



PERIODIC REVIEW

**Davis Construction Property
FS ID#: 2237**

**24517 26th Place South
Des Moines, Washington 98198**

Northwest Region Office

TOXICS CLEANUP PROGRAM

February 2009

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1.0 INTRODUCTION

This document is a review by the Washington State Department of Ecology (Ecology) of post-cleanup site conditions and monitoring data to assure that human health and the environment are being protected at the Davis Construction Property (Site). Cleanup at this Site was implemented under the Model Toxics Control Act (MTCA), Chapter 173-340 Washington Administrative Code (WAC).

Cleanup activities at this Site were completed under the Voluntary Cleanup Program. The cleanup actions resulted in residual concentrations of total petroleum hydrocarbons (TPH) and lead exceeding MTCA Method A cleanup levels for soil. The cleanup levels for soil were established under WAC 173-340-740(2). WAC 173-340-420 (2) requires that Ecology conduct a periodic review of a site every five years under the following conditions:

- (a) Whenever the department conducts a cleanup action
- (b) Whenever the department approves a cleanup action under an order, agreed order or consent decree
- (c) Or, as resources permit, whenever the department issues a no further action opinion
- (d) And one of the following conditions exists:
 - 1. Institutional controls or financial assurance are required as part of the cleanup
 - 2. Where the cleanup level is based on a practical quantitation limit
 - 3. Where, in the department's judgment, modifications to the default equations or assumptions using site-specific information would significantly increase the concentration of hazardous substances remaining at the site after cleanup or the uncertainty in the ecological evaluation or the reliability of the cleanup action is such that additional review is necessary to assure long-term protection of human health and the environment.

When evaluating whether human health and the environment are being protected, the factors the department shall consider include [WAC 173-340-420(4)]:

- (a) The effectiveness of ongoing or completed cleanup actions, including the effectiveness of engineered controls and institutional controls in limiting exposure to hazardous substances remaining at the site;
- (b) New scientific information for individual hazardous substances of mixtures present at the site;
- (c) New applicable state and federal laws for hazardous substances present at the Site;
- (d) Current and projected site use;
- (e) Availability and practicability of higher preference technologies; and
- (f) The availability of improved analytical techniques to evaluate compliance with cleanup levels.

The department shall publish a notice of all periodic reviews in the site register and provide an opportunity for public comment.

2.0 SUMMARY OF SITE CONDITIONS

2.1 Site History

The Davis Construction Property is located in a residential area of Des Moines in south King County, Washington (Vicinity Map - Appendix 6.1). Following remedial activities, a Restrictive Covenant was recorded for the property in 1998. Ecology issued a 'No Further Action' (NFA) determination for the Site later in 1998.

The Davis Construction Property consists of approximately 1.1 acres of land located at 24517 26th Place South in Des Moines, Washington. The Site was undeveloped until the early 1990s, when two apartment buildings were constructed at the Site. A site visit confirmed that one two-story apartment building and one three-story apartment building are currently located at the Site.

A site plan is available as Appendix 6.2.

The Site is downgradient from a former used oil recycling facility. There was a trench that travelled from the vicinity of the used oil recycling facility through the Site. This trench allegedly conveyed waste material away from the recycling facility. In addition to material passing across the Site by trench, it was reported that waste sludge and materials that could not be processed at the recycling facility were dumped at the Site.

2.2 Site Investigations and Cleanup

The property owner conducted an independent cleanup action at the Site in 1989. During the excavation of the contaminated soils from a 40 X 60 X 12 foot area, numerous drums of buried waste were encountered. These drums were excavated and disposed of at an unknown location by the former property owner, and the associated contaminated soil was moved to the vacant lots located on the opposite side of 26th Place South, to the property known as the Hauser Property. The placement of the contaminated soil from the Davis Construction Site property, and contaminated soils already at the Hauser Property ultimately led to an Enforcement Order being issued by Ecology for the containment of this hazardous material. A final cleanup report for the Davis Property was then submitted to the King County Housing Authority, who was interested in purchasing the property. The final cleanup verification never included testing for lead, which was known to be present in the material, but was tested for TPH only.

Prior to the purchase of the Site by the King County Housing Authority in 1993, two apartment buildings were constructed at the Site. The buildings, the associated asphalt parking area, and the new landscaping surrounding the Site served to form a cap preventing direct human contact with any remaining contamination. The South King County Multi Services Center contracted with Environmental Associates, Inc. in 1993 to have a Phase I Environmental Inspection and Indoor Air and Soil Gas Survey conducted at the Site. This Inspection concluded that the Site was free from contamination by hazardous, dangerous or toxic substances.

Transglobal Environmental Services Northwest, Inc. (TEG) conducted soil probe sampling at the Site in 1998,. Lead was detected at a maximum concentration of 1,130 parts per million (ppm) and TPH was detected at a maximum concentration of 12,000 ppm. Contamination was not detected below the depth of 9 feet below ground surface (bgs). Groundwater expected to be well below 20 feet bgs at the Site. It was determined that the contamination remaining at the Site did not pose a threat to groundwater or to human health by direct contact.

2.3 Cleanup Levels

MTCA Method A cleanup levels were used for the Site. A summary of Site cleanup levels can be found in the table below:

Analyte	2001 MTCA Method A Soil Cleanup Level (ppm)	2001 MTCA Method A Groundwater Cleanup Level (ppb)
Lead	250	15
TPH-Gas	100/30	1000/800
TPH-Diesel	2000	500
TPH-Oil	2000	500

2.4 Restrictive Covenant

The Restrictive Covenant was recorded in 1998 and is available as Appendix 6.3. The following limitations are found in the Restrictive Covenant:

1. The property is zoned Multi-Family residential.
2. Any activity that may result in the release or exposure to the environment of the contaminated soil that was contained as part of the remedial action is prohibited.
3. Any activity that may interfere with the integrity of the remedial action is prohibited.
4. The owner or successor owner of the Site must give written notice of intent to convey any interest in the Site.
5. The owner must restrict leases to uses and activities consistent with the Covenant.
6. The owner or successor owner must notify and obtain approval from Ecology prior to any use of the Site that is inconsistent with the terms of the Covenant.
7. The owner or successor owner shall grant Ecology the right to enter the site at reasonable times.
8. The owner or successor owner reserves the right to remove this Covenant with Ecology's approval.

A 'No Further Action' determination was issued by Ecology in 1998.

3.0 PERIODIC REVIEW

3.1 Effectiveness of completed cleanup actions

Based upon the site visit conducted on January 27, 2009, the landscaping, buildings and asphalt cover at the Site continue to eliminate exposure to contaminated soils by ingestion and direct contact. The asphalt appears in satisfactory condition and no repair, maintenance or contingency actions have been required. The Site continues to operate as an apartment complex. A photo log is available as Appendix 6.4.

The Restrictive Covenant for the Site was recorded and is in place. This Restrictive Covenant prohibits activities that will result in the release of contaminants contained as part of the cleanup without Ecology's approval, and prohibits any use of the property that is inconsistent with the Covenant. This Restrictive Covenant serves to assure the long term integrity of the Site cover.

Soils with lead and TPH concentrations higher than MTCA Method A cleanup levels are still present at the Site. However, the structures and asphalt surface prevent human exposure to this contamination by ingestion and direct contact with soils. The Restrictive Covenant for the property will ensure that groundwater from the Site will not be used, and that the integrity of the caps will be protected through maintaining the current use of the Site.

3.2 New scientific information for individual hazardous substances for mixtures present at the Site

There is no new relevant scientific information for the petroleum contaminants related to the Site.

3.3 New applicable state and federal laws for hazardous substances present at the Site

The cleanup at the site was governed by Chapter 173-340 WAC (1996 ed.). WAC 173-340-702(12) (c) [2001 ed.] provides that,

“A release cleaned up under the cleanup levels determined in (a) or (b) of this subsection shall not be subject to further cleanup action due solely to subsequent amendments to the provision in this chapter on cleanup levels, unless the department determines, on a case-by-case basis, that the previous cleanup action is no longer sufficiently protective of human health and the environment.”

Although cleanup levels changed for TPH as a result of modifications to MTCA in 2001, contamination remains at the site above MTCA Method A cleanup levels; however, the cleanup action is still protective of human health and the environment. A table containing MTCA Method A cleanup levels relevant to the Site is located below:

Analyte	1991 MTCA Method A Soil Cleanup Level (ppm)	2001 MTCA Method A Soil Cleanup Level (ppm)	1991 MTCA Method A Groundwater Cleanup level (ppb)	2001 MTCA Method A Groundwater Cleanup Level (ppb)
Lead	250	250	5	15
TPH	NL	NL	1000	NL
TPH-Gas	100	100/30	NL	1000/800
TPH-Diesel	200	2000	NL	500
TPH-Oil	200	2000	NL	500
NL = None listed				

3.4 Current and projected site use

The site is currently used for residential purposes. There have been no changes in current or projected future site or resource uses.

3.5 Availability and practicability of higher preference technologies

The remedy implemented included capping of hazardous substances and it continues to be protective of human health and the environment. While higher preference cleanup technologies may be available, they are still not practicable at this Site.

3.6 Availability of improved analytical techniques to evaluate compliance with cleanup levels

The analytical methods used at the time of the remedial action were capable of detection below MTCA Method A cleanup levels. The presence of improved analytical techniques would not effect decisions or recommendations made for the site.

4.0 CONCLUSIONS

The following conclusions have been made as a result of this periodic review:

- Soil cleanup levels have not been met at the Site; however, under WAC 173-340-740(6) (d), the cleanup action is determined to comply with cleanup standards, since the long-term integrity of the isolation or containment system is ensured and the requirements in WAC 173-340-360(8) are being met. Please note these citations are from the MTCA regulations in effect at the time the remedy was implemented, and are incorrect if applied to the current regulations.
- The cleanup actions completed at the Site appear to be protective of human health and the environment.
- The Restrictive Covenant for the property is in place and continues to be effective in protecting public health and the environment from exposure to hazardous substances and protecting the integrity of the cleanup action.

Based on this periodic review, the Department of Ecology has determined that the requirements of the Restrictive Covenant continue to be satisfactorily met. No additional cleanup actions are required by the property owner. It is the property owner's responsibility to continue to inspect the site to assure that the integrity of the Site surface is maintained.

4.1 Next Review

The next review for the site will be scheduled five years from the date of this periodic review. In the event that additional cleanup actions or institutional controls are required, the next periodic review will be scheduled five years from the completion of those activities.

5.0 REFERENCES

Site Analysts. Preliminary Environmental Study of Soil for Davis Construction Company.
1989

Hazcon. Final Report, Environmental Assessment – Phase I. 1992

Environmental Associates, Inc. Phase I Environmental Inspection and Indoor Air and Soil
Gas Survey. 1993

Ecology. Soil Probe Sampling of the Davis Construction Site. 1998

Ecology. NFA. 1998

Ecology. Restrictive Covenant. 1998

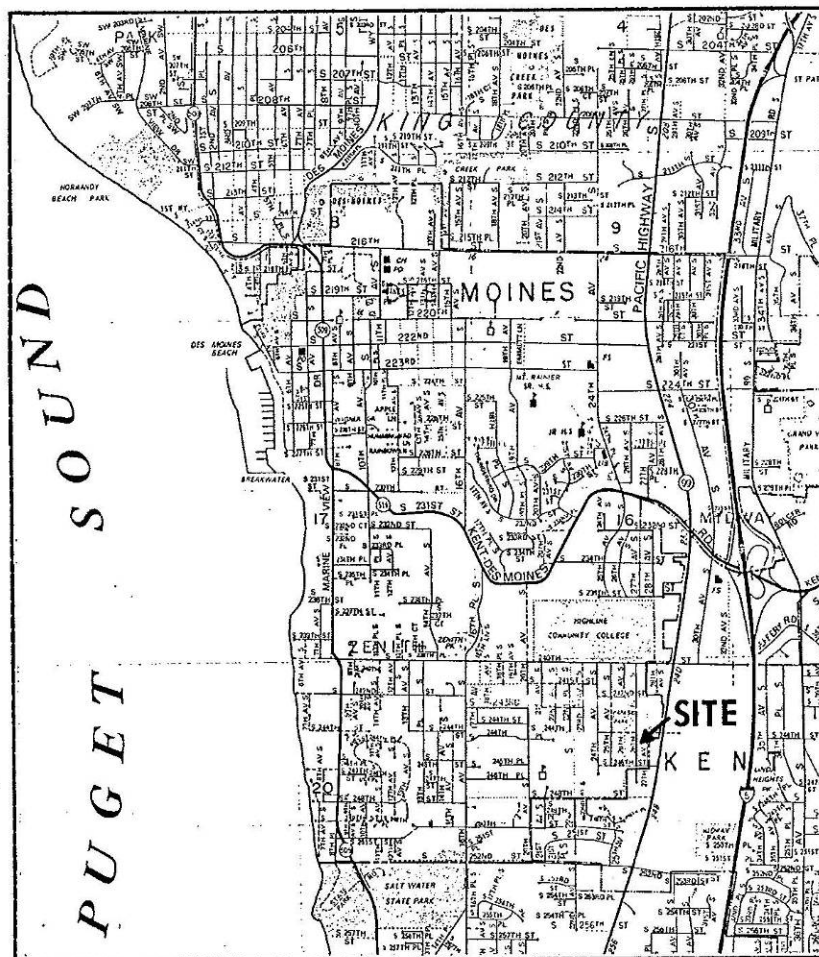
Geologics. Subsurface Assessment. 2006

Ecology. Site Visit. January 27, 2009

6.0 APPENDICES

6.1 Vicinity Map

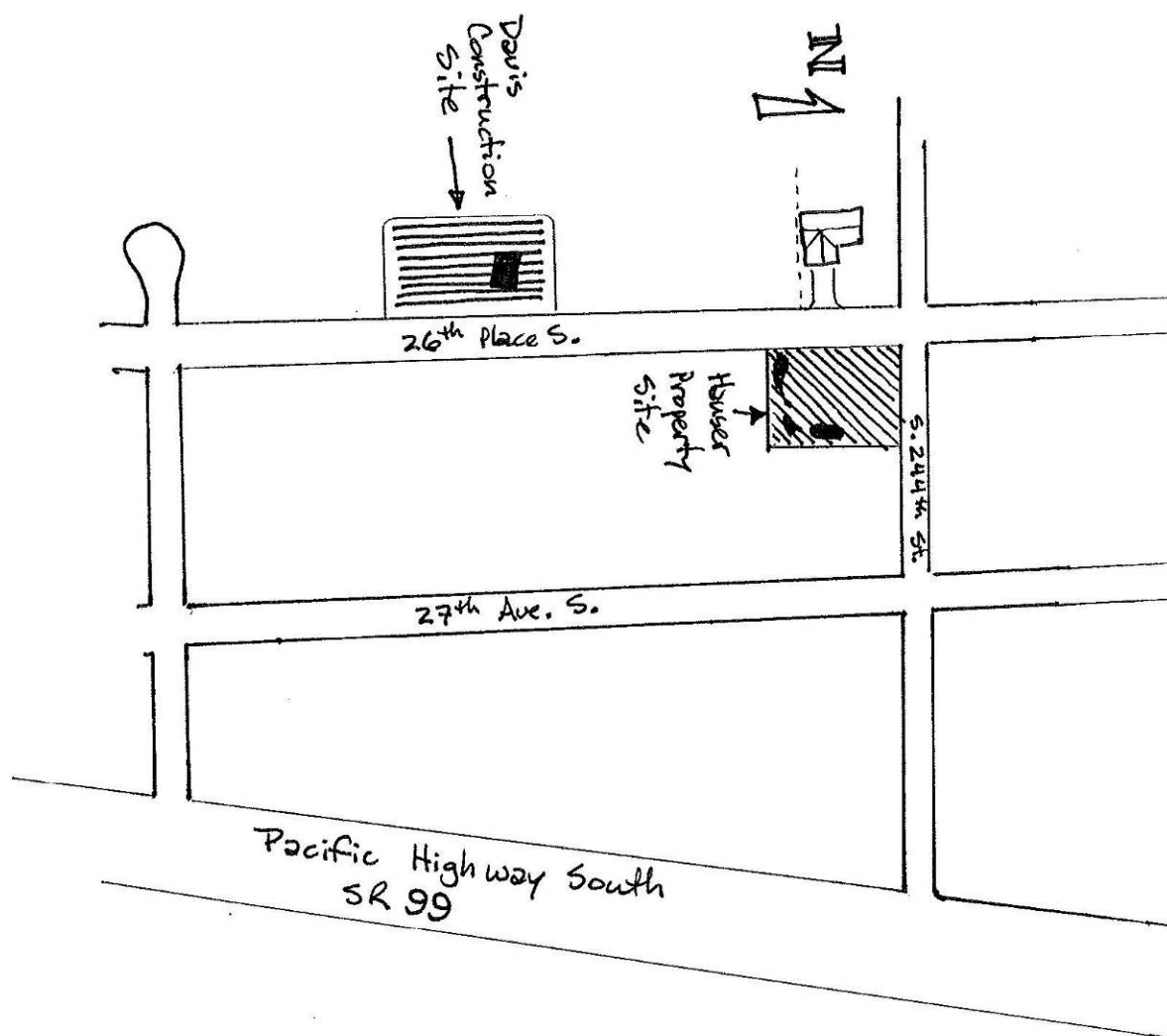
VICINITY MAP



REFERENCE
KING COUNTY/ MAP 47
BY THOMAS BROTHERS MAPS
DATED 1987

SITE ANALYSTS, INC.
DECEMBER 1988
88-116' FIGURE 1

6.2 Site Plan



6.3 Environmental Covenant

S17. 8.1

AFTER RECORDING MAIL TO:
South King County Multi-Service Center
1200 S. 336th Street
Federal Way, WA 98003
Attn: Dini Duclos

9808131654 03:28:00 PM KING COUNTY RECORDS 003 THE 10:00

RESTRICTIVE COVENANT

Richard M. Farage

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030 (1) (f) and (g) and WAC 173-340-440 by Richard M. Farage, on behalf of himself, and his successors and assigns, and by the State of Washington Department of Ecology, its successors and assigns (hereafter "Ecology").

An independent remedial action (hereafter "Remedial Action") occurred at the property that is the subject of this Restrictive Covenant. The Remedial Action conducted at the property is described in the following documents:

1. Phase I, Environmental inspection and indoor air and soil gas survey, August 3, 1993 re Victorian Place II Apartments, 24512/24517 26th Place South, Des Moines, WA.
2. Phase one, Environmental Assessment Report, dated August 20, 1991.
3. Victorian Place Phase II, Soil Test Report by Transglobal Environmental Geosciences Northwest, Inc. dated June 12, 1998.
4. Site Analysts Report SA 88116 (November 1998).
5. Roy F. Weston Report #WO 5519-01-01 (May 1989)

These documents are on file at Ecology's Northwest Regional Office.

TX Acct No. 3602410-00016
This Restrictive Covenant is required because the Remedial Action resulted in residual concentrations of petroleum and lead which exceed the Model Toxics Control Act Method A Residential Cleanup Levels for soil established under WAC 173-340-740. Residual concentrations of petroleum and lead which exceed the Model Toxics Control Act Method A Residential Cleanup Levels for soil established under WAC 173-340-740 under the sidewalk and possibly areas in the northeast corner of the property.

The undersigned, Richard M. Farage, is the fee owner of real property (hereafter "Property") in the county of King, State of Washington, that is subject to this Restrictive Covenant. The property is located at 24425 and 24517 26th Place South, Des Moines, Washington, and is legally described as follows:

App. Legal Lot 20, Blk 15 Vol 17, page 87
Lot 20, Block 15, Interurban Heights, Third Section, According to the Plat Thereof,

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Recorded in Volume 17 of Plats, Page(s) 87, in King County, Washington;

Together with Lots 5 through 19, Inclusive, Block 15, Interurban Heights,
Fourth Section, According to the Plat Thereof, Recorded in Volume 17 of Plats, Page(s)
86, in King County, Washington, Tax ID #360 240 0006-02.

Richard M. Farage (hereafter "Owner") makes the following declarations 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:

Section 1: The property is zoned Multi-Family residential

Section 2: Any activity on the property that may interfere with the integrity of the
Remedial Action and continued protection of human health and the environment is
prohibited.

Section 3: Any activity on the property that may result in the release or exposure
to the environment of a hazardous substance that remains on the property as part of the
Remedial Action, or create a new exposure pathway, is prohibited without prior written
approval from Ecology.

Section 4: The owner of the property must give thirty (30) day advance written notice
to Ecology of the owner's intent to convey any interest in the property. No conveyance
of title, easement, lease, or other interest in the property shall be consummated by the
owner without adequate and complete provision for continued monitoring, operation, and
maintenance of the Remedial Action.

Section 5: The owner must restrict leases to uses and activities consistent with the
Restrictive Covenant and notify all lessees of the restrictions on the use of the property.

Section 6: The owner must notify and obtain approval from Ecology prior to any use of
the property that is inconsistent with the terms of this Restrictive Covenant. Ecology
may approve any inconsistent use only after public notice and comment.

Section 7: The owner shall allow authorized representatives of Ecology the right to enter
the property at reasonable times for the purpose of evaluating the Remedial Action; to
take samples, to inspect remedial actions conducted at the property, and to inspect
records that are related to the Remedial Action.

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

DONE this 12 day of August, 1998.

Richard M. Farage

Richard M. Farage

SUBSCRIBED AND SWORN to before me this 12 day of August, 1998.

Francine Hagens

Print Name: Francine Hagens

NOTARY PUBLIC in and for the
State of Washington, residing at
King CO

My Commission Expires: 5/21/2002



9808131654

6.4 Photo log

Photo 1: North Side of Building - from the northeast



Photo 2: North Parking Lot – from the east



Photo 3: Northwest Corner of Building – from the north.



Photo 4: South End of Building – from the southeast

