



## **PERIODIC REVIEW**

**Recomp of Washington  
Facility Site ID#: 76245362**

**1524 Slater Road,  
Ferndale, Washington**

**Northwest Region Office**

**TOXICS CLEANUP PROGRAM**

**May 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 Recomp of Washington (Site). Cleanup at this Site was implemented under the Model Toxics Control Act (MTCA) regulations, Chapter 173-340 Washington Administrative Code (WAC).

Cleanup activities at this Site were completed under the Voluntary Cleanup Program. The cleanup actions resulted in concentrations of lead and cadmium 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 Recomp of Washington (ROW or Recomp) facility located at 1524 Slater Road, Ferndale, Washington, was originally part of a larger facility owned by Charles V. Wilder Jr. (Wilder) and operated by Thermal Reduction Company Inc. (TRC). When TRC sold property to Recomp in 1990, Wilder retained ownership of property north of the Friese, Hide, and Tallow access road upon which a closed, permitted hazardous waste disposal Site is located. That Site underwent a U.S. Environmental Protection Agency (EPA) Preliminary Assessment and Site Inspection (PA/SI) investigation by Roy F. Weston, Inc. (WESTON) (contract WO 12644-001-002-0112-00) under the Comprehensive Environmental Response and Liability Act of 1980 and Superfund Amendments and Reauthorization Act of 1986.

The property acquired by Recomp was located south and west of the Friese, Hide, and Tallow access road, upon which permitted solid waste handling was occurring. The handling activities included incineration of solid waste and disposal of resultant ash on-site. ROW sold its solid waste transfer station in 1990 to what is now Allied Waste while maintaining some of the permitted solid waste handling operations and converted some of the buildings to the manufacturing of mushroom substrate compost production operated by International Mushroom Service.

Prior to 1974 this property was undeveloped farmland. Since 1974, solid waste handling and disposal has occurred on the Site under permit by the Northwest Air Pollution Authority and Whatcom County Health Department. In 1974 Wilder Construction Company, Inc. (Wilder) prepared an Environmental Impact Statement for a 100-ton per day solid waste incinerator and disposal site. The facility was granted a Solid Waste Handling Permit by the Whatcom County Health Department, (then the Bellingham-Whatcom District Department of Public Health). In approximately 1977 TRC was granted a permit to operate a hazardous waste landfill on property north of the Friese, Hide, and Tallow Road. This landfill was closed in 1979 and is now commonly referred to as the "Wilder Landfill Hazardous Waste Pit". TRC continued to operate the incinerator and ash landfill portion of the Site as well. Records indicate that TRC operated the facility until the end of 1989 when Recomp Inc. purchased the current ROW Site and re-named it RECOMP.

The Recomp facility consisted of an office, incinerators, part of a closed landfill, and an ash disposal area. The ash disposal area, which is underlain by HPDE liner, is the subject of this Periodic Review, and is located above a portion of a landfill that was reportedly closed in accordance with the Minimum Functional Standards (MFS) (WAC 173-304) in 1989.

The former landfill appears to underlie much of the Recomp property. The landfill reportedly received municipal refuse, incinerated refuse, and demolition debris starting in the early 1970s. The maximum thickness of the closed landfill is approximately 20 feet. In 1989, the landfill was reportedly graded and covered with a low permeability clay cover in accordance with the MFS.

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As part of the landfill closure, a slurry wall was constructed on the north, east, and south boundaries of the landfill to minimize groundwater flow underneath the facility; an underground leachate collection system was installed on the west side, the downgradient side, of the landfill.

## 2.2 Site Investigations and Sample Results

Monitoring wells were installed and surface water sampling locations established to monitor the effectiveness of the slurry wall and leachate collection system.

Three main water-bearing zones have been identified on the site:

- A shallow water table zone within the Sumas Outwash perched on the Bellingham Drift.
- A confined zone located between approximate elevations 16 and 35 feet within the Bellingham Drift. This intermediate zone is characterized as alternating layers of sandy silt, sand and silts, and silty sand within a deposit composed primarily of clay and silt.
- A deeper, confined zone penetrated by MW-3 between elevations 53.9 and 90 feet described as sandy silt interlayered with very fine sand.

All water-bearing zones produce little water. During purging, all wells could be emptied with a hand bailer. Some wells took greater than 24 hours for recovery to static water level condition. Three undisturbed samples of the silt and clay deposits of the Bellingham Drift clays were tested for vertical permeability. These samples represent the clay and silts that are between water-bearing zones. The vertical permeability of three samples tested was around  $10^{-8}$  cm/sec.

Much testing has occurred at the Site over the years. The numerous reports in Ecology files contain sampling data for air, soil, groundwater, and surface water pertaining to the larger, highly regulated landfill activities and closure. This data also is relevant to the specific issue dealt with in this Periodic Review, the ash storage area, but is too interspersed with the entire file to go into great detail. An example of some of the information in the record is shown in the following excerpts:

### AIR SAMPLING AND SOIL SAMPLING

1999 ANNUAL REPORT, Recom of Washington, Inc., Submitted to: Washington Department of Ecology, March 2000,

Section 4.2.6 A, Page 25

“Ambient air samples have been collected and analyzed on a quarterly basis since early 1994 and through to the first quarter of 1998. The data generated throughout this time clearly indicate that, results of such sampling are significantly less than the standard of 1.5 micrograms per cubic meter of air {WAC 173-306-440(2)(c)}. Accordingly, ROW requested a reduction in air monitoring frequency. It received authorization from Ecology (Letter dated May 21, 1998) to reduce sampling frequency to once per year.”

Section 4.2.6 B, Page 26

“Soil Sampling has been undertaken since 1993 through 1997. The data accumulated during this time frame clearly indicates that, results of such sampling would warrant the reduction of such a frequency schedule. Accordingly, ROW requested and received authorization from Ecology (letter dated May 21, 1998) that the sampling frequency for cadmium in soil be reduced to once every five years.”

#### GROUNDWATER AND SURFACE WATER QUARTERLY TESTING Conducted Quarterly from 1988 through 3rd Quarter 2001

1999 ANNUAL REPORT, Recom of Washington, Inc., Appendix B, Summary of Ground Water Monitoring Data for the Period 1988 through December 1999, Berryman & Henigar, March 2000

Page B-1

“Average horizontal groundwater velocity 0.75 ft/yr (WNW)”

Page B-3, Paragraph 4

“The data do not exhibit any readily identifiable trends that indicate leachate migration to any of the monitoring wells.”

Page B-3, Paragraph 6

“In conclusion, groundwater hydrology and groundwater quality are similar to previous years. No leachate migration is evident from the monitoring data.”

1999 ANNUAL REPORT, Recom of Washington, Inc., Appendix C, Summary of Surface Water Monitoring Data for the Period 1988 through December 1999, Berryman & Henigar, March 2000

Page C-2, Paragraph 5

“In summary, there is no known hydraulic linkage between industrial areas of Recom and the surface water drainage, and no surface water contamination by Recom is evident, although water quality in the ditch adjacent to the west boundary of Recom is poorer this year due to other sources.”

## **2.3 Cleanup Actions**

According to the Engineering Report, June 28, 1989, Landfill Closure and Temporary Ash Storage Facility Construction, Harper Owes, the existing closed landfill was re-graded and the cover improved to meet the minimum requirement of two feet of compacted soil with permeability of  $1 \times 10^{-6}$  or less. The landfill located to the south of the closed landfill was re-

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graded and closed to meet the minimum requirement of two feet of compacted soil with permeability of  $1 \times 10^{-6}$  or less. A lined cut-off trench with a perforated drainpipe was constructed along the west side of the landfill areas to collect leachate seeps from the landfills. The collected leachate is discharged to the city of Ferndale Wastewater treatment facility.

The temporary ash storage pad was constructed above the closed landfills. This pad consisted of 18 inches of native compacted soil covered by an 80 mil high density polyethylene (HDPE) membrane liner and 4 inches of asphalt treated base. The pad was equipped with a drainage system capable of delivering storm water to the Ferndale wastewater treatment plant or to the storm water system. The temporary ash storage pad had leak detection capabilities and settlement measurement devices. Temporarily stored ash was removed.

Surface water that may come into contact with ash from paved areas adjacent to the incineration facilities are collected in a piped drainage system and discharged to the leachate storage lagoon. The leachate storage lagoon was constructed of 2 feet of compacted clay covered by 80 mil HDPE liner.

A soil/bentonite slurry wall was constructed. The purpose of the soil/bentonite slurry wall is intended to divert perched groundwater in the Sumas Outwash sand around the Site and thus reduce the amount of groundwater entering the ash disposal facility. The slurry wall was constructed around the Site on the north, east and south sides and was tied into existing compacted clay berms along the western and northern sides of the facility. The slurry wall has a target permeability of  $1 \times 10^{-7}$ .

The following arguments were presented to support the remedial action:

- Although pre- to mid-1980 investigations indicated off-Site migration of contaminants, several following investigations, including an Environmental Protection Agency investigation, indicate no releases are occurring from the ROW property.
- The State Department of Health conducted a Health Risk Assessment on the facility with no significant adverse findings.
- Fourteen years of groundwater and surface water monitoring did not detect an ongoing or significant release from the facility to groundwater or surface water. Twelve years of this monitoring occurred post-closure of the ash landfill thereby providing performance monitoring for the closure controls.
- The landfill has an engineered cover and is surrounded by a controlled density slurry wall on three sides and a re-compacted clay wall on the downgradient side.
- The geology of the Site is very restrictive to groundwater movement.
- The landfill does have a constructed, engineered, passive leachate collection system that assures no leachate buildup will occur within the landfill.
- Collected leachate is discharged to a publicly owned treatment works (POTW) under a discharge permit that requires monthly testing of the discharge. Discharge results are well below permit limitations.
- The City of Ferndale POTW that receives the wastewater required ROW to remove all sludge impacted by the TRC/RECOMP operations. This removal has been completed.

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- All temporarily stored ash has been removed from the Site and disposed of in accordance with an ash handling plan and permit.
  - The waste materials in the landfill were characterized by EPA and DOE and found to be suitable to be left on-site.
  - No additional landfilling occurred following closure of the ash landfill in 1989.
  - A hydrogeological investigation was conducted on the Site with oversight and approval from the Whatcom County Health Department and the Department of Ecology.
  - The three water-bearing zones found through hydrogeological investigation have very low production rates making them unsuitable for use.
  - There is no known ground water use downgradient of the site, between the Site and the Nooksack River.
  - The facility is located within the City of Ferndale in a manufacturing zone. A significant amount of new development has occurred around the Site and the Site itself has long-term committed uses within the complex. Therefore, the Site will not be converted to residential use nor will it be abandoned.
  - A solid waste transfer station with a long-term commitment resides on the property. This operation will require continued permitting and inspection by the Health Department; therefore long-term oversight is assured.
  - The Facility is partially fenced.

Ecology agreed that the remedy imposed on the ash storage area was protective and issued a 'No Further Action' (NFA) letter January 5, 2005, after a restrictive covenant was recorded with the county. However, the letter is not clear to which lots or parcels the NFA refers, nor does it mention the ash storage area. There is also a date of January 4, 2005 noted on the heading of the second page. These omissions and errors could require the NFA letter to be replaced.

## 2.4 Cleanup Levels

No definitive reference to MTCA Cleanup Standards has been found in the file applying specifically to the ash storage area; however, an assumption might be made that MTCA Method A or B Standards have been applied under various scenarios over the lengthy involvement of various regulatory entities. The following excerpts from the files, while pertaining to the landfill area as a whole, could be useful as information on the selection of cleanup levels for the ash storage area:

TRC RISK ASSESSMENT, Office of Toxic Substances, Washington State Department of Health, Harriet Ammann, May 1991

Results, Page 1, Paragraph 5

“Carcinogenic risk for all chemicals collectively evaluated in this assessment was less than one incidence in a hypothetical population of one million. Results of chemicals evaluated in this study for both cancer and noncancer hazard are in a similar range to that found for other municipal waste incinerator emissions.”



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Results, Page 2, Paragraph 2

“The results of this study are to be viewed in the perspective of new control technology (acid gas scrubber) that has been applied to TRC, and which are now operative. Actual emission efficiency tests have shown the new technology to reduce total HCL emissions by 97.9 percent. This represents a substantial reduction in HCL emission levels comparative to those seen in the present study, upon which this risk assessment is based.”

## 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. 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. Some examples of activities that are prohibited in the capped areas 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.

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. Any unpermitted activity on the property that may result in the release of contaminants remaining on the Property as part of the Remedial Action that may expose the City of Ferndale water sewer or storm water systems to contamination is prohibited without prior written approval from Ecology.

Section 5. The Owner of tile Property must give thirty (30) days advance written notice to Ecology of tile Owner’s intent to convey interest in the Property. No conveyance of title, easement, lease, or other interest in the Property shall be consummated by the Owner without adequate and complete provision for continued monitoring, operation, and maintenance of the Remedial Action.

Section 6. 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 7. 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 8. The Owner shall allow authorized representatives of Ecology the right to enter the Property at reasonable times, and upon reasonable notice unless an emergency prevents such notice, for the purposes 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 9. 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.

Based upon the Site visit conducted on July 20, 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 waste handling facility. A photo log is available as Appendix 6.5.

Soils with metals 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.

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

<b>Analyte</b>	<b>1991 MTCA Method A Soil Cleanup Level (ppm)</b>	<b>2001 MTCA Method A Soil Cleanup Level (ppm)</b>	<b>1991 MTCA Method A Groundwater Cleanup level (ppb)</b>	<b>2001 MTCA Method A Groundwater Cleanup Level (ppb)</b>
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 commercial and industrial purposes. There have been no changes in current or projected future Site or resource uses.

### **3.5 Availability and practicability of higher preference technologies**

The remedy implemented included containment of hazardous substances, and it continues to be protective of human health and the environment. While higher preference cleanup technologies may be available, they are still not practicable at this Site.

### **3.6 Availability of improved analytical techniques to evaluate compliance with cleanup levels**

The analytical methods used at the time of the remedial action were capable of detection below selected Site cleanup levels. The presence of improved analytical techniques would not affect decisions or recommendations made for the Site.

## **4.0 CONCLUSIONS**

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

- The cleanup actions completed at the Site appear to be protective of human health and the environment.
- Soils cleanup levels have not been met at the standard point of compliance for the Site; however, the cleanup action has been determined to comply with cleanup standards since the long-term integrity of the 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 and the environment from exposure to hazardous substances and protecting the integrity of the cleanup action.

Based on this periodic review, the Department of Ecology has determined that the requirements of the Restrictive Covenant continue to be met. No additional cleanup actions are required by the property owner. It is the property owner's responsibility to continue to inspect the Site to assure that the integrity of the remedy is maintained.

### **4.1 Next Review**

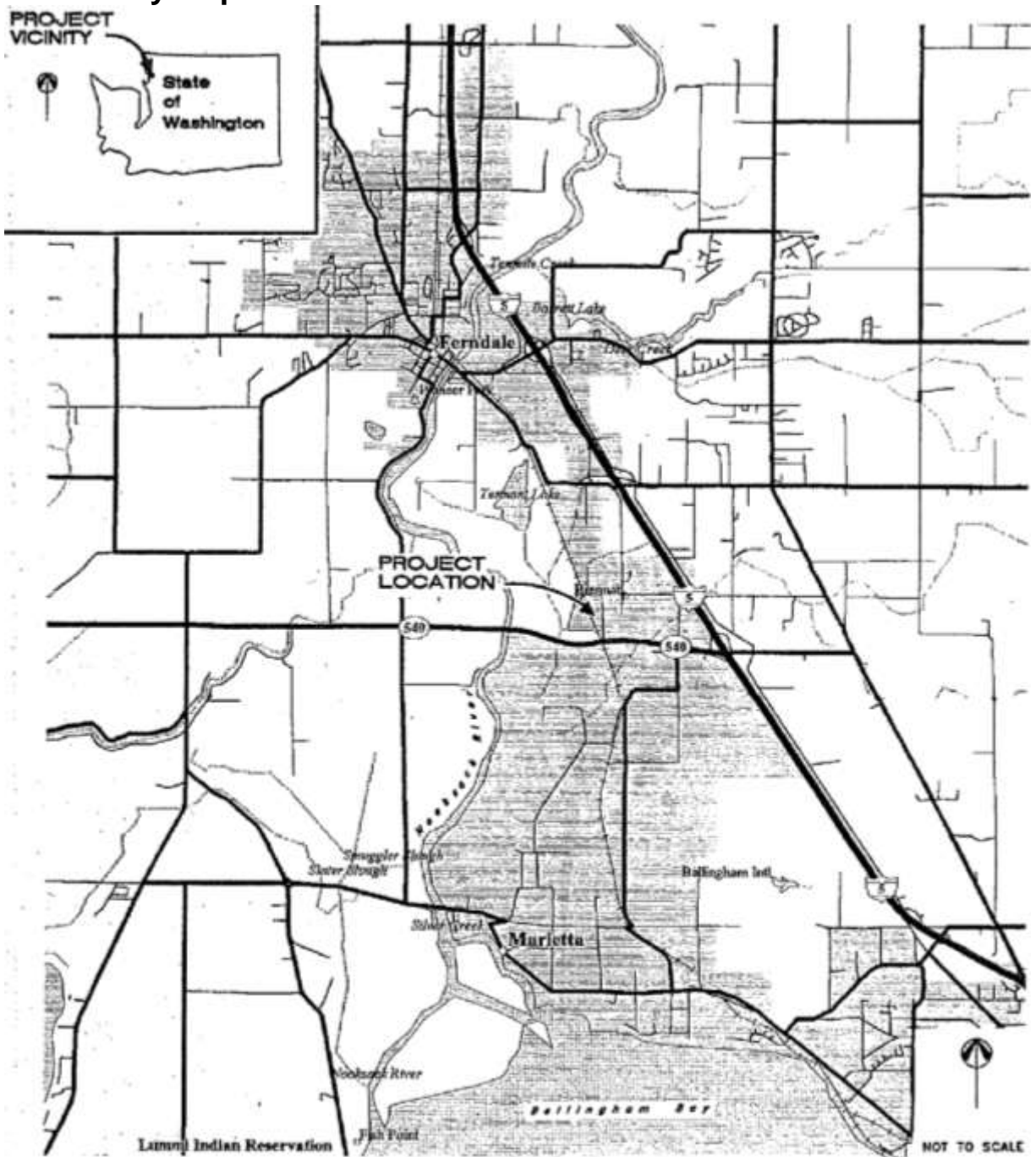
The next review for the Site will be scheduled five years from the date of this periodic review. In the event that additional cleanup actions or institutional controls are required, the next periodic review will be scheduled five years from the completion of those activities.

## 5.0 REFERENCES

1. Cleanup Report by Environmental Health Services, Inc., April 29, 2003;
2. 1999 Annual Report, by Recom of Washington, Inc., March 2000;
3. Quarterly Groundwater Monitoring Reports by Vasey Engineering, from September 10, t993, to December18, 1996;
4. Quarterly Groundwater Monitoring Reports by Environmental Health Services, Inc., from September 23, 1997, to September 16, 2001;
5. Engineering Report Landfill Closure and Temporary Ash Storage Facility Construction by Harper Owes, June 28, 1989;
6. Geotechnical Design Report Proposed Temporary Ash Storage Facility by Golder Associates, Inc, June 1989;
7. Technical Memorandum to Thermal Reduction Company Preliminary Hydrological Investigation Bellingham Washington by Golder Associates June 1988, Includes Appendix B (Groundwater) by Berryman and Henigar;
8. 2004 Restrictive Covenant;
9. Ecology, 2011 Site Visit.

## **6.0 APPENDICES**

### 6.1 Vicinity Map

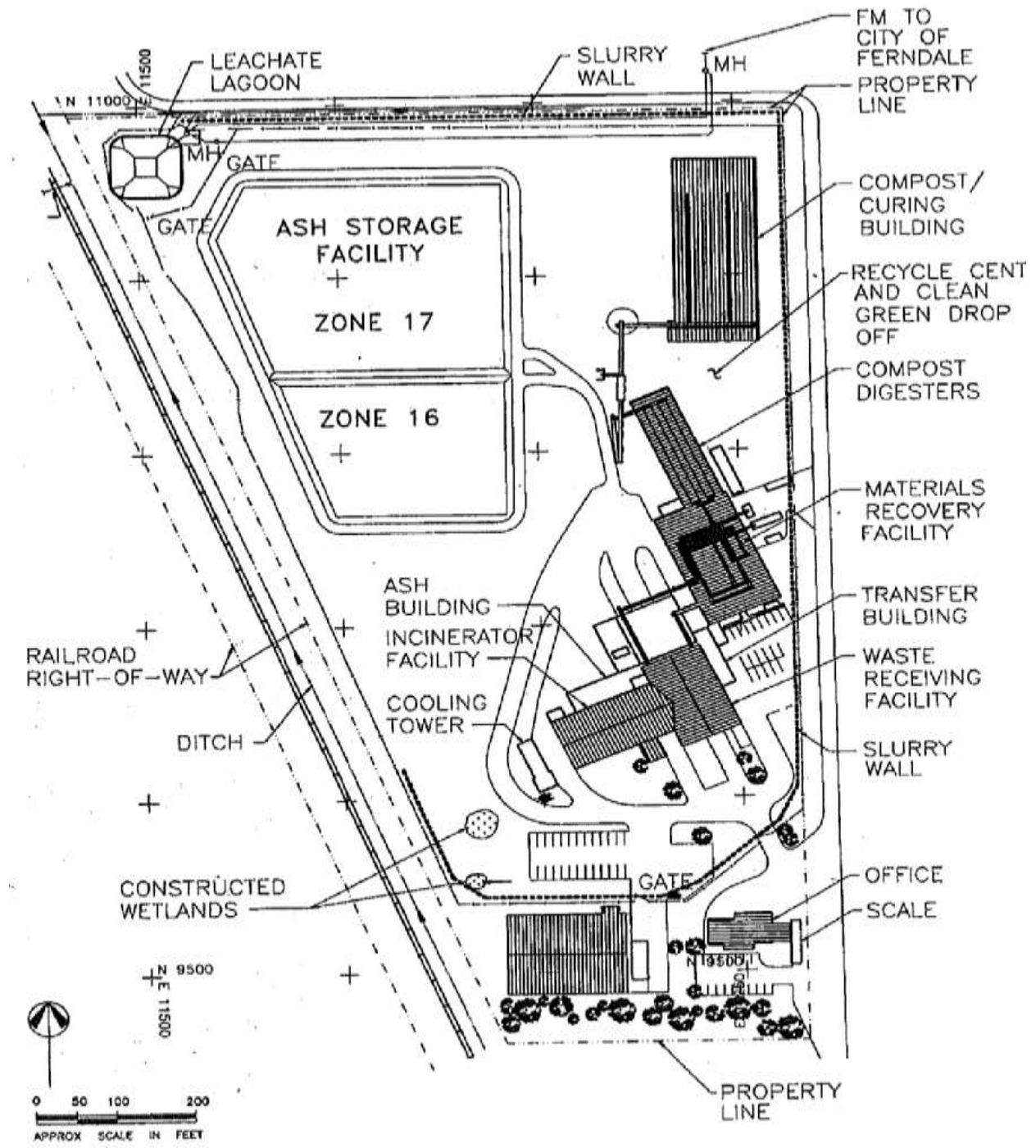


Vicinity Maps  
Recomp of Washington  
Ferndale, Washington

Figure  
1

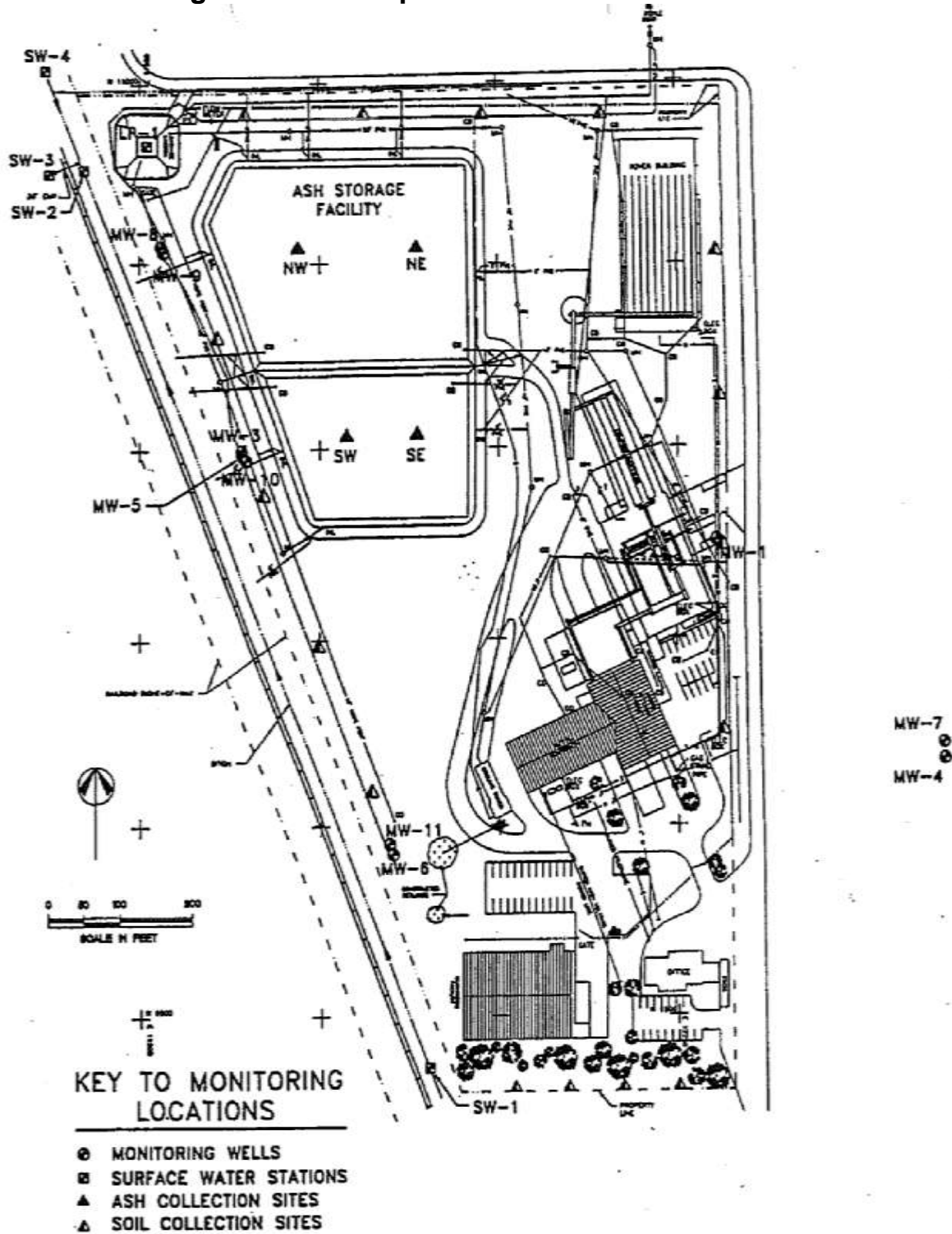


## 6.2 Site Plan



**SITE MAP**  
Recomp of Washington  
Ferndale, Washington

### 6.3 Monitoring Locations Map



## 6.4 Environmental Covenant



2041000167

Page: 1 of 5  
10/01/2004 2:44 PM  
D/RC \$23.00  
Whatcom County, WA

Request of: RECOMP OF WASHINGTON INC

**RETURN DOCUMENT TO:**

Recomp of Washington, Inc.  
1524 Slater Road  
Ferndale, WA 98248

*Use dark black ink and print legibly. Documents not legible will be rejected per RCW 65.04.045 & 65.04.047*

**DOCUMENT TITLE(S):**

RESTRICTIVE COVENANT

**AUDITOR FILE NUMBER & VOL. & PG. NUMBERS OF DOCUMENT(S)  
BEING ASSIGNED OR RELEASED:**

Four Pages

Additional reference numbers can be found on page \_\_\_\_\_ of document.

**GRANTOR(S)**

RECOMP OF WASHINGTON, INC.

Additional grantor(s) can be found on page \_\_\_\_\_ of document.

**GRANTEE(S):**

Additional grantee(s) can be found on page \_\_\_\_\_ of document.

**ABBREVIATED LEGAL DESCRIPTION:** (Lot, block, plat name OR; qtr/qtr, section, township and range OR; unit, building and condo name.)

LOT 4 RECOMP SHORT PLAT AS RECORDED BOOK 21 SHORT PLATS  
PG 93

Additional legal(s) can be found on page \_\_\_\_\_ of document.

**ASSESSOR'S 16-DIGIT PARCEL NUMBER:**

390233 183094 0000

Additional numbers can be found on page \_\_\_\_\_

The Auditor/Recorder will rely on the information provided on this form. The responsibility for the accuracy of the indexing information is that of the document preparer.

Recomp of Washington, Inc.  
1524 Slater Road  
Ferndale, WA 98248

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 Recom of Washington, Inc., its successors and assigns, and the Washington State Department of Ecology, its successors and assigns.

Legal Description: LOT 4 RECOMP SHORT PLAT AS RECORDED  
BOOK 21 SHORT PLATS PG 93

Tax Parcel I.D. #: 390233 183094 0000

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## RESTRICTIVE COVENANT

### Recomp of Washington, Inc., 1524 Slater Road, Ferndale, Washington

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-44- by Recomp of Washington, Inc., 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:

- Voluntary Cleanup Program Application and Report by Environmental Health Services, Inc., April 29, 2003.
- 1999 Annual Report, by Recomp of Washington, Inc., March 2000.
- Quarterly Groundwater Monitoring Reports by Vasey Engineering, from September 10, 1993 to December 18, 1996.
- Quarterly Groundwater Monitoring Reports by Environmental Health Services, Inc., from September 23, 1997 to September 16, 2001.
- Engineering Report Landfill Closure and Temporary Ash Storage Facility Construction by Harper Owes, June 28, 1989.
- Geotechnical Design Report Proposed Temporary Ash Storage Facility by Golder Associates, Inc.
- Technical Memorandum to Thermal Reduction Company Preliminary Hydrological Investigation, Bellingham, Washington by Golder Associates, June 1988, includes Appendix B (Groundwater) by Berryman and Henigar.
- Ecology's NFA letter of July 7, 2004.

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

This Restrictive Covenant is required because the Remedial Action resulted in residual concentrations of Lead and Cadmium which exceed the Model Toxics Control Act Method B Residential Cleanup Levels for Soil established under WAC 173-340-740.

The undersigned, Recomp of Washington, Inc., is the fee owner of real property (hereafter "Property") in the County of Whatcom, State of Washington, that is subject to this Restrictive Covenant. The Property is legally described as follows: LOT 4 RECOMP SHORT PLAT AS RECORDED BOOK 21 SHORT PLATS PG 93 and located approximately within the SW ¼ of the SW ¼ of section 33 township 39N range 2E.

Recomp of Washington, Inc. 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 Property (hereafter "Owner").

Section 1. 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. Some examples of activities that are prohibited in the capped areas 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.

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. Any unpermitted activity on the property that may result in the release of contaminants remaining on the Property as part of the Remedial Action that may expose the City of Ferndale water sewer or storm water systems to contamination is prohibited without prior written approval from Ecology.

Section 5. The Owner of the Property must give thirty (30) days advance written notice to Ecology of the Owner's intent to convey interest in the Property. No conveyance of title, easement, lease, or other interest in the Property shall be consummated by the Owner without adequate and complete provision for continued monitoring, operation, and maintenance of the Remedial Action.

Section 6. 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 7. 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 8. The Owner shall allow authorized representatives of Ecology the right to enter the Property at reasonable times, and upon reasonable notice unless an emergency prevents such notice, for the purposes 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 9. 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.

Frank Moscone                      Sept 30-04

Recomp of Washington, Inc.

Date

Signed before me by Frank Moscone on this  
30th Day of September 2004. Thomas J. Bubanic  
Thomas J. Bubanic, Notary Public of Washington  
State. My Notary expire 09-28-2006, I reside in  
Ferndale, Washington





## 6.5 Photo log

**Photo 1: Unpaved capped area south of paved capped area - from the east**



**Photo 2: Paved capped area used for storage - from the north**





**Photo 3: Paved capped area - from the east**



**Photo 4: Lined leachate lagoon collects water from underground system**

