



PERIODIC REVIEW

**Neptune Apartments
Facility Site ID#: 4345275**

**900 Dexter Avenue North,
Seattle, Washington**

Northwest Region Office

TOXICS CLEANUP PROGRAM

June 2011

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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 Neptune Apartments (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 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, 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 Neptune Apartments redevelopment project included 1.44 acres located on the northeast corner at the intersection of Aloha Street and Dexter Avenue North, Seattle, King County, Washington. The Site is bounded by Dexter Avenue North, approximate elevation 50 feet above mean sea level (amsl) on the west, 8th Avenue North, approximate elevation 26 feet amsl on the east, Aloha Street on the south, and an existing building on the north. The redevelopment included the demolition of all pre-existing structures, mass soil excavation from lot line to lot line, and construction of a new multi-story, mixed use residential and commercial building with two levels of underground parking.

Prior to construction, the Site consisted of two separate tax parcels:

- Former Jarvie Paint parcel located on the NE corner of Aloha Street and Dexter Avenue. The Jarvie Paint Company was a paint manufacturer. Jarvie Paint Manufacturing occupied the Site from approximately 1942 to 1989 and included seven underground storage tanks (USTs) ranging in size from 1,000 to 7,000 gallons. The USTs were used for storing heating oil, xylene, toluene, paint thinners, and alkyd resins used in the manufacturing of paint and thinner. Environmental studies indicated that these former USTs had released product to the subsurface. The Jarvie Paint building was demolished and asphalt pavement removed in August 2003.
- Former Diamond Tank Transport Company located north of and adjacent to the Jarvie Paint parcel. The Diamond Tank Transport was used as a taxi stand and repair facility. From approximately 1959 to late 1990s, the Diamond Tank parcel was occupied by various automobile storage and repair businesses including, but not necessarily limited to, Northwest Autos, Inc., Associated School Bus Service, Seattle Taxicab, and Yellow Cab. These former occupants consisted of the routine storage and repair and maintenance of fleet vehicles (including refueling). Environmental studies indicated that these former Site uses had released product to the subsurface. The property was a cleanup Site separate from the Jarvie Paint Site, and known in Ecology files as Yellow Cab Seattle. The Yellow Cab/Diamond Site received a separate 'No Further Action' (NFA) letter from Ecology January 21, 1999, and did not require institutional controls, and is not subject to this review.

2.2 Site Investigations and Sample Results

Pacific Specialty Contractors, Inc. (PSCI) was retained in 1996 by Power R (former owner of the Jarvie Paint parcel) to perform investigations. Based on their findings, PSCI recommended and installed an in-situ bioremediation system to remediate soil and groundwater and bring the Site into compliance with Ecology's MTCA Method A Soil Cleanup Levels.

Previous environmental investigations and voluntary cleanup activities performed at the former Diamond Tank Transport property were summarized in the two reports titled Final Investigation and Soil Remediation, prepared by Dames & Moore (D&M) dated May 13, 1998 and December 10, 1998. These reports stated that petroleum contaminated soils (PCS) at the Site had been remediated to concentrations below the MTCA Method A Soil Cleanup Levels (WAC 173- 340-740). D&M reportedly excavated and disposed of approximately 3,000 tons of petroleum affected soil. D&M concluded in their December 1998 report that no additional investigation or cleanup appeared to be warranted at the Site.

The Riley Group (Riley) was retained in November 2000 by Simpson Housing to verify the D&M reported cleanup effort. Based upon review of the D&M reports, Riley agreed that D&M's work appeared satisfactory; however, Riley concluded that, as with all petroleum contaminated sites, and in light of the proposed construction, the presence of encountering additional PCS during mass excavations during construction was very likely.

Riley completed a Phase II ESA report in 2001 for each of the Site parcels (Jarvie Paint Company and Diamond Tank Transport Company), entitled:

- Phase II Subsurface Soil Investigation Proposed Neptune Apartments, Former Diamond Tank Property, 912 Dexter Avenue North, Seattle, Washington 98109 dated May 3, 2001; and,
- Phase II Subsurface Soil Investigation Proposed Neptune Apartments, Former Jarvie Paint Company, 760 North Aloha Street, Seattle, Washington 98109, dated April 26, 2001.

The Site geology, summarized below, is based on Riley's Phase II and field observations during mass excavation of the Site.

Riley observed that fill soil consisted of gravelly silty sand/silty gravelly sand to a depth ranging from ground surface to approximately 10 feet bgs (elevations 50 feet to 30 feet amsl). In general, native soils underling the fills consisted of a dense to very dense, brown and gray, gravelly silty sands and very stiff to hard, gray, gravelly, sandy silt. The very dense/hard nature and matrix supported clasts (geologically, a diamictic-texture) of the native soils indicate a glacial origin. Riley interpreted the native soils as glacial till.

Prior to commencing Site activities, it was not anticipated that significant quantities of shallow perched groundwater would be encountered during mass excavations (other than water trapped in the former UST cavities and isolated water saturated sand or gravel lenses within and above the glacial till). As anticipated, during the Site excavation activities, Riley observed discontinuous zones of localized, perched groundwater at depths ranging from approximately 10 feet to 25 feet bgs (or approximate elevations of 40 to 25 feet amsl). Beneath the former Jarvie Paint parcel, either static groundwater or relatively high-yield perched groundwater aquifer was encountered at approximate elevation 20 feet amsl. This observation is based on pump rates and water levels measured from two temporary dewatering wells. Dewatering wells were installed by the shoring contractor for water control and consisted of non-perforated corrugated plastic pipe. This

apparent static water table at about elevation 20 feet was not observed elsewhere on the Site. For example, deeper utility excavations along Avenue North reached elevations of 18 to 19 feet amsl but did not encounter static groundwater or significant groundwater seepage. According to WG Clark Construction Company, a broken water line was encountered during excavations on the Jarvie Paint parcel. Since subsurface soils in a large area were water saturated, it was hypothesized that the water line break had been leaking for some time. Riley estimates that approximately 58,544 gallons of water were pumped from the dewatering wells between January 28 and April 28, 2005. During this period, the water levels observed within the dewatering wells remained relatively constant, which suggested that the shallow groundwater was native in origin, rather than being solely related to water trapped in the former Jarvie Paint UST excavation.

Based upon local topography, shallow groundwater flow direction is inferred to be towards the east (towards Lake Union). Actual groundwater measurements are less definitive and text in Riley reports continually refers to a groundwater flow direction to the north.

2.3 Cleanup Actions

In late 1999, following in-situ bioremediation and compliance soil and groundwater sampling, PSCI concluded that petroleum hydrocarbon affected Site soils and groundwater had been remediated to concentrations below the Ecology MTCA Method A Soil Cleanup Levels. Their report was submitted to Ecology for review under the VCP. Based on Ecology's review of the submitted reports, Ecology issued a NFA letter dated October 8, 1999, for Jarvie Paint stating that no further remedial action was necessary and that the Site would be removed from their contaminated sites lists.

Riley was retained in November 2000, by Simpson Housing to verify the PSCI cleanup effort. Four test borings drilled by Riley within the PSCI treatment area intercepted subsurface soils with gasoline total petroleum hydrocarbon (TPH) concentrations of up to 8,600 milligrams per kilogram (mg/kg) and toluene concentrations up to 900 parts per million (ppm). These concentrations exceeded the MTCA Method A Soil Cleanup Levels. Based on Riley's Phase II year 2000 findings, the vertical extent of TPH/benzene, toluene, ethylbenzene, and xylenes (BTEX) affected soil was limited to depths of 15 to 18 feet below ground surface (bgs). The lateral extent of affected soils, with concentrations above the MTCA Method A Soil Cleanup Levels, was essentially limited to the former UST locations. This new information nullified the earlier NFA letter.

912 Dexter Avenue North LLC (the Owner) commenced construction on January 4, 2005, with mass soil excavation of the Site. A total of approximately 67,856 tons of soil was excavated and exported from the Site by City Transfer, Inc (CTI) of Sumner, Washington. Of this total, approximately 32,483 tons of PCS were either thermally treated or landfilled at the Rinker Materials facility located in Everett, Washington, or landfilled at Rabanco's regional Subtitle D landfill located in Roosevelt, Washington. The maximum depth of Site excavations occurred along Dexter Avenue North at approximately 25 feet bgs. Finished floor and bottom of footing elevations for the new building are approximately 26 feet and 22 feet amsl, respectively.

Temporary shoring placed along the Site's north, west and south perimeter coincided with the property boundary.

Confirmation soil samples were collected at final excavation grade (excavation sidewall and bottom) to document in-situ soil conditions. Excavation bottom samples were collected from areas where PCS was encountered during the mass excavation, and from random locations. Prior to placement of shotcrete (air-placed concrete) during construction of the temporary shoring walls, Riley collected sidewall soil samples from approximately elevation 37 1/2 feet to approximately elevation 30 feet along the Dexter Avenue Site boundary. Riley collected 36 sidewall confirmation soil samples to determine compliance with soil cleanup levels.

Riley collected a series of groundwater samples from dewatering wells N-DW and S-DW, the stormwater surface impoundment (W-1), and from groundwater seepage observed along the west wall. Four groundwater samples were collected from the north dewatering well. Three samples were collected from the south dewatering well. One water seep sample was collected along the west wall near grid line D14 at elevation 30-feet (sample D). A single sample was collected from the stormwater detention pond discharge (sample W-1). The dewatering wells were sampled after the excavation of approximately 17,000 tons of PCS and the pumping of approximately 35,000-gallons.

The Owner enrolled in Ecology's VCP on January 18, 2005. Ecology issued a NFA letter June 30, 2006 after a restrictive covenant was recorded with the county.

2.4 Cleanup Levels

The analytical data for this project are compared to the MTCA Method A Soil Cleanup Levels for Unrestricted Land Use. In addition, soil and groundwater analytical results are compared to the Oregon Department of Environmental Quality Generic Risk Based Concentrations (RBCs) outlined in their Risk Based Decision Making for the Remediation of Petroleum Contaminated Sites (September 22, 2003).

2.5 Restrictive Covenant

Based on the Site use, surface cover and cleanup levels, it was determined that the Site was eligible for a NFA determination if a Restrictive Covenant was recorded for the property. A Restrictive Covenant was recorded for the Site in 2006 which imposed the following limitations:

Section 1. A portion of the Property contains gasoline TPH, benzene, toluene, xylene, and diesel TPH contaminated soil located under the Southwest portion of the building on the Property. The Owner shall not alter, modify, or remove the existing structure in any manner that may result in the release or exposure to the environment of that contaminated soil or create 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 without prior written approval from Ecology.

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) days advance written notice to Ecology of the Owner's intent to convey any interest in the Property other than an interest in a condominium unit, a lease or rental of an apartment, or a commercial lease of less than 50,000 square feet. 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. Commercial uses of less than 50,000 square feet and residential uses are not 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; however, Ecology's concurrence shall not be unreasonably withheld.

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 June 22, 2011, the remedy at the Site continues to eliminate exposure to contaminated soils by ingestion and contact. The remedy appears in satisfactory condition and no repair, maintenance, or contingency actions have been required. The Site is still operating as a residence with some commercial activity. A photo log is available as Appendix 6.5.

Soils with TPH 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 on the property; however, contaminated soils remain outside the property. While there is no exposure to these soils, the institutional control (covenant) does not extend off the property; therefore the remedy is not effective off the property.

An acceptable point of compliance for groundwater has not been established; therefore the remedy may not be protective of the environment.

A property NFA may be possible but further groundwater information, and Ecology review of that information may be necessary.

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. 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, these changes do not appear to have affected this cleanup. Contamination remains at the Site above the new MTCA Method A and B cleanup levels. A table comparing MTCA cleanup levels from 1991 to 2001 is available below.

Analyte	1991 MTCA Method A Soil Cleanup Level (ppm)	2001 MTCA Method A Soil Cleanup Level (ppm)	1991 MTCA Method A Groundwater Cleanup level (ppb)	2001 MTCA Method A Groundwater Cleanup Level (ppb)
Cadmium	2	2	5	5
Lead	250	250	5	15
TPH	NL	NL	1000	NL
TPH-Gas	100	100/30	NL	1000/800
TPH-Diesel	200	2000	NL	500
TPH-Oil	200	2000	NL	500

NL = None listed

3.4 Current and projected Site use

The Site is currently used for residential and 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 but not 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 for the soil completed at the Site appear to be protective of human health by direct contact on the property, but not off the property.
- Soils cleanup levels have not been met at the standard point of compliance for the Site; however, the cleanup action for the soil complies with cleanup standards on the property (not the Site) since the long-term integrity of the containment system is ensured, and the requirements for containment technologies are being met.
- The Restrictive Covenant for the property is in place and continues to be effective in protecting public health from exposure to hazardous substances and protecting the integrity of the cleanup action on the property.
- No acceptable point of compliance for groundwater contamination has been established.

Based on this periodic review, the Department of Ecology has determined that the requirements of the Restrictive Covenant continue to be met. Additional cleanup actions may be required by the property owner or responsible person because of groundwater contamination. 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

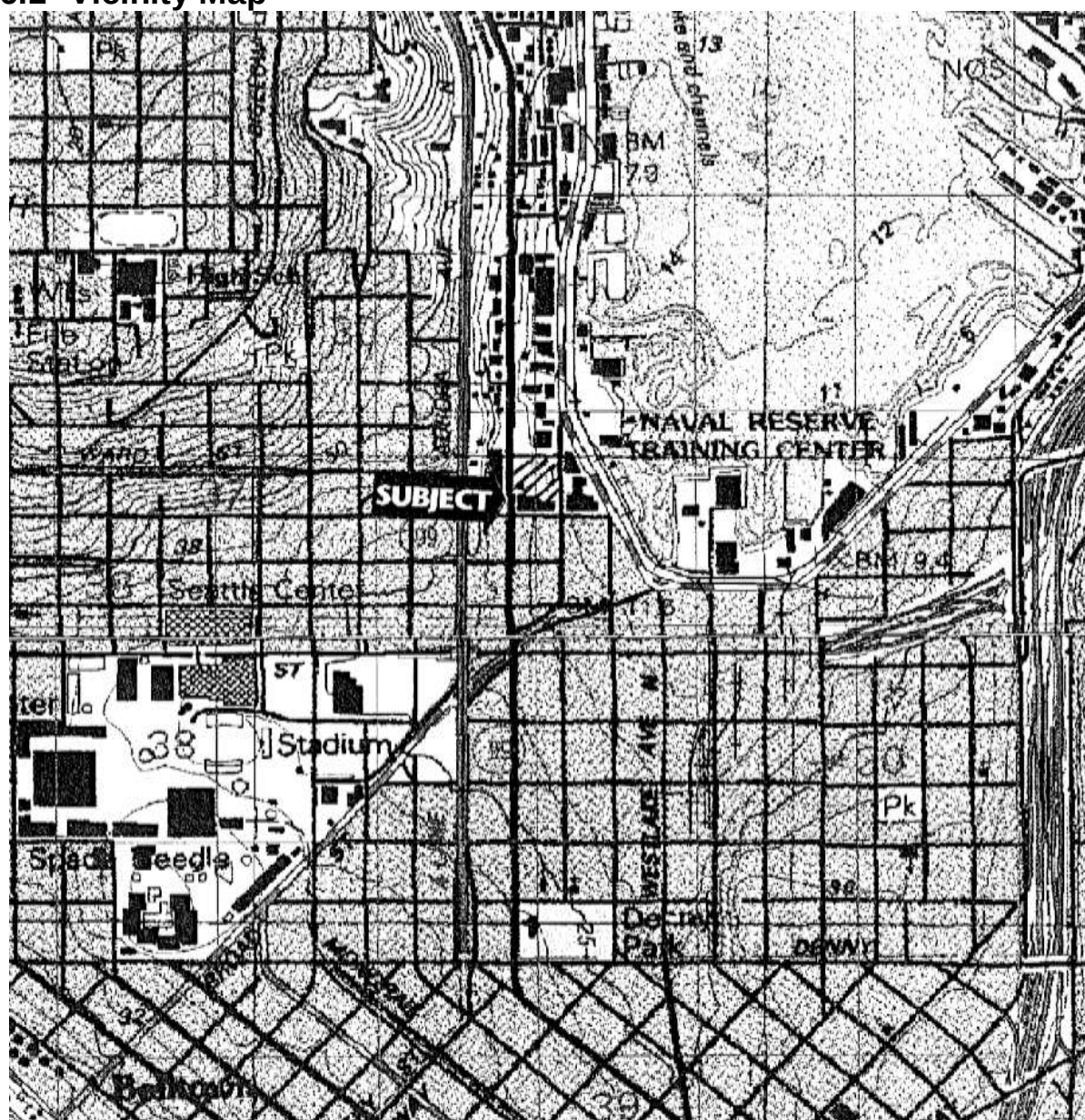
The next review for the Site will be scheduled five years from the date of this periodic review. In the event that additional cleanup actions or institutional controls are required, the next periodic review will be scheduled five years from the completion of those activities.

5.0 REFERENCES

1. Air Quality Investigation, The Riley Group, Inc., dated May 2, 2006;
2. Groundwater Monitoring Event — Fourth Quarter 2005, The Riley Group, Inc., dated January 20, 2006;
3. Groundwater Monitoring Event — Third Quarter 2005, The Riley Group, Inc., dated November 11, 2005;
4. Indoor Air Sampling & Groundwater Investigation Work Plan, The Riley Group, Inc., dated September 9, 2005;
5. Remedial Action Cleanup Report, The Riley Group, Inc., dated July 15, 2005;
6. 2006 Restrictive Covenant;
7. Ecology, 2011 Site Visit.

6.0 APPENDICES

6.1 Vicinity Map



NORTH

The Riley Group, Inc.
17522 BOTHELL WAY NE
BOTHELL, WASHINGTON
98011

Neptune Apartments

Project #2003-140

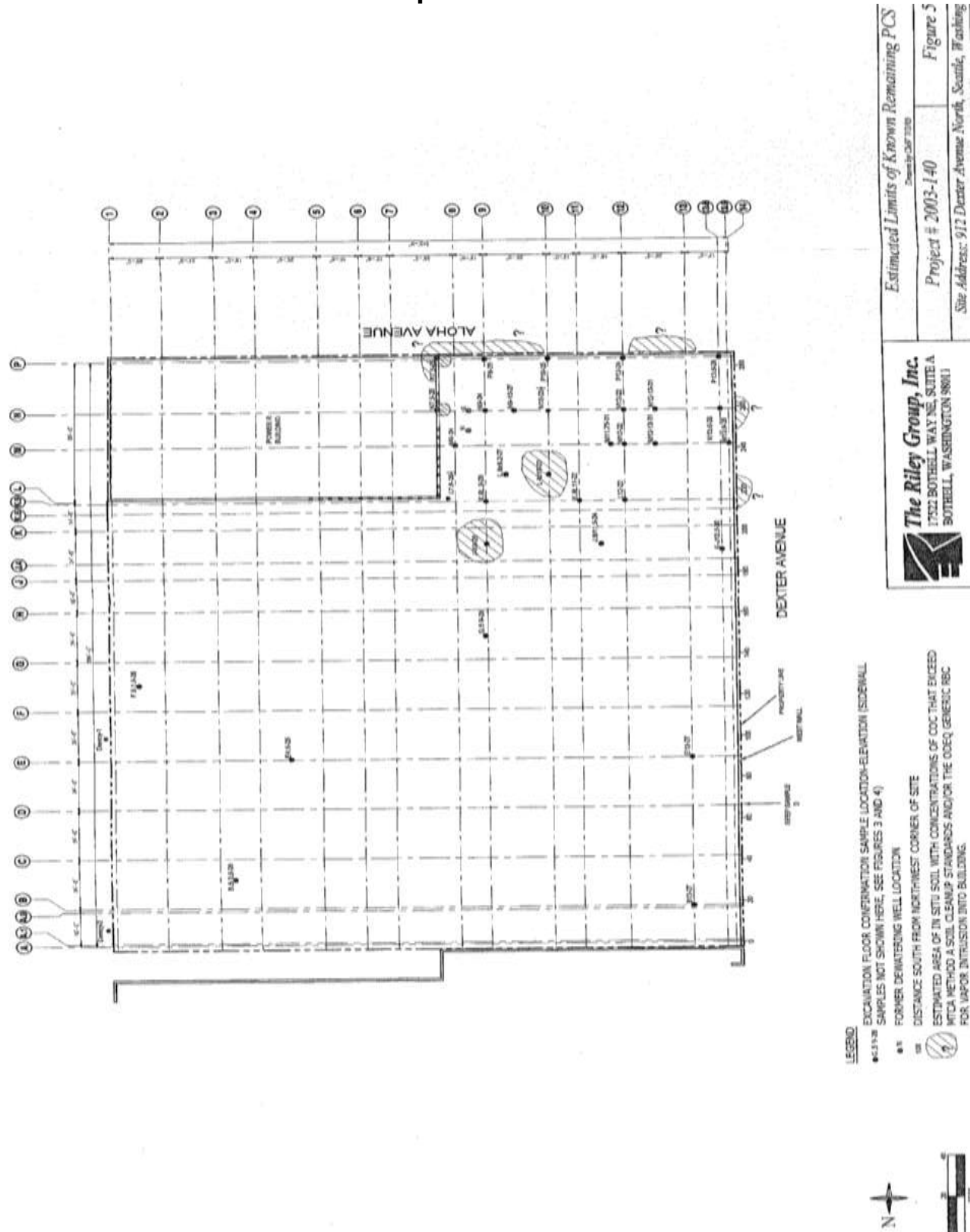
Site Vicinity Map

Figure 1

Source: USGS Seattle North, Washington, 1983. Scale: 1:12,800

912 Dexter Avenue North, Seattle, Washington

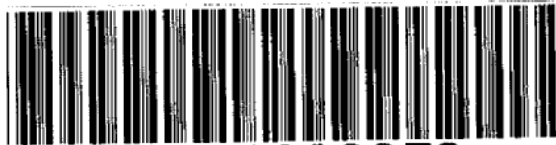
6.3 TPH-Dx Concentration Map



6.4 Environmental Covenant

Return Address:

Simpson Housing LLP
900 Wall Street, #216
Seattle, WA 98121



20060609002059

JERRY L. BOHRE COV 37.00
PAGE 001 OF 006
06/09/2006 14:51
KING COUNTY, WA

Please print or type information **WASHINGTON STATE RECORDER'S Cover Sheet** (RCW 65.04)

Document Title(s) (or transactions contained therein): (all areas applicable to your document must be filled in)

1. Covenant 2. _____
3. _____ 4. _____

Reference Number(s) of Documents assigned or released: 20011015900001

Additional reference #'s on page 2 of document

Grantor(s) (Last name, first name, initials)

1. Alan G. Lee
2. _____

Additional names on page _____ of document.

Grantee(s) (Last name first, then first name and initials)

1. City of Seattle
2. _____

Additional names on page _____ of document.

Legal description (abbreviated: i.e. lot, block, plat or section, township, range)

Lots 2-8, block 14, Volume 4 of Plats, Page 67 A

Additional legal is on page 2 of document.

Assessor's Property Tax Parcel/Account Number
assigned 2249500120

☐ Assessor Tax # not yet

The Auditor/Recorder will rely on the information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

I am requesting an emergency nonstandard recording for an additional fee as provided in RCW 36.18.010. I understand that the recording processing requirements may cover up or otherwise obscure some part of the text of the original document.

Signature of Requesting Party

912 Dexter Avenue North, L.L.C.
500 Wall Street, Suite 216
Seattle, Washington 98121

RESTRICTIVE COVENANT

This declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f and g), and WAC 173-340-440 by 912 Dexter Avenue North, L.L.C., its successors and assigns, and the Washington State Department of Ecology, its successors and assigns.

Legal Description:

Those portions of Lots 2, 3, 4, 5, 6, 7 and 8, Block 14, EDEN ADDITION NO. 2, TO THE CITY OF SEATTLE, according to the Plat thereof recorded in Volume 1 of the Plats, Page 67A, records of King County, Washington, and vacated Ward Street adjoining, described as follows:

Beginning at the Northeast corner of Lot 1 of said plat;
THENCE North 00°01'46" West along the West margin of 8th Avenue North a distance of 219.61 feet to the centerline of vacated Ward Street;
THENCE South 89°58'08" West along the centerline of vacated Ward Street a distance of 249.10 feet to the East margin of Dexter Avenue North;
THENCE South 00°00'34" East along the East margin of Dexter Avenue North a distance of 289.48 feet to the North margin of Aloha Street;
THENCE North 89°58'08" East along the North margin of Aloha Street a distance of 117.19 feet;
THENCE North 00°04'13" East a distance of 69.87 feet;
THENCE North 89°58'08" East along the North line of Lot 1 of said plat a distance of 131.89 feet to the West margin of 8th Avenue North and the point of beginning;

(ALSO KNOWN AS Parcel A of City of Seattle Lot Boundary Adjustment No. 2103502, recorded under Recording No. 20011015900001).

Situate in the County of King, State of Washington.

Tax Parcel I.D. Number 2249500120

RESTRICTIVE COVENANT

912 Dexter Avenue North, L.L.C.
900 Dexter Avenue North
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 912 Dexter Avenue North, L.L.C., 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:

- Air Quality Investigation, The Riley Group, Inc. (May 2, 2006)
- Groundwater Monitoring Event – Fourth Quarter 2005, The Riley Group, Inc. (January 20, 2006)
- Groundwater Monitoring Event-Third Quarter 2005, The Riley Group, Inc. (November 11, 2005)
- Indoor Air Sampling & Groundwater Investigation Work Plan, The Riley Group, Inc. (September 9, 2005)
- Remedial Action Cleanup Report, The Riley Group, Inc. (July 15, 2005).

The above listed documents are on file at Ecology's Northwest Regional Office.

This Restrictive Covenant is required because the Remedial Action resulted in residual concentrations of gasoline TPH, benzene, toluene, xylene and diesel TPH that exceed the Model Toxics Control Act Method A Residential Cleanup Level(s) for soil established under WAC 173-340-900.

The undersigned 912 Dexter Avenue North, L.L.C., 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:

Those portions of Lots 2, 3, 4, 5, 6, 7 and 8, Block 14, EDEN ADDITION NO. 2, TO THE CITY OF SEATTLE, according to the Plat thereof recorded in Volume 1 of the Plats, Page 67A, records of King County, Washington, and vacated Ward Street adjoining, described as follows:

Beginning at the Northeast corner of Lot 1 of said plat;
THENCE North 00°01'46" West along the West margin of 8th Avenue North a distance of 219.61 feet to the centerline of vacated Ward Street;
THENCE South 89°58'08" West along the centerline of vacated Ward Street a distance of 249.10 feet to the East margin of Dexter Avenue North;
THENCE South 00°00'34" East along the East margin of Dexter Avenue North a distance of 289.48 feet to the North margin of Aloha Street;
THENCE North 89°58'08" East along the North margin of Aloha Street a distance of 117.19 feet;
THENCE North 00°04'13" East a distance of 69.87 feet;
THENCE North 89°58'08" East along the North line of Lot 1 of said plat a distance of 131.89 feet to the West margin of 8th Avenue North and the point of beginning;

(ALSO KNOWN AS Parcel A of City of Seattle Lot Boundary Adjustment No. 2103502, recorded under Recording No. 20011015900001).

Situate in the County of King, State of Washington.

912 Dexter Avenue North, L.L.C. 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. A portion of the Property contains gasoline TPH, benzene, toluene, xylene and diesel TPH contaminated soil located under the Southwest portion of the building on the Property. The Owner shall not alter, modify, or remove the existing structure in any manner that may result in the release or exposure to the environment of that contaminated soil or create 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 without prior written approval from Ecology.

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) days advance written notice to Ecology of the Owner's intent to convey any interest in the Property other than an interest in a condominium unit, a lease or rental of an apartment unit, or a

commercial lease of less than 50,000 square feet. 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. Commercial uses of less than 50,000 square feet and residential uses are not 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; however, Ecology's concurrence shall not be unreasonably withheld.

912 Dexter Avenue North, L.L.C., a Washington limited liability company

By: Simpson Housing LLLP, a Delaware limited liability limited partnership, sole member

By: Colomba LLC, a Delaware limited liability company, its General Partner

By: Alan G. Lee
Alan G. Lee, Executive Vice President - Operations

STATE OF COLORADO)
) ss:
COUNTY OF DENVER)

On this 6th day of June 2006, before me personally appeared Alan G. Lee, to me known to be the Executive Vice President – Operations of Colomba LLC, a Delaware limited liability company, the general partner of Simpson Housing LLLP, a Delaware limited liability limited partnership, the sole member of 912 Dexter Avenue North, L.L.C., the limited liability company that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said limited liability companies and limited liability limited partnership, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute the said instrument on behalf of said limited liability companies and limited liability limited partnership.

In WITNESS WHEREOF I have hereunder set my hand and affixed my official seal the day and year first above written.



My Commission Expires 03/02/2008

Joy A. Brecht
Signature

Joy A. Brecht
(Please print name legibly)

NOTARY PUBLIC in and for the
State of Washington, residing at
Lakewood Colorado

My Commission Expires 3/2/08

6/6/06 10:16 AM ()

6.5 Photo log

Photo 1: Neptune Apts at Dexter and Aloha - from the southwest



Photo 2: South side of the bldg. - from the south across Aloha



Photo 3: Looking down the Aloha block



Photo 4: South Side of the bldg. where it meets adjacent parcel – cont. extends off-property

