



PERIODIC REVIEW

Haskell Corporation
Facility Site ID#: 35723331

**Lots BB and K north of the Haskell Business Park,
near 1001 Meador Avenue,
Bellingham, Washington**

Northwest Region Office

TOXICS CLEANUP PROGRAM

November 2016

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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 former Haskell Corporation (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 mercury 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

Development of the Haskell Business Center (HBC) began when the ENR Corporation purchased the property in 1965. The HBC comprised a 40-acre property located in Bellingham, Washington immediately east of Interstate 5 and south of Whatcom Creek. The HBC lies within the southwest quarter of Section 29, Township 38 North, Range 3 East, Willamette Meridian. The HBC is zoned Light Industrial. Developed portions of the property are utilized for light industrial/commercial activities, warehousing, and business office space. The northeastern part of the HBC is largely undeveloped, and was the primary focus of this investigation.

Prior to 1965, the property had been used for pasture and was largely wooded. Development of the property for current use has been primarily confined to the area south of Meador Avenue. A past owner of the property was the JFJ Company.

The area had been periodically filled over the years. Fill sources have included the following:

- Early 1970s - Soil and sandstone excavated for the construction of the nearby Fred Meyer store located at the intersection of Lakeway Drive and Lincoln Street was placed on the Site;
- 1976 - Dredge spoils derived from the Georgia-Pacific (G-P) mill Site in Bellingham were placed on the HBC in September and October of 1976. The dredge spoils consist of material dredged previously (in 1974) from the Whatcom Waterway, and originally placed in a diked containment area located immediately adjacent to the G-P Log Pond. Approximately 5,000 or more cubic yards of dredge spoils from the G-P facility were reportedly placed within the northern 11 acres of the HBC. Anecdotal information, including photographs taken at the time of initial disposal, suggests that the dredge spoils were placed within an area bounded the following:
 - a) The Whatcom Creek dike to the north;
 - b) An existing tree line to the east (consistent with the 1976 tree line);
 - c) Meador Avenue to the south; and
 - d) Lincoln Creek to the west.

Review of Ecology records suggests that dredge spoils initially placed adjacent to the dike bounding the south side of Whatcom Creek were subsequently regraded as much as 500 feet to the south; and

- Ca. 1983-1984 - Dredged material derived from Whatcom Creek was placed on the Site, derived in large part from the dredging (widening and deepening) of the adjacent Whatcom Creek channel for flood control purposes.

The area is relatively level and at the time of the remediation report undeveloped, except for the Dickerson Building, a paved cul-de-sac, and the McNett Building was under construction. The ground surface in the northern part of the area, within approximately 200 feet of Whatcom

Creek, was undeveloped and covered with grasses and brush. The ground surface in the southern part of the area consisted of unvegetated sand and gravel fill soil. The portion of sand and gravel fill soil immediately underlying the McNett Building was derived from the Anon Pit (GeoEngineers 2000).

The area is bounded by Whatcom Creek to the north and Lincoln Creek to the west. The portion of Lincoln Creek lying south of the Dickerson Building was contained within a buried culvert. The area is also bounded by Meador Avenue to the south, and by a wooded area to the east. Cemetery Creek lies approximately 300 feet east of the point where the tree line intersected Meador Avenue.

2.2 Site Investigations and Sample Results

Anchor Environmental, LLC (Anchor) and its subconsultant BEK Engineering & Environmental, Inc (BEK) performed a focused Site characterization of environmental conditions at the HBC Site.

In September 2000, Anchor and BEK prepared a combined Work Plan/Sampling and Analysis Plan (SAP) that described the approach and tasks required to complete a focused Site characterization of the HBC Site. The Work Plan/SAP (Anchor and BEK 2000) summarized previous environmental data collected within the Site area, presented a preliminary conceptual model of environmental conditions, identified objectives for Site characterization efforts, and presented a detailed description of sampling and analysis tasks. The draft Work Plan/SAP was reviewed by Ecology under the MTCA Voluntary Cleanup Program. Ecology's comments on the draft document were incorporated into the final plan, which included the following tasks:

- Test pit explorations and soil sampling;
- Monitoring well installation and ground water sampling; and
- Chemical analysis and reporting.

The primary purpose of the test pit explorations was to determine the location of the dredge spoils and to collect samples for analysis. Eleven test pits were excavated on October 26 to October 27, 2000. The test pits were advanced using a track-mounted excavator and rubber-tired backhoe. The test pit locations were selected to provide coverage of the area suspected to be underlain by dredge spoils.

The explorations ranged in depth from 5.0 feet (TP-11) to 19.3 feet (TP-1) below ground surface. A field log of each test pit was maintained, including the thickness and depth of each soil unit encountered, the depth to the uppermost water table, and the thickness of suspected dredge spoils. Soils were logged in general accordance with American Society for Testing and Materials (ASTM) practice designation D-2488, Standard Practice for Description of Soils (Visual-Manual Procedure). Soil samples were collected above, within, and below the dredge spoils.

At the request of Ecology, on January 30, 2001, an additional test pit was excavated within 10 feet of the original TP-9 location to collect additional soil samples for mercury leachability

determinations. The supplemental test pit (TP-9A) was advanced approximately 10 feet north of the original TP-9 location. Samples of suspected dredge spoil materials were collected from TP-9A at the same depth (approx. 6 feet below ground surface) as during the initial sampling effort.

Only mercury was identified as a soil chemical of potential concern (COPC) at the HBC Site; all other target analytes were below MTCA criteria. Furthermore, only two samples (spoil samples collected from TP-3 and TP-9) exceeded the MTCA ground water protection screening level for total mercury in soil of 1 milligram per kilogram (mg/kg). Leachable mercury was not detected (below the 0.1 microgram per liter [ug/L] detection limit) in either the SPLP or TCLP analyses performed on samples collected from TP-9A. Although oil-range TPH detected in the soil sample collected from TP-9 exceeded the “old” MTCA ground water protection screening criterion of 200 mg/kg, oil-range TPH concentrations in this sample (at 350 mg/kg) did not exceed the “new” TPH cleanup standard of 2,000 mg/kg.

The primary purpose of the ground water sampling was to determine if leachate from the spoils may have impacted the uppermost ground water bearing zone/aquifer at the Site, and to determine if ground water concentrations of chemicals of potential concern exceed MTCA cleanup criteria. Recent alluvium containing a perched aquifer zone was only encountered within the eastern half of the Site. Within this area, one monitoring well was installed upgradient of the Site (MW-1); one was installed within the approximate center of the dredge spoil area (MW-2); and two wells were installed immediately downgradient of the Site near Whatcom Creek (MW-3 and MW-4). Ground water monitoring wells were installed by Gregory Drilling on October 30 and 31, 2000. The monitoring wells were installed in accordance with Washington Administrative Code (WAC) Chapter 173-160, Minimum Standards for Construction and Maintenance of Wells. The borings were advanced using a track-mounted hollow-stem auger rig equipped with a 4.5-inch inner diameter auger. The borings ranged in depth from 12.0 feet (MW-1) to 21.5 feet (MW-2) below the ground surface. Each well was completed with a 5-foot well screen comprised of 0.02-inch machine slot PVC, and a sand filter pack consisting of Colorado Silica 10-20 sand. A minimum 2-foot seal consisting of medium bentonite chips was placed in the annular space above the filter sand to within approximately 6-inches of the ground surface. The balance of the annular space was filled with Colorado Silica 10-20 sand to maintain a clean working surface at ground level. Ground water was encountered in all four wells, at depths ranging from approximately 2 feet (MW-1) to 11.5 feet (MW-2) below the ground surface. The monitoring wells were developed on November 1 to November 3, 2000 using bailers and a surge block. Each well was developed until the turbidity of the well became clear of particulate matter.

At Ecology’s request, water samples were collected during seasonal “dry” and “wet” periods, corresponding to late October 2000 and late March 2001, respectively. During each sampling event, field parameters including temperature, conductivity, pH, oxidation-reduction potential, and turbidity were measured during sampling. All soil samples (16 samples total, excluding duplicates) were submitted for total solids and total mercury determinations (EPA Method 7471), since mercury was identified in the Work Plan/SAP as the primary target chemical at the HBC Site (Anchor and BEK 2000). In addition, three selected soil samples, including the sample containing the highest mercury concentration, were also submitted for additional target chemicals including cadmium, chromium, total petroleum hydrocarbons (TPH), and

polychlorinated biphenyls (PCBs). These “other” target chemicals have been reported in one or more samples of dredge spoil materials of similar origin collected from other regional disposal Sites (ENSR 1994; GeoEngineers 1997), though mercury has always been the most prevalent chemical detected in these materials. Additional soil samples were collected from TP-9A for mercury leachability determinations using the Synthetic Precipitation Leaching Procedure (SPLP) and Toxicity Characteristic Leaching Procedure (TCLP). Columbia Analytical Services, Inc (CAS) performed all soil chemical analyses.

Ground water samples from all 4 monitoring wells (plus duplicates) were collected for total suspended solids (TSS) and low-level total and dissolved mercury analyses using EPA Method 1669. Low-level mercury analyses were performed using EPA Method 1631 - rev. B by Frontier Geosciences, Inc. In addition, during the initial dry-weather sampling event, both total and dissolved water samples collected from the approximate center of the dredge spoil area (MW-2), which also contained the highest ground water mercury concentrations, were also submitted to CAS for additional target chemicals including cadmium, chromium, TPH, and PCBs. All analyses were conducted in accordance with EPA SW-846 Methods. All data were determined useable as qualified for the purpose of this focused Site characterization. Low mercury levels (between 0.00037 and 0.0032 ug/L) were detected in the clean hands/dirty hands sampling system blanks.

No COPCs were detected in any ground water sample collected at the HBC Site, even for those constituents such as mercury and TPH that exceeded conservative ground water protection criteria in overlying soils. It should be noted that the well screen at “interior well” MW-2 was located immediately adjacent to and below the dredge spoils sample (TP-9-3) that contained the highest (i.e., worst case) Site-wide mercury and TPH concentrations. Thus, data collected from MW-2 should be representative of worst case ground water conditions at the Site. Nevertheless, the maximum total (unfiltered) mercury concentration at this location (as at other Site locations) was more than 100 times lower than the MTCA ground water cleanup level of 2 ug/L. Similarly, TPH concentrations in this well were not detected (nor were they detected elsewhere at the Site). All information considered, ground water quality at the HBC Site was well within the acceptable MTCA range; no potential ground water quality concerns were identified at the Site. It should be noted that the area flooded in 2009, but apparently no information exists whether that flooding affected the remedy.

2.3 Cleanup Actions

The maximum soil/dredge spoil mercury concentration detected at the HBC Site was 4.0 mg/kg, which is well below the most stringent unrestricted land use criterion of 24 mg/kg. Moreover, Site soil concentrations - particularly surface soils - were also below the 9 mg/kg simplified ecological risk screening criterion for total (inorganic) mercury then proposed under MTCA (WAC 173-340-7492[2][a]; the Site qualifies for the simplified screening procedure). Thus, according to the consultant, soil and ground water quality at the HBC Site was well within the acceptable MTCA range; no potential cleanup concerns were identified at the Site.

Ecology, however, did not agree entirely because of the proximity of the dredge spoils on Lots BB and K to the nearby surface water. Future disturbance of the soil could change conditions

and therefore disturb the remedy. This threat required a restrictive covenant for those two Lots to ensure the continuing protectiveness of the remedy. Ecology issued a 'No Further Action' letter October 30, 2001 after a restrictive covenant was recorded with the county. The NFA letter applies to the entire HBC Site, including the Dickerson and McNett Properties.

Please note a cleanup action took place in the early 1990s at 1001 Meador (Dickerson Building) pertaining to the removal of an underground storage tank. That action was unrelated to the cleanup action that is subject to this Periodic Review, or the NFA letter issued in 2001.

2.4 Cleanup Levels

A total of 17 soil/dredge spoil samples were collected from the HBC Site. Chemical concentrations detected in soil/dredge spoil collected from the Site were compared to conservative MTCA risk-based screening criteria to identify the COPC(s) for the Site. For the purpose of this screening-level evaluation, analytical results were compared to the more stringent of the MTCA Method A or Method B soil cleanup levels for unrestricted land use Sites (e.g., assuming residential Site uses and conservative ground water protection criteria). The evaluation used the then proposed MTCA cleanup standards, though the older (existing) standards were also considered for comparison.

Total and dissolved ground water samples were collected from the four monitoring wells at the HBC Site. Chemical concentrations detected in ground water samples were compared to conservative MTCA risk-based screening criteria to identify ground water COPCs. For the purpose of this screening-level evaluation, analytical results were compared to the more stringent of the MTCA Method A or Method B ground water cleanup levels for drinking water use, even though there is no existing or potential future use of such ground waters for consumptive purposes in the Site area. That is, the entire Site area is served by an extensive City water supply system with its intake in Lake Whatcom, several miles upstream of the Site.

Applicable soil cleanup levels under MTCA can be developed using either conservative Method A (default) tabulated values or using Method B risk-based formulations. The Method A soil cleanup level for mercury of 1 mg/kg is based on ground water protection concerns, assuming worst-case leachability. However, Site-specific SPLP and TCLP testing did not detect any leachable mercury in the Site dredge spoils. Moreover, the consultant determined even worst-case ground water quality conditions at the HBC Site are more than 100 times lower than MTCA criteria. Accordingly, it was considered appropriate to develop mercury cleanup levels for the HBC Site using the more broadly applicable Method B (risk-based) procedures. For Sites such as the HBC that do not have ground water quality concerns, soil/dredge spoil cleanup levels under MTCA are developed to address potential direct contact risks. Using risk assessment equations as set forth in the MTCA regulations, which vary depending upon the specific land use at the Site, the following Method B soil cleanup levels were calculated:

- Residential (Unrestricted Land Use) Direct Contact Protection 24 mg/kg; and

- Commercial/Center Use Direct Contact Protection = 96 mg/kg (Method C; WAC 173-340-740. For comparison, the industrial use direct contact criterion for mercury in soil is 1,050 mg/kg; WAC 173-340-745).

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 Restrictive Covenants were recorded for two parcels, designated Lots BB and K. Restrictive Covenants were recorded for the two parcels on the Site in 2001 which imposed the following limitations:

Section 1. Any activity on the Property that may result in the release or exposure of the dredge spoils or components thereof to the aquatic environment or create a new spoils-to-surface water exposure pathway is prohibited unless prior written approval from Ecology is obtained. Some examples of activities in the spoils area or between the spoils area and nearby creeks that must receive prior written approval from Ecology include activities which would disturb the fill lying above the spoils or on nearby ground, such as excavating or trenching within 200 feet of the creeks, and activities that could re-route, divert or otherwise modify the contours of the stream beds or banks of either Whatcom Creek or Lincoln Creek. This restriction is not intended to prevent normal excavation, trenching or other earth-moving activities typically associated with construction of storm-water facilities, including detention facilities, buildings or roadways as long as those activities do not result in the release or exposure of the dredge spoils or components thereof to the aquatic environment or create a new spoils-to-surface water exposure pathway.

Section 2. Any activity on the Property that may interfere with the 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, or create a new exposure pathway, is prohibited without prior written approval from Ecology.

Section 4. Except for a conveyance to the City of Bellingham, 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. 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 protection as described herein.

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. Ecology may approve any inconsistent use only after public notice and comment; however, any use which is carried out pursuant to and consistent with the final "Restoration Plan and Environmental Assessment for the June 10, 1999 Olympic Pipeline Gasoline Spill into Whatcom Creek, Bellingham, Washington" shall not be considered inconsistent with the terms of this Restrictive Covenant.

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 conditions of the Property; taking samples, inspecting remedial actions conducted at the property and to inspect records that are related to remedial actions.

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. Such an instrument may be recorded, however, 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 September 15, 2016, 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 Whatcom Creek restoration area. A photo log is available as Appendix 6.5.

Soils with mercury 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, and protects ground and surface water. 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 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.

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 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 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

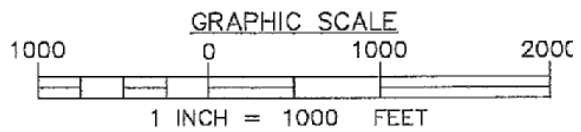
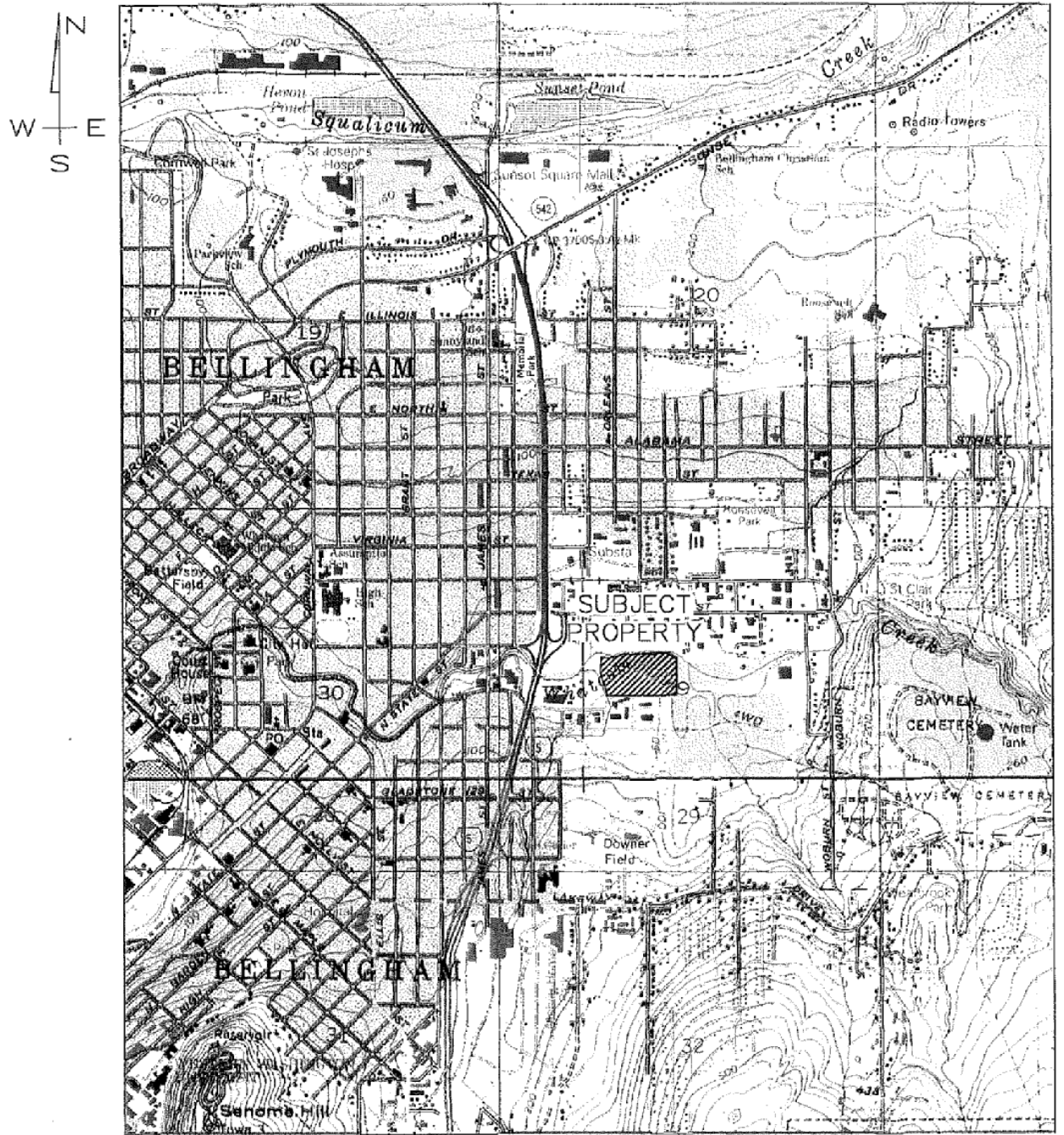
The next review for the Site will be scheduled five years from the date of this periodic review. In the event that additional cleanup actions or institutional controls are required, the next periodic review will be scheduled five years from the completion of those activities. It may be advisable to sample the sediments nearby to ensure the continued protectiveness of the remedy.

5.0 REFERENCES

1. (draft) Former Haskell Disposal Site, Focused Site Investigation, Work Plan/Sampling and Analysis Plan, Anchor Environmental and BEK Engineering & Environmental (dated and received: October 20, 2000);
2. Revised Report, Site Conditions and Proposed Remedial Action, WTA MOAB Site, Bellingham, WA, GeoEngineers (December 5, 1997);
3. Haskell Business Center, Focused Site Investigation Report, Anchor Environmental and BEK Engineering & Environmental, (dated December 7, 2000 and received December 8, 2000);
4. (revised) Haskell Business Center, Focused Site Investigation Report, Anchor Environmental and BEK Engineering & Environmental (dated December 19, 2000 and received December 26, 2000);
5. (revised) Haskell Business Center Focused Site Investigation Report, Anchor Environmental and BEK Engineering & Environmental (dated May 17, 2001 and received May 21, 2001);
6. 2001 Restrictive Covenant;
7. Ecology, 2011, Site Visit.
8. Ecology, 2016, Site Visit.

6.0 APPENDICES

6.1 Vicinity Map



REFERENCE: BELLINGHAM SOUTH QUADRANGLE (U.S.G.S., 1954, REVISED 1995)
 REFERENCE: BELLINGHAM NORTH QUADRANGLE (U.S.G.S., 1934, REVISED 1984)

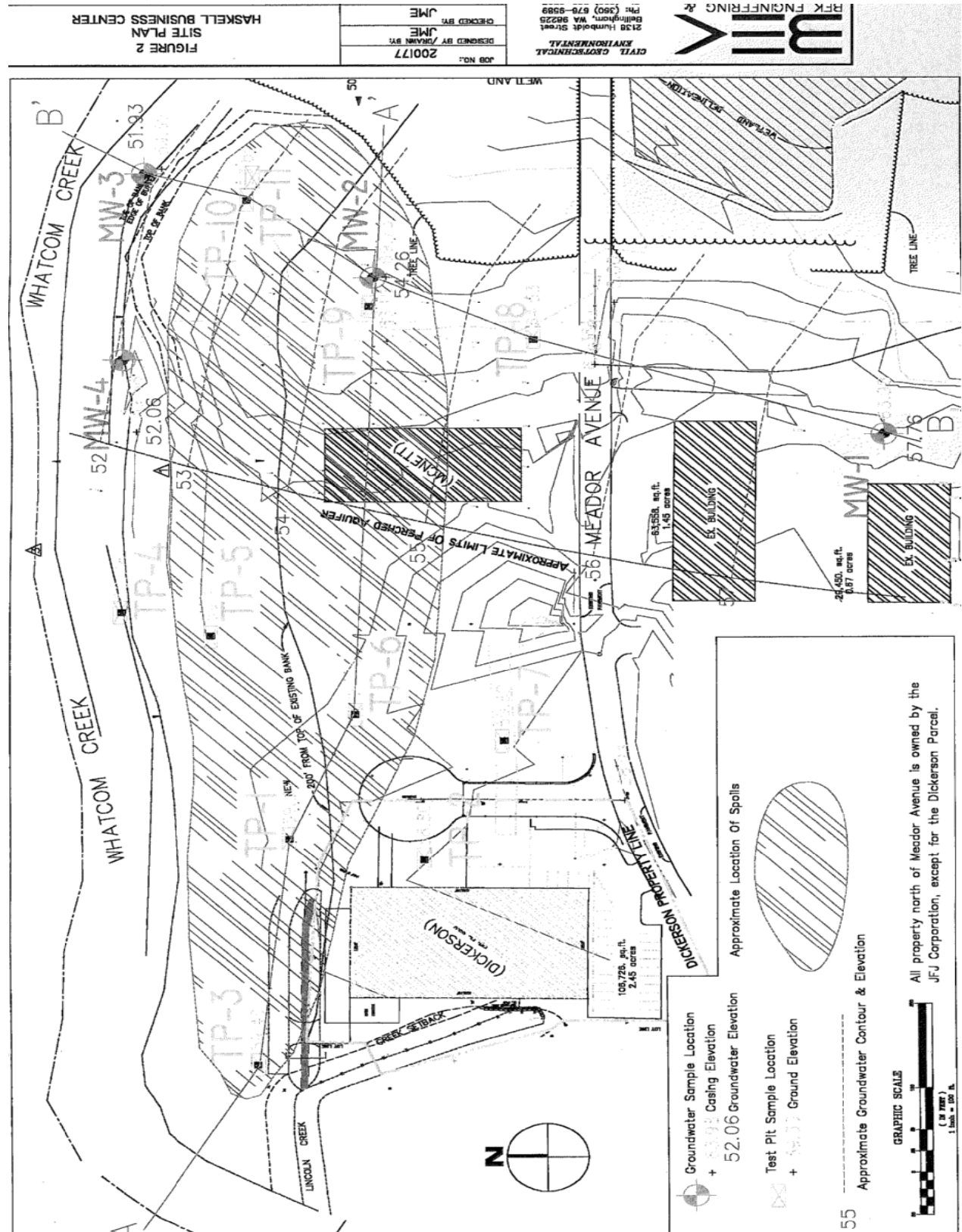
JOB NO: 20077
 DESIGNED BY/DRAWN BY: BCS
 CHECKED BY: JMF



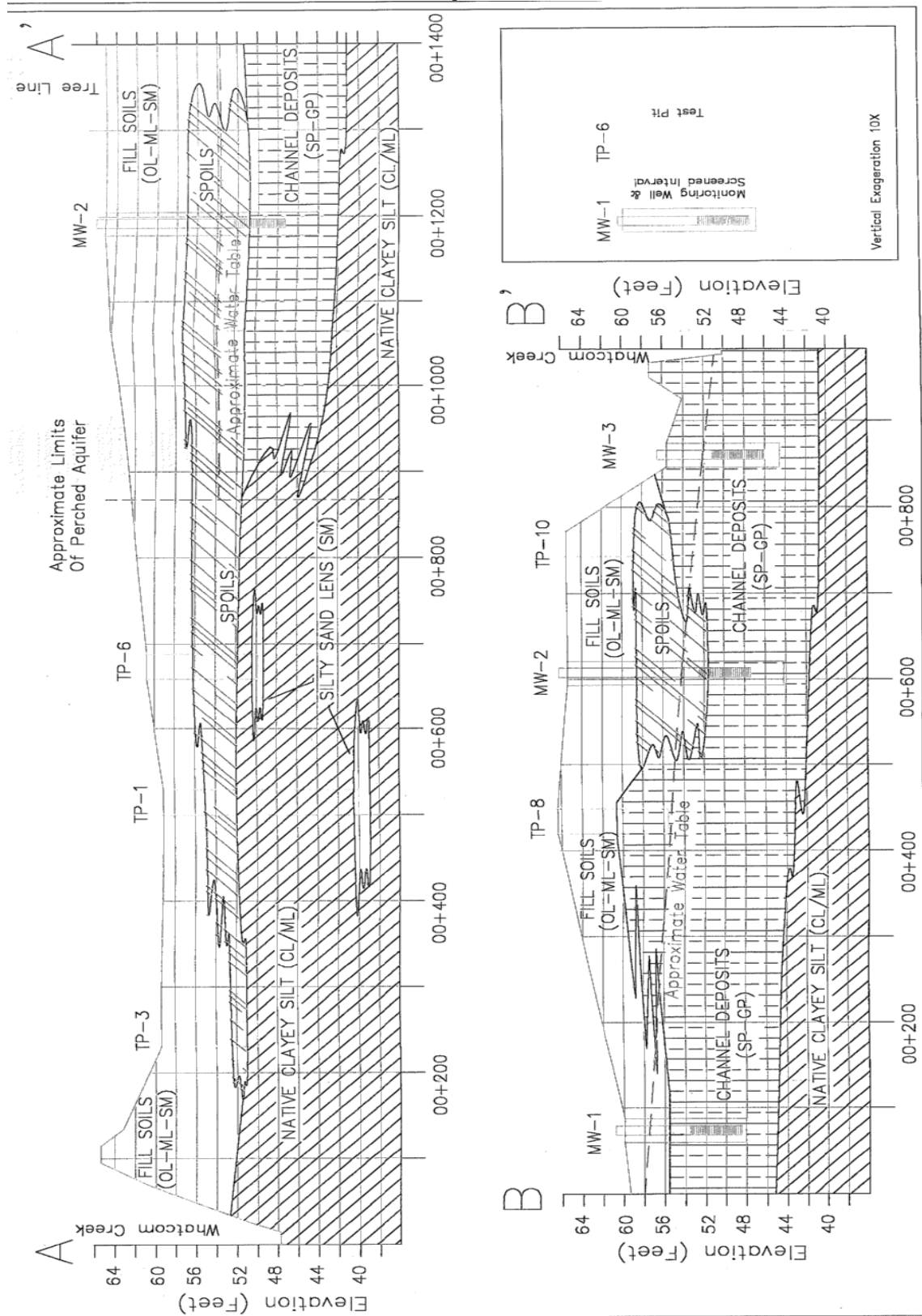
CIVIL GEOTECHNICAL
 ENVIRONMENTAL
 2135 Humboldt Street
 Bellingham, WA 98225
 Ph: (360) 878-8500

FIGURE 1
SITE VICINITY MAP
HASKELL BUSINESS CENTER

6.2 Site Plan



6.3 Groundwater Elevation Map



BEK
 REF. ENGINEERING &

CIVIL, GEOTECHNICAL,
 ENVIRONMENTAL
 2139 Haskell Street
 Bellingham, WA 98225
 Ph: (360) 874-9888

FIGURE 3
 HYDROGEOLOGIC CROSS-SECTIONS
 HASKELL BUSINESS CENTER

JOB NO.: 200177
 DESIGNED BY / DRAWN BY: JME
 CHECKED BY: JME

6.4 Restrictive Covenants

Attachment A
JFJ Company Site, Bellingham, WA
September 17, 2001



2010901524
Page: 1 of 4
8/13/2001 4:08 PM
D/RC \$11.00
Whatcom County, WA

Request of: CHMELIK SITKIN & DAVIS PS

JFJ COMPANY
Post Office Box 917
Bellingham, WA 98227

DOCUMENT TITLE(S):

RESTRICTIVE COVENANT

REFERENCE NUMBER(S) OF DOCUMENTS ASSIGNED OR RELEASED:

2010901347

Additional reference numbers found on page N/A of document.

GRANTOR(S) (Last name, First name and MI):

JFJ COMPANY

Additional grantors found on page N/A of document.

GRANTEE(S) (Last name, First name, and MI):

CITY OF BELLINGHAM

Additional grantees found on page N/A of document.

ABBREVIATED LEGAL DESCRIPTION (Lot, block, plat or section, township, range):

LOT BB OF THE HASKELL BUSINESS PARK SPECIFIC AND BINDING SITE PLAN #01,
RECORDED UNDER AUDITOR'S FILE NUMBER 2010901347.

Additional legal is on page N/A of document.

ASSESSOR'S PROPERTY TAX PARCEL/ACCOUNT NUMBER(S):

380329 181321; 380329 209260; and 380329 242260

CLIENTS/JFJ COMPANY'S SETTLEMENT/NO COVER SHEET

**RESTRICTIVE COVENANT
LOT BB
HASKELL BUSINESS PARK SPECIFIC AND BINDING SITE PLAN #01**

This Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by JFJ Company, its successors and assigns (collectively the "Owner"), and the State of Washington Department of Ecology, its successors and assigns (hereafter "Ecology").

This Restrictive Covenant concerns the following-described real property (the "Property"):

LOT BB OF THE HASKELL BUSINESS PARK SPECIFIC AND BINDING SITE PLAN
#01, RECORDED UNDER AUDITOR'S FILE NUMBER 2010901347.

SITUATE IN THE COUNTY OF WHATCOM, STATE OF WASHINGTON.

The undersigned, JFJ Company, is the fee owner of the Property in the County of Whatcom, State of Washington, that is subject to this Restrictive Covenant.

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:

1. (draft) Former Haskell Disposal Site, Focused Site Investigation, Work Plan/Sampling and Analysis Plan - Anchor Environmental and BEK Engineering & Environmental (dated and received: October 20, 2000);
2. Revised Report, Site Conditions and Proposed Remedial Action, WTA MOAB Site, Bellingham, WA - GeoEngineers (dated December 5, 1997);
3. Haskell Business Center, Focused Site Investigation Report - Anchor Environmental and BEK Engineering & Environmental (dated December 7, 2000 and received December 8, 2000);
4. (revised) Haskell Business Center, Focused Site Investigation Report - Anchor Environmental and BEK Engineering & Environmental (dated December 19, 2000 and received December 26, 2000); and,
5. (revised) Haskell Business Center Focused Site Investigation Report - Anchor Environmental and BEK Engineering & Environmental (dated May 17, 2001 and received May 21, 2001).

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

The Remedial Action showed that residual concentrations of low levels of mercury and chromium, which do not exceed the Model Toxics Control Act Method B residential cleanup levels for soil or groundwater established under WAC 173-340-720 and WAC 173-340-740, exist on the Property. This Restrictive Covenant is required because the possibility exists that

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favorable circumstances at the site (such as the existing buffer of soils between the dredge spoils and the creek) might be altered by future activities and thus alter the conditions under which the No Further Action ("NFA") determination was awarded.

JFJ Company makes the following declaration as to limitations, restrictions and uses to which the Property may be put and specifies that such declarations shall constitute covenants to run with the land, as provided by law, and shall be binding on all parties and all persons claiming under them, including all current and future owners of any portion of or interest in the Property.

Section 1. Any activity on the Property that may result in the release or exposure of the dredge spoils or components thereof to the aquatic environment or create a new spoils-to-surface water exposure pathway is prohibited unless prior written approval from Ecology is obtained. Some examples of activities in the spoils area or between the spoils area and nearby creeks that must receive prior written approval from Ecology include activities which would disturb the fill lying above the spoils or on nearby ground, such as excavating or trenching within 200 feet of the creeks, and activities that could re-route, divert or otherwise modify the contours of the stream beds or banks of either Whatcom Creek or Lincoln Creek. This restriction is not intended to prevent normal excavation, trenching or other earth-moving activities typically associated with construction of storm-water facilities, including detention facilities, buildings or roadways as long as those activities do not result in the release or exposure of the dredge spoils or components thereof to the aquatic environment or create a new spoils-to-surface water exposure pathway.

Section 2. Any activity on the Property that may interfere with the 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, or create a new exposure pathway, is prohibited without prior written approval from Ecology.

Section 4. Except for a conveyance to the City of Bellingham, 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. 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 protection as described herein.

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. Ecology may approve any inconsistent use only after public notice and comment; however, any use which is carried out pursuant to and consistent with the final "Restoration Plan and Environmental Assessment for the June 10, 1999 Olympic Pipeline Gasoline Spill into Whatcom Creek, Bellingham, Washington" shall not be considered inconsistent with the terms of this Restrictive Covenant.

Section 7. The Owner shall allow authorized representatives of Ecology the right to enter the

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Attachment B
JFJ Company Site, Bellingham, WA
September 17, 2001



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Whatcom County, WA

Request of: CHMELIK SITKIN & DAVIS PS

FREDERICK M. HASKELL
JOEEN DAUGHTERS
JFJ COMPANY
HASKELL CORPORATION
Post Office Box 917
Bellingham, WA 98227

DOCUMENT TITLE(S):

RESTRICTIVE COVENANT

REFERENCE NUMBER(S) OF DOCUMENTS ASSIGNED OR RELEASED:

2010901347

GRANTOR(S) (Last name, First name and MI):

FREDERICK M. HASKELL
JOEEN DAUGHTERS
JFJ COMPANY
HASKELL CORPORATION

GRANTEE(S) (Last name, First name, and MI):

CITY OF BELLINGHAM

ABBREVIATED LEGAL DESCRIPTION (Lot, block, plat or section, township, range):

LOT K OF THE HASKELL BUSINESS PARK SPECIFIC AND BINDING SITE PLAN #01,
RECORDED UNDER AUDITOR'S FILE NUMBER 2010901347.

ASSESSOR'S PROPERTY TAX PARCEL/ACCOUNT NUMBER(S):

380329 124333; 380329 139337; and 380329 149337

CLIENTS/JFJ COMPANY/SETTLEMENT/PD COVER SHEET

**RESTRICTIVE COVENANT
LOT K
HASKELL BUSINESS PARK SPECIFIC AND BINDING SITE PLAN #01**

This Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by Frederick M. Haskell, Joeen Daughters, JFJ Company, and Haskell Corporation, their successors and assigns (collectively the "Owner"), and the State of Washington Department of Ecology, its successors and assigns (hereafter "Ecology").

This Restrictive Covenant concerns the following-described real property (the "Property"):

LOT K OF THE HASKELL BUSINESS PARK SPECIFIC AND BINDING SITE PLAN
#01, RECORDED UNDER AUDITOR'S FILE NUMBER 2010901347.

SITUATE IN THE COUNTY OF WHATCOM, STATE OF WASHINGTON.

The undersigned, Frederick M. Haskell, Joeen Daughters, JFJ Company, and Haskell Corporation, are the fee owners of the Property in the County of Whatcom, State of Washington, that is subject to this Restrictive Covenant.

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:

1. (draft) Former Haskell Disposal Site, Focused Site Investigation, Work Plan/Sampling and Analysis Plan - Anchor Environmental and BEK Engineering & Environmental (dated and received: October 20, 2000);
2. Revised Report, Site Conditions and Proposed Remedial Action, WTA MOAB Site, Bellingham, WA - GeoEngineers (dated December 5, 1997);
3. Haskell Business Center, Focused Site Investigation Report - Anchor Environmental and BEK Engineering & Environmental (dated December 7, 2000 and received December 8, 2000);
4. (revised) Haskell Business Center, Focused Site Investigation Report - Anchor Environmental and BEK Engineering & Environmental (dated December 19, 2000 and received December 26, 2000); and,
5. (revised) Haskell Business Center Focused Site Investigation Report - Anchor Environmental and BEK Engineering & Environmental (dated May 17, 2001 and received May 21, 2001).

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

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The Remedial Action showed that residual concentrations of low levels of mercury and chromium, which do not exceed the Model Toxics Control Act Method B residential cleanup levels for soil or groundwater established under WAC 173-340-720 and WAC 173-340-740, exist on the Property. This Restrictive Covenant is required because the possibility exists that favorable circumstances at the site (such as the existing buffer of soils between the dredge spoils and the creek) might be altered by future activities and thus alter the conditions under which the No Further Action ("NFA") determination was awarded.

Frederick M. Haskell, Joen Daughters, JFJ Company, and Haskell Corporation make the following declaration as to limitations, restrictions and uses to which the Property may be put and specifies that such declarations shall constitute covenants to run with the land, as provided by law, and shall be binding on all parties and all persons claiming under them, including all current and future owners of any portion of or interest in the Property.

Section 1. Any activity on the Property that may result in the release or exposure of the dredge spoils or components thereof to the aquatic environment or create a new spoils-to-surface water exposure pathway is prohibited unless prior written approval from Ecology is obtained. Some examples of activities in the spoils area or between the spoils area and nearby creeks that must receive prior written approval from Ecology include activities which would disturb the fill lying above the spoils or on nearby ground, such as excavating or trenching within 200 feet of the creeks and activities that could re-route, divert or otherwise modify the contours of the stream beds or banks of either Whatcom Creek or Lincoln Creek. This restriction is not intended to prevent normal excavation, trenching or other earth-moving activities typically associated with construction of storm-water facilities, including detention facilities, buildings or roadways, as long as those activities do not result in the release or exposure of the dredge spoils or components thereof to the aquatic environment or create a new spoils-to-surface water exposure pathway.

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Section 4. Except for a conveyance to the City of Bellingham, 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. 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 protection as described herein.

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

Restrictive Covenant Lot K
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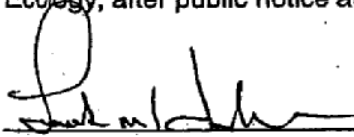
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Request of: CHMELIK SITKIN & DAVIS PS

Property that is inconsistent with the terms of this Restrictive Covenant. Ecology may approve any inconsistent use only after public notice and comment; however, any use which is carried out pursuant to and consistent with the final "Restoration Plan and Environmental Assessment for the June 10, 1999 Olympic Pipeline Gasoline Spill into Whatcom Creek, Bellingham, Washington" shall not be considered inconsistent with the terms of this Restrictive Covenant.

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 conditions of the Property, taking samples, inspecting remedial actions conducted at the property and inspecting records that are related to remedial actions.

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. Such an instrument may be recorded, however, only if Ecology, after public notice and opportunity for comment, concurs.

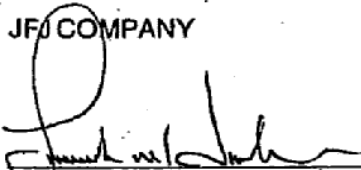


Frederick M. Haskell



Joeen Daughters

JFJ COMPANY

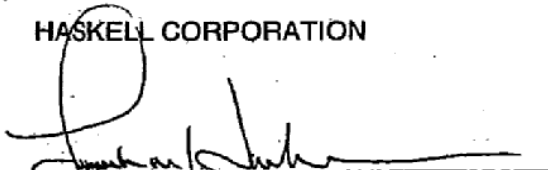


Frederick M. Haskell,
General Partner



Joeen Daughters,
General Partner

HASKELL CORPORATION



Frederick M. Haskell,
President

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D/RC \$13.00

Whatcom County, WA

Request of: CHMELIK SITKIN & DAVIS PS

STATE OF WASHINGTON)
) ss.
COUNTY OF WHATCOM)

On this day personally appeared before me **FREDERICK M. HASKELL** to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that he signed the same as his free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN upon my hand and official seal this 13th day of September, 2001.



Frank J. Chmelik

Print Name: FRANK J. CHMELIK
NOTARY PUBLIC in and for the
State of Washington, residing at BELLINGHAM

STATE OF WASHINGTON)
) ss.
COUNTY OF WHATCOM)

On this day personally appeared before me **JOEEN DAUGHTERS** to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that she signed the same as her free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN upon my hand and official seal this 13th day of September, 2001.



Frank J. Chmelik

Print Name: FRANK J. CHMELIK
NOTARY PUBLIC in and for the
State of Washington, residing at Bellingham

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Request of: CHMELIK SITKIN & DAVIS PS

STATE OF WASHINGTON)
) ss.
COUNTY OF WHATCOM)

On this 13 day of September, 2001, before me, a Notary Public of the State of Washington, duly commissioned and sworn, appeared **FREDERICK M. HASKELL** and **JOEEN DAUGHTERS**, known to me to be General Partners of **JFJ COMPANY**, who executed the foregoing document and acknowledged the same to be the free and voluntary act and deed of said partnership for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute the document.

Given under my hand and official seal this 13th day of September, 2001.



Frank J. Chmelik
Print name: FRANK J. CHMELIK
NOTARY PUBLIC in and for the State of
Washington, residing in Bellingham
My commission expires: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF WHATCOM)

On this 13 day of September, 2001, before me, a Notary Public of the State of Washington, duly commissioned and sworn, appeared **FREDERICK M. HASKELL**, known to me to be the President of **HASKELL CORPORATION**, who executed the foregoing document and acknowledged the same to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute the document.

Given under my hand and official seal this 13th day of September, 2001.



Frank J. Chmelik
Print name: FRANK J. CHMELIK
NOTARY PUBLIC in and for the State of
Washington, residing in Bellingham
My commission expires: _____

CLIENT(S) COMPANY/OLYMPIC SETTLEMENT/RESTRICTIVE COVENANT LOT K 00-07-01 (REV)

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6.5 Photo log

Photo 1: Haskell Corporation Building near the entrance to the commercial park.



Photo 2: View of restoration area - from the west



Photo 3: Spoils area at the northeast corner of the property.



Photo 4: View into the cul de sac at the north side of the commercial park.



Photo 5. Aerial photo of the Haskell Business Park – spoils north of Meador Ave.

