



## **PERIODIC REVIEW**

**Eagle Harbor Construction  
aka Jackson Property  
Facility Site ID#: 75219382**

**3801 7<sup>th</sup> Avenue South,  
Seattle, Washington**

**Northwest Region Office**

**TOXICS CLEANUP PROGRAM**

**July 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 ensure that human health and the environment are being protected at the Eagle Harbor Construction, aka Jackson Property (Site). Cleanup at this Site was implemented under the Model Toxics Control Act (MTCA) regulations, Chapter 173-340 Washington Administrative Code (WAC).

Cleanup activities at this Site were completed under the Voluntary Cleanup Program. The cleanup actions resulted in concentrations of petroleum hydrocarbons remaining at the Site which exceed MTCA cleanup levels. The MTCA cleanup levels for soil are established under WAC 173-340-740. The MTCA cleanup levels for groundwater are established under WAC 173-340-720. 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 Description and History**

The subject site covers a reported 55,500 square feet, and was developed with an office/warehouse structure, which still remains and is in use as International Truck Leasing (ITL). The site and subject area were a tideland that was filled in the early part of this century. Historical research revealed the ITL building was constructed in 1973. Prior to 1973 dating to at least 1936, the site was undeveloped. A possible waste landfill appears to have operated north of the site in the 1940s, between the site and South Spokane Street. A reported 5,000 cubic yards of fill was imported to the site in the early 1970s. There apparently is no record of the origin of fill material deposited on the site. The site was occupied by a frozen food transporter from 1973 until the early 1990s. The site was occupied by Coastal Tank Cleaning from the early 1990s to the 1999. The property was split into two parcels, with the ITL property retaining the 3801 7<sup>th</sup> Avenue South address (east parcel), and the other parcel designated 611 S. Charlestown Street (west parcel). 611 S. Charlestown Street has a newer building on it housing Atlas Supply. This review applies to the east parcel only, since a covenant applies to the east parcel and not the west parcel, and the west parcel was cleaned up.

Truck maintenance and washing had been performed by Coastal Tank Cleaning and the past site tenant. Coastal Tank Cleaning reportedly had not used chlorinated solvents as part of the washing. Washing activities of the past site tenant are unknown. The site also had a wash pad with three catch basins. Three catch basins in the wash pad were reportedly plugged and there is no discharge from the pad. Wastewater that accumulated on the pad was removed by vacuum truck and reportedly disposed of at a facility in Tacoma. Four other catch basins on site were not connected to the city's system, and reportedly discharged to an area near the southeast corner of the site. Sanitary wastewater was discharged to an on-site septic system prior to early 1996, when the site was connected to the city's sewer system. According to the site owner at the time of a 1997 Phase 1 investigation, Mr. Jack Jackson, the on-site septic system only received wastewater from restrooms.

A petroleum pipeline operated by Olympic Pipeline Company has an easement that runs east/west under the north end of the site. A company spokeswoman said that Olympic Pipeline Company is unaware of releases of petroleum from the pipeline in the subject area. The spokeswoman indicated that if there is a release from its pipelines, Olympic Pipeline Company assumes the responsibility and cost for any cleanup.

### **2.2 Site Investigations and Cleanup**

During a 1997 Phase 1 investigation (ESA), ADaPT Engineering, Inc. found several recognized environmental conditions associated with the site as per ASTM Practice B 1527-97. The site reportedly had four underground storage tanks (USTs) that were removed in 1990. Reportedly, three USTs were just north of the site building and their removal resulted in one excavation. The fourth UST, which contained diesel, was at the southwest corner of the site and its removal

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resulted in one excavation. Releases of petroleum were discovered in both excavations. The impacted soil was excavated and disposed of at a landfill; however, some contamination was left under the site building because it was inaccessible. Additionally, closure sampling of the excavations did not include the testing of soil from the bottom of the excavations.

Based on the findings and recommendations of the ESA, Mr. Jackson contracted Equipoise to conduct a Phase II Preliminary Subsurface Investigation (Phase II). A truck-mounted Strataprobe unit was utilized to collect soil samples from each of the areas of concern identified in the ESA. Analytical results for samples collected from the stormwater catch basin outfall, truck wash pad, and three UST cavity locations were below the analytical method detection limit for each analyte of interest. Please note that in the area of the 3 USTs just north of the building, petroleum contamination still remains under the building. Petroleum hydrocarbon impacted soil was encountered at the diesel UST location.

Based on the positive screening results for petroleum hydrocarbons at the diesel UST geoprobe location, it was determined that further delineation of existing petroleum hydrocarbon impacts was required. Three test pits were excavated to a depth of approximately 10-feet below ground surface (bgs) in the area of the former diesel UST excavation. One test pit, TP-1, was excavated directly over the location of geoprobe location GP-4 that yielded the positive petroleum hydrocarbon analytical screening results.

Excavated soil was examined for visual signs of impacts (e.g. staining, sheen). Representative soil samples were screened for volatile organic compounds (VOCs) using a photo ionization detector (PID) equipped with a 10.7eV lamp. No visually petroleum hydrocarbon impacted soil was encountered in any of the three test pits. Likewise, no elevated VOC readings were recorded from screening soil samples from the three test pits. Each of the test pits had imported fill material from 0 to 2-feet bgs. Black to brownish black, poorly sorted, silty sand with greater than 20% by volume landfill type materials (e.g. wood debris, plastic, china, glass) were encountered from 2 to 10-feet bgs. Two 1-quart automobile oil cans were retrieved from 6-feet bgs in test pit TP-1.

Two sidewall soil samples were collected at 8-feet bgs and one floor soil sample was collected at 10-feet bgs from test pit TP-1 and submitted for analysis of gasoline range hydrocarbons by Ecology Method WTPH-G, and diesel range and heavier range hydrocarbons by Ecology Method WTPH-D Extended. Concentrations of gasoline range hydrocarbons were in excess of the Washington State Model Toxics Control Act (MTCA) cleanup level of 100 mg/kg in the floor and east sidewall samples collected from test pit TP-1. Concentrations of diesel range hydrocarbons were in excess of the MTCA cleanup level of 200 mg/kg for each of the three soil samples collected from test pit TP-1. Concentrations of oil and heavier range hydrocarbons were in excess of the MTCA cleanup level of 200 mg/kg for each of the three soil samples collected from test pit TP-1. Laboratory analytical reports note that in each instance hydrocarbons found in the diesel range did not match the typical chromatogram pattern for diesel.

Subsequently, Mr. Jackson contracted Coastal Tank Cleaning, Inc. to excavate the area surrounding test pit TP-1 to remove remaining petroleum hydrocarbon impacted soil. Approximately 20 cubic yards of soil and miscellaneous landfill-type debris were excavated. The

bottom of the excavation was approximately 11-feet bgs. Soil samples were collected from each of the excavation sidewalls as well as the excavation floor and submitted for laboratory analysis of diesel and heavier range hydrocarbons using Washington State Department of Ecology Method WTPHD-Extended. Analytical results for each of the five soil samples collected were below the analytical method detection limit.

## **2.3 Sample Results**

Please see the preceding section, as sample results are included there.

## **2.4 Cleanup Levels**

The cleanup levels selected for the areas of the Site which were cleaned up by excavation were the MTCA Method A cleanup standards in effect at the time of the cleanup. The area of the Site under the north edge of the building did not meet this standard, hence the need for isolation and/or containment (control), and the need for the covenant.

## **2.5 Restrictive Covenant**

Based on the Site use, surface cover and calculated cleanup levels, it was determined that the Site was eligible for a 'No Further Action' determination if a Restrictive Covenant was recorded for the property. A Restrictive Covenant was recorded for the Site in 1999, amended in 1999, and replaced in 1999. The final covenant, which includes the recording numbers for the earlier covenants, imposed the following limitations:

Section 1. A portion of the Property contains petroleum hydrocarbon contaminated soil located under the north central portion of the shop section of the warehouse building. The Owner shall not alter, modify, or remove the existing structure(s) in any manner that may result in the release or exposure to the environment of that contaminated soil or creates a new exposure pathway without prior written approval from Ecology.

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

Section 3. Any activity on the Property that may result in the release or exposure to the environment of the contaminated soil that remains on the Property as part of the Remedial Action, or creates 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 the 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.

The Restrictive Covenant is available as Appendix 6.4.

## **3.0 PERIODIC REVIEW**

### **3.1 Effectiveness of completed cleanup actions**

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 at the Site without Ecology's approval, and prohibits any use of the property that is inconsistent with the Covenant. This Restrictive Covenant serves to ensure the long term integrity of the remedy.

Based upon the site visit conducted on August 5, 2009, the buildings and asphalt cover at the Site continue to eliminate exposure to contaminated soils by ingestion and contact. The asphalt appears in satisfactory condition and no repair, maintenance, or contingency actions have been required. The Site is still operating as two businesses, a truck leasing company and a supply company. A photo log is available as Appendix 6.5.

Soils with petroleum concentrations higher than MTCA cleanup levels are still present at the Site. However, the remedy prevents human exposure to this contamination by ingestion and direct contact with soils. The Restrictive Covenant for the property will ensure that the contamination remaining is contained and controlled.

There is no indication that groundwater is affected or threatened, as the lowest known level of contamination was thought to be separated from the groundwater by a safe margin; however, the groundwater was not actually investigated.

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

There is no new scientific information for the 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 petroleum hydrocarbon compounds as a result of modifications to MTCA in 2001, contamination remains at the site above the new MTCA

Method A and B cleanup levels. Even so, the cleanup action is still protective of human health and the environment. A table comparing MTCA cleanup levels from 1991 to 2001 is available below.

<b>Analyte</b>	<b>1991 MTCA Method A Soil Cleanup Level (ppm)</b>	<b>2001 MTCA Method A Soil Cleanup Level (ppm)</b>	<b>1991 MTCA Method A Groundwater Cleanup level (ppb)</b>	<b>2001 MTCA Method A Groundwater Cleanup Level (ppb)</b>
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
<b>NL = None listed</b>				

### **3.4 Current and projected site use**

The site is currently used for commercial 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 containment 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 selected site cleanup levels. The presence of improved analytical techniques would not affect decisions or recommendations made for the site.

## 4.0 CONCLUSIONS

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

- The cleanup actions completed at the Site appear to be protective of human health and the environment.
- Soils cleanup levels have not been met at the standard point of compliance for the Site; however, the cleanup action has been determined to comply with cleanup standards since the long-term integrity of the isolation and/or containment system is ensured, and the requirements for isolation and/or containment technologies are being met.
- 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 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 remedy 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

Phase 1 Environmental Site Assessment, 3801 7<sup>th</sup> Avenue South, Adapt Engineering, Inc., October 16, 1997;

Preliminary Subsurface Investigation at 3801 7<sup>th</sup> Avenue South, Seattle, WA, Equipoise Corporation, January 15, 1998;

Request for Voluntary Cleanup Program Review of Completed Site Investigation and Remediation, 3801 7<sup>th</sup> Avenue South, Seattle, WA, Equipoise Corporation, November 12, 1998;

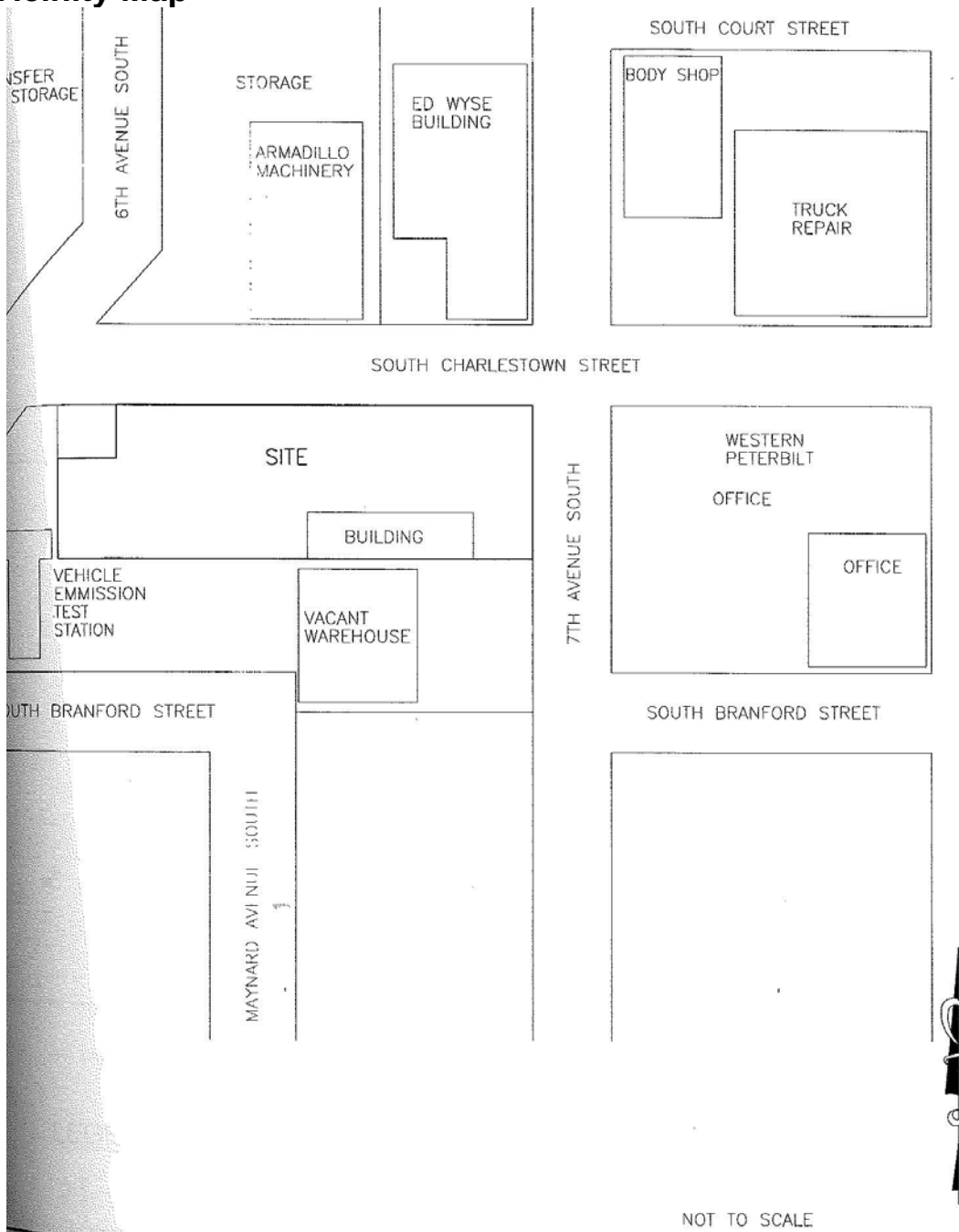
Request for Voluntary Cleanup Program Review of Completed Site Investigation and Remediation, 3801 7<sup>th</sup> Avenue South, Seattle, WA, Lawler and Burroughs, P.C., October 22, 1999;

Ecology, 1999, Restrictive Covenant;

Ecology, 2009, Site Visit.

## **6.0 APPENDICES**

### 6.1 Vicinity Map

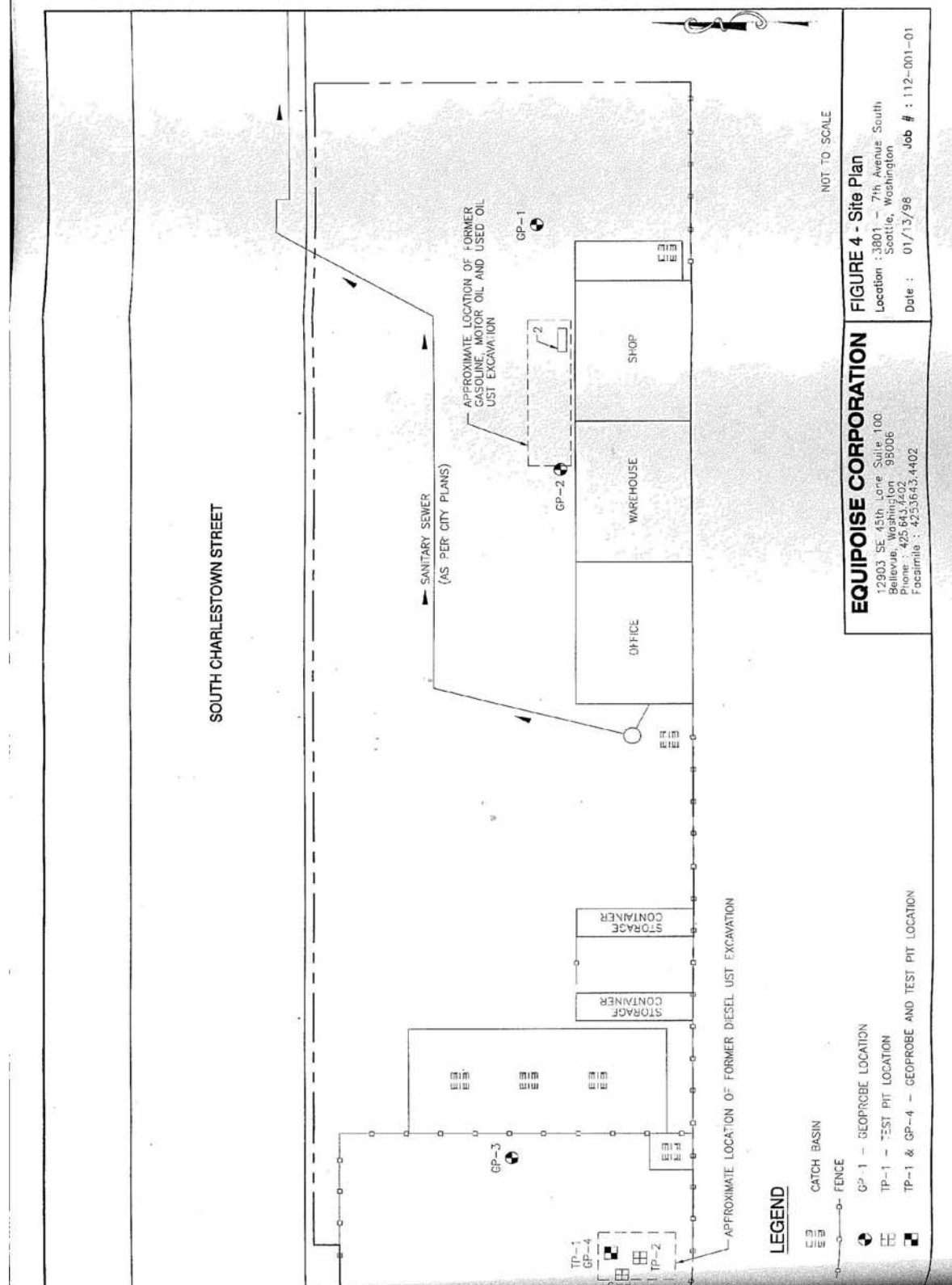


NOT TO SCALE

**EQUIPOISE CORPORATION**  
12903 SE 45th Lane Suite 100  
Bellevue, Washington 98006  
Phone : 425.643.4402  
Facsimile : 4253643.4402

**FIGURE 3 - Vicinity Map**  
Location : 3801 - 7th Avenue South  
Seattle, Washington  
Date : 01/13/98 Job # : 112-001-01

## 6.2 Site Plan



### **6.3 TPH-Dx Concentration Map** (not available)

## 6.4 Environmental Covenant

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KING COUNTY, WA

LAWLER & BURRO COV 10.00

**When Recorded Return To:**

Brian E. Lawler, Esq.  
LAWLER & BURROUGHS, P.C.  
999 Third Ave, Suite 4750  
Seattle, WA 98104

COPY OF  
RECORDED DOCUMENT  
King County Recorder's Office

**SECOND AMENDED & CORRECTED RESTRICTIVE COVENANT  
RE: REMEDIAL ACTION**

GRANTOR: Jackson, Jack A. and Jackson, Janet C., husband and wife

GRANTEE: The Public

LEGAL DESCRIP. (Abbrev.) Lts. 4-9, Blk. 7, South Seattle Add. Vol 1/35; Lts. 7-9, Blk. 262, Seattle Tidelands. Complete legal on Attachment A.

TAX PARCEL NO. 788610-0290-01

This Second Amended and Corrected Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by Jack Jackson and Janet Jackson, their successors and assigns, and the State of Washington Department of Ecology, its successors and assigns (hereafter "Ecology"). This document replaces the Restrictive Covenant re: Remedial Action previously filed at King County Auditor's File No. 19990903000006 and the First Amended and Corrected Declaration of Restrictive Covenant Re: Remedial Action previously filed at King County Auditor's File No. 1999101301018.

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 Site Assessment, 3801 7th Avenue South, AdaPT Engineering, inc., October 16, 1997;
2. Preliminary Subsurface Investigation at 3801 7th Avenue South, Seattle, WA, Equipoise Corporation, January 15, 1998;
3. Request for Voluntary Cleanup program review of Completed Site Investigation and Remediation, 3801 7th Avenue South, Seattle, WA. Equipoise Corporation, November 12, 1998.
4. Request for Voluntary Cleanup program review of Completed Site Investigation and Remediation, 3801 7th Avenue South, Seattle, WA. Lawler & Burroughs, P.C. October 22, 1999.

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

This Restrictive Covenant is required because the Remedial Action resulted in residual concentrations of Petroleum Hydrocarbons which exceed the Model Toxics Control

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DEPT. OF ECOLOGY

The undersigned, Jack Jackson and Janet Jackson (hereinafter "the Jacksons"), are the fee owners of real property (hereafter "Property") in the County of King, State of Washington, that is subject to this Restrictive Covenant. The Property is legally described in Attachment A of this Restrictive Covenant and made a part hereof by reference.

The Jacksons make the following declaration as to limitations, restrictions, and uses to which the Property may be put and specifies that such declarations shall constitute covenants to run with the land, as provided by law and shall be binding on all parties and all persons claiming under them, including all current and future owners of any portion of or interest in the Property (hereafter "Owner").

Section 1. A portion of the Property contains petroleum hydrocarbon contaminated soil located under the north central portion of the shop section of the warehouse building. The Owner shall not alter, modify, or remove the existing structure(s) in any manner that may result in the release or exposure to the environment of that contaminated soil or creates a new exposure pathway without prior written approval from Ecology.

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

Section 3. Any activity on the Property that may result in the release or exposure to the environment of the contaminated soil that remains on the Property as part of the Remedial Action, or creates a new exposure pathway, is prohibited without prior written approval from Ecology.

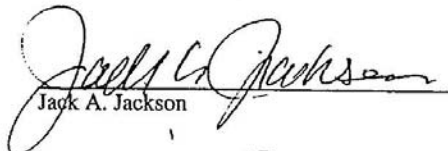
Section 4. The Owner of the Property must give thirty- (30) day advance written notice to Ecology of the Owner's intent to convey any interest in the Property. No conveyance of title, easement, lease, or other interest in the Property shall be consummated by the Owner without adequate and complete provision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

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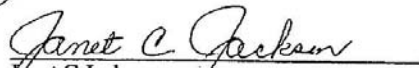
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Section 7. The Owner shall allow authorized representatives of Ecology the right to enter the Property at reasonable times for the purpose of evaluating the Remedial Action; to take samples, to inspect remedial actions conducted at the Property, and 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 the 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.

  
Jack A. Jackson

2 Nov 99  
Date



Nov. 2, 1999



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## 6.5 Photo log

**Photo 1: Atlas Supply Building, - from the north, looking southeast**



**Photo 2: Atlas Supply Bldg west end - from the north, looking southwest**



**Photo 3: International Truck Leasing Building – west end, looking from the north**



**Photo 4: International Truck Leasing Building – east end, looking from the north**

