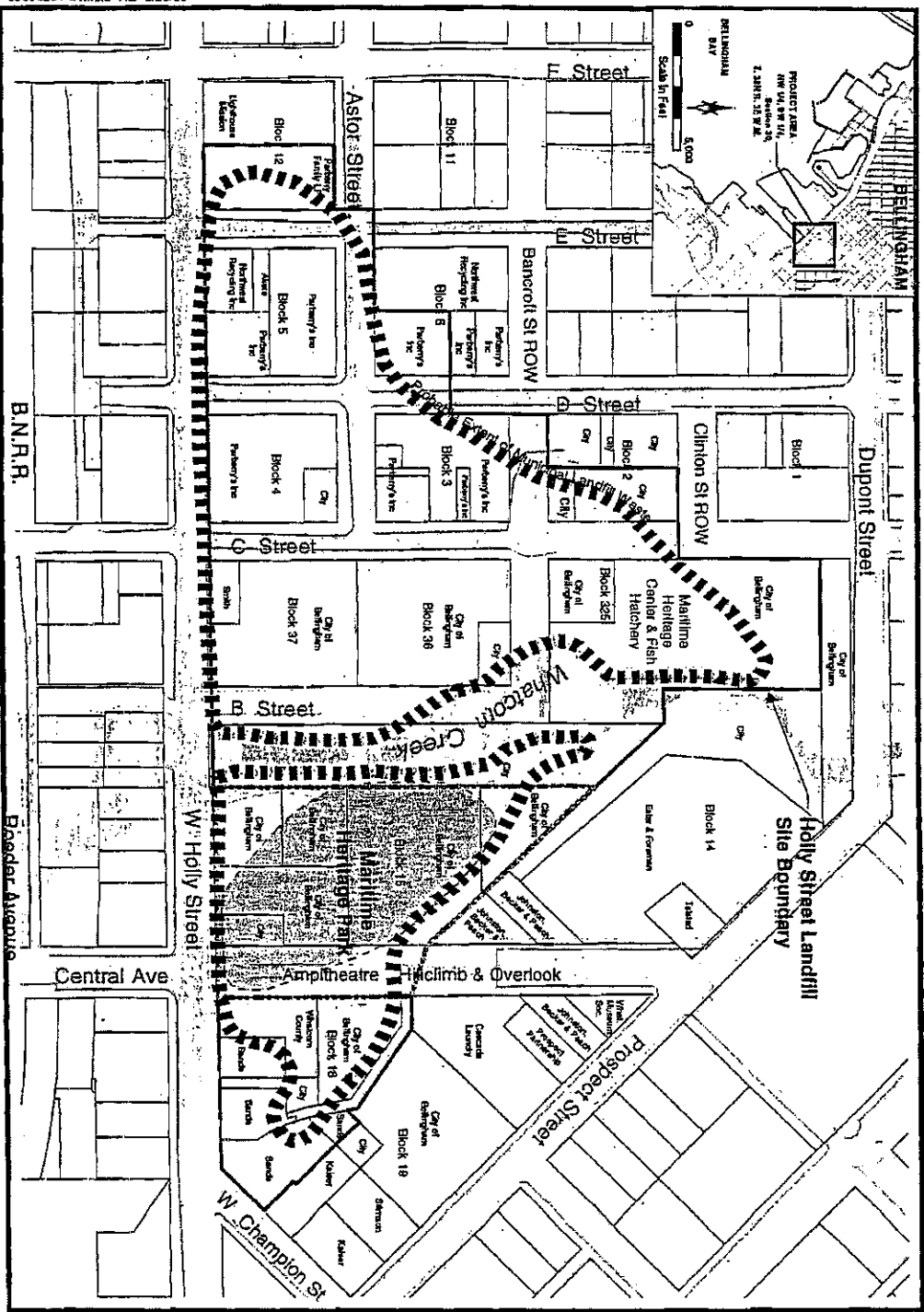
LEGAL DESCRIPTION

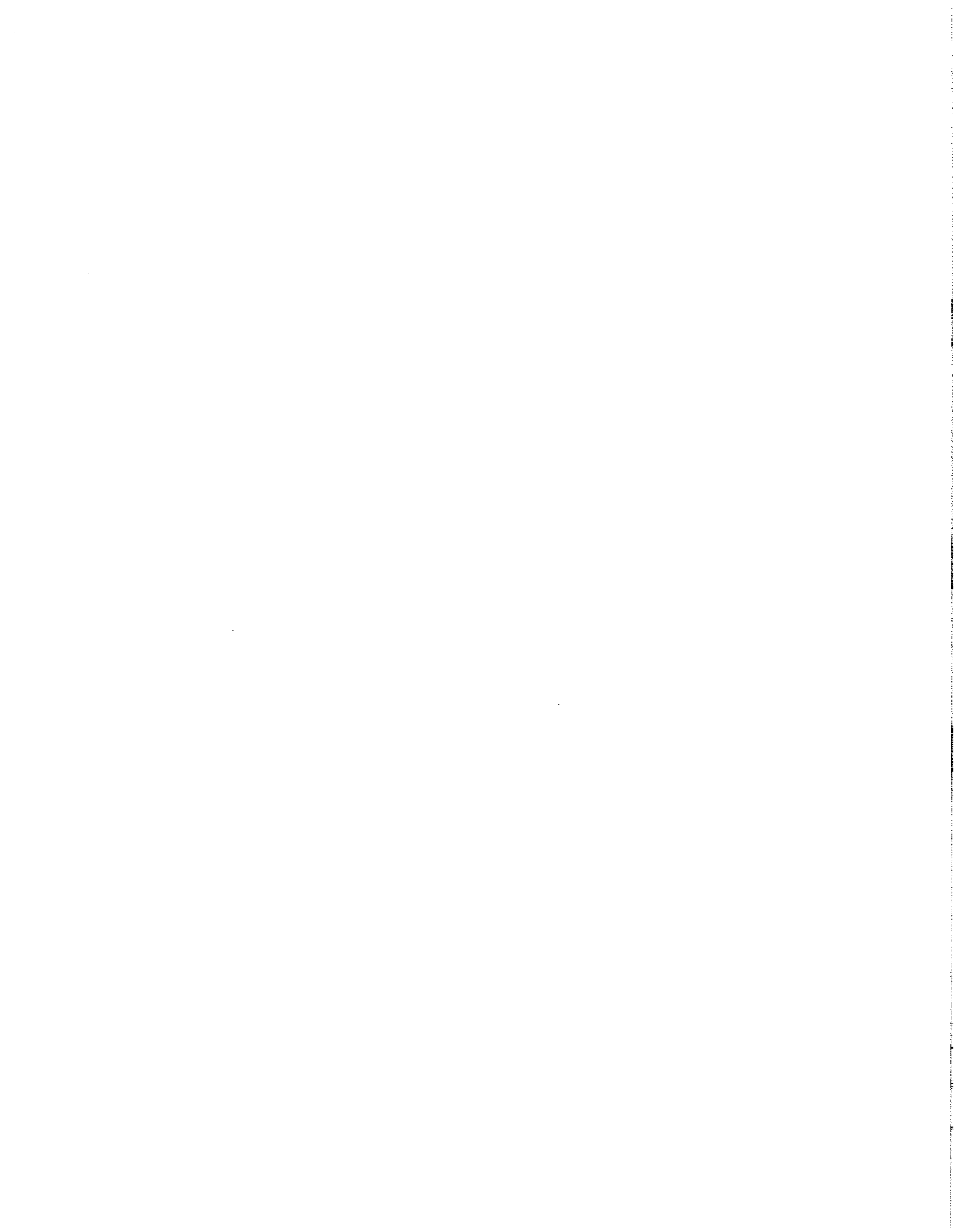
Supplemental Map of Whatcom Lots 1 Thru 8 Blk 2-Tog Wi Vac 12 Ft Division St
ABTG As Vac City Ord Vol 65 Pg 14



Approximate Extent of Soft Gas Methane Above Lower Explosive Limit (LEL)
Note: Basemap prepared from GIS data provided by City of Beilingham.

Attachment "B"
Project Area
Holly Street Landfill





RECEIVED

SEP 29 2004

COMMUNITY DEVELOPMENT
DIVISION



2040904485

Page: 1 of 8
9/27/2004 2:54 PM
D/RC \$26.00
Whatcom County, WA

Request of: LANGABEER TULL & LEE PS

Upon recording, please return to:

Langabeer, Tull & Lee, P.S
P.O. Box 1678
Bellingham, Washington 98227

DOCUMENT TITLE:	RESTRICTIVE COVENANT
GRANTOR:	SANDS ENTERPRISES, LLC
GRANTEES:	STATE OF WASHINGTON DEPARTMENT OF ECOLOGY
ABBREVIATED LEGAL DESCRIPTION:	CENTRAL WHATCOM LOT 1 BLK 18 [see complete legal description on Attachment A attached hereto]
ASSESSOR'S TAX PARCEL NUMBERS:	380330 084222 0000, 380330 089216 0000, 380330 098215 0000, and 380330 100223 0000
REFERENCE NUMBERS OF RELATED DOCUMENTS:	N/A

Holly Street

RECEIVED

1 2004

DEPT OF ECOLOGY

RECEIVED

SEP 29 2003

COMMUNITY DEVELOPMENT
DIVISION

RESTRICTIVE COVENANT

HOLLY STREET LANDFILL

500 600 West Holly Street

Bellingham, WA 98225

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D 030(1)(f) and (g) and WAC 173-349-449 by Sands Enterprises, LLC and its successors and assigns ("Sands"), in favor of the State of Washington Department of Ecology and its successors and assigns ("Ecology")

The property that is the subject of this Restrictive Covenant is the subject of remedial action under the Washington State Model Toxics Control Act ("MTCA"), Chapter 70.105D RCW, ("Remedial Action") pursuant to a Consent Decree in the matter State of Washington Department of Ecology v. City of Bellingham, et al., Cause No. 03-2-02164-1 which was entered by the Whatcom County Superior Court on September 25, 2003 ("Consent Decree"). The property is part of the larger Holly Street Landfill Site ("the Site") The Site is defined in Exhibit B to the Consent Decree. The Remedial Action to be conducted pursuant to the Consent Decree at the property is described in the *Holly Street Landfill Final Cleanup Action Plan*, dated April, 2003, ("Cleanup Action Plan"), which is Exhibit A to the Consent Decree and is located at Ecology's Northwest Regional Office (NWRO) in Bellevue, Washington

This Restrictive Covenant is required because the Remedial Action will result in the containment of municipal type waste with residual concentrations of hazardous substances at the Site which exceed the MTCA unrestricted land use (e.g., residential) cleanup level for soil established under WAC 173-340-740. Further, certain geochemical oxidation processes acting

within the immediate shoreline zones result in exceedances of surface water cleanup standards established under WAC 173-340-730 at the points of groundwater discharge into surface water. The extent of contamination and the Remedial Action to be conducted at the site are contained in the following Reports:

1. *Remedial Investigation/Feasibility Study, Holly Street Landfill Development Project Final Report - City of Bellingham*, by Anchor Environmental, LLC, April, 2003
2. *Holly Street Landfill Final Cleanup Action Plan* (Exhibit A to the Consent Decree).

These documents are on file at Ecology's NWRO.

The undersigned, Sands Enterprises, LLC, is the fee owner of real property (hereafter "Property") in the City of Bellingham, State of Washington, which is subject to this Restrictive Covenant. The Property is part of the former Holly Street Landfill situated in the City of Bellingham, State of Washington, and is legally described in Attachment A, 'LEGAL DESCRIPTION' and identified in Attachment B, Site Diagram.

Sands Enterprises, LLC makes 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. Future use of the Property shall be limited to those uses defined in and allowed under the City of Bellingham zoning and Shoreline Management regulations codified in the City of Bellingham Municipal Code as of the date of this Restrictive Covenant and as they may be amended from time to time. No groundwater may be withdrawn from the property for any use that is inconsistent with the remedial action implementation. The Property shall not be

used for ground floor residential or day care center uses.

Section 2. Pursuant to the Cleanup Action Plan, Owner must maintain the integrity of the Remedial Action. Specifically, Owner must maintain two feet of soil cap or equivalent structural cover (e.g., building or two inch paving layer overlying ballast) over the Property. 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. These activities include those that may result in the release or exposure to the environment of the municipal type waste or contaminated soil, soil-gas and shoreline seepage that was contained as part of the Remedial Action, or that create an exposure pathway, unless such activities are authorized by the Cleanup Action Plan or this Restrictive Covenant. Where utility or other work at the Property requires excavation, Owner must comply with state and City standards, and must provide one foot of overexcavation or use geofabric lining to provide a clean perimeter around the excavation. All refuse materials excavated from the Property must be disposed off-site at a permitted solid waste disposal facility or contained on-site below an engineered cap meeting the specifications outlined in the Cleanup Action Plan or subsequent Remedial Design (RD) documents (i.e., two feet of soil cap or equivalent structural cover). Personnel performing excavation at the Property should be familiar with the applicable health and safety training requirements, and should take the necessary precautions to minimize direct contact with municipal type waste and contaminated soils that are above state standards and are contained at the Site as part of the Remedial Action. Excavations conducted in accordance with the above conditions shall not constitute activities that interfere with the Remedial Action or continued protection of human health and the environment.

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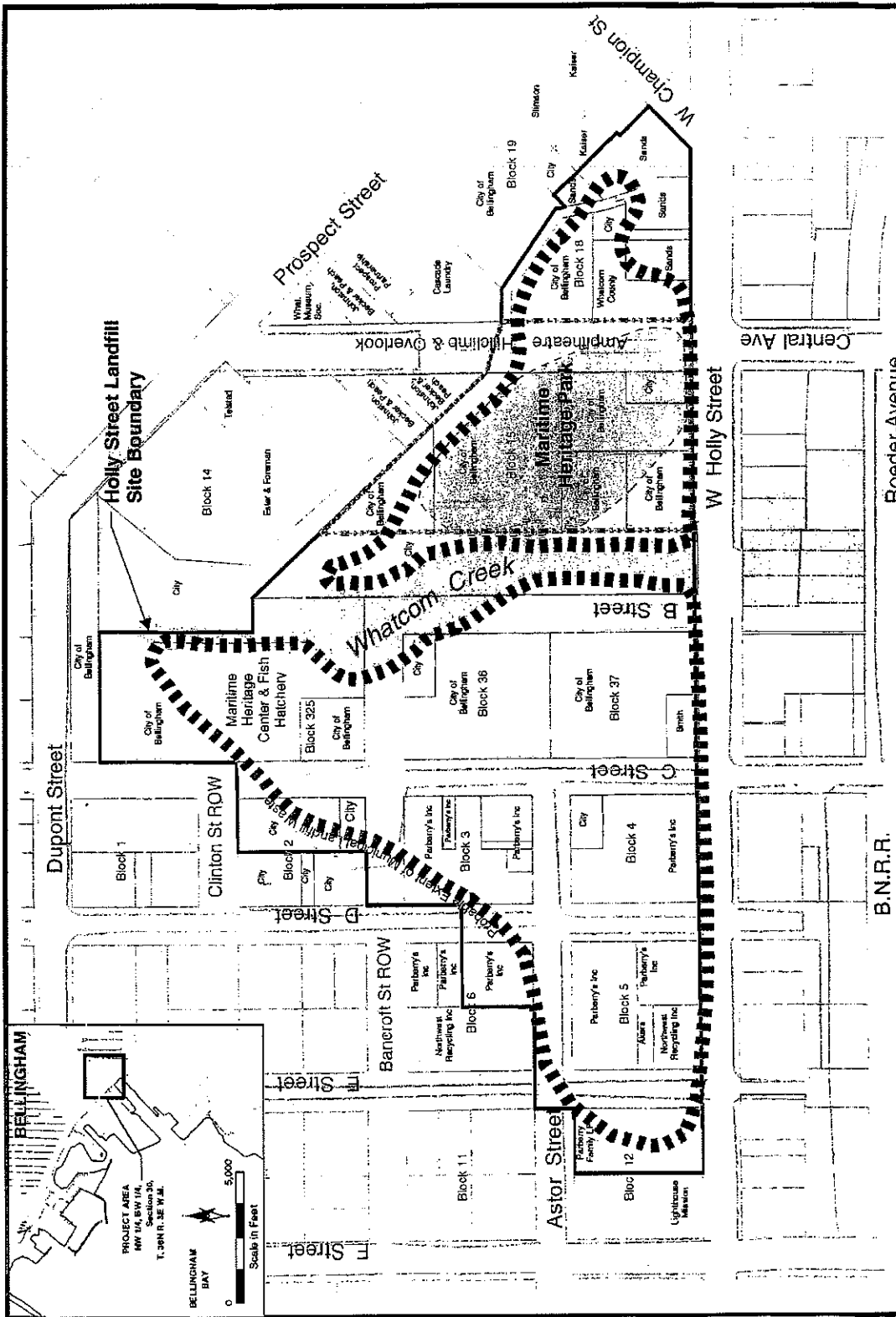
Section 4. The Owner of the Property must give thirty (30) day advance written notice to Ecology of the Owner's intent to convey any title or easement interest in the Property. No conveyance of title, easement, lease, or other interest in the Property shall be consummated by the Owner without adequate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

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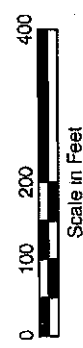
Section 8. The Owner reserves the right under WAC 173-340-440 to record an instrument that provides that this Restrictive Covenant shall no longer limit use of the Property or be of any further force or effect. However, such an instrument may be recorded only if Ecology, after public notice and opportunity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

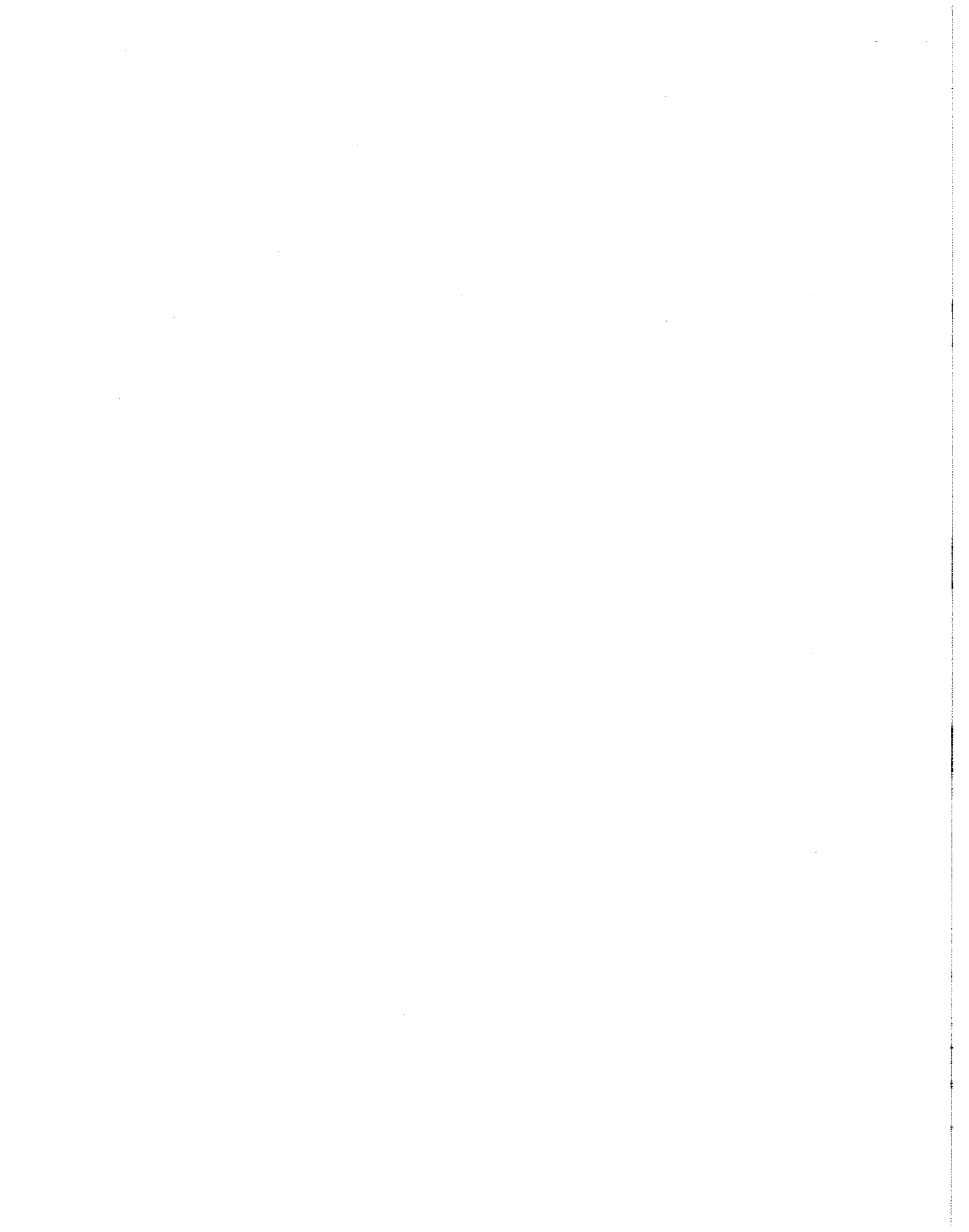


Attachment "B"
Project Area
Holly Street Landfill

Approximate Extent of Soil Gas Methane Above Lower Explosive Limit (LEL)

Note: Basemap prepared from GIS data provided by City of Bellingham.





**WHATCOM COUNTY
EXECUTIVE'S OFFICE**

County Courthouse
311 Grand Avenue, Suite #108
Bellingham, WA 98225-4082



Pete Kremen
County Executive

July 21, 2004

Lucille T. McInerney, P.E.
Site Manager
Washington State Department of Ecology
Northwest Regional Office
3190 169th Avenue, SE
Bellevue, WA 98008-5452

Re: Notice Of Intent To Transfer Property Under Consent Decree For Holly Street Landfill,
Whatcom County Superior Court Cause #03-2-02164-1

Dear Ms. McInerney:

Please accept this letter as Whatcom County's notice of intent to transfer ownership of its property within the Holly Street Landfill in Bellingham to the City of Bellingham. This notice is provided pursuant to Section XIV of the Consent Decree referenced above, as well as Section 4 of the Restrictive Covenant (copy attached) which has been recorded with the Whatcom County Auditor.

Practically speaking, this transfer should represent no problem for the Department of Ecology, any of the parties to the consent decree, or the public, inasmuch as the City of Bellingham, to which the property will be transferred, is already a major landowner of property within the site covered under the decree. Thus consolidation of ownership by the City of Bellingham's acquisition further simplifies administration and communication between the remaining parties covered by the consent decree.

The City will become the owner of this particular property with full knowledge of the decree and a demonstrated commitment to follow its terms. Any questions regarding the anticipated transfer of ownership should be directed to Dewey Desler at 676-6717

Sincerely,

Pete Kremen
County Executive

cc: Mayor Mark Asmundson, City of Bellingham
Sheila Hardy, City of Bellingham

I:\KREMEN\CORRES\Notice to DOE of Transfer of Property.doc

RECEIVED

NOV 19 2004

DEPT OF ECOLOGY



2040704006

Page: 1 of 9

7/23/2004 10:05 AM

D/RC \$27.00

Whatcom County, WA

Request of: WHATCOM COUNTY EXECUTIVE

RETURN DOCUMENT TO:

Whatcom County
311 Grand Ave
Bellingham, WA 98225

Use dark black ink and print legibly. Documents not legible will be rejected per RCW 65.04.045 & 65.04.047

DOCUMENT TITLE(S):

Restrictive Covenant

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

Additional reference numbers can be found on page _____ of document.

GRANTOR(S)

Whatcom County

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

GRANTEE(S):

Public - State of Washington
Dept of Ecology

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

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

Central Whatcom
Lots 2 and 3
Block 18

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

ASSESSOR'S 16-DIGIT PARCEL NUMBER:

380330 087229

Additional numbers can be found on page _____

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.

EXHIBIT D

RESTRICTIVE COVENANT

HOLLY STREET LANDFILL

500 – 600 West Holly Street

Bellingham, WA 98225

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by Whatcom County and its successors and assigns (“County”), in favor of the State of Washington Department of Ecology and its successors and assigns (“Ecology”).

The property that is the subject of this Restrictive Covenant is the subject of remedial action under the Washington State Model Toxics Control Act (“MICA”), Chapter 70.105D RCW, (“Remedial Action”) pursuant to a Consent Decree in the matter State of Washington, Department of Ecology v. City of Bellingham, et al., Cause No. 03-2-02164-1 which was entered by the Whatcom County Superior Court on September 28, 2003 (“Consent Decree”). The property is part of the larger Holly Street Landfill Site (the Site). The Site is defined in Exhibit B to the Consent Decree. The Remedial Action to be conducted pursuant to the Consent Decree at the property is described in the *Holly Street Landfill Final Cleanup Action Plan*, dated April, 2003, (“Cleanup Action Plan”), which is Exhibit A to the Consent Decree and is located at Ecology’s Northwest Regional Office (NWRO) in Bellevue, Washington.

This Restrictive Covenant is required because the Remedial Action will result in the

containment of municipal type waste with residual concentrations of hazardous substances at the Site which exceed the MICA unrestricted land use (e.g., residential) cleanup level for soil established under WAC 173-340-740. Further, certain geochemical oxidation processes acting within the immediate shoreline zones result in exceedances of surface water cleanup standards established under WAC 173-340-730 at the points of groundwater discharge into surface water. The extent of contamination and the Remedial Action to be conducted at the site are contained in the following Reports:

1. *Remedial Investigation/Feasibility Study, Holly Street Landfill Development Project Final Report – City of Bellingham*, by Anchor Environmental, LLC, April, 2003
2. *Holly Street Landfill Final Cleanup Action Plan* (Exhibit A to the Consent Decree).

These documents are on file at Ecology's NWRO.

The undersigned, Pete Kremen, Whatcom County Executive, is the duly authorized signatory for Whatcom County, the fee owner of real property (hereafter "Property") in the City of Bellingham, State of Washington, which is subject to this Restrictive Covenant. The Property is part of the former Holly Street Landfill situated in the City of Bellingham, State of Washington, and is legally described in Attachment A, 'LEGAL DESCRIPTION' and identified in Attachment B, Site Diagram.

Whatcom County makes 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").

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Section 2. Pursuant to the Cleanup Action Plan, Owner must maintain the integrity of the Remedial Action. Specifically, Owner must maintain two feet of soil cap or equivalent structural cover (e.g., building or two inch paving layer overlying ballast) over the Property. For building structures within the Maritime Heritage Park portion of the Site, Owner must conduct supplemental soil gas monitoring and/or use engineered passive gas venting systems as required under the Cleanup Action Plan and described in the *Compliance Monitoring and Contingency Response Plan*, which is Exhibit E to the Consent Decree. 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. These activities include those that may result in the release or exposure to the environment of the municipal type waste or contaminated soil, soil-gas and shoreline seepage that was contained as part of the Remedial Action, or that create an exposure pathway, unless such activities are authorized by the Cleanup Action Plan or this Restrictive Covenant. Where utility or other work at the Property requires excavation, Owner must comply with state and City standards, and must provide one foot of overexcavation or use geofabric lining to provide a clean perimeter around the excavation. All refuse materials excavated from the Property must be disposed off-site at a permitted solid waste disposal facility or contained on-site below an engineered cap meeting the specifications outlined in the Cleanup Action Plan or subsequent Remedial Design (RD) documents (i.e., two feet of soil cap or equivalent structural

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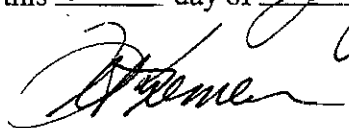
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Section 8. The Owner reserves the right under WAC 173-340-440 to record an instrument that provides that this Restrictive Covenant shall no longer limit use of the Property or be of any further force or effect. However, such an instrument may be recorded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

DATED this 22nd day of July, 2004.

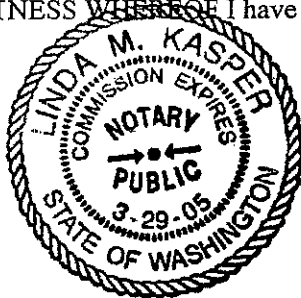
BY:


Pete Kremen
Whatcom County Executive

STATE OF WASHINGTON)
)ss.
COUNTY OF WHATCOM)

On this 22nd day of July, 2004, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Pete Kremen, to me known to be the person who signed as County Executive of Whatcom County, the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that he was duly elected, qualified and action as said officer of the corporation, that he was authorized to execute said instrument and that the seal affixed, if any, is the corporate seal of said corporation.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first above written.



Linda M. Kasper
Print Name: LINDA M. KASPER
Notary Public in and for the State of Washington,
Residing at Bellingham
My commission expires: 3/29/05

Approved as to form:

Daniel L. Gibson

Daniel L. Gibson

Whatcom County Deputy Prosecuting Attorney

EXHIBIT A

**LEGAL DESCRIPTION - HOLLY STREET LANDFILL
500-600 WEST HOLLY STREET**

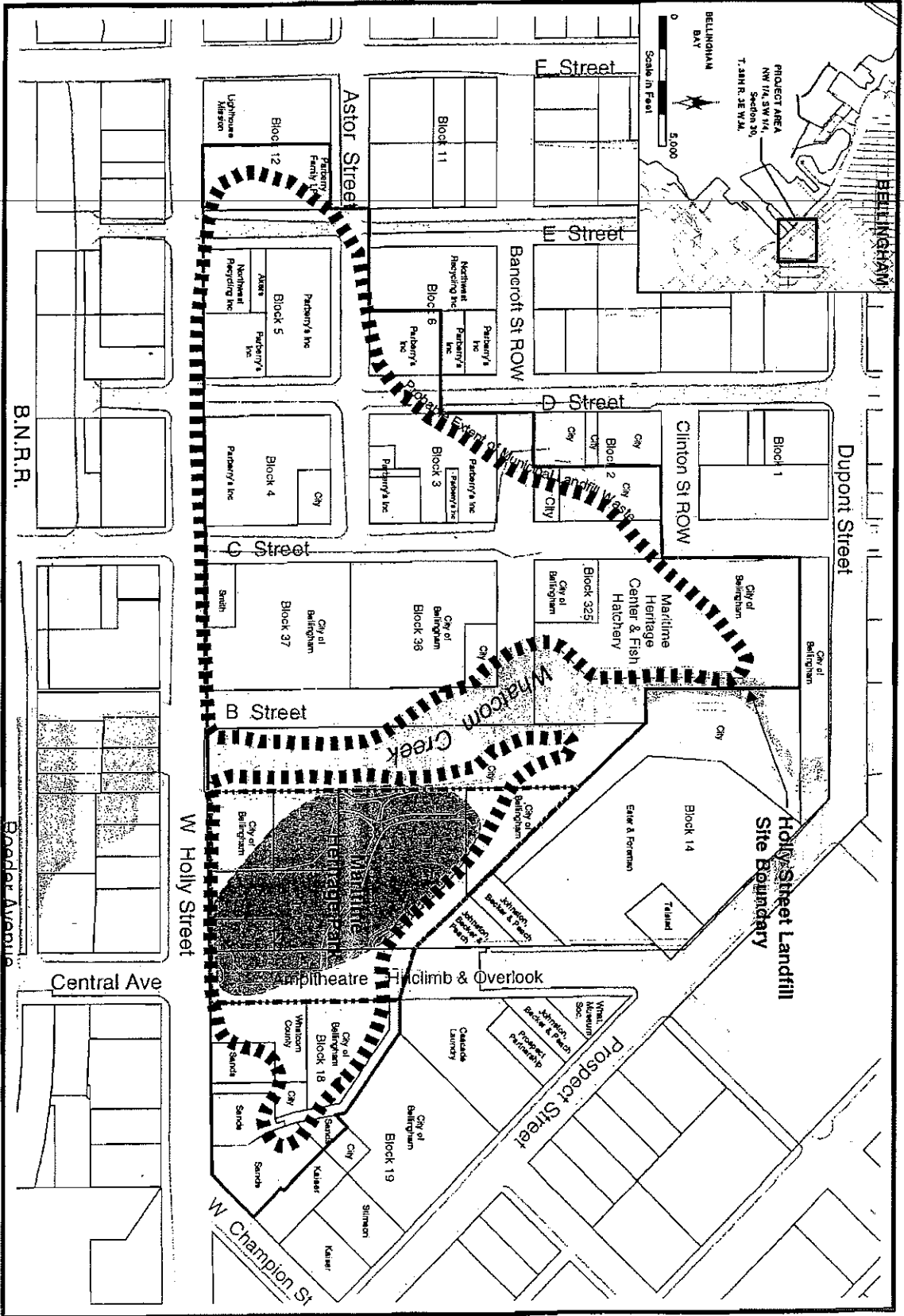
Whatcom County Parcel #380330 087229
Lots 2 and 3, Block 18 "Plat of Survey of Blocks 18 and 19, Central Whatcom,"
now a part of the consolidated City of Bellingham, Whatcom County,
Washington, as per the map thereof, recorded in Book 5 of Plats, Page 45,
Records of Whatcom County, Washington.

Situated in Whatcom County, Washington.
Subject to easements as recorded under Auditors File # 900820055

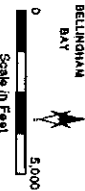


Approximate Extent of Soil Gas Migration Above Lower Explosive Limit (LEL)
Note: Basemap prepared from GIS data provided by City of Bellingham.

Attachment "B"
Project Area
Holly Street Landfill



PROJECT AREA
NW 1/4, SW 1/4
Section 30
T. 38N R. 32E W.M.



BELLINGHAM BAY

Dupont Street

Clinton St ROW

Banerott St ROW

F Street

G Street

D Street

C Street

B Street

A Street

B.N.R.R.

Paardar Avduia

Central Ave

W Holly Street

W Champion St

Prospect Street

Holly Street Landfill Site Boundary

Whatcom Creek

Amplitheatre Hillclimb & Overlook

Whitson County

Sands

Kaiser

Simsen

Kaiser

Sands

Block 18

Block 19

Block 11

Block 12

Block 5

Block 4

Block 3

Block 6

Block 8

Block 11

Block 12

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Request of: AKERS

2040701276
Page: 1 of 9
7/08/2004 2:17 PM
D/RC \$27.00
Whatcom County, WA

WHEN RECORDED RETURN TO:
Carl and Nikkie Akers
2574 Woodcliff Lane
Bellingham, Washington 98229

RESTRICTIVE COVENANT

HOLLY STREET LANDFILL

500 – 600 West Holly Street

Bellingham, WA 98225

Grantors: Carl L. Akers and Audrey M. Akers, Trustees of the Akers Family Revocable Living Trust
Grantees: Public/State of Washington Dept. of Ecology
Legal Description (abbreviated): Lot 12, Block 5, Supplemental Map of the Town of Whatcom
Assessor's Tax Parcel ID#: 380225 560349 0000

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by Carl L. Akers and Audrey M. Akers, husband and wife, and its successors and assigns, in favor of the State of Washington Department of Ecology and its successors and assigns ("Ecology").

The property that is the subject of this Restrictive Covenant is the subject of remedial action under the Washington State Model Toxics Control Act ("MTCA"), Chapter 70.105D RCW, ("Remedial Action") pursuant to a Consent Decree in the matter State of Washington,

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NOV 19 2004
DEPT OF ECOLOGY

Department of Ecology v. City of Bellingham, et al., Cause No. 03-2-2164-1 which was entered by the Whatcom County Superior Court on September 25, 2003 (“Consent Decree”) The property is part of the larger Holly Street Landfill Site (the Site). The Site is defined in Exhibit B to the Consent Decree. The Remedial Action to be conducted pursuant to the Consent Decree at the property is described in the *Holly Street Landfill Final Cleanup Action Plan*, dated April, 2003, (“Cleanup Action Plan”), which is Exhibit A to the Consent Decree and is located at Ecology’s Northwest Regional Office (NWRO) in Bellevue, Washington.

This Restrictive Covenant is required because the Remedial Action will result in the containment of municipal type waste with residual concentrations of hazardous substances at the Site which exceed the MICA unrestricted land use (e.g., residential) cleanup level for soil established under WAC 173-340-740. Further, certain geochemical oxidation processes acting within the immediate shoreline zones result in exceedances of surface water cleanup standards established under WAC 173-340-730 at the points of groundwater discharge into surface water. The extent of contamination and the Remedial Action to be conducted at the site are contained in the following Reports:

1. *Remedial Investigation/Feasibility Study, Holly Street Landfill Development Project Final Report – City of Bellingham*, by Anchor Environmental, LLC, April, 2003
2. *Holly Street Landfill Final Cleanup Action Plan* (Exhibit A to the Consent Decree).

These documents are on file at Ecology’s NWRO.

The undersigned, Carl L. Akers and Audrey M. Akers, is the fee owner of real property (hereafter “Property”) in the City of Bellingham, State of Washington, which is subject to this Restrictive Covenant. The Property is part of the former Holly Street Landfill situated in the City of Bellingham, State of Washington, and is legally described in Attachment A, ‘LEGAL

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7/08/2004 2:17 PM
D/RC \$27.00
Whatcom County, WA

Request of: AKERS

Department of Ecology v. City of Bellingham, et al., Cause No. 03-2-2164-1 which was entered by the Whatcom County Superior Court on September 29, 2003 (“Consent Decree”). The property is part of the larger Holly Street Landfill Site (the Site). The Site is defined in Exhibit B to the Consent Decree. The Remedial Action to be conducted pursuant to the Consent Decree at the property is described in the *Holly Street Landfill Final Cleanup Action Plan*, dated April, 2003, (“Cleanup Action Plan”), which is Exhibit A to the Consent Decree and is located at Ecology’s Northwest Regional Office (NWRO) in Bellevue, Washington.

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2. *Holly Street Landfill Final Cleanup Action Plan* (Exhibit A to the Consent Decree).

These documents are on file at Ecology’s NWRO.

The undersigned, Carl L. Akers and Audrey M. Akers, is the fee owner of real property (hereafter “Property”) in the City of Bellingham, State of Washington, which is subject to this Restrictive Covenant. The Property is part of the former Holly Street Landfill situated in the City of Bellingham, State of Washington, and is legally described in Attachment A, ‘LEGAL

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Page: 3 of 3
7/08/2004 2:17 PM
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Whatcom County, WA

Request of: AKERS

DESCRIPTION' and identified in Attachment B, Site Diagram.

Carl L. Akers and Audrey M. Akers makes 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. Future use of the Property shall be limited to those uses defined in and allowed under the City of Bellingham zoning and Shoreline Management regulations codified in the City of Bellingham Municipal Code as of the date of this Restrictive Covenant and as they may be amended from time to time. No groundwater may be withdrawn from the property for any use that is inconsistent with the remedial action implementation. The Property shall not be used for ground floor residential or day care center uses.

Section 2. Pursuant to the Cleanup Action Plan, Owner must maintain the integrity of the Remedial Action. Specifically, Owner must maintain two feet of soil cap or equivalent structural cover (e.g., building or two inch paving layer overlying ballast) over the Property. 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. These activities include those that may result in the release or exposure to the environment of the municipal type waste or contaminated soil, soil-gas and shoreline seepage that was contained as part of the Remedial Action, or that create an exposure pathway, unless such activities are authorized by the Cleanup Action Plan or this Restrictive Covenant. Where utility or other work at the Property requires excavation, Owner must comply with state and City standards, and must provide one foot of overexcavation or use geofabric lining to provide a clean perimeter around the excavation. All

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Whatcom County, WA

Request of: AKERS

refuse materials excavated from the Property must be disposed off-site at a permitted solid waste disposal facility or contained on-site below an engineered cap meeting the specifications outlined in the Cleanup Action Plan or subsequent Remedial Design (RD) documents (i.e., two feet of soil cap or equivalent structural cover) Personnel performing excavation at the Property should be familiar with the applicable health and safety training requirements, and should take the necessary precautions to minimize direct contact with municipal type waste and contaminated soils that are above state standards and are contained at the Site as part of the Remedial Action. Excavations conducted in accordance with the above conditions shall not constitute activities that interfere with the Remedial Action or continued protection of human health and the environment.

Section 3. Any activity on the Property that may interfere with the integrity of the Remedial Action, operation and maintenance, or monitoring and continued protection of human health and the environment is prohibited without prior written approval from Ecology, which approval shall not be unreasonably withheld. Details about the compliance monitoring requirements to ensure continued protection of human health and the environment are contained in EXHIBIT E of the Consent Decree.

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 title or easement interest in the Property. No conveyance of title, easement, lease, or other interest in the Property shall be consummated by

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Page: 5 of 9
7/08/2004 2:17 PM
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Whatcom County, WA

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. Ecology will provide Owner advance notice of its entry onto the Property when feasible.

Section 8. The Owner 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 to comment, concurs.

DATED this 4th day of May, 2004.

BY: Carl L Akers

CARL L. AKERS
(Printed Name)

BY: Audrey M. Akers

Audrey M. AKERS
(Printed Name)

2040701276

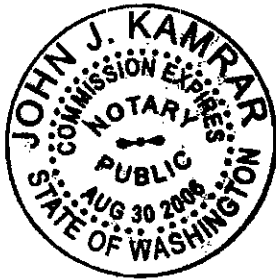
Page: 6 of 9
7/08/2004 2:17 PM
D/RC \$27.00
Whatcom County, WA

Request of: AKERS

STATE OF WASHINGTON)
)ss.
COUNTY OF WHATCOM)

On this 4th day of May, 2004, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Carl L. Akers and Audrey M. Akers, to me known to be the persons who signed the foregoing instrument, and who acknowledged the signing of said instrument to be their free and voluntary act and deed for the uses and purposes therein mentioned.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first above written.



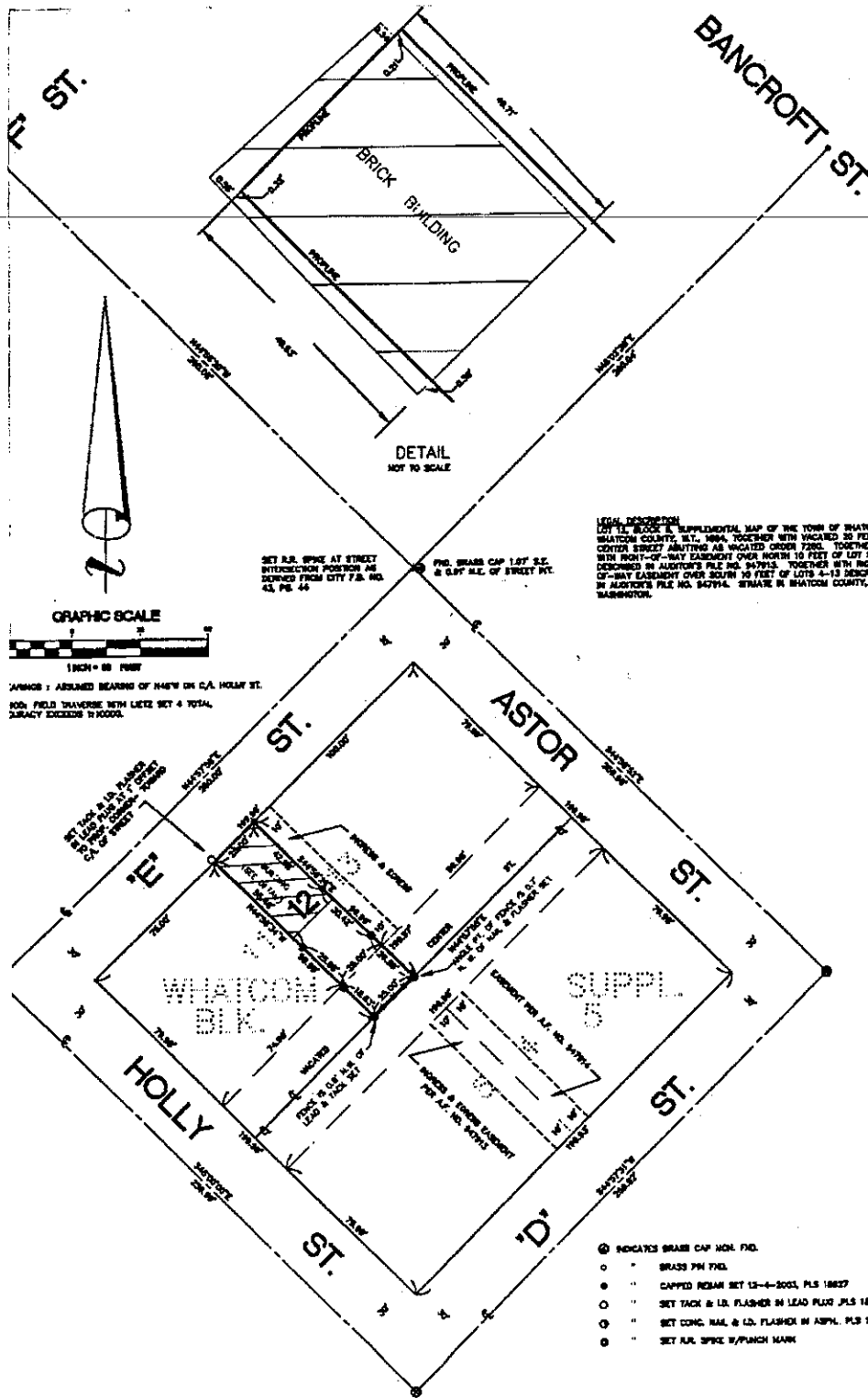


John J. Kamrar
Notary Public in and for the State of Washington,
Residing at Bellingham
My commission expires: August 30, 2006.

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7/08/2004 2:17 PM
D/RC 527.00
Whatcom County, WA

Request of: AKERS

- Attachment B -
Site Diagram



WHATCOM CO. HISTORICAL SOC.
PTN. OF THE SE 1/4 NE 1/4
SEC. 25, TWP. 38 N., RGE. 2 E. OF W.M.

DATE:	12-16-2003	SCALE:	
DRAWN:	DOU	JOB NO.:	03157
CHECKED:		SHEET:	2 of 4

CONSTRUCTION SURVEYORS NW, INC.
1000 1 STREET
MELLINGHAM, WASHINGTON 98288

PHONE (408) 733-3383
FAX (408) 733-3384



SURVEYOR'S CERTIFICATE
This map correctly represents a survey made by me or under my direction in accordance with the requirements of the Surveying Act of August 1, 1909, Chapter 107, Laws of the State of Washington.

John H. [Signature]
John H. [Name]

AUDITOR'S CERTIFICATE
Filed for record this 17 day of December, 2003 at 9:28 AM in Book 1 of Surveys of Page 16 of the request of CONSTRUCTION SURVEYORS NW, INC. *Shirley [Signature]*

LEGAL DESCRIPTION
LOT 12, BLOCK 15, SUPPLEMENTAL MAP OF THE TOWN OF WHATCOM, WHATCOM COUNTY, W.T., 1994, TOGETHER WITH VACATED 30 FEET CENTER STREET ABUTTING AS VACATED ORDER 7260, TOGETHER WITH RIGHT-OF-WAY EASEMENT OVER NORTH 10 FEET OF LOT 5, DESCRIBED IN AUDITOR'S FILE NO. 847913, TOGETHER WITH RIGHT-OF-WAY EASEMENT OVER SOUTH 10 FEET OF LOTS 4-13 DESCRIBED IN AUDITOR'S FILE NO. 847914, SITUATE IN WHATCOM COUNTY, WASHINGTON.

- ⊙ INDICATES BRASS CAP MON. PIV.
- " BRASS PIN PIV.
- " CAPPED ROD IN SET 12-4-2003, PLS 18627
- " SET TACK & LR. FLASHER IN LEAD PIV. PLS 18627
- " SET CONC. NAIL & LD. FLASHER IN ASPH. PLS 18627
- " SET ALR. SPIKE W/ PLANCH MARK

July 8, 2004

COB

Lucy McInerney, Site Manager
Washington State Department of Ecology
NW Regional Office
3190 169th Avenue, SE
Bellevue, WA 98008-5452

Re: Intent to convey title and easement interest in property located at 1308 E. Street, Bellingham, Washington within the boundaries of the Holly Street Landfill

Dear Ms. McInerney,

We hereby are giving you notice that we plan to transfer our interests in the property and related easements at 1308 E Street to the Whatcom County Historical Society, P.O. Box 2116, Bellingham, Washington 98227.

We have provided the Whatcom County Historical Society with a copy of the Holly Street Landfill Consent Decree as well as a copy of the recorded Restricted Covenant.

Please contact us if there are any other steps that need to be taken before we record a Quit Claim Deed to transfer our interests.

Thank you.

Sincerely,

Carl M. and Audrey M. (Nikkie) Akers
2574 Woodcliff Lane
Bellingham, WA 98229

Copies:
Whatcom County Historical Society Board
Roger Ellingson, Attorney at Law
✓ Sheila Hardy, City of Bellingham

AFTER RECORDING RETURN DOCUMENT TO:

City of Bellingham – Legal Department
210 Lottie Street
Bellingham, WA 98225



2040904912
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9/29/2004 9:40 AM
D/RC \$25.00
Whatcom County, WA

Request of: BELLINGHAM CITY OF

DOCUMENT TITLE: Restrictive Covenant

REFERENCE NUMBER OF RELATED DOCUMENT:

GRANTOR: City of Bellingham

GRANTEE(S): State of Washington Department of Ecology

ABBREVIATED LEGAL DESCRIPTION: CENTRAL WHATCOM ROEDER-
PEABODY'S SUBDIV BLK 18 LOTS 10-11
BLK 18

ASSESSOR'S TAX/PARCEL NUMBER(S): 3803300942240000

RESTRICTIVE COVENANT

**HOLLY STREET LANDFILL
Maritime Heritage Park
500 – 600 West Holly Street
Bellingham, WA 98225**

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by the City of Bellingham and its successors and assigns ("the City"), in favor of the State of Washington Department of Ecology and its successors and assigns ("Ecology").

The property that is the subject of this Restrictive Covenant is the subject of remedial action under the Washington State Model Toxics Control Act ("MTCA"), Chapter 70.105D RCW, ("Remedial Action") pursuant to a Consent Decree in the matter State of Washington, Department of Ecology v. City of Bellingham, et al., Cause No. 03-2-02164-1, which was entered by the Whatcom County Superior Court on September 23, 2003 ("Consent Decree").

Restrictive Covenant - 1
AK/Restrictive Covenant Maritime Heritage 6

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903

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DEPT OF ECOLOGY

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DEPT OF ECOLOGY,

The property is part of the larger Holly Street Landfill Site (the Site). The Site is defined in Exhibit B to the Consent Decree. The Remedial Action to be conducted pursuant to the Consent Decree at the property is described in the *Holly Street Landfill Final Cleanup Action Plan*, dated April, 2003, ("Cleanup Action Plan"), which is Exhibit A to the Consent Decree and is located at Ecology's Northwest Regional Office (NWRO) in Bellevue, Washington.

This Restrictive Covenant is required because the Remedial Action will result in the containment of municipal type waste with residual concentrations of hazardous substances at the Site which exceed the MTCA unrestricted land use (e.g., residential) cleanup level for soil established under WAC 173-340-740. Further, certain geochemical oxidation processes acting within the immediate shoreline zones result in exceedances of surface water cleanup standards established under WAC 173-340-730 at the points of groundwater discharge into surface water. The extent of contamination and the Remedial Action to be conducted at the site are contained in the following Reports:

1. ***Remedial Investigation/Feasibility Study, Holly Street Landfill Development Project Final Report – City of Bellingham***, by Anchor Environmental, LLC, April, 2003
2. ***Holly Street Landfill Final Cleanup Action Plan*** (Exhibit A to the Consent Decree).

These documents are on file at Ecology's NWRO.

The undersigned, the City, is the fee owner of real property (hereafter "Property") in the City of Bellingham, State of Washington, which is subject to this Restrictive Covenant. The Property is part of the former Holly Street Landfill situated in the City of Bellingham, State of Washington, and is legally described in Attachment A, 'LEGAL DESCRIPTION' and identified in Attachment B, Site Diagram.

The City makes 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. Future use of the Property shall be limited to those uses defined in and allowed under the City of Bellingham zoning and Shoreline Management regulations codified in the City of Bellingham Municipal Code as of the date of this Restrictive Covenant and as they may be amended from time to time. No groundwater may be withdrawn from the property for any use that is inconsistent with the remedial action implementation. The Property shall not be used for ground floor residential or day care center uses.

Section 2. Pursuant to the Cleanup Action Plan, Owner must maintain the integrity of the Remedial Action. Specifically, Owner must maintain two feet of soil cap or equivalent structural cover (e.g., building or two-inch paving layer overlying ballast) over the Property. For building structures within the Maritime Heritage Park portion of the Site, Owner must conduct supplemental soil gas monitoring and/or use engineered passive gas venting systems as required under the Cleanup Action Plan and described in the *Compliance Monitoring and Contingency Response Plan*, which is Exhibit E to the Consent Decree. 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. These activities include those that may result in the release or exposure to the environment of the municipal type waste or contaminated soil, soil-gas and shoreline seepage that was contained as part of the Remedial Action, or that create an exposure pathway, unless such activities are authorized by the Cleanup Action Plan or this Restrictive Covenant. Where utility or other work at the Property requires excavation, Owner must comply with state and City standards, and must provide one foot of overexcavation or use geofabric lining to provide a clean perimeter around the excavation. All refuse materials excavated from the Property must be disposed off-site at a permitted solid waste disposal facility or contained on-site below an engineered cap meeting the specifications outlined in the Cleanup Action Plan or subsequent Remedial Design (RD) documents (i.e., two feet of soil cap or equivalent structural cover). Personnel performing excavation at the Property should be familiar with the applicable health and safety training requirements, and should take the necessary precautions to minimize direct contact with municipal type waste and contaminated soils that are above state standards and are contained at the Site as part of the Remedial Action. Excavations conducted in accordance with the above conditions shall not constitute activities that interfere with the Remedial Action or continued protection of human health and the environment.

Section 3. Any activity on the Property that may interfere with the integrity of the Remedial Action, operation and maintenance, or monitoring and continued protection of human health and the environment is prohibited without prior written approval from Ecology, which approval shall not be unreasonably withheld. Details about the compliance monitoring requirements to ensure continued protection of human health and the environment are contained in EXHIBIT E of the Consent Decree.

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 title or easement 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. Ecology will provide Owner advance notice of its entry onto the Property when feasible.

Section 8. The Owner 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 to comment, concurs.

DATED this 16th day of Sept, 2004.

CITY OF BELLINGHAM

Mark Asmundson
Mayor

STATE OF WASHINGTON)
COUNTY OF WHATCOM) ss.

I CERTIFY that I know or have satisfactory evidence that **MARK ASMUNDSON** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the **Mayor** of the **CITY OF BELLINGHAM** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

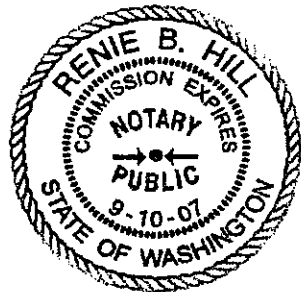
SEP 16 2004
Dated

Renie B. Hill
Signature

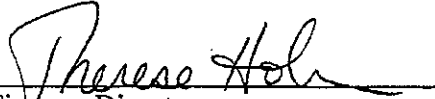
RENIE B. HILL
Name Printed

Title: Notary Public

My commission expires: 10 Sept 2007



Attest:



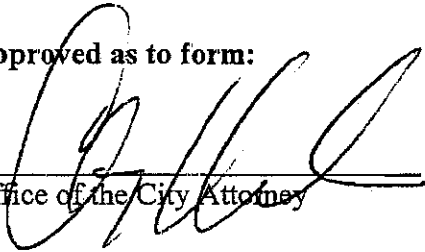
Finance Director

Departmental Approval:



Department Head

Approved as to form:



Office of the City Attorney

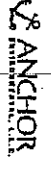
Restrictive Covenant -

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903

ATTACHMENT A

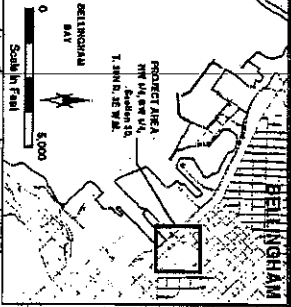
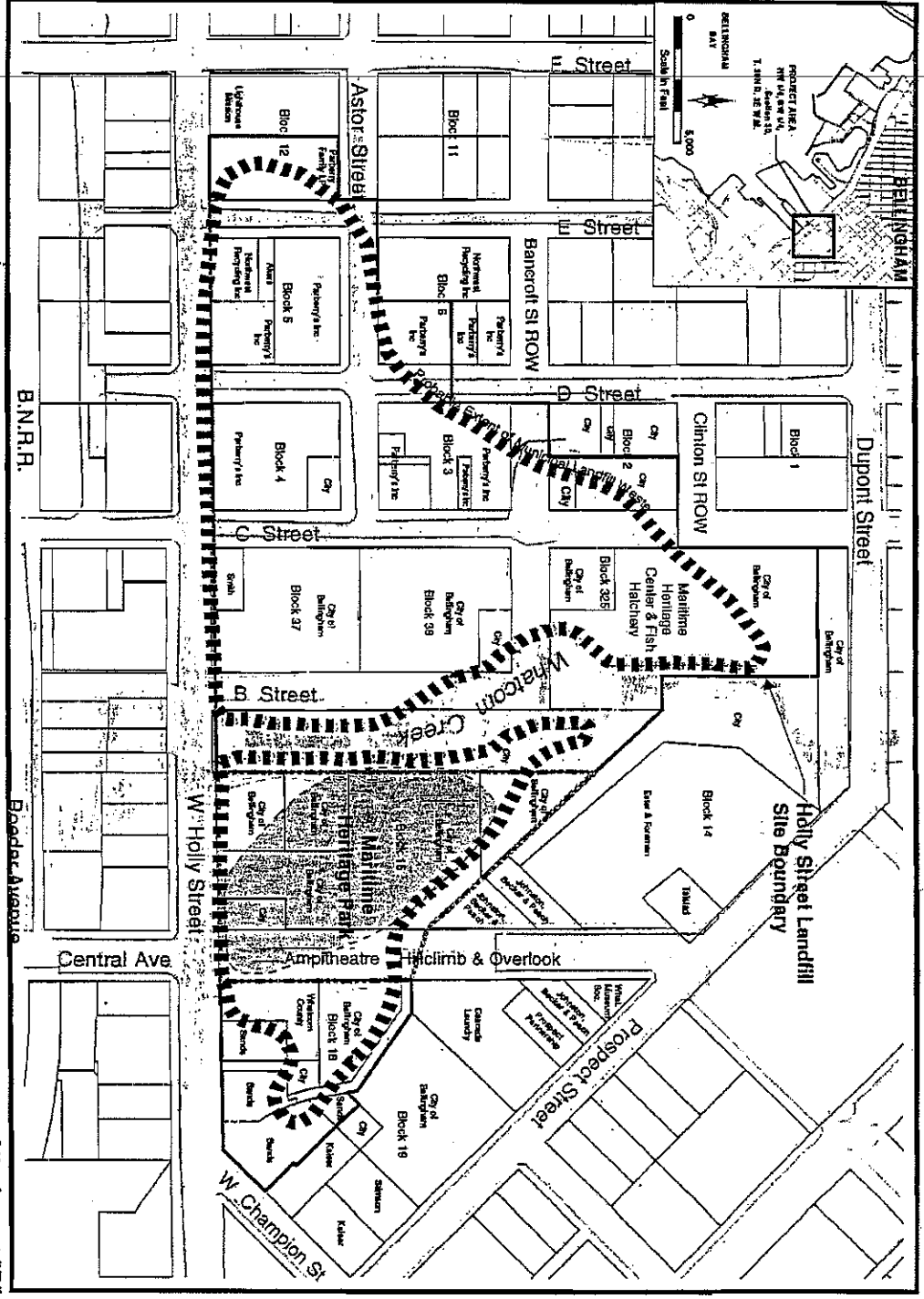
LEGAL DESCRIPTION

CENTRAL WHATCOM ROEDER-PEABODY'S SUBDIV BLK 18 LOTS 10-11 BLK
18



Approximate Extent of Soil Gas Migration Above Lower Explosive Limit (LEL)
Note: Basemap prepared from GIS data provided by City of Bellingham.

Attachment "B"
Project Area
Holly Street Landfill





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Page: 1 of 7
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D/RC \$25.00
Whatcom County, WA

Request of: BELLINGHAM CITY OF

AFTER RECORDING RETURN DOCUMENT TO:

City of Bellingham – Legal Department
210 Lottie Street
Bellingham, WA 98225

DOCUMENT TITLE: Restrictive Covenant

REFERENCE NUMBER OF RELATED DOCUMENT:

GRANTOR: City of Bellingham

GRANTEE(S): State of Washington Department of Ecology

ABBREVIATED LEGAL DESCRIPTION: CENTRAL WHATCOM LOTS 9-10
BLK 15

ASSESSOR'S TAX/PARCEL NUMBER(S): 3803300873140000

RESTRICTIVE COVENANT

HOLLY STREET LANDFILL
Maritime Heritage Park
500 – 600 West Holly Street
Bellingham, WA 98225

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by the City of Bellingham and its successors and assigns (“the City”), in favor of the State of Washington Department of Ecology and its successors and assigns (“Ecology”).

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City of Bellingham
CITY ATTORNEY

210 Lottie Street

Bellingham, Washington 98225

Telephone (360) 676-6903

Restrictive Covenant - 1
AK/Restrictive Covenant Maritime Heritage 7

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DEPT OF ECOLOGY

Exhibit B to the Consent Decree. The Remedial Action to be conducted pursuant to the Consent Decree at the property is described in the *Holly Street Landfill Final Cleanup Action Plan*, dated April, 2003, ("Cleanup Action Plan"), which is Exhibit A to the Consent Decree and is located at Ecology's Northwest Regional Office (NWRO) in Bellevue, Washington.

This Restrictive Covenant is required because the Remedial Action will result in the containment of municipal type waste with residual concentrations of hazardous substances at the Site which exceed the MTCRA unrestricted land use (e.g., residential) cleanup level for soil established under WAC 173-340-740. Further, certain geochemical oxidation processes acting within the immediate shoreline zones result in exceedances of surface water cleanup standards established under WAC 173-340-730 at the points of groundwater discharge into surface water. The extent of contamination and the Remedial Action to be conducted at the site are contained in the following Reports:

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Section 3. Any activity on the Property that may interfere with the integrity of the Remedial Action, operation and maintenance, or monitoring and continued protection of human health and the environment is prohibited without prior written approval from Ecology, which approval shall not be unreasonably withheld. Details about the compliance monitoring requirements to ensure continued protection of human health and the environment are contained in EXHIBIT E of the Consent Decree.

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 title or easement 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.

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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.

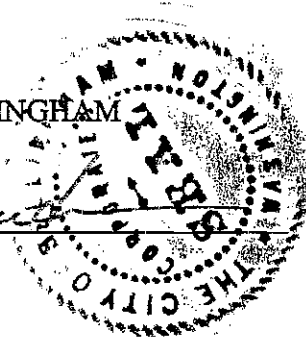
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Section 8. The Owner reserves the right under WAC 173-340-440 to record an instrument that provides that this Restrictive Covenant shall no longer limit use of the Property or be of any further force or effect. However, such an instrument may be recorded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

DATED this 16th day of Sept, 2004.

CITY OF BELLINGHAM

Mark Asmundson
Mayor



STATE OF WASHINGTON)
COUNTY OF WHATCOM) ss.

I CERTIFY that I know or have satisfactory evidence that MARK ASMUNDSON is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Mayor of the CITY OF BELLINGHAM to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

SEP 16 2004

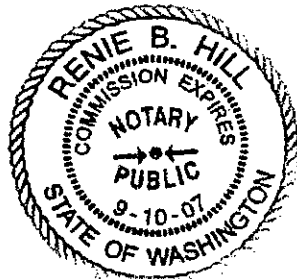
Dated

Renie B. Hill
Signature

RENIE B. HILL
Name Printed

Title: Notary Public

My commission expires: 10 Sept 2007




Attest:

Theresa Holt
Finance Director

Restrictive Covenant -

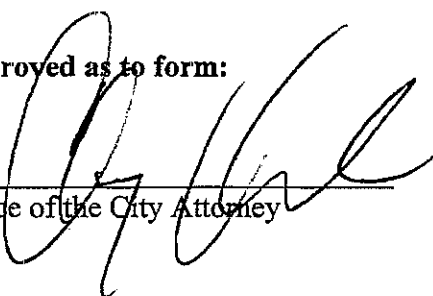
City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903

Departmental Approval:



Department Head

Approved as to form:



Office of the City Attorney

Restrictive Covenant -

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903

ATTACHMENT A

LEGAL DESCRIPTION

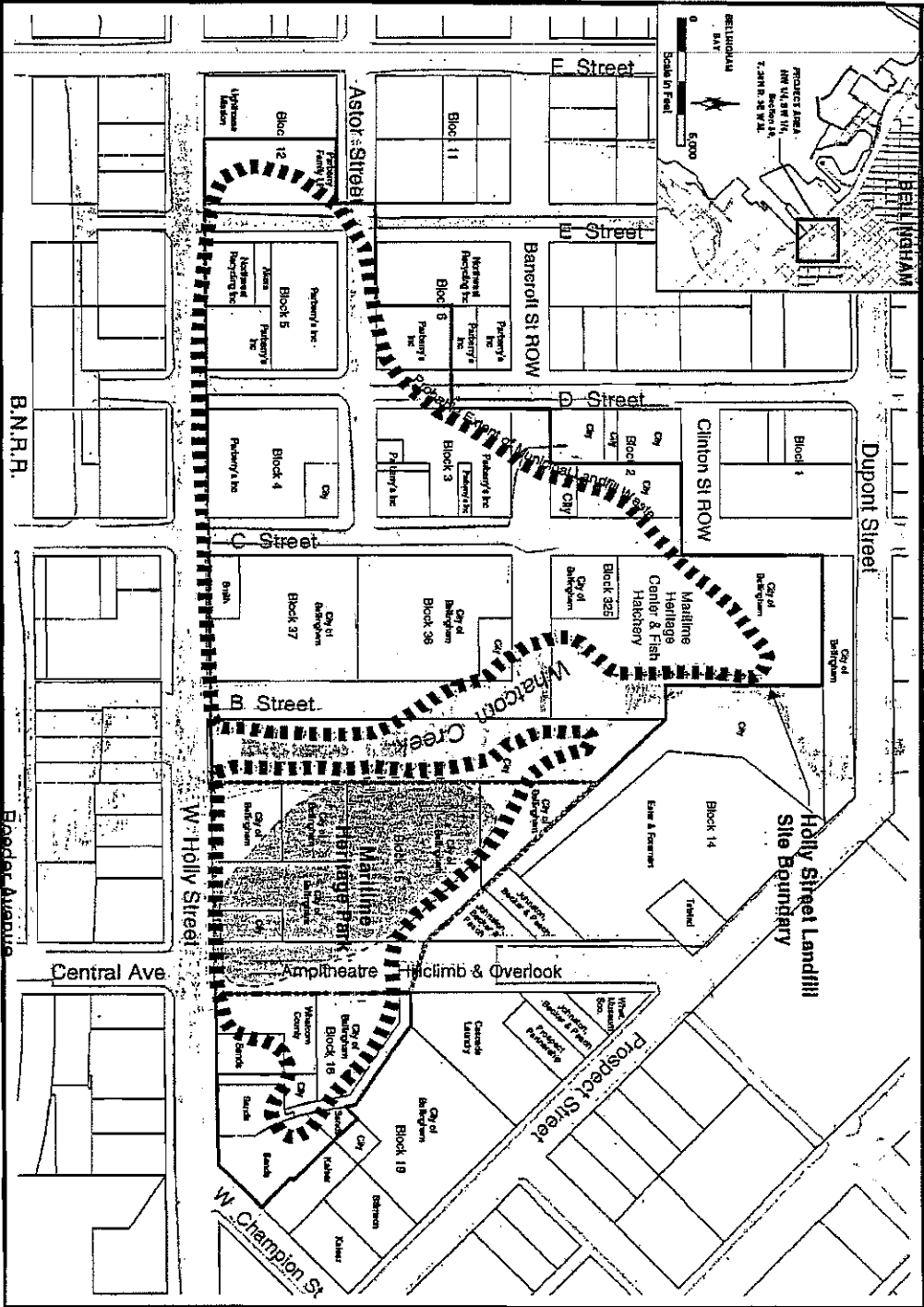
CENTRAL WHATCOM LOTS 9-10 BLK 15

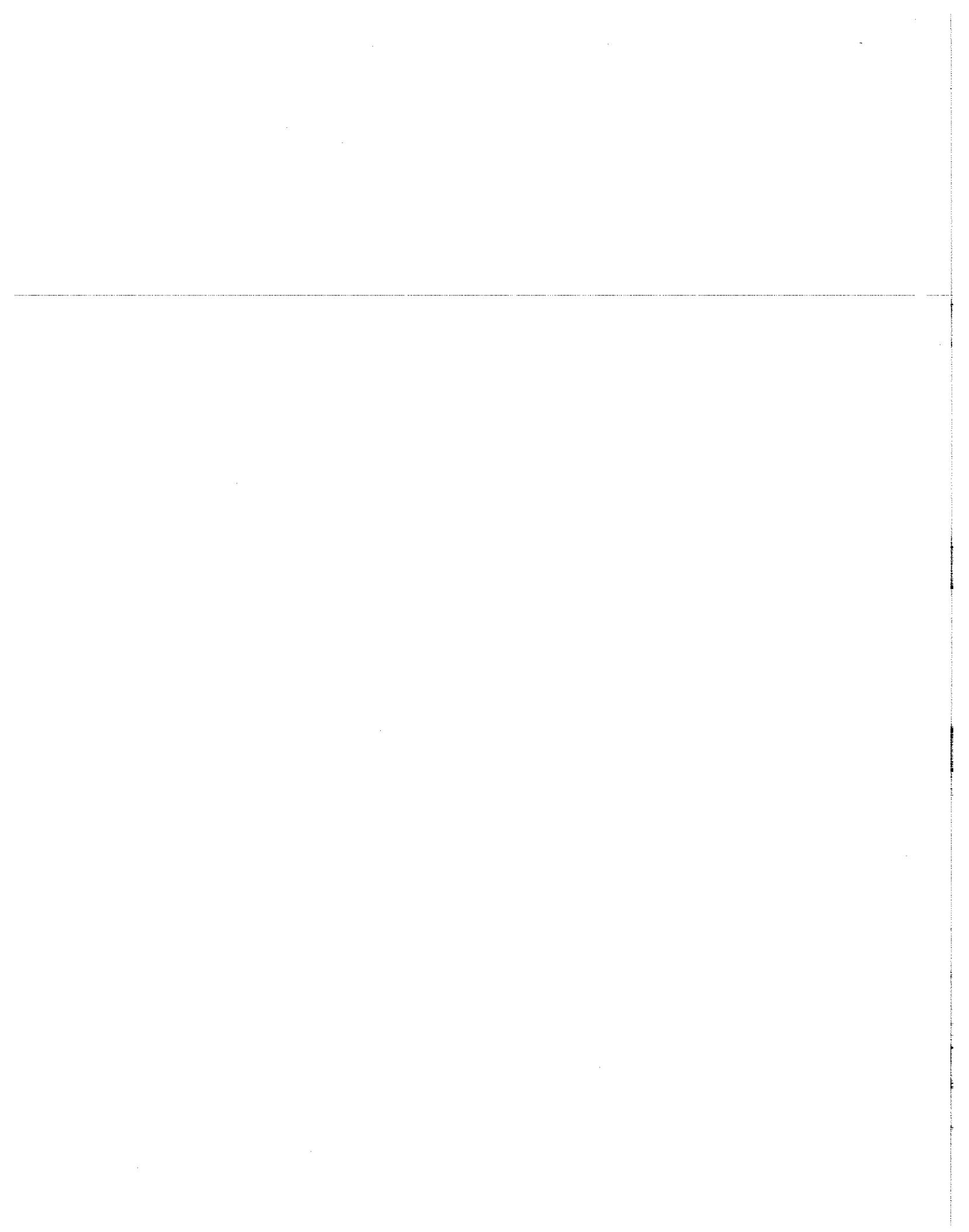
ANCHOR



Approximate Extent of Soil Gas Mitigation Above Lower Esophageal Link (AEL)
Note: Basemap prepared from GIS data provided by City of Bellingham.

Attachment "B"
Project Area
Holly Street Landfill







2040904915

Page: 1 of 7
9/29/2004 9:40 AM
D/RC \$25.00

Whatcom County, WA

Request of: BELLINGHAM CITY OF

AFTER RECORDING RETURN DOCUMENT TO:

City of Bellingham – Legal Department
210 Lottie Street
Bellingham, WA 98225

DOCUMENT TITLE: Restrictive Covenant

REFERENCE NUMBER OF RELATED DOCUMENT:

GRANTOR: City of Bellingham

GRANTEE(S): State of Washington Department of Ecology

ABBREVIATED LEGAL DESCRIPTION: CENTRAL WHATCOM ROEDER-
PEABODY'S SUBDIV BLK 18 LOTS 4
THRU 9 BLK 18

ASSESSOR'S TAX/PARCEL NUMBER(S): 3803300942350000

RESTRICTIVE COVENANT

**HOLLY STREET LANDFILL
Maritime Heritage Park
500 – 600 West Holly Street
Bellingham, WA 98225**

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by the City of Bellingham and its successors and assigns ("the City"), in favor of the State of Washington Department of Ecology and its successors and assigns ("Ecology").

The property that is the subject of this Restrictive Covenant is the subject of remedial action under the Washington State Model Toxics Control Act ("MTCA"), Chapter 70.105D RCW, ("Remedial Action") pursuant to a Consent Decree in the matter State of Washington, Department of Ecology v. City of Bellingham, et al., Cause No. 03-2-02164-1, which was entered by the Whatcom County Superior Court on September 23, 2003 ("Consent Decree").

Restrictive Covenant - 1
AK/Restrictive Covenant Maritime Heritage 5

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903

RECEIVED

NOV 19 2004

DEPT OF ECOLOGY

The property is part of the larger Holly Street Landfill Site (the Site). The Site is defined in Exhibit B to the Consent Decree. The Remedial Action to be conducted pursuant to the Consent Decree at the property is described in the *Holly Street Landfill Final Cleanup Action Plan*, dated April, 2003, ("Cleanup Action Plan"), which is Exhibit A to the Consent Decree and is located at Ecology's Northwest Regional Office (NWRO) in Bellevue, Washington.

This Restrictive Covenant is required because the Remedial Action will result in the containment of municipal-type waste with residual concentrations of hazardous substances at the Site which exceed the MTCA unrestricted land use (e.g., residential) cleanup level for soil established under WAC 173-340-740. Further, certain geochemical oxidation processes acting within the immediate shoreline zones result in exceedances of surface water cleanup standards established under WAC 173-340-730 at the points of groundwater discharge into surface water. The extent of contamination and the Remedial Action to be conducted at the site are contained in the following Reports:

1. ***Remedial Investigation/Feasibility Study, Holly Street Landfill Development Project Final Report -- City of Bellingham***, by Anchor Environmental, LLC, April, 2003
2. ***Holly Street Landfill Final Cleanup Action Plan*** (Exhibit A to the Consent Decree).

These documents are on file at Ecology's NWRO.

The undersigned, the City, is the fee owner of real property (hereafter "Property") in the City of Bellingham, State of Washington, which is subject to this Restrictive Covenant. The Property is part of the former Holly Street Landfill situated in the City of Bellingham, State of Washington, and is legally described in Attachment A, 'LEGAL DESCRIPTION' and identified in Attachment B, Site Diagram.

The City makes 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. Future use of the Property shall be limited to those uses defined in and allowed under the City of Bellingham zoning and Shoreline Management regulations codified in the City of Bellingham Municipal Code as of the date of this Restrictive Covenant and as they may be amended from time to time. No groundwater may be withdrawn from the property for any use that is inconsistent with the remedial action implementation. The Property shall not be used for ground floor residential or day care center uses.

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DATED this 14th day of September, 2004.

CITY OF BELLINGHAM

Mayor


STATE OF WASHINGTON)
COUNTY OF WHATCOM) ss.

I CERTIFY that I know or have satisfactory evidence that **MARK ASMUNDSON** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the **Mayor** of the **CITY OF BELLINGHAM** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

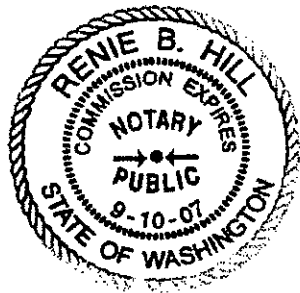
SEP 14 2004
Dated

Renie B Hill
Signature

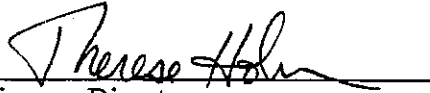
RENIE B. HILL
Name Printed

Title: Notary Public

My commission expires: 10 Sept 2007



Attest:



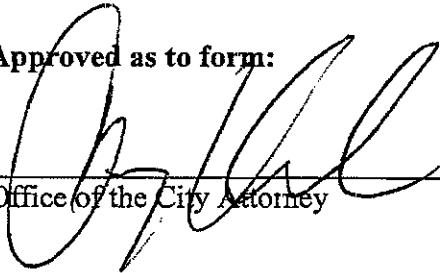
Finance Director

Departmental Approval:



Department Head

Approved as to form:



Office of the City Attorney

Restrictive Covenant -

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903

ATTACHMENT A

LEGAL DESCRIPTION

**CENTRAL WHATCOM ROEDER-PEABODY'S SUBDIV BLK 18 LOTS 4 THRU 9
BLK 18**



Approximate Extent of Solid Gas Methane Above Lower Explosive Limit (B1)
Note: Basemap prepared from GIS data provided by City of Baltimore.

Attachment "B"
Project Area
Holly Street Landfill

