



## **Second Periodic Review**

United Builders  
Facility/Site ID #: 5883805  
Cleanup Site ID #: 5381

2204 West Nob Hill Boulevard  
Yakima, Washington 98901

Prepared by:  
Washington State Department of Ecology  
Central Regional Office  
Toxics Cleanup Program

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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 United Builders site (Site). Cleanup at this Site was implemented under the Model Toxics Control Act (MTCA) regulations, Chapter 173-340 Washington Administrative Code (WAC). This is the second periodic review conducted for this Site. The first periodic review was completed in December 2009. This periodic review will evaluate the period from December 2009 through April 2015.

Cleanup actions at this Site were initially conducted under Consent Decree No. 02-2-00956-2 that was filed with Thurston County Court on August 15, 2003 (Tiger Oil Corporation Site), and through independent remedial action by the property owner (United Builders Site). The Site is currently entered in the Voluntary Cleanup Program (VCP) and is pursuing a No Further Action Determination (NFA). The cleanup actions have resulted in residual concentrations of gasoline range petroleum hydrocarbons (TPH-G) and volatile organic compounds (VOCs) exceeding MTCA Method A cleanup levels for soil. The MTCA Method A cleanup levels for soil are established under WAC 173-340-740(2). It was determined that institutional controls in the form of a restrictive covenant would be required to prevent exposure to residual contamination during the cleanup process. WAC 173-340-420(2) requires that Ecology conduct a periodic review of a site every five years under the following conditions:

1. Whenever the department conducts a cleanup action.
2. Whenever the department approves a cleanup action under an order, agreed order or consent decree.
3. Or, as resources permit, whenever the department issues a no further action opinion.
4. And one of the following conditions exists:
  - (a) Institutional controls or financial assurance are required as part of the cleanup.
  - (b) Where the cleanup level is based on a practical quantitation limit.
  - (c) 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.
- (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.

- (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 United Builders Site (now Safeway Fuel Center #1235) is located on the south side of the 2200 block of West Nob Hill Boulevard in the City of Yakima, Yakima County, Washington. The Site is currently occupied by a Safeway grocery store, the associated Safeway fuel center, and a large parking lot.

According to historical maps, the Site was occupied by orchards and a manufacturer of agricultural products prior to 1959. By 1960, two paint shops had been constructed at the Site. Later the Site was occupied by a wholesale and retail material supply company called United Builders, who installed and operated two gasoline underground storage tanks (USTs) in the northeast portion of the Site, an above-ground diesel tank, and at least one drywell. United Builders operated at the Site until 1988, when the Site was developed as a Safeway grocery store and retail center.

Contamination is present at the property in two distinct areas. At the northwest corner of the property, a documented release occurred from an adjacent former gas station. This release is addressed by Consent Decree No. 02-2-00956-2 entered into with Ecology, Tiger Oil Corporation and Federated Insurance Company, which was filed with Thurston County Court on October 29, 2004. A separate periodic review was conducted for this release by Ecology in April 2009.

At the northeast corner of the property, the two USTs and AST operated by United Builders resulted in a release causing petroleum hydrocarbon contamination to soil and ground water. This second release is addressed by remediation conducted in 2004 and under the Environmental Covenant recorded later that year. This periodic review was conducted in response to the release at the former United Builders Site.

A vicinity map is available as Appendix 6.1 and a Site plan is available as Appendix 6.2.

### **2.2 Site Investigations and Remedial Activities**

#### **2.2.1 Early Site Investigations**

Three separate soil and groundwater investigations took place on the United Builders subject property between 1992 and 2001 including a 1992-1994 remedial investigation by Kleinfelder, a 1999 focused source investigation by Landau Associates, and a 2001 Phase II Environmental Site Assessment (ESA) by Environmental Partners Inc. under contract to Safeway Inc.

These investigations revealed the presence of petroleum-contaminated soil (PCS) within the seasonal range of the groundwater table [i.e., from 5 to 10 ft below ground surface (bgs)] over an approximate 10,000 square foot area of the north-central portion of the parking lot. During the Phase II ESA conducted in 2001, Separate Phase Petroleum Hydrocarbon (SPH) product up to approximately 9 inches thick was measured in two monitoring wells, KMW-03 and temporary well YSB-1, located near the center of this area. PCS was not found above the seasonal high groundwater level with the exception of a small area around boring YSB-8 located to the immediate east of the SPH area.

### **2.2.2 Soil Excavation**

Soil excavation began on February 23, 2004. MRM Construction excavated both the YSB-1 and YSB-8 areas. In the YSB-8 excavation area, soil was removed to a depth of six feet bgs throughout a 25-ft x 25-ft area. No obvious signs of petroleum contamination were observed in the YSB-8 excavation during soil removal. The total volume of soil removed from the YSB-8 excavation area was approximately 140 cubic yards (cyds), or approximately 220 tons. All of the soil removed from the YSB-8 excavation was hauled to the Anderson PCS facility for processing.

In the YSB-1 excavation area, soil was removed to a maximum depth of 12 feet bgs throughout most of the area and up to 16 feet bgs in the southwest corner where the excavation was extended to the south to remove heavy oil stained soil that was encountered during excavation. Soil screening conducted during excavation of the YSB-1 area did not detect the presence of contamination in the upper 5 ft of the YSB-1 soil, consistent with previous Site investigations. Soil from the upper 5 ft was stockpiled onsite and reused later for backfill. In addition, no obvious signs of petroleum contamination were observed in the YSB-1 excavation above the smear zone during soil removal. Minor signs of petroleum contamination were observed on the bottom and sidewalls of the completed excavation.

Groundwater was encountered in the YSB-1 excavation. The work plan called for removing floating SPH, if present in the excavation, using oil sorbent pads and booms until only a sheen remained on the water surface. Although SPH was not observed in the excavation, oil sorbent pads and booms were placed in the excavation and monitored over a two-day period to observe whether floating SPH conditions developed in the excavation. Such conditions were not observed over the two-day period, and the oil sorbent pads and booms were removed from the excavation immediately prior to backfilling.

Confirmation samples were collected from the limits of both excavations. The concentrations of the target analytes were below the laboratory reporting limit in all but three of the samples. The detected analytes were diesel-range and lube oil-range petroleum hydrocarbons (TPH-D and TPH-O, respectively) at concentrations below the MTCA Method A cleanup level of 2,000 mg/kg. Sample YSB-8-BTM1-6 had a TPH-D concentration of 61 mg/kg and a TPH-O concentration of 53 mg/kg. Sample YSB-1-SSW-5 had a TPH-D concentration of 33 mg/kg, and sample YSB-1-WSW-8.5 had a TPH-D concentration of 27 mg/kg.

A total of approximately 630 cyds or 1,005 tons of PCS was excavated and hauled to the Anderson PCS facility for processing. An additional 330 cyds of clean overburden soil was also excavated. This soil was reused onsite as backfill. The remainder of the excavations were filled with 764 tons of clean imported 4-inch minus crushed rock.

### **2.2.3 Evren Northwest Soil Investigation**

In April 2014, Argo Yakima LLC contracted Evren Northwest to sample soil and groundwater in an area just downgradient of the 2004 remedial excavation. A single soil boring was advanced to a depth of 13 feet bgs. A soil sample collected from the boring at 12 feet bgs was analyzed for TPH-D and TPH-O; benzene, toluene, ethylbenzene and total xylenes (BTEX); and polynuclear aromatic hydrocarbons (PAHs). PAHs were detected at concentrations well below MTCA Method A cleanup levels. A groundwater sample was collected from the boring, and analyzed for the same contaminants. TPH-D and PAHs were detected at concentrations below MTCA Method A cleanup levels.

In response to this investigation, Ecology requested that four quarters of groundwater monitoring be conducted from the existing relevant wells at the Site. If contamination was not detected above MTCA Method A cleanup levels, the Site would likely be eligible for a No Further Action (NFA) determination.

## **2.3 Groundwater Monitoring**

Initial groundwater sampling was conducted at the Site from the early 1990s through 2003. Most of these early sampling events were combined events between the adjacent Tiger Oil property and the Safeway property. Groundwater sampling was re-initiated in 2014 when the property owner began pursuing a no further action determination through the voluntary cleanup program.

There is a county drainage improvement district (DID) water line passing through the property from the northwest to the southeast. According to the Phase II Environmental Site Assessment (ESA) conducted by Environmental Partners in 2002, “the DID line appears to be acting as a cut-off trench for further eastward migration of separate-phase hydrocarbons and is also impeding the eastward migration of dissolved-phase hydrocarbons”. Groundwater monitoring data and groundwater flow directions indicated that contamination on the west side of this line resulted from the release at the adjacent retail petroleum facility to the west, and the contamination east of this line resulted from the release from the United Builders USTs.

Groundwater sampling continues on a quarterly basis from monitoring wells west of the DID line. Groundwater sampling from wells east of the DID line was terminated in 2003, and re-initiated in 2014. As of April 2015, four quarterly groundwater monitoring events had been conducted in monitoring wells EB1A-GW-13, KMW04 and EPI-MW-2. Contamination was not detected above MTCA Method A cleanup levels in any of the wells during these three events.

TPH-G and BTEX remain in several wells west of the DID line at concentrations exceeding MTCA Method A cleanup levels. This contamination is not associated with the United Builders UST release and the Environmental Covenant recorded for the United Builders Site, therefore it is not addressed in this Periodic Review, but was addressed separately in the Tiger Oil site review.

Groundwater monitoring data is available as Appendix 6.3.

## 2.4 Cleanup Levels and Points of Compliance

WAC 173-340-704 states that MTCA Method A may be used to establish cleanup levels at sites that have few hazardous substances, are undergoing a routine cleanup action, and where numerical standards are available for all indicator hazardous substances in the media for which the Method A cleanup level is being used.

MTCA Method A cleanup levels for unrestricted land use were determined to be appropriate for contaminants at this Site. The cleanup actions conducted at the Site were determined to be 'routine', few hazardous substances were found at the Site, and numerical standards were available in the MTCA Method A table for each hazardous substance. The current MTCA Method A cleanup levels applicable to the Site are available in the table below:

Analyte	2001 MTCA Method A Soil Cleanup Level (ppm)	2001 MTCA Method A Groundwater Cleanup Level (ppb)
Benzene	NL	5
Ethylbenzene	6	NL
PAHs	0.1	0.1
Toluene	7	1000
Total Xylenes	9	1000
<b>TPH</b>		
TPH-Gas	100/30	1000/800
TPH-Diesel	2000	500
TPH-Oil	2000	500

For soil, the point of compliance is the area where the soil cleanup levels shall be attained. For soil cleanup levels based on the protection of groundwater, as they are for this Site, the point of compliance is established as soils throughout the Site.



## 2.5 Restrictive Covenant

Due to the presence of residual contamination that was not addressed in this remedial action, a restrictive covenant was recorded for the Site in 2004.

The Restrictive Covenant imposes the following limitations:

1. No groundwater may be taken for domestic or industrial uses from the Property unless the MTCA Method A Cleanup Levels for groundwater for the identified substances and for any other hazardous substances that have been released at the Site have been met at the Property.
2. Any activity on the Property that may interfere with the integrity of either the Remedial Action or existing monitoring wells on the Property that are part of the investigation of the Site or with continued protection of human health and the environment is prohibited without the prior written approval of Ecology.
3. Any activity on the Property that may result in the release or exposure to the environment of contaminated soil or create a new exposure pathway is prohibited without the prior written approval of Ecology, which shall not be unreasonably withheld or delayed. Some activities that are prohibited on the Property where contaminated soil is known to be located or may be located include: drilling, digging, placement of any objects or use of any equipment which deforms or stresses the surface beyond its load bearing capability, piercing the surface with a rod, spike or similar item, bulldozing or earthwork. Activities involving the routine repair and maintenance of the Property or existing improvements on it can be conducted without any prior written approval of Ecology to the extent that such activities otherwise comply with this Restrictive Covenant.
4. At least thirty (30) days prior to transfer of any interest in the all or any portion of the Property on which the Mercy Property SVE System is located, the Owner of the Property must give advance written notice to Ecology of such transfer. The Owner shall not consummate any voluntary or involuntary conveyance or relinquishment of title, easement or other interest in the Property without provision. As necessary, for continued operation, maintenance and monitoring of the Remedial Action on the Property.
5. The Owner shall allow Ecology and its authorized representatives the right to enter the Property as specified in the Consent Decree.
6. 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.

A copy of the restrictive covenant is available as Appendix 6.4.

## **3.0 PERIODIC REVIEW**

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

Ecology conducted a Site visit on March 31, 2015. The Site continues to be occupied by a Safeway grocery store and retail petroleum fuel center. There are no apparent changes to the Site since the previous review in 2009. The Site continues to be covered by an asphalt parking lot and building foundations. A photo log is available as Appendix 6.5. In 2014 monitoring wells on the property that had been damaged by re-paving the parking lots were repaired and restored to current well construction standards, including wells on the United Builders Site as well as those associated with the Tiger Oil site.

#### **3.1.1 Direct Contact**

There were no observed indications that the integrity of the remedial action has been compromised. Exposure pathways to residual contaminated soils (ingestion, direct contact) continue to be reduced by previous remedial excavations and by the presence of a building and asphalt parking surface. The Site is not restricted from access by the general public.

#### **3.1.2 Groundwater**

Groundwater monitoring has been conducted at the Site since the early 1990s. Groundwater samples collected from the west side of the DID line have contained contamination at concentrations exceeding MTCA Method A cleanup levels; however this contamination is attributed to the release from the Tiger Oil site located to the west.

Groundwater located east of the DID line historically contained contamination associated with the United Builders Site. A new groundwater monitoring program was implemented through the VCP for the Site in 2014 for the wells located east of the DID line. Four quarters of groundwater sampling were conducted, and contaminants were not detected at concentrations exceeding MTCA Method A cleanup levels in any of the wells. This serves as an empirical demonstration that petroleum hydrocarbon contamination that may be remaining in soil at the Site is not impacting groundwater.

Groundwater impacted with petroleum hydrocarbons remains at the Site to the west of the DID line. It has been determined that this contamination is not a result of a release at the United Builders Site. As a result, the remedy for the United Builders Site remains protective of groundwater.

#### **3.1.3 Institutional Controls**

The restrictive covenant for the Site was recorded and remains active. There is no evidence a new instrument has been recorded which limits the effectiveness or applicability of the covenant. This covenant prohibits the extraction of groundwater from the Site, activities that will result in the release of contaminants contained as part of the cleanup without Ecology's approval, and any

use of the property that is inconsistent with the covenant. This covenant serves to assure the long term integrity of the surface cover.

Monitoring results have demonstrated that contamination is longer present in groundwater east of the DID line; however, contaminated groundwater is still present west of the DID line. As a result, institutional controls should be maintained at the Site to restrict extraction of contaminated groundwater and to protect human health and the environment.

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

There is no new 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**

MTCA Method A cleanup levels are still being used at the Site. These levels have not changed since remedial activities were conducted in 2004.

### **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. The current use does not pose a threat to the remedy implemented at the Site.

### **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 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 cleanup actions completed at the Site appear to be protective of human health and the environment.
- Soil cleanup levels have not been met at the Site; however, the cleanup action for the Property is determined to comply with cleanup standards under WAC 173-340-740(6) (f), since the long-term integrity of the containment system is ensured and the requirements for containment technologies have been met.
- The restrictive covenant for the property is in place and will 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 are being followed. No additional remedial 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 cap 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

Landau Associates. *Well KMW-03 Environmental Investigation*. August 27, 1999.

Environmental Partners, Inc. *Phase II Environmental Site Assessment*. March 25, 2002.

Ecology. *Restrictive Covenant*. March 4, 2004.

Landau Associates. *Cleanup Report*. April 22, 2004.

Environmental Partners, Inc. *Well Decommissioning and Replacement*. September 20, 2004.

Ecology. *Consent Decree No. 02-2-00956-2*. August 15, 2003.

Attorney General of Washington. *Response Letter to Mercy Development Corporation's Request for Satisfaction of Consent Decree*. September 30, 2008.

Ecology. *Periodic Review*. December 2009.

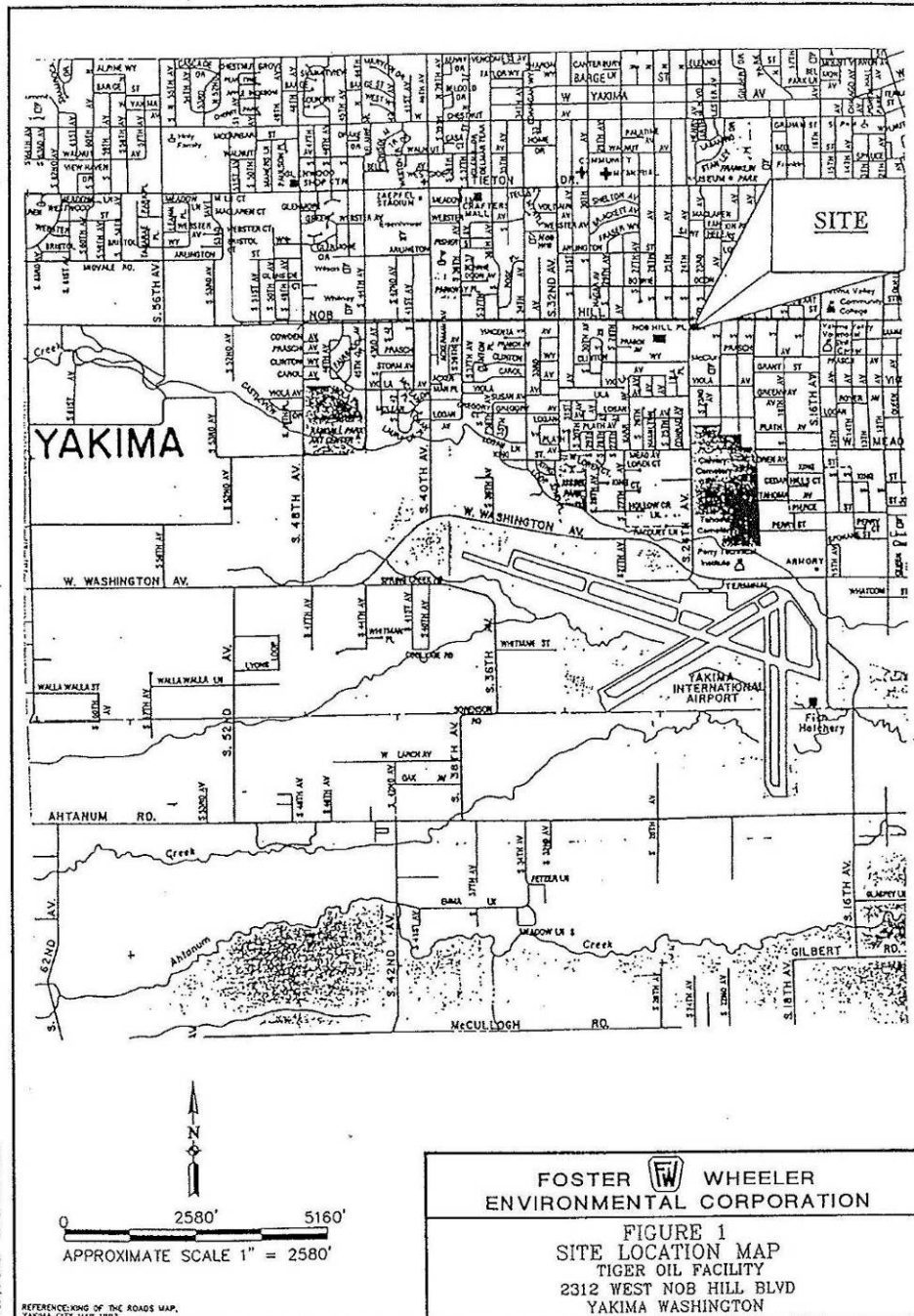
Evren Northwest, Inc. *Focused Subsurface Investigation*. May 8, 2014.

Evren Northwest, Inc. *Ground Water Monitoring – First Quarter 2015*. April 7, 2015.

Ecology. *Site Visit*. March 31, 2015.

## **6.0 APPENDICIES**

### 6.1 Vicinity Map





### 6.2 Site Plan

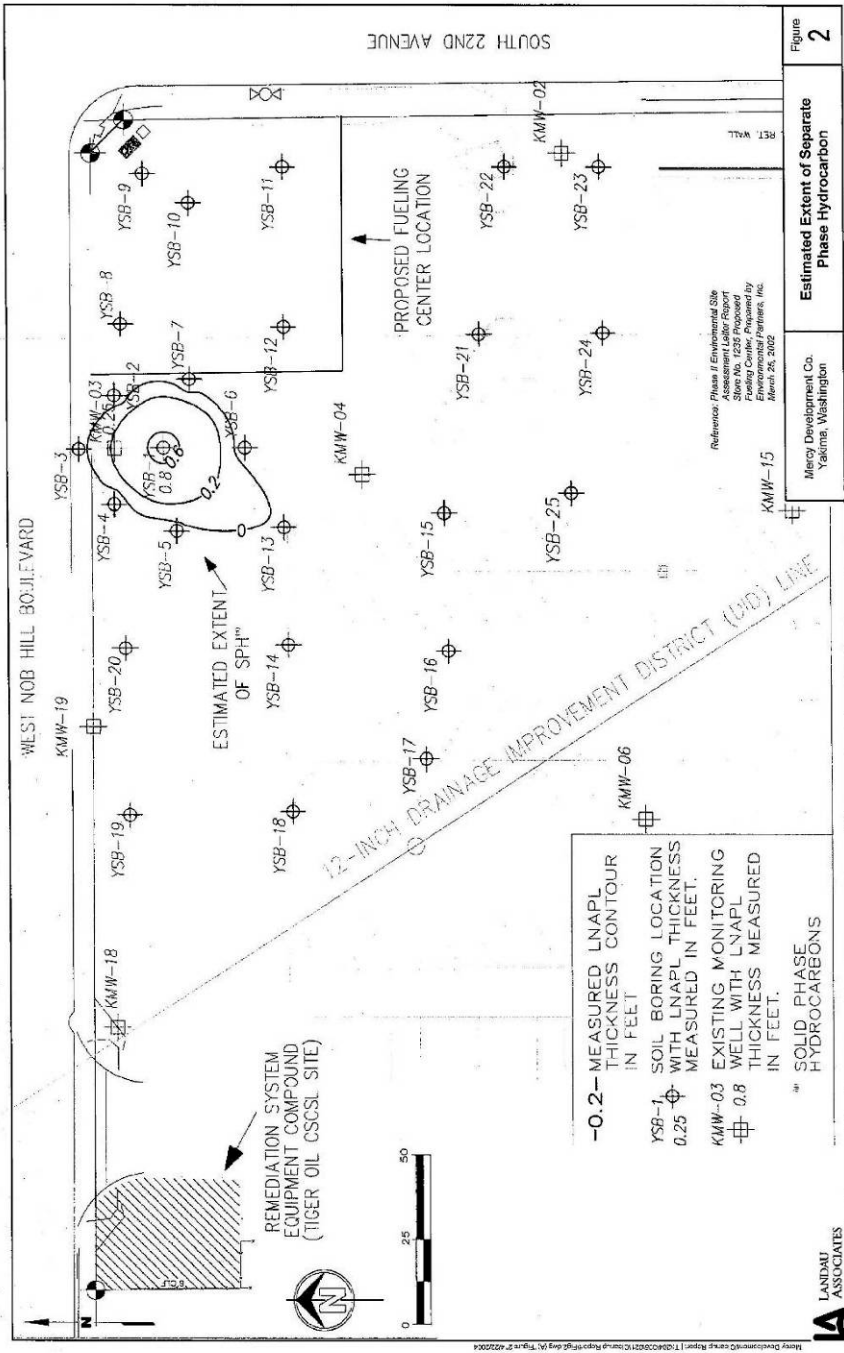
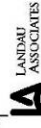


Figure 2  
**Estimated Extent of Separate Phase Hydrocarbon**  
 Mercy Development Co.  
 Yakima, Washington



### 6.3 Groundwater Monitoring Data

Table 1 - Summary of Analytical Data, Ground Water Monitoring Well and Reconnaissance Ground Water

Constituent of Interest	Location ID	EPA-GWA-13		K/MW4		EPA-MW-2		Minimum Ground Water Concentration (Monitoring Well for Ground Water Data Only)	MTCR Cleanup Levels for Ground Water	EPA Region IX Regional Screening Levels (Tapwater) Unit: µg/L	Constituent of Interest Potential Concern (COPC)?
		Depth to Water	Screen Interval	8.83	9.82	12.61	11.91				
		5'-20'	5'-20'	5'-20'	5'-20'	5'-20'	5'-20'				
		4/10/2014	4/10/2014	4/10/2014	4/10/2014	4/10/2014	4/10/2014				
		46.35 6.3827	46.35 6.0003	46.35 6.0003	46.35 6.0003	46.35 6.3827	46.35 6.3827				
		-120.32 19.8095	-120.32 19.8095	-120.32 19.8095	-120.32 19.8095	-120.32 18.959	-120.32 18.959				
		µg/L (ppb)	µg/L (ppb)	µg/L (ppb)	µg/L (ppb)	µg/L (ppb)	µg/L (ppb)				
Polyaromatic Hydrocarbons	Note										
Acenaphthene	nc, v	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)			
Acetophenone	nc, v	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)			
Benzo[a]anthracene	nc, v	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)			
Benzo[a]pyrene	nc, v	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)			
Benzo[b]fluoranthene	nc, v	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)			
Benzo[k]fluoranthene	nc, v	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)			
Chrysene	nc, v	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)			
Dibenz[a,h]anthracene	nc, v	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)			
Fluoranthene	nc, v	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)			
Fluorene	nc, v	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)			
Indeno[1,2,3-cd]pyrene	nc, v	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)			
Naphthalene	nc, v	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)			
1-Methylpiperidine	nc, v	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)			
2-Methylpiperidine	nc, v	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)			
Acenaphthylene	nc, v	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)			
Phenanthrene	nc, v	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)			
Benzo[ghi]perylene	nc, v	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)			
Pyrene	nc, v	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)	<0.05 (ND)			
Volatil Organic Constituents (VOCs)											
Benzene	c, v	<1 (ND)	0.98	1	<0.35 (ND)	<0.35 (ND)	<0.35 (ND)	0.89	5	0.39	N
Ethylbenzene	c, v	<1 (ND)	<1 (ND)	<1 (ND)	<1 (ND)	<1 (ND)	<1 (ND)	<1 (ND)	700	1.3	N
Toluene	nc, v	<1 (ND)	<1 (ND)	<1 (ND)	<1 (ND)	<1 (ND)	<1 (ND)	<1 (ND)	1000	860	N
Xylenes	nc, v	<2 (ND)	<2 (ND)	<2 (ND)	<2 (ND)	<2 (ND)	<2 (ND)	<2 (ND)	1000	190	N
Total Petroleum Hydrocarbons											
DRO	nc, v	<50 (ND)*	74**	75 *	72 *	<50 (ND)*	<50 (ND)*	75 *	500	NE	N
RRO	nc, v	<250 (ND)*	<250 (ND)*	<250 (ND)*	<250 (ND)*	<250 (ND)*	<250 (ND)*	<250 (ND)*	500	NE	N

Note:  
 -- = not analyzed or not applicable.  
 ND = not detected at or above the method reporting limit shown.  
 NE = not established.  
 µg/L = micrograms per liter  
 c = carcinogenic  
 nc = noncarcinogenic  
 v = volatile  
 nr = nonvolatile  
 DRD = de-risk-range organics.  
 RRO = residual-range organics.  
 (\*) Indicates analyte not detected, but decision limit is above screening concentration.  
 \* MTCR Method A used as primary screening.  
 EPA Region IX RSL used only if no MTCR Screening available (1,2,3-cd-pyrene and fluorene).  
 If it indicates the samples were analyzed outside of this time.  
 \* Indicates the sample chromatographic peak was identified to the list standard used for quantitation.  
 \* Indicates sample extracts passed through silica gel.  
 PAHs using WAC 173-346/76189 TEC methodology.  
 \*\* Cleanup standard for all naphthalene compounds

## 6.4 Environmental Covenant

FILED FOR RECORD AT REQUEST OF:

VELIKANJE, MOORE & SHORE, P.S.  
ATTN: MARK E. FICKES  
P. O. Box 22550  
Yakima, WA 98902

### DECLARATION OF RESTRICTIVE COVENANT

Reference number(s) of related document: \_\_\_\_\_  
Grantor(s): Mercy Development Co., L.L.C.  
Grantee(s): State of Washington Department of Ecology  
Abbreviated Legal Description: NW ¼, NW ¼, SE¼, S 26, T 13 N, R 18 EWM Complete legal description is on Exhibit A of this document.  
Assessor's Tax Parcel ID No.: Portion of 181326-42054

DATE: March 3, 2004

GRANTOR: MERCY DEVELOPMENT CO., L.L.C.,  
a Washington limited liability company

GRANTEE: STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

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

Pursuant to a Consent Decree entered in State of Washington v. Tiger Oil Corporation, Thurston County Superior Court, Cause No. 02-2-00956-2, a remedial action involving the installation and operation of a soil vapor extraction system (the "Remedial Action") will be implemented on Mercy's property within the Tiger Oil Site ("Site") that is described in the Consent Decree. Exhibit A to the Consent Decree describes

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the Remedial Action being conducted. The Consent Decree and other documents to which it refers or otherwise relating to the Tiger Oil Site are on file at Ecology's Central Regional Office, 15 West Yakima Avenue, Yakima, WA 98902.

This Restrictive Covenant is required because the Remedial Action will address only a portion of the contamination at the Tiger Oil Site. Thus the residual concentrations of total petroleum hydrocarbons, benzene, toluene, ethylbenzene and xylenes (the "Identified Substances") within the Site may, despite the Remedial Action, still exceed the Model Toxics Control Act (MTCA) Method A Cleanup Levels for soil and groundwater established under WAC 173-340-720 and 740. The persistence of this condition will depend on the cleanup efforts by other parties at the Site.

The undersigned, Mercy Development Co., LLC, is the fee owner of real property in the County of Yakima, State of Washington, the legal description of which is set forth in Attachment A hereto (Parcel 181326-42054). The Remedial Action is to be conducted within the northern portion of Parcel 181326-42054, which portion is generally contained within an area bounded on the north by West Nob Hill Blvd., on the east by the Yakima County Drainage Irrigation District (DID) line, on the west by the property line for the Skipper's Restaurant parcel and on the south by the middle of the parking lot at monitoring well KMW-11 in front of the Rite-Aid and Safeway stores. This Restrictive Covenant pertains to the area that is shown as the cross-hatched area on Attachment B and is defined as the "Property".

Mercy 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. No groundwater may be taken for domestic or industrial uses from the Property unless the MTCA Method A Cleanup Levels for groundwater for the Identified Substances and for any other hazardous substances that have been released at the Site have been met at the Property.

Section 2. Any activity on the Property that may interfere with the integrity of either the Remedial Action or existing monitoring wells on the Property that are part of the investigation of the Site or with continued protection of human health and the environment is prohibited without the prior written approval of Ecology.

Section 3. Any activity on the Property that may result in the release or exposure to the environment of contaminated soil or create a new exposure pathway is prohibited without the prior written approval of Ecology, which shall not be unreasonably withheld or delayed. Some activities that are prohibited on the Property where contaminated soil is known to be located or may be located include: drilling, digging, placement of any objects or use of any equipment which deforms or stresses the surface beyond its load bearing capability, piercing the surface with a rod, spike or similar item, bulldozing or earthwork. Activities involving the routine repair and maintenance of the Property or existing improvements on it can be conducted without any prior written approval of Ecology to the extent that such activities otherwise comply with this Restrictive Covenant.

Section 4. At least thirty (30) days prior to transfer of any interest in the all or any portion of the Property on which the Mercy Property SVE System is located, the Owner of the Property must give advance written notice to Ecology of such transfer. The Owner shall not consummate any voluntary or involuntary conveyance or relinquishment of title, easement or other interest in the Property without provision, as necessary, for continued operation, maintenance and monitoring of the Remedial Action on the Property.

Section 5. The Owner shall allow Ecology and its authorized representatives the right to enter the Property as specified in the Consent Decree.

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Section 6. 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.

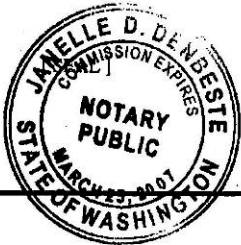
**MERCY DEVELOPMENT CO., L.L.C.**

By: *Kathi D. Mercy*  
Kathi D. Mercy, Manager

STATE OF WASHINGTON )  
  ) ss.  
County of Yakima            )

I certify that I know or have satisfactory evidence that **KATHI D. MERCY**, is the person who appeared before me, and said person acknowledged that she is authorized to execute this instrument as Manager of **MERCY DEVELOPMENT CO., L.L.C.**, a Washington limited liability company, and acknowledged to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this 3<sup>rd</sup> day of March, 2004.



*Janelle D. DenBeste*  
Janelle D. DenBeste  
Print Name  
NOTARY PUBLIC in and for the state  
of Washington, residing at *Yakima*.  
My appointment expires *3/23/07*.

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**ATTACHMENT A**

**Parcel No. 181326-42054**

The Northwest ¼ of the Northwest ¼ of the Southeast ¼ of Section 26, Township 13 North, Range 18, E.W.M.,  
EXCEPT the North 242.8 feet of the West 280.5 feet thereof;  
EXCEPT the North 103 feet of the East 103 feet thereof;  
EXCEPT beginning 96.94 feet West and 24.99 feet North of the Southeast corner of said Subdivision;  
thence North 191.07 feet;  
thence West 55.65 feet;  
thence North 45°02'06" West 19.74 feet;  
thence West 23.89 feet;  
thence North 2.07 feet;  
thence West 80.01 feet;  
thence North 4.31 feet;  
thence North 89°54'26" West 42.04 feet;  
thence South 45°09'40" West 28.76 feet;  
thence West 25.93 feet;  
thence North 18.55 feet;  
thence West 23.75 feet;  
thence North 44°56'42" West 8.54 feet;  
thence West 74.5 feet;  
thence South 44°50'44" West 8.52 feet;  
thence West 23.92 feet;  
thence South 10.54 feet;  
thence West 56.05 feet;  
thence South 156.51 feet;  
thence East 42.51 feet;  
thence South 25°25'33" East 26.04 feet;  
thence North 65°01'28" East 55.6 feet;  
thence East 85.47 feet;  
thence South 8.87 feet;  
thence West 32.92 feet;  
thence South 04°48'45" East 34.92 feet;  
thence East 292.1 feet to the point of beginning; and  
EXCEPT right-of-way for streets.

**ATTACHMENT A**



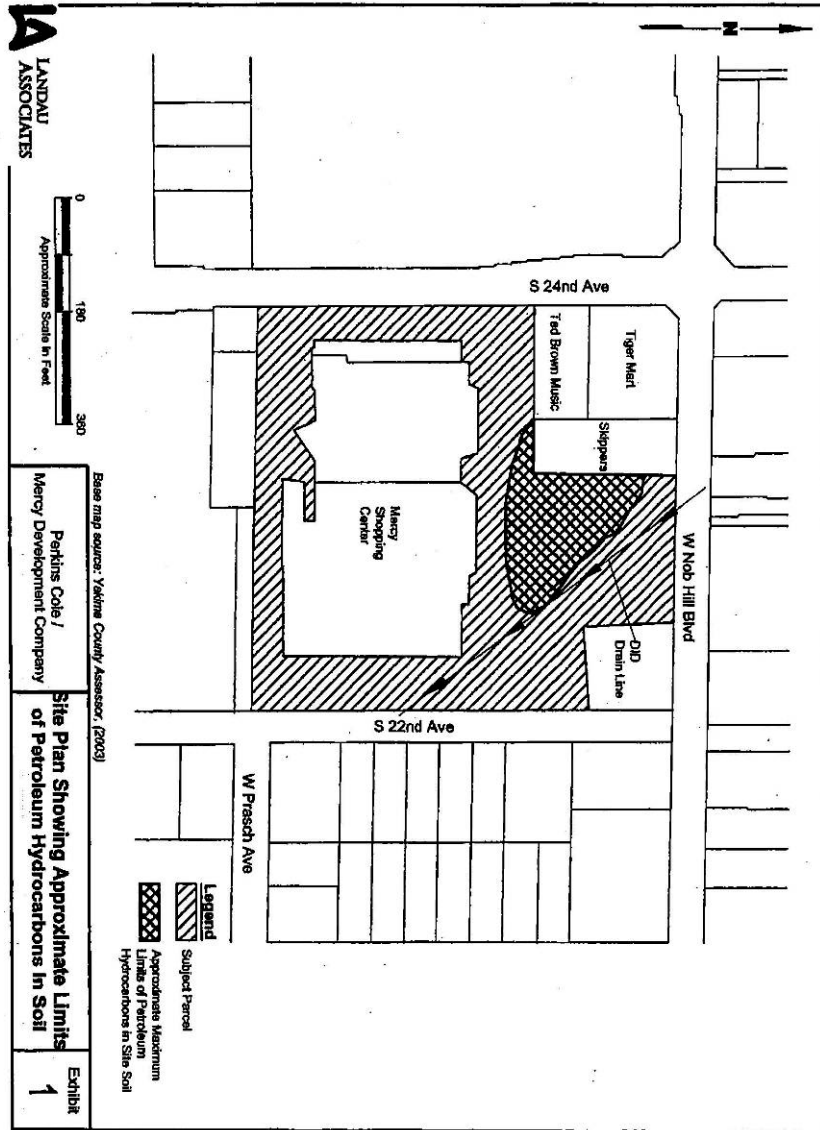
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**ATTACHMENT B**

**ATTACHMENT B**



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## 6.5 Photo log

**Photo 1: Safeway Fueling Center - from the southwest**



**Photo 2: South Side of Fueling Center - from the southeast**



**Photo 3: Fuel Dispensers with Safeway Store in Background - from the north**



**Photo 4: East Side of Fueling Center - from the east**

