



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

4601 N Monroe Street • Spokane, Washington 99205-1295 • (509)329-3400

May 5, 2016

Ms. Jean Wong  
Chevron EMC  
6101 Bollinger Canyon Road  
BR1 X – Fifth Floor  
San Ramon, CA 94583

**Re: No Further Action at the following Site:**

- **Site Name:** Unocal SS 2839
- **Site Address:** 301 First Street, Cheney, WA
- **Facility/Site No.:** 42896988
- **VCP Project No.:** EA0193

Dear Ms. Wong:

The Washington State Department of Ecology (Ecology) received your request for an opinion on your independent cleanup of the Unocal SS 2839 facility (Site). This letter provides our opinion. We are providing this opinion under the authority of the Model Toxics Control Act (MTCA), Chapter 70.105D RCW.

**Issue Presented and Opinion**

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Is further remedial action necessary to clean up contamination at the Site?

**NO. Ecology has determined that no further remedial action is necessary to clean up contamination at the Site.**

**This opinion is dependent on the continued performance and effectiveness of the post-cleanup controls specified below.**

This opinion is based on an analysis of whether the remedial action meets the substantive requirements of MTCA, Chapter 70.105D RCW, and its implementing regulations, Chapter 173-340 WAC (collectively “substantive requirements of MTCA”). The analysis is provided below.

**Description of the Site**

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This opinion applies only to the Site described below. The Site is defined by the nature and extent of contamination associated with the following releases:

- Petroleum hydrocarbons and carcinogenic polycyclic aromatic hydrocarbons (cPAHs) into the Soil.
- Petroleum hydrocarbons into the Groundwater.

**Enclosure A** includes a detailed description and diagram of the Site, as currently known to Ecology.

Please note a parcel of real property can be affected by multiple sites. At this time, we have no information that the parcel(s) associated with this Site are affected by other sites.

### **Basis for the Opinion**

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This opinion is based on the information contained in the following documents:

*Annual Groundwater Monitoring Report 2011:* Arcadis, December 16, 2011.

*2012 Annual Groundwater Monitoring Report:* Arcadis, March 22, 2013.

*First Quarter 2013 Groundwater Monitoring Report:* Arcadis, May 17, 2013.

*Closure Sampling Plan:* Arcadis, June 2013.

*Second Quarter 2013 Groundwater Monitoring Report:* Arcadis, September 11, 2013.

*Third Quarter 2013 Groundwater Monitoring Report:* Arcadis, November 12, 2013.

*No Further Action Request:* Arcadis, July 7, 2014.

Those documents are kept in the Central Files of the Eastern Regional Office of Ecology (ERO) for review by appointment only. You can make an appointment by calling (509) 329-3400.

This opinion is void if any of the information contained in those documents is materially false or misleading.

### **Analysis of the Cleanup**

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Ecology has concluded that **no further remedial action** is necessary to clean up contamination at the Site. That conclusion is based on the following analysis:

**1. Characterization of the Site.**

Ecology has determined your characterization of the Site is sufficient to establish cleanup standards and select a cleanup action. The Site is described above and in **Enclosure A**.

The lateral and vertical extent of petroleum hydrocarbons in soil was defined in the reports listed above.

**2. Establishment of cleanup standards.**

Ecology has determined the cleanup levels and points of compliance you established for the Site meet the substantive requirements of MTCA.

For soil, the cleanup levels were established using MTCA Method A and are based on the protection of groundwater. The cleanup levels are as follows:

- Gasoline range organics: 30 mg/kg
- Heavy oil range organics: 2,000 mg/kg
- Benzene: 0.03 mg/kg
- Xylenes: 9 mg/kg
- cPAHs: 0.1 mg/kg

The point of compliance for soil is throughout the soils at the Site. This is the standard point of compliance.

For groundwater, the cleanup levels were established using MTCA Method A and are based on protection of drinking water beneficial uses. The groundwater is classified as potable. The cleanup levels are as follows:

- Gasoline range organics: 800 mg/kg
- Diesel range organics: 500 mg/kg
- Benzene: 5 mg/kg
- Xylenes: 1,000 mg/kg

For groundwater, the point of compliance is throughout the Site from the uppermost level of the saturated zone extending vertically to the lowest most depth which could potentially be affected by the Site. This is the standard point of compliance.

**3. Selection of cleanup action.**

Ecology has determined the cleanup action you selected for the Site meets the substantive requirements of MTCA. The selected cleanup includes the following:

#### SOIL

- Removal of sources (underground storage tanks, product lines, and pump islands).
- Excavation and removal of contaminated soil, to the maximum extent practicable.
- Institutional controls.

#### GROUNDWATER

- Removal of sources.
- Groundwater monitoring.

#### 4. **Cleanup.**

Ecology has determined the cleanup you performed meets the cleanup standards established for the Site. This determination is dependent on the continued performance and effectiveness of the post-cleanup controls specified below.

The sources were removed and contaminated soil was excavated and transported off-site for disposal. Some contaminated soil remains adjacent to the retaining wall and in the area of soil sample EX-S1 and was not removed.

The Site is capped to prevent infiltration and mobilization of contaminated soil left in place.

An Environmental Covenant was required because the remedial actions resulted in residual concentrations of cPAH contaminated soil at the Site.

#### **Post-Cleanup Controls**

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Post-cleanup controls are remedial actions performed after the cleanup to maintain compliance with cleanup standards. This opinion is dependent on the continued performance and effectiveness of the following:

##### **1. Compliance with institutional controls.**

Institutional controls prohibit or limit activities that may interfere with the integrity of engineered controls or result in exposure to hazardous substances. The following institutional control is necessary at the Site:

- Prohibition of activities that may interfere with the cleanup action or that may result in exposure of the hazardous substances at the Site.

To implement that control, an Environmental Covenant has been recorded on the following parcel of real property in Spokane County:

- 13132.3008.

Ecology approved the recorded Covenant. A copy of the Covenant is included in **Enclosure B**.

## **2. Operation and maintenance of engineered controls.**

Engineered controls prevent or limit movement of, or exposure to, hazardous substances. The following engineered control is necessary at the Site:

- A cap over the impacted areas.

The cap must be inspected and maintained to prevent infiltration and mobilization of contaminated soil.

## **Periodic Review of Post-Cleanup Conditions**

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Ecology will conduct periodic reviews of post-cleanup conditions at the Site to ensure that they remain protective of human health and the environment. If Ecology determines, based on a periodic review, that further remedial action is necessary at the Site, then Ecology will withdraw this opinion.

## **Listing of the Site**

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Based on this opinion, Ecology will remove the Site from our Confirmed and Suspected Contaminated Sites List and Leaking Underground Storage Tank List.

## **Limitations of the Opinion**

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### **1. Opinion does not settle liability with the state.**

Liable persons are strictly liable, jointly and severally, for all remedial action costs and for all natural resource damages resulting from the release or releases of hazardous substances at the Site. This opinion **does not**:

- Resolve or alter a person's liability to the state.
- Protect liable persons from contribution claims by third parties.

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To settle liability with the state and obtain protection from contribution claims, a person must enter into a consent decree with Ecology under RCW 70.105D.040(4).

**2. Opinion does not constitute a determination of substantial equivalence.**

To recover remedial action costs from other liable persons under MTCA, one must demonstrate that the action is the substantial equivalent of an Ecology-conducted or Ecology-supervised action. This opinion does not determine whether the action you performed is substantially equivalent. Courts make that determination. *See* RCW 70.105D.080 and WAC 173-340-545.

**3. State is immune from liability.**

The state, Ecology, and its officers and employees are immune from all liability, and no cause of action of any nature may arise from any act or omission in providing this opinion. *See* RCW 70.105D.030(1)(i).

**Termination of Agreement**

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Thank you for cleaning up the Site under the Voluntary Cleanup Program (VCP). This opinion terminates the VCP Agreement governing this project (#EA0193).

For more information about the VCP and the cleanup process, please visit our web site: <http://www.ecy.wa.gov/programs/tcp/vcp/vcpmain.htm>. If you have any questions about this opinion or the termination of the Agreement, please contact me by phone at (509) 329-3522 or e-mail at [patti.carter@ecy.wa.gov](mailto:patti.carter@ecy.wa.gov).

Sincerely,



Patti Carter  
ERO Toxics Cleanup Program

pc:mr

Enclosures

cc w/encl: Allen Just, Arcadis

cc w/o encl: Matt Alexander, Ecology

## **Enclosure A**

### **Description and Diagrams of the Site**

## Site Description

The Site is located in Cheney, Washington and is a former Unocal service station that was constructed in 1947 with two service bays, a canopy, one pump island, and three 1,000-gallon and one 4,000-gallon underground storage tanks (USTs). Two additional USTs were installed in 1960 (one 6,000 and one 4,000-gallon). The service station was demolished in 1968 and a new station was built. Two steel gasoline USTs, one steel heating oil tank, and one steel waste oil tank were installed when the new station was built. The heating oil tank was replaced prior to 1980, due to leakage. The second station was demolished in 1990. The Site is currently a vacant partially paved lot.

Four soils borings were installed in 1989 and were converted to monitoring wells. Petroleum hydrocarbons were detected in soil and groundwater.

The two 10,000-gallon gasoline USTs, the heating oil tank, the waste oil tank, and the pump islands were removed in 1990. The service station was also demolished. Contaminated soil was removed from the tank excavations and transported off-site for disposal. Three of the monitoring wells were decommissioned at this time.

In 1997, nine additional monitoring wells were installed. Groundwater sample results indicated concentrations of benzene, gasoline, and diesel exceeded the cleanup levels.

In 2003, 17 test pits were installed at the Site to determine the extent of contamination; all soil sample results were below cleanup levels, except for two locations.

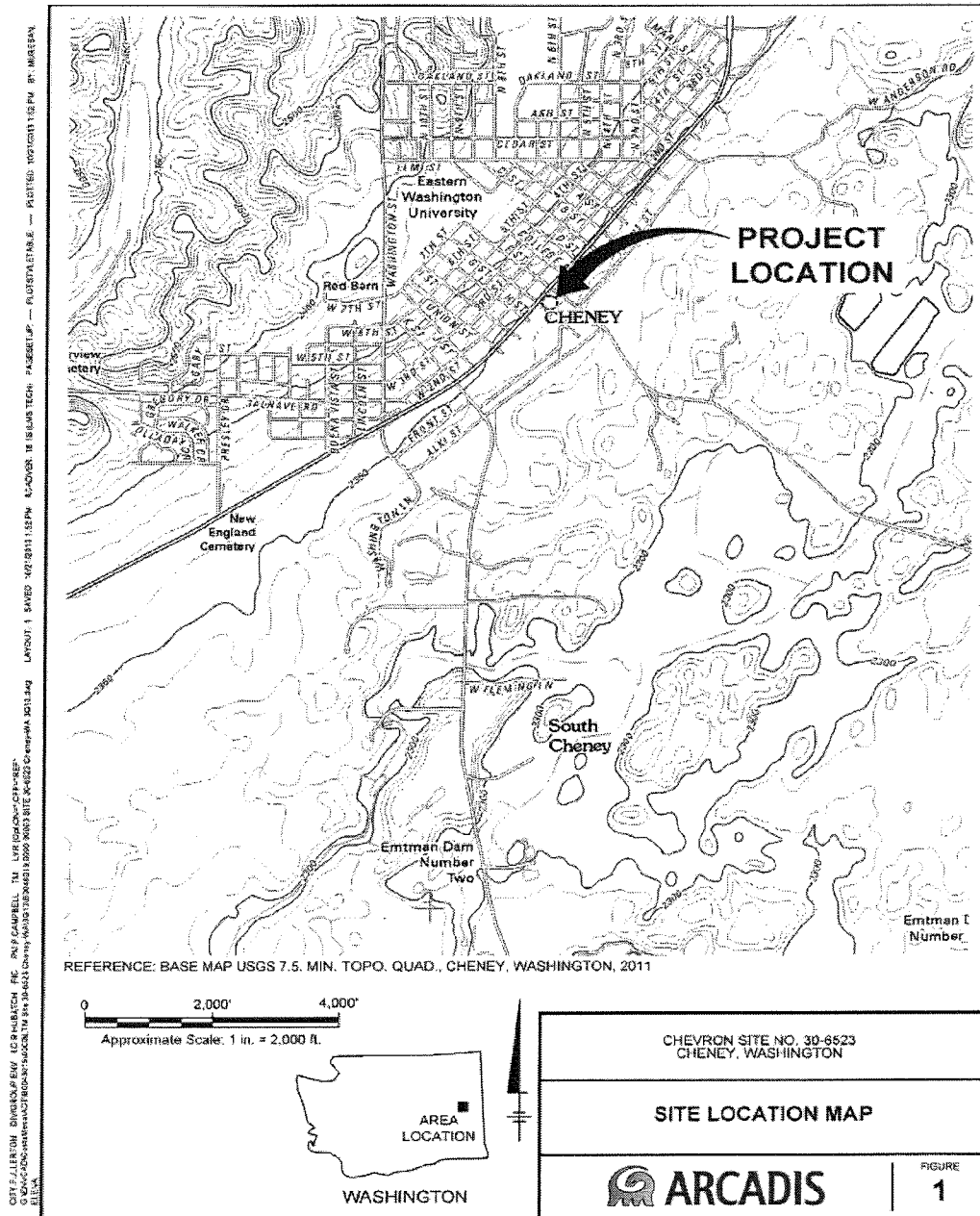
In 2012, a portion of the retaining wall was demolished and replaced. Approximately 168 cubic yards of contaminated soil was removed.

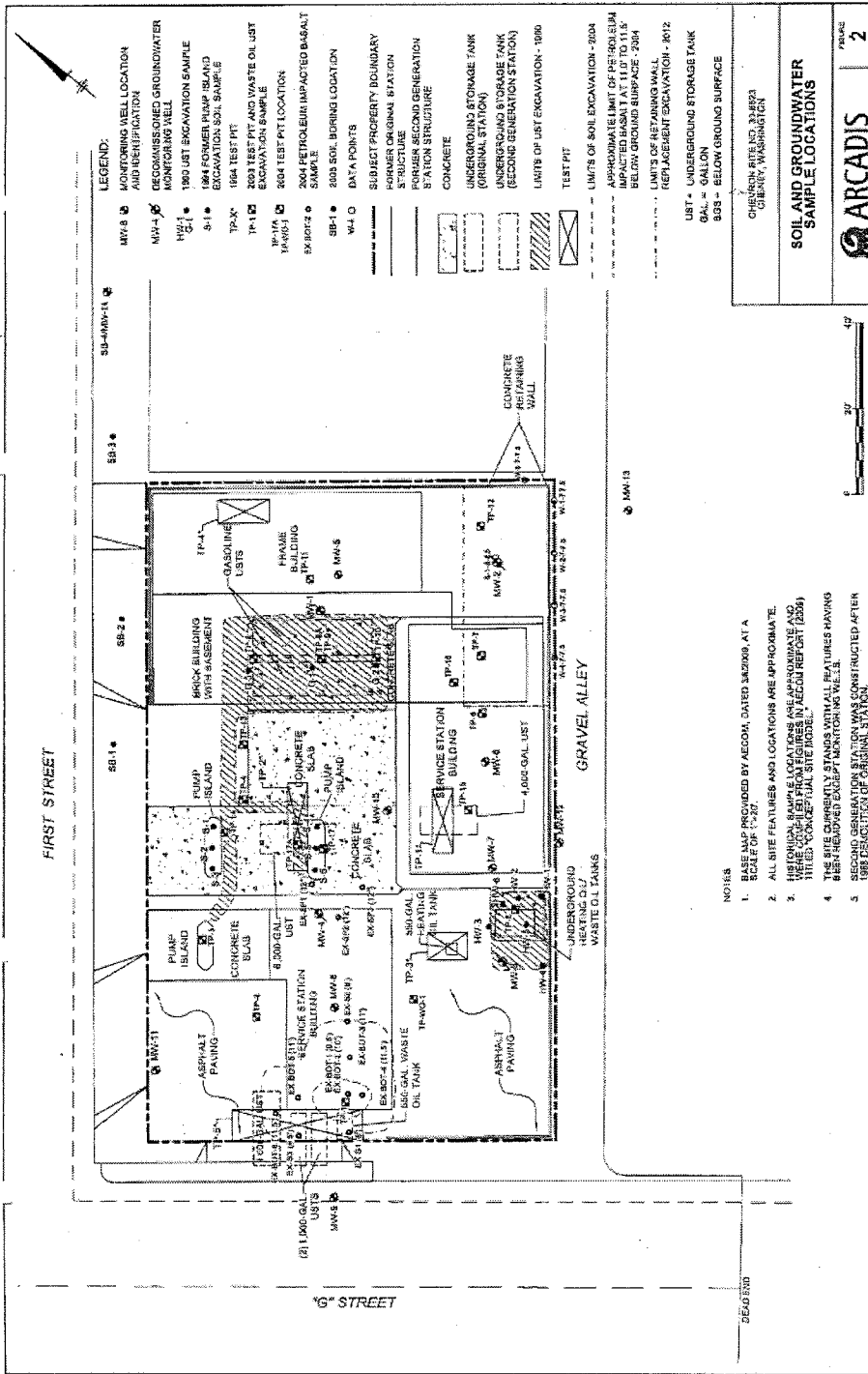
A total of 14 monitoring wells were installed at the Site and groundwater monitoring was conducted through 2013. Results from the final four consecutive quarters of groundwater samples were below cleanup levels.

A total of 398 cubic yards of contaminated soil was excavated from the Site and transported off-site for disposal. Impacted soil remains adjacent to the retaining walls and at sample location EX-S1, and was not removed.

(Sources: ENSR 2006 – 2007, Gettler-Ryan 2008, AECOM 2009, Conestoga-Rovers 2010, Arcadis 2011 – 2014).

## Site Diagrams





- NOTES**
1. BASE MAP PROVIDED BY AECOM, DATED 5/20/04 AT A SCALE OF 1"=20'.
  2. ALL SITE FEATURES AND LOCATIONS ARE APPROXIMATE.
  3. HISTORICAL SAMPLE LOCATIONS ARE APPROXIMATE AND NOT TO BE USED FOR DESIGN OR CONSTRUCTION PURPOSES.
  4. THIS SITE CURRENTLY STANDS WITH ALL FEATURES HAVING BEEN REMOVED EXCEPT MONITORING WELL 13.
  5. SECOND GENERATION STATION WAS CONSTRUCTED AFTER 1980 DEMOLITION OF ORIGINAL STATION.

## **Enclosure B**

### **Environmental Covenant**

**RETURN NAME and ADDRESS**

State of Washington Department of Ecology

4601 N Monroe

Spokane, WA 99205

Please Type or Print Neatly and Clearly All Information**Document Title(s)**

Environmental Covenant

**Reference Number(s) of Related Documents****Grantor(s)** (Last Name, First Name, Middle Initial)

Union, Oil Company of California

**Grantee(s)** (Last Name, First Name, Middle Initial)

State, of Washington, Department of Ecology

**Legal Description** (Abbreviated form is acceptable, i.e. Section/Township/Range/Qtr Section or Lot/Block/Subdivision)

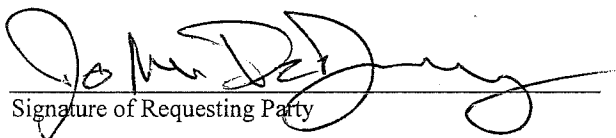
Town of Cheney Lot 1-3 Block 30

**Assessor's Tax Parcel ID Number** 13132.3008

The County Auditor will rely on the information provided on this form. The Staff will not read the document to verify the accuracy and completeness of the indexing information provided herein.

**Sign below only if your document is Non-Standard.**

I am requesting an emergency non-standard 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 parts of the text of the original document. Fee for non-standard processing is \$50.

  
Signature of Requesting Party



After Recording Return  
Original Signed Covenant to:  
Patti Carter  
Toxics Cleanup Program  
State of Washington  
Department of Ecology  
4601 N. Monroe  
Spokane, WA 99205

## Environmental Covenant

**Grantor:** Union Oil Company of California, a California corporation

**Grantee:** State of Washington, Department of Ecology

**Brief Legal Description:** The Southeasterly 88 feet of Lots 1, 2, and 3, Block 30, Town of Cheney, according to the plat recorded in Volume "A" of Plats, page 44, in Spokane County, Washington

**Tax Parcel Nos.:** 13132.3008

**Cross Reference:**

## RECITALS

- a. This document is an environmental (restrictive) covenant (hereafter "Covenant") executed pursuant to the Model Toxics Control Act ("MTCA"), chapter 70.105D RCW and Uniform Environmental Covenants Act ("UECA"), chapter 64.70 RCW.
- b. The Property that is the subject of this Covenant is part or all of a site commonly known as Unocal Service Station #0002938 (FSID 42896988). The Property is legally described in Exhibit A, and illustrated in Exhibit B, both of which are attached (hereafter "Property"). If there are differences between these two Exhibits, the legal description in Exhibit A shall prevail.
- c. The Property is the subject of remedial action under MTCA. This Covenant is required because residual contamination remains on the Property after completion of remedial actions. Specifically, the following principle contaminants remain on the Property:

Medium	Principle Contaminants Present
Soil	carcinogenic polycyclic aromatic hydrocarbons (cPAHs)

- d. It is the purpose of this Covenant to restrict certain activities and uses of the Property to protect human health and the environment and the integrity of remedial actions conducted at the site. Records describing the extent of residual contamination and remedial actions conducted are available through the State of Washington, Department of Ecology. This includes the following documents: No Further Action Request dated July 7, 2014.
- e. This Covenant grants the State of Washington, Department of Ecology, as holder of this Covenant, certain rights specified in this Covenant. The right of the State of Washington, Department of Ecology as a holder is not an ownership interest under MTCA, Chapter 70.105D RCW or the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. Chapter 103.

## COVENANT

Union Oil Company of California, a California corporation, as Grantor and fee simple owner of the Property, hereby grants to the State of Washington, Department of Ecology, and its successors and assignees (hereafter "Ecology"), the following covenants. Furthermore, it is the intent of the Grantor that such covenants shall run with the land and be binding on all current and future owners of any portion of, or interest in, the Property.

### Section 1. General Restrictions and Requirements.

The following general restrictions and requirements shall apply to the Property:

- a. **Interference with Remedial Action.** The Grantor shall not engage in any activity on the Property that may impact or interfere with the remedial action and any operation, maintenance, inspection, or monitoring of that remedial action without prior written approval from Ecology.
- b. **Protection of Human Health and the Environment.** The Grantor shall not engage in any activity on the Property that may threaten continued protection of human health or the environment without prior written approval from Ecology. This includes, but is not limited to, any activity that results in the release of residual contamination that was contained as a part of the remedial action or that exacerbates or creates a new exposure to residual contamination remaining on the Property.
- c. **Continued Compliance Required.** Grantor shall not convey any interest in any portion of the Property without providing for the continued adequate and complete operation, maintenance, and monitoring of remedial actions and continued compliance with this Covenant.
- d. **Leases.** Grantor shall restrict any lease for any portion of the Property to uses and activities consistent with this Covenant and notify all lessees of the restrictions on the use of the Property.
- e. **Amendment to the Covenant.** Grantor must notify and obtain approval from Ecology at least sixty (60) days in advance of any proposed activity or use of the Property in a manner that is inconsistent with this Covenant. Before approving any proposal, Ecology must issue a public notice and provide an opportunity for the public to comment on the proposal. If Ecology approves the proposal, the Covenant will be amended to reflect the change.

### Section 2. Specific Prohibitions and Requirements.

In addition to the general restrictions in Section 1 of this Covenant, the following additional specific restrictions and requirements shall apply to the Property.

- a. **Containment of Soil/Waste Materials.** The remedial action for the Property is based on maintaining a barrier between a potential receptor and the contaminated soil. The barriers would include (i) a cap consisting of a concrete retaining wall near soil samples W-1, W-3, and W-4 and (ii) a cap consisting of soil between the approximate depths of five (5) to eight (8) feet below ground surface (bgs) above soil sample EX-S1, located as illustrated in Exhibit C. The primary purpose of these caps is to minimize the potential for direct contact with contaminated soil. As such, the following restrictions shall apply within the area illustrated in Exhibit C: Any activity on the Property that will compromise the integrity of one or both caps including: drilling;

digging; piercing the cap with sampling device, post, stake or similar device; grading; excavation; installation of underground utilities; removal of the cap(s); or, application of loads in excess of the cap(s) load bearing capacity, is prohibited without prior written approval by Ecology. The Grantor shall report to Ecology within forty-eight (48) hours of the discovery of any damage to the cap(s). Unless an alternative plan has been approved by Ecology in writing, the Grantor shall promptly repair the damage and submit a report documenting this work to Ecology within thirty (30) days of completing the repairs.

b. **Commercial Land Use.** The remedial action for the Property is based on a cleanup designed for commercial property. As such, the Property shall be used only for commercial land uses as that term is defined in the rules promulgated under Chapter 70.105D RCW. Prohibited uses on the Property include but are not limited to residential uses, childcare facilities, K-12 public or private schools, parks, grazing of animals, and growing of food crops.

### Section 3. Access.

a. The Grantor shall maintain clear access to all remedial action components necessary to construct, operate, inspect, monitor, and maintain the remedial action.

b. The Grantor freely and voluntarily grants Ecology and its authorized representatives, upon reasonable notice, the right to enter the Property at reasonable times to evaluate the effectiveness of this Covenant and associated remedial actions, and enforce compliance with this Covenant and those actions, including the right to take samples, inspect any remedial actions conducted on the Property, and to inspect related records.

c. No right of access or use by a third party to any portion of the Property is conveyed by this instrument.

### Section 4. Notice Requirements.

a. **Conveyance of Any Interest.** The Grantor, when conveying any interest in any part of the Property, including but not limited to title, easement, leases, and security or other interests, must:

- i. Notify Ecology at least thirty (30) days in advance of the conveyance.
- ii. Include in the conveying document a notice in substantially the following form, as well as a complete copy of this Covenant:

**NOTICE: THIS PROPERTY IS SUBJECT TO AN ENVIRONMENTAL COVENANT GRANTED TO THE WASHINGTON STATE DEPARTMENT OF ECOLOGY ON [DATE] AND RECORDED WITH THE SPOKANE COUNTY AUDITOR UNDER RECORDING NUMBER [RECORDING NUMBER]. USES AND ACTIVITIES ON THIS PROPERTY MUST COMPLY WITH THAT COVENANT, A COMPLETE COPY OF WHICH IS ATTACHED TO THIS DOCUMENT.**

- iii. Unless otherwise agreed to in writing by Ecology, provide Ecology with a complete copy of the executed document within thirty (30) days of the date of execution of such document.

- b. **Reporting Violations.** Should the Grantor become aware of any violation of this Covenant, Grantor shall promptly report such violation to Ecology.
- c. **Emergencies.** For any emergency or significant change in site conditions due to Acts of Nature (for example, flood, fire) resulting in a violation of this Covenant, the Grantor is authorized to respond to such an event in accordance with state and federal law. The Grantor must notify Ecology of the event and response actions planned or taken as soon as practical but no later than within 24 hours of the discovery of the event.
- d. Any required written notice, approval, or communication shall be personally delivered or sent by first class mail to the following persons. Any change in this contact information shall be submitted in writing to all parties to this Covenant.

<b>GRANTOR:</b> c/o Chevron Environmental Management Company Marketing Business Unit 6101 Bollinger Canyon Road, Suite 5305 San Ramon, CA 94583 Attn: Cheryl A. Cameron, Property Specialist, Station No. 30-6523 (925) 790-3377	<b>GRANTEE:</b> Environmental Covenants Coordinator State of Washington, Department of Ecology Toxics Cleanup Program P.O. Box 47600 Olympia, WA 98504 – 7600 (360) 407-6000
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As an alternative to providing written notice and change in contact information by mail, these documents may be provided electronically in an agreed upon format at the time of submittal.

## **Section 5. Modification or Termination.**

- a. If the conditions at the site requiring a Covenant have changed or no longer exist, then the Grantor may submit a request to Ecology that this Covenant be amended or terminated. Any amendment or termination of this Covenant must follow the procedures in Chapter 64.70 RCW and Chapter 70.105D RCW and any rules promulgated under these chapters.

## **Section 6. Enforcement and Construction.**

- a. This Covenant is being freely and voluntarily granted by the Grantor.
- b. Grantor shall provide Ecology with an original signed Covenant and proof of recording within ten (10) days of execution of this Covenant.
- c. Ecology shall be entitled to enforce the terms of this Covenant by resort to specific performance or legal process. All remedies available in this Covenant shall be in addition to any and all remedies at law or in equity, including Chapter 70.105D RCW and Chapter 64.70 RCW. Enforcement of the terms of this Covenant shall be at the discretion of Ecology, and any forbearance, delay, or omission to exercise its rights under this Covenant in the event of a breach of any term of this Covenant is not a waiver by Ecology of that term or of any subsequent breach of that term, or any other term in this Covenant, or of any rights of Ecology under this Covenant.

d. The Grantor, upon request by Ecology, shall be obligated to pay for Ecology's costs to process a request for any modification or termination of this Covenant and any approval required by this Covenant.

e. This Covenant shall be liberally construed to meet the intent of the Model Toxics Control Act, Chapter 70.105D RCW and Uniform Environmental Covenants Act, Chapter 64.70 RCW.

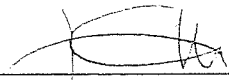
f. The provisions of this Covenant shall be severable. If any provision in this Covenant or its application to any person or circumstance is held invalid, the remainder of this Covenant or its application to any person or circumstance is not affected and shall continue in full force and effect as though such void provision had not been contained herein.

g. A heading used at the beginning of any section or paragraph or exhibit of this Covenant may be used to aid in the interpretation of that section or paragraph or exhibit but does not override the specific requirements in that section or paragraph.

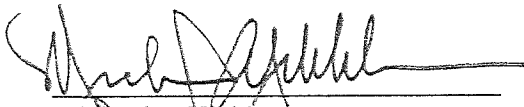
The undersigned Grantor warrants he/she holds the title to the Property and has authority to execute this Covenant.

EXECUTED this 29 day of March, 2016.

UNION OIL COMPANY OF CALIFORNIA, a California corporation

  
By: JOSEPH CERVELLI  
Title: Real Property Officer  
Dated: March 29, 2014

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

  
Michael A. Hibbler  
Section Manager, Toxics Cleanup Program  
Dated: 11 April 2016

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )

County of Contra Costa )

On March 29, 2014 before me, Joe Cervelli, Real Property Officer  
*Here insert Name and Title of the Officer*  
personally appeared Joe Cervelli  
*Name(s) of Signer(s)*

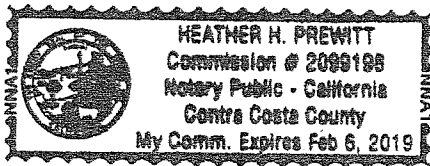
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Heather H. Prewitt  
*Signature of Notary Public*



## **Exhibit A**

### **LEGAL DESCRIPTION**

The Southeasterly 88 feet of Lots 1, 2 and 3, Block 30, Town of Cheney, according to the plat recorded in Volume "A" of Plats, page 44, in Spokane County, Washington.

Exhibit B

PROPERTY MAP

# EXHIBIT B Property Map

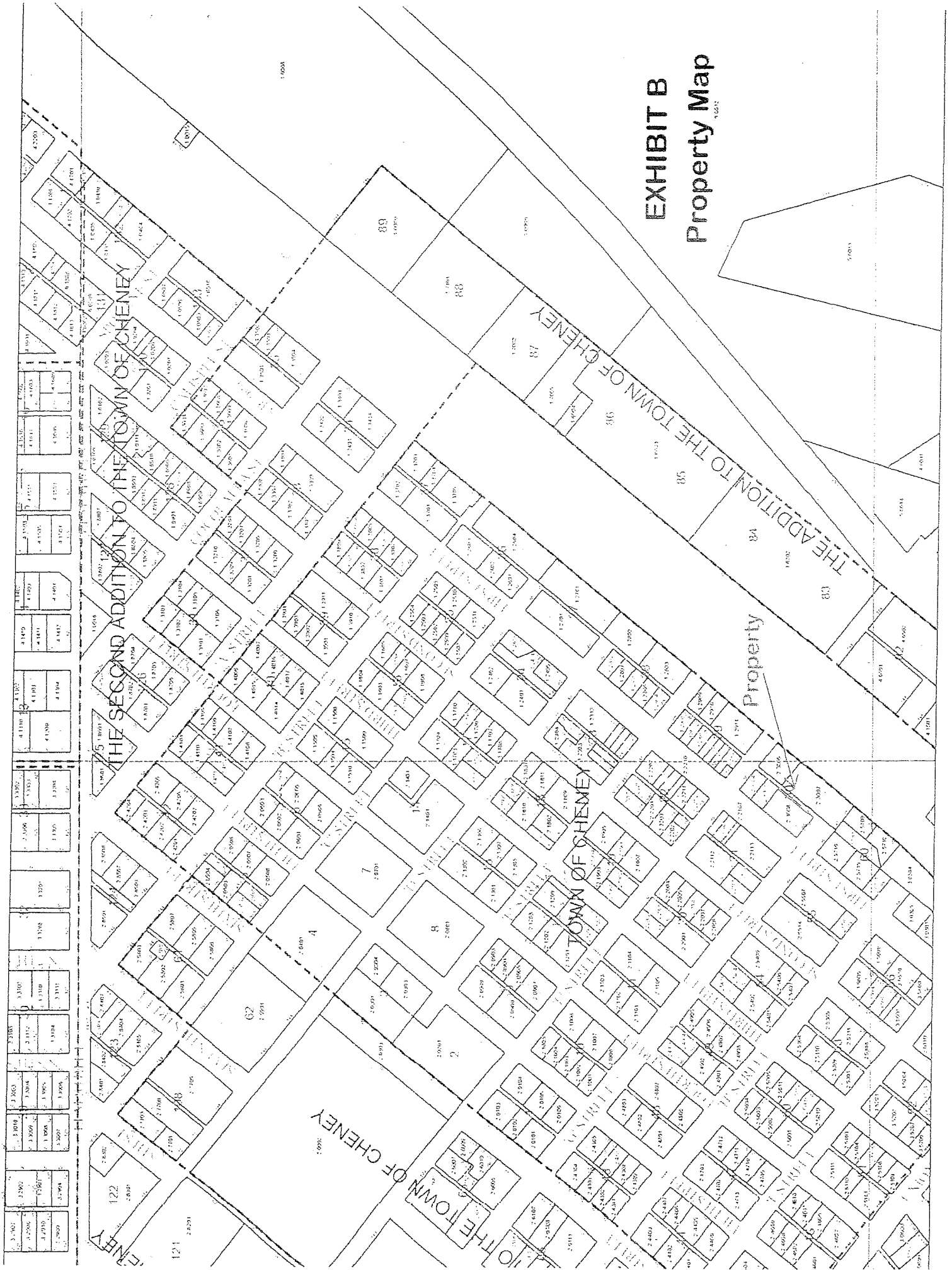


Exhibit C

MAP ILLUSTRATING LOCATION OF RESTRICTIONS

