



PERIODIC REVIEW

**Ballard Auto Wrecking
Facility Site ID#: 2346**

**1515 Northwest Leary Way,
Seattle, Washington**

Northwest Region Office

TOXICS CLEANUP PROGRAM

October 2010

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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 Ballard Auto Wrecking (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 (VCP). The cleanup actions resulted in concentrations of petroleum hydrocarbons and lead remaining at the Site which exceed MTCA cleanup levels for unrestricted use. 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, 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; or
 - 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 property is located at the corner of 15th Avenue NW and NW Leary Way in an area zoned for commercial/industrial land use. The Site is approximately 0.68 acres in size (29,621 square feet) with an L-shaped configuration. The land surface is generally flat, sloping gently from a high point in the southeast corner (approximate elevation 40 feet above mean sea level) toward a lower area on the west (34 feet). Standing water tended to collect on the western portion of the property during the wet season and that a sump pump was used to maintain working conditions; however, nothing like that was observed during a recent Site visit, so possibly there has been filling and grading. The Site was secured by fencing around its entire perimeter in the past, but currently it is open to the public. The tax parcel ID number is 2767702105 and the property includes lots 7 through 14 of the Gilman Park Addition. The property is zoned by City of Seattle for industrial use (zoning IG-2), and has been in traditional industrial uses continuously since 1928. Consequently, the property has in the past met the definition of an industrial property under Washington state cleanup regulation (MTCA; Chapter 173-340 WAC).

The property has apparently served three primary uses during the past century, including residential dwellings, a gasoline service station, and auto wrecking. Currently, the property is used to sell Cedar Grove Compost materials. The historical timeline is believed to be:

- Residential dwellings are noted in Sanborn Fire Insurance maps between 1905 and approximately 1917, followed by vacant land from 1917 to 1927;
- Union Oil service station #244 was constructed in 1928 on lots 11 and 12, which are located at the corner of 15th Avenue NW and Leary Way (based on tax records);
- The period of operation is unclear, but it is thought that the gasoline service station operated into the 1960s;
- Beginning in the late 1920s, an auto wrecking yard began operations on lots 7 through 10;
- The owners of Ballard Auto Wrecking at the time of cleanup purchased the property occupied by the auto wrecking yard (lots 7 through 10) in 1959; and
- Those owners of Ballard Auto Wrecking purchased lots 11 through 14 on the corner of 1501 Avenue NW and Leary Way, expanding their operation to the current footprint.

The historical features associated with the former gasoline station include the potential presence of underground storage tanks (UST) and residual petroleum hydrocarbons in the northeast corner of the property.

The property operated as an auto wrecking yard, but after the cleanup activities that operation was closed and the automotive inventory was removed. The property then included a small office with a parts counter, a garage-like structure, covered areas with shelving for parts storage, and

open areas used for additional storage. These structures were removed and the property was vacant for a time before the current business located there.

2.2 Site Investigations and Sample Results

One UST fill pipe has been located near the garage in the northeast corner of the Site. The property owners indicated that additional USTs may have been present in the same general area, remaining from prior use at a gasoline service station. The fill port for the known UST has been covered by compacted dirt in the driveway area for years and it was exposed in August 2002 to assist with an environmental assessment. The fill port was located uncapped. The tank was approximately 10 feet deep below ground surface (bgs) and 4,200 gallons of water and oil was pumped out by Basin Oil Recovery for recycling/disposal.

Aspect Consulting completed a phased assessment of soil and groundwater conditions on the Ballard Auto Wrecking property.

- Twelve soil borings (P-1 through P-12) and three shallow monitoring wells (MW- 1 through MW-3) were completed in June 2002 in areas where Site reconnaissance and historical information indicated the greatest potential for subsurface environmental problems.
- Ten additional soil borings (P-100 through P-109) were completed in July 2002, to further assess conditions in areas where the initial test results identified impacts. The subsurface explorations were completed by Cascade Drilling using a truck-mounted probe drilling rig, with the exception of three interior locations completed by hand auger (P-7, P-8, and P-9).
- Six borings (B-1 through B-6) were completed in February 2003, by hollow-stem auger to characterize specific hydrocarbon fractions present within areas of residual petroleum impacts, and allow calculation of Site-specific petroleum soil cleanup levels in accordance with MTCA. An additional groundwater sample was also collected from monitoring well MW-1 at this time.

The Site is underlain by relatively dense soils and groundwater ranging in depth from 6 to 9 feet bgs in July 2002. Explorations extended to a maximum depth of 15 feet bgs; however, refusal at depths of 8 to 12 feet bgs was typical. There were three primary soil horizons encountered. These soil units consisted of:

- Surficial Fill. Mixture of sand, gravel, and silt with metallic, wood, and glass debris fragments. This surficial unit is relatively loose compared with the underlying glacial soils;
- Dense silty SAND and sandy SILT. Dense layer of predominantly fine grained soils varying in thickness across the Site. These deposits are typically 4- to 6-feet thick in the central portion of the Site. The unit thins to 1-foot toward the west and it is absent below the eastern side of the Site; and
- Very dense SAND. Glacially-overridden soils forming an extremely dense layer beneath the Site. Typically saturated below depths of 8 to 9 feet bgs.

The uppermost water-bearing horizon is within the very dense SAND horizon. Depth to water measured in the three monitoring wells ranged from 6.3 feet (MW-3) to 9.7 feet (MW-1) bgs. Groundwater flow direction is anticipated toward the south with ultimate discharge to the Ship Canal, located about 800 feet to the south.

The chemical testing program was developed to address potential contaminants associated with the historical use of the property as a wrecking yard and gasoline service station. Aspect Consulting tested for the following potential contaminants at the Site:

- Total petroleum hydrocarbons (TPH) in the gasoline, diesel, and oil-range using methods NWTPH-G and NWTPH-D extended, assessing impacts of petroleum handling across the Site;
- TPH fractions in the gasoline, diesel, and oil ranges using the volatile petroleum hydrocarbons (VPH) and extractable petroleum hydrocarbons (EPH) analytical methods to allow calculation of risk-based soil cleanup levels for petroleum (MTCA Method B or C).

2.3 Cleanup Actions

Cleanup construction took place primarily between September 15 and October 2, 2003 with Aspect Consulting overseeing. Construction activities included removal of three underground storage tanks (USTs) associated with former service station operations, and excavation and off-Site treatment/disposal of impacted soils exceeding soil cleanup levels. Two sets of soil cleanup levels had been established, one for near-surface soils in the central and western portions of the Site that were impacted by past wrecking yard operations, and the other for deeper impacted soils associated with the UST excavation.

Prior to excavation, there was evidence of only one UST (a single fill pipe discovered at ground surface during the Site investigation). However, two 3,500-gallon and one 1,800-gallon USTs were found at that location. Water and product were pumped from the USTs prior to cleaning, inerting, and removing them. Approximately 120 cubic yards (cy) of soils were excavated as part of the UST removal, including roughly 20 cy of overburden soils and 100 cy of soils impacted by petroleum products (primarily gasoline and diesel). Impacted soils were excavated to depths up to 14 feet bgs. Groundwater with a sheen was observed at a depth of approximately 13 feet bgs, and approximately 1,100 gallons were pumped from the excavation prior to backfilling.

Chemical analysis of verification soil samples collected from the UST excavation bottom and sidewalls demonstrated that soil cleanup levels had been achieved. The overburden soil was then backfilled to the UST excavation along with clean imported fill to restore grade. The stockpile of impacted UST excavation soil (154 tons) was removed from the Site and disposed of as non-hazardous solid waste at Rabanco's Roosevelt Regional Landfill. One hundred seventy two tons (approximately 114 cy) of near-surface soils impacted by diesel- and oil-range petroleum hydrocarbons and lead were excavated from two areas within the central and western portions of the Site. After verification sampling demonstrated that soil cleanup levels were achieved, clean imported soil was backfilled to these areas to restore grade.

Waste characterization sampling and analysis determined that stockpiled near-surface soils failed the Toxicity Characteristic Leaching Procedure (TCLP) criterion for lead. These soils were transported to Chemical Waste Management's facility in Arlington, Oregon, for treatment via chemical stabilization. The stabilized soil was then disposed of at that facility's hazardous waste landfill.

Groundwater monitoring occurred after cleanup activities to confirm that the quality of groundwater migrating from the Site is protective of the Ship Canal. Site-specific groundwater cleanup levels were proposed in a letter to Ecology dated July 8, 2003 (Aspect Consulting 2003b). Brian Sato of Ecology indicated acceptance of these cleanup levels in a follow-up telecom on July 14, 2003 (Ecology 2003).

Monitoring wells were installed in accordance with the Cleanup Action Plan (CAP) around the perimeter of the property. The first round of quarterly post-construction groundwater compliance monitoring was performed on November 25, 2003. Prior to sampling wells MW-4 through MW-7, depth to groundwater was measured in each well, which allowed the consultant to calculate groundwater elevations and estimate flow direction. Based on these measurements, the inferred groundwater flow direction was to the east-southeast, compared with an expected southerly flow toward the Ship Canal. Groundwater flow at the Site may be influenced by subsurface drainage features associated with the elevated 15th Avenue NW overpass. MW-8 was installed downgradient of the former UST area prior to the second round of monitoring. The second round of compliance monitoring was performed on February 20, 2004. Groundwater elevations measured during this round indicated an extremely flat water table in the central portion of the Site (i.e., elevations in wells MW-4, MW-5, MW-7, and MW-8 were within 0.05 feet of each other). Groundwater flow direction could not be reliably inferred in this area. However, based on elevations measured in wells MW-5, MW-6, and MW-8, the inferred groundwater flow direction in the southern portion of the Site was between southeast and south-southeast. Since well MW-5 is located roughly downgradient of MW-4 and along the upgradient edge of the property's southern leg, groundwater samples were not collected from that well in the second round of monitoring.

Groundwater monitoring samples were submitted for the following chemical analyses:

- Arsenic and lead using EPA Method 6010;
- Benzene, toluene, ethylbenzene, and xylenes (BTEX) and naphthalene using EPA Method 8260;
- Gasoline-range total petroleum hydrocarbons (TPH) using Method NWTPH-Gx; and
- Diesel- and oil-range TPH using Method NWTPH-Dx.

For analytes with no established Site-specific cleanup level, the MTCA Method A groundwater cleanup level was used as a screening level value. In both monitoring rounds, low concentrations of diesel-range TPH were detected in each well sampled, and gasoline-range TPH was detected in upgradient well MW-7. None of these detections exceeded Method A cleanup levels. BTEX was not detected in any Round 1 sample. In Round 2, benzene was detected in well MW-7 at a concentration of 1 microgram per liter (ug/L), which is less than the Site-specific cleanup level

of 1.2 ug/L. Toluene concentrations in the range of 1 to 4 ug/L were detected in the four wells sampled, compared to a cleanup level of 6,800 ug/L. Xylenes were detected in well MW-7 at 3 ug/L, compared to a Method A cleanup level of 1,000 ug/L. Dissolved arsenic was detected at low concentrations in several groundwater samples during both monitoring rounds. The highest arsenic detection (in well MW-5 during Round 1) was 1.63 g/L, which is less than one-third the Site-specific cleanup level. In both monitoring rounds, concentrations of oil-range TPH, naphthalene, and dissolved lead were below detection limits in all wells sampled.

Groundwater elevations measured in these wells since monitoring was initiated (2003) have consistently indicated a flow direction toward the south southeast. Given this flow direction, it was decided to install MW-8 to monitor groundwater quality at the property boundary downgradient of the former UST area. Furthermore, since monitoring well MW-4 was considered cross- to up-gradient of the former UST area, Ecology allowed the removal of that well from the monitoring program, as long as the groundwater flow direction continued to be measured in a roughly southeasterly direction.

Ecology issued a 'No Further Action' (NFA) letter June 29, 2004 after a restrictive covenant was recorded with the county. The NFA letter also required additional compliance groundwater monitoring. Four consecutive quarterly groundwater monitoring results from August and November 2007 and February and June 2008 were performed by the current owner of the property. Groundwater samples were collected for chemical analysis since November 2003, including the latest four consecutive quarters ending in June 2008. All four existing monitoring wells (MW5 through MW-8) were sampled at the August and November 2007 and February and June 2008 events. Groundwater samples were submitted to Friedman & Bruya, Inc. for the following chemical analysis:

- Dissolved arsenic, barium, chromium, and lead using EPA Method 6010;
- Benzene, toluene, ethylbenzene, and total xylenes (BTEX) and naphthalene using EPA Method 8260;
- Total petroleum hydrocarbons (TPH) quantified in the gasoline range using Method NWTPH-Gx; and
- Diesel- and oil-range TPH using Method NWTHP-Dx.

Chemical analytical results from monitoring wells MW-5 through MW-8 for the last four quarterly monitoring events were consistently below the corresponding cleanup levels and screening levels. Significant findings included:

- TPH quantified as diesel in well MW-6 was measured at 1,000 ug/L in July 2006, exceeding the cleanup level of 500 ug/L. However during the last four consecutive rounds performed between 2007 and 2008, diesel concentrations were measured below the laboratory detection limit of 50 ug/L.
- TPH quantified as diesel and gasoline in well MW-8 (downgradient well) declined since the August 2004 sampling round exceedances. There were also diesel exceedances in 2005 and 2006. The results for the last four rounds were all below the Site cleanup level of 500 ug/L, ranging between 180 and <50 ug/L.

- Dissolved lead concentrations in well MW-8 have decreased from 2.04 ug/L in July 2006 to below the Site-specific cleanup level of 1.8 ug/L. The results for the last four rounds ranged between 1.56 and <1 ug/L, all below the Site cleanup level.
- For each of the last four quarterly monitoring events, all remaining analytes measured in monitoring wells MW-5 through MW-8 were either below the laboratory detection limit or below the Site's groundwater cleanup level.

Results of laboratory analyses for required analytes specified in the CAP were measured below the Site-specific groundwater cleanup levels. Therefore, the consultant and owner, in accordance with Ecology's Independent Remedial Action and NFA determination letter, dated June 29, 2004, requested that Ecology eliminate the NFA conditional requirement of continuing groundwater monitoring. They also requested that the restrictive covenant be removed. Ecology agreed that the groundwater monitoring could cease, but that it was not appropriate to remove the covenant, and issued a letter to that effect April 21, 2009.

2.4 Cleanup Levels

Two sets of soil cleanup levels had been established in the CAP, one for near-surface soils in the central and western portions of the Site that were impacted by past wrecking yard operations, and the other for deeper impacted soils associated with the UST excavation.

Site-specific groundwater cleanup levels were proposed in a letter to Ecology dated July 8, 2003 (Aspect Consulting 2003b). Brian Sato of Ecology indicated acceptance of these cleanup levels in a follow-up telecom on July 14, 2003 (Ecology 2003).

While MTCA Method A was used for comparison purposes, it is stated in the restrictive covenant that industrial cleanup standards apply, so the Site use must remain industrial. A MTCA Method C industrial cleanup level approach was set forth in the CAP. Outside of the property boundary, where the applicability of the restrictive covenant ends, the cleanup standards default to MTCA Method A.

2.5 Restrictive Covenant

Based on the Site use, surface cover and 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 2004 which imposed the following limitations:

Section 1. The Property shall be used only for traditional industrial uses, as described in RCW 70 105D 020(23) and defined in and allowed under the City of Seattle's zoning regulations codified in the Seattle Land Use and Zoning Code as of the date of this Restrictive Covenant. A portion of the Property contains petroleum hydrocarbon and lead contaminated soils located in the Near-Surface Excavation Area A & B, and the former Underground Storage Tank (UST) Excavation Area described in the above referenced documents. The Owner shall cover these areas to prevent direct contact to the contaminated soils. If future Site redevelopment calls for

exposing these contaminated soils, all appropriate health and safety measures will be followed for the protection of a construction worker exposure scenario.

Any activity on the Property that may result in the release or exposure to the environment of the contaminated soil that was contained as part of the Remedial Action, or create a new exposure pathway, is prohibited.

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, 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.

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; however, there are problems with parcel numbers matching what is recorded in the covenant, and discrepancy with the Site use as specified in the covenant.

Based upon the Site visit conducted on October 13, 2010, the soil cover at the Site likely continues to eliminate exposure to contaminated soils by ingestion and contact, but this needs to be re-evaluated in light of the Site use discrepancy. The soil cover appears in satisfactory condition and no repair, maintenance, or contingency actions are recommended at this time. However, the Site is now operating as a location for the sale of dirt, compost, and other similar materials, and this is not consistent with the requirement in the covenant for continued industrial use; there is open access to the public. A photo log is available as Appendix 6.5.

Soils with TPH and metals concentrations higher than MTCA cleanup levels (unrestricted land use) are still present at the Site. However, the soil cover may prevent human exposure to this contamination by ingestion and direct contact with contaminated soils, but this needs to be re-evaluated because the current Site use is not consistent with the remedy that was established in 2004. The cleanup actions need to be re-evaluated and the Restrictive Covenant for the property needs to be amended to properly reflect parcel numbers, and current Site use, to ensure that the contamination remaining is contained and controlled to be protective.

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. There have been no changes that would affect this cleanup.

3.4 Current and projected Site use

The Site is currently used for commercial purposes. This is a change to the specified Site use of 'industrial'. It appears that the property owner is likely to continue the current use, so the remedy should be re-evaluated. A review through Ecology's VCP would be necessary to determine if a

remedy can be developed which is protective of human health and the environment and which is consistent with the current use.

3.5 Availability and practicability of higher preference technologies

The remedy implemented included containment of hazardous substances, and that component of the remedy 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 may be protective of human health and the environment, but this needs to be re-evaluated since the remedy specifies maintaining industrial use, which is not the current Site use.
- Soils cleanup levels have been met at the standard point of compliance for the Site for industrial use; however, the cleanup action has been determined to not comply with cleanup standards since the use is no longer industrial.
- The Restrictive Covenant for the property is in place but would need to be amended after the remedy is re-evaluated to be effective in protecting public health and the environment from exposure to hazardous substances and protecting the integrity of the cleanup action: parcel numbers in the covenant do not seem to match actual parcel numbers, and the covenant requires industrial use which is not now the case.

Based on this periodic review, the Department of Ecology has determined that the requirements of the Restrictive Covenant are not met. No additional cleanup actions are required by the property owner at this time, but additional review in Ecology's VCP is needed to re-evaluate the remedy and amend the covenant and perhaps qualify for a property specific NFA letter. It is the property owner's responsibility to continue to inspect the Site to assure that the integrity of the soil cover is maintained.

4.1 Next Review

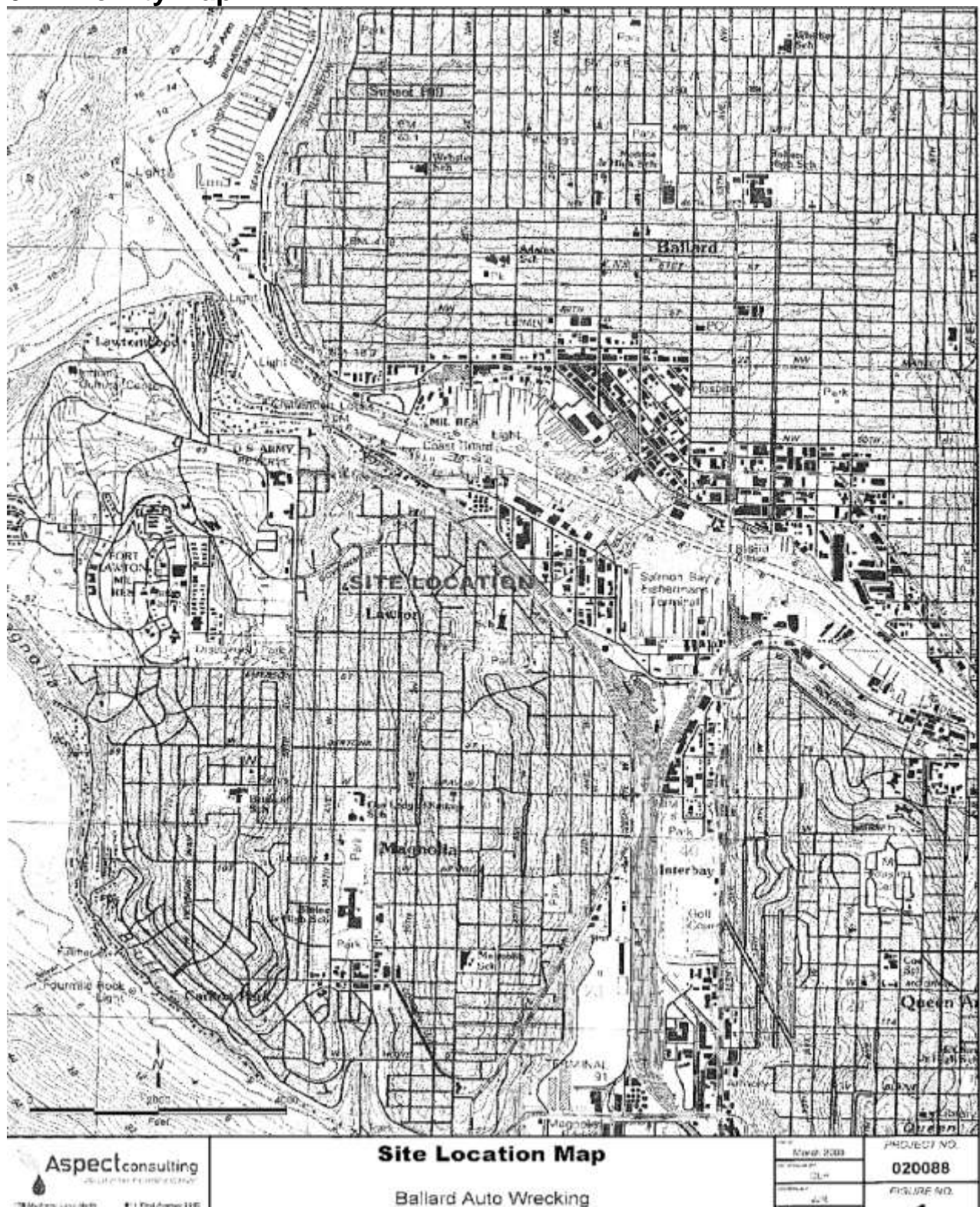
The next review for the Site will be scheduled five years from the date of this periodic review. In the event that additional cleanup actions or institutional controls are required, the next periodic review will be scheduled five years from the completion of those activities.

5.0 REFERENCES

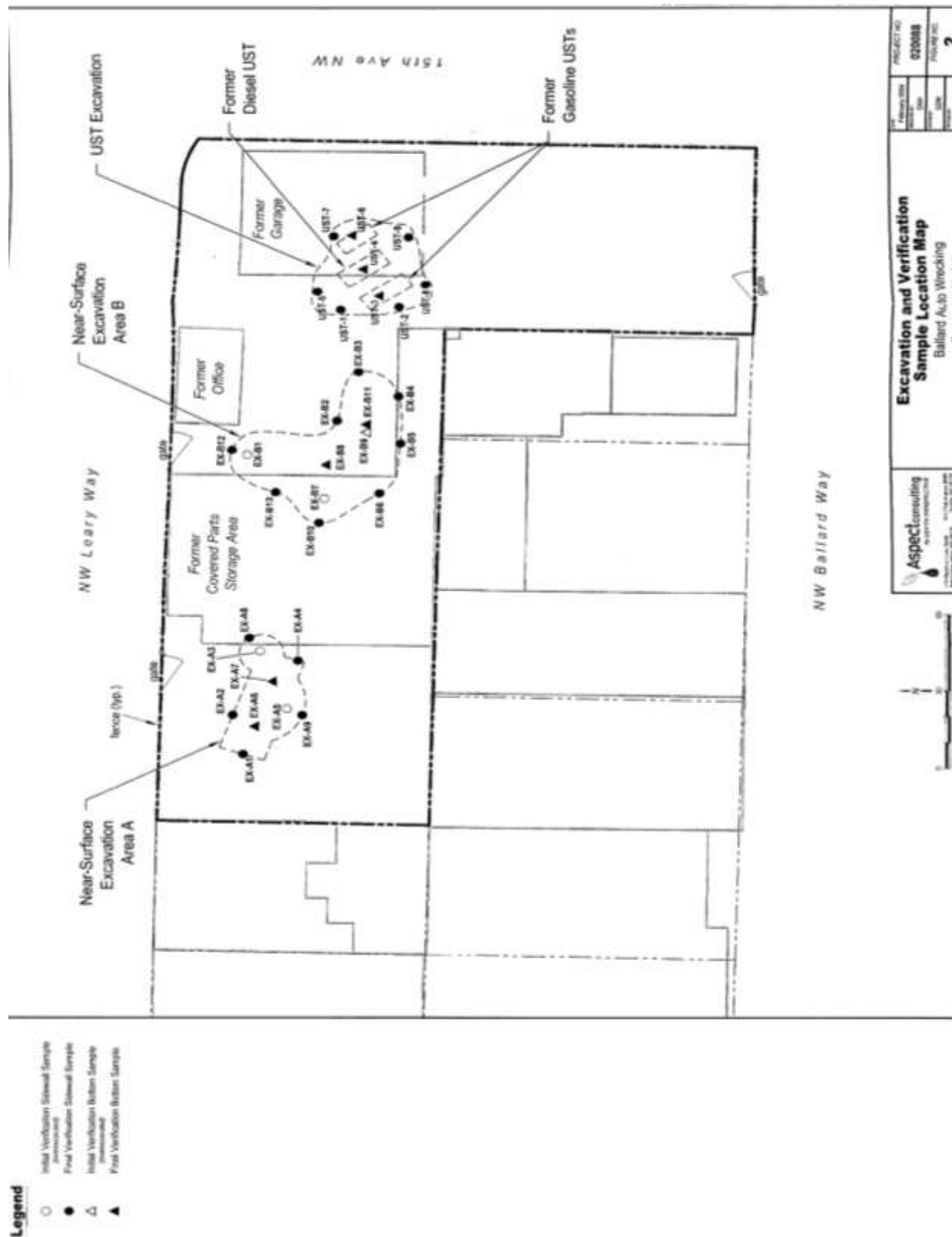
1. Confirmational Monitoring Results, Former Ballard Auto Wrecking Site, Roy Kuroiwa, PE, November 14, 2008;
2. Letter Re: Independent Remedial Action, Ballard Auto Wrecking Site, Brian S. Sato, Department of Ecology, to Doug Hilman, Aspect Consulting, June 29, 2004;
3. Completion of Cleanup Construction and Request for No Further Action (NFA) Letter, Ballard Auto Wrecking Site, 1515 NW Leary Way, Seattle, Aspect Consulting, March 2, 2004;
4. Cleanup Construction and First Two Rounds of Post-Construction Groundwater Monitoring, Ballard Auto Wrecking, Aspect Consulting, March, 2004;
5. Cleanup Action Plan Follow-Up, Ballard Auto Wrecking Site, 1515 NW Leary Way, Seattle, Aspect Consulting, July 8, 2003;
6. Cleanup Action Plan, Ballard Auto Wrecking, Aspect Consulting, March 13, 2003;
7. 2004 Restrictive Covenant;
8. Ecology, 2010 Site Visit.

6.0 APPENDICES

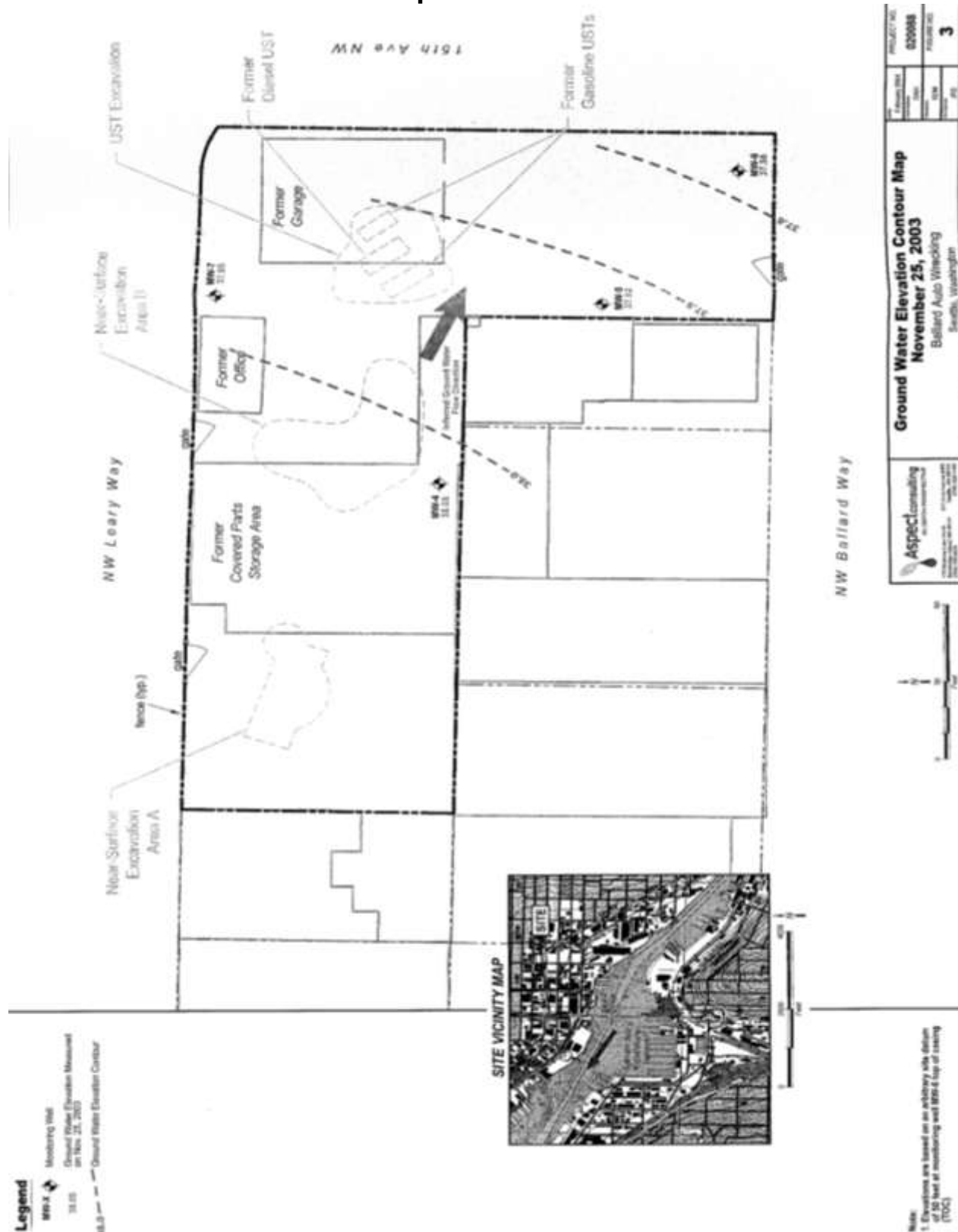
6.1 Vicinity Map



6.2 Site Plan



6.3 Groundwater Contour Map



6.4 Environmental Covenant

After recording, return to,

Steve McCormick, LLC
36101 Bob Hope Drive, E-5 PMB 126
Rancho Mirage, CA 92270



20040617000216

DEMCO
PAGE 001 OF 004
06/17/2004 09:33
KING COUNTY, WA

COV

22 00

RESTRICTIVE COVENANT

Grantor
Grantee

Steve McCormick, LLC
The Public

This declaration of Restrictive Covenant is made pursuant to RCW 70 105D 030(1)(f) and (g), and WAC 173-340-440 by Steve McCormick, LLC, its successors and assigns, and the Washington State Department of Ecology, its successors and assigns

Legal Description:

Lots 7 through 14, inclusive in Block 68 of Gilman Park, according to plat recorded in Volume 3 of Plats at page 40, in King County, Washington Except that portion condemned for the widening of Leary Way under Ordinance No. 21303 Superior Court Cause No. 69864, and except that portion of said property condemned in Cause No. 502446 in the Superior Court of the State of Washington for King County

Tax Parcel ID #.

27670-2105-04

Restrictive Covenant -- 1

RESTRICTIVE COVENANT
STEVE MCCORMICK, LLC, BALLARD AUTO WRECKING SITE
1515 NW LEARY WAY, SEATTLE, WASHINGTON

This Declaration of Restrictive Covenant is made pursuant to RCW 70 105D 030(1)(f) and (g) and WAC 173-340-440 by Steve McCormick, LLC, its successors and assigns, and the State of Washington Department of Ecology, its successors and assigns (hereafter "Ecology")

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

- 1 Cleanup Action Plan
Ballard Auto Wrecking
Aspect Consulting, dated March 13, 2003
- 2 Cleanup Action Plan Follow-Up
Ballard Auto Wrecking Site
1515 NW Leary Way, Seattle
Aspect Consulting, dated July 8, 2003
- 3 Cleanup Construction and First Two Rounds of
Post-Construction Groundwater Monitoring
Ballard Auto Wrecking
Aspect Consulting, dated March 2004

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

This Restrictive Covenant is required because the Remedial Actions performed at this site requires a restrictive covenant for cleanups performed at industrial sites in accordance with WAC 173-340-745

The undersigned, Steve McCormick, LLC, 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 legally described as follows

Restrictive Covenant – 2

Lots 7 through 14, inclusive in Block 68 of Gilman Park, according to plat recorded in Volume 3 of Plats at page 40, in King County, Washington Except that portion condemned for the widening of Leary Way under Ordinance No 21303 Superior Court Cause No 69864, and except that portion of said property condemned in Cause No 502446 in the Superior Court of the State of Washington for King County

Steve McCormick, 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 The Property shall be used only for traditional industrial uses, as described in RCW 70 105D 020(23) and defined in and allowed under the City of Seattle's zoning regulations codified in the Seattle Land Use and Zoning Code as of the date of this Restrictive Covenant

A portion of the Property contains petroleum hydrocarbon and lead contaminated soils located in the Near-Surface Excavation Area A & B, and the former Underground Storage Tank (UST) Excavation Area described in the above referenced documents. The Owner shall cover these areas to prevent direct contact to the contaminated soils. If future site redevelopment calls for exposing these contaminated soils, all appropriate health and safety measures will be followed for the protection of a construction worker exposure scenario

Any activity on the Property that may result in the release or exposure to the environment of the contaminated soil that was contained as part of the Remedial Action, or create a new exposure pathway, is prohibited

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

Restrictive Covenant -- 3

adequate and complete provision for continued monitoring, 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

Steve McCormick LLC

Date Signed 6-10-04

Steve McCormick, LLC, by
Steve McCormick, its Owner and Managing Member

STATE OF California)
COUNTY OF Riverside) ss ACKNOWLEDGMENT

I certify that I know or have satisfactory evidence that Steve McCormick 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 owner and managing member of Steve McCormick, LLC, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument

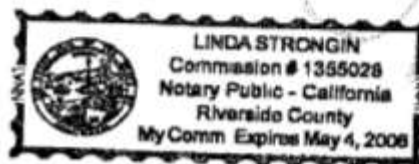
Dated 06-10-04 Signed [Signature]

Notary Public

My appointment expires 05-04-06

z:\mccormick steve\ballard\060904 restr cov revised

Restrictive Covenant -- 4



6.5 Photo log

Photo 1: Front area with attendant's booth on the left - from the west



Photo 2: Sign posted on adjacent building – seen as you enter from NW Leary Way



Photo 3: Another view of yard (photo 2 sign visible above pickup) - from the northwest



Photo 4: View of yard from near NW Ballard Way and 15th NW – from the south

