

Aluminum Recycling Corp.
SIC #JIAE3
Sandra Treccani, Site Mgr.

COPY
ORIGINAL FILED OR RECORDED

JUN 18 2001

COUNTY AUDITOR
SPOKANE COUNTY WA

WHEN RECORDER RETURN TO:

Craig S. Trueblood
Preston Gates Ellis, LLP
5000 Bank of America Tower
701 Fifth Ave
Seattle, WA 98104-7078

RESTRICTIVE COVENANT

Reference No. of Related Documents:

Grantor: The Burlington Northern and Santa Fe Railway Company
P O Box 961039
2500 Lou Menke Drive, 3rd Floor
Fort Worth, TX 96131-2828

Grantee: Washington Department of Ecology
4601 North Monroe, Suite 202
Spokane, WA 99205-1295

Legal Description: The premises situate in Hillyard, County of Spokane, State of Washington, described as follows: Beginning at the intersection of the southerly line of Wellesley Avenue with the westerly line of Ferrall Street; thence westerly along the southerly line of Wellesley Avenue, 850 feet; thence southwesterly in a straight line to a point in the east line of Ralph Street extended; thence southerly along the said street line extended 100 feet to a point 32 feet distant northeasterly at right angles from the center line of the north leg of the wye track of the Burlington Northern and Santa Fe Railway Company; thence easterly parallel to said center line to a point distant 850 feet westerly at right angles from the west line of Ferrall Street; thence north parallel to said street line 850 feet; thence east at right angles thereto 75 feet; thence northeasterly in a straight line to the point of beginning; all within NW1/4 of Section 3, T. 25 N., R. 43 E. Commonly known as 3412 East Wellesley Avenue, Spokane, Washington

Assessor's Property Tax Parcel Account Number(s): Part of Parcel # 35032.4401

RESTRICTIVE COVENANT

The property that is the subject of this Restrictive Covenant has been the subject of remedial action under Chapter 70 105D RCW. The work done to clean up the property and conduct long-term operation and maintenance (hereafter the "Cleanup Action") is described in the Consent Decree entered in State of Washington Department of Ecology v. Burlington Northern and Santa Fe Railway Company, Spokane County Superior Court Cause No 01202037-9, and in attachments to the Decree and in documents referenced in the Decree. This Restrictive Covenant is required by Ecology under Ecology's rule WAC 173-340-440 (2001 ed.) because activities on the Site resulted in residual concentrations of hazardous substances which exceed Ecology's Method A cleanup levels for soil established under WAC 173-340-740(2). Contaminated soil and wastes are contained on-site within a multimedia cover system. Fences, signs, and long-term groundwater monitoring devices are in place on the Site.

The undersigned, The Burlington Northern Railroad and Santa Fe Railway Company ("BNSF") is the fee owner of real property (hereafter "the Property") in the County of Spokane, State of Washington (legal description and map attached), that constitutes the Aluminum Recycling Corporation Site. BNSF 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.

Section 1

- a. Existing fencing and signage shall not be removed and shall be maintained to prevent unauthorized access to the Property.
- b. No groundwater may be taken for any use from the Property unless the groundwater removal is part of monitoring activities associated with an Ecology-approved compliance monitoring plan.
- c. 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 Cleanup Action, or that may create a new exposure pathway, is prohibited. Such activities are permissible only if: (1) they are allowed or required under the Aluminum Recycling Site Cleanup Action Plan; (2) they are part of monitoring activities associated with an Ecology-approved compliance monitoring plan, (3) immediate actions are necessary in response to emergency situations; or (4) Ecology provides prior written approval for such activities.

d No new structures shall be constructed on areas of the Property where solid waste has deposited without the written approval of Ecology and written approval by the local agency or agencies of jurisdiction.

e The Property shall be used only for industrial or commercial land uses, as described in WAC 173-340-740(1)(c), and defined in and allowed under the City of Spokane [or Spokane County] zoning regulations

Section 2 Any activity on the Property that may interfere with the integrity of the Cleanup Action and continued protection of human health and the environment is prohibited without prior written approval from Ecology

Section 3 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 Cleanup Action on the Property.

Section 4 The Owner must restrict leases to uses and activities consistent with the Restrictive Covenant and notify all lessees of the restrictions herein on the use of the Property

Section 5 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 an inconsistent use only after an opportunity for public notice and comment is provided

Section 6 The Owner shall allow authorized representatives of Ecology the right to enter the Property at reasonable times for the purpose of evaluating the Cleanup Action; to take samples, to inspect remedial actions conducted at the Property, and to inspect records that are related to the Cleanup Action

Section 7 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 comment, concurs.

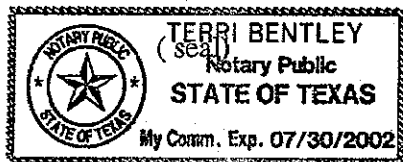
Dated: June 13, 2001

THE BURLINGTON NORTHERN
AND SANTA FE RAILWAY COMPANY

D. P. Schneider
D. P. Schneider
General Director Real Estate

STATE OF TEXAS)
) ss
COUNTY OF TARRANT)

On this 13th day of JUNE, 2001, before me, a Notary Public for said state, personally appeared D. P. Schneider, known to be General Director Real Estate of The Burlington Northern and Santa Fe Railway Company, a Delaware Corporation, the corporation that executed the above instrument and acknowledged to that such corporation executed the same.



Terri Bentley
Notary Public, State of TEXAS
Residing at Ft Worth, TEXAS
My commission expires 7-30-02

KA16065100013\CST\CMT_02045

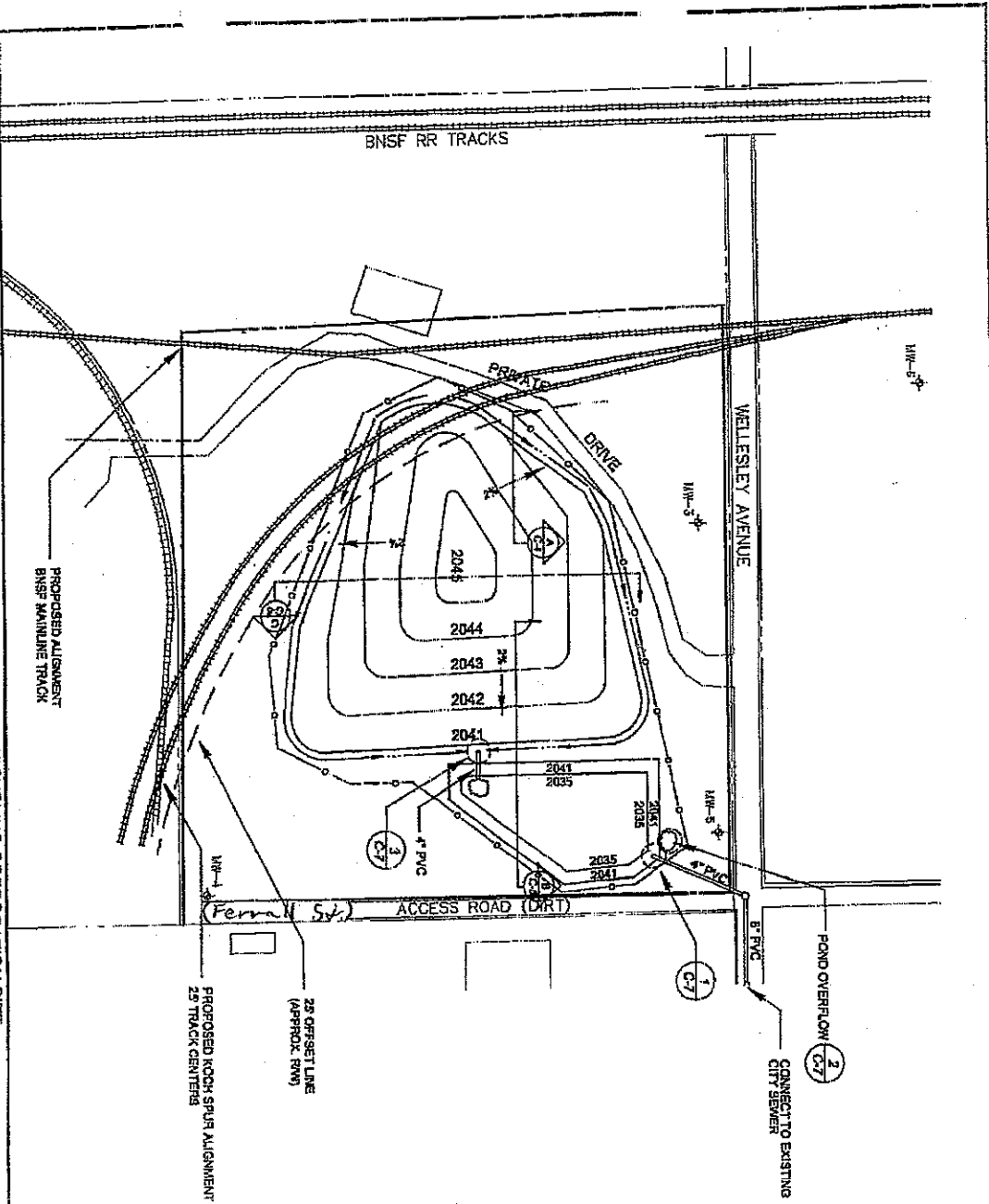
RESTRICTIVE COVENANT

Exhibit A

Legal Description: The premises situate in Hillyard, County of Spokane, State of Washington, described as follows: Beginning at the intersection of the southerly line of Wellesley Avenue with the westerly line of Ferrall Street; thence westerly along the southerly line of Wellesley Avenue, 850 feet; thence southwesterly in a straight line to a point in the east line of Ralph Street extended; thence southerly along the said street line extended 100 feet to a point 32 feet distant northeasterly at right angles from the center line of the north leg of the wye track of the Burlington Northern and Santa Fe Railway Company; thence easterly parallel to said center line to a point distant 850 feet westerly at right angles from the west line of Ferrall Street; thence north parallel to said street line 850 feet; thence east at right angles thereto 75 feet; thence northeasterly in a straight line to the point of beginning; all within NW1/4 of Section 3, T 25 N., R. 43 E. Commonly known as 3412 East Wellesley Avenue, Spokane, Washington.



**ALUMINUM RECYCLING CORPORATION SITE
Spokane, WA
RESTORATION PLAN**



- SEQUENCE:**
1. ESTABLISH EXCLUSION ZONE AND EQUIPMENT WASH.
 2. ESTABLISH DEBRIS STAGING AREA.
 3. STOCKPILE FIRST 3,200 CY OF DROSS FROM PILE A IN NORTHEAST CORNER OF DEBRIS STAGING AREA.
 4. MOVE REMAINDER OF PILE A INTO PIT.
 5. ESTABLISH SOLID WASTE MANAGEMENT UNIT BOUNDARY.
 6. MOVE REMAINDER OF PILES TO WITHIN BOUNDARIES OF SOLID WASTE MANAGEMENT UNIT.
 7. UTILIZE STOCKPILED SOIL FROM PILE A AS FINAL LIFT OF CONTAMINATED MATERIAL.
 8. INSTALL MULTI-MEDIA CAP.
 9. RESTORE SITE.
 10. SECURE SITE.



DRAFT

Drawn By	JLV
Checked By	DLC
Project No	388-93-01
File Name	388-93-07
Revision No	0
Date	0-9-01
Scale	1" = 150'

**FIGURE
C-3**